

**An exploration of the ramification of
divorce on international human rights
of women in Qatar**

**A Thesis Submitted for the
Degree of Doctor of
Philosophy**

By

Zahiya Abu-Khadija

**Brunel Law School, Brunel University
London**

2026

Declaration

I declare that the contents of this thesis are the product of my efforts, and the outcome of research that I conducted in the process of completing my academic journey. Any data sourced from external sources is referenced accordingly.

Abstract

The aim of the study was to explore the effects of divorce on the international human rights of women in Qatar, with a particular focus on domestic abuse. The critical perspective was utilised under both the socio-legal and doctrinal analyses. The critical perspective was informed by several theories identified in the literature review, including Islamic feminism, post-structuralism, and intersectionality. The findings are based on the synthesised analysis of Qatari family law, implementation of human rights of women treaty obligations, reservations to CEDAW, and three original court decisions.

The findings reveal that oppression and discrimination of women in Qatar occur on account of a set of five categories of factors - legal, social, cultural, political and economic. The effects of these factors which are systemic, systematic and structural, display intersectionality, such as the role of social and cultural factors on the legal aspects. The analysis of the legal frameworks that govern the family affairs, coupled with laws that sanction discrimination and domestic violence reveals a gap in the extent to which Qatar protects women from discrimination.

First, since there are no explicit provisions sanctioning intimate partner violence, the position of the Qatari government against domestic violence is not supported by the existing laws and how those laws are applied to incidences of violence against women. The results are evident from the three judicial decisions, whereby, although emancipation through divorce enabled the female victims to escape domestic abuse, the sanctions imposed on the perpetrators of the violence were insufficient. These legal factors can be attributed to the presence of a socio-culturally constructed patriarchal system, which perpetuates the perspective that men are superior to women. This power dynamic accounts for the differences in how men and women are treated, both under law and in practice. Within this patriarchy, the interests of women are overlooked in most contexts. Ultimately, while the law provides for women to utilise divorce for emancipation from abusive marriages, there are limitations to this option. Similarly, the analysis of laws relating to citizenship reveals that while Qatari men automatically transmit birth-right citizenship to their children, such an assurance is not available to Qatari women married to non-Native men. The available options for such children to acquire citizenship are through a naturalisation process that features numerous bottlenecks. The provisions have implications on the oppression of Qatari women, who, due to the economic subjugation within the institution of marriage, have to consider their options regarding their ability to survive in the post-divorce period.

Second, an analysis of the extent to which Qatar has fulfilled its CEDAW treaty obligations reveals the imposition of reservations, understandings and declarations (RUDs) in at least 5 articles under the treaty provisions. Qatar has adopted a customised RUDs regime, whereby reservations are made with reference to specific components of the provisions under certain articles, rather than the provisions under an entire article. The approach is indicative of the degree to which Qatar is committed to adhering to as much of the provisions as possible. The RUDs are attributed to the incompatibility between the provisions under CEDAW regarding the empowerment of women, as well as their emancipation from discrimination of all forms, and the provisions under *Shariah law*. Ultimately, considering the integral nature of *Shariah law* as a component of Qatari law, the most possible outcome in terms of improvement in treaty obligations under CEDAW by Qatar is the quantitative improvement under the provisions that no reservations exist, rather than qualitative improvement through changes to the RUDs regime.

Finally, the analysis of judicial decisions regarding the application of the laws to scenarios where Qatari women sought divorce as an emancipation from domestic abuse reveals two key outcomes. On one hand, the existing laws are insufficient to legislate against intimate partner violence, and other forms of abuse of women within the institution of marriage. The lack of willingness for the country to utilise laws that govern violence to bridge the gaps is indicative of the procedural failures in Qatari jurisprudence. On the other hand, the application of Qatari laws for emancipation of women from abusive marriages does not necessarily enable women to enjoy international human rights. The analysis reveals the apparent role of patriarchy in determining what parts of the law to apply, as well as the types of sanctions to impose on the perpetrators in remedying the infringements. However, in spite of the provisions therein, the three cases reveal that the bare minimum protections assured to the parties of a divorce proceedings, specifically towards women can be excluded from the settlement. The findings highlight the ways through which the option of divorce as an emancipation from domestic abuse can end up exposing the woman to additional suffering.

Acknowledgement

I acknowledge the contribution of the faculty staff in the process of completing this thesis, as well as their extensive contribution to the successful completion of my academic journey. Their input was integral in my ability to identify this overlooked domain of study, and in identifying the aspects of the study to focus on.

Table of Contents

Declaration	ii
Abstract	iii
Acknowledgement	v
List of Abbreviations	xi
1 CHAPTER 1: INTRODUCTION	- 1 -
1.1 Background of Study	- 1 -
1.2 International Human Rights of Women	- 6 -
1.3 Background of Qatar’s Human Rights Record	- 8 -
1.4 Statement of the Problem	- 15 -
1.5 Aims and Objectives	- 17 -
1.6 Research Questions	- 17 -
1.7 Statement of Originality	- 17 -
1.8 Chapter Summary	- 18 -
2 CHAPTER 2: LITERATURE REVIEW	- 20 -
2.1 Introduction	- 20 -
2.2 International Human Rights (IHR) of Women.....	Error! Bookmark not defined.
2.3 Oppression of Women.....	- 20 -
2.3.1 Violence as a Tool	- 21 -
2.3.2 Past Experience with Violence	Error! Bookmark not defined.
2.3.3 The Economic Framework for Domestic Violence	- 27 -
2.3.4 Cultural Norms.....	- 30 -
2.3.5 Legislative and Constitutional Gaps	- 33 -
2.4 The Institution of Marriage and Oppression of Women	- 45 -
2.4.1 Family and its Centrality to Qatar Societies	- 46 -
2.4.2 The Capacity of Women to Enter into Marriage	- 48 -
2.4.3 Domestic Abuse Against Women in Qatar	- 49 -
2.5 Nationality and the Rights of Women.....	- 51 -
2.5.1 Citizenship in Qatar	Error! Bookmark not defined.
2.5.2 Nationality of Children	- 53 -
2.5.3 Permanent Residency.....	Error! Bookmark not defined.

2.5.4	Cross-national Marriages	- 58 -
2.6	Conceptual Framework	- 64 -
3	CHAPTER 3: RESEARCH METHODOLOGY	- 66 -
3.1	Introduction	- 66 -
3.2	Theoretical Review	- 67 -
3.2.1	Principles of Feminist Research.....	- 68 -
3.2.2	Islamic Feminism.....	- 70 -
3.2.3	Additional Theoretical Perspectives	- 76 -
3.3	Data Collection Process	- 80 -
3.4	Analysis and Presentation of Findings	- 85 -
3.4.1	Doctrinal and socio-legal analysis	- 86 -
3.4.2	Thematic Analysis	- 86 -
3.5	Ethical Considerations.....	- 89 -
3.6	Limitations in the Selected Methodology	- 89 -
3.7	Conclusion.....	- 90 -
4	CHAPTER 4: DIVORCE AND DOMESTIC ABUSE IN QATAR	- 92 -
4.1	Introduction	- 92 -
4.2	QFL No. 22 of 2006: A Trifecta of Shariah law, Islamic Law and Qatar law.....	Error!
	Bookmark not defined.	
4.3	The Qatar Court System.....	Error! Bookmark not defined.
4.4	Divorce Procedures and Post-Divorce Maintenance.....	- 92 -
4.4.1	Cost of Divorce	- 94 -
4.4.2	Approaches to Divorce	- 97 -
4.4.3	Custody of Children.....	- 102 -
4.5	Law on Violent Conduct: Law No. 11 of 2004.....	- 103 -
4.6	Conclusion.....	- 105 -
5	CHAPTER 5: AN EVALUATION OF THE IMPLEMENTATION AND ENFORCEMENT OF TREATY OBLIGATIONS IN QATAR.....	- 106 -
5.1	Introduction	- 106 -
5.2	Addressing Gender Discrimination, the Qatar Way: The CEDAW Effect.....	- 109 -
5.2.1	Enforcement Mechanism	- 110 -

5.2.2	Legislative Changes in Qatar	112 -
5.2.3	Challenges To Seeking Justice.....	Error! Bookmark not defined.
5.2.4	Institutional Changes	116 -
5.2.5	Changes to The Age of Marriage.....	119 -
5.3	Reservations to CEDAW by Qatar.....	120 -
5.3.1	The Effects of Reservations	121 -
5.3.2	Rationale Behind Reservations by Qatar	124 -
5.4	Conclusion.....	129 -
6	CHAPTER 6: ANALYSIS OF QATARI COURTS DECISIONS RELATING TO DIVORCE AND IPV	131 -
6.1	Introduction	131 -
6.2	The Influence of International Law Standards in Qatar	132 -
6.3	Outline of Methodology	133 -
6.4	Details of the Court Decisions	134 -
6.5	The facts of the Three cases	134 -
6.5.1	Appeal by Cassation No. 30 of 2006, Personal Status Cassation (‘Case A’) ...	134 -
6.5.2	Appeal No. 51/2012/Civil Cassation (‘Case B’).	135 -
6.5.3	Appeal No. 131 of 2012 (‘Case C’)	137 -
6.6	Key Doctrines.....	138 -
6.6.1	The Right to a Fair Trial	139 -
6.6.2	The Procedure for Arbitration.....	142 -
6.6.3	Recognising the Spirit of the Law	146 -
6.6.4	The Right to Spousal Support.....	148 -
6.6.5	Matters of Evidence	150 -
6.6.6	Certainty in Liability of the Perpetrators	154 -
6.7	Conclusion.....	155 -
7	CHAPTER 7: DISCUSSION OF FINDINGS.....	159 -
7.1	Introduction	159 -
7.2	Factors Leading to Oppression of Qatari Women.....	161 -
7.2.1	Legal Factors.....	162 -
7.2.2	Cultural Factors.....	173 -

7.2.3	Economic factors	- 175 -
7.2.4	Political Factors	- 177 -
7.2.5	Social Factors.....	Error! Bookmark not defined.
7.3	International Women’s Rights Frameworks: Types, Structures and their Implementation in Qatar.....	- 178 -
7.3.1	Treaty Membership by Qatar	- 181 -
7.3.2	Application of Treaty Obligations by Qatar	- 183 -
7.3.3	Degree of Enforcement of Treaty Obligations by Qatar.....	- 184 -
7.4	Effects of Discrimination on Women’s Choices During Divorce.....	- 187 -
7.4.1	Birth Right Citizenship	- 188 -
7.5	Conclusion.....	- 189 -
8	CHAPTER 8: A FRAMEWORK FOR REFORM	- 190 -
8.1	Introduction	- 190 -
8.2	Components of the Framework for Reform	- 191 -
8.2.1	Improved Compliance with Women’s Rights Treaty Commitments	- 192 -
8.2.2	Due Process Equality	- 192 -
8.2.3	Combining Islamic Feminism with Stand-point Feminism.....	- 194 -
8.2.4	Reconceptualising the Empowerment of Women.....	- 197 -
8.2.5	Establishing Contextualized Indicators of Empowerment.....	- 204 -
8.2.6	Establishment of Justice under Islamic Principles: The New <i>Maqasid</i> Methodology	- 206 -
8.2.7	Adopting a Participatory Approach	- 208 -
9	CHAPTER 9: CONCLUSION AND RECOMMENDATIONS	- 211 -
9.1	Introduction	- 211 -
9.2	Conclusion.....	- 211 -
9.2.1	First Research Question: What factors lead to the oppression of women and IPV against women in Qatar?.....	- 212 -
9.2.2	Second Research Question: To what extent do Qatar’s laws on marriage, divorce, nationality and the elimination of IPV comply with international human rights of women standards?.....	- 220 -

9.2.3	Third Research Question: To what extent does Qatar apply and enforce its treaty obligations regarding women's human rights on marriage, divorce, nationality, and the elimination of IPV?.....	221 -
9.2.4	Fourth Research Question: To What Extent Do Qatar's Reservations to CEDAW Impact On Women's Human Rights in Qatar?	226 -
9.2.5	Fifth Research Question: Proposals for Overcoming the Oppressive Practices.....	227 -
9.3	Implications for Policy	233 -
9.4	Proposals for Change in Procedural and Substantive Rules in Qatar	236 -
9.5	Proposals for Future Research.....	238 -
	BIBLIOGRAPHY.....	239 -
	Cases	239 -
	Legislation.....	239 -
	Secondary sources.....	239 -
10	APPENDICES	269 -
10.1	Appendix 1: Interview Schedule for Qatari Women.....	269 -
10.2	Appendix 2: Interview Schedule for Legal Professionals	271 -
10.3	Appendix 3: Participants Information Sheet for Qatari Women	273 -
10.4	Appendix 4: Participants Information Sheet for Professionals	278 -
10.5	Appendix 5. Research Ethics Assessment and Management	282 -

List of Abbreviations

CDHRI	Cairo Declaration on Human Rights in Islam
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CFI	Court of First instance
DEVAW	Declaration on the Elimination of Violence Against Women
GBV	Gender-based violence
GCC	Gulf Cooperation Council
ICCPR	International Covenant on Civil and Political Rights
IPHRC	Independent Permanent Human Rights Commission
IPV	Intimate Partner Violence
MDPS	Ministry of Development Planning and Statistics
MENA	Middle East and North Africa
NDS	National Development Strategy
NHRC	National Human Rights Committee
NMM	New Maqasid Methodology
ODHR	OIC Declaration on Human Rights
OIC	Organisation of Islamic Cooperation
OPAAW	OIC's Plan for the Action for Advancement of Women
QAR	Qatari Riyal
QHR	Qatar Human Resources Law No. 8 of 2009
QFL	Qatar Family Law
QNV	Qatar National Vision
RUDs	Reservations, Understandings and Declarations
UDHR	Universal Declaration of Human Rights
UNCRC	UN Convention on the Rights of the Child
UNDP	United Nations Development Program
VAW	Violence against women
WHO	World Health Organisation

1 CHAPTER 1: INTRODUCTION

1.1 Background of Study

International law generally refers to a body of rules agreed upon by states which are binding between two or more states or among a community of nations. Most of the agreed-upon law is consolidated into a treaty instrument that is open for signing, ratification or accession by states. Ratification or accession of a human rights treaty is not conclusive evidence of the observance of human rights norms in that country.¹ Therefore, to ensure that states comply with the treaty provisions, some treaties have an enforcement mechanism stipulated. Other treaties have monitoring mechanisms that are achieved through respective Committees to which states report. It is observed that several Gulf states, including Qatar, which will be the focus of this study, face several complexities and controversies concerning human rights, most of which are attributed to the religious background, the social, political and economic relations with Western jurisdictions, the emergence of Pan-Arabism and the struggle for self-determination as evidenced by Islamic feminism among others.² In Qatar, the three dimensions interrelate; for instance, the fear of the consequences of divorce may lead to women staying in abusive marriages. Further, the threat of losing their children as they cannot pass on their nationality contributes to the decision to stay in violent unions.

Violence against women (VAW), specifically within a marriage, is the most pervasive form of violation of human rights that permeates different levels of every society.³ Despite the widespread awareness of this reality, there are numerous gaps in the legal and structural protections implemented to prohibit such violence. Institutions and individuals across the globe have shown wavering commitment to eliminating or even criminalising this form of violence, even when there is consensus on how damaging it is to the direct and indirect victims. Manjoo and Jones state: 'Currently, there are no binding international conventions that explicitly prohibit such gendered

¹ Abdullahi An-Na'im, 'The rights of women and international law in the Muslim context' (1987) 9 *Whittier Law Review* 491

² Donna E Arzt, 'The Application of International Human Rights Law in Islamic States' (1990) 12 *Human Rights Quarterly* 2, 202

³ Kwong-leung Tang, 'Internationalizing Women's Struggle against Discrimination: The UN Women's Convention and the Optional Protocol' (2004) 34(8) *The British Journal of Social Work* 1183.

violence, call for its elimination, or mandate its criminalisation'.⁴ As a result, victims lack a framework through which they can get justice, while perpetrators are emboldened by the fact that they can get away with the violence and abuse.

The diversity of ways through which VAW occurs is defined based on the agenda (i.e: where violence is attributed to the limited mobility of women within the institution of marriage, as well as within the family and societal settings),⁵ methods (i.e: violence against women can be perpetrated in a multiplicity of ways, directly or indirectly)⁶ and perpetrators (i.e: VAW is perpetrated by a multiplicity of individuals within and outside the family settings).⁷ Despite these differences, VAW is widely recognised from the gender inequality perspective and relates to the physical, emotional, psychological, sexual, social or financial harm that is caused to a woman partly or primarily due to her gender. VAW occurs in individuals, groups, institutions or countries.

VAW occurs under different agendas, with the most common, yet overlooked, being the violence that occurs within the institution of marriage.⁸ In Qatar, a number of practices are found to reinforce the de facto and de jure discrimination against female marriage partners, specifically in six key areas: the capacity of women to enter into marriage, polygamy and structure of marriage, the age of marriage for women, rights on divorce, guardianship of children and the legal framework of the Qatar Family Law (QFL).

Most of the awareness of VAW is raised through feminist activism, which has sought to promote the rights of women and to achieve parity between the genders. Feminists have focused on exposing the patriarchal gendering in the public and private domains, which are ultimately evident in the legal and political domains. Past measures and frameworks on VAW tend to overlook a particular set of victims or dimensions of violence, thus leading to insufficient or unreliable information. In locations where mechanisms for monitoring and reporting VAW are non-existent, societies tend to overlook the vice, thus leading to a lack of reliable information. However, just because there is a low incidence rate does not necessarily imply a reduction in

⁴ Rashida Manjoo and Jackie M. Jones, *The Legal Protection of Women from Violence: Normative Gaps in International Law* (Routledge 2018) 1

⁵ See Kuroki Hidemitsu (ed) *The Influence of Human Mobility in Muslim Societies* (Routledge 2003)

⁶ Louis Nowra, 'Bad dreaming: Aboriginal men's violence against women and children' (2007) 23 *POLICY* 2, 58

⁷ See Ilene Speizer and Erin Pearson, 'Association between early marriage and intimate partner violence in India: a focus on youth from Bihar and Rajasthan' (2011) 26 *Journal of Interpersonal Violence* 10, 1963

⁸ However, Manjoo and Jones, (n 4) p 101 indicate that any attempt to narrow down the definition to a particular dimension limits the utility of that specificity in the creation of solutions.

VAW.⁹ The United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which was introduced in 1979 and adopted in 1981, is the key human rights framework targeting the plight of women.¹⁰ The operative Articles of the CEDAW can be described as a lens through which the tensions between women's and religious rights can be understood.¹¹ The framework has played an integral role in creating protections for the rights of women across the globe. Empirical evidence reveals that CEDAW has had a positive and statistically significant impact on the rights of women, although most of the effects are related to political participation/ CEDAW has had lower effects on the social rights of women, and no impact on economic outcomes.¹² However, it is incorrect to assume that these changes have occurred through a global-to-local transmission of norms. The provisions therein cover a broad range of dimensions while laying the foundation for different forms of discriminative treatment associated with exclusion, distinction or exclusion based on gender.

In 1993, the propositions under the Declaration on the Elimination of Violence against Women (DEVAW) represented a seismic shift in the approaches through which VAW is addressed in various societies. Under the Declaration, the framework offered comprehensive definitions for the obligations and the scope of the actions for each jurisdiction to intervene, with clear guidelines on due diligence, interventions and preventive measures regarding violence against women. Article 1 of DEVAW defined violence against women as:

“For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹³

⁹ See Kaltham A Al-Ghanim, ‘Violence Against Women in Qatari Society’, (2009) 5(1) *Journal of Middle East Women's Studies* 82.

¹⁰ Judith Galtry, Strengthening the human rights framework to protect breastfeeding: a focus on CEDAW’ (2015) 10 *Int Breastfeed J* 29 indicates that the framework, which was instituted in 1981, is fundamentally a bill of rights for women. See also practices, procedures and jurisprudence that promote or limit women's full access to justice

¹¹ Michele Brandt and Jeffrey A. Kaplan, ‘The Tension between Women's Rights and Religious Rights: Reservations to CEDAW by Egypt, Bangladesh and Tunisia’ (1995) 12(1) *Journal of Law and Religion* 105

¹² Neil A Englehart and Melissa K Miller, ‘The CEDAW Effect: International Law's Impact on Women's Rights’ (2014) 13 *Journal of Human Rights* 1, 22. See also C Briddick, ‘Unprincipled and unrealised: CEDAW and discrimination experienced in the context of migration control,’ (2022) 22 *International Journal of Discrimination and the Law* 3, 1, 4.

¹³ DEVAW, ‘Proclaimed by General Assembly resolution 48/104 of 20 December 1993’, https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.21_declaration%20elimination%20vaw.pdf Accessed 2 November, 2024.

The CEDAW defines discrimination against women in the following terms:

“For the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made based on 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.”¹⁴

The role of the UN as the international institution to oversee the framework was also articulated, featuring proposals on how resolutions were formed and issued. One of the integral characteristics of the framework was the recognition of the role of neo-patriarchy, which is a term that describes the scenario where modern practices such as political, corporate and other forms of authority merge and reinforce religious authority and tenets to promote the patriarchal family, which borders on anti-feminism, and requirements for the subordination of women as a root cause of VAW.¹⁵ The framework also highlighted the fact that historical manifestations of the lack of equality in power between men and women led to the domination and discrimination of women while preventing the implementation of interventions against VAW.¹⁶

The Cairo Declaration on Human Rights in Islam (CDHRI), promulgated in 1992, presents a guide for member states, under a non-binding form of agreement.¹⁷ The CDHRI has received limited academic interest from researchers, despite its validity in informing the decisions and actions of the member states in matters relating to human rights. In most cases, it plays an integral role in legitimising discriminative treatment and restrictions within marriages, since it posits that the equality between genders is limited to the extent that it facilitates ‘human dignity and that it is essential for men and women to preserve the rights and responsibility under the gendered

¹⁴ CEDAW, ‘Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979: entry into force 3 September 1981, in accordance with article 27(1)’, <<https://www.ohchr.org/sites/default/files/cedaw.pdf>> [Accessed 3 November, 2024].

¹⁵ Rania Salem and Kathryn M Yount, ‘Structural accommodations of patriarchy: Women and workplace gender segregation in Qatar’ (2019) 26(4) *Gender, Work & Organization* 501 use the term ‘structural patriarchy’ to explain neo-patriarchy.

¹⁶ See Lisa Hajjar, ‘Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis’ (2004) 29(1) *LAW & SOC. INQUIRY* 31

¹⁷ Robert C Blitt, ‘The Organization of Islamic Cooperation's (OIC) Response to Sexual Orientation and Gender Identity Rights: A Challenge to Equality and Non-discrimination Under International Law’ (2019) 28 *Transnational Law & Contemporary Problems* 1, 89

principles’.¹⁸ The document promotes relativism rather than the universalism of human rights, a position that is best described as *mala fide*, meaning ‘in bad faith’. Rather than creating a compromise between conservative and progressive Islamic ideologies, the declaration is an extension of the conservative elements that compromise the universalism approach to human rights.

In response to the criticism of the CDHIR, the Organisation of Islamic Cooperation (OIC) created the Plan for the Action for Advancement of Women (OPAAW).¹⁹ In recognition of the marginalisation and exclusion of women in society, which leads to challenges in participating in social and other aspects of life, Objective 6 of the OPAAW is framed to protect women from violence, by “combating all forms of gender-based violence.”²⁰ The preamble of the OPAAW document, which makes references to Islamic values but no mention of *Shariah* law, is designed to take “...steps towards eliminating all forms of discrimination against women to reduce inequalities between women and men according to Islamic values of social justice and gender equality”.²¹ Unlike CEDAW, whose committee is comprised of 23 experts, the OPAAW is served by ministerial-level representatives from each of the 57 member states. Although the kind of representation highlights the level of commitment, it also leads to politicization of the rights of women.

Other measures include the creation of the Independent Permanent Human Rights Commission (IPHRC). The IPHRC is not fundamentally relevant in most countries and is only designed to handle cases of the most extreme human rights violations, such as in Palestine. The IPHRC is more involved with advocacy, and more importantly, brings together Muslim-majority countries towards the more pressing human rights issues in the region. The IPHRC “agreed to work closely with the [OIC’s] Fiqh Academy in order to correct the misperceptions regarding the rights of women and children in Islam, as well as the protection of the family”.²² The CDHRI and OPAAW, which are viewed as antithetical to some key philosophies under CEDAW, are also

¹⁸ Robert C Blitt, ‘Equality and Non-discrimination through the Eyes of an International Religious Organization: The Organization of Islamic Cooperation’s (OIC) Response to Women’s Rights’ (2017) 34(4) *Wisconsin International Law Journal* 9

¹⁹ Cairo, Nov. 24-25, 2008, OIC Doc. OIC/2-WCOD/2008-(OPAAW) (hereinafter OPAAW)

²⁰ Blitt (n 18) 45.

²¹ “OIC Plan of Action for the Advancement of Women (OPAAW),” November 1–3, 2016, <https://www.sesric.org/files/OPAAW.PDF>,

²² See Blitt (n 18), 37.

surprisingly devoid of any reservations. The widespread acceptability of the recently developed plan reveals its role in the achievement of the rights of women as part of the human rights agenda in Muslim-majority countries. Over time, the OPAAW has been fine-tuned to reflect the goals of CEDAW. The OIC has influenced most decisions regarding human rights among the member countries, to a large extent more than CEDAW. The annual meetings under the Council of Foreign Ministers have engaged in over 46 sessions as of 2019, thus making it the most practical mechanism for making decisions for the OIC.²³

Both DEVAW and CEDAW are faced with legal gaps since they fail to systematically address the various violations of human rights that lead to violence against women, such as emergent forms of violence.²⁴ Except for the provisions in Article 6 of the CEDAW, there are no express provisions to mandate nation-states to take the necessary measures to suppress the different forms of violence against women, including exploitation of sex workers, trafficking in women, and other indirect actions that perpetuate VAW.²⁵

1.2 International Human Rights (IHR) of Women: CEDAW and Mainstreaming of IHR of Women

Women's rights, which are derivatives of human rights, are indivisible, universal and inalienable, interdependent and interrelated, equal and non-discriminatory, inclusive, built around accountability and the rule of law.²⁶ These principles are often discussed as a way of reiterating the fact that States that are signatories to the corresponding treaties are mandated to ensure that the rights of women are assured *de jure* and *de facto*. Essentially, states accede to eliminate all discriminatory legal elements, as well as those embedded in practice. These measures revolve around three obligations: to respect, protect and fulfil the right of women to non-discriminatory treatment.²⁷

²³ Muath K Amayreh, Dato Sri Z Kanarudin and Muhamad H Ahmad, 'A Critical Evaluation of the OIC Plan of Action for the Advancement of Women (OPAAW)' (2020) 16(2) *J. of Islam L Rev.* 117

²⁴ Manjoo and Jones (n 4) 98.

²⁵ Ibid, p 7.

²⁶ Dinah Shelton, *The Oxford Handbook of International Human Rights Law* (Oxford University Press 2013) 444

²⁷ See General Recommendations No. 28 under Article 2, which was adopted in 2010 by the CEDAW Committee, which states "...one of the most common forms of violence against women is that performed by a husband or male partner. This type of violence is frequently invisible since it happens behind closed doors, and effectively, when legal systems and cultural norms do not treat domestic violence as a crime, but rather as a 'private' family matter, or a normal part of life"

The World Health Organisation (WHO) recognises VAW as one of the acts that affects the rights of women.²⁸ Under the CEDAW, a commitment to end all forms of emergent and extant violence against women has played a key role in highlighting some often overlooked aspects of women's rights, including the health-related aspects of the violations.²⁹ In most jurisdictions, the rights of women are relegated to the family domain, with men overshadowing women, even when the society is not established under neo-patriarchy. In most cases, the marital status of women has integral implications for women in jurisdictions where policies on socio-economic protection are obscure, and women depend on males and society in general to meet their basic needs. In the case of the collapse of a marriage, women are faced with the direct effects of losing their sole source of sustenance, as well as the potential discrimination due to their current marital status. The discriminatory treatment extends to effects such as the status of health, access to economic opportunities, social acceptance, and access to basic needs.³⁰

The ratification of the propositions under the Universal Declaration of Human Rights (UDHR) marked the start of an era of optimism. Despite the adoption of this highly potent ideological weapon, most countries in the Gulf region still record low rankings in terms of global human rights.³¹ Apart from the increased use of language referencing the prevention of discrimination against women in society, most of these countries appear to have imposed bottlenecks in the achievement of the proposed protections.

However, international law still lacks in the mechanisms for coercive enforcement, thus leading political scientists to contend that this domain of international law is primarily weak.³² Past studies concur on the fact that it is necessary for a paradigm shift in the discriminatory practices and laws in countries where structural and systemic rationales play a role in blocking change. Qatar's 2004 constitution was revised in recognition of the fact that Sharia is a key source of legislation, with the government referencing Islamic law as a moral and ethical anchor of the society. The state has continuously displayed its willingness to maintain public hegemony of

²⁸ See Kassem L M, Fatema M Ali, and Tamadher S Al-Malek, 'Domestic Violence Legislation and Reform Efforts in Qatar, (2012) 4 Perspectives, 29.

²⁹ See Tang (n 3) p 34, *The British Journal of Social Work*. 8, 1182.

³⁰ Shehzad Shafqat. 'Socioeconomic, demographic, housing and health conditions of Qatari women by status of marriage and implications for family policies', (2015), 9, *DIFI Family Research and Proceedings*, 1.

³¹ Janet Afary, *The Human Rights of Middle Eastern & Muslim Women: A Project for the 21st Century* (2004) 26 *Human Rights Quarterly* 1, 106.

³² Jack Goldsmith and Eric Posner, *The Limits of International Law* (Oxford University Press 2005), who question whether international law even qualifies as 'law'.

Islamic law by upholding the centrality of the jurisprudence that *Wahabists* favour. This explains why the criminalisation of the abuse of women has not yet occurred.

1.3 Background of Qatar's Human Rights Record

As a constitutional monarchy with a majority of its native population professing to Sunni practices, the legal framework in Qatar is based on three sources: (i) *Shariah law* remains the primary source of legislation.³³ (ii) common law, which is based on legal traditions from Europe;³⁴ (iii) Islamic practices (*Fiqh*), which were developed before colonisation, and were traditionally relied upon in judicial forums.³⁵ These practices have survived the test of time since they are closely linked to the socio-cultural and religious fabric of the Qatari society. Each of these categories of legislative input plays a role in the achievement of human rights in the country.

The discourse on human rights in Muslim-majority countries is best understood from the perspective of the Cairo Declaration of 1990. In 1966, several covenants were entered into to create global initiatives at the regional level to facilitate the adoption of human rights propositions.³⁶ Several regional entities were also developed, including the Organisation of Islamic Cooperation (OIC).³⁷ Under the OIC, which is the second largest intergovernmental organisation after the UN, human rights are conceptualised under the conservative Islamic values guided by *Shariah law*. The OIC came up with the customisation of the UDHR under the Cairo Declaration in 1990, which inadvertently neglected a number of rights that were not aligned with *Shariah law*, specifically gender-based rules.³⁸ The Cairo Declaration further co-opted the language of Islamic law into its version of UDHR, thereby empowering the nation-states and reinforcing the principles of national sovereignty. The principles developed by the OIC were in force as recently as 2010, with minimal adjustments to the framework, which is often viewed as more symbolic than functional. It is also

³³ Zahra R Babar, *The Cost of Belonging: Citizenship Construction in the State of Qatar* (2014) 68 *Middle East Journal* 3, 403.

³⁴ *Ibid*, which were assimilated into the legal system during the brief period of colonisation, with additional influence arising in more recent times as Qatar sought to globalise its domestic legal infrastructure.

³⁵ Hamideh Dorzadeh, *Precarious Legal Status and 'Reactive Transnationalism': The Case of Baloch in Qatar* (2022) 16 *Asian Journal of Middle Eastern and Islamic Studies* 4 448, 452

³⁶ The International Covenant on Economic, Social and Cultural Rights (ICESCR) and Economic and Social and International Covenant on Civil and Political Rights (ICCPR).

³⁷ See Blitt (n 18), 8.

³⁸ OIC, "The Cairo Declaration on Human Rights in Islam," (August 5, 1990), Available at https://www.oic-iphrc.org/en/data/docs/legal_instruments/OIC_HRRIT/571230.pdf, >[accessed March 22, 2021]

attributable to the non-binding nature of the frameworks, as evidenced by the introduction of the OIC Declaration on Human Rights (ODHR) in 2011.

The ODHR, which was formalised in 2020, is the vernacularized UDHR, and is viewed as representing the principles of international human rights within the Islamic communities. Rather than being viewed as representing an absolute paradigm shift, the ODHR enables global human rights institutions the chance to collaborate on the various points of divergence.³⁹ The ODHR, which focuses on political participation, family values and freedom of speech, is relevant to the discourse on human rights, and ultimately the rights of women, in four ways. First, the Cairo Declaration offers a lens through which debates on human rights in Muslim-majority countries can be understood, concerning changes in the political, social, economic and cultural landscape. Second, more often than not, non-binding declarations on human rights tend to become binding treaties and conventions, albeit under a different system, time or place. Third, a non-binding declaration often leads to the emergence of norms and may play a role in the viability of binding treaties. The original human rights declarations, which were non-binding, appear to have created the norm that international human rights legal frameworks ought to be non-binding, even though the propositions they make concerning change in the domestic legal frameworks are supposed to be binding. Finally, the OIC has emerged as a key contributor to international diplomacy. In that position, it influences global political systems on human rights, by its commitment to “promote Islamic Solidarity among the Member States.”⁴⁰ In spite of its role in the conceptualisation of human rights in Muslim-majority countries, the Cairo Declaration has been ignored in most literary works. Its dormancy may be due to the contradictions in the UDHR⁴¹ and the lack of enforcement mechanisms or interpretative structure,⁴² but the OIC has taken measures to enhance the value of the document to the human rights goals in the region. In most cases, the OIC adopts a narrow-minded ‘poison pill’ approach to human rights within its member states.⁴³

³⁹ See Mohammad Hossein Mozaffari, ‘OIC Declaration on Human Rights: Changing the Name or a Paradigm Change? (2020) Available at <https://rwi.lu.se/wp-content/uploads/2021/01/2020-OIC-Declaration-of-Human-Rights.pdf> >[accessed March 22, 2021].

⁴⁰Blitt (n 18), 15

⁴¹ Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (New York: Routledge, 2018).

⁴² Mashood A. Baderin, *International Human Rights and Islamic Law* (Oxford: Oxford University Press, 2003), 228.

⁴³ Blitt, (n 18), 9, who described the poison pill approach as “the OIC’s efforts to promulgate a religiously-justified and restrictive framing of equality and non-discrimination risks undermining the spirit of universality reflected in the Universal Declaration of Human Rights (UDHR) *grundnorm* that —all human beings are born free and equal indignity

Most of the Muslim-majority countries have designed laws governing family life, such as marriage and divorce, in a manner that offers limited rights to women as compared to men.⁴⁴ On its part, Qatar has ratified a multiplicity of international treaties to uphold the obligations under human rights proposed under the agreements.⁴⁵ However, over time, it has become clear that legal traditions within Islamic societies are highly compatible with the ideology of equality between genders. This disparity between the practice and theory of Islamic law can be traced to the codification of certain laws and legal practices in the Muslim world, as recently as the 19th century. The selective and partial codification of the laws led to the creation of a neo-patriarchy and limited the legal status of women by narrowing the types of rights they were entitled to.⁴⁶ To date, most of the initiatives targeting the expansion of the rights of women in Islamic societies are focused on explaining that the legal traditions within these Islamic communities and countries are not uniform, but rather a highly diversified body of jurisprudence designed to guide human relations at a particular time and place.

The push for reforms in the Islamic law framework has created novel terrains for political discourse, with the result being the transformation of the procedural laws (which play a key role in the administration and exercise of law)⁴⁷ and substantive laws in the country. In Qatar, substantive laws are comprised of *Shariah law* and conventional laws, both of which are codified into various acts. Despite the prominence of substantive laws in most jurisdictions, procedural law is known to influence independence and impartiality in the dispensation of justice. The arbitrary selection and design for serving ulterior objectives limit their utility.

and rights,” and more immediately, legitimizes ongoing rights violations against women as well as lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, among others.”

⁴⁴ Tamir, Moustafa, ‘Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia’, (2013), 38, *Law & Social Inquiry*, 1,168, See also Kassem, and others (n 28), 31.

⁴⁵ International Justice Resource Centre, ‘Qatar to Become Party to Two UN Human Rights Conventions’, (2018). <https://ijrcenter.org/2018/06/05/qatar-to-become-party-to-two-un-human-rights-conventions>, which identifies the following treaties which Qatar is party to “Convention Against Torture; the Convention on the Elimination of All Forms of Discrimination Against Women; the International Convention on the Elimination of Racial Discrimination; the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Optional Protocol on the Convention of the Rights of the Child on the sale of children, child prostitution and child pornography; and the Convention on the Rights of Persons with Disabilities.”

⁴⁶ See Quraishi, Asifa, and Frank Vogel, eds. ‘The Islamic Marriage Contract: Case Studies in Islamic Family Law’. (Cambridge, MA: Islamic Legal Studies Program, Harvard Law School, 2008).

⁴⁷ By informing the decisions of the stakeholders, these laws determine fairness, accountability and legitimacy of claims

The push for reformation of the family law codes to improve the position of women in Islamic societies is often met with unwavering opposition due to misconceptions about the fact that, as they are, Muslim family laws are codified and interpreted according to the will of Allah.⁴⁸ The fact that the selective codification of the *Shariah law* in the various jurisdictions is viewed as the rightful implementation of the divine command limits the willingness and ability of activists to challenge the status quo, without facing backlash for undermining the religion.⁴⁹ In most cases, legal frameworks on family relations, such as marriage, divorce, custody of children and post-divorce support, all of which are integral to the well-being of women, are commonly left out of public discourse.

These challenges are indicative of a more pervasive problem, involving the disparity in the appreciation of Islamic law and Islamic legal theory. In its contemporary nature, Islamic legal theory is flexible, committed to pluralism, and most importantly, it is separate from state law.⁵⁰ However, in classic political discourse, most Muslims are persuaded by the view that *Shariah law* should be static and uniform across time and space. Over the years, several ‘common sense’ interpretations of Islamic law have concealed the key conceptual peculiarities established under traditional Islamic legal theory between *fiqh* (Islamic jurisprudence, which denotes how humans understand and interpret *Shariah law*) and *Shariah* (body of Islamic religious law derived from Qur’anic texts).⁵¹ The lack of a centralised religious authority for the interpretation of *Shariah* has led to the emergence of a multiplicity of techniques, including consensus, analogical thinking and consideration of the interest of the public, which explains the restrictive nature of the interpretations across different countries. Over time, the responsibility of enforcing these laws is bestowed onto the State, which has a different set of values, processes, strategies and methodologies, based on economic, social, cultural and political interests. Different states have different abilities, interests and governance methodologies, which affect jurisprudence, and these

⁴⁸ Anwar, Zainah. ‘Advocacy for Reform in Islamic Family Law: The Experience of Sisters in Islam’. In *The Islamic Marriage Contract: Case Studies in Islamic Family Law*, ed. Asifa Quraishi and Frank Vogel, 275–84. (Cambridge, MA: Harvard University Press, 2008), 1.

⁴⁹ Marie J Petersen, ‘Islamic or Universal Human Rights? The OIC’s Independent Permanent Human Rights Commission’ *The DIIS Report*, (2012). <https://www.econstor.eu/bitstream/10419/59841/1/688944434.pdf>

⁵⁰ Wael B Hallaq, ‘An Introduction to Islamic Law’. (New York: Cambridge University Press, 2009).

⁵¹ 57th CEDAW Session, ‘Musawah Thematic Report on Article 16: Qatar’, (2014), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16419_E.pdf.

disparities are protected under the sovereignty guidelines of international law.⁵² As a result, studies in Islamic legal theory concur, albeit begrudgingly, that *Shariah law* is not the reason for the discriminatory treatment of women in Muslim-majority countries. The discrimination arises from the manufactured religious and cultural norms that emerged from misunderstandings, misreading and manipulation of the contents of the Qur'an.

Although professionals in Islamic jurisprudence⁵³ perceive these principles as mundane and commonplace, the conceptual differences between *fiqh* and *Shariah law* are not obvious to every Muslim.⁵⁴ To a large extent, there exists a tug-of-war between the two systems, with the most favourable approach adopted to fit the scenario. This has led to limited accountability and inequity in the application of the rule of law. However, there is an emergent consensus that most of what is considered *Shariah law* is fundamentally *fiqh*. Consequently, some of the misinterpretations, or skewed interpretations, can thus be corrected, without compromising the prominence of the Qur'anic teachings among Muslim-majority societies.

Qatar is best described as a multicultural, multi-ethnic, heterogeneous, multilingual and multi-skilled society.⁵⁵ Over the past 20 years, the country has taken steps to improve its ability to achieve certain human rights, including those directly and indirectly associated with gender parity.⁵⁶ Despite the numerous measures to achieve Qatarisation (a governmental initiative devised to increase the number of Qatari citizens employed in public and private sectors, one of the focuses of the Qatar National Vision 2030),⁵⁷ the Qatari labour force decreased from 14% in 2001 to 6% in 2013, with most of the changes involving improvement in the qualitative characteristics of the native workforce, rather than the quantitative aspects. The drop is attributable to the fact that the

⁵² See Hallaq (n 50), 23, See also Moustafa (n 44), 173.

⁵³ See Moustafa (n 44), 178.

⁵⁴ 73rd CEDAW Session, 'Thematic Report On Article 16, Muslim Family Law and Muslim Women's Rights in Qatar'. (2019). <https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf>

⁵⁵ Out of the 2.4M residents in the country, only 15% are nationals, with the 85% comprised of expatriates and semi- and unskilled workers and immigrants.

⁵⁶ See CEDAW, 'Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018', CEDAW/C/QAT/2 (2019), 4.

⁵⁷ Ministry of Development Planning and Statistics, 'Qatar's Fourth National Human Development Report: Realising Qatar National Vision 2030: The Right to Development' (2015), <https://hdr.undp.org/system/files/documents/qatarnhdr4english15june2015.pdf> accessed 14 January 2025, the target is 50% of the workforce in the Industry and Energy sector

population of foreigners has increased faster than that of Qatar natives, while most of the Natives occupy key positions of influence.

Two-thirds of Qataris are Muslim, with 90% of those Muslims adhering to the Sunni ideology. In 2017, Qatar was ranked 37th out of 189 countries based on the Human Development Index by the UNDP, which classified it as having achieved high human development standards over a short period.⁵⁸ The report further highlights that 70.9% of adult females have attained at least secondary education, which is higher than that of males, estimated at 68%. Similarly, 9.8% of the positions in parliament are held by women.⁵⁹ The country ranked 25th out of 160 countries based on the Gender Inequality Index.⁶⁰ However, only 5% of the households in the country are headed by women.

The multiplicity of changes within Qatar is responsible for the transition from traditional to modern family values. In the face of influence from foreigners, most societies in Qatar have persistently found it hard to maintain their traditional family ties. Due to its status as a former British protectorate, Qatar has established a dual legal system, which incorporates Islamic and civil law. The use of a dual legal system is also attributed to the large population of foreigners and expatriates from non-Muslim countries, who play an integral role in the country. The dual system is comprised of the Supreme Judicial Council (religious legislation) and the Ministry of Justice (judicial), both of which are established under Law No. 10 of 2003.⁶¹ Despite the duality of the system, it is widely recognised that *Shariah law* is the more dominant source of Qatari legislation and principles of interpretation of the laws, especially concerning matters of family law, certain criminal acts and inheritance.

The constitution expressly provides for certain rights, with the most recent amendments driven by the need to reflect the trajectory of change in the country. For instance, Article 1 of the constitution entails a declaration of the supremacy of Islam as the religion in the state, thereby

⁵⁸ Ibid, 15.

⁵⁹ See CEDAW, 'Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018', CEDAW/C/QAT/2 (2019), where Qatar was ranked 25th out 138 countries in Global Competitiveness Index (2nd among the Gulf countries), 31st out of 159 countries in the Corruption Perception Index (2nd among Gulf countries), 30th in the Global Peace index (1st among Gulf countries), 7th globally in the Global Crime Index, 1st in Gender Equality in business, among others.

⁶⁰ Ministry of Development Planning and Statistics, 'Qatar's Fourth National Human Development Report: Realising Qatar National Vision 2030: The Right to Development' (2015), <https://hdr.undp.org/system/files/documents/qatarnhdr4english15june2015.pdf> accessed 14 January 2025, 69.

⁶¹ See Al-Ghanim (n 9) 82.

implying that *Shariah law* is the primary source of legislation for the country. Article 21, Part 2 of the Qatari Constitution further recognises the centrality of family in society, with the foundation of the family entrenched in patriotism, religion and ethical/ moral standards. Qatari society is gendered with references to a nuclear family setting as the building blocks of the nation, and the constitution is designed to protect the integrity of the family. Article 21 of the Constitution states that: “The family is the basis of society. A Qatari family is founded on religion, ethics, and patriotism. The law shall regulate adequate means to protect the family, support its structure, strengthen its ties, and protect maternity, childhood, and old age.”⁶² To this effect, the legal framework regulates the means through which the family unit is protected, with key provisions for supporting the structure of the family, reinforcing family ties, protecting maternal relations, and taking care of all members of society, regardless of age and gender. The creation of the Department of Family Affairs following Amiri Decree No. 4 of 2016 has led to the establishment of a number of initiatives and operations aimed at protecting and strengthening the rights of women. The measures include training workshops programmed to inform women and men about productive families, the development of enterprises at the household level, participation in national festivals and heritage events, all aimed at creating cohesion at the family level. Qatar has also established institutional frameworks aimed at demystifying the importance of the empowerment of women to achieve parity in rights between the genders, such as the Qatar Social Work Foundation and the Centre for Legal and Judicial Studies under the Ministry of Justice.⁶³ The National Human Rights Committee (NHRC) plays an integral role in the creation of women and family-related policies. Evidence is available in the structure and contents of the first and second National Development Strategies, which are focused on equality between genders and the elimination of the stereotypes that predispose women to discriminatory treatment. Under the second National Development Strategy for 2017-22, the country seeks to achieve strong, cohesive and empowered Qatari families, through proactive measures to overcome the challenges to equality between genders,

⁶² See Mohanalakshmi Rajakumar, and others, ‘Education, marriage, and professionalization: the modern Qatari woman's dilemma’ (2017) 9(1), *GENDER - Zeitschrift für Geschlecht, Kultur und Gesellschaft* 82. See also Al-Ghanim (n 9), 83. See 57th CEDAW Session, ‘Musawah Thematic Report on Article 16: Qatar’, (2014), 25.

⁶³ See CEDAW, ‘Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018’, CEDAW/C/QAT/2 (2019).

abolishing patriarchal attitudes, and the deeply embedded stereotypes on the roles and responsibilities between the genders in the family and across the various societies.⁶⁴

Despite the utility of these changes to the various legal challenges facing the country, numerous questions have been raised in the past regarding particular outcomes. One of those dimensions is the extent to which a change in wealth and other forms of empowerment affords females more agency in their professional and personal lives within society, as well as the effect on women of rapid modernisation in a traditional and conservative society. It is apparent that women are pushed into a balancing act and have no choice but to focus on expressing their individualism while adhering to the strict social norms in their daily lives. The rapid and multifaceted socio-economic development in the country has led to novel phenomena associated with family life, including delayed marriages,⁶⁵ a preference for celibacy,⁶⁶ an increase in cross-national marriages, and an increase in the rate of divorce.⁶⁷ However, there is a limited commensurate transformation in the legal frameworks as well as the interpretation mechanisms for the existing laws to accommodate these changes and ensure the efficiency and effectiveness of the legal frameworks.

1.4 Statement of the Problem

International human rights laws prohibit the unequal treatment of men and women. These laws are specifically designed to address the gender-based disparities in general, and within specific contexts, some of which magnify the incidents and impacts of the oppression. One such context is divorce. With focus on Qatar, since the introduction of the CEDAW convention, there have been isolated and repetitive incidences of discriminatory treatment of women, with violence against Qatari women during the process of divorce still a prevalent problem. Although the

⁶⁴ Planning and Statistics Authority, 'Qatar Second National Development Strategy 2018-2022', <<https://dhareeba.gov.qa/assets/pdf/Qatar%20Second%20National%20Development%20Strategy%202018-2022.pdf>> Accessed 11 January 2025

⁶⁵ See Ministry of Development Planning and Statistics, 'Qatar's Fourth National Human Development Report: Realising Qatar National Vision 2030: The Right to Development' (2015), <https://hdr.undp.org/system/files/documents/qatarnhdr4english15june2015.pdf>> accessed 14 January 2025, which indicates that the age at first marriage for most Qatari men increased from 26 years to 27 years between 1990 and 2013, while that for women increased from 22.1 years to 24.1 years over the same period.

⁶⁶ Ibid, the proportion of never married women aged above 30 years exceeded men by a ratio of 12.9 percent and 8.9 percent in 2010.

⁶⁷ Angela Abela and Janet Walker 'Contemporary Issues in Family Studies: Global Perspectives on Partnerships, Parenting and Support in a Changing World', (London: Wiley-Blackwell, 2013, 59). The report indicates that the rate of divorce has increased marginally, from 17.4 per 1000 couples in 1995 to 17.5 per 1000 couples in 2012.

problem is attributed to the inability of the jurisdictions to take the necessary measures to prevent and intervene in such incidents, there is evidence and conjecture to point towards a more pervasive and deep-seated problem with the framing of the issues relating to the rights of women.

First, the situation can be attributed to the propensity and willingness of various jurisdictions, including Qatar, to frame human rights obligations under international treaties through reservations, understandings and declarations (RUDs).⁶⁸ The making of RUDs to key treaty provisions, such as Article 2 of the CEDAW, which is the Convention's equality and discrimination clause, waters down the importance of the treaty. More so, Qatar has used the concept of RUDs to limit the ability of women to enjoy international human rights concerning issues such as divorce, nationality, and parenting. In addition to these RUDs, several provisions within Qatar's legal frameworks and how they are implemented perpetuate violence, including differences in rights to enter into marriages, domestic violence, forced marriages (including early and arranged marriages), equal rights and responsibilities between genders, polygamous marriages, right to divorce, the guardianship and custody of children, inheritance and the right to confer citizenship on children.

Second, the limited rights have been found to perpetuate discriminatory treatment of women uniquely, specifically within the institution of marriage, enjoyment of the rights of nationality and citizenship, and ultimately, the rights of their children. These circumstances create a cascading effect that is theorised and shown to perpetuate discriminatory treatment of women. The framing of the Convention provides for countermeasures to prevent such situations, where CEDAW uses the phrase 'which has the effect', in its language, to create a distinction that discrimination based on gender does not have to only relate to intentional acts, but also the unintended outcomes.⁶⁹ CEDAW is also widely viewed as representing the least likely pathway for human rights, due to the diversity of social, individual, institutional, legal and constitutional changes required for each country. Qatar has not been effective in sealing the loopholes in its domestic legislative frameworks to ensure the achievement of the goals proposed under the Conventions. The combined effects of these domestic legal frameworks, reservations under international law, and the implementation of the laws create an environment where domestic

⁶⁸ This recognition is articulated in report termed "Human Rights Standards and Institutions in OIC Member States," by OIC, in 2011.

⁶⁹ 73rd CEDAW Session.

violence is perpetuated. As such, for women in Qatar to enjoy their human rights, the provisions that protect the right of women to equality and their freedom from non-discrimination ought to be absolute.

1.5 Aims and Objectives

This study aims to explore the effects of divorce in the context of IPV on women in Qatar from an international human rights perspective. It aims to:

- i. To evaluate the factors that lead to the oppression and discrimination of women in Qatar, in particular in relation to divorce and IPV.
- ii. To evaluate the extent to which Qatar's laws on nationality and citizenship comply with international human rights standards for women.
- iii. To evaluate the process of divorce in Qatar from an international human rights perspective of women, particularly in the context of domestic abuse
- iv. To identify how any oppressive laws and practices identified can be overcome to ensure respect for Qatari women's human rights on divorce, and to propose recommendations and reforms.

1.6 Research Questions

The study will answer the following research questions.

- i. What factors lead to the oppression of women and IPV against women in Qatar?
- ii. To what extent do Qatar's laws on marriage, divorce, nationality and the elimination of IPV comply with international human rights of women standards for women?
- iii. To what extent does Qatar apply and enforce its treaty obligations regarding women's human rights on marriage, divorce, nationality, and the elimination of IPV?
- iv. To what extent do Qatar's reservations to CEDAW impact women's human rights in Qatar?
- v. How can any oppressive practices identified be overcome? What reforms would remedy these problems?

1.7 Statement of Originality

The literature review contains a multiplicity of studies that partially investigate some of the research problems identified in this study. The study adopts an original approach and orientation and collects original data in a number of ways. First, it utilises categories of data that have either

not been used or not been explored before, specifically judicial decisions relating to divorce and IPV and the achievements of and issues relating to Qatar's international rights of women treaty obligations. The close and contextual analysis of Qatar's family laws, and intersecting them with the civil and criminal code on violence, is also a novel approach. The application of a complex theoretical framework to the analysis of these issues also provides novel insights. The combination of these factors has led to a number of pioneering findings, hence the proposed framework in Chapter 8.

1.8 Chapter Summary

The thesis is structured as follows. Chapter 1 provides a background of the research topic by introducing the concepts associated with the international human rights of women, as well as a background of Qatar's performance and records in women's rights. The chapter contains the problem statement, as well as the five objectives, which fulfil the aim of the study: to explore the effects of divorce in the context of IPV, on women in Qatar from an international human rights perspective.

Chapter 2 is a literature review, which entails an assessment of past studies on the oppression of women and how the different forms of violence between genders occur. The chapter contains a review of the institution of marriage, to discern the relationships between the man and woman, which can contribute to discrimination, from a power dynamics perspective. Finally, the chapter provides a review of nationality and citizenship in Qatar, on account of its relevance to the rights of women who opt to marry non-natives.

Chapter 3 outlines the methodology utilised in the study. It provides a discussion of the original methodology, where I intended to conduct interviews, as well as the final methodology that was adopted, including the sources of data included in the study, and how the data was analysed.

Chapter 4 is a discussion of divorce and domestic abuse in Qatar. In the discussion, focus is directed to the provisions in the various laws that legislate marriage in the country, as well as family life, specifically QFL No. 22 of 2006. The discussion also features provisions relating to the sanctioning of violence, as Law No. 11 of 2004, since those provisions are relevant to some forms of violence within the domestic scene.

Chapter 5 contains an intricate discussion and evaluation of how Qatar has implemented its commitments under the CEDAW treaty. The discussion focuses on the RUDs regime, as well as the effects of the adoption of the treaty provisions, and on the achievement of the rights of women.

Chapter 6 features a thematic analysis of judicial decisions on three cases, which involve divorce and IPV. The cases are analysed to determine how and whether Qatar has implemented the provisions in its laws into the practices of the judicial institutions, and whether victims of IPV can be assured of protection of their rights by the courts.

Chapter 7 is a discussion of the findings from the research. The discussion seeks to fulfil the first three research objectives. The discussion also links the findings from the study with the literature review.

Chapter 8 is a seven-point framework aimed at fulfilling the final research objective by providing a framework for reform to enhance the extent to which Qatar fulfils its treaty obligations under CEDAW, and to optimise its performance in terms of international women's rights.

Chapter 9 is a conclusion for the entire thesis, focusing on how the study was conducted and how the five research questions were answered. It also specifies the implications of the findings on policy, with commensurate propositions for change. Finally, propositions for how to conduct future research that complements the weaknesses in this current project.

2 CHAPTER 2: LITERATURE REVIEW

2.1 Introduction

Qatar is on record for having prevalent cases of violation of women's human rights. The cause is attributed to various social, legal, political, religious and cultural factors which culminate in women being subject to various forms of abuse. This chapter reviews the literature, with particular reference to Qatar, on the international human rights of women, the factors leading to and sustaining the oppression of women, including IPV, the institution of marriage and nationality and citizenship. In the chapter, I highlight how oppression of women occurs, specifying all forms of discrimination and abuse, including the subtle categories, such as coercive control. I further discuss how the institution of marriage is legislated against in Qatar, and how oppression of women occurs therein. Finally, I provide a review of the literature on how the existing legislation regarding nationality influences the achievement of the rights of women. The discussion references cross-national marriages, which have become common in Qatar, and how the law on citizenship can perpetuate the discrimination of women, primarily since, unlike Qatari men, Qatari women do not have the automatic right to transmit birthright citizenship to their children if the father of those children is not a native. In the end, I provide a conceptual framework for the study.

2.2 Oppression of Women

This section focuses on the ways through which women are oppressed in society. The discussion starts with views from past literature on how violence is used as a tool of oppression within the institution of marriage, with focus on Qatar as a study setting. The oppression denotes the structural and systematic discrimination and prejudicial treatment of women.⁷⁰ It occurs through a multiplicity of ways, including inequality, exclusion and violence. Abuse of women by their husbands or intimate partners has been the subject of a multiplicity of explanations. The discussion that follows reviews the literature on the differing theorisations of the causes of IPV, with a particular focus on Muslim-majority countries.

⁷⁰ Mozghan Moshtagh, and others, *Intimate Partner Violence in the Middle East Region: A Systematic Review and Meta-Analysis*, (2023) 24 *Trauma Violence Abuse* 2 613.

2.2.1 Violence as a Tool

Literature on domestic abuse reveals that the use of violence as a tool has been widely studied in the past. In Muslim-majority countries, violence is deployed in a multiplicity of ways, including its use as an alternative form of punishment for civil and criminal actions.⁷¹ For instance, the use of corporal punishment, such as public lashings instead of conventional punitive measures, reinforces the idea that there is widespread acceptability of traditional punitive measures.⁷²

2.2.1.1 Gender-Based Violence (GBV)

GBV denotes the structural mechanisms that are designed to maintain the subordinate status among genders.⁷³ Under CEDAW, GBV is conceptualised as the system of power, through which women are subjugated.⁷⁴ The systemic nature of GBV arises from the way it is enabled, tolerated and insufficiently addressed by the relevant institution, thereby leading to pervasive spread. In most societies, the systemic nature of GBV arises due to patriarchy.⁷⁵ The change, which is driven by the interplay between modernisation and the preservation of traditions, reveals a value conflict that has a deeper meaning derived from the perception that male dominance is threatened by the progress of women. Although modernisation is often viewed as a replacement for the past, Arab Gulf societies appear to have adopted a form of modernisation that supports the promotion of traditional values, and their reproduction and perpetuation.⁷⁶ In essence, although men are proud to promote the liberalisation and progress of women in their lives, such as daughters and sisters, they seem predisposed to dominate their spouses.

According to some studies, the prevalence of experience is a predictor of the propensity of female victims to be passive and resilient to violent treatment. Al-Ghanim found that a large

⁷¹ Silvia Ubillos-Landa, and others, *You Belong to Me! Meta-Analytic Review of the Use of Male Control and Dominance Against Women in Intimate Partner Violence*, (2020) 52 *Aggression and Violent Behaviour*, 1, 5.

⁷² Ahmed, Leila. 'A Quiet Revolution: The Veil's Resurgence, from the Middle East to America', (New Haven: Yale University Press, 2012), 87.

⁷³ Pranab Dahal, Sunil K Joshi, and Katarina Swahnberg, *A Qualitative Study On Gender Inequality and Gender-Based Violence In Nepal* (2022) 22 *BMC Public Health* 2005, 1, 10,

⁷⁴ CEDAW 'General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19,' (2017) Available at https://www.ohchr.org/en/files/2018/04/CEDAW_GR_35.pdf [accessed 22 March 2026]

⁷⁵ Tatiana Elghossain, and others, *Prevalence of intimate partner violence against women in the Arab world: a systematic review* (2019) 19 *BMC Int Health Hum Rights* 29, 6.

⁷⁶ Malek Abduljaber, *Effects of Modernization and Globalization on Values Change in the Arab World* (2018) 2 *changing Societies and Personalities* 2, 161.

proportion of the victims chose to conceal their experiences to avoid scandals and avoid further punishment, while others were afraid of the perpetrator.⁷⁷ Passive responses are common in instances where the perpetrator is a close relative. Whereas this is studied from the perspective of the victims, it is apparent that such awareness among the perpetrators can be a driving factor towards the propensity for discriminatory and violent treatment of women, as they can be emboldened by the awareness that no consequences shall befall them.

2.2.1.2 Domestic Violence

The UN conceptualises domestic violence and intimate partner violence (IPV) similarly, and defines them as “a pattern of behavior in any relationship that is used to gain, or maintain, power and control over an intimate partner.”⁷⁸ Kassem found that domestic violence tends to escalate from subtle non-physical controlling behaviour, such as isolation of an individual from their family and peers, including monitoring of movements and restriction of access to help and information, to forced sexual interactions, then to psychological abuse, and finally to physical aggression.⁷⁹ The objective of such a transition is to achieve similar or unique goals within the relationship, as well as to entrap the victim in the relationship. After all, since most intimate partners tend to overlook the subtle forms of abuse and discriminatory treatment, this can lead to difficulties in resisting more physical forms of violence.⁸⁰

Domestic violence as a tool acquires a novel dimension in the Qatari context, with the involvement of male and female family members in the process. A meta-analysis by Al Kiyumi and others found that there were qualitative and quantitative variations in the incidences of domestic violence among Qatari women, with “...physical (7–71%), sexual (3.7–81%), financial (21.3–26%), and psychological (7.5–89%), which is a culmination of controlling behaviour (36.8%), emotional violence (22–69%), and social violence (34%).⁸¹ The variations in the forms of violence within the institution of marriage lead to questions about how to implement interventions. However, some forms of violence, such as coercive control, are more challenging to discern. Stark conceptualised coercive control as subjugation and entrapment in relation to basic

⁷⁷ Al-Ghanim (n 9) 89.

⁷⁸ Lina Kassem, ‘Domestic Violence Legislation and Reform Efforts in Qatar. (2012), 4, Perspectives. 5, 3.

⁷⁹ See Lina Kassem, ‘Domestic Violence Legislation and Reform Efforts in Qatar. (2012), 4, Perspectives. 5,

⁸⁰ Manjoo and Jones (n 4), 85.

⁸¹ Maisa H Al Kiyumi, and others, Intimate Partner Violence in Khaliji Women: A Review of the Frequency and Related Factors, (2023) 20 Int J Environ Res Public Health 13, 6241.

rights and liberties of individuals, with implications on how those individuals are protected from physical harm.⁸² In the conceptualisation, Stark and Hester introduce an integral set of dynamics for coercive control, which can be used for qualitative and quantitative categorisation of violence.⁸³ Essentially, the level and severity of coercive control can be assessed by focusing on dimensions through aggregation and categorisation of data relating to the events, as well as experiences from direct and indirect victims, such as children. Stark's discourse on coercive control highlights the challenges associated with interventions for IPV based on the violent incident model.⁸⁴ The model, which is the basis for a bulk of the policy, legal and criminal justice response to IPV, is based on a cause-and-effect principle, which seeks to link assault to injury. Its success notwithstanding, a major flaw exists in how it fails to address the long-term effects of IPV on victims.

The involvement of male relatives as perpetrators introduces a novel dimension to gender violence, which can further magnify the range of challenges facing women and influence their decision to proceed with the divorce.⁸⁵ Data reveals that among those who experienced violence by family members, 40.86% were victimised by brothers, 36.54% were victimised by fathers, 21.8% by mothers and 11.78% by sisters.⁸⁶ Other perpetrators include husbands, stepfathers, friends and other peers, with slight differences in the incidences between Qataris and non-natives.⁸⁷

Some studies contend that the psychological and emotional effects of spousal violence are highly correlated with experience with abuse, whether within a relationship or a homestead.⁸⁸ These past experiences are said to manifest in several ways. Some studies found that perpetrators who grew up in violent homesteads have a higher propensity to abuse their spouses, estimated at two to five times greater than those who grew up in homesteads where no spousal abuse occurred.⁸⁹ One study in Qatar found that women who expect violence for certain actions come to perceive

⁸² Evan Stark, *Looking Beyond Domestic Violence: Policing Coercive Control* (2012) 12 *Journal of Police Crisis Negotiations* 2, 199.

⁸³ Evan Stark, and Mariane Hester, *Coercive Control: Update and Review* (2019) 25 *Violence Against Women* 1, 81, 89.

⁸⁴ Stark, (n 90), 199.

⁸⁵ Al Kiyumi, and others, (n 89) 6250.

⁸⁶ Al-Ghanim (n 9) 89, who focuses on 17 categories of perpetrators of violence in the country, with the objective of highlighting the prevalence of perpetrators of violence.

⁸⁷ *Ibid*, 90

⁸⁸ N Woollett and K Thomson, *Understanding the intergenerational transmission of violence* (2016) 106 *SAMJ: South African Medical Journal* 11, 1068 and David S Black, Steve Sussman, and Jennifer Unger, 'A further look at the intergenerational transmission of violence: witnessing inter-parental violence in emerging adulthood' (2010) 25 *Journal of interpersonal violence* 6, 1022.

⁸⁹ Bowlus, and Seitz (n 78), 1121.

such violence as justified if it occurs to them or other women. These past experiences perpetuate violence by creating the perception that abuse in marriages is culturally acceptable. Within this culture, the normalisation and acceptability of marital abuse led to poor reporting mechanisms, thus robbing victims of the ability to take measures for intervention.⁹⁰ According to this view, the actions and responses of victims and perpetrators within an abusive relationship can be predicted based on past experiences.

2.2.1.3 Intimate Partner Violence (GBV)

Research reveals that men use abuse or violence as a mechanism for influencing the conduct of their wives, both during the marriage and following divorce.⁹¹ Within the marriage, abuse can be used to achieve several targeted outcomes, including a change in conduct, education, and engagement in other aspects of personal development. When deployed as a tool, violence is used through multiple forms of discrimination. Roseberry defined multiple discrimination as occurring when violence is deployed through several ways, based on social, religious, economic and political beliefs, based on different dimensions of discrimination.⁹² An empirical study involving 744 married women aged between 16 and 25 years undertaken over one and two years found that women who secured employment during the study had an 80% chance of experiencing violence from their partners compared to those who remained unemployed.⁹³ On the same note, spouses of men who lost their jobs had a 1.7 times higher chance of experiencing violence, as compared to those whose husbands retained their jobs. The loss of a job by a male spouse or the acquisition of a job by a female represents a change in the actual or perceived power balance and influences the use of violence.

In the study by Al-Ghanim, the results indicate that there are differences in the propensity of husbands to abuse their wives, based on their age. The results reveal that the possibility of abuse increases from 18.5% for partners aged between 15 and 29 to 23.6% for women aged 30 to 44

⁹⁰ Mary P Treuthart and Stephen A. Rosenbaum, 'Engendering a Clinic: Lessons Learned from a Domestic Violence Clinical Course in Qatar (2013) 1 Int. Rev. of Law. 1.

⁹¹ Ubillos-Landa, and others (n 80), 5. See also Mozghan Moshtagh, and others (n 79), 613.

⁹² Lynn Roseberry, 'Getting Beyond Intersectionality: Toward a Post-Structuralist Approach to Multiple Discrimination' (2010). <http://dx.doi.org/10.2139/ssrn.1686774>

⁹³ Id, p 2.

years, and 52.8% for partners aged 45 to 60 years.⁹⁴ Since these figures are based on data for marriages that were at most 12 months old, they indicate that the age of the partner influences the propensity for violence.⁹⁵ The study by Al-Ghanim revealed that 56% of the respondents had experienced violence in their youth, revealing the possibility that they see violence and discrimination as a norm within their societies, and were more likely to conceal such incidents, and learn to conceal violence within marriages.⁹⁶ The findings from Al-Ghanim are characteristic of the patterned and predictable nature of domestic abuse, which arises from the fact that perpetrators tend to alternate between abusive and violent treatment and apologetic behaviour.⁹⁷ According to this explanation, under such conditions, the victims enter into learned helplessness, which is marked by the abuse cycle and the emergence of so-called 'battered woman syndrome'.⁹⁸ Proponents of 'battered women syndrome' claim that women re-experience the violence even when it is not happening, and that they take measures to limit the effects of the abuse by avoiding people, activities and emotions that remind the victim of the experience. It is also claimed that women experience hypervigilance and hyperarousal, disruption in interpersonal relationships, distortion of their body image, issues with sexuality and intimacy. They conclude that under such conditions, the victim is predisposed to shun help-seeking behaviour, even when such help is readily available.⁹⁹

Past experiences play an often overlooked role in the decision of the victim (normally the woman). Zlatka identifies four phases of the abuse process: the honeymoon phase, tension-building phase, the acting-out phase, and the calm period.¹⁰⁰ Each of these phases contributes to the perpetuation of violence and the decision of the woman to remain in the relationship. Some studies found that in many cases, incidences of IPV start with subtle forms of abuse before

⁹⁴ Al-Ghanim (n 9) 88.

⁹⁵ Ibid, 88, the findings can also imply that as the women remain in the abusive relationship, there was a continuation or increase in the violence.

⁹⁶ Ibid 88.

⁹⁷ Z Rakovec-Felser 'Domestic Violence and Abuse in Intimate Relationship from Public Health Perspective', (2014), 2, Health psychology research 3, 1821.

⁹⁸ Ibid, 1824

⁹⁹ Edward W Gondolf, Service barriers for battered women with male partners in batterer programs (2002) 17 J Interpers Violence, 217.

¹⁰⁰ Rakovec-Felser (n 102), 1825

transitioning to physical¹⁰¹ and multiple forms of abuse. As a result, the victims tend to perceive the subtle forms of violence as acceptable, and over time, the behavioural patterns make it challenging to break the cycle. According to this ‘cycle of abuse’ theory, since each incidence of violence ends with the honeymoon period and calm period, subsequent incidences of violence are treated as if they are separate, rather than being a progression from bad to worse.

The combination of these experiences of violence creates a scenario where victims of IPV are left with unfavourable choices, whether they leave or stay, a ‘no-win’ situation.¹⁰² This can lead the victim to perceive their situation as unique and immune to existing solutions. However, the perception is further driven by the knowledge that IPV is a common occurrence in society and that their suffering is not unique.

2.2.1.4 Honour-Based Crimes

This category of crimes features elements of domestic violence, GBV and IPV, by relatives or members of a community, with the goal of punishing an individual who is perceived to have breached honour.¹⁰³ The concept of honour, which is framed from a traditional, religious, or cultural norm, is justified as a way of restoring the reputation of an individual or family.¹⁰⁴ The crimes include violence, use of force to compel an individual to perform certain acts, and in some cases, murder.¹⁰⁵ In most cases, violence other than from intimate partners is often categorised as ‘crimes of honour’, whereby the perpetrators have a broad range of options to enable them to claim that the acts were motivated by the immodest acts of the female victim. These practices are ingrained into the Code of Criminal Procedures under Law No. 23 of 2004 and the Penal Code under Law No. 11 of 2004. However, although the two codes provide for the equality of treatment of both genders, with a prohibition of any form of violence, the practice is still practiced in some locations.

¹⁰¹ See Jane L Ireland, and Philip Birch, ‘Emotionally abusive behavior in young couples: exploring a role for implicit aggression,’ (2013) 28, *Violence and victims* 4, 656 and Günnur Karakurt and Kristin E Silver. “Emotional abuse in intimate relationships: the role of gender and age.” (2013) 28 *Violence and victims*, 5, 804.

¹⁰² D G Saunders, ‘Barriers to Leaving an Abusive Relationship’. In: Geffner R., Vieth V., Vaughan-Eden V., Rosenbaum A., Hamberger L., White J. (eds) *Handbook of Interpersonal Violence Across the Lifespan*. (Springer, Cham, (2020), 24.

¹⁰³ A K Gill, ‘Introduction: ‘Honour’ and ‘Honour’-Based Violence: Challenging Common Assumptions’. In: Gill, A.K., Strange, C., Roberts, K. (eds) ‘Honour’ Killing and Violence. (Palgrave Macmillan, London, 2014), 3

¹⁰⁴ S Bhanbhro, and others, ‘Honour based violence as a global public health problem: a critical review of literature,’ (2016), 9 International Journal of Human Rights in Healthcare 3 198, 210.

¹⁰⁵ Ibid, 223.

2.3 Factors Leading to Oppression

2.3.1 Economic Factors

The economic theories of household bargaining posit that decisions that affect the welfare and livelihood of the spouse after the termination of the marriage affect their choices and ultimately, their bargaining power.¹⁰⁶ Generally, spouses, specifically women, who have limited good options outside the marriage, are driven to withstand the costs and lost opportunities associated with remaining in a relationship. On the other hand, those partners with favourable options outside the relationship have limited tolerance for any degree of abuse.¹⁰⁷ Within a marriage, an abusive husband optimises the utility from violence and transfer of income to the wife, based on how much abuse the wife can withstand, depending on the benefits of the marriage. The economic framework thus predicts that a wife who is faced with limited options in generating income after divorce tends to experience higher levels of abuse than those wives who have alternative sources of income.¹⁰⁸

The economic framework relies on the variables that affect the utility of marriage to the partners.¹⁰⁹ To a husband, the utility of the marriage is dependent on whether he perceives the woman as fulfilling the construed expectations, and whether he can derive more or additional benefits from a different or additional spouse.¹¹⁰ These decisions are facilitated by the ease of divorce and the options under polygamy. The challenges facing women after divorce vary based on their situation, starting with whether they have children or are expecting, and whether they have alternative means for sustenance. A Spanish study by Brassiolo found that married women who had no children gained most from reforms in Spain to the costs of divorce through reduced violence

¹⁰⁶ Beverly D. Metcalfe, 'Gender and HRM in the Middle East', (2007) 18 Int. J. of HRM 1, 54

¹⁰⁷ Al Kiyumi, and others, (n 89) 6241, which explains why in some cases, violence is more prevalent among partners facing socio-economic challenges.

¹⁰⁸ Ko Ling Chan, and Esther Yin-Nei Cho, 'A Review of Cost Measures for the Economic Impact of Domestic Violence' (2010) 11 *Trauma, Violence & Abuse* 3, 129.

¹⁰⁹ R Maktabi, 'Female Citizenship and Divorce Law Reform in Arab States: The Gradual Expansion of Women's Legal Capacity in North Africa' in Mjøset, L., Butenschøn, N. and Harpviken, K.B. (Ed.) *A Comparative Historical and Typological Approach to the Middle Eastern State System* (Comparative Social Research, Vol. 36), (Emerald Publishing Limited, Leeds 2024), 169.

¹¹⁰ Sezer Kisa, Rusan Gungor, and Adnan Kisa, Domestic Violence Against Women in North African and Middle Eastern Countries: A Scoping Review (2023) 24 *Trauma Violence Abuse* 2, 549.

within marriages,¹¹¹ while women with children, or those who were expectant, experienced no change due to the change in the law.

In the Gulf region, the economic framework of domestic violence is structured in a more complex manner, although it stems from the roles and responsibilities of the spouses.¹¹² The authority and power of a husband are normally translated based on how well he provides for the family. Despite the transition from traditional to modern value systems, this dimension of Qatari society remains firmly entrenched in most societies. In Qatar, the interplay between social and economic development concerning the roles and responsibilities of women highlights the role of the economic framework in explaining abuse in relationships. Based on data and empirical research, women are significantly more educated than men, although they have limited opportunities for gainful employment and economic independence.¹¹³ There is a generation of female Qatari natives who have the ability and willingness to work, in addition to a positive attitude towards participation in the country's labour force.¹¹⁴ However, there are structural limitations to their participation in the workplace, due to a lack of employment opportunities, disparities in pay where women are paid up to 50% less than men, even when the work output is comparable, and sometimes higher,¹¹⁵ and lack of support from their family for participation in work.

The occupational segregation is fuelled by the widely shared notion that women are predominantly supposed to be mothers and wives, limited to households. This view is perpetuated by the fact that certain laws, such as the Qatar Human Resources (QHR) Law No. 8 of 2009, create the basis for the discriminatory treatment of single or divorced women in the workplace.¹¹⁶ Article 26 of the QHR Law No.8 of 2009 provides that married employees are entitled to a monthly social increment of up to QAR 4000 (US\$1,099), as compared to that of single employees, with their stipend capped at QAR 2500 (US\$687).¹¹⁷ The housing allowances differ to a similar degree, where unmarried employees get a stipend of US\$962 (QAR 3500) per month, while married

¹¹¹ Pablo Brassiolo, 'Domestic Violence and Divorce Law: When Divorce Threats Become Credible, (2011), or the ability to terminate the marriage at will

¹¹² Maktabi (n 112), 172

¹¹³ N. F. Sulaiman and H. AlMuftah, A Qatari perspective on women in the engineering pipeline: an exploratory study (2010) 35 Eur. J. Eng. Educ., 5, 507.

¹¹⁴ See Blaydes, and others, (n) 5.

¹¹⁵ See Krystyna Golkowska, Qatari Women Navigating Gendered Space (2017) 6 Social Sciences 123, 6.

¹¹⁶ Maktabi (n 112), 177

¹¹⁷ See Babar (n 33), 417,

employees enjoy benefits of up to QAR 6000 (US\$1,648).¹¹⁸ In addition, women's salaries are 25%-50% less than that of men for equal work, with only 59% of Qatari women participating in the labour force, compared to 73% of men. These issues are pervasive, and affect women from an early age, since female who are aged above 15 years spending 8.2% of their time performing domestic work which is unpaid, as compared to 2.2% for men of the same age.¹¹⁹

A unique dimension of the economic framework of violence arises from women who come from low socioeconomic statuses within communities. Such women are subjected to increased violence, relative to other women, due to several rationales.¹²⁰ First, due to their inability to attract a high dowry from their husband, such women are viewed as being inferior compared to their counterparts. Since such individuals live in relatively poor locations, their families lack access to contemporary forms of empowerment such as education, employment and social amenities. Secondly, women from socio-economically low status tend to get married earlier than their counterparts, since they rarely proceed to institutions of higher education, which is the primary reason for delays in marriage among women in Qatar.¹²¹ Thirdly, such women also face challenges securing work in the highly structured kinship society, where family connections play an integral role in access to opportunities.

Ultimately, it is apparent that for most women, empowerment through employment and education is a variable that does not function within a vacuum but is subject to the matrix of additional values and norms that influence behavioural patterns. Within Qatari society, education appears to have failed in spreading the values and concepts of democracy, which is often viewed as a precondition for the emergence of personal and societal relationships founded on shared responsibilities and participation. In Qatar, education seems to be perpetuating the traditionally favoured value systems. The failure can be attributed to the failure to conceptualise power from

¹¹⁸ Ibid, 418.

¹¹⁹ M Jannat, 'Qatari Women, Family, and Workplace: Navigating the Domestic-Public Divide'. In: Rahman, M.M., Al-Ghanim, K., Hossain, Z., Umar, S. (eds) *Handbook of Families in the Arab Gulf States*. (Gulf Studies, vol 19. Springer, Singapore, 2025)

¹²⁰ Muazzam Nasrullah, Rubeena Zakar, Muhammad Zakria Zakar, Safdar Abbas and Rabia Safdar, Circumstances leading to intimate partner violence against women married as children: A qualitative study in Urban Slums of Lahore, Pakistan (2015) 15 Int. H & Hum Rights 23, 1.

¹²¹ Noora Lari, Toward Marriage Sustainability: Impacts of Delayed Marriages in Qatar, (2022) 8 Cogent Social Sciences, 1, 5, who states that "Educated women have acquired certain expectations about marriage that are not easily met by Qatari men, which might have led them to have a stronger voice in deciding their marriage timing...these factors have changed women's preferences to marry early."

the multiplicity of the relevant perspectives, as provided by Polar and Poole, who categorise different levels of power.¹²² The categories include personal power (which denotes the individual's sense of value and self-worth), relational power (the ability to negotiate) and collective power (access to collective conscience, which is the ability to work together for better outcomes). In support, Purnamawati and Utama assert that while there is no model for how these categories of power should be organised, it is imperative for an agenda for the empowerment of women to focus on addressing the apparent weaknesses in any of the dimensions, as a way of ensuring sustainability and efficiency in the process.¹²³

Using the traditional gendered space model to investigate the mobility of Qatari women, Golkowska¹²⁴ found that Qatari women are more inclined to try to navigate the existing systems, rather than challenge the socio-cultural norms that are firmly entrenched in the traditions.¹²⁵ Despite their prominence in the emergent and extant gendered spaces, such as households, certain professions, education, and sports, women are still subjected to a multiplicity of limitations that curtail the diversity of choices available for gaining a bargaining advantage.

2.3.2 Cultural Factors

In Muslim-majority countries, women are perceived and made to perceive themselves as the key to upholding the honour of their families. Culturally, women are viewed as dependent and weak, needing to be protected by men, without authority and responsible for the preservation of the family honour.¹²⁶ Within this system of classical patriarchy, women consent to the subordinate status, since they benefit from physical security, social respectability and economic protection from men.¹²⁷ The process revolves around controlling the identity of women, whereby the target

¹²² V Polar, and N Poole, 'From Power to Women's Empowerment: The Missing Links. In: Njuki, J., Ann Tufan, H., Polar, V., Campos, H., Morgan-Bell, M. (eds) *Gender, Power and Politics in Agriculture*. (Springer, Cham, 2025).

¹²³ G A Purnamawati and M S Utama, Women's Empowerment Strategies To Improve Their Role In Families And Society, (2019) 18 Int J of Bus Econ and Law 5, 1.

¹²⁴ Golkowska (n 117), 1.

¹²⁵ Stark (n 90) 151, who describes the situation as learned helplessness, whereby, the victims are unwilling or unable to leave, since they are bound to the perpetrators.

¹²⁶ Blaydes, L, Gengler, J and Lari N A, 'Understanding Cultural Constraints to Female Labor Force Participation: How Family Dynamics Influence Women's Employment in Qatar and the Arab Gulf States' (2021) Available at <<https://aalims.org/wp-content/uploads/2021/04/Blaydes-Qatar-Women-Labor-Force-Participation-v5.pdf>>[accessed 22 March 2026], who asserts that there are cultural constraints to the empowerment of women.

¹²⁷ Salem and Yount (n 15) 501.

is their ideas, values, patterns and behaviour, with the goal of optimal control.¹²⁸ The outcome is the creation of a patriarchal bargain, which functions similarly to the economic framework since there is a trade-off. It is not acceptable for women to reveal anything that has the potential to shame their family or tribe.¹²⁹ To reinforce these responses, a multiplicity of strategic norms that have a distant association with subordination are established, such as veiling. The norm has led to the tendency of institutions to apply these social attitudes, thus limiting the reliability of official statistics regarding violence in marriages lest they are viewed as contributing to family breakdown. Al-Ghanim indicated that in most cases, even the most serious incidents are withdrawn after being reported, with the victims being pressured to seek an alternative resolution to the problem within their families, leading to poor data capture of domestic abuse.¹³⁰ Normally, incidents of violence are viewed either as necessary or as lying within the purview of the family problem-solving mechanisms. Although the introduction of community policing is viewed as an innovation to amplify the dispensation of justice, it has led to the permeation of the security institutions into the cultural context that perpetuates the neo-patriarchy. In essence, these institutions are limited by the social attitudes and pressures that predated their introduction, leading to inaccurate and incomplete enforcement. The CEDAW second periodic report on Qatar indicates that although community policing complements and supplements the traditional policing roles, its effectiveness is limited by social and cultural limitations.¹³¹

The pervasiveness of cultural norms which perpetuate abuse in marriage exists in multiple levels of society and systems, thus creating a favourable environment for society to tolerate and, in some instances, to accept abuse.¹³² Male dominance and neo-patriarchy are driving forces in the psychological domains, whereby the self-image of women as wife, daughter, housewife, and grandmother is determined by men.¹³³ Right from the family setting, young children are brought

¹²⁸ See also K Al-Ghanim and others 'Contemporary Women in Qatar: An Ethnographic Study of Their Challenges in Terms of Traditional Applications and Modern Requirements'. (2023) 13 Sage Open, 3, 5.

¹²⁹ Anna J. Secor, 'The Veil and Urban Space in Istanbul: Women's Dress, Mobility and Islamic Knowledge (2010) 9 Gender Place & Culture. A Journal of Feminist Geography 7,

¹³⁰ See Al-Ghanim (n 9) 80.

¹³¹ See CEDAW, 'Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018', CEDAW/C/QAT/2 (2019).

¹³² See Jannat (n) and Al-Ghanim and others (N) 10, who report incidences of the emergence of the culturally-oriented factors emerging as early as the teenage years, with the goal of ingraining it upon women that they are not equal to men.

¹³³ Al-Ghanim and others (N) 5.

up in a manner that perpetuates the difference between genders. The practice reinforces the reality that there is no equality between genders. In most learning institutions, gender segregation is perpetuated further, with female students separated from male students.¹³⁴ In the workplace, men and women have highly specialised responsibilities, thereby promoting the narrative of segregation. However, all women face some form of discriminatory treatment, which changes based on the situation. Workplace factors contributing to domestic abuse have permeated the professional arena, with professionals in law enforcement institutions failing in their mandate to treat the incidents as wrongs that require either civil or criminal interventions, even though the Ministry of the Interior has created a Community Policing Department that is charged with the responsibility of preventing domestic violence.¹³⁵ These cultural norms have become institutionalised, with law enforcement agencies playing a role in the perpetuation of violence by encouraging women who are victims of domestic violence to seek out court settlements, rather than lodging criminal claims.¹³⁶

Research into IPV reveals that, whereas cultural norms are the explicit rationalisations for such actions, there are implicit circumstances that explain the actions and choices. Explicitly aggressive behaviour, such as the abusive treatment from a spouse, leads to implicit and explicit aggression measures. Explicit aggression measures are only evident within an environment that facilitates the expression of dissatisfaction with abuse within marriages. Implicit cognition¹³⁷ plays an important role in the mechanisms for justifying abusive treatment, both within the perpetrator and the victim. The justification mechanism involves the minimisation of their engagements to enable the individual to avoid processing the reality.

The combined effects of these cultural norms are the creation of social pressure, which is justified based on practices drawn from religious teachings, codified legal frameworks and deeply

¹³⁴ See Sulaiman and AlMuftah (n 116), 510, and A. Berrais, “Arab Women in Engineering Education: Current State and Future Perspective,” in *Symposium Female Higher Education: Trends and Perspectives*, 2011.

¹³⁵ CEDAW, ‘Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018’, CEDAW/C/QAT/2 (2019), See also Amnesty International, ‘Annual State of the World Report (2013): Qatar,’ p. 216, available at: http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf [accessed 10 January 2025].

¹³⁶ Independent Group of Concerned Citizens, ‘Qatar Shadow Report to the Convention on the Elimination of Discrimination of Women,’ (2013), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16177_E.pdf

¹³⁷ Ireland, and Birch (n 106), 657.

entrenched expectations from the various formal and informal institutions.¹³⁸ Ultimately, these cultural norms are perpetuated by the fact that there is inequity in the representation of women in the institutions and scenarios where key decisions are made, thereby creating a favourable environment for conservative judicial decision-making.¹³⁹ To date, the under-representation of women in virtually every domain of governance, administration and decision-making is apparent in Qatar. Hillman indicates that despite their proven ability and proficiency, women in Qatar are often relegated to support roles since management and decision-making roles are reserved for males¹⁴⁰. The underrepresentation is apparent in politics and institutions that influence policy, and ultimately, the distribution of resources and legal frameworks among others.

2.3.3 Social Factors

Qatari societies are organised in a highly hierarchical structure, based on familial ties. A number of social norms are intertwined with religious norms under *Shariah law*. While Islam has been misunderstood or misused as a rationale for limiting the freedom of women, this ideological interpretation arises from the confusion about how religious, customary, traditional and social issues are interrelated, and how they are applied in the Qatari context.¹⁴¹ Thereby, the restrictive treatment of women in Islamic communities is not attributable to the religion itself, but to the societal practices and norms derived from how the religion is practised, with some instances attributable to the misinterpretation of the religious provisions. A number of theorists have opined that Islam is not an obstacle to the advancement of women in careers, since there are clear differences in the prescriptions of Islam towards women, and the socio-cultural norms and gender-based expectations.¹⁴² The differentiation between the societal norms based on religious practices and the religious principles in place is thus an integral starting point for the appreciation of the mechanisms for women's empowerment in an Islamic setting, such as Qatar. One concept, such as *qiwama*, is used as an explanation for the disempowerment of women on account of religion. The

¹³⁸ R Naguib, and M Madeeha, 'Making visible the invisible': Exploring the role of gender biases on the glass ceiling in Qatar's public sector,' (2023) 98 Women Studies International Forum, 1, 6.

¹³⁹ Al-Tamimi, Noor Khalifa. 'Qatari Women's Engagement in Politics. Qatar Foundation Annual Research Conference Proceedings', (2016), <https://www.qscience.com/content/papers/10.5339/qfarc.2016.SSHASP2414>

¹⁴⁰ Sara Hillman, and others, "Being Female and an Engineering Student in Qatar: Successes, Challenges, and Recommendations," (2017), <https://www.asee.org/public/conferences/78/papers/18122/view>

¹⁴¹ Salem, and Yount (n 15), 507.

¹⁴² Blitt, (n 18), 5, who indicates that essentially, this is interpreted as a justification for the authority of men over women in all decisions and actions in the public sphere.

concept raises questions on how equality is conceptualised, since it bestows full control and support to the man, while the woman is expected to be obedient.¹⁴³ Similarly, the system of male guardianship (*Wilayah*), presents a socio-legal structured under which women are dependent upon men for basic functions.¹⁴⁴ The imposition of these requirements upon women implies that women face restrictions in exercising agency, which can expose them to oppressive treatment.

Within these societies, women are faced with stigmatic situations, whereby they are expected to accept certain practices, rather than demand rights and equal treatment.¹⁴⁵ The practice arises from the lack of autonomy among women, whereby it is seen as taboo, and a source of shame upon the entire family, and the husband, if a woman seeks autonomy on an issue. In case of abuse, women tend to rely on the decisions within family structures, which entail reconciliation, thereby limiting the access to legal protections, lest they face ostracism.¹⁴⁶

2.3.4 Legal Factors

2.3.4.1 Legislative Factors

Legislative factors relate to how the rules, policies and laws are formed. Several legislative factors that reinforce inequality and oppression are evident from the analysis of the law. These laws tend to typecast women as being different, by dichotomising the genders through several assumptions. For example, the laws tend to consider men to be rational, competitive and dominating, all of which are integral for leadership, while women are perceived as passive, emotional, subordinate, domestic and nurturing, hence are best designed as followers.¹⁴⁷ Normally, legal barriers tend to present challenges to reformers, since precedents create the status quo, which is often deeply entrenched as norms. To address several barriers to the adoption of the radical

¹⁴³ T Masoud, and others, *Using the Quran to empower Arab women? Theory and experiential evidence from Egypt*, (2016), 49 *Comparative Political Studies* 12 1555, 1570, posits that while the Quran asserts that God gave men more capabilities than women, this does not imply that there is a Qur'anic justification against empowering women.

¹⁴⁴ M Jannat, 'Qatari Women, Family, and Workplace: Navigating the Domestic-Public Divide'. In: Rahman, M.M., Al-Ghanim, K., Hossain, Z., Umar, S. (eds) *Handbook of Families in the Arab Gulf States*. (Gulf Studies, vol 19. Springer, Singapore, 2025), 5.

¹⁴⁵ See Nada H A Fouad, 'Closing the Divide: Women Empowerment in Qatar Between Rhetoric and Reality', Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*, (Gulf Studies, Springer, 2024), pp.135, 146, who indicates that in most cases, when women are aggrieved, they are expected to channel their claims within the family structure, rather than claim justice as individuals.

¹⁴⁶ Ibid, 147. See also B I Abdelgafar, 'Re-envisioning Women's Empowerment: A Maqasid Approach to Understanding Women's Status and Rights in Islam', In: Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*. Gulf Studies, vol 11. (Springer, Singapore, 2024), 57.

¹⁴⁷ Kfir (n 292), 6.

procedures that are integral to implementing this form of feminist ideology, the conceptualisation of Islamic feminism provides a more viable approach. First, the codification of gender equality into the Qatari constitution in 1999 granted female Qataris several rights, including the right to participate in political processes, as well as to hold elected leadership positions.¹⁴⁸

The lack of specific legislation to create criminal and civil liabilities for actions that relate to gender violence is often viewed as part of the reasons why this vice prevails across the globe. Within Islamic communities, an intersection between the provision under *Shariah law* and the Islamic law of the country can be used to explain the rationales. The challenges with the criminalisation of violence against women can be attributed to some provisions under Chapter 5 of QFL No. 22 of 2006, whereby the absence of a husband due to imprisonment can be grounds for separation, and ultimately, divorce.¹⁴⁹ In some instances, the insufficiency of legal frameworks, as well as the insufficiency of provisions for punitive and preventive measures, is the primary cause for the lukewarm approach to legal claims by victims.¹⁵⁰

Failure to criminalise domestic violence or other forms of violent treatment of women and children in the country under Law No. 11 of 2004 (issuing a penal code) implies that there is a limited scope in the type of punitive measures that can be deployed when these incidents occur. The criminal codes do not provide for definitions, descriptions or penalties for domestic violence, thus creating the perception that the different forms of violence are monolithic. Thus, Al-Ghanim indicates that only five per cent of the incidences of violent treatment were reported, with the remaining 95% out of 573 victims choosing not to report the incidence to the authorities.¹⁵¹ These cultural norms have been identified as barriers to justice, since they influence the prevention of domestic violence, and limit the ability of victims to take the necessary measures to protect

¹⁴⁸ Golkowska, (n 117), 5.

¹⁴⁹ Qatar Family Law No. 22 of 2006 “Article 145: If a husband is imprisoned by a final judgment for a period of not less than two Years, the wife may request separation. However, separation may be decreed only after the elapse of one Year from the date of imprisonment”

¹⁵⁰ See Library of Congress, Legal Provisions on Gender Equality’, (2020), <https://www.loc.gov/law/help/gender-equality/legal-provisions-gender-equality.pdf>, which reveals that nine out eighteen Middle East countries, including Egypt, Iran, Iraq, Kuwait, Libya, Oman, Qatar, Syria and Yemen, do not have express legislation against domestic violence. Among the remaining nine jurisdictions, three only recognise certain activities (Jordan, Lebanon and Morocco), but has no express legislation against marital rape, which one of the most prevalent form of gender-based violence.

¹⁵¹ Al-Ghanim (n 9) 91.

themselves.¹⁵² These cultural norms are evident from the fact that ‘crimes of honour’ against women are permitted, with the perpetrators only facing light sentences.

While the presence of suitable laws is integral in addressing the oppression of women, it does not guarantee favourable outcomes.¹⁵³ Within the context of marriage and divorce, patriarchy revolves around the preservation of the honour of the man, with a focus on dignity, status, identity and self, without commensurate consideration of the rights, dignity and status of the woman. The multiplicity of measures focuses on maintaining the public esteem of the man as a reflection of the community at large. This explains why the three decisions, which are based on *Shariah law* perspectives, are framed with artefacts that protect the standing of the man. Ultimately, honour is deployed as a form of control over the behaviour of women, including social, economic and sexual conduct.

2.3.4.2 Jurisprudential Factors

The principles of jurisprudence, as well as specific methodologies for formally interpreting rules on points relating to *Shariah law* as provided by the drafters of legislation, play a role in perpetuating oppression.¹⁵⁴ Qatari jurisprudence, which is primarily based on the rule of law to ensure consistency and coherence, leads to reinforcement and legitimisation of the status quo, hence promoting the existing power relationships.¹⁵⁵

2.3.4.2.1 The Qatar Court System

The influence of international standards on domestic jurisprudence is evident in how the provisions of treaty agreements are transformed into procedural and substantive rules that are applied in domestic courts.¹⁵⁶ Judges in those domestic courts have to carry out a balancing of responsibilities in applying those laws, with the guiding principle being to fulfil the goals and

¹⁵² Ibid, 92.

¹⁵³ Abdullah Abdullah, *The Legal Impact of Islamic Law in the Identity and Provisions of Qatari Legal System: Conceptual Frame and Legislative Directions*, (2020), 58 *Journal of Islamic Studies*, 2 1, discussing the differences in the implications of some of the substantive and procedural reforms under Qatari law.

¹⁵⁴ Hasbullah and others, (n 358), 123.

¹⁵⁵ M El-Mumin, *The GCC Human Rights Declaration: An Instrument of Rhetoric?* (2020) *Arab Law Quarterly*, 34 86, 96, who indicates that the fundamental purpose of procedural and substantive norms is to promote order and stability, which are often conceptualized as the official societal values, but this also contributes to the observance of the natural and inevitable order.

¹⁵⁶ David Sloss, and Michael Van Alstine, ‘International Law in Domestic Courts’, (2015), <<http://digitalcommons.law.scu.edu/facpubs/889>> Accessed 13 January, 2025,

objectives of the treaty.¹⁵⁷ In some cases, the decisions by domestic courts deviate from the international standards. Just like in other jurisdictions, the domestic courts in Qatar have unique ‘avoidance’ and ‘harmonisation’ techniques. ‘Harmonisation techniques’ refer to the variety of practices by the domestic courts that give effect to international norms within the domestic legal system, while the ‘avoidance techniques’ denote the multiplicity of divergent ways devised by domestic courts to by-pass the applicable provisions under international law, through the arrangements under the constitution.¹⁵⁸ The most effective ‘harmonisation technique’ is the recognition of the specific international norm as a binding formal law under the domestic court systems.¹⁵⁹ The domestic courts can also apply those international norms, even when they do not qualify as domestic laws. This includes instances where the courts base their decisions on treaties that have not yet been incorporated, or where they applied presumptions that are interpreted in a manner that leads to conformity of the domestic case law with international law. In some cases, it extends to relying on international norms when interpreting the constitution. The avoidance techniques include the construing of judgments based on specific schools of thought under *Shariah law*, considering that these rules govern the daily lives of the natives.

The Qatar courts utilise the inquisitorial judicial model, whereby the judge is actively involved in the investigation of the cases.¹⁶⁰ The process involves extensive interrogations and investigations in the pre-trial period, to establish the rationale for the case.¹⁶¹ This differs from the adversarial judicial model which is applied in common law systems, whereby the applicant and respondent engage in a competitive process.¹⁶²

¹⁵⁷ Beatriz E Mayans-Hermida, and Barbora Holá, Balancing ‘the International’ and ‘the Domestic’: Sanctions under the ICC Principle of Complementarity (2020), 18 Journal of International Criminal Justice 5 1103, 1108

¹⁵⁸ David Sloss, and Michael Van Alstine, ‘International Law in Domestic Courts’, (2015), <<http://digitalcommons.law.scu.edu/facpubs/889>> Accessed 13 January, 2025, 5.

¹⁵⁹ Andrew Dahdal, Navigating Judicial Conflict amidst Jurisdictional Expansion: Common Law Commercial Courts in Arab Civil Law Countries (2023) 11 The Chinese Journal of Comparative Law 2 1, 5, which highlights the regulatory provisions for Qatari courts, as in the example of “...Amberberg Limited and Prime Financial Solutions LLC v Thomas Fewtrell, Nigel Perera and Louise Kidd (Amberberg), found parties can ‘opt in’ to its jurisdiction even if unconnected with the financial centre. This development has gone largely unnoticed by the legal and academic communities in Qatar. It is clear, however, that this development is a very important shift in the nature of the QFC court and the judicial landscape in Qatar.”

¹⁶⁰ A K Deshmukh, ‘Adversarial and Inquisitorial Models of Criminal Justice System: A Comparative Analysis’, (2020), 2 Int’l J of Legal Science and Innovation, 2, 70, 72.

¹⁶¹ Ibid, 76, the inquisitorial process seeks to establish the truth.

¹⁶² T Decaigny, ‘Inquisitorial and Adversarial Expert Examinations in The Case Law of the European Court of Human Rights’, (2014), 5, New J of Euro Crim L, 2, 148, 153.

In Qatar, family law issues are determined in a four-tiered system.¹⁶³ The system initiates with arbitration, with the parties having the freedom to appeal to a Court of First Instance (CFI). Decisions from the CFI can be appealed to the Court of Appeals, with the Court of Cassation being the final court in the land. The parties to any claim can appeal the decision from one tier to the other, hence enabling them to challenge matters of law and fact.

2.3.4.2.2 QFL No. 22 of 2006: A Trifecta of *Shariah law*, Islamic Law and Qatar law.

The development of the current family law in Qatar can be attributed to Islamic legal principles derived from the Qur'an and the Sunnah, classical Islamic jurisprudence (*fiqh*), and modern statutory legislation. *Shariah*, which translates as 'the correct path' in Arabic, refers to the body of Islamic law primarily derived from the Qur'an and the Sunnah of the Prophet Muhammad (PBUH). The Sunnah is preserved through the *Hadith*, which comprise records of the sayings, actions, and tacit approvals of the Prophet Muhammad (PBUH). *Fiqh*, by contrast, refers to the human understanding and interpretation of *Shariah* developed by Islamic jurists through legal reasoning. In Qatar, these principles have been codified primarily in the Family Law No. 22 of 2006, which is largely based on the Hanbali school of Islamic jurisprudence, while permitting recourse to the other Sunni schools of jurisprudence where the legislation is silent or where doing so better serves the interests of justice..¹⁶⁴ The *Hadith* offers specific guidance on family law issues such as those covered under Qatar law. First, under the *Hadith*, marriage is described as a contract between two parties, who have to mutually consent to enter it, without being forced.¹⁶⁵ It is based on ethical standards of love, compassion and beauty. The *Hadith* also outlines the roles of both spouses, including respect and honour, favourable marital relationship and intimacy, respect for the relatives of the spouse, the expectation of inheriting from each other's estates and keeping the confidence of one another.¹⁶⁶ The *Hadith* also describes the role of the husband, including

¹⁶³ Alexandre Caeiro, 'Islamic Law, Oil Wealth, and the Modern State in the Gulf: The Scope of the Sharia in Twentieth-Century Qatar', (2024) 65 *Die Welt des Islams*, 2-3, 214, 223, indicating that "The Presidency of Sharia Courts developed into a three-tiered structure comprising a Supreme Sharia Court, headed by Ibn Maḥmūd, and primary and secondary sharia courts operated by judge."

¹⁶⁴ Al-Ghanim (n 9) 82, who states that the '*Hadith*' forms part of the law in countries where *Shariah* law is practised, since they are considered as offering religious guidance to influence the actions and choices of individuals, while also demarcating the basis for moral existence.

¹⁶⁵ Kassem, (n **) 49.

¹⁶⁶ *Ibid*, 50.

provision of the needs and wants of the family regardless of the circumstances,¹⁶⁷ leading his family to do what is good,¹⁶⁸ providing guidance to the family on how to live under *Shariah* rules,¹⁶⁹ and being a reliable partner.¹⁷⁰

In some cases, there are conflicts between *Shariah law* and *Fiqh*, regarding the perceptions on the acceptability of violence. For instance, from the contents of Qur'anic Verse 4:34,¹⁷¹ which offers protocols for husbands to discipline their wives, using a *miswak*.¹⁷² Traditionally, jurists have interpreted the narrative to imply that women have to obey and be subordinate to their husbands, lest they deserve punishment. In a more subtle interpretation, the process of chastising wives is viewed as being necessary for the process of enabling men to assert their authority within their households.¹⁷³ There are different interpretations of the Qur'anic verse,¹⁷⁴ with the most prominent being that the teachings are viewed as engendered towards creating equilibrium within the union of a marriage, with the recognition that although they are different, men and women originate from one soul. There are additional examples provided in Chapter 4 (Section 4.2), where a more intricate analysis of QFL 22 of 2006 is provided.¹⁷⁵

The combined effects of the legal and jurisprudential factors are evident from past research. The constitutional and legislative frameworks in Qatar are riddled with contradictions, a scenario that is magnified by the non-linear application of the principles of *stare decisis*.¹⁷⁶ As outlined

¹⁶⁷ Moh. Hafid, and Umi Sumbulah, *Living Hadith: The Role of Husband and Wife in Family Law*, (2022), 11 Legal Brief, 2, 1580.

¹⁶⁸ Lawal M Bani, and Hamza A Pate, *The Role of Spouses under Islamic Family Law*, (2015) 37 International Affairs and Global Strategy, 1, 2, who indicates that the role extends to appeasing and sympathizing with the wife.

¹⁶⁹ Hafid, and Sumbulah (n), 1580.

¹⁷⁰ Bani, and Pate (n **) 4, including being attentive, trust her and overlook simple mistakes.

¹⁷¹ According to Andra N. Behrouz, 'Women's Rebellion: Towards a New Understanding of Domestic Violence in Islamic Law', (2006), 5, UCLA J. Islamic & Near E. L.153, 161, the text of the verse is stated as follows:

Men are the managers of the affairs of women because Allah has made the one superior to the other and because men spend of their wealth on women. Virtuous women are, therefore, obedient: they guard their rights carefully in their absence under the care and watch of Allah. As for those women whose defiance[nushuz] you have cause to fear, admonish them and keep them apart from your beds and beat [daraba]them. Then, if they submit to you, do not look for excuses to punish them; note it well that there is Allah above you, who is Supreme and Great.

¹⁷² Treuthart and Rosenbaum, (n 98), who defines *miswak* as a small piece of stick, to tap their wife gently.

¹⁷³ The forms of discipline used by men against their women are viewed as part of the process of reinforcing the marriage contract

¹⁷⁴ Kassem, and others (n 28), 37.

¹⁷⁵ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025.

¹⁷⁶ Ilias Bantekas, and Ahmed Al-Ahmed, 'Contract Law of Qatar', (Cambridge University Press, 2023), 22, who indicate that Qatari legislative frameworks apply the concept of *stare decisis*.

under Article 22 of Procedures in Non-Penal Cassation Appeals Law of 2005. Based on the provisions, lower courts, including the court of first instance and the Court of Appeal, are mandated to adhere to the decisions by higher courts, specifically the Court of Cassation. However, there are no guidelines on how the Court of Cassation should uphold its previous judgments, thus giving it the power to overrule itself.¹⁷⁷ A review of publications from Qatar reveals limited utilisation of the principles of legal precedence in decision-making.¹⁷⁸ The contradictions and specific jurisprudential formulations and interpretations arise from the fact that, whereas the constitution is codified and established around the principles of *Shariah law* and conventional law, the legal frameworks in place separate the two philosophies.¹⁷⁹ This has perpetuated the norm that *Shariah law* cannot and should not be tampered with or changed. It has also led to the non-linear and unpredictable application of the legal frameworks. The uncertainties predispose women to discriminatory treatment and influence their choices within marriage.

Alqahtani, who studied the degree to which Qatar had implemented the proposals under DEVAW as of 2024, arrived at four key findings which are integral to this study.¹⁸⁰ First, there are differences in how Qatari law defines violence against women:

“Qatari law does not define violence against women, and the texts of Qatari law are not completely consistent with the concept of violence against women according to the Declaration.”¹⁸¹

This position arises from how violence against women is defined under CEDAW versus what the Qatari penal code defines as violence. Under the Declaration, in line with the definitions under DEVAW, it is possible to criminalise most of the forms of violence against women that are

¹⁷⁷ Ibid, 23, the rule on stare decisis operates vertically, but not horizontally.

¹⁷⁸ Ayad M Alahbabi, The Emergence of the Administrative Judiciary: An Applied Study Comparing the Similarities and Differences Between Qatar and Britain (2024) 12 J of Law and Sustainable Development 4, 1, 21, who asserts that while British courts rely on common law practices based on legal precedents, Qatari courts base their decisions on specific statutes. See also Abdelnaser Z Hayajneh, Theoretical Framework for Judicial Discretion Within Qatari and Jordanian Civil Laws: Indications and Implications, (2015) 12 British Journal of Humanities and Social Sciences 2 70, 74, who states “...judicial precedents have no official authority, though courts in Qatar and Jordan shall refer to precedents only for guidance.” See also William Frain-Bell, Enforcement’s “Coming Home” -Remember Qatar? Pre-World Cup Optimism for The Recognition and Enforcement of Arbitral Awards (2019) 2 The Journal Of Enforcement Of Arbitration Awards 2 33, 45, who states “Qatar’s legal Civil Law/Sharia legal system does not recognise the principle of legal precedent in the same way as a common law jurisdiction does.”

¹⁷⁹ See Amira el-A Sonbol, A Response to Muslim Countries’ Reservations Against Full Implementation of CEDAW (2010) 8 Hawwa 3, 348.

¹⁸⁰ S M Alqahtani, The Extent to which Qatari Law takes into Account the Provisions of the Declaration on Eliminating Violence against Women, (2024) 22 Pakistan Journal of Life and Social Science 2, 2710, 2711

¹⁸¹ Ibid, 2711.

overlooked within Qatar Family Law, under the Qatar Penal Code. Since violence against women falls under the category of violence within private and public spheres within the Qatari community, such actions can be prosecuted.

Second, Qatari lawmakers perceive the entirety of the treaty provisions as part of international law; they are not applicable within the country. Alqahtani's findings show that:

“The Qatari legislator supports the prevailing opinion that considers the provisions of the declaration not legally binding, and does not deny the existence of a moral or political obligation to them.”¹⁸²

Third, the Declaration was made within a forum that fails to recognise the cultural aspects of the law on violence against women in Qatar.¹⁸³ Furthermore, those framing the Declaration failed to take into account the different perspectives of the intrinsic legal realities in the jurisdictions that were expected to accede to the treaty. This failure thus limits the objectivity of the Declaration. Alqahtani states:

“The declaration in question does not have the elements of the customary rule due to the lack of generality of the text from an objective standpoint, because its texts were defined within a specific objective framework, which is violence against women. Also, the General Assembly resolution through which the declaration in question was adopted does not represent formal generality because it was adopted without voting.”¹⁸⁴

Finally, while the Declaration offers a comprehensive definition of what violence against women entails, including covering actions occurring in the private and public spheres, the provisions under the Qatari legal framework fail to sufficiently cover all aspects of violence as conceptualised under the law.¹⁸⁵ Alqahtani states:

¹⁸² Ibid, 2713.

¹⁸³ CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

¹⁸⁴ Ibid, 2713.

¹⁸⁵ Ibid, 2711. See also, CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, Due In 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025. 61, which reports that “the accession by the State of Qatar to numerous international agreements within a short period of time has created pressure and become a burden for the legislative organs of the State.”

“According to the [d]eclaration, violence against women includes violence in private and public life, and the provisions of Qatari law are not sufficient to cover all types of violence...”¹⁸⁶

Article 1 of the Qatari Constitution makes a declaration that Islam is the official religion in the State, and that ‘the Islamic *Shariah law* is the main source of its legislation.’¹⁸⁷ The declaration introduces a novel dimension to legislative and constitutional change, whereby religion and religious institutions are implicated in any constitutional change processes. Due to the conservative nature of the society, most of the recent constitutional changes have been driven by the interests of key individuals, rather than for legislative and constitutional efficiency and effectiveness. The legislative and constitutional frameworks play an integral role in changing attitudes and practices that make IPV an acceptable and tolerable event that is dealt with privately, as an issue of public concern that has civil and criminal implications.¹⁸⁸

The most glaring contradiction exists in Article 34 of the Qatar Constitution and Law No. 38 of 2005 on nationality.¹⁸⁹ Article 34 of the Constitution states that “Citizens shall be equal in terms of public rights and duties.”¹⁹⁰ The provisions of the nationality laws under Law No. 38 of 2005 create several differences in the rights and responsibilities of men and women, concerning nationality and citizenship. In practice, the equality between men and women is even more fluid, depending on their situation and their position in society.

2.3.5 Political Factors

Political factors denote the norms arising from how a country is governed. As a constitutional monarchy,¹⁹¹ Qatar utilises a combination of autocratic and democratic governance mechanisms. The combination of the two divergent systems creates a unique governance system,

¹⁸⁶ Ibid, 2717.

¹⁸⁷ Musawah. ‘Home Truths: A Global Report on Equality in the Muslim Family (2009)’, pp. 4-5, available at: http://www.musawah.org/sites/default/files/Home%20Truths-EN_0.pdf.

¹⁸⁸ B Pugh, Luye Li, and Ivan Y Sun, ‘Perceptions of Why Women Stay in Physically Abusive Relationships: A Comparative Study of Chinese and U.S. College Students (2018) 1 Journal of Interpersonal Violence 1, 1.

¹⁸⁹ Al Meezan, ‘Law No. 38 of 2005 on the Acquisition of Qatari Nationality 38/2005’, <https://www.refworld.org/themes/custom/unhcr_rw/pdf-js/viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F2005-10%2F542975124.pdf> Accessed 12 January 2025

¹⁹⁰ Al Meezan, ‘The Permanent Constitution of the State of Qatar 0 / 2004’, <https://www.icnl.org/wp-content/uploads/Qatar_1_Qatar_Const_2004.pdf> Accessed 10 January 2025, 6.

¹⁹¹ Babar (n 33), 403

with its structures influenced from a multidirectional perspective. The unique political governance has also been caught between modernisation and retention of its identity. In 1999, the reconceptualisation of gender roles under the QNV 2030 spelt a new dawn in gender equality, based on constitutional guarantees. Women were enabled to participate in political processes through voting and leadership while exercising other rights bestowed on all citizens.¹⁹² The measures included enhancing the mobility of women through classic and innovative solutions.¹⁹³ However, Qatar, like other Gulf nations, lags in terms of gender equality and empowerment of women, as conceptualised under the Sustainable Development Goals.¹⁹⁴

Under the initial National Development Strategy (NDS), the country sought to improve the empowerment of women by recognising their qualifications and capabilities in leadership and political positions. The ‘Women in Leadership’ programme sought to establish the requisite skills among women, thereby increasing their representation as decision-makers and creating an environment to support their active participation. While women are increasingly represented in political processes and involved in decision-making, the effects of their involvement are limited.¹⁹⁵ To a large extent, evidence shows that patriarchy influences the extent to which women can challenge the norms and existing practices. Their lack of capacity to influence change can be attributed to a number of structural barriers. For example, the Qatari political class is wary of externally-influenced change, as they seek to retain their identity as a nation. As a result, women have limited influence on how policies are designed and implemented, including those designed for the empowerment of women. The absence of a female perspective in those policies leads to the perpetuation of gender-based discrimination.

While the concept of state-sponsored feminism appears on the surface to be positive, in reality, it is ineffective, with the possibility of creating detrimental reforms from a substantive and

¹⁹² The Emir’s wife also established opportunities for women in education and employment.

¹⁹³ For instance, the establishment of the Hamad Bin Khalifa University enabled women who could not travel outside the country without the company of a male relative, to access education from world-class universities within the boundaries of the country.

¹⁹⁴ R Naguib, ‘Women's Empowerment and Public Policy in the Arab Gulf States. Gulf Studies’, (Springer, Singapore, 2023), 15.

¹⁹⁵ A N Khalifa, ‘Qatari Women’s Engagement in Politics. Qatar Foundation Annual Research Conference Proceedings’, (2016), Available at <<https://www.qscience.com/content/papers/10.5339/qfarc.2016.SSHASP2414>> Accessed July 15, 2024.

transformative perspective.¹⁹⁶ In Qatar, while women are encouraged to pursue empowerment in professional and personal spheres, some legal obligations, such as those under Article 58 of QFL 22 of 2006, impose expectations on them to fulfil domestic duties and responsibilities, such as childcare.¹⁹⁷ State-sponsored feminism differs from other forms of feminism in that it is a top-down application of state power aimed at furthering the agenda of women's rights, with the overriding goal being the use of feminism as an instrument of state legitimacy. The outcome is the inadequate commitment to the stated goals, with contradictions and inconsistencies being evident in how the objectives of the process are achieved. In some cases, the involvement of the government in the establishment of the institutions aimed at facilitating the empowerment of women leads to the inability of these institutions to achieve their goals, since the institutions end up as being state-led ventures or functioning as quasi-governmental entities.

To a large extent, state-sponsored feminism is essentially a novel form of large-scale guardianship, with effects in both the private and public spheres. The effects of the guardianship resemble the patriarchy, which is responsible for the discrimination against women in Qatar. The measures place the government in a position where it appears to be liberating women, while on the other hand, there are strict consequences under traditional law, which essentially nullify some of the benefits accruing to women. As indicated by Salem and Yount, some of the measures only serve to create a false sense of progress and modernity, through partial empowerment, whereby the interests of the governing entity supersede the real empowerment of women.¹⁹⁸ The scarcity of information about cases relating to family law in the country is evident in the extent to which political control over how the country is perceived functions.

¹⁹⁶ Naguib, (n 582), 15 who defines state-sponsored feminism as the reforms targeting the empowerment of women that are decided by the state, with the priority being to maintain power and political stability, especially when those outcomes are threatened by the movements for real gender equality.

¹⁹⁷ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025.

¹⁹⁸ Salem and Yount, (n 15), 509. In support, Lari, (n 166) 220, points out that the outcome of the state-sponsored women under that system leads to undermining the actual progress achieved under other programmes.

2.4 The Institution of Marriage and Oppression of Women

In this section, the discussion focuses on marriage and how it contributes to oppression of women in Qatar. The discussion provides serves to highlight how the oppression of women occurs within the institution of marriage. In the discussion, the incidents of oppression of women

The status of women in Qatar can be best described as dynamic, with significant evolution that is driven by a combination of policy-based outcomes and the unexpected effects of changes in the socio-economic conditions, particularly from the increased wealth from the oil industry.¹⁹⁹ Qatar, like most other GCC countries, has engaged in top-down reform agendas, driven by the need to achieve rapid modernisation in response to global standards.²⁰⁰ One key target is the creation of labour policies aimed at empowering the natives to enable them to take over from foreigners who were key to the transformation of the country in the late 20th century. In most of the Gulf countries, the close link between the aspects of national development is aptly deployed in stifling opposition and reinforcing the controlling nature of religion. This has inadvertently magnified the impact of patriarchy, specifically within the institution of marriage, with the effects extending to the rights of women, within and outside marriage.

The debate on protecting the family unit from disintegration (*al-tafakkuk al-usarī*) has become central to the design of policies in Qatar. The objectives of protecting the family unit can be traced to Article 16 of the UDHR in 1948.²⁰¹ Under the Declaration, marriages are only permitted if they occur between people who have fully consented, without coercion, to enter into the union.²⁰² There is a clear articulation of the struggle by countries in the region to redefine family in the 21st century. The debate is informed by the need to promote the agenda of family cohesion, with the multiplicity of participants involved in the discourse reinforcing the importance

¹⁹⁹ T J Al-Nasr, Gulf Cooperation Council (GCC) Women and *Misyar* Marriage: Evolution and Progress in the Arabian Gulf, (2011) 12 J Int. Women's Studies 2, 43.

²⁰⁰ See Golkowska, (n 117), 3 and Krystyna Golkowska, Arab Women in The Gulf and The Narrative of Change: The Case of Qatar' (2014) 16 International Studies Interdisciplinary Political and Cultural Journal 1, 51.

²⁰¹ See Art. 16, G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948), at 71.

²⁰² See Convention on the Elimination of All Forms of Discrimination Against Women, art. 16, 1249 U.N.T.S. 13 (Dec. 18, 1979), which is derived from the UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

of the debate.²⁰³ However, one category of individuals has been left out of the debate, and that is the religious *muftis*, who are involved in the mainstream Islamic institutions in the country.²⁰⁴

Existing research reveals that there is inequality that is structurally rooted in Muslim Family Laws, due to the intersection between responsibilities and rights. In both *Shariah law* and common law, marriage regulation falls into two categories: the essentials (legislation on the capacity to get married, the statutory requirements before and during marriage, the prohibitions in place and other substantive guidelines)²⁰⁵ and formalities (the legally mandated requirements that, if violated, can be punished, but do not affect the validity of the marriage).²⁰⁶ In Qatar, as it is in most other Gulf countries, marriage is construed as a relationship of complementary roles, rights and responsibilities.

2.4.1 Family and Its Centrality to Qatar Societies

Families in Qatar are operationalised as socio-cultural units from which the citizens orient themselves to the broader community and the rest of the world. Family is recognised in most aspects of the country, both traditional and modern, including the National Development Strategy Report.²⁰⁷ To promote stability at the family level, the country has introduced a multiplicity of sponsored programmes designed to provide pre- and post-marital assistance to couples.²⁰⁸ The assistance is designed to facilitate the ability of men to fulfil their responsibilities within the marriage because the presence of financial stability offers a robust foundation for a marriage. Furthermore, since most of the roles of women are covered through assistance by aunts and cousins, this gendered form focuses less on women's agency, and more on how to facilitate males.

²⁰³ A. Alsharekh (ed.), *The Gulf Family: Kinship Policies and Modernity*, (London: Saqi & The London Middle East Institute – SOAS, 2007) indicates that the discourse involves legal professionals, public servants, medical practitioners, activists and diplomats for the purpose of establishing a robust policy framework.

²⁰⁴ See M Al-Atawneh, 'Wahhābī Islam Facing the Challenges of Modernity: Dār al-Iftā in the Modern Saudi State', (Leiden: Brill, 2010), who cites the declarations (fatwas) handed out to the ministry of Endowments and Islamic Affairs through Islamweb.

²⁰⁵ Lynn D Wardle, 'International Marriage and Divorce Regulation and Recognition: A Survey', (1995) 29 *Family Law Quarterly* 3, 502.

²⁰⁶ Ibid, 503.

²⁰⁷ National Development Strategy, 'Qatar national Development Strategy 2011-2016: Towards Qatar National Vision 2030 (2019)', 166, which states that "[T]he continuity of cohesive families and large households [is] crucial to the national vision."

²⁰⁸ See Rajakumar, and others (n 62) 82.

In Qatar, marriages do not just happen between two persons; they involve numerous family members from the bride's and groom's sides.²⁰⁹ This was because marriage was integral to power and status within society. The extended family, and to a large extent, the tribe, influences marriage choices within the Qatari communities. The descent, ethnic affiliations and ideological inclinations influence the acceptability of a bride, as well as the power bestowed on the groom, during and after marriage.²¹⁰ However, over time, it has become increasingly common in some locations for most men and women not to view marriage as a phase necessary for membership within a society, since other commitments, such as work and education, bestow similar statuses.²¹¹ All these choices are reflective of the transformation of families in most Arab countries, with the difference being the extent to which the transformation has occurred, the speed of transformation, and how the society responds to those changes.

Globalisation, coupled with the transformation of societies in the Gulf region, has led to novel forms of socialisation, whereby children and youth do not rely only on connections through their parents and relatives to find spouses.²¹² For instance, Rajakumar and others state:

“For Qatari men, a woman's online persona is an extension of her real life; the same rules apply. For Qatari women, however, who are not allowed to socialise with non-mahram, or men from her immediate family, a potential spouse's online persona is a window into his identity that she may not otherwise access during the engagement process.”²¹³

In modern-day Qatar, some spouses meet in shopping malls, online platforms, and other official locations such as learning institutions or the workplace.²¹⁴ Even though such marriages

²⁰⁹ Yasamin Abdu, and others, Perception of consanguineous marriage among the Qatari population, (2023) 4 *Frontiers in Public Health* 11, 1, 4, who indicates that choices relating to marriages take into account the family interests, and are sometimes based on family ties. See also Noora Lari, Toward Marriage Sustainability: Impacts of Delayed Marriages in Qatar, (2022) 8 *Cogent Social Sciences* 1, 1, 3, who indicates that the choices in marriage are influenced by a diversity of factors including “...marriage type, spousal selection, marriage costs and expenses, social bias and gender differentials at the household level.”

²¹⁰ Lari (n 166), 5, who attributes this socially-enforced practice to the need for families to maintain tribal organisation of family, to retain family ties and to maintain wealth within their tribe or family.

²¹¹ Ibid, 8, due to the costs associated with marriage, commitment to learning programs that delay courtship, and other micro- and macro-factors.

²¹² Mohanalakshmi Rajakumar, Rumsha Shahzad and Tanya Kane, Measuring Qatari Women's Progress through Reactions to Online Behavior, (2017) 2 *IAFOR Journal of Cultural Studies* 1, 1, 3.

²¹³ Ibid, 3.

²¹⁴ Ibid, 9, who attributes the asynchronous nature of social media sites as a platform that enables women to practice some of the activities that would be considered culturally unacceptable elsewhere.

involve two Qataris, they differ from the traditional marriage setting, whereby the families of the bride and the groom are involved in the selection of partners.

Due to the centrality of family to the Qatari society, several institutions have been established to reduce the high prevalence of domestic violence. The Qatar Foundation for the Protection of Women and Children,²¹⁵ established under the Mandate of Law No. 8 of 1998, liaises with other institutions and agencies in the country to protect women and children from violence.

2.4.2 The Capacity of Women to Enter into Marriage

The capacity of women to enter into marriage comes into question because, within QFL (No. 22 of 2006), marriage is always perceived as a contract, with clearly articulated responsibilities of each individual. Within this contract, the process of agreeing influences the choices of women, and ultimately, the predisposition to violence.

The combined effects of male guardianship (*wilayah*) and male authority over women (*qiwamah*) are responsible for the institutionalisation, justification and retention of patriarchal family models within the Qatari context.²¹⁶ However, all these notions of supremacy of the authority of men, as well as the hierarchical interpretation of *wilayah* and *qiwamah*, are skewed towards the jurist interpretation under the *Hanbali* school of Jurisprudence. The construction of this gendered ideology ties back to classical Islamic teachings that were relevant in past times.

Irrespective of the age of the woman, it is a legal requirement for brides to consent to marriage through the word of a guardian (*wali*).²¹⁷ Despite the importance of the permission of the guardian, the bride can invoke the involvement of a judge in the process of getting married, and the decision of the judge will determine the legality of the marriage.²¹⁸ However, it is not common

²¹⁵ See UN Women, 'Qatar Foundation for the Protection of Women and Children' (2002). <https://evaw-global-database.unwomen.org/en/countries/asia/qatar/2002/the-qatar-foundation-for-the-protection-of-women-and-children>, the Foundation was established in 2002.

²¹⁶ CEDAW, '57th CEDAW Session, Musawah Thematic Report on Article 16: Qatar', (2014), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16419_E.pdf [accessed 22 March 2021], 5.

²¹⁷ The guardian, who has to profess the Islamic faith, can either be the father of the bride, the grandfather, son, full brother, half-brother, uncle or the paternal uncle. In some jurisdiction, such as Bahrain, Morocco, Turkey, Tunisia, Afghanistan and Iraq, the requirement for a *wali* has been waived.

²¹⁸ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025, Articles 27, 29 of the QFL (No. 22 of 2006), whereby the decision by the judge will be based on the mutual benefits to the groom and bride.

for a woman to bring claims to the court regarding permission to marry against the wishes of her guardian, lest she or her family face backlash from society.

Despite the convergence in the ideology about marriages, Article 53 of the QFL (No. 22 of 2006) provides for the customisation of the conditions of a marriage agreement between the bride and groom, subject to the fact that those conditions are not in contravention of the purpose of marriage, and are within common law or *Shariah law*. The customisation of marriage is limited to several particular provisions, such as:

- Provisions to allow the wife to study and/ or work
- Limitations on polygamy, unless with express permission from the wife
- The agreement that the wife is not mandated to accompany the husband during travel
- Agreements on formulas for the division of assets that are jointly owned and acquired during a marriage
- *Isma* (delegation of the right to divorce) to the woman.

2.4.3 Domestic Abuse Against Women in Qatar

Domestic abuse has persisted as a social issue that concerns the victims and perpetrators, as well as the policy-making infrastructure within societies. Domestic abuse is a global challenge which affects spouses within and outside the institution of marriage, in both the developed and developing world. A recent literature review by Elghossain and others found that the prevalence of physical IPV in the Arab world ranged from 6% to 59%, while sexual IPV ranged from 3-40% and psychological/emotional abuse ranged from 5-91%.²¹⁹

The differences in prevalence are attributed to the disparities in the participation of women in politics and socio-economic activities, impunity due to patriarchal systems, discriminatory legal frameworks and political and economic instability, with women bearing the brunt of the situation. Domestic abuse is a multifaceted construct, which was officially identified and defined by the UN Declaration on the Elimination of Violence against Women.²²⁰ The UN Sustainable Development

²¹⁹ Elghossain, and others, (n 87), 1

²²⁰ The declaration defines domestic abuse as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life”

Goals also promote the elimination of all forms of violence against women and girls.²²¹ The pervasive nature of domestic abuse arises from the fact that it occurs behind closed doors, thus making it challenging for legal measures to be taken for each instance. It takes the form of the following two key aspects. First, abuse in relationships, whereby tension is perpetuated through violence. The perpetuation of violence can be deployed as a way for the husband to keep the woman in the relationship. Generally, in such scenarios, the husband tends to escalate their actions to achieve the desired outcome. Second, the women experience a sense of helplessness from the realisation of the possibility of suffering from violence deployed by the husband.²²² Due to the fear of being in such a scenario, the women tend to avoid divorce and end up staying in relationships through duress, or an abusive marriage that they would have left.

Abuse in marriage remains a pervasive challenge in most locations, especially when it is perpetuated by belief systems that directly or indirectly justify it.²²³ The acceptability or permissibility of the acts can be traced to the establishment of characters and social roles that prevail in the understanding of society.

A 2006 study that involved 1121 individuals carried out in Qatar found that 23% of women reported that they had experienced some form of violence, with the most common forms of violence being physical (64% of the 23%).²²⁴ Among those who experienced psychological violence, the fear of being divorced or losing custody of children following the divorce was the most common form of concern.²²⁵ In 2010, an omnibus study, which sought to determine the

²²¹ Under Target 5.2, the UN SDGs framework prohibits all forms of violence against women and girls, whether in private or public.

²²² Enas A. Dhaher, 'Women's Attitudes Toward Accepting Wife Beating in the Southern Region of Saudi Arabia', (2020) 6, Australasian Journal of Social Science, 1 indicates that most women tend to hide the fact that they are victims of abuse, because they expect it to occur, or they expect it to end without intervention. See also Hajjar (n 16), 37 who indicates that women put up with it as part of the sacrifice of being a 'good wife', and to protect their family from disintegration. These scenarios are found to perpetuate the victimization, since the husband is of the opinion that the wife will tolerate the abuse.

²²³ See OECD Report, 'Social institutions and Gender Index for Qatar 2019'. (2019). <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf> who indicates that abuse of partners, including the use of violence, is sometimes viewed as agreeable or necessary, with support coming from the perpetrators and victims, as well as the bystanders, such as relatives.

²²⁴ In the study by Al-Ghanim (n 9), 80 focus was directed to a wider range of abuse between intimate partners, as well as other perpetrators within the extended family setting, including parents, siblings, in-laws and domestic workers. In the study, violence was found to affect both men and women, who were part of the 1121 sampled individuals.

²²⁵ *Id.* Whereas sexual violence was prevalent, other forms of obscure violence include grounding, control, being ignored, prevention of self-expression, humiliation and insults. The incidences were disproportionately borne by foreign women as compared to natives.

proportion of Qataris who perceived wife-beating as acceptable, reported that 25% of females and 33% of men viewed the practice as justified.²²⁶ In 2011, based on a sample of 2778 female students, comprised of citizens and non-citizens, 63% reported having experienced one or multiple forms of physical abuse. The prevalence of IPV and domestic violence, as shown in these studies, raises questions about why victims are not willing to terminate their marriage as a solution to the violence.

A review of existing literature reveals that researchers have shunned the topic of violence against women in Qatar. Even in studies where such investigations are carried out, the marginality of the study exists in the fact that they involve a small sample of respondents, with limited depth and breadth in the methodology.²²⁷ Historically, there has been limited data and information about violence against women in Qatar.²²⁸ Even in instances where such information exists, there are insufficient details in the reports to highlight the characteristics of the violence, thus making it challenging to determine whether the incidence can be classified as ‘violence against women’. Al-Muhannadi cites data from the Ministry of the Interior for 2004, which reveals that out of 65 claims associated with domestic abuse, 37 were handled at the Department of Social Status, 23 were referred to the offence court, and the remaining 5 bore criminal aspects, involving assault and homicides.²²⁹

2.5 Nationality and the Rights of Women

The CEDAW convention recognised citizenship as one of the ways through which the discriminatory treatment of women was perpetuated in some countries. Since the nationality of the father of the child is taken into consideration when determining the descent and nationality by

²²⁶ The study by Qatar General Secretariat for Development Planning, “Qatar National Development Strategy 2011–2016” (2011) involved 2139 persons, comprised of 768 expatriates, 689 natives and 682 migrant workers.

²²⁷ Al-Ghanim (n 9) 80, who cites three conference papers based on empirical research that focuses specifically on violence against women in Qatari society, including, Ramzia Al-Irayni, ‘Al- ‘unf dhidd al-mar’a (Violence against women). Research paper. Conference on the Rights of Arab Women’, (Sanaa, December 3–5, 2005), Amal Al-Jaba, ‘Al-Adat wa al-taqalid wa sihha al-mar’a (Customs and habits and woman’s health). Working paper presented at the Arab Conference on Violence against Women from a General Health Perspective’, (Amman, November 22–24, 2005) and Bana Bu-Zaboon, ‘Al- ‘unf al-manzili... fi al-mujtama ‘al-bahraini (Domestic violence... in Bahraini society). (Manama: Al-Markaz al-Watani li al-Bahth, 2004)

²²⁸ For instance, The Qatar General Secretariat for Development Planning, 2011. Qatar national development strategy report (2011-2016). http://www.gsdp.gov.qa/gsdg_vision/docs/NDS_EN.pdf indicated that 28% of all married females has been victims of domestic abuse with the perpetrator being the husband.

²²⁹ Al-Ghanim, (n 9) 85, who indicates that the lack of reliable data on the reported incidences leads to the inability of the courts to investigate the matters and bring cases on the victims.

birth, women were unable to confer their citizenship on their children.²³⁰ The case of UmAli, a woman from Lebanon, married to an Egyptian husband, who lost his life before completing the processes for registering their children, highlights how the cycle of statelessness can be perpetuated. Following the death of her husband, her brother-in-law demanded that she and the children move to Egypt. Since her daughter did not hold any formal citizenship, she was unable to assure her children of any nationality. The children could not get scholarships outside the country in Canada, and their mother was unable to work in the country to provide for their needs²³¹. Problems with the acquisition of citizenship are rife across the globe, primarily due to the lack of equality in rights regarding the acquisition of nationality. The problem arises from the tendency of individuals to use marriage and other strategies to acquire citizenship in certain countries. As a result, most nations have put in robust measures to limit the presence of loopholes in the acquisition of citizenship. Ultimately, the motivations arise from the differences in socio-economic opportunities among countries.²³²

Article 41 of the Qatari Constitution regulates nationality laws. The article states that: “Qatari nationality and the rules governing it shall be prescribed by law, and the same shall have the same power as that of the constitution.” The framing of the article has led to specialised nationality legal frameworks being developed, namely Law No. 38 of 2005 on the Acquisition of Qatari Nationality, which implies that natives are citizens if they can prove that they are direct descendants of persons who have lived in Qatar since 1930. Qatari citizenship is thus not transmitted through *jus soli* (through the right of birth within Qatar, as is the case in other locations such as the US), but occurs through *jus sanguinis* (based on descent or parentage).²³³ Just like it is the case in other countries, the political class in Qatar is focused on retaining its power by establishing structures that enable the country to remain conservative and committed to the values

²³⁰ Nafees Ahmad, ‘The Right to Nationality and the Reduction of Statelessness –The Responses of the International Migration Law Framework’ (2017), 5, Groningen J. of Int. Law. 1, 1.

²³¹ Edwards and Waas (n 191), 169 who cites the UmAli case.

²³² For example, FAB, ‘GCC Facts and Figures 2020: Market insights and Strategy’, (2020). <https://www.bankfab.com/-/media/fabgroup/home/cib/market-insights/macro-strategy-and-economic-update/pdf/20200824ms.pdf?view=1> finds that the GDP per capita between GCC countries varied differently, with Qatar at a high of US\$ 64,700 and Oman at US\$15,500.

²³³ See Graziella Bertocchi and Chiara Strozzi, ‘Citizenship Laws and International Migration in Historical Perspective (2005) 71 FEEM Working Paper 05 28.

that got it to power in the first place.²³⁴ Ideologies of democracy are often quashed, with particular demonisation of foreign influence, and that has led to control over citizenship and the exclusion of non-natives from political processes.²³⁵ Most of the temporary migrants to Qatar do not fit into the continuity in development that the government seeks, hence making their availability temporary. They are often viewed as lacking a long-term commitment to the success of the country, and in return, the country has limited interest in their development, beyond the short term.

2.5.1 Nationality and Access to Basic Amenities

The nationality of the residents of Qatar has huge implications for every aspect of their lives. Since the country does not allow for dual nationality, there are numerous challenges facing individuals who are born within the country and are not eligible for Qatari nationality. In addition to measures aimed at retaining cultural authenticity, concerns about the acquisition of citizenship are tied to the preservation of the social fabric of the Qatari societies. Consequently, the concerns about the effects of loosening the citizenship guidelines have led to the suspicious treatment of individuals who are not natives by birth.²³⁶

The constitutional and legislative frameworks in Qatar make provisions for the nationality of the people who live and work in the country. Qatar's nationality laws under Law No. 38 of 2005 allow men to pass on citizenship to their foreign wives and children automatically.²³⁷ Under Article 1 of Law No. 38 of 2005, there are provisions for the automatic acquisition of Qatari nationality for children born to Qatari fathers, regardless of the nationality of the mothers.²³⁸ Qatari courts have demonstrated their willingness to use what is termed 'other evidence' by Akhtar in Case

²³⁴ Hira Amin, and Logan Cochrane, The Development of the Education System in Qatar: Assessing the Intended and Unintended Impacts of Privatization Policy Shifts, (2023) 51 British Journal of Middle Eastern Studies 5 1091, who uses the changes in the education sector as a pathway to modernising the country as an example.

²³⁵ See David B Roberts, 'Reflecting on Qatar's "Islamist" Soft Power', (2019), <https://www.brookings.edu/wp-content/uploads/2019/04/FP_20190408_qatar_roberts.pdf>> Accessed 12 January 2025, who indicated that "an unusually quietist domestic scene. Qatari citizens enjoy one of the most generous welfare states in the world. Their discontent was so low that during the Arab Spring demands by Qataris for democracy went down".

²³⁶ See Abdulkarim, Khaled A., "Crystallizing a Discourse of "Khalijiness": Exclusion and Citizenship in the Arab Gulf States" 15 May 2017.CUREJ: College Undergraduate Research Electronic Journal, University of Pennsylvania, <http://repository.upenn.edu/curej/211>.

²³⁷ See Babar (n 33), 403.

²³⁸ Supra Note (1930). Individuals born of Qatari men acquire nationality automatically, whether born domestically or abroad.

137/2010.²³⁹ The case involved a divorce between a Qatari man and a Jordanian woman who were married in Syria. However, the marriage was not formalised under Qatari law.²⁴⁰ After the divorce, the man disowned the child from the marriage. The wife initiated proceedings to ensure recognition of the child as a Qatari, being a legitimate offspring of the Qatari man. After presenting the claim in a Qatari court, the judge sought evidence based on paternity tests.²⁴¹ The husband refused to participate in the process of determining the paternity. The court then initiated measures to acquire evidence from witnesses and then relied on that evidence in deciding that the child was a legitimate offspring of the father. However, the wife did not derive any benefits from being married to a Qatari Native but was content with protecting the birthright of her child. In this case, several realities on the application of QFL No. 22 of 2006 emerge. First, the approach of the court was significantly influenced by measures to ensure the best interests of the child. As observed in the case, the marriage was perceived to be valid, even though it had not been registered with the relevant Qatari institutions. The decision was based on how it would influence the outcome for the child. These measures are provided for under Article 10 of QFL No 22 of 2006, whereby a marriage can be recognised by a judge.²⁴² Second, in instances where the primary form of evidence is not available, Qatari courts can rely on evidence from secondary sources, including relatives. Finally, the courts have discretion on what types of evidence to accept or reject in the proceedings. The case highlights a scenario where the Qatari courts took measures to ascertain the claims of the woman, with the primary justification that it was done in the best interest of the child.²⁴³

Additional provisions in the laws on nationality highlight the areas where discrimination against women can occur. First, Article 8-10 of Law No. 38 of 2005 grants citizenship to non-nationals married to Qatari men through naturalisation, while safeguarding the right to nationality

²³⁹ Rajnaara C. Akhtar, 'Non-Legally Binding Muslim Marriages in England and Qatar: Circumventing the State' (2020), *Elec. J. of Islamic M.E Law*, 1, 14, 20. Court of Cassation – Civil and Commercial Circle, Case No. 137/2010, Session 11/2011, Cassation No. 137 of 2010 – Civil.

²⁴⁰ Court of Cassation – Civil and Commercial Circle, Case No. 137/2010, Session 11/2011, Cassation No. 137 of 2010 – Civil, the husband did not take steps to acquire the approval of the Qatari Marriage Commission.

²⁴¹ Akhtar, (n 206) 22.

²⁴² QFL No 22 of 2006, Article 10 "Marriage shall be established by a formal contract issued in accordance with the law, as an exception, it may be proved by other Evidence as may be decided by the Judge."

²⁴³ Akhtar (n 208), 23, who summarized the decision by stating that "This case demonstrates Qatari family law erring on the side of recognition, by providing a flexible framework in which judges are able to take a range of evidences into account. As a result, marriages which are non-legally recognised can still obtain legal recognition through a judicial process."

of such women, even if they divorce their spouses.²⁴⁴ However, the same right is not granted to Qatari women married to foreigners. Native Qatari women retain their citizenship, even when they marry foreigners. Their spouses are not assured of getting citizenship unless they follow the naturalisation process. Similarly, children of Qatari women married to non-nationals do not automatically become natives.²⁴⁵ The implication is that children born to Qatari mothers and foreign fathers are separated from their mothers and cannot enjoy the protections and benefits that arise from nationality.

Second, Law No. 38 of 2005 provides a criterion for non-native male spouses of Native Qatari women, and their children, to acquire nationality.²⁴⁶ Applicants are required to have been residents for at least 25 successive years, without having stayed outside the country for more than two consecutive months during that period.²⁴⁷ The requirement is a challenge, since most individuals who live and work in Qatar do so on a contractual basis.²⁴⁸ Similarly, for young children, by the time they fulfil this requirement, they will have missed out on most of the benefits, such as education, grants for acquiring properties, and opportunities for employment, among others. Similarly, the individual must have been a legal resident for the entire duration, with reliable income-generation abilities and must have achieved an impeccable reputation, which is judged based on good conduct, no criminal history, an excellent moral background and a good command of the local language.²⁴⁹ There are numerous challenges associated with attaining such requirements, especially considering that citizenship is integral for enabling an individual to

²⁴⁴ See Institute of Statelessness and Inclusion, ‘Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review’ (2019), based on the provisions of the law, such spouses can get naturalized as citizens within five years from application.

²⁴⁵ These restrictions can be traced to the Law No.2 of 1961 on the Qatari Nationality (Repealed), which was repealed through Law No. 28 of 2005.

²⁴⁶ Al Meezan, ‘Law No. 38 of 2005 on the Acquisition of Qatari Nationality 38/2005’, <https://www.refworld.org/themes/custom/unhcr_rw/pdf-js/viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F2005-10%2F542975124.pdf> Accessed 12 January 2025, Article 1.

²⁴⁷ Abdulaziz Ali, and Logan Cochrane, Residency and citizenship in the Gulf: recent policy changes and future implications for the region (2024) 12 Comparative Migration Studies 16 1, 9, who state “...foreign nationals may be eligible for Qatari nationality if they have resided in Qatar for at least 25 years and have demonstrated good conduct and behavior. They must also have a valid legal status in the country, a means of supporting themselves and their families, and knowledge of the Arabic language. Individuals with a naturalized father are also classified as naturalized and these legal revisions provide limits to the number of total people naturalized annually, limiting to fifty.”

²⁴⁸ Dorzadeh (n 35), 452, who uses examples of foreign employees, who face challenges in gaining citizenship, since their employment status is limited to 3-year contracts, that can be revoked at any time.

²⁴⁹ Ali and Cochrane (n 214)10. See also Dorzadeh (n 35), 453, who states that permanency in Qatar, which being the hope of numerous residents, is a far-off possibility.

acquire the knowledge and skills to work in the country, as well as to afford the high standards of living in the country. Due to the competitive nature of the naturalisation process, priority is given to offspring of foundlings, naturalised Qatari males and women.²⁵⁰ Only 50 persons can be naturalised per year.²⁵¹ The process is established more on a moral claim to citizenship, but comes at a highly complex legal process that is governed by a framework that is subject to interpretation. This is because the criterion is not applied uniformly, an anomaly that is built into the substance of the law. During this period of statelessness, individuals are faced with numerous discriminatory restrictions, such as the case of Zayed Al Murra, who spent over a month stuck at the border between Qatar and Saudi Arabia.²⁵² Due to the legislative frameworks, the possibility of statelessness is high in the country, and the problem is prevalent among children of Qatari women married to non-Qatari men. As of 2017, records showed that there were over 1200 stateless persons, but the actual figure is estimated to be higher since it has not changed since 2014.²⁵³ Also, the CEDAW report states that statelessness can occur for the children of Qatari women married to foreigners, if:

“the father dies before the child’s birth; the father is unknown; the father is stateless and has no nationality to confer; the father holds a nationality but is unable to confer it; the child is born abroad or out of wedlock; the father is unable or unwilling to take the necessary steps to secure a nationality for the child”.²⁵⁴

²⁵⁰ Al Meezan, ‘Law No. 38 of 2005 on the Acquisition of Qatari Nationality 38/2005’, <https://www.refworld.org/themes/custom/unhcr_rw/pdf-js/viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F2005-10%2F542975124.pdf> Accessed 12 January 2025, 2 Article 2, which states “Those born in Qatar to unknown parents shall also be deemed to be a naturalised Qatari. Foundlings shall be considered as born in Qatar unless proven otherwise.”

²⁵¹ See Babar (n 33), 413, who indicates that there are no particular guidelines on how prioritisation is to be carried out.

²⁵² See Human Rights Watch -Qatar/Saudi Arabia: Allow Man Trapped at Border to Enter / Stateless Clan Victim of Gulf Dispute, 1 July 2017, accessible at: <https://www.hrw.org/news/2017/07/01/qatar/saudi-arabia-allow-man-trapped-border-enter>.

²⁵³ Institute on Statelessness and Inclusion Rights Realization Centre & Global Campaign for Equal Nationality Rights, ‘Joint Submission in advance of the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance’s visit to Qatar’, (2019), <https://files.institutesi.org/ISI_Submission%20Qatar_SR_Racism_2019.pdf> Accessed 12 January 2025.

²⁵⁴ See Institute of Statelessness and Inclusion, ‘Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review’ (2019), See also 57th CEDAW Session, ‘Musawah Thematic Report on Article 16: Qatar’, (2014), 19.

There are no provisions under Law No 38 of 2005 governing the transmission of Qatari nationality for children born out of wedlock. The current nationality laws effectively establish distinctions between the various tiers of citizens, based on whether they are naturalised or whether they were born natives. The distinction arises from how they are treated, extending to the rights to access a multiplicity of benefits and opportunities in the country. First, naturalised citizens are excluded from holding public offices until ten years have elapsed. This includes being excluded from voting or holding elected office in the country.²⁵⁵ They are also excluded from serving in the public sector for five years from the date of naturalisation, which has a significant impact on their career trajectory and ability to earn income in the country, since in Qatar, public sector service is highly lucrative and the most sought-after form of employment, with more than 85% of Qataris working in the sector.²⁵⁶ As a result, they are limited to competing for private-sector jobs or engaging in entrepreneurial ventures without access to similar benefits to other native Qataris.

Finally, Law No. 38 of 2005 makes a clear distinction between a naturalised and native Qatari, especially concerning the children of naturalised male Qataris. This is regardless of whether the child was born before or after the naturalisation of the father.²⁵⁷ The differentiation between the two categories arises from Article 12 of Law No. 38 of 2005, whereby such naturalised citizens can be stripped of their nationality. This position effectively makes them second-class citizens, who have limited options in enjoying the entire portfolio of benefits under the socioeconomic and political purview.²⁵⁸ Furthermore, with the possibility of revocation of their citizenship, most individuals are keen on ensuring that their citizenship status is protected through all means.²⁵⁹ In

²⁵⁵ Al Meezan, 'Law No. 38 of 2005 on the Acquisition of Qatari Nationality 38/2005', <https://www.refworld.org/themes/custom/unhcr_rw/pdf-viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F2005-10%2F542975124.pdf> Accessed 12 January 2025, 4 under Article 16 of Law No. 38 of 2005.

²⁵⁶ Ibid, 4, the exclusion from public service as provided under Article 15 of Law No 38 of 2005. Also See Babar, (n 33) 415.

²⁵⁷ Whereas this might be understandable for immigrant workers who visit the country in the short-term, most of the individuals considered non-natives have lived in the country for generations, but since they do not meet the provisions under Law No. 2 of 1961, of having evidence of having lived in the country since 1930, they are excluded from enjoying the benefits of authentic nativity.

²⁵⁸ Revocation of the naturalized status can be done if they are convicted of crimes, felonies or failure to adhere to the moral standards. Similarly, loss of their job due to fraudulent activities, or failure to reside in the country for more than one year are also reasons for revocation.

²⁵⁹ Institute of Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review' (2019) reports that in 2005, there were reports that over 10,000 people had lost their citizenship through revocation, with subsequent effects including loss of their jobs and other benefits that accrued to them as citizens, including families losing such benefits.

illustrating the point, evidence is provided to the effect that numerous states have restrictions on the acquisition of nationality, with at least 24 jurisdictions limiting the ability of women to automatically transfer nationality to their children.²⁶⁰

Despite the changes made by the 2005 legislation, it is widely recognised that the remnants of Law No. 2 of 1961 are still evident in practice since they are implied in Article 1 of Law No. 38 of 2005,²⁶¹ with citizenship for children of Qatari women married to non-native men being conferred through a decree by the Emir or the prince. The process occurs through provisions for permanent residency, as discussed hereunder.

2.5.2 Cross-national Marriages

Most of the countries in the GCC, including Qatar, are tribal, with societies viewing endogamy as the only acceptable norm.²⁶² Family and societal acceptance are integral components in the success of marriages, even when the marriage is between natives. Endogamy is preferred because the lineage of the family is a key determinant of the prestige, power, and social status of the members of that family. Although the degree of acceptance varies from one country to another, there is limited consensus on how that acceptance is measured and whether it is unanimous.

The stigma attached to marriages with non-nationals tends to be generic, with specific aspects localised within certain communities. In the Qatari community, marriage to non-nationals is normally viewed as a deviation from tradition.²⁶³

Research into cross-national marriages is often cognizant of the effects of family reactions and societal perceptions towards the parties to the marriage.²⁶⁴ In most cases, these two effects are dependent on the social, cultural, religious, economic and political distance between the husband

²⁶⁰ UNHCR, 'Background Note on Gender Equality, Nationality laws and Stateless 2014'. (2015), <https://www.unhcr.org/4f5886306.pdf>, identifies the 27 states including Bahamas, Malaysia, Bahrain, Mauritania, Barbados, Nepal, Oman, Burundi, Brunei, Saudi Arabia, Iraq, Iran, Sierra Leone, Somalia, Jordan, Sudan, Kuwait, Suriname, Swaziland, Liberia, Lebanon, Libya, Syria, Togo, United Arab Emirates and Madagascar.

²⁶¹ Al Meezan, 'Law No. 38 of 2005 on the Acquisition of Qatari Nationality 38/2005', <https://www.refworld.org/themes/custom/unhcr_rw/pdf-js/viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F2005-10%2F542975124.pdf> Accessed 12 January 2025

²⁶² Alharahsheh, and others, *Marrying Out: Trends and Patterns of Mixed Marriage amongst Qataris*, (2015), 3 *International Journal of Social Science Studies* 6, 211.

²⁶³ Rajnaara C. Akhtar, 'Contemporary Issues in Marriage Law and Practice in Qatar,' (2022) 20 *HAWWA: Journal of Women of the Middle East and the Islamic World* 1, 1.

²⁶⁴ Abu-Ras and others, (232) 2.

and wife, and in some cases, the close and distant relatives.²⁶⁵ Cross-national marriages are common in the West, with a report indicating that 8.5% of all marriages that occurred in 30 European countries between 2008 and 2010 were cross-national.²⁶⁶ However, there were variations at a national level, with the highest incidence of 21% reported in Switzerland, and a low in Romania at 0.1%. In the US, there was a reported increase between 1970 and 2010, from 2.4% to 4.6%. In the Middle East, there was an increase in cross-national marriages, with a high of 28.9% reported in Bahrain in 2013 and 2014.²⁶⁷

There is a strand of literature that, in recognition of the increase in instances of cross-national marriages,²⁶⁸ indicates that most Qataris have changed their perceptions towards reality.²⁶⁹ This is despite the cultural norms where the guardians who are supposed to authorise such marriages show a predisposition to dislike those marriages.²⁷⁰ For instance, in 2013-2014, 21.4% of the marriages in the country were cross-national, which is comparatively higher than the average of Western countries.²⁷¹ However, there were similarities between Qatar and those Western countries that have a high incidence of cross-national marriages.²⁷² These countries have similar social and cultural backgrounds, low population statistics, are small geographically and have extensive economic development. As a result, since they have relied on migrant labour, which exceeds the number of natives, cross-national marriages are more of a necessity than a choice. Unlike Qatar, the cultural norms in these countries permit a balance in cross-national marriages, by both native males and females. A review of the patterns in Qatar reveals that most of the cross-national marriages involve native males and foreign women, with a limited number involving foreign males and native women.²⁷³ This is explained by two reasons. First, non-nationals and

²⁶⁵ Ibid, 2.

²⁶⁶ Sana T. Alharahshes and Faras K. Almeer, Cross-National Marriage in Qatar (2018) 16 J. of W. in the ME and the Islamic World 1, 170

²⁶⁷ Ibid, 179.

²⁶⁸ Matthijs Kalmijn, Intermarriage and Homogamy: Causes, Patterns, Trends (1998) 24 Annual Review of Sociology, 1, 39.

²⁶⁹ Alharahshes and Almeer (n 238), 178 attributes the increase in cross-national marriages to socio-economic development, increased consumption of technology, expansion of education, increased international mobility, international migration, modernization and globalization among others.

²⁷⁰ Ekaterina Y Krivenko, 'Women, Islam and International Law Within the Context of the Convention on the Elimination of All Forms of Discrimination against Women' (Geneva: Martinus Nijhoff Publishers, 2009).

²⁷¹ Alharahshes and Almeer (n 238) 170

²⁷² Ibid, 11, including Luxembourg at 18%, Latvia at 20.7% and Switzerland at 21%.

²⁷³ Doha International Family Institute, Marrying Out: Exploring Dimensions of Cross-National Marriages Among Qataris, (2020), <<https://dififi.org.qa/wp-content/uploads/2021/05/Marrying-Out-EFINAL.pdf>> Accessed 10 January

women from outside the GCC do not demand high dowries, and there is a chance to reduce the costs associated with the marriage.²⁷⁴ The economic benefits arise from the fact that spouses from other nationalities are not limited by similar socio-cultural norms, thus making it possible for them to contribute economically and financially within the marriage.²⁷⁵ As a result, men prefer such women for economic reasons. Second, marrying a non-national frees the Qatari men from the pressures of the extended family, which is common in the closely-knit societies in the GCC.²⁷⁶ While such marriages can take a long time to formalise through the court system, they involve fewer technicalities, since they do not involve family.

Finally, the changes in social systems have limited the degree of influence of parents and relatives on the choice of a spouse.²⁷⁷ Most men, and indeed women, have found value in choosing their spouses, and there are unique influences in that choice. In addition to the use of online socialisation platforms such as social media, unmarried men/ women have found value in selecting spouses who have certain characteristics that they desire.²⁷⁸ This individualisation of the choice of a spouse transcends the conceptualisation of what marriage is. On one hand, the selection of partners with shared visions and goals, as well as those with a high level of compatibility, reinforces the strength of the union between husband and wife. On the other hand, this has led to the alienation of parents and relatives in the wedding and marriage process, an act that compromises the longevity of the marriage.²⁷⁹ Marriages are kept strong by family, both nuclear and extended, since they play an integral role in resolving any disagreements. In cases where the interests and views of the two families are not aligned, any disagreements are bound to be magnified. This is part of the reason for consanguineous marriages, since resolving conflicts

2025, 11, which states “. Compared to Qatari men, Qatari women are more likely to marry someone from the neighboring GCC states.”

²⁷⁴ Akhtar, (n 235) 1.

²⁷⁵ OECD Report, ‘Social institutions and Gender Index for Qatar 2019’. (2019). <<https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf>>[accessed 22 March 2021]

²⁷⁶ Akhtar, (n 235) 1.

²⁷⁷ Ibid, 50.

²⁷⁸ Rajakumar, Shahzad and Kane, (n 169) 1, who state that “The ways in which both males and females analyze the social media usage of potential partners is an interesting ancillary discussion against the backdrop of larger trends in Qatari society,”

²⁷⁹ N Lari, and M Al-Thani, ‘Divorce Legislation in the Arab Gulf: Trends and Educational Differentials (2021) 11 J of Arabian Studies 2 289, 293, who asserts that there is an inverse relationship between socio-economic status and divorce rates, since the high standards associated with the socio-economic status can generate problems within the marriage, thus driving a couple to separate.

between cousins involves people from the same lineage, hence limited potential for complex negotiations.²⁸⁰

There is also an increase in the number of native Qatari women marrying foreigners.²⁸¹ The pattern is explained by the fact that highly educated Qatari women who lack suitable husbands in the country have limited options for looking elsewhere. In addition to these women being socio-economically empowered by having a well-paying job, such women can overcome the pressure for providing for their families, hence giving them the option of selecting suitable male partners.²⁸² The delay in getting married leads to their inability to find husbands as and when they wish. In the rush, driven by family and societal pressure to marry as they get older, marrying foreigners becomes an alternative. Similarly, these women get exposed to men from different backgrounds, at school and work, thus enabling them to gain unique opportunities for relationships with non-nationals.²⁸³

Despite the increase in non-national marriages, most Qataris show a preference for spouses from locations with a similar socio-cultural profile as Qatar, with most choosing Arabs from the GCC, or from outside the GCC, and only marrying non-Arabs in limited cases. In Qatar, data from 2014 reveal that out of the 11.3% males and 10.1% females who married non-nationals, 11.5% chose GCC Arabs, 6.8% chose non-GCC Arabs, and 3.1% chose non-Arabs.²⁸⁴ In comparison, among Bahrainis who married non-nationals (20.1% who were male and 8.8% females), 5.5% of the spouses were GCC Arabs, 15.6% were non-GCC Arabs, and 7.8% were non-Arabs.²⁸⁵ These choices are influenced by the need to choose a marriage partner to maintain their lineage, as well as the societal pressure to retain cultural and ethnic homogeneity. Similarly, the similarity in customs can simplify the relationship between the couple and family and make it easy for dissolution. As observed by Akhtar:

²⁸⁰ Alharahshes and Almeer (n 238), 182.

²⁸¹ Doha International Family Institute, *Marrying Out: Exploring Dimensions of Cross-National Marriages Among Qataris*, (2020), <<https://difi.org.qa/wp-content/uploads/2021/05/Marrying-Out-EFINAL.pdf>> Accessed 10 January 2025.

²⁸² Alharahshes and Almeer, (n 238) 175,

²⁸³ Nabil Khattab, and others, *Gender and mobility: Qatar's highly skilled female migrants in context* (2020) 9 *Migration and Development* 3, 369.

²⁸⁴ MDPS, 'Marriage and Divorce: State of Qatar 2017-Review and Analysis', (2018), https://www.psa.gov.qa/en/statistics/Statistical%20Releases/General/StatisticalAbstract/2017/population-chapters/marriage_divorce_qatar_2017_En.pdf [Accessed 22 March 2021].

²⁸⁵ *Ibid*, 14

“One participant, who had divorced her Qatari husband, had gone through two and half years of separation before he agreed to formally divorce her. A lack of knowledge of the legal system and a lack of the backing of a tribe can lead to great disadvantages for non-Qatari women who are married to Qatari men. The lack of legal knowledge and procedural know-how means they cannot independently undertake action toward a divorce.”²⁸⁶

In Qatar, the pressure to marry a national, or at least someone from the GCC, is driven by the need to maintain certain social structures, which are integral in reinforcing the social status of the family.²⁸⁷ Furthermore, for individuals seeking or working in certain professions, the decision to marry foreign nationals has to be ratified by the courts. Individuals working as or deputising for ministers, persons in law enforcement, students in foreign institutions, military personnel, as well as diplomats, have to seek the authority of the courts before marrying foreigners. The process is less complicated when the spouse originates from the GCC region. These realities are evident because, since men are the providers and protectors of the family, an individual who is viewed as a foreigner is bound to face challenges fitting into the Qatari society in the long run.²⁸⁸ Furthermore, with the introduction of programmes such as Qatarisation, whereby natives are given preferential treatment in the workplace, non-nationals, including those with exceptional qualifications and professional backgrounds, are viewed as lacking in key abilities to fit into the traditional and socially constructed status of a husband.

On the contrary, there are negative perceptions towards this practice, some extending to outright resistance.²⁸⁹ The resistance arises from the challenges in adjusting to the socio-cultural and political norms of another tribe or ethnic group, which affects a multiplicity of members of both families.²⁹⁰ The most common outcome is the case where, although the marriage is not expressly resisted, there is a lack of uniformity in the consent and acceptance from the relatives,

²⁸⁶ Akhtar, (n 235) 1.

²⁸⁷ Doha International Family Institute, *Marrying Out: Exploring Dimensions of Cross-National Marriages Among Qataris*, (2020), <<https://difi.org.qa/wp-content/uploads/2021/05/Marrying-Out-EFINAL.pdf>> Accessed 10 January 2025, 17, which states that “The data provided in Figure 3 reveals that 11.4% of Qataris married a spouse from the GCC in 2015, followed by 7% who married a spouse from other Arab countries, and only 2.6% of Qataris who married a spouse from non-Arab countries.”

²⁸⁸ Islam Hassan, *Social Stratification in Qatari Society Family, Marriage, and Khalijī Culture*, (2018), 16 *Journal of Women of the Middle East and the Islamic World*, 144.

²⁸⁹ *Ibid*, 147.

²⁹⁰ *Ibid*, 150, who attributes the resistance to change to the deep-seated social stratification in Qatari societies.

specifically, male relatives, who, although they seek to have their daughter married, understand the challenges associated with cross-national marriages, and the inability of the mothers to transmit Qatari nationality to their children. The disparity in the extent to which the marriage is accepted and consented to influences how supportive such individuals will be in the post-wedding period. This is common in locations where the members of the family or society have experience with similar forms of marriages, such as urban locations or families with a history of marrying outside. The most challenging scenario is where family members from either side are split on whether to support the marriage contract.

Some studies explain the situation as arising from the challenges in qualifying the rationale for marrying a non-national.²⁹¹ Ultimately, although it is a widely recognised practice, most people from the region find themselves in scenarios where they are not allowed or are not free to marry outside the tribal kinship.²⁹² Ultimately, the inability to enjoy self-determination is evident, even though numerous steps to liberate women, including education, have borne significant results.

Extant literature often discussed marriage from the perspective of race, ethnicity and culture.²⁹³ The lived experiences reveal the challenges and opportunities arising from the differences in the background of the spouses. Within Qatari societies, the religious component in cross-national marriages introduces a new variable, especially due to the involvement of the state and society. The few studies on this subject focus on how cross-national marriages affect the social, cultural and demographic norms, which are integral to the family policy.²⁹⁴ The existing literature points towards the reality of the negative attitudes attached to Qatari men marrying non-natives,

²⁹¹ See Alharahshes and Almeer (n 238), 179, who argues that such a marriage is often placed under higher scrutiny, with foreign partners judged on whether they fit into the expected standards in terms of religion, values, attitudes, traditions, and education among others.

²⁹² Kaltham A Al-Ghanim, Andrew Gardner, and Noora Lari, *Contemporary Women in Qatar: An Ethnographic Study of Their Challenges in Terms of Traditional Applications and Modern Requirements*. (2023) 13 Sage Open, 3, 2.

²⁹³ See W Abu-Ras, and others, *Gendered Citizenship, Inequality, and Well-Being: The Experience of Cross-National Families in Qatar during the Gulf Cooperation Council Crisis (2017–2021)*, (2022) 19 International Journal of Environmental Research and Public Health 11, 6638.

²⁹⁴ For instance, Alharahshes and Almeer (n 238), 176, who indicate that cross-national marriages result to a rise in the number of never-married women, with empirical evidence revealing that there was an increase in this dimensions between 2004 and 2010. Over this period, the number of never married women aged 30-34 years increased from 19.6% to 22% over the period, while the number of 30-34-year-old never married women grew from 12.3% to 16% in the same period.

which is further magnified by the tendency of Qatari women to marry foreign men, which further drives celibacy among Qatari women.²⁹⁵

Existing legal frameworks have perpetuated the discrimination of Qatari women, specifically concerning decisions to marry foreigners. According to Law No. 21 (1989), the decision by women to marry foreigners is marred with procedural bottlenecks, most of which are not applied to instances where Qatari men marry foreign women. The clear distinction represents a key element of discriminatory treatment that is often justified under the laws on citizenship, which, as discussed in this chapter, are different in the case of foreign men and women.

The process of marrying a foreigner involves authorisation from a legal guardian, as well as the approval of the Ministry of Interior.²⁹⁶ Recent developments based on the realisation that divorced or widowed women, as well as older women, face challenges in marrying natives have led to the loosening of the restrictions surrounding marriage to foreigners. The discrimination against women married to foreigners is further entrenched in the provisions of Law No. 35 of 2005, which outlines the process of acquiring Qatari nationality. Qatari women cannot automatically transmit their nationality to their husbands and children. As a result, husbands who are foreigners, as well as their offspring, can only acquire citizenship after five years have elapsed, and in some cases, the decision can be arbitrarily determined by the courts. The existing law provides for certain privileges to children born of Qatari women married to foreign husbands. The privileges are integral in a country where most of the top-down national development programmes are nationalistic, under the Qatarisation programme.

2.6 Conceptual Framework

The literature reviewed in this chapter starts with the analysis of how the oppression of women occurs within the institution of marriage. The use of violence as a tool for oppression within the institution of marriage arises from the power dynamics between the spouses. In most cases, the perpetrator of violence holds significant power over the victim, which limits the options of the victim to emancipate themselves or seek redress for the harm experienced. The review also

²⁹⁵ Alharahshes and Almeer (n 238), 177. See also Doha International Family Institute, *Marrying Out: Exploring Dimensions of Cross-National Marriages Among Qataris*, (2020), <<https://dif.org.qa/wp-content/uploads/2021/05/Marrying-Out-EFINAL.pdf>> Accessed 10 January 2025, 23, which states “increase in openness and acceptance of cross-national marriage within Qatar, negative perceptions and resistances also persist, owing to society’s emphasis on tribalism.”

²⁹⁶ Akhtar (n 235), 6.

suggests that violence is self-perpetuating, specifically in scenarios where a history of violence exists. Violence also persists in contexts where socio-cultural norms perceive violence as acceptable or permissible, including scenarios where interventions are not available to victims. The review reveals that the institution of marriage, including within the context of Qatar, can predispose one partner to violence. In Qatar, laws that promote the centrality of family can create the perception that the dissolution of a marriage goes against the norm. Such a perspective thus predisposes individuals to violence. It is also apparent from past literature that the gender-specific power dynamics that position men as the head of the family can create the perception that he has power over the woman. These circumstances precipitate the incidences of violence in Qatar, with empirical data revealing that patterns of abuse arise from this custom. The patterns can also be discerned from the norms and laws regulating the dissolution of marriage, whereby men have a diversity of avenues through which they can terminate a marriage, unlike it is the case for women.

Finally, the review of literature establishes a link between nationality and the rights of women. The findings reveal that the legal limitations imposed upon Qatari women regarding the transfer of birthright citizenship to their children born within marriages with non-Natives can perpetuate abuse and discrimination of women. The limitation does not apply to Qatari men. Through these provisions, Qatari women are faced with two challenges. First, to avoid denying automatic birthright citizenship to their children, Qatari women have to opt for spouses among native Qatari men. The limitation in choices, within a country, whereby the population is comprised of foreigners, can predispose women to discrimination. Second, Qatari women may find it unviable to opt for divorce, since, under the patriarchy, women are often faced with limited opportunities for economic independence.

These findings highlight the need for an investigation into why Qatar has failed in fulfilling its treaty obligations under CEDAW, considering that these forms of discriminatory treatment of women, including domestic abuse, are still prevalent in the society. The study will highlight the basis for the persistence of the factors that perpetuate the gaps in the adoption and implementation of international women's rights, as contained in the CEDAW treaty, for which Qatar is a signatory.

3 CHAPTER 3: RESEARCH METHODOLOGY

3.1 Introduction

This study adopts a feminist methodology, whereby knowledge is fundamentally grounded in experiences. The utility of the feminist methodology is justified through several rationales, including the fact that the research phenomenon represents an apparent crisis in the lives of women. The selected methodology is also the most appropriate framework for investigating the research phenomenon from the prism of women while focusing on achieving certain social actions.²⁹⁷ The lack of specific definitions of this methodology and the recognition that there are no specific methodologies for the feminist approach notwithstanding, there is concurrence in the existing literature that feminist research is research done for, about or by women.²⁹⁸ Feminist methodologies can be traced to the seminal work by Ann Oakley in 1981, who pointed out that the process of conducting research was dominated by masculinity, due to the increased preference for detachment from the subject matter, authority and objectivity.²⁹⁹ Similar contributions are provided by J. Ann Tickner, who argued that within international relations, the voices of women tend to be marginalised.³⁰⁰ As a result, it is necessary to recognise the perspectives, knowledge and experiences of women in studies with a global outlook. The approach selected herein enables the researcher to problematize the often-overlooked questions, thereby offering a more complex, rigorous and comprehensive read into the realities facing women. Finally, the feminist methodology will also be influenced by the views of Dorothy Smith, who, in 1987, adopted the Marxist perspective commonly referred to as ‘standpoint feminism’, which focuses on reflecting upon how the world is, to create human emancipation.³⁰¹ Although the propositions related to the process of collecting data, there is evidence that procedures for feminist methodologies have been applied to shaping the debate on all phases of research. The selection of feminist methodologies is expected to deliver two key unique benefits, including a better appreciation of the research

²⁹⁷ C Ramazanoglu and J Holland, ‘Feminist Methodology: Challenges and Choices (London, Sage, 2002),

²⁹⁸ Ibid, 78.

²⁹⁹ L Bondi, ‘Teaching Reflexivity: Undoing or Reinscribing Habits of Gender? (2009), 33, *Journal of Geography in Higher Education*, 3, 327. DOI:10.1080/03098260902742417

³⁰⁰ Seema Narain, *Gender in International Relations: Feminist Perspectives* of J. Ann Tickner, (2014), 21, *Indian Journal of Gender Studies*, 2, 182

³⁰¹ A Rayaprol. ‘Feminist research, (2016), 50, *Contributions to Ind. Soc.*, 3, 368. doi:10.1177/0069966716657460.

problem, in addition to being a methodology that leads to the empowerment of women and enables women's voices to be heard.

The study will rely on two methodological approaches in investigating the research. The first approach is the doctrinal legal approach, which will be utilised in the analysis. It will concentrate solely on the specific provisions of the law as they are. The approach entails conducting research focusing on the conventions, statutes, case law and other legal sources as primary sources. The second approach is socio-legal, which examines the law within its wider social context. A socio-legal approach will situate the law within the context of the literature reviewed in Chapter 2.

3.2 Theoretical Review

It is necessary to understand the mobility and agency of Qatari women from the perspective of the constructed patterns of gender relations within Islam. For this study, it is also imperative to appreciate the fact that although social mobility, including the mobility of women, within Islamic communities was high, changes in the tribal and ethnic order have led to a stricter and narrower interpretation of the Qur'an, which results in rigidity in the spatial organisations.³⁰² These goals can only be achieved through a methodology that presents conceptual clarity and adds country-specific contexts.

Research methodologies framed around feminism gained traction in the 1980s after it was shown that there were problems associated with universalising the issues facing men and women in society.³⁰³ As a category of concern, gender intersects and shoots through other domains of social identity, including geography, ethnicity, sexuality and social order.³⁰⁴ Patriarchy is also found to ideologically influence consumerism and corporatist systems.

Feminism as a methodology has been developed to address the concerns raised by feminist scholars who highlight the weaknesses in traditional methodologies in capturing the experiences

³⁰² Hidemitsu, eds (n 5). 15.

³⁰³ See J Sprague, 'Feminist Methodologies for Critical Researchers: Bridging Differences. (Rowman Altamira, 2005), who indicated that early feminist research entailed measures to correct biases by introducing the perceptions of women through more purposive sampling, and then asking particular questions in order to incorporate the experiences and perspectives of women. However, the approach was still androcentric, since the conclusions were based on comparison with the mainstream or patriarchal views and positions.

³⁰⁴ Patricia H Collins, and others, Intersectionality as Critical Social Theory (2019) 20 Contemporary Political Theory 3 690, 702.

and voices of women and other marginalised groups within existing research.³⁰⁵ One of the main goals of the feminist methodology is to effectively reduce and eliminate as far as possible the disparities in power between the researcher and subjects. This is integral when androcentric biases persist in the existing research methodologies to the detriment of establishing viable propositions for the development of policies and practice. Essentially, feminist methodology facilitates research through the understanding of feminists, and they target the unaccounted participation and presence of women in various social settings.³⁰⁶ The question of women's place in society, which inadvertently gravitates towards the discourse of inequality, corresponds to the need for 'description' and 'explanation' of the circumstances.³⁰⁷ These two are the foundation of feminist sociological inquiries and have been utilised in the development of scientific methods for inquiry. Feminism is also adopted since it facilitates the identification of ways to emancipate and empower women through the production of knowledge that leads to social change.³⁰⁸ The process will examine how and why knowledge is not produced, is sometimes obliterated, or fails to be canonised or incorporated into mainstream societies.

The political motivations under the methodologies are embraced as part of the elements for changing the social inequalities, specifically those arising or culminating from the lived experiences of women in various societies.

3.2.1 Principles of Feminist Research

The principles of feminist methodologies are founded on the recognition that differences exist and that they matter. However, there is no single epistemology that captures the feminist methodology. Social scientists who are guided by feminism have identified specific principles of inquiry that are different from the idealist positivist trajectories that assume the possibility of

³⁰⁵ N A Naples, *Feminist Methodology*, (2017), *The Blackwell Encyclopaedia of Sociology*, 1–6. <doi:10.1002/9781405165518.wbeosf042.pub2>[accessed 22 March 2021]

³⁰⁶ Rayaprol. (n 273)

³⁰⁷ Pranab Dahal, Sunil K Joshi, and Katarina Swahnberg, *A Qualitative Study On Gender Inequality and Gender-Based Violence In Nepal* (2022) 22 *BMC Public Health* 2005, 1, 10 who use a model that “provides a description and explanation of how women are subjected to inequality and face violence. The concept of power play derives its strength from the subjugated status of women which are based on selective treatment, self-embodiment of inferiority, imposed restrictions and due to lesser life opportunities.”

³⁰⁸ Nicole Westmarland, ‘The Quantitative/Qualitative Debate and Feminist Research: A Subjective View of Objectivity. (2001), 2, *Forum: Qual Social Res*, 1, 2 cites S Reinharz who in 1992, states that through feminism, researchers can focus on more than the sociology of knowledge, and investigate the sociology of the lack of knowledge.

value-free scientific inquiries.³⁰⁹ The principles identified herein highlight the effects of focusing on methodological and epistemological questions that are integral to feminist researchers, since these questions lead to novel evidentiary standards, and ultimately facilitate the recognition of the gendered view under specific research areas.

First, these methodologies adopt a gender perspective at their core, to eliminate the gender asymmetry in research, knowledge and the world generally.³¹⁰ According to feminist theory, gender is a factor in the manner in which human beings perceive and represent the reality of knowledge.³¹¹ People frame different categories of structure about their identity, and this influences the content and form of the thoughts they hold about different phenomena. The adoption of a gender perspective in this study will focus on consciousness-raising, in line with propositions by researchers such as Catharine A Mackinnon.³¹² Consciousness-raising is integral in integrating the repressed unconscious and subconscious subjectivity of women in society, which is the foundation of theorists such as Maria Mies.³¹³

Second, they accentuate the experiences of women.³¹⁴ The process of accentuating the experiences of women leads to a critical appreciation of the oppression and challenges that women face daily. The accentuation is achieved by introducing the researcher into the matrix of appreciating the issues, commitments, blind spots and politics that tend to hinder the ability of researchers to listen and hear the voices of others, specifically women.³¹⁵ In this study, the process will go deeper than simply integrating women as a stratum in research for the sole purpose of correcting facts and will seek to provide a deeper understanding of the situation facing women.

Third, social action is a defining component of feminist research, since the purpose of knowledge creation under such studies is to achieve particular goals, with specific policy

³⁰⁹ V Taylor, *Feminist Methodology in Social Movements Research*, (1998), 21, *Qualitative Sociology*, 357.

³¹⁰ R Kaur, and S Nagaich, 'Understanding Feminist Research Methodology in Social Sciences', (2019) <http://dx.doi.org/10.2139/ssrn.3392500> [accessed 22 march 2021], which enables researchers to achieve equality in economic and social development.

³¹¹ K E King. 'Method and methodology in feminist research: what is the difference?' (1994), 20, *J. of Adv. Nursing*, 1, 19. doi:10.1046/j.1365-2648.1994.20010019.x>[accessed 22 march 2021], who indicates that the objective of the feminist methodology is to provide a feminist standpoint, which is less defensive, biased or perverse.

³¹² See R Kaur, and S Nagaich, 5, who cites McKinnon as clarifying that the process of raising consciousness is a key technique for analysis, methodology for practice, structure for organising and a theory for social change among gender-based movements.

³¹³ Rayaprol. (n 273) who promotes the examination of the experiences of women more centrally.

³¹⁴ Taylor (n 281), 12

³¹⁵ Rayaprol (n 273), 3 termed the situation as gender-blindness, which has been targeted by feminist empiricism.

objectives.³¹⁶ In this study, part of the policy objectives entails the identification of how the oppressive practices associated with divorce in the context of domestic abuse, on the international human rights of women in Qatar, can be overcome. The social action component of feminist research offers a target outcome that is cognisant of the issues facing women in society. This will be integral in fulfilling research objective 3, which culminates in the proposition of recommendations for reforms designed to alleviate the oppression of women.

3.2.2 Islamic Feminism

The integral nature of feminist theories in the human rights domains of this analysis arises from the fact that gender mainstreaming is a key component of Muslim societies. Feminist thought in Muslim-majority societies encompasses a range of theoretical perspectives and activist movements, including Islamic feminism, secular feminism, and other locally grounded feminist approaches. Islamic feminism is one of these strands and advocates gender equality through reinterpretations of the Qur'an and other Islamic sources. By contrast, secular feminism promotes women's rights through principles of equality, human rights, and legal reform without relying on religious texts. Rather than constituting a single body of political assertions, these feminist approaches provide distinct analytical frameworks through which the social, legal, and political status of women can be examined and challenged.³¹⁷ as shown in the following examples.

First, Islamic feminism advocates for the reinterpretation of Islamic law, with the primary contributions including the need for *Tafsir* (interpretation), and *Ijtihad* (independent reasoning).³¹⁸ The reinterpretation is justified because as asserted by Mir-Hosseini, “By the time that the *Fiqh* schools emerged, women were already excluded from the interpretative and intellectual process involved in deducing the terms of the *Shariah* from the sacred sources.”³¹⁹ Al-Hibri, who proposed the reversion to the Qur'an as the primary source of law, recognises the distortion of the rights of

³¹⁶ See M Wickramasinghe, 'Feminist Research Methodology: Making Meanings and Meaning-Making, (Routledge, New York, 2009), who indicates that the objective of feminist research is to produce social change.

³¹⁷ See also Hilary Charlesworth, Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law'. (1991), 85, The American Journal of International Law, 4, 613.

³¹⁸ Ziba Mir-Hosseini, "The Construction of Gender in Islamic Legal Thought and Strategies for Reform". (2003) 1 Hawwa 1, 4, who proposes the adoption of an intellectual approach to interpretation of gender equality and justice under an Islamic framework.

³¹⁹ Ibid, 13, hence leading to the marginalisation and exclusion of women's voices from the political life of Muslim society, thus reinforcing the patriarchal ideology.

women as granted under the Qur'an.³²⁰ Al-Hibri cites a multiplicity of scenarios in Qur'anic verses where the male gender is used interchangeably with the female gender,³²¹ as well as scenarios where patriarchy is challenged.³²² Similarly, Le-Ali proposes the holistic interpretation of the themes in the Qur'anic texts, to ensure coherence, rather than in isolation, for purposes for serving specific purposes.³²³ She also asserts that it is necessary for the context of an interpretation of Qur'anic texts to be taken into account, since some of the rulings relied upon as part of jurisprudence do not constitute universal norms.

Second, The principle of *Tawhid*, (the indivisibility and the oneness of Allah), implies that any form of hierarchical classification of humans, such as what is achieved through patriarchy, is antithetical to *Shariah* law.³²⁴ Essentially, males and females are equal, with superiority based on righteousness. L El-Ali conceptualises Islamic feminism is fundamentally Qur'an-centric, focused on ethics and justice, based on the argument that gender equality is intrinsic under Islamic texts.³²⁵ The concept asserts that based from a moral perspective, the Qur'an elicits messages of human dignity, justice (*adl*), and compassion (*rahma*), which implies any *Fiqh*-based interpretations that lead to gender-based injustices towards women is based on contradictions of the core message in the *Qur'an*. It goes further to assert that any interpretations of the Qur'anic texts that lead to inequality, oppression or harm are incorrect. A number of these incorrect interpretations, which are human and subject to error, arise from confusions regarding what should be considered as a 'revelation' and an 'interpretation.'³²⁶

³²⁰ A Al-Hibri 'Islam, Law and Custom: Redefining Muslim Women's Rights.' (1997) 12 American University International Law Review, 1, 1.

³²¹ Ibid, 38, stating that "As to form, the Qur'an specifically uses on numerous occasions female as well as male-gendered words in addressing women and men simultaneously."

³²² Ibid, 40, citing the case where a *Khalifah* realized his error, saying: "A woman is right and the *Khalifah* is wrong." The story is remarkable not only because it is an illustration of the participation of women in the religious activity of interpretation (*itihad*), but also because it reveals the degree of democracy in the early days of the Islamic state. The woman was unknown, but through her Qur'anic knowledge, she successfully made the *Khalifah* withdraw his proposal."

³²³ Leena El-Ali, 'No Truth Without Beauty: God, the Qur'an, and Women's Rights' (Springer, 2022).

³²⁴ Mir-Hosseini (n 398), who advocates for the combination of faith with demands to ensure the rights of women, starting with the reinterpretation (*Ijtihad*), of Qur'anic content.

³²⁵ L El-Ali, 'No Truth Without Beauty: God, the Qur'an, and Women's Rights' (Springer, 2022).

³²⁶ Al-Hibri (n 400)

Third, Islamic feminism calls for a clear distinction between cultural norms and religious principles, arguing that patriarchal practices often reflect cultural traditions and human interpretations of Islamic law rather than the divine principles of Shariah.

³²⁷ Advocates highlight that most of the restrictive gender and social norms are derived from historical customs that have been falsely adopted as obligations under religion. Ziba Mir-Hosseini, who conceptualises gender inequality in Muslim societies as the product of legal interpretations rather than being based on Islam itself, frames gender as a human construct under Islamic law.³²⁸ This conceptualisation offers a pathway for change, since this aspect of Islamic law (*Fiqh*), which mainly arose due to the historical interpretations of gender roles by male jurists, is not divine.³²⁹ The interpretation differentiates between *Shari'a* and *Fiqh*, and highlights that gender equality and its various iterations within the social settings, such as marriage, family life, is primarily produced under *Fiqh* which deviates from the divine and ideal ethical vision of Islam.³³⁰ With specific focus on marriage, Mir-Hosseini highlights the degree to which *Fiqh* deviates from *Shari'a*, since *Fiqh* posits that men serve as authority figures whose role is to provide for women, who are seen as dependents.³³¹

Fourth, Islamic feminism advocates the reform of family and personal status laws, as these are the legal domains in which gender-based discrimination has most commonly persisted. It further argues that such reform should incorporate international standards of equality and justice, provided that they are interpreted and implemented in a manner consistent with the egalitarian principles of Shariah.³³² With a focus on constitutional rights and family law, Al-Hibri advocates for the reformation of laws to reflect true justice under Islam. She goes further to differentiate between equality and sameness, thereby highlighting that the differences in the roles and

³²⁷ Mir-Hosseini (n 398) 3.

³²⁸ Ibid.

³²⁹ Ibid, 3. See also 12, which states “In the Qur’an, “women’s status” is treated neither as divinely ordained nor as immutable, but as social practice in need of change. Qur’anic verses are strongly critical of women’s low status in pre-Islamic Arabia, and bring substantial reforms in the ways in which women were viewed and treated pre-Islamic Arabia.”

³³⁰ Al-Hibri (n 400), 6-9.

³³¹ Ibid, 17.

³³² Sara Abdel Ghany, and Azza Soliman, ‘Reforming the Egyptian Personal Status Laws. A case for Islamic feminism’ (2020) 44 Al-Raida, 2, 125, 136, citing Mir-Hosseini, that “I think the issue of gender relations within the family—which is what personal laws are all about – actually relates to the core of power in society at a broader level. Since the family is the basic unit of society, only if there is justice and democracy within the family can you possibly have justice and democracy in the wider society. In other words, the key to democratizing the whole society is to democratize its basic unit, the family, and for this legal reform is crucial.”

responsibilities of men should not be the basis for the justification of inequality leading to oppression.³³³ The differential serves to highlight how the interpretation of certain concepts, phrases and words in the Qur'anic text is driven by patriarchy, leading to the subjugation of women, which can contribute to oppression. Mir-Hosseini specifically cites cases of marriage, such as the use of *dower* (dowry) as a precept for oppression.³³⁴

However, Sharafeldin argues that reform efforts are inherently complex because activists must negotiate between the discourses of Islamic law and international human rights law. She concludes that this process requires both innovation and compromise, resulting in mixed outcomes for the reform agenda. Attempts to reform concepts such as *qiwāmah* and *wilāyah* therefore involve not only the reinterpretation of Islamic legal concepts, but also the careful adaptation of international human rights standards to a religiously grounded legal framework.

Fifth, Islamic feminism applies intersectionality to challenge the Western stereotypical perspectives that victims of oppression due to patriarchy can be saved through secular forces. Thus Islamic feminism rejects the perception that the solution exists in abandoning Islamic faith, simply because of the historical facets.³³⁵ On the contrary, Islamic feminism offers models embedded within the culture, to ensure that gender justice is achieved without disrespect to the lived experiences and intersectional identities of Muslim women. M Al-Sharmani, whose approach to conceptualising Islamic feminism is based on activism and hermeneutics, recognises the dynamic interplay between the interpretation of Islamic texts, and the practical struggles for justice.³³⁶ By conceptualising Islamic feminism from a practical,³³⁷ and theoretical perspective,³³⁸ Al-Sharmani highlights how the lived experiences of women reveal the functioning of Islamic law in society. Based on the lived experiences, Al-Sharmani highlights instances where the unjust laws exist under Islamic societies, primarily since power relations and social norms overshadow legal rights.

³³³ Al-Hibri (n 400), the approach focuses on the reinterpretation of Qur'anic texts relating to equality between genders, to ensure justice beyond what has been achieved under the male-dominated legal traditions.

³³⁴ Mir-Hosseini (n 398), p 5, arguing the misconception that can arise due to a number of culturally-influenced *Fiqh* interpretations of Islamic law, such as the interpretation of Dower (dowry) as being based on a sale price, while marriage entails joining a man and a woman.

³³⁵ Lynn Welchman and others, "Muslim Family Law: Trajectories of Reform," In: *Justice and Beauty in Muslim Marriage: Building Egalitarian Ethics and Law* edited by Ziba Mir-Hosseini et al, (Oneworld Academics, 2022),

³³⁶ Al-Sharmani, M. 'Islamic Feminism: Hermeneutics and Activism,' (Bloomsbury, 2024), proposes the re-examination of Islamic texts, with primary focus on Qur'an and Islamic jurisprudence, to expose biases under classical interpretations of real issues such as marriage, custody, divorce, and maintenance due to patriarchy.

³³⁷ Ibid, hence the establishment of an intellectual project through which Islamic texts are reinterpreted.

³³⁸ Ibid, a social movement, to ensure justice for victims.

Through decoloniality,³³⁹ Muslim women, and indeed, communities that utilise Islamic law, can delink from Western influence, and establish a multifaceted indigenous approach to being and knowing.³⁴⁰

Islamic feminism derives its principles and objectives from the Qur'an, seeking justice and equality for both men and women by affirming their rights in all aspects of life.³⁴¹ As a contemporary intellectual and social movement, Islamic feminism has gained prominence across diverse contexts, including both Muslim-majority societies and Muslim diaspora communities. Its ideas are advanced through academic scholarship, civil society organisations, and both online and offline platforms. Like secular feminism, Islamic feminism employs feminist hermeneutics as a method of interpreting religious texts. Feminist hermeneutics involves re-examining the Qur'an and other Islamic sources from a gender-conscious perspective, arguing that principles of equality and justice are inherent within Islam and that patriarchal interpretations reflect historical and cultural influences rather than the teachings of the religion itself. Accordingly, this study takes into account the influence of both religion and cultural norms on Qatar's legal system when interpreting the findings..³⁴²

The application of the five principles of Islamic feminism identified above is integral in creating a narrative and investigating the research phenomenon in a manner that is contextualised to the reality facing women in Islamic societies, specifically, within Qatar. Due to the close links between masculinity and dominance, control and violence, it is common for IPV to be perpetrated by men, with women being the primary victims.³⁴³ Social institutions established under patriarchy have led to the emergence and toleration of physical violence by men targeting women. The basis of Islamic feminism in this study is to critique the particular neo-patriarchy established under *Fiqh*,

³³⁹ Mir-Hosseini (n 398), which is an evolving intellectual and political undertaking designed to dismantle the obscure power structures, mindsets and Eurocentric systems of knowledge that originated from colonialism, and are perpetuated within neocolonial processes.

³⁴⁰ Lynn Welchman and others, "Muslim Family Law: Trajectories of Reform," In: *Justice and Beauty in Muslim Marriage: Building Egalitarian Ethics and Law* edited by Ziba Mir-Hosseini et al, (Oneworld Academics, 2022), who recognises that there are multiple Islamic feminism movements, with minor variations at the national level, due to the political, cultural and legal peculiarities of those countries. See also Mir-Hosseini, who asserts that the Western conception of gender equality for Muslim women culminates in contradictions, since the seek to uphold *Fiqh*, without recognising the implications of that position on other aspects of women empowerment, such as employment, education and participation of women in decision making.

³⁴¹ See Isaac Kfir, 'Feminist Legal Theory as a Way to Explain the Lack of Progress of Women's Rights in Afghanistan: The Need for a State Strength Approach', (2014), 21 Wm. & Mary J. Women & L. 87.

³⁴² Seedat (n 290), 25.

³⁴³ Rakovec-Felser, (n 102) 1831.

through historical evidence and the reinterpretation of the laws that present the scriptural authority for patriarchy. Islamic feminism involves a critical review of classical commentaries on Islamic sources to create new and more inclusive interpretations that fit into the current socio-political and economic situation, specifically, equality between genders.³⁴⁴

In the process of historicising the sources, Islamic feminism will enable the researcher to crystallise and relativise the effects of the legal frameworks, thereby leading to the deconstruction of the legitimacy of the contemporary patriarchal systems that perpetuate the discriminatory treatment of women, abuse in relationships, and ultimately under divorce procedures.³⁴⁵ Several assertions from past literature reinforce and justify this position. For instance, several human rights proposals and human development propositions are directly adopted from Western countries, where the socio-cultural norms differ from those in Arab countries such as Qatar. However, the proponents of Islamic feminist movements are urbanised and educated women, most of whom are intellectuals and reside in the West.³⁴⁶ Since such individuals are perceived as elite in their society and often considered as ‘outliers’, their message and ideology are often seen as foreign, even when they fit into the interests of the women in ordinary Arabic societies. As a result, in this study, Islamic feminism is framed to counter the misguided patriarchy based on the misinterpretation of Islam, and the existing conceptions of the rights of women, which have led to the status quo. The approach also facilitates the justification for a reinterpretation of Qur’anic texts upon which *Fiqh* is based (*Ijtihad*).³⁴⁷ Through *Ijtihad*, which features engagement with contemporary human rights discourses, can lead to rethinking of specific legal concepts that as those which perpetuate male guardianship and fixed gender roles.³⁴⁸ The purpose is to ensure justice in line with Islamic principles, with specific focus on patriarchal jurisprudence, which has developed based on

³⁴⁴ Rafatu Abdulhamid, *Feminism and the Rights of Muslim Women in Modern Legal Interpretations*, (2016), 4, Euro J of Bus and Innov Research, 2, 37

³⁴⁵ Ahmad M Hassan, Zulkiflee Haron, and Mansoureh Ebrahimi, ‘Islamic Feminism from A Liberal Muslim Perspective’. (2019), 3, Int J of Islamic and Civilisational Studies, 99.

³⁴⁶ See Ambar Ahmad, ‘Islamic Feminism-A Contradiction in Terms?’ (2011), <<https://library.fes.de/pdf-files/bueros/indien/11388.pdf>>, [accessed 22 march 2021], who cites the contradictions that exist due to the different varieties of feminism and Islam that exist. Talha Rehman, ‘Islamic Feminism: The Challenges and Choices of Reinterpreting Sexual Ethics in Islamic Tradition’, (2020), 6, Society and Culture in South Asia, 2, 216 decries the limited space for discourse and discursion afforded to Muslim women to the challenges in creating concepts relating to Islamic feminism that are robust enough to warrant research interest.

³⁴⁷ Mir-Hosseini (n), who argues that *Ijtihad* can lead to rethinking of certain legal concepts such

³⁴⁸ Ibid, 15, which states “I suggest that Neo-Traditionalist...because this new discourse shares the same notion of gender rights as traditional *Fiqh*; what it does is to enforce it through the machinery of the modern nation-state, which not only infuses the *Fiqh* discourse on gender with a new force and power but gives it a new dynamic.”

interpretations by men in patriarchal societies.³⁴⁹ Although the woman-friendly narrative that they create is deemed favourable, the jurisprudence based on the rights of women from their perspective represents a major shift from key procedural laws and policies already in place. In summary, this study shall apply Islamic feminism, which advocates for the rights of women from the foundation of gender equality and social justice, as a powerful counter-narrative to Western feminism. In the study, Islamic feminism will highlight the compatibility of gender equality within context of Islam, thereby underscoring the need for the recognition of the autonomy and agency of Muslim women. It shall also revolve around the dismantling of the stereotypical conceptions under Western frameworks, thereby engendering inclusivity and a culturally-sensitive understanding of feminism.

3.2.3 Additional Theoretical Perspectives

The feminist post-structural perspective is also applied in this study. While there are numerous conceptualisations of post-structuralism, this study perceives the concept from the perspective of how a cultural theory works within the post-modern context.³⁵⁰ Post-structuralism is built on the notion that there is no direct, intrinsic connection between texts and their meanings. Essentially, meanings are non-existent before the defining events, discourses and experiences, and only take form after they are articulated in a particular language and manner.³⁵¹ Through post-structuralism, the study will look beyond the possibility, nature and limits of knowledge, by asking how we know what we know about the research topic.³⁵² The utility of post-structuralism in this research was to enable the researcher to expand the horizon in the objective and subjective interpretation and conceptualisation of knowledge. By deviating from the linear progression of what has come to be accepted as the truth and knowledge about the research phenomenon, the research took into account the conventional and unconventional meanings and models of the research phenomena, thereby enabling the researcher to discard the notion of interpreting the media through the pre-established structures.

³⁴⁹ Al-Hibri (n),

³⁵⁰ Makarem Y, Metcalfe B D, and Afiouni F, 'A feminist poststructuralist critique of talent management: Toward a more gender sensitive body of knowledge', (2019), 22, BRQ, 181.

³⁵¹ Helen Malson, 'The Thin Woman: Feminism, Post-structuralism and the Social Psychology of Anorexia Nervosa' (Rutledge New York, 2003), who discusses the importance of the rejection of the possibility of absolute universal truths with reference to issues affecting women.

³⁵² M J Barrett, 'Making Some Sense of Feminist Poststructuralism in Environmental Education Research and Practice. (2005). 10, Canadian Journal of Environmental Education, 78.

The merger of feminism and post-structuralism occurred within the realm of three key concepts. The first realm is power. Both feminism and post-structuralism were described as being power-rich contexts.³⁵³ Power was discussed from three key strategies under the feminist post-structuralist discourse. The first strategy is that relationships are socially reinforced, and they are affected and reproduced within society. The second strategy is that feminist post-structuralism involves an incessant questioning of the forms and impacts of power and empowerment within society. The last strategy involved focusing on all sources of power and resistance for women in society. This involves a clear appreciation of the identity position of the women, which in some cases is contradictory due to the differences in the power frames.³⁵⁴

The second realm is knowledge.³⁵⁵ Feminism provides an integral bridge in the transition from the over-reliance on knowledge produced for, by and about white men to other novel contexts that were previously overlooked, whereby diverse approaches to knowing are used, and different types of knowledge developed. In this study, feminism facilitated the transition by setting up several questions, such as: what is perceived as knowledge under the phenomenon? Who is perceived as being able to construct the knowledge? What processes are applied in creating the knowledge?³⁵⁶ There are two strategies of importance in this realm. The first strategy is that the negotiations for knowledge are transitional and tentative. Essentially, the assumptions taken for granted are deconstructed and re-constructed by avoiding the assumption that any knowledge constructed in the past is accurate. Second, formal knowledge that is classified into different categories and disciplines is not necessarily more important or valid than informal knowledge from random stories. It is indicated that all forms of knowledge are perceived as having positive effects, as long as it can be demonstrated that the subjects have created their interpretations based on their lived experiences.

Finally, the third realm is difference.³⁵⁷ Difference is closely linked to knowledge and power. There are two strategies under this realm. First, differences are integral in the establishment of

³⁵³ Becky Ropers-Huilman, 'Feminist Post-structuralism in Higher Education: Opportunities for Transforming Teaching and Learning' (2001), 8, *Organisation*, 2, 389.

³⁵⁴ See Ropers-Huilman, '(n 301) 395, who indicates that the contradictions arise from the fact that different forms of power interact with varying outcomes.

³⁵⁵ Dana Al-Thani, 'Knowledge Production in International Relations: A Post-Structural Feminist Critique of Liberal Feminism', 14, (2022). *Inquiries Journal*, 2, 1

³⁵⁶ Yasmeen Makarem, Beverly Dawn Metcalfe, and Fida Afiouni, 'A feminist poststructuralist critique of talent management: Toward a more gender sensitive body of knowledge', (2019), 22, *BRQ*, 181.

³⁵⁷ Ropers-Huilman (n 301), 395.

critiques and tensions between processes and subject matters regarding the rights of women.³⁵⁸ The critiques and tensions lay the foundation for change, based on what is learned or realised. Secondly, differences represent contradictions that highlight how normalcy is constructed.³⁵⁹ Under normal circumstances, both knowledge and power are questioned, with oppressive circumstances and differences playing a key role in the achievement of justice and equity.

The utility of combining feminism and post-structuralism facilitates the application of the strengths of feminist approaches, which focus on analysis and actions, and the commitment of post-structuralism to deconstruct the circumstances under which the analysis that leads to actions is framed.³⁶⁰ As a result, the feminist post-structural discourse will entail attention to the different ways in which women enact power and resistance while focusing on all potential sources of contradictions in the various sources of data and information about the research phenomenon. The feminist post-structural perspective provides an alternative paradigmatic approach to studying gender bias in historical texts.³⁶¹ Its focus is on the diversity of perspectives that are open to interpretation regarding how female voices from the past as well as the present can be used in the deconstruction of the realist narratives.³⁶²

Through the feminist angle, the study will focus on the reproduction, constitution and challenges to the gendered power structures.³⁶³ Through the intersectional theories, the study will explore how the experiences and identities of women are manifested and expressed under the various scenarios, with a focus on the norms of exclusion and subordination that facilitate domestic abuse.

Linked with the feminist post-structural approach is the concept of intersectionality. The concept of intersectionality, which was introduced by K Crenshaw,³⁶⁴ is a highly contested, yet

³⁵⁸ Judith Baxter, 'A Juggling Act: A feminist post-structuralist analysis of girls' and boys' talk in the secondary classroom', (2010), 14, *Gender and Education*, 1, 9.

³⁵⁹ Ropers-Huilman (n 301), 399.

³⁶⁰ Makarem, Metcalfe, and Afiouni, 186, who refers to feminist post-structuralism as a passionately interested form of inquiry.

³⁶¹ Jacqueline van Wijlen and, Megan Aston, 'Applying Feminist Post-structuralism as a Framework for Exploring Infant Feeding Interactions in the Neonatal Intensive Care Unit', (2019), 1, *CJCNC*, 1, 59.

³⁶² Jill Fardon and Sonja Schoeman, 'A feminist post-structuralist analysis of an exemplar South African school history text', (2010), 30, *South African J of Edu*, 310.

³⁶³ See Al-Thani (n 303), 4, who indicates that the approach employs the concepts of language, values, agency, subjectivity, practices, meanings and beliefs in the deconstruction of power relations with the goal of identifying areas where change is needed, and strategies for achieving those changes.

³⁶⁴ H Riahi, 'Intersectionality and Islamic feminism: Key tools for eradicating gender inequality in the Saudi labour market', (2026) 10 *Feminist Encounters: A Journal of Critical Studies in Culture and Politics*, 1, 22.

integral component of feminist theory.³⁶⁵ It enables research into feminism to account for the differences among women, through a simultaneous examination the overlapping effects of religion, race, class, and nationality.³⁶⁶ Through this approach, this study will highlight how the differences among individual women influence oppression during divorce in the three cases analysed, thereby limiting the possibility of incorrect generalisations. Based on the theory, this study recognises the fact that each individual or group have their own distinctive experiences of oppression and discrimination. To understand their situation fully, it is imperative to take into account all aspects of marginalisation, including class, physical ability, gender, and race, while also taking into account the co-determinatives that emerge from interactions between and among any combination of these factors.³⁶⁷ However, since the study also utilises post-structuralism, these main dimensions will only be applied as a guide, and I will focus on determining the presence of other factors that lead to marginalisation and discrimination.³⁶⁸

Intersectionality is integral in reconciling the different conceptualisations of feminism, such as secular and Islamic feminism. Scholars of feminism under the various domains have different views on women's rights, hence the need for intersectionality to bring together, in a unified form, a singular purpose for their theories. One significant change in feminist scholarship is the emergence of Islamic feminism, which is still evolving in its primacy. The approach is used in a multiplicity of studies to explain the effects of discriminatory treatment on women, specifically IPV. In the study, clarification is made concerning the differences in which feminists define IPV, compared to other theorists.³⁶⁹ According to feminists, IPV is used by men towards female partners to maintain power and control. On the other hand, researchers into family relations view IPV as a two-way occurrence, without the element of coercion or control.³⁷⁰ By understanding the

³⁶⁵ Maria Carbin and Sara Edenheim. "The Intersectional Turn in Feminist Theory: A Dream of a Common Language?" (2013), 20, *European Journal of Women's Studies* 3, 233, indicates that intersectionality has been utilised in a multiplicity of ways, including as a theory, a framework, and a political position.

³⁶⁶ Akalu, H, "Who Am I?": Understanding the Impact of Intersectional Invisibility Among British Muslim Women' (20 Mar. 2025), in Sarah Milton (ed.), *Gender, the Body, and Relationships*, in Meena Dhanda (ed.), *Oxford Intersections: Racism by Context* (Oxford, online edn, Oxford Academic, 2025), 4

³⁶⁷ Susan A Mann and Douglas J. Huffman, 'The Decentering of Second Wave Feminism and the Rise of the Third Wave', (2005), 69, *Science and Society* 1, 59.

³⁶⁸ However, Susan A Mann, 'Third Wave Feminism's Unhappy Marriage of Poststructuralism and Intersectionality Theory', (2018), 4, *J. of Feminist Scholarship*, 5, 54 cautions against merging these two theories

conceptualisation of power under post-structuralism,³⁷¹ this study will highlight the different scenarios under which IPV is conceptualised, and how it occurs, specifically focusing on some overlooked circumstances, to propose ways to limit such incidences, as well as the effects of IPV. The approach will indicate ways through which structural, interactional and individual situations influence the masculine and feminine realities in modern Qatari societies in a manner that leads to IPV and other forms of violence.

3.3 Data Collection Process

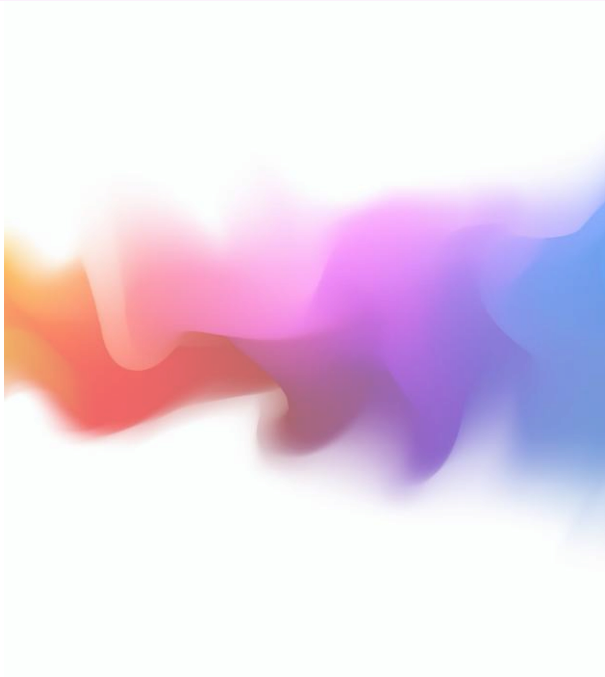
I originally planned to collect primary data through semi-structured interviews with women affected by IPV, to analyse their lived experiences, as well as professionals in the legal sector, who were to provide an insight into the legal perspective of women's rights. To facilitate the process, I had created an interview guide as shown in Appendix 1 (Interview Schedule for Qatari Women) and Appendix 2 (Interview Schedule for Qatari professionals).

I had planned to recruit a total of 20 interviewees of adult age who, according to the theorisation in this study, are influenced by the laws, practices, principles, and policies under international human rights within the Qatari community. The plan was to recruit the interviewees through social media, primarily Instagram and Twitter, as they are the most used platforms in Qatar. To ensure widespread outreach, I planned to contact key influencers who have a substantial number of followers to post the advert on their accounts so that interested women can view the advert and then contact the researcher if they wish to participate.

Figure 1: Poster for the Advertisement

*An Exploration of the ramifications of divorce on
International Human Rights of Women in Qatar*

- My name is Zahiya Abu-Khadija, I am a PhD researcher at Brunel University London, England
- I am conducting a research study which aims to explore the effects of divorce in the context of Intimate Partner Violence on women in Qatar from an international human rights of women perspective.
- I aim to use the data to identify all the factors that lead to Intimate Partner Violence in order to make the necessary recommendations to help change the laws and practices in Qatar to improve Qatari women's rights on and after divorce.
- I will be conducting on-line interviews where I will be asking about the experiences of women who have been personally affected or know a woman who has been affected by Intimate Partner Violence.
- The interviews will take approximately 60 minutes.
- If you are interested, please respond to this email address only:
zahiyanedalmk.abu-khadija@brunel.ac.uk



Through the approach, the researcher expected to recruit interviewees from all eight regions of the country. The social media advert (Figure 1 above) was designed to invite potential participants to email the researcher. Through a purposive sampling approach, the researcher would then select prospective interviewees of varying ages, professions, and socio-economic status. Reliability³⁷² would be ensured by selecting interviewees who are knowledgeable and aware of the research phenomena. The researcher intended to create an official separate account through which to post the advert on the social media platform, which would include the researcher's professional email address. The advert would invite potential participants to email the researcher if they were interested in participating in the research.

³⁷² See J W Creswell, '*Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*', (London: Sage Publication, 2013), who denotes that reliability, which is also referred to as dependability, focuses on ensuring that the investigative process is rigorous enough to result to accuracy of the findings.

Recruitment and selection of the interview sample were scheduled to commence after ethics approval was granted. Thereafter, interviewees would have been selected and interviewed. Each potential participant would be sent a Participant Information Sheet and a consent form. Participants would be given one week to read the Participant Information Sheet and to ask the researcher any questions (by email or telephone) before being asked whether they voluntarily agreed to participate in the interviews and to sign the consent form.

The plan for the process of collecting primary data involved interviews with the sampled individuals. Interviews are a one-on-one process through which the interviewer poses questions to the interviewee to extract the views of the interviewee's views on a particular topic.³⁷³ The conversational nature of interviews facilitates the exchange of information and knowledge about a phenomenon.

The semi-structured interview approach had been selected since it is compatible with my obligation towards permitting the participants to define their experiences from their perspective. Thus, the process was to start with the development of an egalitarian relationship between the interviewer and interviewees while encouraging the interviewees to contribute to the trajectory of the inquiry. Essentially, the process of re-orienting the interview guide to accommodate the lived experiences of each individual would further enable the research to explore the unanticipated issues, which is a fundamental element of feminist methodologies.³⁷⁴

To ensure the success of the interviews, in line with the guidelines of the University, I had taken additional measures, including the following. First, I provided sufficient information to the selected interviewees regarding the process and details of the study, as shown in Appendix 3 (Participants Information Sheet for Qatari women) and Appendix 4 (Participants Information Sheet for Qatari professionals). These participant information sheets contained general information, while also providing the interviewees with my contact information, to enable them to make any inquiry about any emerging concerns relating to the interviews. The Participant Information Sheet also included the projected duration of the interview, that the responses will be recorded, the advantages and risks, and what is expected of the interviewee during the interview. These measures

³⁷³ M Saunders, P Lewis, and A Thornhill, *Research Methods for Business Students*. (Essex: Pearson Education Limited, 2019).

³⁷⁴ R Kaur, and S Nagaich, 'Understanding Feminist Research Methodology in Social Sciences', (2019) <<http://dx.doi.org/10.2139/ssrn.3392500>> [Accessed 21 March, 2022]

were designed to ensure informed consent from the interviewee³⁷⁵. The researcher and interviewee would also agree on the confirmation date to accommodate any contingencies. Additional information regarding the medium through which the interviews would be conducted was provided, to enable the interviewees to prepare in advance by sourcing the means to access the technology-mediated platforms such as Zoom or Microsoft Teams, based on the convenience of the respondent.

In line with the guidelines by the university, I performed risk assessment for this approach to data collection (as included in Appendix 5), and applied the assessments in planning the interviews and data collection process.

However, due to logistical challenges outside my control, the researcher was not able to undertake these methods. After submitting the BREO application, there were substantial delays in the authorisation process, with some of the delays attributable to the shutdowns during the COVID-19 pandemic. Similarly, part of the delay can be attributed to unexpected complexities in Qatar, including delays in attempting to get authorisation from the Qatar University Ethics Committee. The delays arose due to safety concerns raised by the Brunel ethics committee, specifically for the participants and the researcher. There was also a horde of expected requests for information about the study that led to delays in the process. To resolve the issue, I resubmitted the request in the summer of 2023, but the ethics committee raised further concerns, mainly about the consequences for the women taking part in the research and wanted more information. One of their suggestions was to seek ethics approval from Qatar University's ethics board. Despite extensive efforts on my part for over six months, Qatar University did not ultimately provide written support for the ethics approval application. It has therefore not been possible for me to obtain ethics approval and conduct the interviews. In the process, I lost over a year of the permitted time.

As an alternative, and with advice from the researcher's supervisors, I opted to rely on information from three sources, including the following.

First, an analysis of the family laws adopted by Qatar, specifically QFL No. 22 of 2006, which addresses the issue of divorce and domestic abuse in Qatar. The findings are included in Chapter 4. Additional laws included in the discussion include laws that address violence within

³⁷⁵ S Oflazuglu. 'Qualitative versus Quantitative Research', (London: Sage, 2014), defines informed consent as the provision of information to study subjects to enable them to make a decision on whether or not to participate in the study.

Qatari societies, with their relevance arising from the lack of laws that criminalise IPV. The analysis focuses on the Law on Violent Conduct: Law No. 11 of 2004. The findings from the analysis are included in Chapter 4.

Second, analysis of documents relating to Qatar's fulfilment of its treaty obligations. These publications indicate whether and how Qatar has achieved the obligations under CEDAW, specifically those commitments relating to women's rights, and other measures aimed at empowering women and eliminating discrimination. Although they only provide the official perspective for each of the dimensions and not necessarily the practical outcomes, the publications are integral in providing a basis for analysis. Among the secondary sources, the researcher relied on the following categories of documents.³⁷⁶

- Legal documents: legal documents included publications by CEDAW, including the Concluding Comments and other annual reports on progress.
- Reporting documents: These documents present the agendas and working outcomes of the institutions and entities associated with the international human rights of women in the country. Qatar, as a signatory to CEDAW, is mandated to produce reporting documents on the progress of human rights in the country. The primary source of data was the 2018 CEDAW Report on the performance of Qatar in the implementation of its commitments under the Convention.³⁷⁷
- Accounting documents: Member countries provide periodic country reports on the implementation of the propositions by CEDAW. The documents, which are submitted to the UN Committee under CEDAW, provide indications of the outcomes within a specific period, normally a year, to indicate the progress on human rights within the country.
- Criticising Documents: These documents are provided by institutions and actors whose job is to provide a critical review and response to the activities and achievements of the international women's rights institutions, as well as the member countries. These documents, including shadow reports, are normally provided by NGOs.

Other documents that do not fit in any of these categories but were used include technical reports or publications on workshops. The advantages of secondary data in this study include the

³⁷⁶ The categorization is based on the contexts and functions of the documents

³⁷⁷ CEDAW, 'Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018', (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

fact that the source materials are readily available. Similarly, the data from these sources provide a historical snapshot, which is integral in the creation of a narrative about the change in the research phenomena over time. The findings from the analysis of the documents are included in Chapter 5. This original review and analysis has not been undertaken before.

Finally, data relating to judicial decisions on divorce cases handled by Qatari courts provided insights that are relevant to the research questions. The data from the judicial decisions offers a window into the discrimination of Qatari women, including how the incidences of intimate partner violence and dissolution of marriages where discrimination occurs are handled within the Qatari judicial system. The laws applied, as well as how they are applied, can also indicate whether, and the extent to which, Qatari courts abide by the commitments under the treaties on women's rights, including CEDAW. A total of three cases were identified from the records available from the judicial institution in Qatar, including: (i) Appeal by Cassation No. 30 of 2006, Personal Status Cassation ('Case A'); (ii) Appeal No. 51/2012/Civil Cassation ('Case B') and Appeal No. 131 of 2012 ('Case C'). The findings are included in Chapter 6. Although the number of cases is small, this is the first and only study to assess and analyse original Qatari divorce decisions.

3.4 Analytical Lens, Analysis and Presentation of Findings

The study adopts a reformist jurisprudential analytical lens, with the goal of advocating for reforms and equality, with focus on the human-made nature of Islamic law (*Fiqh*). The lens is adopted due to a number of rationales. First, it is suited for research into personal status and family law, which is the basis of this study. Second, the process entails the analysis of scenarios where gender discrimination is a primary concern, with the objective of promoting reforms focused on ethical principles rooted in Islamic practices. The analytical lens is aligned with the tenets of Islamic feminism according to Mir-Hosseini,³⁷⁸ who proposes the re-evaluation of the perspectives on traditional Islamic legal rulings to ensure that they are responsive to modern concepts and contexts, ethics and secular systems.³⁷⁹ The findings were analysed in two phases, primarily informed by the types of data collected. The doctrinal analysis was performed on the secondary data, with subsequent thematic analysis to identify the key themes that represent how the oppression of Qatari women occurs.

³⁷⁸ Mir-Hosseini (n 312).

³⁷⁹ Mir-Hosseini (n 312).

3.4.1 Doctrinal and socio-legal analysis

The doctrinal analysis is the contemporary and traditional approach to analysing the law since it focuses on the implications of the law itself. This approach focuses on the statutes and decisions by courts in describing the laws. The analysis of the legal aspects of the study was also performed through the socio-legal approach. The socio-legal approach is founded on the premise that legal frameworks are contextual constructs that can only be best understood based on the environment in which they are developed and utilised.³⁸⁰ By studying the law in action, this study provided a key perspective on the utilisation of international law within various environments, as well as how those laws influence the social and cultural conditions of the jurisdiction where it is used. The outcome of this analysis was to contextualise the law, with the application of an interdisciplinary methodology whereby the influences on and effects of the law are studied concerning the intentions of the legal frameworks. Through the socio-legal approach, the failures, inequities and insufficiencies in the application of the law were identified and reported. Through this approach, the analysis of the provisions in the laws referenced the various *Shariah law* schools of thought upon which they are based. By so doing, I was able to highlight the foundations of the law, as well as the justification for their application.

Based on the experiences from past studies, it was apparent that when it comes to legal research, the socio-legal and doctrinal approaches are highly correlated, thus making it challenging to demarcate where one ends and the other starts.³⁸¹ Rather than being a cause for worry, the flexibility and fluidity in the two methodologies provided the researcher with the ability to borrow from each approach to fully investigate the research phenomenon. By transitioning from one approach to the other, the researcher was able to overcome the limitation of the lack of background information about the research, thus fulfilling the objectives of an exploratory design.

3.4.2 Thematic Analysis

Thematic analysis is defined as the identification, analysis and reporting of themes and patterns within qualitative data.³⁸² The methodology was originally designed for analysing the

³⁸⁰ David Cowan, and Daniel Wincott, *Exploring the 'Legal' in Socio-Legal Studies* (London, Palgrave Macmillan 2015) 169

³⁸¹ Rexa Banakar, 'Normativity in Legal Sociology: Methodological Reflections on Law and Regulation in Late Modernity', (London, Springer 2015) 48-49

³⁸² John W Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, (London: Sage Publication, 2013).

interview data. After changes to the sources and types of data, the methodology was retained for analysis of secondary data, relating to the degree to which Qatar has achieved its treaty commitments (Chapter 5) and court decisions relating to divorce cases with an element of IPV (Chapter 6). Thematic analysis is a versatile approach, which has in the past been used in similar forms of analysis by Kremer and others,³⁸³ and Skuban-Eiseler, and others.³⁸⁴ The procedural flexibility in the approach made it viable for this study. Other advantages include the presence of options to explain the concepts in an in-depth manner, while uncovering the nuances in the data, specifically those arising from underlying beliefs and opinions.³⁸⁵ Finally, the approach is integral in the summarisation of data, especially in relation to the court cases, and the performance of Qatar regarding its treaty obligations, thereby providing the relevant supporting evidence in the discussion of findings.

The thematic analysis focused on examining the experiences of the individuals, as outlined in the judicial decisions. As indicated by Braun and Clarke, "...an accessible and theoretically flexible approach to analysing qualitative data...locating it about other qualitative analytic methods that search for themes or patterns, and concerning different epistemological and ontological positions".³⁸⁶ However, the researcher identifies six key phases to demarcate the boundaries of flexibility, to avoid the pitfall of using an 'anything goes' approach in analysing the data.³⁸⁷ Thematic analysis was performed through the six-phase approach.³⁸⁸

First, multiple 'read-throughs' for familiarisation with the data. By reading through the data multiple times, I familiarised myself with the data. This phase describes several actions aimed at understanding the foundations of the judicial decisions, as well as their implications.

Second, generating initial codes, which represented the key similarities and differences in the experiences of the three women. The codes were informed by the relevance of the data to the research topic, implying that the researcher focused on the identification of the links between the

³⁸³ Paul Kremer, Mark Symmons, and Brett Furlonger, Exploring the Why of Psychologist Misconduct and Malpractice: A Thematic Analysis of Court Decision Documents, (2018) 53 Australian Psychologist 5 454.

³⁸⁴ Tobias Skuban-Eiseler, Marcin Orzechowski, and Florian Steger, Access to healthcare for disabled individuals: An analysis of judgments of the European Court of Human Rights from an ethical perspective (2023) Front Public Health, 1.

³⁸⁵ Kremer and others (n 328), 6.

³⁸⁶ Virginia Braun, and Victoria Clarke, 'Using thematic analysis in psychology', (2006), 3, Qualitative Research in Psychology, 3, 77.

³⁸⁷ Svend Brinkmann, *Philosophies of Qualitative Research*. (London: Oxford University Press, 2018).

³⁸⁸ Braun and Clarke (n 331), 77.

data and the literature review. By so doing, I appreciated the contents of the data from the perspective of its relevance to the research, as well as contextualising the findings to introduce their utility in answering the research questions.

Third, combining the codes to eliminate homogeneity.³⁸⁹ In this phase, all the data with similar characteristics and views were grouped. Each of the themes captured an important element of the data in the process of answering the research question or fulfilling the research aim.³⁹⁰ The multiplicity of codes that were identified were ultimately linked based on their characteristics, and how they contribute to answering the research questions, since the codes were developed based on the broader and higher-level conceptual issues that are present within the data. The combination of codes included the identification of the relationships in the codes, especially those which referred to similar or related constructs. During the process, I was guided by theoretical frameworks such as Islamic feminism, post-structuralism and intersectionality to ensure that the assertions and themes developed were not swayed by personal preferences and predetermined courses of action.

Fourth, identification of the evidence from the data which supported the themes, to determine ways through which the themes can be combined.³⁹¹ The nature of qualitative data implies that the interpretation of a theme or a combination of codes can produce data that was previously seen as irrelevant.³⁹² The transformation arises from the realisation of the deeper and diverse meanings of the codes and findings, regarding different viewpoints. In this fourth phase, I identified the links between the codes and the themes to determine the presence of cause-and-effect relationships between and among the themes. These relationships were integral in explaining the origin and implications of the themes, especially in a study built around pragmatism. In this phase of the study, I engaged in a broad-based analysis with open-mindedness to identify any hidden meanings in the data.

Fifth, I provided the final definitions for the themes to link them to the research objectives. The definition and denotations of the themes were key to orienting the findings towards the

³⁸⁹ E R Monsen, and L Van Horn, 'Research: Successful Approaches', (3rd ed, New York, American Dietetic Association 2008) 73

³⁹⁰ Peter Kane and Herbert Kritzer, 'The Oxford Handbook of Empirical Legal Research', (London, OUP Oxford, 2012).

³⁹¹ Braun and Clarke (n 331), 77.

³⁹² Frans L Leeuw and Hans Schmeets, 'Empirical Legal Research: A Guidance Book for Lawyers, Legislators and Regulators', (Cheltenham, Edward Elgar Publishing, 2016)

fulfilment of the research objectives. The process, rather than being a structured and systematic analysis methodology, was, in practice, a back-and-forth activity. This was to ensure that as I became more aware of the direct and indirect meanings of the contents of the data, I was able to identify previously overlooked codes, conceptualise the themes better, and frame the narrative in more effective ways. Through multiple analytical runs, I was able to fully appreciate the implications of the data, leading to optimal extraction of all the elements from the raw data that were relevant to the study.

3.5 Ethical Considerations

Research ethics are often discussed concerning the activities and considerations that a researcher takes to ensure that the activities associated with the investigation do not compromise the success of the entire process. These include adhering to predetermined industry practices and taking into account several custom concerns based on the study settings. The following ethical concerns were taken into account and are drawn from the propositions by the British Sociological Association, the Code of Practice for Research, the Research Ethics Review Framework and the University Guidelines.

Privacy: Qatari courts have established stringent measures to ensure privacy in decisions relating to family law cases. The process entails using codes, including ‘claimant’ and ‘appellee’, to represent the parties to the proceedings. I adopted those references in the analysis to ensure protection of the identities of the parties to the cases.

Benevolence: As the researcher, I took measures to ensure that the process of conducting the research did not cause any harm to the individuals by taking into account the socio-cultural norms that apply regarding academic research in the country. The research subject is viewed as a sensitive matter since the country operates in a highly conservative system, and any discussion on legal matters can be viewed as a challenge to the norms. As a result, the research sought authorisation from the necessary authorities at Qatar University before accessing the information on the court cases. The ethical considerations of ensuring respect and sensitivity in language by reference to cultures and their practices in Qatar were also observed.

3.6 Limitations in the Selected Methodology

The study relied on data derived from judicial decisions by Qatari courts. The analysis was focused on determining the extent to which the court decisions on divorce claims lead to

respecting, fulfilling and protecting international women's rights standards in the country. The data is sourced from the official publications of Qatari courts. Due to the policy of the country to restrict access to this type of information, access to the court decisions and explanations for the decisions is not available in the public domain. Ultimately, I was only able to obtain decisions in three cases. Furthermore, the decisions are published in Arabic, hence necessitating translation into English. While the translation was carried out accurately, the possibility of mistranslation through contextual and semantic errors cannot be discounted. Despite the very small number of court decisions analysed and the limits therefore on being able to generalise beyond those decisions, they are of great significance because this is the first and only study that has succeeded in obtaining and analysing original Qatari court decisions on divorce.

Similarly, as described in the original methodology, I had intended to rely on primary data sourced through interviews. Due to circumstances outside my control, I had to adjust the methodology and sources of data. The change from primary data to secondary data implied that I was not able to complete the study as originally conceptualised. However, the secondary data sources selected provided sufficient data to fulfil the aim of the study. It also enabled me to include findings that are original contributions to the study, specifically the analysis of past judicial decisions and an evaluation of the implementation and enforcement of treaty obligations by Qatar.

3.7 Conclusion

The review of the literature reveals the presence of substantial gaps in the knowledge from past studies on the subject matter. These gaps are key determinants of the selected methodology, albeit with justifications for each process. The research is modelled around the feminist post-structural approach. The feminist post-structural approach is adopted since it focuses on achieving the emancipation and empowerment of women, thereby producing knowledge and social change that is of value to the aim of the study. It also positions the researcher in a manner that enables them to challenge the existing notions and ideations about the research topic, thereby enabling them to question what is perceived as the official narrative. I relied on both primary and secondary data. I acquired secondary data from a diversity of sources, including court decisions, all of which relate to the international human rights of women in Qatar. I then carried out the analysis through thematic analysis and doctrinal analysis. Finally, I synthesised and contextualised the data within the literature reviewed, and under the principles of interpretivism, guided by feminist post-

structuralism. Although I was unable to undertake two key originally intended research methods, namely, interviews with women in Qatar who had been through divorce, and professionals with expertise in the research subject, the doctrinal and socio-legal analysis of a wide range of documentary materials and original court decisions brought novel insights to a topic on which little was hitherto known.

4 CHAPTER 4: DIVORCE AND DOMESTIC ABUSE IN QATAR

4.1 Introduction

In this chapter, I shall analyse the laws in Qatar relating to divorce and domestic abuse within the institution of marriage. The discussion is engineered towards investigating whether the Qatari legal framework is designed in a manner to enable women to exit marriages, as a way of evading domestic abuse. The literature review highlighted the reality facing women within marriages, and pointed to the option of divorce as an avenue for emancipation. However, the discussion also recognises the existence of certain forms of abuse, including coercive control, for which the separation of couples might not be able to remedy. In the discussion, I shall focus on whether the existing laws are sufficient in addressing domestic abuse against women, and whether divorce can enable women to enjoy human rights by escaping an abusive marriage.

4.2 Divorce Procedures and Post-Divorce Maintenance

In Qatar, under Section 115 of the Family Reform Code 2005, Qatar has framed its post-divorce maintenance to ensure that women get support for three years. Qatar Family Law 22 of 2006 Article 114 provides that: “After pronouncement of divorce, the Judge shall make an order as to the amount of alimony for the wife during her *Iddat*, Children support, and the rights to Child custody and visitation. Such order shall have immediate enforceable effect.” The provisions state that the maintenance (i) ensures that mothers are protected, especially during motherhood and parenting, as well as the protection of the children who do not have guardians; (ii) establishes a competent judicial system for the protection and preservation of family; (iii) establishes an insurance scheme for vulnerable women, including widows, senior women, and others who do not have formal support; (iv) provides guardianship for children to reliable mothers, to protect the interests of the child, in cases where a legal guardian is not available.³⁹³

The woman is customarily entitled to these payments, on account of their purpose following a divorce. Deferred dowry is an amount that is due upon a predicated event, after the

³⁹³ A Shahid, Post-Divorce Maintenance Rights for Muslim Women in Pakistan and Iran: Making the Case for Law Reform, (2018) 15 Muslim World J of Human Rights 1 59, 73.

passage of a specific duration, or if the marriage is dissolved through divorce or death.³⁹⁴ The consolation (*Mut'ah*) payment is obligated as a consolatory gift paid by the man to the woman, on account of divorcing her without a particularly reasonable cause. The amount is arrived at through consensus or a determination by the court.³⁹⁵ As one of the most contentious yet neglected issues of transactional jurisprudence under *Shariah law*, *Mut'ah* is an entitlement designed to address the psychological aspect faced by the woman in the aftermath of the divorce. It is essentially conceptualised as the foremost right of a divorced woman and is derived from the accrued wealth of the household that she was a part of, as a partner in a legally recognised marriage.³⁹⁶ Some contrasting views posit that rather than being an entitlement under *Shariah law*, *Mut'ah* payment is a recommendation,³⁹⁷ which falls due only to the deserving parties, specifically wives who are righteous, obedient and pious to their husbands. Either way, both Sharia and common law principles concur on the obligatory nature of the sufficiency of the post-divorce maintenance that is granted to the deserving party. The waiting (*Iddah*) payments are an allowance by the husband to the divorced wife, which covers her financial needs before she can remarry or settle down into the post-divorce era. These post-divorce rights are computed based on a consideration of the economic facts relating to the parties, as well as based on how virtuous the wife was during marriage.

The prevailing jurisprudence under *Shariah law*, coupled with the understanding from predominant scholarship, reveals that the post-divorce maintenance that wives are entitled to does not include any property settlement or the wealth that was accumulated by the household during the marriage.³⁹⁸ Consequently, the maxim implies that women are only entitled to support during the '*iddat al-talaq*' period, which customarily lasts for the three months after the divorce is finalised. However, a debate exists on how long the maintenance should be provided. The

³⁹⁴ Under Islamic law, while dowry payment is an integral step in validating a marriage, a husband is permitted to marry as long as they can pay part of the agreed dowry. The remainder, called *Mu'akhar*, is due during the marriage, or if the parties divorce.

³⁹⁵ A Sholikhah, and J Jamilah, 'Judge's Consideration of Post-Divorce Rights ('Iddah and Mut'ah) from The Perspective of Maslahah Mursalah', (2023) 7 Sakina: J of Fam Stud 1, 111.

³⁹⁶ M H Abdullah, and others, 'Relationships between Satisfaction of Muslim Women on Financial Supports After Divorce and Ex-Husbands' Compliance to the Supports with Post-Divorce Welfare (2009) 17 Pertanika J Soc Sci & Hum 2 153, 160.

³⁹⁷ M B Hasbullah, and others, Knowledge and Accessibility of Muslim Women to The Law On Post-Divorce Financial Support (2010) 18 IIUM L J 1, 123. See also Abdullah, and others (n 357) 165.

³⁹⁸ Shahid (n 354), 60.

consensus among Muslim jurists is that the reasonable period for post-divorce maintenance would not go beyond the *iddat* period, after which the wife is free to remarry. This requirement is enforceable under the statutory laws of countries under *Shariah law*.

Within contemporary Islamic societies (such as Qatar), these challenges are magnified by the socio-cultural norms that bar women from engaging in gainful employment. The laws and customs on divorce recognize this reality and appreciate the importance of the variety of financial support for maintenance at critical times, specifically during the waiting period (the period when the divorce proceedings are initiated) which include Payment of dower, the refund of dowry depending on the nature of the marriage arrangements, payment of consolatory gifts, and the distribution of property acquired during the marriage.

4.2.1 Cost of Divorce

The costs of divorce determine the bargaining power of either spouse and ultimately, their conduct within the relationship. In a study set in Spain, the analysis focuses on the effects of reforms to the divorce laws, such as the reforms instituted in 2005 which allowed for the aggrieved spouse to institute divorce proceedings unilaterally, without the permission of the other spouse, even when no fault is identified, while also eliminating the statutory period for waiting before a marriage can be dissolved,³⁹⁹ to eliminate several procedural requirements during divorce that ultimately affect the ability and willingness of partners to terminate their relationship. The findings reveal that the elimination of the costs leads to a 36% decline in conflicts between spouses, with the propensity to engage in violent activities reduced by 30%. The reforms have also led to a reduction in violence in marriages since the improvements in the procedures for divorce have front-end benefits for married couples. After all, when a divorce is a viable option, there is limited impetus to stay within a marriage which is not satisfactory.

Based on existing literature on Qatar, most guidelines on divorce are discriminatory against victims of violence, mostly women.⁴⁰⁰ First, women have to wait for three months before getting married again, a period termed *iddah*. However, Section 115 of the QFL 2005 provides for post-divorce maintenance for three years as well as during the period over which she has custody of the

³⁹⁹ See Brassiolo (n 114), 102.

⁴⁰⁰ Lari and Al-Thani (n 251), 300, who indicates that restrictions on divorce are a manifestation of the inability or lack of willingness of a society to perceive women in any role other than the domestic roles as spouses or mothers.

children.⁴⁰¹ Post-divorce maintenance is designed to protect the mothers, especially those with young children, or those who are pregnant, as well as the protection of children without guardians. However, these protections are lost if she marries someone else or loses custody of her children. Second, even for amicable divorce proceedings, the couple must provide a reason for ending the marriage. Article 109 of QFL 22 of 2006 states that: “Divorce may be effected by the husband personally or his agent having a special power of attorney to that effect, or by the wife if the husband gave her such power”, implying that for a wife to institute divorce proceedings, her husband has to permit such a process.⁴⁰² The requirement for reasons implies that if the proceedings for the divorce are spearheaded by the woman, they face a challenge in evidentiary terms since the evidence provided and the witness borne by a woman are viewed as being inferior to that of a man.⁴⁰³ Under such circumstances, the cost of divorce becomes high, since men will only accept divorce when it serves their interests, rather than being a solution to problems facing the female partner. Third, a husband is the legal head of a household, and the absence of such an individual within a household limits the legitimacy of such a family unit.⁴⁰⁴ Although there are families headed by women in the country, they are a rarity and are often faced with challenges associated with conformity. Finally, divorced women find it more challenging to find partners. In a country where marriages are viewed as a process through which essential family ties are established, a large proportion of the events involving divorce limit the suitability of a woman for subsequent marriage. This includes being viewed as an outlier by the community, which plays an integral role in the marriage process. Existing evidence from the report on marital contracts by the Ministry of Development Planning and Statistics (MDPS), based on the status of the brides, reveals that 81.5% of the marriages involved virgin women, with only 18.5% involving divorcees or widows.⁴⁰⁵

⁴⁰¹ See Shahid, (n 354) 59, who states that “...post-divorce maintenance can be awarded to women for 3 years (Section 115 of the Family Reform Code 2005).

⁴⁰² See Brassio (n 113).

⁴⁰³ UNICEF, ‘MENA Gender Equality Profile: Status of Girls and Women in the Middle East and North Africa (2011)’, <<https://www.unicef.org/gender/files/Qatar-Gender-Eqaulity-Profile-2011.pdf>>[accessed 22 March 2021], who indicates that the testimony provided by woman is considered to be worth half of what a man testifies to, and in some cases, female testimonies are not taken into account.

⁴⁰⁴ CEDAW, ‘57th CEDAW Session, ‘Musawah Thematic Report on Article 16: Qatar’, (2014), <https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16419_E.p df>[accessed 22 March 2021].

⁴⁰⁵ MDPS, ‘Marriage and Divorce: State of Qatar 2017-Review and Analysis’, (2018), <<https://www.psa.gov.qa/en/statistics/Statistical%20Releases/General/StatisticalAbstract/2017/population->

Reforms to divorce laws also help reduce the incidence of conflicting divorces, such as instances where one partner wishes to terminate the marriage, contrary to the wishes of the other. These actions can lead to the victimisation of the ex-spouse during and after the process. In case of divorce proceedings where the husband has not accepted, the woman has limited recourse, other than entering into a lengthy process, which involves legal and religious considerations.⁴⁰⁶

Despite the differences in the rates of divorce among Gulf countries, studies reveal that the primary cause of divorce is the involvement of parents and relatives in the selection of brides, thus giving most men limited time to acquaint themselves with their potential wives before entering into the contract.⁴⁰⁷ Within these conservative societies, most marriages are arranged by older relatives, whose decisions may be ulterior and not fully related to the happiness of the couple or the stability of the marriage.

In *Shariah law*, a woman can only seek a divorce before a male judge on certain limited grounds, whilst a man has the right to unilaterally divorce his wife without having to explain the reasons to anyone.⁴⁰⁸ Article 16 of the UDHR guarantees the right to marry and establish a family upon the full, free and informed consent of the two parties, who are considered to be equal at all stages of the marriage. The massive adherence to the UDHR has made it acquire the status of customary international law and thus a binding norm. In theory, the principles, such as the equality of the parties to the marriage at all stages of the marriage, including divorce, apply to women in Qatar as well.

[chapters/marriage_divorce_qatar_2017_En.pdf](#), >[accessed 22 March 2021] which reveals that among Qatari women, marriages involving virgin brides were 79.7%, 19.5% involved divorcees, with the remaining 0.8% involving widowed wives.

⁴⁰⁶ OECD Report, 'Social institutions and Gender Index for Qatar 2019'. (2019). <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf> >[accessed 22 March 2021] indicates that in such scenarios, the woman has to seek judicial decrees even when the reason is legitimate.

⁴⁰⁷ Lari, and Al-Thani, (n 251) 298, although other factors play a role as well, including "...social factors, such as a lack of awareness of spouses regarding the rights and obligations in marriage, ..., disparity in the couple's ages, and differences in education level and social class, contributed to the incidence of divorce."

⁴⁰⁸ Lari, and Al-Thani, (n 251) 294.

4.2.2 Approaches to Divorce

The provisions for divorce under Qatar's Family Law No. 22 of 2006 offer three scenarios where divorce is allowed.⁴⁰⁹ Under the provisions, divorce can occur through mutual consent⁴¹⁰ or contestation.⁴¹¹ In instances where the spouses do not agree on the terms of the divorce, the contested procedures involve five phases: (i) launching of a claim in the court by one party stating the grounds for the divorce; (ii) serving the petition to the other party; (iii) participation in court proceedings; (iv) presentation of evidence and witnesses; (v) reception of the judgment by the court. As indicated under Article 106 of Qatar's Family Law No. 22 of 2006, divorce is only valid if it occurs through the Islamic Formula of divorce.⁴¹² Under those scenarios, there are gender-based differences in access to divorce, with women facing a set of barriers to dissolving a marriage.⁴¹³ As shall be shown in this discussion, although a wife can initiate divorce, the law that governs the process establishes significant bottlenecks in the process.

4.2.2.1 Divorce initiated by Husbands

Under both *Shariah law* and Part 2 of Qatar Family Law No. 22 of 2006 (Article 106-117), the husband can autonomously decide to repudiate a marriage, commonly referred to as *talaq*. A marriage is terminated if the husband makes three pronouncements of his intention to divorce the wife, whether consecutively or otherwise. Article 107 of Qatar Family Law No. 22 of 2006 provides for divorce even in instances where the husband implied the intent to terminate the marriage.⁴¹⁴ The decision by a husband to repudiate a marriage through a unilateral decision can be effected in several ways, namely, verbally or in writing, with or without justification, in or

⁴⁰⁹ Ibid, 297, who identifies three ways through which divorce can occur, including “...(i) revocable divorce, (ii) divorce against compensation, and (iii) major or minor irrevocable divorce.”

⁴¹⁰ A Trigiyatno, and S Sutrisno, Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco, (2022) 7 Al-Istinbath: Jurnal Hukum Islam, 1, 20, who states that the process involves five phases: (i) consent by both spouses; (ii) drafting of the agreement to detail the terms of the divorce; (iii) submission of the agreement to the family court; (iv) participation in the court hearings; and (v) finalisation of the proceedings.

⁴¹¹ Ibid, 22.

⁴¹² Lari, and Al-Thani (n 251), 297.

⁴¹³ Musawah, ‘Musawa Policy Brief No. 4: Equal Divorce Rights in Muslim Family Laws’, (2023), <https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Musawah-Policy-Brief-4-Equal-Divorce-Rights-in-Muslim-Family-Laws-1.pdf> > Accessed 3 November, 2024.

⁴¹⁴ Article 107 of Qatar Family Law No. 22 of 2006: “Divorce may take effect by: 1. Express pronouncement or writing, and in the case of inability to pronounce or write, by understandable gesture. 2. Metonymy (implication), if the husband intended divorce.”

outside the presence of the wife, within or outside the courtroom.⁴¹⁵ Court-side pronouncements are implemented in line with Article 114 of Qatar Family Law 22 of 2006, which outlines the means through which the process is expedited.⁴¹⁶ The decision by the judge is based on the premise that the husband is willing and capable of fulfilling the post-divorce requirements to the satisfaction of the wife.⁴¹⁷ Divorces initiated by the husband, which are often considered revocable, can be annulled if the husband revokes the pronouncement, in any of the ways through which a divorce is announced. However, the revocation has to be done within three months.⁴¹⁸ Pronouncements made in the absence of the wife have to be communicated to her, for purposes of recordation.⁴¹⁹ However, if made in the presence of a judge, the judicial officer has the responsibility to try to reconcile the parties before granting the divorce.⁴²⁰ The provisions under Part 2 of QFL No. 22 of 2006 outline how divorce can be initiated by a husband. A number of limitations to the power of the husband to initiate divorce are included in Article 108.⁴²¹ However, there is a lack of particularity in the extent to which these provisions apply, since the Article

⁴¹⁵ Article 113 of Qatar Family Law No. 22 of 2006, which states: Article 113: “Divorce may occur by the husband formally pronouncing it before the Judge. Before ordering such pronouncement, the Judge shall attempt to reconcile between the parties. A divorce occurring outside the court room shall be proved by Evidence or admission and shall have been communicated to the wife.” See also Independent Group of Concerned Citizens, ‘Qatar Shadow Report to the Convention on the Elimination of Discrimination of Women,’ (2013), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16177_E.pdf [accessed 22 March 2021]

⁴¹⁶ Qatar Family Law No. 22 of 2006 Article 114: “After pronouncement of divorce, the Judge shall make an order as to the amount of alimony for the wife during her Iddat, Children support and the rights to Child custody and visitation. Such order shall have immediate enforceable effect.”

⁴¹⁷ Qatar Family Law No. 22 of 2006 Article 115: “(i) A divorced woman shall be entitled to enjoyment compensation if the divorce is made by the husband without any fault on her part. (ii) A divorce for non-support due to insolvency of the husband shall be exempted from the provisions of the preceding paragraph. (iii) Enjoyment compensation shall be assessed based on the wealth of the husband and the status of the wife and shall not exceed three Years of her alimony.”

⁴¹⁸ See Qatar Family Law No. 22 of 2006 Article 116: “A husband shall have the right to revoke the divorce and return to his divorcee before expiry of her Iddat if the divorce is revocable, and such right may not be waived.”

⁴¹⁹ Musawah, Qatar: Overview of Muslim Family Laws and Practices: Updated as at 20 December, 2022, (2023), <https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Qatar-Overview-Table-2022-1.pdf> [Accessed 3 November, 2024].

⁴²⁰ Musawah, Qatar: Overview of Muslim Family Laws and Practices: Updated as at 20 December, 2022, (2023), <https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Qatar-Overview-Table-2022-1.pdf> [Accessed 3 November, 2024].

⁴²¹ Qatar Family Law No. 22 of 2006 Article 108: “Divorce may not take effect: 1. If it is equivocal or conditional, intended to pressure for doing or not doing something, or to believe or disbelieve in something. 2. For a wife who has consummated her marriage, during Iddat or menstruation cycle or during post-menstruation cleanness in which sexual intercourse occurred. 3. On breaking an oath to divorce or “tahreem” (to consider the wife as forbidden). 4. Repeating pronouncements of divorce or associating it with numbers, whether verbally, in writing or by gesture, shall be considered but only one divorce.”

includes them as scenarios where divorce ‘may be’ allowed. This deviates from the language in the rest of the part. The measures outline a process that is simplified, due to the influence of patriarchy, whereby the husband is seen as the head of the family.⁴²² Essentially, this gives the husband the power to breach the contract of marriage, without any consequences, outside the judicial system, even though such a contract has to be ratified by the courts.

4.2.2.2 Divorce Initiated by the Wife

The provisions for a wife to initiate divorce are covered under Part 2 of QFL No. 22 of 2006, Articles 118 to 122. The provisions herein are part of the recent reforms under Qatari family law. As discussed in Chapter 1 (Section 1.3), the decisions are also aimed at aligning the law with constitutional provisions on ‘Equality of Spouses in marriage’ under Article 34 of the Qatar constitution.⁴²³ Article 35 further lays the basis for reciprocity between spouses, in line with the conceptualisation of equality and equity within the institution of marriage.⁴²⁴ The measures are part of the broader policy-based decisions to promote the prominence of the family as an integral unit in the development of the country (Article 21 of the Qatar constitution).

A wife can initiate divorce to redeem herself from the marriage, in line with the provisions of Article 118.⁴²⁵ However, there are several peculiar features of the provisions under the QFL No. 22 of 2006, which limit the simplification of the procedure, as it applies to men. First, unlike the clarity and certainty provided under Part 2 of Qatar Family Law No. 22 of 2006 regarding divorce initiated by the husband, the proposition for redemptive divorce by the wife has to be accepted by the husband, for it to be valid. Additional provisions for redemptive divorce are provided for under Article 129, where the courts can allow for separation or divorce on account of detriment, whereby it is proven that the marriage cannot proceed.⁴²⁶ In such cases, reconciliation is carried out, but if

⁴²² Musawah, Qatar: Overview of Muslim Family Laws and Practices: Updated as at 20 December, 2022, (2023), <https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Qatar-Overview-Table-2022-1.pdf> [Accessed 3 November, 2024].

⁴²³ Al Meezan, ‘The Permanent Constitution of the State of Qatar 0 / 2004’, <https://www.icnl.org/wp-content/uploads/Qatar_1_Qatar_Const_2004.pdf> Accessed 10 January 2025, 6.

⁴²⁴ Musawah, Qatar: Overview of Muslim Family Laws and Practices: Updated as at 20 December, 2022, (2023), <https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Qatar-Overview-Table-2022-1.pdf> [Accessed 3 November, 2024], 3, whereby each spouse contributes to the marriage in a unique manner.

⁴²⁵ Article 118 of Qatar Family Law No. 22 of 2006: “Khul’ (redemptive divorce) is a dissolution of a marriage contract by mutual consent of the husband and wife expressed in the word of “khul” or its meaning, with consideration from the wife. It is not conditioned by post-menstruation cleanness. It shall be considered a rescission.”

⁴²⁶ Article 129 of Qatar Family Law No. 22 of 2006: “The wife, before or after consummation of marriage, shall have the right to request separation on the ground of detriment which makes marital life impossible to continue for her like.

this fails, the marriage is dissolved.⁴²⁷ In instances where mutual consent is not provided (by the husband), Article 122 provides for the mechanisms for reconciliation between the two, through arbitration, for a period not exceeding six months.⁴²⁸ Divorce initiated by the wife does not necessarily imply that the wife is not entitled to child custody or other forms of post-divorce settlement.⁴²⁹

The provisions in this part of the QFL No. 22 of 2006 have to be understood from the perspective of Article 102,⁴³⁰ which is part of the general provisions. Under this law, a divorce initiated by a woman shall not be considered to be effective, as long as she has not compensated the husband in full. This provision differs from what is provided for under divorces initiated by a husband, which are effective as long as he has committed to pay any due compensation in the form of deferred dowry, and child support if there are any offspring. This differentiation is further discriminatory for women, considering that they have limited opportunities to engage in gainful employment.

In some instances, the husband can delegate the unilateral decision for such a divorce through provisions in the marriage contract, thereby permitting the wife to initiate the process of divorce.⁴³¹ Alternatively, there is divorce through judicial proceedings, whereby one party decides to dissolve the marriage.⁴³² The existence of valid events enables wives to seek divorce from their husbands in the case of the following scenarios:

The Judge shall attempt to reconcile between the spouses. If reconciliation cannot be achieved and detriment is proved, separation shall be decreed. Detriment may be proved by Evidence including hearsay testimony.”

⁴²⁷ A Trigiayno, and S Sutrisno, *Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco*, (2022) 7 *Al-Istinbath: Jurnal Hukum Islam* 1 203 217, who categorises this type of divorce as based on ‘*dharar*.’

⁴²⁸ Article 122 of Qatar Family Law No. 22 of 2006: “If the couple cannot agree on khul (redemptive divorce), the Court shall attempt to reconcile between them by appointing two arbitrators to conduct reconciliation within a period not exceeding six Months. If the two arbitrators cannot reach a settlement, and the wife demands khul’ for consideration of waiving all her financial legal rights and refund of the dowry money, the Court shall order the separation between them.”

⁴²⁹ Article 120 of Qatar Family Law No. 22 of 2006: “Consideration for khul’ may not be a waiver of Child custody or any Child right.”

⁴³⁰ Article 104 of Qatar Family Law No. 22 of 2006: ‘If “khul” (redemptive divorce) or separation is made with an agreed consideration paid by wife willingly, such consideration shall be satisfied before decreeing rescission or khul’(redemptive divorce).’

⁴³¹ Article 109 of Qatar Family Law No. 22 of 2006: “Divorce may be effected by the husband personally or his agent having a special power of attorney to that effect, or by the wife if the husband gave her such power.”

⁴³² OECD Report, ‘Social institutions and Gender Index for Qatar 2019’. (2019). Available at <<https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf>>[accessed March 22, 2021], points out that due to the nature of this form of divorce, judicial proceedings are commonly utilized by wives seeking divorce from their husbands, in instances where the terms of divorce are not favourable to the woman.

“non-payment of the dower (*mahr*) before consummation of the marriage; failure to provide maintenance; incurable or severe physical or mental illness; prolonged absence without reasonable excuse or disappearance; imprisonment of more than two years (wife may seek divorce after one year); failure to copulate with his wife for more than four months (*ila*); act of comparing his wife with another woman with whom he is forbidden to marry (*zihar*); accusation under oath of adultery by a wife (*lian*); failure to convert to Islam should he be non-Muslim”⁴³³

These situations apply to a scenario where the decision to depart the marriage arises with the wife, such as instances where she cannot continue with life under marriage. Finally, there is divorce aimed at redemption, also referred to as *khul*.⁴³⁴

4.2.2.3 Divorce on Account of Detriment

Chapter 3 of Qatar Family Law 22 of 2006 addresses divorce on account of detriment, be it through ‘dharar’ (harm), or ‘Shiqaq’ (breach of the marriage contract). As outlined under Article 129 (1), the wife can initiate divorce proceedings at any point in the marriage if she can prove that harm occurred.⁴³⁵ Such a divorce can also be initiated if it can be proven that detriment occurred, with evidence based on tangible proof, or hearsay testimony (Article 129(2)). Detriment is based on physical abuse, emotional abuse, mental abuse, or negligence of a spouse or offspring.

Article 131 outlines the process for arbitration for divorce, whereby the role of the arbitrators is to identify the reason for the breach of the marriage and attempt to reconcile the parties.⁴³⁶ The decision of the arbitrator, as contained in the report to the judge, focuses on the outcome of the reconciliation process, with a focus on how each of the spouses contributed to the

⁴³³ CEDAW, ‘73rd CEDAW Session, Thematic Report On Article 16, Muslim Family Law and Muslim Women’s Rights in Qatar’. (2019). <https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf> [Accessed 10 January 2025], 12.

⁴³⁴ Ashraf Booley, Divorce and the law of Khul: A type of no fault divorce found within an Islamic legal framework (2014) 18 Law Democracy & Development 1, 37.

⁴³⁵ Article 129 of QFL No. 22 of 2006, “(1) The wife, before or after consummation of marriage, shall have the right to request separation on the ground of detriment which makes marital life impossible to continue for her like. The Judge shall attempt to reconcile between the spouses. (2) If reconciliation cannot be achieved and detriment is proved, separation shall be decreed. Detriment may be proved by Evidence including hearsay testimony.”

⁴³⁶ Article 131 of QFL No. 22 of 2006, “The arbitrators shall seek the causes of marital breaches and attempt to reconcile the couple. The arbitrators shall make a report to the Judge of their attempts and state to what extent each of the spouses has contributed to the breaches together with their opinion.”

breach of the marriage contract, as well as the acquiescence of the parties to mediation.⁴³⁷ Based on the report, the judge can order fresh reconciliation if they perceive the earlier process as being flawed or dissatisfactory, or base their decision on the report by the arbitrators.

Article 133 provides for the separation of the spouses during the arbitration and reconciliation proceedings, especially in instances where the detriment is ongoing.⁴³⁸ The measures are aimed at ensuring that neither of the spouses influences the divorce proceedings by delaying the arbitration proceedings, while the other partner suffers detriment. Article 135 outlines the measures under which a disagreement regarding the post-divorce settlements is determined. For amicable divorces, differences on how to allot post-divorce settlements are determined by the courts, if arbitration and reconciliation are not possible.⁴³⁹ However, such a disagreement shall not be a justification for the courts to deny a separation order, considering the relevance of the detriment.

In the presence of detriment, the wife can initiate divorce, even without the consent of the husband, as long as she repays the dowry and waives her rights to post-divorce maintenance.⁴⁴⁰

4.2.3 Custody of Children

Laws on the custody of children following divorce are modelled around *Shariah law* guidelines and codified under QFL Law No. 22 of 2006, Article 165-188. Under the guidelines, disputes relating to child custody are determined based on *Shariah law*, regardless of the religious affiliation of the parent.⁴⁴¹ To this end, Qatari women married to foreign men who do not subscribe to the Islamic faith are exposed to potential discriminatory treatment.

⁴³⁷ Ramadhita Ramadhita, and others, Gender inequality and judicial discretion in Muslims divorce of Indonesia, (2023) 9 Cogent Social Sciences 9 1, 1.

⁴³⁸ Article 133 of QFL No. 22 of 2006, “The Judge may decree separation based on the two arbitrators' report in cases where reconciliation cannot be achieved and breaches continue between the spouses. If the two arbitrators do not make their report and differences between the spouses are intensifying, he shall decree their separation.”

⁴³⁹ Article 135 of QFL No. 22 of 2006 “If the spouses agree to separate with consideration, but differ over the amount of such consideration, the Judge shall attempt to reconcile such difference. If the Judge cannot achieve reconciliation and the difference becomes intensified, he shall decree their separation upon consideration to be determined by him.”

⁴⁴⁰ Article 136 of GFL No. 22 of 2006: “If a wife requests separation before consummation of marriage, and offers her dowry and all property received and waives her financial rights, and the husband refuses to divorce her upon a reasonable justification, the Judge shall attempt to reconcile between them. If the Judge cannot achieve such reconciliation and the difference becomes intensified, he shall decree their separation upon the property offered by the wife.”

⁴⁴¹ OECD Report, ‘Social institutions and Gender Index for Qatar 2019’. (2019). Available at <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf> >[accessed March 22, 2021].

The codified laws make a clear distinction between ‘legal guardianship’, where the father has natural and statutory right to make decisions regarding their child, even when physical custody is bestowed upon the mother,⁴⁴² and ‘physical custody’ of the child. Normally, the mother is given express physical custody in line with the statutory provisions, since the role of raising children is reserved for women. However, this physical custody is only valid to a certain age, namely, until female children turn 15 and male children turn 13 years,⁴⁴³ after which the father has the right to assume legal guardianship and physical custody of the child. Furthermore, there are restrictions on the conduct of the mothers, with the consequences being the loss of the right of custody. These include remarrying an individual without authorisation by the husband, denying the Islamic faith, or taking other measures deemed unfavourable for the child. For example, custody can be withdrawn if the wife marries someone other than the former husband’s brother.⁴⁴⁴ These actions are effectively engineered towards protecting the family unit, but they end up perpetuating gender-based violence after divorce. The requirements on who to marry and how to act after divorce increase the risks of violence to the wife, which might have been the primary reason why she sought a divorce in the first place. As a result, although these guidelines on custody play a key role in the maintenance of the woman and her children after the divorce, they also create circumstances that make it challenging for the woman to be free from the influence of and contact with her husband.

4.3 Law on Violent Conduct: Law No. 11 of 2004

Qatar has not codified laws relating to IPV.⁴⁴⁵ The lack of specific provisions on IPV implies that victims of IPV may lack certainty in getting legal remedies for any harm from the events, unless the claim can be linked to a type of harm that is specifically legislated on. In the absence of such an option, the victims of IPV have to rely on other forms of legislation on violent

⁴⁴² See 57th CEDAW Session, ‘Musawah Thematic Report on Article 16: Qatar’, (2014).

⁴⁴³ See Ibid who indicates that such custody is only valid until female children turn 15 and the male children turn 13 years.

⁴⁴⁴ See Welchman. 1, available at: http://eprints.soas.ac.uk/10899/1/Welchman_'Bahrain,_Qatar,_UAE'_ISFL_2010.pdf >[accessed 22 March 2021]. However, Article 170 of QFL allows the judge to base the decision on the interests of the children. However, CEDAW, ‘57th CEDAW Session, ‘Musawah Thematic Report on Article 16: Qatar’, (2014) indicates that there are no sociological studies to determine what is best for children, and judges are not bound by any particular guidelines when making their decisions.

⁴⁴⁵ Elghossain, and others, (n 87), 7.

conduct, which, as shown hereunder, are not calibrated to the specificities of IPV. It thus compromises the possibility of victims getting meaningful relief and remedy for harm suffered. With the existence of certain forms of domestic abuse, such as coercive control, where the harm may be indirect or challenging to prove,⁴⁴⁶ the existing laws, some of which are discussed hereunder, are insufficient for the purposes of addressing IPV. First, there are provisions under Law No. 11 of 2004 which apply directly to instances of violence in the country. The interpretation of the laws can be deduced from the tenets of *Shariah law* and Islamic law, as well as Qatari jurisprudence. Article 315 of Law No. 11 of 2004⁴⁴⁷ states:

“Whoever assaults a pregnant woman and where the assault causes miscarriage, shall be punished with imprisonment for a term of up to ten years in prison.”

The provisions in this article can be applied directly to violence against women, specifically women in a marriage setting, whether it be by the spouse or other individuals.⁴⁴⁸ Its exclusion from the QFL No. 22 of 2006 reveals that the legislators intend to cover violence that can occur in both the private and the public spheres.

The extent to which Qatari law is committed to holding perpetrators of violence to account can be seen in two additional provisions in the law, which address the liabilities for violence, based on the degree of harm. Article 308 of Law No. 11 of 2004⁴⁴⁹ addresses the criminal and civil liability of a perpetrator of serious violence, with general physiological effects which can apply to domestic violence cases. Article 308 states:

“Whoever assaults any person in any way, and where the assault leads to their sickness or incapacity to work for more than twenty days shall be punished with imprisonment for a term not exceeding two years and/or a fine not exceeding ten thousand Qatari Riyals (QR 10.000). The penalty shall be imprisonment for a term not exceeding three years and/or a fine not exceeding fifteen thousand Qatari Riyals (QR 15.000) if the act is premeditated or is executed by more than one person.”⁴⁵⁰

⁴⁴⁶ See Stark (n 90).

⁴⁴⁷ Qatar Legal Portal, Law No. 11 of 2004 Issuing the Penal Code 11 / 2004, <https://adsdatabase.ohchr.org/IssueLibrary/QATAR_%20Penal%20Code.pdf> Accessed 5 November, 2024.

⁴⁴⁸ State of Qatar, ‘The national report of the State of Qatar on The complete and effective implementation of the Beijing Declaration and Platform for Action 2014 – 2019,’ (2019) <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Qatar_en.pdf> Accessed 10 January 2025.

⁴⁴⁹ Ibid, 61.

⁴⁵⁰ Ibid, 61.

In other cases where the violence is not as grave as described under Article 308, Article 309 provides options for the courts.⁴⁵¹ Article 309 states:

“Article 309: “Whoever purposely assaults any person in any way and where the assault is not as grave as is stipulated in the two preceding Articles shall be punished with imprisonment for a term not exceeding one year and/or a fine not exceeding five thousand Qatari Riyals (QR 5.000).”⁴⁵²

In theory, the options provided under Articles 308 and 309 provide a substantive basis for judicial decisions and offer a broad range of sanctions for intimate partners within the institution of marriage. However, there is no evidence that these laws have been deployed against perpetrators of IPV in the country. This reality highlights the lack of political goodwill for Qatari authorities to take IPV as a serious form of violence in society.

4.4 Conclusion

The analysis herein reveals that the legal provisions relating to divorce in Qatar are directly and indirectly responsible for domestic abuse, specifically IPV. These outcomes can be attributable to a number of rationales. First, despite the comprehensiveness of provisions on the processes for divorce, the unilateral right of the husband to divorce the wife is apparent from the provisions under QFL. This is evident from the fact that, whereas a husband can divorce a wife through pronouncement, women have to utilise a lengthy judicial process to prove their claims, with the potential for pressure from society. The lack of equality in rights to divorce, as evidenced by the differences in the grounds and procedures for obtaining divorce between the genders, creates circumstances for women to withstand different forms of abuse, lest the union be terminated. Similarly, even though there are laws that criminalise violent conduct in general, these laws are not applied in instances where the violent conduct occurs within marriage. Ultimately, while divorce is essentially one of the avenues for emancipating women facing domestic abuse and IPV, the manner in which the laws are framed creates gaps in their ability to enable women to enjoy the rights provided for under international standards.

⁴⁵¹ Ibid, 61.

⁴⁵² Ibid, 61.

5 CHAPTER 5: AN EVALUATION OF THE IMPLEMENTATION AND ENFORCEMENT OF TREATY OBLIGATIONS IN QATAR

5.1 Introduction

This chapter focuses on the degree to which Qatar has implemented and enforced its obligations under treaties relating to the IHR of women. As shown in the previous chapter, national courts tend to perceive the provisions in the treaties as a reflection of customs, even when there is no evidence based on legal obligations or the actions of States. Authoritarian jurisdictions typically disregard norms on human rights as codified under international treaties, unless they are compelled to, or find other justifications for accession, such as the existence of benefits to their State. The discussion herein highlights several gaps in the adoption and implementation of international standards under treaties that Qatar is a signatory to, including the lack of effective enforcement mechanisms, the propensity for the jurisdictions to mistrust international law, and the claim that international standards rarely cure the human rights weaknesses under domestic law.

The discussion shall reveal how, through the QFL 22 of 2006, international standards are ingrained into jurisprudence in the country. It will highlight scenarios where the adoption of these standards magnify how the trifecta referenced in Chapter 2 (Section 2.4.4.2.2), specifically with cases relating to divorce and marriage, leading to incidents of oppression of women. As a signatory to the UN Convention on the Rights of the Child, Qatar has established substantive and procedural guidelines aimed at ensuring that child custody matters, specifically during divorce, are determined without overlooking the principle of the ‘best interest of the child’.⁴⁵³ In line with customary practices (*Fiqh*), mothers get custody of their children after a divorce, and they can live with their mother until they are of age,⁴⁵⁴ unless ruled otherwise by the courts. There is an implied assignment of guardianship to the father, which extends to authority to make influential decisions regarding

⁴⁵³ Under Article 165 QFL 22 of 2006, the ‘best interest of the child’ principle is conceptualized as “keeping, maintaining, nurturing, upbringing and educating the Child.”

⁴⁵⁴ See Human Rights Watch, “Everything I Have to Do is Tied to a Man”: Women and Qatar’s Male Guardianship Rules, (2021), Available at <https://www.hrw.org/sites/default/files/media_2021/03/qatar0321_web_0.pdf> Accessed May 31, 2024, which relates to Qatar Family Law of 2006, arts. 171 and 173, which states that 13 years for boys and 15 years for girls. There are differences in the School of Thought applied in making this decision as included in Note 21, although these guidelines are interpreted based on the overriding principles of the ‘best interest of the child’.

the child, even when they are in the custody of the mother. In cases relating to custody of the child after divorce, the judge reserves the power to make the final decision based on what is perceived as the ‘best interest of the child.’⁴⁵⁵ However, although the concept of ‘best interest of the child’ has played a significant role in reforming the elements of family law relating to children in the Gulf region (including specifically Qatar), it remains a vague concept in legal terms.⁴⁵⁶ In Qatar, the QFL 22 of 2006 provides several scenarios on how the objectives of the principles can be achieved.⁴⁵⁷ The inconsistencies in how the concept is applied limit the development of a grounded and comprehensive framework for determining the standard for the best interest of the child in the various contexts that the courts are faced with. The country has also established a child protection system, aimed at identification, response and prevention of risks and harm to children.⁴⁵⁸ However, there are several implementation issues affecting the achievement of the goals, including the lack of a robust legal framework and the lack of coordination at a national level.⁴⁵⁹

5.2 The Norm Lifecycle of IHR of Women

The rights of women are fundamental elements of human rights that are set out by the United Nations. The international human rights of women can be understood from the concept of norm diffusion, norm vernacularization, and norm localisation. George posits that the adoption of international laws and policies which relate to human rights is also dependent on the norm life-

⁴⁵⁵ Additional guidance is provided under Article 166 and 167 of QFL 22 of 2006, (To be eligible for Child custody, a person shall satisfy the following conditions: 1. Have reached puberty or maturity; 2. Be of sound mind; 3. Be honest or trustworthy; 4. Possess the ability to nurture, raise, maintain and care for a Child so as to achieve its interests ;5. Be free from dangerous contagious or infectious diseases; 6. Be a mahram of the Child in the case of difference in sexes) and 168 (Subject to the conditions set forth in the preceding Article, the custodian shall satisfy the following conditions: (i) If the custodian is a female, she must not be married to a husband who is a stranger to the Child, if such marriage is consummated, unless the Court decides otherwise for the Child's interest. (ii) If the custodian is a man, he must have the same religious faith as the Child and he must have with him a female from his relatives who is fit to perform the duties of custodian).

⁴⁵⁶ L Möller, ‘Family Law in the GCC and the Best Interests of the Child: The Multiple Meanings of a Vague Legal Concept’, (2018), 16, *Hawwa – J of Women of the M E and the Islamic World*, 3, 318.

⁴⁵⁷ Under QFL 22, 2006, while Article 169 positions the mother at the top of priority list for the preferred custodians, Article 182 further provides for the courts to make decisions that are responsive to the circumstances, by stating that “Guardians, agnates or those entitled to Child custody may institute claims for disqualification of a custodian who is negligent or careless, too busy to care for the Child as to raise fears for his getting lost, being of bad conduct, or not being a Muslim and the Child has attained five Years of age.”

⁴⁵⁸ Möller, (n 415) 326, these include physical, emotional and sexual abuse, negligent treatment, exploitation as well as other adverse forms of treatment that can detrimentally affect the wellbeing of a child.

⁴⁵⁹ A Alhajaji, and others, ‘Exploring the state of Qatar’s child protection system through the lens of frontline social workers’, (2024), *Int’l Social Work*, Available at <<https://doi.org/10.1177/00208728241245916>> Accessed June 5, 2024.

cycle.⁴⁶⁰ The three phases of the norm life-cycle start with norm emergence, norm cascading, and end with norm internalisation.⁴⁶¹ At the norm emergence phase, certain practices appear within a society, and they represent the trajectory for change. At the norm cascading phase, the norm is subject to broad public debate and extensive contestation.⁴⁶² During this phase, the practices are adopted broadly, outside the scenarios where they emerged. At the norm internalisation phase, localisation occurs, which involves reconstruction by the local agents to ensure a seamless fit with local norms that predate it. It denotes a successful diffusion whereby the norm is cemented through shared expectations, and it becomes part of society, no longer a matter of broad public debate. The internalisation process leads to the identification of new meanings within the local context, through a process referred to as vernacularization.⁴⁶³ Vernacularisation was found to lead to new contours as the contexts take the form of the local environment.⁴⁶⁴ Based on these views, rather than internalisation being a direct transfer of the international human rights provisions, these frameworks are redefined and adapted, with adjustments of concepts aimed at assimilating the norms to fit the local discourse.

Despite the suitability of the process, vernacularization is a double-edged sword. It is indicated that, whereas vernacularisation has the potential to promote international support for the human rights provisions as well as support by domestic populations as part of international norms, it can also generate resistance from the domestic machinery, on account of resistance to global or foreign norms.⁴⁶⁵ In the past, vernacularization has played an integral role in the adoption of international human rights provisions in some jurisdictions. A study in Singapore reveals that vernacularization played an integral role in the campaign for a day off from work for domestic immigrant workers since the concept of human rights was framed as part of the moral code in the

⁴⁶⁰ Rachel George, 'The Impact of International Human Rights Law Ratification on Local Discourses on Rights: The Case of CEDAW in *Al-Anba* Reporting in Kuwait' (2020) 21 *Hum Rights Rev* 43

⁴⁶¹ Ibid 12.

⁴⁶² Babar (n, 33) indicates that until the Ministry of Information was dismantled by the current Emir who came into power in 2013.

⁴⁶³ A Acharya 'Constructing Global Order: Agency and Change in World Politics. (Cambridge: Cambridge University Press, 2018)

⁴⁶⁴ P Levitt, and S E Merry, Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States (2009) 9 *Global Networks*, 4,441.

⁴⁶⁵ George, Rachel. 'The Impact of International Human Rights Law Ratification on Local Discourses on Rights: The Case of CEDAW in *Al-Anba* Reporting in Kuwait'. (2020), 21, *Hum Rights Rev*, 43.

business culture in the country.⁴⁶⁶ Vernacularisation also tends to extend and diversify the meanings of human rights provisions, with the possibility of changing the substance of the provision beyond the original legal implications. In the context of the Gulf countries, where the social, political, cultural and economic norms are modelled around the religion of Islam, the vernacularization of rights and the accompanying concept of equality adopt novel meanings. The most common approach is the convergence of the language in the provisions with concepts of responsibility, duty and other conceptualisations of rights within the local framework. As a result, even though vernacularization might result in changes in the meanings of human rights, these processes are often viewed as necessary to enable the various jurisdictions to adopt the provisions.⁴⁶⁷

Past literature has found a direct and identifiable link between the protection of the rights of women and their ability to avoid abusive relationships and leave such relationships.⁴⁶⁸ Ultimately, the diffusion of the human rights stated hereunder is dependent on the robustness and sustainability of the networks between transnational and domestic actors who establish links between the domestic and international legal systems related to the achievement of human rights goals, which occurs through a process of socialisation.

5.3 Addressing Gender Discrimination, the Qatar Way: The CEDAW Effect

The most outstanding proposition for universal international women's rights centres on the argument for morality and the utility of substantive justice for the interactions among humans. Morality arises due to the role of values and beliefs that are dynamic across time and space. The justificatory principle has been used in justifying human rights legal frameworks due to their instrumental value. Under the same principle, such rights should be legally assured and not arbitrarily established.⁴⁶⁹

⁴⁶⁶ See C Y Koh, and others, Cultural Mediation Through Vernacularization: Framing Rights Claims Through the Day-off Campaign for Migrant Domestic Workers in Singapore (2017) 55 *International Migration* 3, 89.

⁴⁶⁷ Levitt, and Merry (n 74) 460.

⁴⁶⁸ Audra Bowlus, and Shannon Seitz, Domestic Violence, Employment, and Divorce (2006) 47 *International Economic Review*, 4, 1113.

⁴⁶⁹ See Baderin (n 42), 45, who states that "restrictions upon the rights of individuals must be clearly determinable and justifiable under the law in order not to violate their freedom, liberties and fundamental human rights".

As a signatory to CEDAW,⁴⁷⁰ Qatar put the Convention into effect in compliance with Article 68 of its Constitution, subject to the reservations and declarations. The adoption of the process set in motion the norm life-cycle, with the outcome being the assurance of the following rights for all women in Qatar. Unlike past rights frameworks, Article 1 of the CEDAW Convention recognises key rights, including the following:

- i. The Right to Live Free from Violence, Discrimination and Slavery
- ii. The Right to be Educated
- iii. The Right to Own Property
- iv. The Right to Vote
- v. The Right to Earn a Fair and Equal Wage.

5.3.1 Enforcement Mechanism: The General Recommendations (GRs)

These rights are ensured through obligations under CEDAW upon all states.⁴⁷¹ Two General Recommendations, 33 (2015) and 35 (2017), contain binding interpretations that ensure access to justice for women, and prevention of GBV.

5.3.1.1 GR 33 (2015)

The core components under General Recommendation 33(2015) outline how to ensure access to justice for women,⁴⁷² with five key propositions provided to ensure achievement of the goals of the treaty. First, justiciability, which denotes the enforceability of law, with women having the ability and power to claim their rights.⁴⁷³ Second, availability, which denotes the presence of specialised legal mechanisms to ensure that women's rights are protected.⁴⁷⁴ Third, accessibility, which denotes that the justice systems should free of the barriers that can limit the ability of women

⁴⁷⁰ See CEDAW, 'Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018', CEDAW/C/QAT/2 (2019), which indicates that Qatar acceded to the convention on 24th March 2009, and approved the convention through Decree NO. 28 of 2009 on 23rd June the same year.

⁴⁷¹ See Michele, and Kaplan (n 11), 105, who states that under Article 2.

⁴⁷² A Nissen, 'Please Give Me a Remedy: Women Human Rights Defenders Mobilize for Occupational Safety and Health', (2024) 16 Journal of Human Rights Practice, 2, 638, 640, who describes the recommendations as "practices, procedures and jurisprudence that promote or limit women's full access to justice."

⁴⁷³ CEDAW 'General recommendation No. 33 on women's access to justice,' (2015) Available at <https://digitallibrary.un.org/record/807253?v=pdf> [accessed 22 March 2026]

⁴⁷⁴ T Deane, 'Gender-Based Violence in International Human Rights Law – The Efficacy of the United Nations Human Rights Legal Framework and CEDAW in Addressing the Issue,' (2024) 23 The Age of Human Rights Journal, 1.

to seek justice, include measures to eliminate physical, financial and cultural barriers.⁴⁷⁵ Fourth, quality, whereby the justice should be delivered by qualified professionals, who are considerate of gender-based aspects of the procedure, and without any bias. Quality is determined by adherence of the justice system to international standards through competent, efficient, independent and impartial processes. Fifth, the judicial system should provide viable remedies to victims, based on the harm suffered. Finally, there has to be accountability for the justice systems, through mechanisms for monitoring the activities as a way of guaranteeing that all functions and decisions are aligned with rule of law. The monitoring should also extend to the legal responsibility of the professionals involved in the justice system.

5.3.1.2 GR 35 (2017)

As an update to Recommendations 19 of 1992, General Recommendation 35 addresses the pervasive and dynamic nature of gender-based violence. It primarily focuses on GBV affecting women, since they are the most common victims.⁴⁷⁶ The Recommendation creates explicit liability at the national level, with the objective of ensuring that signatories undertake due diligence to ensure prevention, instigations, and punishment of GBV.⁴⁷⁷ GR 35 expands the scope of GBV to include both actions and omissions that occur on offline and offline environments.⁴⁷⁸ The propositions also recognise intersectionality, whereby vulnerabilities arising from race, age, disability, and other forms of identity are recognised. Third, GBV is conceptualised from a systemic perspective, whereby a holistic assessment is adopted to ensure comprehensive assessments for preventive and curative interventions. Under this propositions, countries have to move beyond handling individual cases, to addressing the factors that cause and propagate GBV.⁴⁷⁹

Despite the specificity of these measures, the oversight and enforcement mechanisms for achievements under the rights of women in each country are limited to concluding remarks and

⁴⁷⁵ Tatsiana Ziniakova, *Gender-Based Violence in International Human Rights Law: Evolution Towards a Binding Post-Binary Framework*, (2021), 27 Wm. & Mary J. Race, Gender, & Soc. Just. 3, 709.

⁴⁷⁶ CEDAW ‘General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19,’ (2017) Available at https://www.ohchr.org/en/files/2018/04/CEDAW_GR_35.pdf [accessed 22 March 2026]

⁴⁷⁷ Ramona Vijayarasa, ‘CEDAW’s General Recommendation No. 35: A Quarter of a Century of Evolutionary Approaches to Violence against Women.’ (2020) 19 *Journal of Human Rights*, 2 153, 156.

⁴⁷⁸ R J A McQuigg, ‘The CEDAW Committee and Gender-Based Violence against Women: General Recommendation No 35.’ (2017) 6 *International Human Rights Law Review*, 2, 263.

⁴⁷⁹ S L Welton, and others, ‘Feminist waves, global activism, and gender violence regimes: Genealogy and impact of a global wave,’ (2023) 99 *Women’s Studies International Forum*, 1.

annual reports by the various signatories.⁴⁸⁰ Since there is no enforcement mechanism for the legally binding ratifications, it is common for countries to overstate their achievements while downplaying their failures.⁴⁸¹

5.3.2 Legislative Changes in Qatar

In line with the universality and inalienability principle,⁴⁸² emergent legislation in Qatar is designed to achieve cohesive family structures, protect the family as a unit and preserve the contemporary values that are the fabric of the society, in line with certain propositions under CEDAW. This outcome is achieved under the tutelage of Amiri Decree No. 33 of 2000, which lays down the process through which the state continuously harmonises the national legislative instruments with emergent provisions from international and regional treaties. The decree also outlines the process through which domestic laws are made, with ministers and state agencies coordinating with the cabinet secretariat. To achieve these outcomes, the following changes have been made to the legislative frameworks in Qatar.

First, there has been enhanced alignment between the existing constitutional protections for gender equality with the provisions under CEDAW. under the Permanent Constitution of Qatar, Article 34 makes provisions for the equality of all citizens, in terms of rights and duties in the public sphere.⁴⁸³ Subsequent provisions under Article 35 establish that “all persons are equal before the law and there shall be no discrimination whatsoever on grounds of gender, race, language or religion.”⁴⁸⁴ Similarly, Article 23 of the constitution offers a guarantee of the right to

⁴⁸⁰ See UN General Assembly, ‘Resolution Adopted by The General Assembly: 54/4. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women’, (1999), <<https://documents.un.org/doc/undoc/gen/n99/774/73/pdf/n9977473.pdf>> Accessed 16 January 2025, which under Article 2, offers the mechanism, for which individuals or groups can submit complaints to CEDAW. It states “Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.”

⁴⁸¹ Tang (n 3), p 1179, who attributes some of the failures to the reservations and the measures for non-conformance

⁴⁸² UN, Universal Declaration of Human Rights, (2015), <https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> Accessed 10 January 2025., 4, Article 1 of the UDHR, which states that “All human beings are born free and equal in dignity and right.”

⁴⁸³ Al Meezan, ‘The Permanent Constitution of the State of Qatar 0 / 2004’, <https://www.icnl.org/wp-content/uploads/Qatar_1_Qatar_Const_2004.pdf> Accessed 10 January 2025.

⁴⁸⁴ Ibid, 6.

health for all citizens, while Article 25 assures all citizens of the right to education.⁴⁸⁵ The Provisions under Article 42 of the Constitution create the right to vote and participate in political processes, including contesting any open seats and positions in the country.⁴⁸⁶ To ensure increased alignment, Qatar has introduced policies and programs, including the QNV 2030, which guides the National Development Programs designed to empower women.⁴⁸⁷

Several legislative changes, particularly in the interests of women, have been adopted in Qatar, in line with the principle of equality and non-discrimination.⁴⁸⁸ These include the following. First, Decree No. 22 (2017) provides for the appointment of Qatari women to the Shura Council.⁴⁸⁹ The Shura Council, also referred to as the Consultative Assembly, is comprised of 45 members (30 elected and 15 appointed), whose power is to approve the national budget prepared by the Amir, monitor the performance of ministers through the use of votes of confidence and censure motions, and to draft, discuss and vote on legislation that is proposed, based on a two-thirds majority. As of 2018, the second periodic report on Qatar by CEDAW, ‘The second periodic report of Qatar on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women’, 2018, indicates that women have become part of the *Shura* Council.⁴⁹⁰ The appointment indicates the commitment of the Amir to ensuring that the role of women in the legislative institutions in the country is officially recognised and that, by their position in the institution, women can support the process of inculcating the rights of women in the constitution. Act No. 15 of 2016 on Civil Human Resources outlines the equality between genders at the workplace, with references to duties and rights.⁴⁹¹

⁴⁸⁵ Ibid, 4. Under Article 49, additional assurances under the right to education are provided, stating that “all citizens have the right to education. The State shall endeavour to provide free compulsory general education in accordance with the laws and regulations in effect in the State”.

⁴⁸⁶ Ibid, 7.

⁴⁸⁷ See CEDAW, ‘Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018,’ which states that Qatar introduced changes to its institutional framework by abolishing the Supreme Council for Family Affairs and introducing the Ministry of Administrative Development, Labour and Social Affairs, which was better constituted to implement QNV 2030.

⁴⁸⁸ UN, ‘Universal Declaration of Human Rights’, (2015), <https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> Accessed 10 January 2025, according to the UDHR, all individuals are equal, and through inherent dignity of each individual, no one should suffer any form of discrimination.

⁴⁸⁹ CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, Due in 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

⁴⁹⁰ CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025, 21.

⁴⁹¹ Ibid, 21, which contains provisions for positive discrimination as framed under Cabined Decision No. 32 of 2016, which seeks to regulate public sector employment conditions for all citizens.

A review of the political, economic, social and cultural measures in place within Qatar regarding the advancement and development of women reveals that they are devoid of any conditions and reservations.⁴⁹² The spirit of the laws is evident in the Qatar National Vision (QNV) 2030, which seeks to create a society that advances equality and justice. By entrenching the goals and purposes of the QNV 2030 in the constitution, Qatar has established the foundation for participation and inclusion. The validity of equality in rights has led the country to establish a multiplicity of institutions designed to promote the achievement of the human rights of women.

Qatar has taken several specific measures to criminalise assault, with the provisions serving as a legal basis for the prosecution of abuse that occurs within family settings, in line with the principle of accountability and the rule of law. Under Law No. 11 of 2004, the criminal code is promulgated to protect women through legislation that uses precise and clear terms.⁴⁹³ The criminal code outlines measures to curtail slander and libel, which amounts to psychological harm since this dimension of abuse is often overlooked in traditional frameworks. The abuse of women in cyberspace is also criminalised under Law No. 14 of 2014, which criminalises the dissemination or publishing of information in any form that encroaches on the privacy or sanctity of an individual or family.⁴⁹⁴

The codification of the main laws and policies that govern matters of family relations and marriage is contained in the QFL No. 22 of 2006.⁴⁹⁵ The provisions therein are applied subject to their relevance and convergence with the *Hanbali* jurisprudence.⁴⁹⁶ Most of the changes in the provisions and application of the law are driven by the need to create a favourable infrastructure

⁴⁹² Nada H A Fouad, 'Closing the Divide: Women Empowerment in Qatar Between Rhetoric and Reality', Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*, (Gulf Studies, Springer, 2024), pp.135, 142, who indicates that this reveals the commitment to achievement of the principle of indivisibility, whereby a country takes measures to achieve all types of rights, since part achievement does not count.

⁴⁹³ State of Qatar, 'The national report of the State of Qatar on The complete and effective implementation of the Beijing Declaration and Platform for Action 2014 – 2019,' (2019) <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Qatar_en.pdf> Accessed 10 January 2025.

⁴⁹⁴ The Act covers the publishing of images, audio, audio-visual or textual information about an individual, whether actual or manufactured.

⁴⁹⁵ Akhtar, (n 208) 20 indicates that QFL 2006 is the result of ten years of work for the modernisation of a multiplicity of codes that regulate the structure of family, while separating the religious and legal interventions to the most common disputes, as well as the resolution of such disputes. This is in contrast with the Marriage Act of 1949 in the UK, which dates back two centuries to laws created in 1753, and improved in response to changing social situations.

⁴⁹⁶ The provisions in Article 3 and 4 outline the application of these guidelines, specifically regarding the personal status of Muslims. In Article 4, matters relating to family relations and marriage by Muslims who do not subscribe to the Sunni school of Hanbali jurisprudence are articulated, except for scenarios where they choose to be governed by the general QFL provisions.

for family law, one that is capable of accommodating the dynamic cultural populations in the country.

A critical review of the QFL No. 22 of 2006 reveals that it is based on a discriminatory framework, with limited changes made despite recommendations by CEDAW since 2014. A number of the issues targeted under Islamic feminist ideology, which promotes the need for reinterpretation of *Shariah* law to address the *Fiqh*-based perspectives, that are driven by patriarchy.⁴⁹⁷ Under Article 9 of the QFL 22 of 2006, marriage is defined as a “legitimate contract between a man and woman based on sustainability, and its aim is cohabitation and securing chastity.”⁴⁹⁸ Under the contract, mutual respect, intimacy, kindness and respect are promoted between the spouses, to conserve the welfare of the family unit. These provisions, as contained in Article 56, relate to the parents and relations of the husband and wife, to create the most favourable environment for the growth and development of their offspring.⁴⁹⁹ The contradictions in these provisions are evident from the provisions of Article 35 of the Constitution, which offer guarantees for equality, as long as reciprocation and complementarity are achieved. Rather than guaranteeing equality in rights between the two spouses, the Constitution lays the foundation for reciprocation, which is fundamentally one-sided. Classical marriage agreements and contracts within the Islamic context were originally modelled around the contract of sale, with the interpretation by Muslim jurists establishing the legal duty of the wife to the husband. These include *tamkin* (the duty to obey) and *nafaqa* (the right to be protected and to receive assistance for maintenance from the husband). Failure to obey the husband leads to the loss of those rights, through *Nushuz* (non-fulfilment of the responsibilities by a spouse). The system leads to a situation where men are mandated to provide for and protect their wives within the institution of marriage. In Qatar, Article 57 provides a similar framework, with additional mandates for the husband and wife. In addition to providing his wife with dower (*mahr*), the husband has the responsibility to provide financial

⁴⁹⁷ See chapter 3 (Section 3.2.2), with the contributions by Mir-Hosseini (n **), Tafsir (interpretation), and Ijtihad (independent reasoning) to separate cultural norms from religion, El-Ali (n **), who calls for a conceptualisation Islamic feminism focused on Qur'an-centric, view on ethics and justice, among others.

⁴⁹⁸ Lynn Welchman. 'Bahrain, Qatar, UAE: First time Family Law Codifications in Three Gulf States,' International Survey of Family Law, Bill Atkin, ed. (July 2010), p. 1, available at: http://eprints.soas.ac.uk/10899/1/Welchman_Bahrain_Qatar_UAE_ISFL_2010.pdf

⁴⁹⁹ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025, Articles 9, 56-58, 61, and 69.

maintenance to his wife for the rest of her life (*nafaqa*)⁵⁰⁰ and provide her with the freedom to interact with her relatives and parents. The husband is restricted from intervening in any private property held by the wife. Additional provisions in Article 58 mandate the wife to care for and obey her husband, with her duties including responsibility for maintaining the household and domestic duties.

Under QFL No. 22 of 2006, failure to fulfil those responsibilities has particular consequences. Article 69, which effectively outlines the basis for a multiplicity of negative marital consequences, recognises the disobedience of the wife as a legitimate basis for loss of the financial maintenance that is guaranteed within the institution of marriage.⁵⁰¹ Article 69 defines disobedience by a wife to include refusing to surrender herself to her husband without legitimate reason; refusal to move to the marital home without legitimate reason; departing the marital home without legitimate reasons; failure to travel with her husband when moving to another dwelling without legitimate excuse; decisions to travel without the permission of her husband; working outside the home without the permission of her husband, unless he is abusing his right in preventing her from working.

These provisions are a primary target for Islamic feminist position since they are derived from patriarchal perspectives of how *Shariah* law should be applied. As shown in Chapter 3, there is need for an intellectual approach to addressing such laws, through a combined reassessment of the procedural and substantive law in Qatar.⁵⁰²

5.3.3 Institutional Changes

Qatar has implemented a number of changes to the institutional infrastructure that are designed to address issues relating to the empowerment of women. The changes are also designed to create a nation-wide institutional infrastructure, with ministerial powers that enables women to seek help when faced with challenges associated with gender-based discrimination. First, the Ministry of Administrative Development, Labour and Social Affairs established a government unit

⁵⁰⁰ This duty is further reiterated in Article 61, which clarifies that the husband has to provide the wife with adequate financial maintenance.

⁵⁰¹ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025.

⁵⁰²

to manage the affairs of women.⁵⁰³ The department was established in response to Amiri Decree No. 4 of 2016, which reflects the commitment of the government towards institutional change from the highest levels of governance in the country. The Department has already engaged in activities oriented towards the empowerment of women, through a number of initiatives and operations aimed at protecting the rights of women. According to the 2018 CEDAW report, the activities include

“...training workshops and programmes for productive families on developing household enterprises taking part in heritage and national festivals, supervising a number of sales counters for productive families given permission by the sponsoring agencies, participating in relevant activities abroad, establishing a 2017 incentive award for productive families, and organizing family cohesion programmes to raise awareness of the role of values in the family.”⁵⁰⁴

Second, the Ministry of Justice oversees the operations of the Centre for Legal and Judicial Studies, which is involved in the training and development of judicial officials.⁵⁰⁵ The centre updates the skills and capabilities of the judicial officers to ensure parity in the awareness of the legal controls and procedures in place within the various judicial forums in the country. The training programs aim at ensuring compliance with best practices in all the tasks performed by the judicial officers.⁵⁰⁶ The programs also include content relating to human rights, based on the relevant international treaties, and the domestic legislation derived from the provisions in those treaties.

Third, the National Human Rights Committee was instituted to organise programs for raising awareness on the rights of women among learning institutions. The Committee utilises workshops and seminars to train young people by focusing on the legal aspects of the CEDAW Convention. The Committee also collaborates with entities from civil society in designing its training programs. The collaboration aims at capacity building by promoting other secondary human rights. For instance, in 2016, the Committee organised a workshop “...on national

⁵⁰³ CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, Due in 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

⁵⁰⁴ See Ibid, 19.

⁵⁰⁵ Ibid, 19, who indicates that the Centre organises training programs on skills necessary for preparation and drafting of administrative decisions, in line with the provisions of the permanent constitution of the country.

⁵⁰⁶ Ibid, 20.

legislation, including legislation concerning women, and the perspective of the National Human Rights Committee on such legislation, aimed at law enforcement personnel in the police, the public prosecutor's office and the courts.”⁵⁰⁷

Fourth, a number of institutions have also been established to combat violence against women. The institutions are designed to implement the legislative measures (as included in Section 5.2.1), while also acquiring the capacity to address all dimensions of gender-based violence, including the subtle forms, such as coercive control.

First, healthcare institutions such as Hamad Medical Foundation have implemented policies aimed at combating violence in the country. The policy changes entail an enhancement in the handling of victims of violence and reporting of such incidents to the relevant authorities.⁵⁰⁸

The measures are described in a United Nations report:

“the establishment of offices belong to the institution of child and women protection in every department, of these are the department of capital security of the ministry of Interior, Hamad medical corporation and the offices of social rehabilitation at the Public Prosecution, another one for the family counsel at Courts building, the national committee of human rights, the department office of the human rights in the ministry of interior and department of human rights in the ministry of foreign affairs aim to implement and follow-up the programs and activities of the strategies and the appropriate international Protocols and the national legislations that concerned with the human rights in general and women in an integrated manner.”⁵⁰⁹

The policy entails training of employees to enable them to recognise incidences of violence even when such incidences are not explicitly reported. The policy extends to the assessment of the social and psychological risks associated with gender-based violence among victims visiting healthcare facilities, considering that victims of domestic abuse often require physical or psychological healthcare.

⁵⁰⁷ Ibid, 20.

⁵⁰⁸ CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025, 25.

⁵⁰⁹ State of Qatar, ‘The national report of the State of Qatar on The complete and effective implementation of the Beijing Declaration and Platform for Action 2014 – 2019,’ (2019) <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Qatar_en.pdf> Accessed 10 January 2025, 65.

5.3.4 Changes to The Age of Marriage

The age of marriage influences the possibility of violence within marriage, with women being the most common victims of the violence. When women enter marriages at ages younger than 18 years,⁵¹⁰ they are predisposed to a multiplicity of adverse outcomes arising out of abuse, including poor health status, instability, violence, lack of access to education, and limited opportunities for professional employment, among others. A qualitative study in urban slums of Lahore, Pakistan, relied on a sample of 19 participants who worked as housemaids. The type of violence experienced included verbal abuse, threats, and attempted or actual physical violence by the spouses, as well as sexual violence.⁵¹¹ These outcomes are linked to the fact that at that age, most women have not matured enough to an extent that they can appreciate and fulfil the responsibilities associated with a contract of marriage.

The link between child marriage and violence can be traced to the inability of the women to meet the expectations of their husbands and those of their in-laws, as well as the numerous responsibilities within the household. These responsibilities include management of the household, childbearing and bringing up children, and adhering to the will of the husband.⁵¹² Furthermore, with a large age gap between the spouses, women are exposed to power imbalances, a lack of autonomy and isolation.⁵¹³ Several causal mechanisms relate to abuse in marriage and child marriages, including the fact that men who are willing to marry young women believe in traditional masculinity, families that allow their young girls to be married have a higher propensity to overlook the welfare of such children and the fact that such marriages are not arranged through amicable agreements. Such women are also incapable of extricating themselves from such marriages or the abuse.⁵¹⁴

⁵¹⁰ See Annabel Erulkar, 'Early marriage, Marital Relations and Intimate Partner Violence in Ethiopia. (2013), 39, Int. Persp. on Sex. and Rep. Hea. 1, 1, who indicates that in some cultures, marriage of women under 20 years is considered an early marriage, but since 18 years is the age of majority, it is considered the cut off for child marriages.

⁵¹¹ Muazzam Nasrullah, and others, 'Circumstances leading to intimate partner violence against women married as children: A qualitative study in Urban Slums of Lahore, Pakistan (2015) 15, Int. H & Hum Rights 23, 1.

⁵¹² See Barbara S Mensch, Judith Bruce and Margaret Greene, 'The Uncharted Passage: Girls' Adolescence in the Developing World', (New York: Population Council, 1998) and Speizer and Pearson (n 7), 26, who indicates that at that age, most women are not yet equipped with the mental and psychological abilities to negotiate the roles of adult within a marriage. This is worsened by other limitations.

⁵¹³ K Santhya, and others, Associations between early marriage and young women's marital and reproductive health outcomes: evidence from India (2010), Int Perspect Sex Reprod Health 36,132.

⁵¹⁴ A Raj, and others, Association between adolescent marriage and marital violence among young adult women in India (2010) Int J Gynecol Obstet 110, 35.

In Qatar, Article 17 of QFL No. 22 of 2006 provides for the age of marriage at 18 years for men and 16 years for women. However, *Shariah law* facilitates the authorisation of marriages for males and females under the cut-off age. The link between early marriage and abuse/ violence emerges from the possibility that most of the spouses married at an early age had limited or no exposure to one another before the union.⁵¹⁵

5.4 Reservations to CEDAW by Qatar

The reservations discussed hereunder are the product of the combined effects of the presence of a conservative culture in Qatar, one that is guided by *fiqh* and *Shariah law*, as well as the governance strategies aimed at achieving the goals of the constitutional monarchy, as expressed under the constitution and in QFL No. 22 of 2006. It is common for conservative ideologies to be used in justifying the assertion that reform agendas originating from international standards are comprised of anti-Islamic and interventionist cultures designed to promote Westernisation.⁵¹⁶ As a result, in the spirit of integrating elements of Islamic feminism into the declarations and provisions, some Muslim-majority jurisdictions, including Qatar, have found it necessary to introduce several reservations to CEDAW. Reservations are an integral tool in the dispensation of international law since it enables a nation-state to adopt a convention partly while making the necessary adjustments to its domestic legal frameworks and policies to mirror the propositions in international law.⁵¹⁷ Milanovic and Sicilianos suggest that the practice of reservations, which started with the Vienna Convention Law of Treaties 1969, enables international legal frameworks to operate with the necessary flexibility that recognises the differences between the signatories, and thereby facilitates broader membership into multilateral treaties.⁵¹⁸ Reservations, which are sometimes defined as interpretative declarations, enable a nation-state to adopt most or all aspects

⁵¹⁵ Annabel Erulkar, Early marriage, Marital Relations and Intimate Partner Violence in Ethiopia (2013) 39 Int. Persp. on Sex. and Rep. Hea. 1, 1. See also Rachel Kidman, 'Child marriage and intimate partner violence: a comparative study of 34 countries', (2017), 46, Int. J. of Epid., 2, 662, who found that 29% of women married early as children reported incidences of IPV, compared to 20% of those who were married as adults.

⁵¹⁶ See Konstantin Korkelia, New Challenges to the Regime of Reservations under the International Covenant on Civil and Political Rights (2002) 13 Euro J of Int Law 2, 437.

⁵¹⁷ CEDAW, 'Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018', (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025, 16.

⁵¹⁸ Marko Milanovic, and Linos-Alexander Sicilianos, Reservations to Treaties: An Introduction (2013) 24 Euro J of Int Law 4, 1055.

of a treaty without sacrificing the core purposes and objectives.⁵¹⁹ Despite the recognition of the role of reservations, both DEVAW and CEDAW include provisions aimed at compelling nation-states to limit the extent to which RUDs based on customs, traditions and religious practices can be used to influence the application of the treaty agreements. The requirements are contained in Article 3 of CEDAW, which states:

“States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”.⁵²⁰

Additional provisions are included in Article 4 of DEVAW, which states:

“States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end...”⁵²¹

In response, Qatar has implemented RUDs on specific parts of the treaty agreements, rather than entire articles or sections in the treaty. As a result, the reservations are limited to a specific type of practices, with the primary justification being the incompatibility between the particular provision and the norms under *Shariah law*.

5.4.1 The Effects of Reservations

Reservations deemed incompatible with the purpose and objectives of a treaty are unacceptable because they render the contractual nature of the obligations under the agreement meaningless.⁵²² However, not all reservations are equal. On the one hand, the reservations are

⁵¹⁹ See I Ziemele, and Lasma Liede, ‘Reservations to Human Rights Treaties: From Draft Guideline 3.1.12 to Guideline 3.1.5.6, (2013) 24 Eur. J of Int. Law. 4 1135, 1136.

⁵²⁰ See also CEDAW, ‘Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979: entry into force 3 September 1981, in accordance with article 27(1)’, <<https://www.ohchr.org/sites/default/files/cedaw.pdf>> [Accessed 3 November, 2024], Article 3.

⁵²¹ DEVAW, ‘Proclaimed by General Assembly resolution 48/104 of 20 December 1993’, <https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.21_declaration%20elimination%20vaw.pdf> Accessed 2 November, 2024, 2, whereby Article 4 of DEVAW.

⁵²² G M Ferreira, and M P Ferreira-Snyman, ‘The impact of treaty reservations on the establishment of an international human rights regime’, (2005), 38, The Comp. and Int. Law J. of S. Africa. 2, 148, who states that in addition to

viewed as an indication of how significant the convention is as an instrument for change since its absolute ratification entails a novel level of social, cultural and national self-re-examination, with key responses through changes. On the other hand, the assessment of the actual effects of reservations has often been marred by structural and procedural challenges.

First, there are concerns about whether the CEDAW committee⁵²³ can assess the compatibility of the reservations with the objectives and purposes of the treaty.⁵²⁴ As part of an international legal framework which is the product of the deliberations at the international level, the propositions by CEDAW are supposed to be binding on the individual states, according to the agreement. As a result, entering reservations on the treaties acts as a symbol of the inability or lack of willingness of a nation-state to commit to fully international human rights frameworks. Despite the caution, states retain the right to make reservations, and from a pragmatic perspective, rarely does this lead to the destruction of the purpose of the treaty.⁵²⁵ This is further evidenced by the duration in which the reservations remain in place, since in theory, reservations should be temporary and are made to enable the member country to make the necessary adjustments in its domestic legal frameworks, vis-à-vis the international legal framework.

Second, the effects of the reservations are dependent on the Articles under which the reservations are made.⁵²⁶ The differences in rights assured under the public and private spheres are integral in the achievement of universal rights because the effects of discriminatory treatment in these two spheres are different. Although the provisions of the CEDAW framework are integral in ensuring the rights of women are upheld, not all articles are of equal importance to this goal.⁵²⁷ This is why, despite the utility of the reservations, the CEDAW committee has cautioned against reservations relating to Articles 2 (which sets out a wide range of areas in which state parties must

undermining the basis of international contractual law, the agreements cast doubts on whether the jurisdiction is committed to the purpose and objectives of the convention that it has acceded to.

⁵²³ Established in 1982, the Committee is comprised of 23 experts who meet twice a year to monitor the implementation of the CEDAW.

⁵²⁴ See Committee on the Elimination of Discrimination against Women, 'Report on its nineteenth session' (1998) UN Doc. A/53/38/Rev.1 para 16. The Committee mandates that all member states send reports on self-monitoring activities every year, while indicating the various areas of noncompliance.

⁵²⁵ See *Belilos v. Switzerland* ECHR 1988 Series A.

⁵²⁶ Reservations to Article 15, which specifies the rights to enter into contracts, administer property and the freedom of movement relate to rights under the private sphere, while other articles relate to rights in the public sphere.

⁵²⁷ See G. Zyberi, 'Assessing The Validity of Reservations to International Human Rights Treaties Through the Lens of the International Court of Justice', (2008), 33, NJCM-Bulletin, 8, 1121, who indicates that reservations to some articles do not compromise the key aspects of the rights of women. Furthermore, reservations to entire articles have a more adverse effect than the reservations to parts of an entire article.

take measures to eliminate discrimination against women)⁵²⁸ and 16 (which sets out what state parties must do to eliminate discrimination against women in relation to marriage and family relations),⁵²⁹ because these sections are key to the achievement of the rights of women. Essentially, such reservations tend to weaken the impact of the convention on the achievement of its goals.⁵³⁰

Third, the development of the Optional Protocols, which is essentially a subsidiary agreement to the Convention, is to allow the enforcement of the rights agreed upon under the Convention. The Protocols provide for two ways through which individuals and groups can demand accountability from their states, through the interventions under international law

⁵²⁸ CEDAW, 'Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979: entry into force 3 September 1981, in accordance with article 27(1)', <<https://www.ohchr.org/sites/default/files/cedaw.pdf>> [Accessed 3 November, 2024]. Article 2 States "Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay 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."

⁵²⁹ CEDAW, 'Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979: entry into force 3 September 1981, in accordance with article 27(1)', <<https://www.ohchr.org/sites/default/files/cedaw.pdf>> [Accessed 3 November, 2024]., Article 16-1. 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: (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."

⁵³⁰ Amnesty International, 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the protection of women from violence in the Middle East and North Africa region, (2004), <https://www.refworld.org/pdfid/42ae98b80.pdf>.

processes: the communication procedure⁵³¹ and the inquiry procedure.⁵³² Optional protocols have been effective in international human rights laws in the past.⁵³³ However, the Optional Protocols under CEDAW were introduced without a vote and no need for ratification.⁵³⁴ The Optional Protocols under CEDAW, which are comprised of 21 articles, provide a mechanism for individuals to submit complaints under international law in cases relating to discriminatory treatment (the communication procedure) while enabling the international community to conduct special inquiries into violations of the rights of women (the inquiry procedure).⁵³⁵

There are concerns about whether the application of the *compétence de la compétence*⁵³⁶ doctrine is suitable for human rights judicial frameworks and systems. The specificity of the complaints mechanism under the Protocols, coupled with the fact that some signatories to the CEDAW Convention had made reservations, indicates some gaps that could not be explained. The primary criticism of the Protocol is that it is lengthy, complex, and obscure. The fact that the decision therein is non-binding and of a voluntary nature further reveals the lack of commitment by member states to achieve the goals they desire concerning the rights of women.⁵³⁷

5.4.2 Rationale Behind Reservations by Qatar

Unlike other countries, which make reservations regarding whole sections, Qatar has adopted an approach whereby each reservation relates to a particular and limited scope of the

⁵³¹ Jim Murdoch, 'The Optional Protocol to the United Nations Convention for the Elimination of all forms of Discrimination Against Women (CEDAW): The Experience of the United Kingdom' (2011). <https://webarchive.nationalarchives.gov.uk/20110310110723/http://www.justice.gov.uk/publications/docs/un-optional-protocol-women.pdf> defines the communication procedure as the mechanisms through which an individual or group can lodge a particular complaint to the CEDAW committee if their country, a member state/signatory, fails to observe the provisions under the Convention.

⁵³² Id, who defines the inquiry process as a measure by which the CEDAW committee can institute investigations into a country in order to determine whether its actions or systems perpetuate discriminatory treatment contrary to the provisions of the Convention, and with reference to any reservations made.

⁵³³ The International Covenant on Civil and Political Rights established the First Optional Protocols to its treaty in 1966, which came into effect in 1976, with 116 member states as of 2020.

⁵³⁴ See UN Treaty Collection, 'Status of the First Optional Protocol to the ICCPR'. UN OHCHR (1966). https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&clang=en accessed , which indicates that the requirements for ratification for the optional protocols led to a number of interpretive declarations and reservations, which further limited the utility of the treaty.

⁵³⁵ Tang (n 3) 1182.

⁵³⁶ The principle denotes that an institution is competent enough to determine the extent of its own competence on issues before it.

⁵³⁷ Bal Sokhi-Bulley, The Optional Protocol to CEDAW: First Steps". (2006), 6, Human Rights Law Review, 1, 157.

propositions under the Convention.⁵³⁸ The approach perpetuates the lack of universalism in women's rights and magnifies the margin of appreciation of the provisions under the Convention.⁵³⁹ Rather than adopting general reservations, the reservations discussed herein are specific and about particular aspects of the Convention, with explanations as to why the reservation is made. Qatar has justified the reservations on the grounds of their incompatibility with *Islamic law* principles, which inform the current constitution and its domestic legal framework, as well as the practices for the dispensation of justice within the communities. However, this explanation is debunked by the evidence provided in an earlier analysis, whereby it was shown that the use of *Shariah law* as a justification for the different reservations by Muslim-majority countries was not harmonised.⁵⁴⁰ The Amnesty International report found that "...not all states in the region have entered reservations to the same provisions while referring to the Islamic *Shariah law* as the reason."⁵⁴¹ Similarly, other signatories in countries not considered Muslim-majorities have entered reservations to some of the provisions, such as Article 2 and Article 16 of the Convention. Finally, not all reservations by member states in the Muslim-majority countries have been based their decision on *Shariah law*. The differences in justifications for reservations to some articles in the Convention reveal that *Shariah law*, although integral in the domestic legal frameworks, is not the basic consideration when making reservations. For instance, out of the Muslim-majority countries that are signatories to CEDAW, Malaysia, Libya, Kuwait, Iraq, Egypt, Bangladesh, Maldives and Morocco attributed their reservations to conflicts with *Shariah law*, while other countries such as Pakistan, Jordan, Turkey, Algeria, Tunisia, Indonesia and Yemen, did not expressly cite a conflict with Sharia as the main reason.⁵⁴² This lack of consistency in the invocation of *Shariah* as the guiding framework in legal matters implies the possibility that there is no unified interpretation of laws from a legal perspective, and is an indicator of the extent to which member states rely on

⁵³⁸ CEDAW, 'Second Periodic Report Submitted By Qatar Under Article 18 Of The Convention, Due In 2018', (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

⁵³⁹ Amayreh, and others 125 argues that these reservations are based on an undefined set of Islamic values on equality and justice.

⁵⁴⁰ In the Gulf region, and indeed the wide MENA region. See

⁵⁴¹ Amnesty International, 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the protection of women from violence in the Middle East and North Africa region, (2004), <https://www.refworld.org/pdfid/42ae98b80.pdf> .

⁵⁴² Irene Pietropaoli, Islamic Reservations to the Convention on the Elimination of All Forms of Discrimination against Women (2019) 14 The Journal of Human Rights 2, 83.

discretion in their decision-making.⁵⁴³ To address the impasse, Islamic feminists propose the intellectual reinterpretation of *Shariah* law to determine the issues relating to gender equality. As shown in Chapter 3, such a reassessment would nullify the need for reservations, since *Shariah* law and IHR for women contain complementary goals.⁵⁴⁴

The reservations made by Qatar to CEDAW are as follows:

First, Qatar makes reservations regarding recognising the universality of protections under the CEDAW treaty, since not all forms of marriage are recognised under *Shariah* law. The specific provision against which the reservation is made is included in Article 1, which states:

“For the purposes of the present Convention, the term "discrimination against women" shall mean 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.”

The reservation relates to the inclusion of the phrase ‘irrespective of their marital status’, since *Shariah* law is specific about the categories of marriage that are recognised as legitimate. Article 2(a) (in connection with the rules of the hereditary transmission of authority, as it is inconsistent with the provisions of Article 8 of the Constitution).

Qatar also raised reservations about Article 9.2, which states that: “States Parties shall grant women equal rights with men concerning the nationality of their children.”⁵⁴⁵ The reservation is made since it is inconsistent with Qatar’s laws and practices on citizenship.

Qatar has placed reservations under Article 15.1, which requires that both men and women be treated as equals before the law. The reservation is based on the fact that, in connection with matters of inheritance and testimony, Article 15.1 is inconsistent with the provisions of Islamic law.

⁵⁴³ Reyes Cayanan, and Maecel Angelica, ‘*Women’s Rights, International Law and Islamic Law: The Case of the Philippine ARMM Gender and Development Code. Social Justice Perspectives (SJP)*’, (2013), <http://hdl.handle.net/2105/15472>.

⁵⁴⁴ Nora Jaber, ‘Beyond International Human Rights: Islamic Feminism as Alternative Rights Praxis’. (2026) 34 Fem Leg Stud, 115, who recognises the liberatory and emancipatory potential from Islamic feminism.

⁵⁴⁵ CEDAW, ‘Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018’, (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025, 17.

Qatar has made reservations concerning Article 15.4, which provides for equality in the rights between genders concerning the movement of individuals and the freedom to choose where to reside. According to Qatar, the proposition is inconsistent with the provision of family law and established practice.

Qatar has also made reservations under Article 16.1(a) and (c). Article 16.1(a) requires states to permit individuals to have the same right to enter into marriage. However, Qatar's provisions relating to the age of marriage, the provisions for polygamy and decisions on divorce are in direct contravention of CEDAW. Article 16.1(c) provides for the similarity in the rights and responsibilities of both parties during and after marriage. However, Qatari law provisions on divorce, roles of husbands and wives, as well as inheritance and custody of children, are in direct contravention of CEDAW. The CEDAW Committee has, however, termed this reservation as impermissible, by stating that: "reservations to article 16, whether lodged for national, traditional, religious or cultural reasons, are incompatible with the Convention and therefore impermissible."⁵⁴⁶

The consensuality of reservations is the foundation of commitment to treaties. By ratifying the treaties and agreements on the rights of women, jurisdictions in the GCC have facilitated the prominence of some of the norms that are protected within these treaties, even in instances where the overall norms included in the frameworks are not fully internalised. Furthermore, since the three-phase norm life cycle does not occur simultaneously for all provisions, failure to enshrine the propositions in the international treaties within the domestic jurisprudence does not indicate failure but is rather an indication that the provisions are in the initial stages of the norm life cycle.

The process of adopting human rights provisions in Gulf states often faces certain RUDs.⁵⁴⁷ In the case of Saudi Arabia, an all-encompassing reservation is attached to human rights frameworks, upon ratification, which states: "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

⁵⁴⁶ UNICEF, 'MENA Gender Equality Profile: Status of Girls and Women in the Middle East and North Africa (2011)', <https://www.unicef.org/gender/files/Qatar-Gender-Eqaulity-Profile-2011.pdf>, p 3.

⁵⁴⁷ George, Rachel. 'The Impact of International Human Rights Law Ratification on Local Discourses on Rights: The Case of CEDAW in *Al-Anba* Reporting in Kuwait'. (2020), 21, *Hum Rights Rev*, 50, which at times can indicate that although the treaty has been ratified upon submission, there is a possibility that some provisions therein stand at odds with key aspects of the interpretation of the Islamic faith within that particular jurisdiction.

contradictory terms of the Convention.”⁵⁴⁸ After all, even in instances where the reservations are less definitive and more open to interpretation, it is common for the jurisdictions in the Gulf region to reiterate the inflexibility of *Shariah law*.⁵⁴⁹

Based on the arguments under Islamic feminism, the magnification of these relations within a patriarchal system has far-reaching effects on the options for maintaining power and dominance and is consequently viewed as a threat to the family as an institution.⁵⁵⁰ Ultimately, it becomes apparent that the perception is created that if women are empowered to achieve parity with men, it would compromise social order, starting at the family level.⁵⁵¹ However, these assumptions and assertions have been dispelled as measures to transfer attention from the failures of the system, while justifying their lack of willingness to engage in the reformation of family and personal status laws.⁵⁵²

These reservations are further evidence of the fact that Qatar, like most other Muslim-majority countries, has chosen to relegate the discourse and actions on the rights of women to the private realm. Within this space, some or all aspects of the discourse are viewed as being outside the scope of the actions and interventions of the government.⁵⁵³ In spite of these changes, there are still reports of the oppression of women, arising from the discriminatory facets that Qatar sought to address by acceding to CEDAW, and through the implementation of the policies and laws described above. One explanation is that while these programs are aimed at advancing Qatari societies, empowering women and highlighting the importance of family, they are also framed as integral in the preservation of traditions and values, as well as ensuring that Qatar keeps up with the other Gulf Countries and the rest of the world.⁵⁵⁴ The process has culminated in the emergence

⁵⁴⁸ Id, 53, who also cites the form of reservations by other countries such as Oman, the UAE, Bahrain, Kuwait and Qatar with reference to nationality, voting and marriage, by citing Islam.

⁵⁴⁹ See the 2004 report by the CEDAW Committee on Kuwait, which contained a multiplicity of assurances about the equitability between genders, while also highlighting the fact that certain reforms to that effect were unviable, due to the fact that it was impossible to chance Islamic law.

⁵⁵⁰ Jaber (n) 125.

⁵⁵¹ See National Development Strategy, ‘Qatar national Development Strategy 2011-2016: Towards Qatar National Vision 2030 (2019)’, 166, whereby his situation is apparent in some Muslim-majority countries, including Qatar, whereby most people opine that championing or accepting the ideology of women’s rights, as well as the social actors involved in the processes, is a threat to society.

⁵⁵² See eg Hajjar (n 16), 31 and Kfir (n 292), 87, who highlight the role of patriarchy, reinforced by the effects of culture, in the maintenance of such oppression.

⁵⁵³ And in instances where the government takes measures to intervene, the decision is laced with a multiplicity of disclaimers and concessions, which ultimately limited the utility of the change.

⁵⁵⁴ See H Amin, Khoulood Sakbani, and Evren Tok. ‘State Aspirations for Social and Cultural Transformations in Qatar,’ (2024) 13 Social Sciences 7, 359.

of a ‘glass ceiling’, whereby the measures to address the oppression of women are clearly apparent to everyone, although there are barriers that prevent the attainment of this particular objective.⁵⁵⁵ The challenge becomes apparent with issues that go against tradition and values, whereby women lack autonomy.⁵⁵⁶

5.5 Conclusion

The discussion herein provides additional context on how the provisions under the CEDAW treaty serve to enhance the achievement of international women’s standards among the member countries that accede to the treaty. Individual countries have the option to indicate the components of the treaty that they are not in a position to abide by, based on RUDs. Qatar has made five reservations, which relate partly to the articles under the treaty, rather than the provisions of the entire articles. The specificity of the RUDs is highlighted in the discussion, with justification for the reservations being the incompatibility with *Shariah law*. Despite the RUD regime, Qatar has implemented a multiplicity of legislative, institutional and policy changes aimed at eliminating the discrimination of women in its country. These measures have achieved tangible results, with the potential for continual improvement. However, the presence of RUDs implies that the results of the continual improvement can only be achieved under certain domains of emancipation. At the same time, the forms of discrimination associated with CEDAW provisions against which Qatar has made reservations remain unchanged. Based on the theory of intersectionality, failure to implement measures to curtail discrimination under one domain has the capability to cause cascading effects by compromising empowerment in other domains. As a result, while Qatar’s RUDs may be perceived as establishing the basis for constructive non-compliance, the evidence shows that Qatari women can only achieve their international women’s rights standards when the country fulfils all the obligations under CEDAW, without RUDs, since RUDs enable Qatar to maintain discriminatory treatment of women during marriage and on divorce. Ultimately,

⁵⁵⁵ See N H Fouad, ‘Closing the Divide: Women Empowerment in Qatar Between Rhetoric and Reality’, Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*, (Gulf Studies, Springer, 2024), pp.139. See also R Naguib, and M Madeeha, ‘Making visible the invisible’: Exploring the role of gender biases on the glass ceiling in Qatar's public sector,’ (2023) 98 *Women Studies International Forum*, 1, 4.

⁵⁵⁶ See also Al-Ghanim and others (n 312), p 4, who indicated that in spite of the progress in terms of empowerment of women, there is still fragility and challenges associated with their ability to participate in the public sphere, political authority and decision-making roles, which mostly relate to autonomy. ‘Contemporary Women in Qatar: An Ethnographic Study of Their Challenges in Terms of Traditional Applications and Modern Requirements’. (2023) 13 *Sage Open*, 3.

considering the integral nature of *Shariah law* as a component of Qatari law, the most possible outcome in terms of improvement in treaty obligations under CEDAW by Qatar is the quantitative improvement under the provisions that no reservations exist, rather than qualitative improvement through changes to the RUDs regime.

6 CHAPTER 6: ANALYSIS OF QATARI COURTS' DECISIONS RELATING TO DIVORCE AND IPV

6.1 Introduction

As discussed in Chapter 4, the Qatari family court system is organised in a four-tiered system,⁵⁵⁷ with the procedural and substantive norms outlined under QFL No. 22 of 2006, and influenced by *Shariah law*, *Fiqh* and Qatari jurisprudence. As discussed in Chapter 4, the interpretation and application of the law is informed by a multiplicity of factors, which include the observance of the law, as well as the facts of the case. In the analysis of three Qatari court decisions presented in this chapter, it can be seen that the difference between the domestic and international standards creates challenges for women to achieve the human rights that are assured under the treaties to which Qatar is a signatory. Similarly, the lack of certainty in outcomes, specifically the inability to be assured of fair treatment during arbitration, differences in how spousal support is calculated, and problems with how evidence is admitted can discourage women from seeking divorce even when they are victims of IPV. The analysis of the judicial decisions will indicate areas where women faced discriminatory treatment based on international standards as a legal yardstick. The proposals from the analysis will form part of the proposals that are ultimately developed at the end of the thesis.

The purpose of reviewing the court decisions is to provide an original empirical analysis of how the courts approach and respond to women's human rights in the context of divorce, domestic violence, and abuse. This will shed light on the extent to which the domestic courts in Qatar converge with or diverge from international standards in jurisprudence and the extent to which they ensure respect for Qatari women's human rights as provided for in international conventions.

⁵⁵⁷ The system initiates with arbitration, with the parties having the freedom to appeal to a Court of First Instance (CFI). Decisions from the CFI can be appealed to the Court of Appeals, with the Court of Cassation being the final court in the land.

6.2 The Influence of International Law Standards in Qatar

By giving effect to provisions in non-binding instruments, domestic courts act more than just mere law-appliers, but as actual law-creators as well.⁵⁵⁸ Since the decisions by national courts are considered instances of state practice, they also play a part in reinforcing the particular norms into positive law, especially if those norms were originally designed to be perceived as progressive developments of international law.

An overview of the current legislative changes in the country reveals that Qatar has moved towards the codification of legal interventions in family matters.⁵⁵⁹ Normally, resistance to codification occurs primarily due to contingent political circumstances that may not be directly associated with the content or context of the law, *per se*.⁵⁶⁰ Over time, there have been substantial developments in legislative mechanisms, as well as disciplinary approaches for women and families in the country to access justice. Evidence lies in the increased ability of women to access agency under Islamic law,⁵⁶¹ as well as the illustrations of how judicial institutions have dealt with women, from a historical perspective. Furthermore, the establishment of these rights through court records and the provisions under the current personal status legal framework can be questioned, thereby interrogating the legality of the religious sanctity that the state bestows on personal status in the country.

The role of the Sharia judiciary, and specifically that of the judge, has been significantly changed through codification. Islamic jurisprudence is normally based on one of the five schools of *Shariah law*, which include the *Shafi'i*, *Ja'fari*, *Hanbali*, *Maliki*, and *Hanafi* schools.⁵⁶² However, the codification has also considerably constrained the role, thereby limiting the

⁵⁵⁸ Ammann, Odile. "Chapter 1 The Interpretation of International Law by Domestic Courts – A Topic That Matters". In *Domestic Courts and the Interpretation of International Law*, (Leiden, The Netherlands: Brill Nijhoff, 2020), 11.

⁵⁵⁹ Möller (n 415) 313.

⁵⁶⁰ A Smolik, 'Effect of Shari'a on the Dispute Resolution Process Set Forth in the Washington Convention', (2010), 1, The, 2010 J. Disp. Resol, 8, 1.

⁵⁶¹ Abdullah and others (n), who discuss the introduction of measures to ensure financial support for women in the post-divorce period. See also Afary (n 31), who discusses the multiplicity of ways through which the rights of women are ensured among MENA countries.

⁵⁶² Smolik, (n 494), 6, which clarifies that the differences arise from what component of the Sharia law that weight is placed upon during interpretation and implementation.

flexibility of the judges, as well as their ability to utilise discretion in the framing of solutions to individual cases.⁵⁶³

The court-based application of current family law in Qatar revolves around how the judges conduct themselves when making decisions on claims before their court, in line with the existing law.⁵⁶⁴ Normally, where judges find that the strict observance of the codified law culminates in injustices, they are allowed to interpret the law in a manner that leads to harmonious outcomes. As social agents, the judges are mandated to work out their values and interests in the grey areas that develop as a result of the interactions in the provisions under codified law, while taking into account the uncoded norms.

Concerns about how domestic courts are engaged with international law are often distilled to the characteristics of the legal rules at hand. The propensity of domestic courts to perceive an international issue as an issue of law rather than politics differs significantly, based on whether they are applied horizontally (nation-to-nation), vertically (nation-to-private party), or transnationally (private party to another).

The contemporary developments under Islamic law seek to strike a balance between upholding the rights of the plaintiffs and the preservation of harmony within the family unit.⁵⁶⁵ These goals are achieved through the principle of the ‘best evidence rule,’ whereby in instances of documentary evidence, the party has to provide original copies unless they are damaged, lost or otherwise unobtainable.

6.3 Outline of Methodology

The chapter is based on the results of doctrinal analysis of the cases, the facts of which are summarised in Section 6.5 hereunder. The doctrinal analysis was performed as described in Section 3.4.1 in the Methodology chapter. The doctrinal analysis comprised a two-part process, whereby the specific procedural and substantive norms under the international standards are identified, with an accompanying exposition of the related law in Qatar. The provisions are then interpreted and analysed in light of key elements of the three cases outlined in Section 6.5

⁵⁶³ M H Abdullah, and others, ‘Relationships between Satisfaction of Muslim Women on Financial Supports After Divorce and Ex-Husbands’ Compliance to the Supports with Post-Divorce Welfare’, (2009), 17, *Pertanika J Soc Sci & Hum*, 2, 153.

⁵⁶⁴ Kassem (n 338), 190.

⁵⁶⁵ Lari, and Al-Thani, (n 251) 289.

hereunder, to identify the areas where the decisions by the Qatari courts deviated or conformed with the international standards. Similarly, the analysis will provide justifications for the decisions where necessary, using details from the three cases.

6.4 Details of the Court Decisions

The three cases analysed in this chapter all shed light on human rights issues relating to IPV, divorce and custody. While there is an increase in the reported incidences of divorce in the country, most of the cases are determined at the arbitration level. The cases included in the analysis were selected from the court cases that involved multiple stages of appeal. Essentially, the detailed decisions, which involve arbitral awards and elements of judicial decision-making, provide rich data for highlighting scenarios where Qatari courts were faced with the need to apply the law in varying contexts. As noted in Chapter 3, the analysis cannot be generalised beyond the three cases due to the limited sample size and the purposive method of sampling. However, the in-depth qualitative analysis of the judicial procedures, coupled with the substantive rules on which the decisions are made, is of significant interest as they constitute the first and only original analysis of Qatari court decisions on divorce.

6.5 The facts of the Three Cases

6.5.1 Appeal by Cassation No. 30 of 2006, Personal Status Cassation ('Case A')

The case relates to the custody of children following a divorce necessitated by IPV within the marriage. The appeal relates to Case No. 2695/2004, whereby the divorce judgment was issued based on recommendations by the Family Counselling Centre provided on 29/03/2005, with the Appellant (husband) ordered to pay deferred dowry and child custody was awarded to the Respondent (wife). The issuance of a divorce judgment on grounds of detriment is aligned with *Shariah law*. The payment of child support implied that the Respondent (wife) was entitled to raise the child until they were of age. The husband appealed the Court of First Instance decision under Appeal No. 78/2005, on 05/01/2006, with the appeal court upholding the earlier judgment. In the appeal at the Court of Cassation, the Appellant (Husband) challenged the earlier judgment on the issue that there were violations of how the law was applied. He argued that the initial decision in Case No. 2695/2004 (where the decision on child custody and deferred dowry was made) was based on the *Ja'fari* school of thought, whereby a mother is entitled to child custody until the

children are two years old (for male children), and seven years (for female children). However, the Five Schools of Islamic Law contain differences in the rules on how long the children are allowed to stay with the wife after the divorce,⁵⁶⁶ and these durations have implications on whether the wife will get child support, as well as how much she can ultimately get. Since the children were older than two, he argued, the judgment for the Appellant to pay child support, as well as the entitlement of child custody for the Respondent, was erroneous. The claim was dismissed by the Court of Cassation because, despite the differences in the school of thought applied in the decision in the court of first instance, the objective, based on the spirit of the statutes under Shariah law, was to ensure the best interests of the child.

6.5.2 Appeal No. 51/2012/Civil Cassation ('Case B')

The Appeal relates to a lawsuit initiated by the Appellant (wife) (Lawsuit No. 500/2010) in the CFI, seeking two requests from the Respondent (husband): an application for divorce due to irreconcilable differences, and a compulsion for the Respondent to provide post-divorce maintenance in addition to consolation and waiting (*Mut'ah* and *Iddah*) payments. The application was based on the incidence of IPV, with claims of physical and mental abuse as well as assault. The Respondent launched a counterclaim (No. 1109/2010), asserting that his actions were justified since she was disobedient.

The case was referred to arbitration, with the objective of reconciliation, and to determine the rationale for the breach of the contract of marriage. In line with laid-down procedures, the arbitrators frequently met with the parties to the case and determined that the Appellant (wife) was to blame for the breach of the contract of marriage. The arbitrators arrived at the following decision. First, the Appellant was granted an irrevocable divorce on account of the breach (physical and mental abuse and assault). Second, the arbitrators determined that the Appellant forfeited the right to demand freedom from the waiting period (*Iddah*). Third, the arbitrators introduced a third element to the ruling, on account of the claims by the Respondent, whereby the Appellant was mandated to pay a decided amount (which was set at QAR 120,000). The amount was introduced

⁵⁶⁶ Appeal by Cassation No. 30 of 2006, Personal Status Cassation, whereby, based on the case details, the Hanafi School, mother is entitled to child custody till the male child is seven years old and female child is nine years old. According to Shafi'i and Hanbali Schools, mother is entitled to child custody till he is seven years old. According to Maliki School, mother is entitled to child custody till male child reaches the legal age and the female child gets married. According to Ja'fari School, mother is entitled to child custody till male child is two years old and female child is seven years old.

since the arbitrators determined that the Appellant (wife) was the cause of the divorce. Since the Appellant was dissatisfied with the outcome of the arbitration, she applied to the court (CFI), with the following requests:

- (i) To compel the courts to facilitate the divorce from the Respondent due to breach of the contract of marriage.
- (ii) To be freed from the waiting period (*Iddah*) after the marriage is dissolved
- (iii) To reject the ruling on the compensation to be paid to the Respondent.

The decision of the CFI, on May 10th, 2011, granted the requests by the Appellant (Wife). The Respondent appealed the decision of the CFI under Appeal No. 90/2011. In the appeal, while the Respondent accepted the decision on the irrevocable divorce, he sought to have the courts compel the Appellant (wife) to respect the waiting period (*Iddah*) and to pay the decided amount (QAR 120,000). The appeal court amended the ruling from the CFI and adopted most of the decisions by the Arbitrators. First, the request for an irrevocable divorce from the marriage was allowed. Second, the Appellant was obliged to respect the waiting period (*Iddah*) from the date of the Arbitration. Third, the Appellant (wife) was compelled to pay the Respondent (husband) QAR 120,000 for her role in causing the divorce. Dissatisfied with the ruling, the Appellant filed a cassation appeal against the ruling, on the following grounds: (i) the decision of the appeal court violated the law and was deficient in reason; (ii) the decision to compel her to pay QAR 120,000 to the Respondent during the arbitration was not based on any justifiable grounds. Furthermore, the wife argued that the arbitrators reached their decision after meeting the two claimants only twice and failed to take into account that the Respondent had already separated from her, without any alimony or form of care, hence leaving her with no option but to relocate to her father's house. The Appellant claimed that the court failed to take into account the circumstances under which she relocated to her father's house.

The decision by the Court of Cassation determined that the claim of the Appellant before the Court of Cassation was inadmissible, basing their decision on Articles 129,⁵⁶⁷ 130⁵⁶⁸ and 134⁵⁶⁹ of the QFL of 22 of 2006 in its decision. The judge determined that, in line with the provisions under the three articles, the following were apparent. First, since arbitration was carried out in line with the stated procedures, the opinion of the arbitrators was final and binding, even though the Appellant did not concur with it. Second, the arbitration was essentially designed for decision-making rather than presenting testimony. Third, the court overturned the decision by the court of first instance and determined that the Appellant was due to compensate the Respondent accordingly. The appeal to the Court of Cassation was thus determined to be groundless.

6.5.3 Appeal No. 131 of 2012 ('Case C')

The appeal was an initiation of Lawsuit No 16/2011, whereby the Appellant (wife) brought a claim before the Court of First Instance against the Respondent (Husband), requesting for divorce on account of detriment, award of custody of their child, seeking compulsion of the Respondent to provide support⁵⁷⁰ and to oblige the Respondent to compensate her accordingly, through payment of deferred dowry, the consolation (*Mut'ah*) and waiting (*Iddah*) payments. The Appellant further asserted the incidence of IPV, with documentary evidence in the form of a copy of a medical report to support the claim of verbal and physical harm, which escalated, leading to

⁵⁶⁷ Al Meezan, "Law No 22 of 2006, Promulgating 'The Family Law', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025, QFL 22 of 2006, 31, Article 129 which states "(i)The wife, before or after consummation of marriage, shall have the right to request separation on the ground of detriment which makes marital life impossible to continue for her like. The Judge shall attempt to reconcile between the spouses. (ii) If reconciliation cannot be achieved and detriment is proved, separation shall be decreed. Detriment may be proved by Evidence including hearsay testimony."

⁵⁶⁸ Ibid, 130, QFL 22 of 2006 Article 130, which states "If detriment is not proved and breaches between the spouses continue while reconciliation by the Judge cannot be achieved, the Judge shall appoint two arbitrators from their respective relatives who are likely to have the ability to reconcile between the couple; if there are no such arbitrators from their relatives, then appointment shall be from outside their families. The Judge shall decide the duration of the arbitration."

⁵⁶⁹ Ibid, 32, QFL 22 of 2006 Article 134: which states "If the Judge is of the opinion that the separation of the spouses should be decreed and that the wife is largely or wholly to blame, he shall separate between them with property to be given by the wife as determined by the Judge after perusal of the two arbitrators' report. If the husband is largely or wholly to blame, or both are to blame or blame cannot be established, he shall separate between them without property to be given by one to the other."

⁵⁷⁰ See Chapter 4, in the discussion on post-divorce payments. The payments are made in the form of monthly alimony, considering that she is the mother of a child born during the marriage. Other forms of support include the provision of accommodation, and other expenditures necessary to ensure that the best interests of the child were met, including a maid, a driver and a car. The appellant also sought to have the Respondent pay for the costs associated with the proceedings.

the loss of a pregnancy. A counterclaim by the Respondent attributed the issues in the marriage to the disobedience by the Appellant, with claims that she was not submissive. In line with the procedural norms, the Court appointed two arbitrators to reconcile the parties and determine the validity of their claims regarding the breach of the marriage contract. The arbitration culminated with recommendations for the annulment of the marriage, with the approval of the requests by the Appellant, except for the consolation payment and deferred dowry. However, the arbitration forum failed to take into account the copies of the multiple medical reports, from 2008 and 2011, relating to the effects of the physical abuse into evidence. The Appellant sought relief in the Court of Appeal, which also refused to admit the medical reports and referred her to arbitration for reconciliation. Based on the report from the arbitrators, the Court of Appeal granted an annulment of the marriage, but failed to approve the claims for consolation payment and deferred dowry. The court rejected the counterclaim by the Respondent (the husband), who wanted the court to compel the Appellant (wife) to be submissive, lest she face additional consequences. Based on the counterclaim, the Court of Appeal set the child maintenance payment to QAR 2000 per month. The appellant (wife) launched an Appeal at the Court of Cassation, based on three grounds. The Court of Cassation determined that, regarding the right of the Appellant to have the evidence she provided regarding IPV admitted, the Court of Cassation determined that the judicial institutions have the discretion on which forms of evidence to admit. As a result, the decision to omit the evidence was within the right of the court. Furthermore, since the application for divorce was granted anyway, the omission of the evidence was not a valid claim for additional consideration. The Court of Cassation also rejected the application for consolation payment and deferred dowry as untenable. Finally, the Court of Cassation rejected the argument that the decisions by the lower courts to admit evidence were flawed and that no malpractice was evident; the decisions were not deficient.

6.6 Key Doctrines: Ramifications of Divorce

The analysis of the three cases reveals that the Qatari courts deviated from international standards, which can be subsumed under six themes (the right to a fair trial, the procedure for arbitration, recognising the spirit of the law, the right to spousal support, matters of evidence and certainty in the liability of perpetrators). The discussion in this chapter focuses on those six themes, each of which relates to a particular doctrine under which the three decisions by the Qatari courts

deviated from international standards. In the analysis, both the procedural and substantive aspects of the rulings that were applied in arriving at the decision will be identified and discussed. Accompanying explanations on how the judicial decisions led to the discrimination of women are provided, based on the provisions relating to the International Human Rights of Women under CEDAW, as well as the measures to eliminate violence against women, under DEVAW. The discussion applies the reformist jurisprudential analytical lens, which is primarily informed by the tenets of Islamic feminist perspective, as discussed in chapter 3. In the process, the five principles of Islamic feminism shall be highlighted.⁵⁷¹ These two elements are integral to the aim of the thesis as outlined in Chapter 1 (Section 1.5). The substantive provisions under the laws have been discussed in the literature review in Chapter 2. Similarly, the fundamental procedural rules, including the differentiation among *Shariah law*, Islamic law and Qatari law (QFL No 22 of 2006), are also provided.

6.6.1 The Right to a Fair Trial

Every individual deserves the right to a fair trial under both criminal and civil liability cases, as a way of protecting their human rights, as outlined under Article 10 of the Universal Declaration of Human Rights.⁵⁷² For a trial to be fair, it has to be conducted in a just manner, with regularity in procedures, and impartiality by the judges, culminating in the affording of the rights to the parties. These protections are dependent on the accessibility of competent, impartial and independent judicial institutions for fair administration of justice. The actions of the courts are buttressed by lawyers and prosecutors, who are instrumental in ensuring that the right to a fair trial is realised. Additional provisions for the right to a fair trial are contained in Article 14 of the International Covenant on Civil and Political Rights (ICCPR).⁵⁷³ Article 26 of the ICCPR implies

⁵⁷¹ See chapter 3, Section 3.2.2, with the main principles being Mir-Hosseini (n 353), who addresses the need for re-interpretation of Islamic law to engender an independent reasoning, El Ali (n), and the need to address the hierarchical classification of human beings to ensure justice, Mir-Hosseini (n 398) and the need to separate culture from religion; Al-Hibri (n) and the reformation of family and status law to address and finally, Welchman and others (n) and the need for intersectionality in the process.

⁵⁷² UN, 'Universal Declaration of Human Rights', (2015), Available at <https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> Accessed June 6, 2024, Article 10 of the treaty states that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." See also Chapter 2, where the provisions under Article 15 of CEDAW addresses gender-based equality under the law.

⁵⁷³ Similar provisions are contained in the African Charter on Human and Peoples' Rights (Article 7), the European Convention on Human Rights, and the American Convention on Human Rights (Article 8).

that the principle of equality is designed to prevent instances of discrimination unless the differential treatment is founded on objective criteria and reasonable justifications.⁵⁷⁴ The right to a fair trial under Article 14 (1) of ICCPR extends to other fora established by the courts to ensure access to justice, including tribunals.

However, the procedures adopted in the three cases appear unfair, specifically to the female parties to the claims. In Appeal No. 131 of 2012 (Case C), it appears that the right to a fair trial was compromised in several ways. First, key evidence of IPV in the form of a copy of a medical report provided by the Appellant was disregarded, since she was not allowed to provide the required evidence. After all, the court could have simply asked her to send in the original medical report, rather than simply dismissing the copy. The claim by the appellant that spousal abuse occurred within the marriage was supported by evidence from medical practitioners who attended to her. The evidence included claims of abuse that led to the loss of a pregnancy, in addition to other forms of bodily harm. The court declined to include the evidence in its ruling on the basis that the Appellant provided copies of the medical report, rather than the original documents. Essentially, the failure to reference, respond to, or consider the evidence during the earlier appeal in the case influenced the decision of the court vis-à-vis granting part of the key remedy, specifically the consolation (*Mut'ah*) payment. This failure by the court to accept the validity of the wife's evidence could have been remedied by requesting her to provide the original medical report. However, the decisions by the courts are based on the outcome of the arbitral awards, where there appear to be no rules on evidence. Consequently, there are no mechanisms to address the arbitrary nature of justice under the arbitration.

The effects of the rejection of the evidence had implications for the final decision in the Court of Cassation. In justifying its decision, the court highlighted its right to evaluate the documents provided in support of a lawsuit, and that failure to do so is not indicative of a failure in its duty. Even though the Appellant highlighted that this key evidence was overlooked in the court of first instance and at the appellate level, the courts failed to acknowledge this as a substantive or procedural failure, even though this evidence had implications for the nature of the detriment for which the divorce was granted. The basis of the appeal was the presence, nature, frequency and severity of the IPV, which, under law, can influence the remedies due to the victim.

⁵⁷⁴ Ibid.

In the second ground for Cassation, the court rejected the argument by the Appellant that the lower court was deficient in its reasoning, leading to judicial malpractice. The court rejected her claim for immediate dowry, a request which was disregarded by the court. Just like in the earlier appeal, the Court of Cassation termed the argument as defective and provided procedural justifications to the effect, including the procedures under Articles 553 and 554 of the Civil Procedure Code stipulating the payment of security in terms of fees before cassation.

The decisions in Case C and Appeal No. 51/2012/Civil Cassation (Case B) reveal that the appellate courts consistently overlooked the failure of the arbitrators to determine the relevant facts from the multiplicity of primary facts. At the core of the issue, the facts of these two particular cases are that, for a redemptive divorce to be allowed in a judicial setting, the woman should make a claim that justifies the need for redemption from the marriage. The failure can thus be argued to lead to an error in law in several ways. First, although QFL No. 22 of 2006 fails to recognise violence against women as leading to civil or criminal liability upon the perpetrator, there are provisions under the Qatar Penal Code, Law No. 11 of 2004, relating to violence in the private and public spheres. As shown in Chapter 5, 4.1, Article 308 of Law No. 11 of 2004⁵⁷⁵ addresses the criminal and civil liability of a perpetrator of serious violence, with general physiological effects which can apply to domestic violence cases. In other cases where the violence is not as grave as described under Article 308, Article 309 provides options for the courts.⁵⁷⁶ In fact, Article 315 of Law No. 11 of 2004⁵⁷⁷ applies specifically to Case C, whereby assault or violence that culminates in miscarriage by a woman attracts a jail term of up to 10 years. While this provision is not included under QFL No. 22 of 2006, it relates directly to the occurrences reported in this case. By overlooking the claim and this type of evidence, the court system denied the victim the right to a fair trial, primarily since the case was introduced in a family court, and disregarded conduct which

⁵⁷⁵ Qatar Legal Portal, Law No. 11 of 2004 Issuing the Penal Code 11 / 2004, <https://adsdatabase.ohchr.org/IssueLibrary/QATAR_%20Penal%20Code.pdf >Accessed 5 November, 2024, 61, Article 308: “Whoever assaults any person in any way, and where the assault leads to their sickness or incapacity to work for more than twenty days shall be punished with imprisonment for a term not exceeding two years and/or a fine not exceeding ten thousand Qatari Riyals (QR 10.000). The penalty shall be imprisonment for a term not exceeding three years and/or a fine not exceeding fifteen thousand Qatari Riyals (QR 15.000), if the act is premeditated or is executed by more than one person.”

⁵⁷⁶ Ibid, 61, Article 309: “Whoever purposely assaults any person in any way and where the assault is not as grave as is stipulated in the two preceding Articles shall be punished with imprisonment for a term not exceeding one year and/or a fine not exceeding five thousand Qatari Riyals (QR 5.000).”

⁵⁷⁷ Ibid, Article 315 states that “Whoever assaults a pregnant woman and where the assault causes miscarriage, shall be punished with imprisonment for a term up to ten years in prison.”

has been criminalised by statute. While this study focuses on civil aspects of justice, this particular case highlights the extent to which female victims of criminal offences may lack justice, due to a lack of awareness of their options, and in the process, end up failing to get a fair trial.

The judgment in Case C was limited to the provisions under QFL No.22 of 2006. As a result, actions for which the perpetrator husband could have been criminally liable (as they constituted violence as described in the mild and severe forms, as well as leading to the loss of a pregnancy), were disregarded. These procedures are indicative of how failures in the evidentiary process through which the administrative tribunal discharged its duty led to serious failings by the courts in this case, and ultimately, limited the appellate judges in effectively determining whether the judgment was appropriate for review. The failure of the Civil Court (court of first instance) and the Court of Appeal to take into account the evidence of IPV, seemingly for arbitrary and/or irrelevant reasons, as the foundation of the detriment and breach that necessitated the divorce, led to an unfair trial. Ultimately, the Court of Cassation was left with limited options but to focus on errors of law rather than fact. To initiate a case focusing on the facts, the Court of Cassation proposed the re-initiation of the procedure, with the initial step involving arbitration, which is normally designed in a conciliatory format. Essentially, unless the arbitrators are willing to focus on all the facts, there is a limited possibility of a fair trial in family law cases in Qatar.

6.6.2 The Procedure for Arbitration

The discussion in Chapter 4 outlines the procedures through which arbitrations are carried out under family law cases in Qatar. The discussion highlights the rationales for adopting arbitration as a primary forum for resolving disputes relating to family law, including cost and time efficiency. Similarly, as shown in Chapter 4, arbitration in Qatar aligns with the inquisitorial judicial model, which is a good fit for civil cases, whereby the objective of the proceedings entails amicable solutions. It also highlights the drawbacks associated with arbitrations and arbitral awards.

Awards from domestic arbitration proceedings must comply with the law regime in place for them to be enforceable. The establishment of arbitration forums plays an integral role in the emancipation of women. First, arbitration is an efficient and flexible approach to the resolution of

disputes, since the process is task-specific.⁵⁷⁸ The proceedings only focus on the issues at hand, thereby avoiding distractions in the process. The flexibility arises from the fact that the arbitrators are selected purposefully for that particular case. Arbitration is applied in two of the three cases analysed here, specifically, Appeal No. 51/2012/Civil Cassation (Case B), and Appeal No. 131 of 2012 (Case C). With the increased incidence of divorce in Qatar, it could take up to six months for the parties to a divorce to procure a date for a judicial trial.⁵⁷⁹ The specificity in procedural norms makes it easy to admit evidence while reducing the time it takes to fulfil certain activities, such as discovery. The specificity in rules on how and why a divorce can be granted under Islamic law reveals why arbitration is perceived as the best option before a case goes through the mainstream judicial process. The arbitral awards in Cases B and C played a key role in the outcomes of the subsequent appeals, showing that matters of law and fact are primarily determined at this level. Even with the option to appeal to higher courts, the appellate courts seem inclined to only focus on errors of law, rather than assessing errors of fact when making decisions on the admissibility of the appeals of the decisions by the arbitrators. However, there are several uncertainties regarding the selection of arbitrators, considering the weight that is placed on their decisions relating to matters of law and fact. Since arbitration under Qatar law is supposed to be carried out by qualified judicial officers, there are no guarantees that all parties to the claim can be represented by a relative.

Arbitration also helps to reduce the costs of the process, especially since when the divorce proceedings are initiated by the woman, she may not be in a position to afford a lawyer.⁵⁸⁰ The role of socio-economic subordination of Qatari women, which limits their agency, such as the ability to afford a lawyer, is evident from the discussion in the literature review. These circumstances are evident from two of the three cases analysed herein. In cases B and C, the option for reconciliation was provided, since it does not entail the costs that are associated with initiating a case in the Qatari judicial system. The costs of litigation can be high, depending on how the process is carried out. For women who lack access to employment or other income-generating

⁵⁷⁸ S I Strong, 'Past as Prologue: Arbitration as an Early Common Law Court?', (2020), 57, *Hous L Rev*, 5, 1.

⁵⁷⁹ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025, 32, Article 138 of QFL NO. 22 of 2006, which limits the duration for the courts to determine a case involving separation to six months from the time that the application is made.

⁵⁸⁰ See Shahid (n 354) 59, who highlights the multiplicity of socio-economic challenges that can impede the ability of a woman to afford the resources necessary to cover the expenses of a divorce proceedings.

activities, such costs can be restrictive. This is in addition to the possibility that if the application for irrevocable divorce is authorised, the woman will be faced with additional liability in the form of compensation to the husband, as well as the refund of the dowry paid.⁵⁸¹

Second, arbitration also facilitates the privacy that is necessary under family law jurisprudence in the country. As shown in Chapter 4, Qatar treats family law issues as private matters between partners, with a multiplicity of procedural and substantive rules oriented under QFL No. 22 of 2006.⁵⁸² In Cases B and C, the measures to ensure privacy are apparent. In both cases, the arbitration forum was comprised of individuals who were close relatives or acquaintances of the victims. While privacy presents advantages to the parties to the claim, it can also engender several disadvantages. The identification of court decisions to review for this study revealed that most of the decisions relating to family law matters are not available in the public domain, since they involve arbitration. These measures have led to increased secrecy regarding divorce cases.

A number of the drawbacks of arbitration are evident from the judicial decisions herein. The first drawback relates to questions that have been raised on procedural fairness, in cases where arbitration is mandatory even if the parties are of a different opinion. To achieve procedural fairness, all parties must be given a fair chance to present their cases, and for those claims to be taken into account. The possibility of subjective arbitral awards cannot be overlooked, especially if the ex-ante or ex-post controls are weak. Qatari courts have extensive discretion on what type of evidence to admit. In Cases B and C, a number of issues with procedural fairness are evident. In Case B, the evidence provided by the Appellant (wife), regarding abuse by the husband, was overlooked. However, the arbitrators took into account secondary claims by the Respondent (husband) that the Appellant caused the divorce by leaving their matrimonial home. By only basing the arbitral award on this aspect of the evidence, the arbitrators overlooked the primary cause of the problem, thereby failing to distinguish the perpetrator from the victim. Similarly, the arbitrators failed to focus on the issue that caused the departure of the Appellant from the matrimonial home.

⁵⁸¹ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025, 29, Article 122 of QFL No. 22 of 2006, under Redemptive Divorce. See also the discussion in the Literature Review.

⁵⁸² Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025.

These issues of procedural fairness arise from the concern that arbitrations are often inclined towards the more powerful party. This can be seen in the way in which, in Cases B and C, the influence of patriarchy led the arbitrators to rely primarily on the claims by the Respondent (husband) while overlooking the evidence presented by the Appellant (wife). Consequently, they overlooked domestic violence as a primary or aggravating factor. As indicated in Chapter 4, while it is common for the evidence provided by a man, based on a sworn oath, to be worth twice what a woman presents,⁵⁸³ the maxim is applied in situations where no other forms of proof can be provided. As a result, the influence of the patriarchal perspective that led to the claims by the Respondent in Case B predominating represented procedural unfairness that resulted in substantive injustice. Similarly, in Case C, by failing to take into account the evidence from experts based on the medical reports, the arbitrators failed to adhere to the procedure. All these incidents of lack of procedural fairness culminating in substantive injustice reveal how patriarchy in Qatar influences the outcome of arbitral awards in divorce proceedings. The propensity to consider ‘apparent fairness’ by granting the application for divorce to the woman as constituting sufficient sanctions against an abusive husband does not fully meet the requirements of substantive justice.

A second drawback arises since there are differences in the Islamic jurisprudence upon which the cases are arbitrated. The differences arise from the lack of standardised procedures that limit the extent to which the arbitral awards can be utilised as part of case law in the development of jurisprudence in family law issues. These differences arise from the contents of the substantive rules under Article 122 of QFL No. 22 of 2006, which outlines that judges appoint the arbitrators to reconcile the spouses, with the objective of settling. As shown in Chapter 4, the approach is only adopted for divorces initiated by the woman, including redemptive divorce. There are no similar provisions for divorces initiated by the husband, even though according to Article 113 of QFL No. 22 of 2006, the judge can ‘attempt’ to reconcile a husband and wife, following the pronouncement by a husband of their intent to divorce their wife. The disparity in standards and practices is inherently discriminatory against women.

Furthermore, how arbitration proceedings are set up in Qatar can compromise access to justice. Evidence of the lack of standardisation is present in two of the cases. On one hand, the

⁵⁸³ UNICEF, ‘MENA Gender Equality Profile: Status of Girls and Women in the Middle East and North Africa (2011)’, available at <<https://www.unicef.org/gender/files/Qatar-Gender-Equality-Profile-2011.pdf>>, (Accessed July 5, 2024)

arbitration for Cases B and C sought to reconcile the parties and investigate the reasons for the breach of the marriage contract. The methodology is essentially aligned with the *Hanbali* school of thought, which is ultra-conservative since it focuses on the textual rather than the contextual interpretation of the *Quran*, *Sunna* and *Hadith*.⁵⁸⁴ The system accepts the authenticity of the *Sunna* and makes some concessions to subjective personal thought or equity.⁵⁸⁵ Arbitration under this school of thought entails *ex-ante* controls, with the awards by the arbitrator having the same binding effects as a judgment within a judicial institution.⁵⁸⁶ Normally, the arbitrators have similar qualifications as a judge, and the decisions may not be re-litigated after appeal on the merits. However, the school of thought fails to address how to select arbitrators who meet the two divergent sets of criteria: on one hand, the selection of a panel of arbitrators who have the best interests of the parties to the claim (one representing the interests of the wife, and another representing the interests of the husband), and on the other hand, arbitrators who hold the qualifications of a judge, thereby eliminating the need for *ex-post* controls. Ultimately, the absence of *ex-post* controls, including an assessment of whether the arbitral awards are justifiable, can compromise the ability of the forum to offer justice to victims.

As a result, while arbitration is well-intentioned under *Shariah law* and Qatari law, how it is implemented creates discriminatory effects on women. It can also have significant effects on subsequent judicial proceedings, with further detriment to the woman, as shown in these three particular judicial decisions.

6.6.3 Recognising the Spirit of the Law

In interpreting law in most countries, the courts focus on the intent and true purpose of the law, rather than a literal interpretation of the language.⁵⁸⁷ The intent and true purpose are construed by considering whether the literal application of the law would culminate in unintended or unjust

⁵⁸⁴ Smolik (n 494), 6. See also A Al-Hibri 'Islam, Law and Custom: Redefining Muslim Women's Rights.' (1997) 12 American University International Law Review, 1, 7, who discusses how issues relating to marriage, divorce and gender-based equality are conceptualised under the five schools of thought.

⁵⁸⁵ Al-Hibri (n), 22.

⁵⁸⁶ Ibid, 7.

⁵⁸⁷ S M Garcia, and others, 'The letter versus the spirit of the law: A lay perspective on culpability', (2014), 9, Judgment and Decision Making, 5, 479, 480, which indicates that "...violating the spirit of the law accounts for culpability above and beyond breaking the mere letter. We find that one can incur culpability even when the letter of the law is not technically broken."

outcomes.⁵⁸⁸ The establishment of substantive and procedural rules provides a starting point for the application of this principle. Judicial officers are then mandated to interpret and apply the law in a manner that culminates in the best possible outcome. The recognition of the spirit of the law in line with international standards is evident from some of the decisions discussed herein.

The UN Convention on the Rights of the Child (UNCRC), which was introduced in 1990, is a legally binding instrument (among countries that have adopted and adopted the provisions into domestic law) which represents the standard on legal decisions relating to custody of children after parents' divorce.⁵⁸⁹ The Convention guarantees rights to life, protection from violence, education, love from parents, and freedom of expression. The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, as adopted in 2007, established the simplification, uniformity, efficiency, accessibility and affordability of child support services during divorce. The obligations relating to child support are structured to ensure the 'best interest of the child.'⁵⁹⁰ The principle is fundamental since it guides the judicial decision-makers in implementing the provisions. While there is no specific definition of what the phrase 'best interests of the child' means under Qatari law, it can be construed from the tenets of child custody and guardianship under *Shariah law*, Islamic law and QFL No.22 of 2006, as shown in Chapter 4. These laws converge towards conceptualising the best interests of the child as access to parenting from a mother during the early formative years, and access to a father as they become of age.

The decision in Appeal by Cassation No. 30 of 2006, Personal Status Cassation (Case A), entails the recognition of the spirit of the law. The Court of Cassation rejected the appeal, even though it was justified due to errors of law. The decision entailed a decision by the court to emphasise the substantial rules as included under Article 171-173 of QFL 22 of 2006,⁵⁹¹ which provides guidelines on custody of children with the mother, rather than focusing on the procedural

⁵⁸⁸ Ibid, 482.

⁵⁸⁹ International Justice Resource Centre, 'Qatar to Become Party to Two UN Human Rights Conventions', (2018). Available at <<https://ijrcenter.org/2018/06/05/qatar-to-become-party-to-two-un-human-rights-conventions>> Accessed June 6, 2024

⁵⁹⁰ See J M Pobjoy, 'The best interests of the child principle as an independent source of protection', (2015) 64, Int'l Comparative Law Quarterly, 2, 327,329 indicates that the principles are included under the UNCRC instrument under Article 3.

⁵⁹¹ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025.

rules which denote the *Shariah law* school of thought that the decisions in Qatari courts are based on. By so doing, the tenets of the ‘best interest of the child’ were fulfilled, in line with Article 9(1) of the UN Convention on the Rights of the Child, which relates to measures to ensure that a child is not separated from his or her parents against their (the child’s) will, except where judicial entities determine that such a separation is in the best interests of the child.

In the realm of litigation, cases relating to the custody of children following divorce are contentious, owing to the complexity of the issues at hand. However, the state-centric nature of laws relating to human rights issues is faced with a horde of structural inadequacies in the enforcement paradigm, specifically in the practicality of the universality of the application of the spirit of law principles. Most countries have opted for a people-centric approach as an alternative to the ‘spirit of the law’ principles, whereby the characteristics of the parties to the claim are also taken into account. However, it is arguable that in Cases B and C, the courts did not promote the spirit of the law. The three cases are emblematic of how the failure to recognise the spirit of the law influences the treatment of victims of gender-based violence in the country. The judicial decisions in Cases B and C reveal the failure to take measures to impose criminal liability for infringements of law as discussed in Section 6.6.1. The decisions indicate the failure of the judicial officers to deploy procedural rules in a manner that is implied under the substantive rules.

6.6.4 The Right to Spousal Support

In this discussion, I draw on the literature review in Chapter 2 regarding the socio-economic status of married women in Qatari communities, whereby discrimination is embedded in the customs that can limit their ability to engage in income-generating activities, as well as own property, separate from their husbands. While the subject of spousal support is complex, within Qatari law, the procedural and substantive rules are designed to ensure three outcomes: first, the best interest of the child; second, for the party who opted to breach the marriage contract to compensate the other party; and finally, to ensure that any financial obligations that arose during the marriage are settled.

The provisions under QFL No. 22 of 2006 offer clear guidelines on how to address the issue of the ‘best interest of the child’ following a divorce. In the Appeal by Cassation No. 30 of 2006-Personal Status Cassation (Case A), the judge determined that an injustice would be served if the appeal under the Court of Cassation was not dismissed. The decision was aimed at ensuring

that issues on ‘Child Custody’ were not affected by the type of procedural guidelines which the school of Islamic thought adopted in making the decision. Essentially, the court determined that the ‘Islamic law’ principles adopted in interpreting the law should not contribute to a contravention of the fundamental goals of the law. In the judgment by the Court of Cassation, the appeal judge opted not to countermand the earlier decisions. The decision is aligned with elements of judicial activism that are common under international standards, whereby the courts attempt to fulfil the goal of social justice by adopting a liberal interpretation of the law, rather than strict adherence to the orthodox schools of thought. Some jurisdictions still adhere to the standpoints established from the literal interpretations of the Muslim jurists, which have led to differences on the issues of post-divorce maintenance beyond the period proscribed under religious doctrines.⁵⁹²

There is a possibility that the attitudes of the judicial officers may influence the outcomes. The complexity of in-court proceedings can also influence the outcome, especially when the effects of patriarchy are taken into account.⁵⁹³ Finally, the husband can adopt an uncooperative attitude by failing to comply with the procedures laid down, thereby impeding the accessibility of justice.

In Cases B and C, issues on the determination of spousal support focused on the substantive rules under QFL No. 22 of 2006,⁵⁹⁴ whereby, as shown in Chapter 4, women who initiate a redemptive divorce are required to compensate the husband. Furthermore, they may be compelled to cover the costs of the divorce proceedings. However, these laws are intrinsically discriminatory against women, with the judgments herein perpetuating the discrimination, since they overlooked the reason why the woman sought redemptive divorce in the first place, which is gender-based violence.

The decisions in the three cases are aligned with the provisions of Article 113 of QFL No. 22 of 2006.⁵⁹⁵ While the wife can initiate divorce proceedings with evidence as outlined under Article 113(ii), divorce proceedings revolve around the input by the husband, as evidenced by the

⁵⁹² See Chapter 4 on Post-divorce settlements under Qatar law.

⁵⁹³ Kassem, ‘(n 338), 57.

⁵⁹⁴ Qatar Family Law No. 22 of 2006 Article 118: “Khul’ (redemptive divorce) is a dissolution of a marriage contract by mutual consent of the husband and wife expressed in the word of “khul” or its meaning, with consideration from the wife. It is not conditioned by post-menstruation cleanness. It shall be considered a rescission.”

⁵⁹⁵ Article 113 of QFL 22 of 2006, “(i) Divorce may occur by the husband formally pronouncing it before the Judge. Before ordering such pronouncement, the Judge shall attempt to reconcile between the parties. (ii) A divorce occurring outside the court room shall be proved by Evidence or admission and shall have been communicated to the wife.”

provisions under Article 113(i). Essentially, the decisions in the court proceedings highlight the centrality of the input from the husband in the final decisions provided in the three cases. This deviates from what international standards delineate, since evidence from either the husband or wife is treated equally in proceedings relating to divorce.

The decision in Appeal No. 131 of 2012 (Case C) highlights the extent to which all levels of Qatari courts go to ensure that spousal support is provided by the partner who is economically empowered.⁵⁹⁶ The decision is in line with *Shariah law* and Islamic law, as described in detail in Chapter 4. However, since the courts overlooked the role of severe domestic violence as a precipitating factor in the initiation of the redemptive divorce, the final judgment can be viewed as leading to discrimination against the woman. A similar perspective is adopted concerning Appeal No. 51/2012/Civil Cassation (Case B), whereby the court failed to specify the type of spousal support due to the woman, even though a fine was imposed upon her since she initiated the divorce proceedings. At its core, this decision highlights a huge flaw in QFL No. 22 of 2006, whereby, while a redemptive divorce is initiated to ensure that a woman emancipates herself from an unfavourable marriage, she is still required to compensate the husband, who is perceived as blameless in the divorce.

6.6.5 Matters of Evidence

The proceedings of the courts are based on the facts that are available at the oral proceedings. Similarly, the courts are bound to limit their decision to the law that is categorically essential in making their final decision. International standards dictate that each party to a court case is guaranteed representation, and that the evidence they provide shall be taken into account in the decision-making process.⁵⁹⁷ However, none of the procedural and substantive guidelines binds the court to determine the value of any form of evidence provided to it.

Normally, the role of courts is to admit evidence as long as it is of probative value, rather than declare it inadmissible, except in certain circumstances.⁵⁹⁸ Although the unfair rejection of

⁵⁹⁶ See Shahid, (n 354) 64.

⁵⁹⁷ T Ward, 'Explaining and trusting expert evidence: What is a 'sufficiently reliable scientific basis'? (2020) 24, *The Int'l Jl of Evidence & Proof* 3 233, 237, who indicated that the assurance is more so directed to defendants, who is often faced with accusations by the plaintiff on issues that they may not be privy to.

⁵⁹⁸ See Karim A. A. Khan, Caroline Buisman, and Christopher Gosnell, 'Principles of Evidence in International Criminal Justice', (Oxford University press, 2010), 151, who identifies the exceptions to the rule, including if the admission of evidence will lead to unfair prejudice to the other party, if it is not relevant to the case at hand, if it has not been authenticated, and if it does not meet other pre-set criteria depending on the nature of the case.

evidence based on the claim that it is inadmissible or irrelevant is not sufficient grounds for an appeal, it can form the basis for an appeal if the rejection leads to a denial of justice. In some cases, a tribunal that is exclusively charged with the jurisdiction to determine the facts of the case arrives at a decision whereby the evidence that is tendered is not sufficient or fit for establishing a specific claim; its decision can be treated as conclusive.⁵⁹⁹

In some instances, as discussed in Chapter 4, *Shariah law* is construed progressively, especially where legal vacuums exist to a degree that it is necessary for the ascertainment of post-divorce maintenance beyond the religiously recommended period. The progressive approach is integral in delivering social justice goals, some of which are necessitated by the transformations in society. These progressive pathways have been adopted at a domestic level, with Qatari jurisprudence informed by the need to engender legal sustainability through decisions that are indicative of the convergence in the view that prioritises the entitlement of wives to post-divorce maintenance.

The admission of proof in the three appeals is analogous to the procedural norms under *Shariah law*, whereby, as shown in Chapter 4, the word of a man is considered to be worth twice the oath of a woman. However, the application of this maxim is limited to specific scenarios, which are fundamentally different from the cases at hand. First, the maxim as developed in traditional systems was influenced by the system of patriarchy, and was utilised in scenarios where there were no other forms or sources of evidence that could be relied upon. As a result, the adjudication process relies on sworn testimonies of the available witnesses. Second, despite the framing of the maxim, if the sworn testimony of multiple women contradicted that of the man, then the position of the majority was taken into account.

Drawing on these positions, it is apparent that some of the decisions in the three cases failed in how evidence was accepted and applied. First, the difference in the standards of proof between the man and the woman can compromise fairness in the trial, especially if the standards are deployed in a manner that leads to the overlooking of key evidence. While this is the norm in *Shariah law* and Islamic Law, Qatari jurisprudence adopts a more liberalised approach. In Appeal No. 51/2012/Civil Cassation (Case B), while the Appellant claimed that abuse and violence in the marriage was a cause of the application for divorce, the arbitrators failed to factor in this

⁵⁹⁹ Ibid, 195.

aggravating element in their decision. Furthermore, they overlooked the conduct of the Respondent during the period from separation to official pronouncement of the divorce, all of which culminated in the decision to impose a judgment of compensation on the Respondent to the tune of QAR 120,000. The subsequent judicial proceedings overlooked these forms of evidence, in direct contravention of procedural rules in the Qatari civil code, and arguably, under Islamic law. A similar, yet more forceful observation is made in Appeal No. 131 of 2012 (Case C), where the Court of Cassation failed to recognise that by overlooking the evidence on IPV submitted by the Respondent, the lower courts denied her the opportunity to establish the liability of the Respondent for the actions. Despite the availability of evidence from an officially recognised institution regarding the incidence of gender-based violence with what can be considered ‘aggravating factors’, the procedural rules were overlooked. In both cases, the arbitrators had alternative means of sourcing the evidence and confirming its validity, but failed to do so. Similarly, both the CFI and appeals courts failed to recognise these failures under the arbitration processes. Essentially, this implies that the courts overlooked the aggravating facts that necessitated the divorce, thereby preventing the appellant from being able to prove the justification for remedies in the form of immediate dowry. Furthermore, the justification by the courts for overlooking the evidence, simply because it was not comprised of original material, highlights the unwillingness of the court to focus on the substance of the evidence, rather than its form. To this end, the decisions by the Arbitrators, which formed the foundation of the appellate decisions, were based on a process that overlooked key evidence. In both cases, the decision to overlook the evidence and claims by the woman, while taking into account the claims of the man, is indicative of gender-based discrimination, as contained in both international standards (CEDAW) and under Qatari law, including QFL No. 22 of 2006.

Due to the prominence of appellate court decisions in the three cases, the process of judicial fact-finding, specifically how evidence is taken into account during the appeal process, highlights the discrimination against women in Cases B and C. The courts possess great power in the review regarding which inferences shall be drawn from the primary facts presented before it, to ensure a balanced review of the facts. The power is informed by the realisation that plaintiffs and defendants tend to focus only on certain aspects of their claims, to achieve the targeted outcome. While the procedures under the arbitration phase, which are oriented towards mediation and reconciliation,

may not be guided by the provisions under Qatari law, the CFI and other formal court forums should have adhered to the procedural and substantive rules under QFL no. 22 of 2006.

In appellate cases, the appeal court has to be satisfied that the lower court made significant errors in fact or law and that those errors affected the outcome of the case.⁶⁰⁰ While errors of law are presumed to be prejudicial and can necessitate retrial, errors of fact do not necessitate reversals, unless the process led to harm and affected the decision.⁶⁰¹ An appellate judge, who has discretion in determining the extent of the harm caused by errors of fact, can overturn the decision of the lower court. However, in the three cases, the appeal courts in the three levels tended to heavily defer to the inferences drawn by the arbitrators, who, based on the case details, showed an inclination to rely heavily on the oath of the male parties to the case, as opposed to the documentary evidence of the woman. In Cases B and C, the courts completely ignored, overlooked or dismissed the domestic violence perpetrated by the husband and its role in the divorce proceedings, in favour of arguments that were discriminatory against women, such as ‘the wife was not obedient or submissive’. By so doing, in Case B, the arbitrators imposed a QAR 120,000 fine on the Appellant (wife), even though there was no evidence that the husband had even made such a request. The fine was justified by the decision by the Appellant to leave the matrimonial home before the divorce proceedings were finalised, a decision which she based on the need to escape abuse. Similarly, in Case C, while the courts granted the irrevocable divorce as requested, they failed to take into account the role of domestic violence as a cause of the decision by the Appellant to initiate the divorce. Essentially, they focused on the claim by the Respondent that the Appellant was disobedient, denied the application for consolation payment (*Mu'tah*) and deferred dowry. The implication is that the Appellant (wife) played a significant role in causing the divorce, which led to a loss of compensation from the husband, who was the real cause of the breach of the marriage contract. In these two cases, while there were claims and evidence of domestic violence by the husband, the courts failed to take this into account and failed to recognise that the conduct of the husbands was at the level of civil or criminal liability.

⁶⁰⁰ K Simons, ‘Mistake of Fact or Mistake of Criminal Law? Explaining and Defending the Distinction’, (2009), Available at https://scholarship.law.bu.edu/cgi/viewcontent.cgi?article=1717&context=faculty_scholarship Accessed June 7, 2024, indicates that an error of law occurs when the trial court bases its decision on the wrong legal standard, or fails in its interpretation of the law.

⁶⁰¹ Ibid, 4.

It thus shows that failure to take into account the available evidence provided by the woman has implications for the extent to which the judicial system leads to discrimination against women. While Cases B and C followed the procedural and substantive rules under QFL No. 22 of 2006, the choice of law to apply in the determination was not selected based on the reality and facts of the case. It also highlights the role of patriarchy in the determination of what parts of the evidence are taken into account when making judicial decisions, and that in the two cases, the evidence provided by women regarding domestic violence was largely overlooked.

6.6.6 Certainty in Liability of the Perpetrators

Certainty in jurisprudence entails the development of reasonable inferences based on the legal interpretation of the law in the face of the facts. As shown in Chapter 4, this implies that in any case, a competent judicial officer should focus on similar facts and arrive at similar decisions based on the available evidence, by using the same laws.⁶⁰² Even in the absence of specific, substantial rules in the existing legislative regime, courts are known to participate in the creation of laws by interpreting the facts.

Under international standards, an appellate court is justified in reviewing the decision of a lower court if the appealed decision does not meet the reasonability criteria, in consideration of the primary facts.⁶⁰³ Certainty arises from the existence of conditions whereby there are adequate facts to support a conclusion, or if the available facts preclude the drawing of a certain inference. While the actual quantity of factual support to warrant the particular inference differs from one case to another, the appellate courts are expected to apply the principle of reasonability in determining whether to intervene and substitute the decisions of lower courts. In Case B, the Court of Cassation overruled the decision of the appellate court below, indicating its willingness and ability to focus on the facts of the case when making decisions.

The decision in Case A further highlight how the lack of procedural certainty can influence the outcome of the decision. While the decision was favourable to the female party, in line with the substantive legal provisions (Articles 171 and 173 of QFL 22 of 2006), it goes against the

⁶⁰² See also L Kassem, (n), 200, who indicates that certainty in liability is an integral component in all aspects of the laws in Qatar, including Sharia law, Islamic law, and Qatari law under QFL No. 22 of 2006.

⁶⁰³ M S Retnowati, and others, 'Legal Facts in Legal Opinions on The Decisions of Islamic Civil Case, (2023), 6, *Veteran Law Review*, 1, 34.

procedural norms regarding the *Shariah* law school that Qatari courts apply.⁶⁰⁴ The validity of the concern arises from the fact that the circuit courts established to handle family law cases apply procedural norms based on the Islamic schools of thought. However, the judges in the courts rely on the substantive rules under the law. Considering that the assignment of cases to the circuits is purely based on case-management goals rather than how they apply the principles of *Shariah* law, there is no certainty in how a case will be determined. The fact that a case can be assigned to the available circuit without considering the Islamic *Sharia* school of thought that it applies limits the certainty in procedure and outcomes. Furthermore, since the decisions in Appellate courts are based on the input from the facts established and laws applied during the arbitration and court of first instance, it is apparent that the entire jurisprudence is initiated through a process that lacks certainty.

6.7 Conclusion

This chapter aimed to analyse and identify the ways through which the court decisions in the three cases from Qatari courts converge with or diverge from international standards in jurisprudence under the specific category of legal domain. In the analysis, I utilised thematic analysis to assess the nature of the claims, as well as the decisions of the court in response to the claims and counterclaims of the parties. I also referred to the laws utilised in the decisions, while also assessing adherence to procedures, and the effects of the procedures on the outcome of the process. In the analysis, I identified divergences from international standards, some of which represent oppressive practices towards women.

A brief review of literature reveals that international law standards, as contained in treaty agreements among other instruments, are integral in the decisions that are made by domestic judicial institutions. The relationships between the legal propositions and provisions under the treaties and domestic legislative regimes arise from the notion that just as much as they can change the interests of States, they can change the preferences of those States. Normally, a State is more likely to perceive international standards as legitimate, primarily on account of the consensus of other States, since the consensus-building process takes account of the perspectives of less-

⁶⁰⁴ Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:00000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> Accessed 10 January 2025, Articles 27, 29 of the QFL (No. 22 of 2006).

powerful countries. The transnational nature of the standards included in the treaties implies that the norms from one jurisdiction can be transmitted to another, thereby influencing the jurisprudence in that State. The multiplicity of ways through which this process occurs is discussed herein, with the benefits and drawbacks identified.

The analysis of the three cases in this chapter reveals that although Qatar is a signatory to human rights treaties, the ‘reservations, understandings and declarations’ regime that it has imposed has resulted in the discharge of some of its responsibilities under the treaties, with consequences for women going through the divorce process.

First, the Qatari legal system is aligned with international standards in recognising the importance of the right to a fair trial, but the analysis of the cases demonstrates how this has been compromised. The analysis of the three cases highlights how the judicial officials took measures to establish the guilt of the accused partners. However, since the procedural rules diverge from international standards, they compromise the ability of parties in divorce proceedings to attain their rights. Evidence from the cases reveals that while the judicial process is simplified, it does not establish the basis for a fair trial. The adoption of the inquisitorial model further places most of the power in the hands of the judge in charge of the forum.

Second, international standards recognise the importance of applying the spirit of the law when making judicial decisions. Qatari courts have displayed a similar inclination, with instruments that are sometimes aligned with cultural practices. The spirit of family law is to protect the integrity of the family as an institution, which explains why arbitrations focus on conciliation, and divorce is granted upon proof of detriment or breach. However, this deviates from the fundamental spirit of family law from the perspective of protecting the rights of women from being tied to oppressive unions. Furthermore, the laws on spousal support are designed to bridge the gap in economic capacity in the post-divorce period, before the divorcees settle into their lives. However, some of the decisions fail to address the challenges faced by women, specifically the physical, emotional and psychological effects of abuse in marriage. Based on the analysis, the Qatari courts should establish mechanisms for addressing how the principles of the spirit of the law should be applied, specifically in ways which lead to the fulfilment of the human rights objectives.

Third, the right to spousal support in the post-divorce period is recognised in both international standards and Shariah law. The court decisions highlight this fact, with the decision

indicating the inclination of the courts to assign the responsibility to the party that causes detriment and breach of the marital contract. This approach deviates from the international standards, because responsibility for spousal support is bestowed upon the partner who has more economic resources. The diversity of avenues under Shariah law to bridge the gap in the economic capacities of men and women is evident from the judgments. However, the failure to take into account the evidence presented in courts limits the effectiveness of the decisions to address this issue.

Fourth, the production of evidence to support claims is as much a central maxim of international legal standards as it is under Shariah law as applied in Qatari courts. The burden of proof lies on the claimant, and the different components of evidence bear different weights, in line with standards of evidence. The analysis of the cases reveals that there are inconsistencies in how the burden of proof is applied, especially considering that the arbitration phase is aligned with reconciliation. Consequently, this influences the application of standards of proof, thereby leading to the overlooking of key evidence which is integral in the establishment of the ultimate facts relating to the claims by both parties to the case. The process can be attributed to the propensity of Shariah law to place more weight on the claims of a man compared to those of a woman. However, rather than seek corroboration of evidence, the courts have displayed an inclination to rely primarily on the perspective of the male party to the case, thereby disadvantaging the validity of the claim by the woman.

Fifth, international standards revolve around establishing certainty in the liability of perpetrators of illegal acts. Certainty is integral in enabling applicants to frame their cases, as well as in the determination of the applicable laws. The analysis herein reveals that Qatari laws lack some aspects of certainty, especially in family law cases. The evidence from the cases reveals that uncertainties in procedural and substantive norms, coupled with the fact that Qatari jurisprudence is based on an inquisitorial model, suggest that applicants (particularly if they are women) are at a disadvantage.

Finally, how arbitration procedures are set up is also of concern, since they influence the subsequent trajectory of a divorce case if it goes to court and how the courts apply the law. As a consequence, this can lead to cases deviating from the norms under international standards. While arbitration is recognised under *Shariah law*, it is essentially designed for reconciliatory purposes. However, in the three cases analysed, it is deployed in the judicial system in a manner that affects the determination of law and fact. The importance of arbitration in the Qatari court system is

highlighted by the propensity of the Court of Cassation, as well as other appellate courts, to defer to the outcome of the arbitration in the final decisions. However, the obscurities in how arbitration is organised and conducted, coupled with the private status of arbitration, which prevents public scrutiny, contribute to the argument that it compromises the attainment of human rights for parties to claims brought before the court.

The discussion herein reveals some of the instances where Qatari courts deviate from international standards. In such circumstances, the courts fail in their duty to fulfil one or more doctrines that guarantee the fulfilment of the human rights of women. The proposals in Chapter 8 provide the basis for changes to the procedural and substantive rules in the country, to enable the country to develop a legal system that contributes to the fulfilment of the rights as outlined in the international standards under the treaties that it is a signatory to.

7 CHAPTER 7: DISCUSSION OF FINDINGS

7.1 Introduction

In this chapter, I shall provide a discussion of the findings from the study, based on the three theoretical frameworks as described in Chapter 3. The discussion will highlight how feminist theory, as a component of critical theory, is designed to destabilise the systems of oppression due to asymmetries in power.⁶⁰⁵ As a critical paradigm in this discussion, feminist theory is constructed around the belief that the exploration and exposition of the prevailing conditions under the existing social order can reveal hitherto subjugated truths. Furthermore, it can simultaneously lead to the awareness of systems of oppression as well as creating spaces for diverse voices to be heard, as a way of establishing change that leads to solutions based on causal and mitigating factors. To achieve this outcome, I shall refer to the three chapters: Chapter 4, which addresses divorce laws in Qatar, as well as an intricate discussion of the court systems and how those divorce laws are interpreted and applied; Chapter 5, which offers an evaluation of how Qatar has implemented and enforced its treaty obligations concerning international rights of women; and finally, Chapter 6, whereby an analysis of three judicial decisions relating to divorce, IPV and the application QFL No. 22 of 2006 is presented.

The use of a feminist lens serves two purposes in this study. First, it leads to the exposition of how people interact within systems, including actions that perpetuate oppression, as well as those designed to address oppression. The study reveals, through a feminist lens, men and women should be equal from a political, economic and social perspective, as a way of avoiding systemic oppression. Second, by drawing on Islamic feminism, which identifies the role of patriarchy in the oppression of women in societies such as Qatar.⁶⁰⁶ Based on the tenets of Islamic feminism, it offers possible solutions for confronting and eradicating oppressions that are built into those

⁶⁰⁵ While feminist theory is conceptualized as a sub-genre of critical theory, some researchers have used it as a separate component.

⁶⁰⁶ Seedat (n 290), 25, who defines the concept as involving an intricate review of classical commentaries on Islamic sources for the purpose of creating new and more inclusive interpretations that fit into the current socio-political and economic situation, specifically, equality between genders.

systems and structures, through a re-interpretation of *Fiqh*, in line with *Shariah law*.⁶⁰⁷ By supporting corrective changes and appreciation of the realities of modernity, Islamic feminism is designed to address the failures that existing with power relations and oppression under the patriarchal systems. In considering the lived experiences of persons within the specific society, rather than focusing on women generically, this approach will contribute to propositions on how to address the oppression of women in Qatar.⁶⁰⁸ Ultimately, the application of feminism shall serve to expose an overlooked role of men in the design and implementation of solutions, rather than blanket-labelling them as the enemy. The discussion hereunder outlines the legislative⁶⁰⁹ and jurisprudential⁶¹⁰ factors that contribute to these conditions and highlights the various ways in which legal factors contribute to the oppression of Qatari women.

The discussion that follows also applies post-structuralism, through an assessment of the various forms of oppression against women, revealing how the oppression originated through identification of the relevant structural, systemic and systematic inequalities and identifying the efficacy of the measures in place to address the oppression. The approach is integral in the development and validation of a number of propositions in Section 5.5, whereby unorthodox approaches are crafted. In the process, the novel propositions emerge.⁶¹¹

The discussion in this chapter also exposes the reality that feminism is not conceptualised uniformly, since it has different implications depending on the context.⁶¹² Intersectionality contributes to an appreciation of the notion that equality cannot be conceived of as a universal or uniform concept, since it is necessary to understand the multiplicity of the identities of the women in question. Diversity is implied in their identity, as well as their struggles. The application of

⁶⁰⁷ See Al-Hibri (n **), Mir-Hosseini (n), El-Ali (n) and Al-Sharmani (n), who advocate for the reinterpretation and reconceptualization of how Qur'anic texts are understood, especially with reference to gender equality, as a way of engendering justice.

⁶⁰⁸ While there are disparities in the perspectives in how feminist theory fits into the paradigmatic or theoretical purpose for which it is conceptualized, it serves as a way of disrupting the various forms of oppression, with the goal of ending sexism, sexist exploitation and oppression.

⁶⁰⁹ Referring to the characteristics and substance of the law.

⁶¹⁰ Relating to how the law is applied to certain issues.

⁶¹¹ Barrett (n 98), who indicates that post-structuralism lays the foundation for expanding the horizon in how knowledge is conceptualised and interpreted, through deviation from the simplistic cause and effect links often developed through linear progressions.

⁶¹² See B Hooks, 'Feminist theory: From margin to center', (Pluto Press, 2000), who posited that feminism can serve as a political movement or intellectual framework with a much broader focus and targeting specific outcomes, while D Cameron, 'Feminism: ideas in profile', (Profile Books, 2018), who indicated feminism can simply be an idea, which features as part of other forms of discourse.

intersectionality thus involves an assessment of the multiple layers of identities, which have until now been lacking in the Gulf context and which this study addresses. Through intersectional feminism, the discussion herein will shine a light on the multiple identities of women, as well as the different structures of oppression, thereby revealing the institutional, sociocultural, political, economic and historical practices that perpetuate gender-based discrimination of Qatari women. One aspect of the application of intersectional and standpoint feminism in the Gulf context is the robustness of the factors that cause the oppression of women in that society in general.

7.2 Causes and Effects of Oppression of Qatari Women During Divorce

The first research question relates to factors that contribute to the oppression of women in Qatar. In this section, the discussion answers the first research question by identifying five categories of factors. The discussion on the second question draws on the discussion in Chapters 4, 5 and 6. Among the reported forms of oppression of women in Qatar, there are variations depending on the characteristics of the individual.⁶¹³ As indicated in the literature review of studies focusing on the lived experiences of Qatari women, each individual has a unique experience regarding divorce and the status of women's rights.⁶¹⁴ In Chapter 6, the judicial decisions highlight scenarios where, even though evidence of IPV is reported and recognised as part of the evidence, the discrimination of women is perpetuated by the courts, which overlook this aspect of the claims, with subsequent failure to punish the perpetrators. It thus displays the ambivalent predisposition of the courts and the entire justice system involved in the courts, from the arbitration forums to the Court of Cassation, to fail to take into account the incidence of IPV, while only focusing on the claims for divorce. The discussion herein will apply the post-structural perspective in identifying and explaining the factors leading to oppression.

The challenge that is evident from the analysis that follows is that oppression, and indeed empowerment of women, is conceptualised from a relativist perspective, vis-à-vis what is available to men. To fully capture its implications, this discussion takes into account the multiplicity of factors, including the individual, social, cultural, and epistemological aspects that relate to how the

⁶¹³ Babar (n 33) 410, who indicates that some of the forms of oppression are the result of policies designed to achieve other goals, such as those related to sovereignty of the country, as well as to protect natives as a result of the geographic characteristics of Qatar. While they are undesirable at face value, the justifications for their existence are viable.

⁶¹⁴ See Akhtar (n 208), 15, who, based on the experiences of those involved in the study, attributes the outcome of the legal processes to luck, which determines whether the rights of women are upheld or not.

concept of equality is perceived and interpreted. The process leads to an appreciation of the diverse components and how they are interconnected to shape how oppression occurs, and ultimately, the empowerment agenda. This discussion also recognises the various pathways in how the concept of women's empowerment has been subjected to semantic atrophy through its increased use as part of contemporary vocabulary among policymakers. It is widely utilised as a policy paradigm in national development agendas, a tool for assessing economic growth, a tool of soft law and politics, and, where viable, an instrument of deflection.

Intersectionality will also be applied by assessing how, at the international level, institutions and agencies frame the empowerment of women as state policy. This framing is problematic since it overlooks the local context. Consequently, the policies on women's empowerment created based on the inputs from those international institutions and agencies fail to achieve the targeted goals. Furthermore, at both the local and global levels, policies on women's empowerment have been instrumentalised for economic and political goals, thereby raising concerns about whether they include the opinions, experiences and voices of the women referenced therein. This approach leads to the identification of the interrelated points of oppression, with the possibility of creating cascading effects.

7.2.1 Legal Factors

The literature review provides an intricate discussion of how some aspects of the domestic legal and jurisprudential systems perpetuate the oppression of Qatari women. The contradictions in the provisions put in place are evident from the legal provisions in some of the key laws that have implications for the empowerment of women. These contradictions are the targets of the Islamic feminist perspective presented in chapter 3.⁶¹⁵ For instance, while the provisions under Law No. 11 of 2004 (Article 308, 309, and 315) address the criminalisation of violent conduct for domestic contexts and between intimate partners, these laws are not applied in cases of IPV, since they are not included under the family law codes. Consequently, these provisions were overlooked in the decisions in the judicial cases reviewed, specifically in Cases B and C, where the incidence of IPV was reported, but not adjudicated upon, due to a lack of commensurate laws on IPV. These

⁶¹⁵ See, among others, the assertions by Mir-Hosseini (n **), for the need for an intellectual reinterpretation of *Shariah*, guided by the need for ethics and justice, to address some of the historical and cultural positions developed under the influence of patriarchy. See also El-Ali (n **), who asserts that patriarchy is antithetical to *Shariah* law, while Al-Hibri (n **) advocates for the reforms to personal and status law to eliminate the discriminatory components

circumstances are further reinforced by the nature of the court decisions analysed in Chapter 6, whereby significant components of the claims under law and fact are overlooked, culminating in flawed decisions that disadvantaged the women. The chapter culminates in the identification of ways through which the judicial decisions contribute to the oppression of women, including through; lack of assurances for fair trial; unreliability of arbitration as a process for determining divorce-related cases; challenges in applying legal principles, such as ‘the spirit of the law’ to ensure outcomes that are favourable; measures to ensure spousal protections in the post-divorce period; admission and application of evidence in making decisions; and certainty in liability for each individual based on the nature of infringements. Despite the exhaustion of all legal options by the aggrieved women involved in the three cases, the decisions are characteristically inclined towards overlooking the various forms of discriminatory treatment under the patriarchy. The discussion hereunder outlines the legislative⁶¹⁶ and jurisprudential⁶¹⁷ factors that contribute to these conditions and highlights the various ways in which legal factors contribute to the oppression of Qatari women.

7.2.1.1 Legislative Factors

The development of Qatari jurisprudence (which is comprised of *Shariah law*, *Fiqh* and elements of common law) informs successive judicial decisions, thereby impacting how the laws can be applied to different scenarios.⁶¹⁸ The result is a multiplicity of laws which lack provisions for civil or criminal liability for perpetrators of IPV are evident from the three cases analysed herein.⁶¹⁹

The gaps in these provisions contribute to oppression of women during divorce. Even though the reforms under Qatari law allow Qatari women to initiate divorce proceedings, as is evident in the three cases (Case A, B and C), as emancipation from IPV, the same laws have been interpreted in a manner that defeats that very purpose. These outcomes are attributable to the

⁶¹⁶ Referring to the characteristics and substance of the law.

⁶¹⁷ Relating to how the law is applied to certain issues.

⁶¹⁸ However, See Al-Hibri (n), who gave an historical example of involvement of women in the interpretation of laws, contrary to the prevailing patriarchal position.

⁶¹⁹ See Library of Congress, Legal Provisions on Gender Equality’, (2020), Available at <https://www.loc.gov/law/help/gender-equality/legal-provisions-gender-equality.pdf>> Accessed July 15, 2024, which identifies Qatar as one of the countries that lacks express provisions for liability against intimate partner violence. Similarly, QFL No. 38 of 2005 does not differentiate between intimate partner violence and other forms of violence, thus limiting the application of the necessary measures to address the incidences in the context of gender disparity.

manner in which the laws are interpreted, since the five schools of thought are based on *Fiqh*, rather than *Sharia*. As shown in two of the three cases, (Case A and B), the procedural and substantive rules are interpreted to the advantage of the male party to the claim, thus leading to the discrimination of women, as is evidenced in the two cases whereby the women who opted for redemptive divorce faced financial sanctions since it was the women who initiated the divorce, something which would not have happened if the divorce was initiated by the husband.

Second, looking beyond the evidence from the judicial decisions the three cases, a number of the laws in place are framed in a manner that creates gaps in what is implied in the substance of the law. For instance, while labour laws are framed to establish equality between men and women in the workplace,⁶²⁰ they do not address the disparity in how women are solely responsible for domestic chores. These challenges are evident from several vague legal concepts, such as the ‘best interest of the child’, which is often deployed as part of measures to influence decisions during divorce.⁶²¹

Essentially, the data reveals that it is common for incidents of IPV to be overlooked as contributing factors to awards during divorce proceedings,⁶²² even when the various courts concur on the fact that the said acts are reason enough to award an application by a woman.

Women affected by violence in the cases discussed herein display the effects of victimisation, which further limits their autonomy and agency in seeking justice in the judicial system.⁶²³ The cases also highlight the prevalence of victimisation of women who stand up to men and the absence of mechanisms to protect them from the adverse effects of standing up to offenders. The cases analysed herein involved limited assistance to the victims while exposing them to procedures that can lead to reliving their experiences. These decisions further contribute to the jurisprudence, specifically case law, which reinforces the continued negative application of the law. Despite the numerous measures in place, the process of amending the legislation to address

⁶²⁰ See the regulations of the Council of Ministers under Order No 13, which effects the Civil Service Act of 2001 (Law No. 1), as well as Article 94 of Qatari Labour law which falls short in defining what it means by the establishment of suitable employment for women, all of which are in contravention with Article 69 of Qatar Family Law, whereby the provisions grant a husband implicit control over a wife and her movements.

⁶²¹ Möller (n 415) 309.

⁶²² The findings reflect past incidences reported by Al-Ghanim (n 9) 91, whereby only 5% of the victims of domestic violence sought legal solutions to issues, with the majority seeking to remain silent on the issue, as a way of avoiding scandal.

⁶²³ Kassem (n 87), 8.

the rights of women poses the risk of creating contradictions with the traditional beliefs that are the foundation of the political power of the states.

As shown in the cases discussed in Chapter 6, even when women initiate divorce for emancipatory purposes, the laws which assure gender equality in this manner are framed (and can be interpreted and applied) in a manner that perpetuates the oppression of women. To date, the application of the substantive theories of gender equality to the context of divorce reveals that the existence of laws and practices that limit the agency of women to exit marriage is injurious to women. The same system creates the private subordination of women within the institution of marriage in a number of ways. First, from a historical perspective, women are conceptualised as holding a weaker position within the institution of marriage. Second, the inherent restrictions on divorce lock women in relationships built on patriarchy, hence fostering the inequality that materialises in the form of oppression of women.

The analysis of the three divorce cases reveals that in most cases, women rely on divorce as a way of escaping relationships that are not egalitarian. Essentially, divorce amplifies the independence and capacity of women to self-govern and exercise agency. The existence of divorce-restrictive procedural and substantive rules contributes to the discriminatory treatment of women, even within the structures that are designed to liberate them. At their core, the laws designed to facilitate divorce, as well as those designed to ensure that women are protected within the institution of marriage, are deficient in how they protect women. The recent reforms have failed to address those issues, with most of the changes falling short or completely ignoring the reality. In the absence of legislative solutions, how laws are applied and interpreted can play a secondary role, as discussed hereunder.

7.2.1.2 Jurisprudential Factors

The principles of jurisprudence, as well as specific methodologies for formally interpreting rules on points relating to *Shariah law* as provided by the drafters of legislation, play a role in perpetuating oppression.⁶²⁴ Qatari jurisprudence, which is primarily based on the rule of law to ensure consistency and coherence, leads to reinforcement and legitimisation of the status quo,

⁶²⁴ Hasbullah and others, (n 358), 123.

hence promoting the existing power relationships.⁶²⁵ The discussion herein reveals several ways in which Qatari jurisprudence has failed to drive the achievement of equality and difference in the face of the widely recognised and acknowledged patriarchy in its legal system. The discussion focuses on the dilemmas of differences and how they are addressed by recognising the differences between the genders, while also reiterating the importance of equal treatment. It highlights the tenets of Islamic feminism, specifically the propositions by Al-Hibri, including the need for reforms in jurisprudence to reflect true justice under Islam.⁶²⁶ It also denotes what Mir-Hosseini asserted regarding gender equality, and the need to understand the social dimension, which leads to a differentiation between *Shari'a* and *Fiqh*.⁶²⁷ The discussion also draws from the theorisation by El-Ali, who proposes the application of compassion (*rahma*) to promote human dignity in ensuring justice, especially in the complex gender-based contexts.⁶²⁸ The proposition extends to the adoption of a holistic approach to interpreting *Shariah* law, to avoid perpetuating inequality, oppression or harm.⁶²⁹ Finally, the perspective by Al-Sharmani is also taken into account, whereby it is necessary to appreciate the practical struggles of those seeking justice under *Shariah* law, as a way of ensuring that justice is delivered comprehensively.⁶³⁰ The perspective revolves around ensuring that the lived experience and context of victims is taken into account when making determinations based on *Shariah* law. An analysis of the cases highlights scenarios where these perspectives are overlooked, thus leading to judicial decisions that perpetuate oppression of women.

First, as indicated in Chapter 2 (Section 2.4.2., Islamic jurisprudence is normally based on one of the five schools of Islamic law, which include the *Shafi'i*, *Ja'fari*, *Hanbali*, *Maliki*, and

⁶²⁵ M El-Mumin, The GCC Human Rights Declaration: An Instrument of Rhetoric? (2020) Arab Law Quarterly, 34 86, 96, who indicates that the fundamental purpose of procedural and substantive norms is to promote order and stability, which are often conceptualized as the official societal values, but this also contributes to the observance of the natural and inevitable order.

⁶²⁶ Ibid, the approach focuses on the reinterpretation of Qur'anic texts relating to equality between genders, to ensure justice beyond what has been achieved under the male-dominated legal traditions.

⁶²⁷ Ibid, 6-9.

⁶²⁸ L El-Ali, 'No Truth Without Beauty: God, the Qur'an, and Women's Rights' (Springer, 2022).

⁶²⁹

⁶³⁰ Al-Sharmani, M. 'Islamic Feminism: Hermeneutics and Activism,' (Bloomsbury, 2024), proposes the re-examination of Islamic texts, with primary focus on Qur'an and Islamic jurisprudence, to expose biases under classical interpretations of real issues such as marriage, custody, divorce, and maintenance due to patriarchy.

Hanafi schools.⁶³¹ To ensure consistency, the school of thought adopted at the initiation of a case is retained throughout the appellate process, to ensure consistency. However, these measures have limited effect in addressing the oppression of women, considering that the parties to the claim have limited influence on the selected school of thought, as is evident in Case A, analysed in Chapter 6.⁶³² In spite of the existence of procedural rules to the contrary, during the appeals, the ultra-conservative school of thought under *Hanbali* was adopted for all the cases, thereby leading to overlooking the contextual interpretations of the law and the facts, which would have led to different outcomes. This school of thought entails a strict adherence to the literal interpretation of *Sharia*, leading to the perpetuation of structural patriarchy.

Second, the inquisitorial judicial model adopted by Qatari courts implies that the active involvement of judges in the investigatory phase of cases can influence their ultimate decisions.⁶³³ The limited impartiality, which is evident from the three cases, can be traced to the lack of willingness by appellate judges to challenge flawed decisions in lower courts, despite the presence of justifications based on facts presented across the four-tiered system. Essentially, the decisions highlight the challenges that claimants face in getting appellate courts to modify decisions in lower courts. This has implications for the role of appeals in access to justice for women, which can be attributed to the effects of patriarchy in how Islamic jurisprudence is developed and applied. Qatar's four-tiered judicial system, which is influenced by the elements of the dual legal system,⁶³⁴ has still failed to prevent certain incidences of oppression of women. The establishment of the four-tiered system under the dual system is often perceived as an avenue for enhanced dispensation of justice. The four-tiered system offers appellate options for family law cases, with the dual judicial system introducing elements of common law into the major Islamic jurisprudence. Judicial officials are thus faced with the complex task of finding common ground when making determinations in any judicial proceedings. The three cases reveal a propensity of judicial officers to resort to legacy decision-making processes based on *stare decisis*, which were influenced by Islamic jurisprudence before the reforms in the laws were implemented. In this way, the legal

⁶³¹ Smolik (n 484), 6, who clarifies that the differences arise from what component of the *Sharia* law that weight is placed upon during interpretation and implementation. However, judges are allowed discretion in interpreting the laws, while taking into account the context and prevailing norms.

⁶³² Case B (Appeal No. 51/2012/Civil Cassation) and Case C (Appeal No. 131 of 2012).

⁶³³ See Deshmukh (n), who indicates that the inquisitorial model entails involvement of the judge in the pre-trial phase.

⁶³⁴ Al-Ghanim (n 9) 82, which includes *Shariah* and common law elements.

process that continues to reinforce Islamic jurisprudence undermines formal reforms in the law. Furthermore, the prominence of patriarchal inclinations is evident from the determination of the cases, all culminating in decisions that extricate the male perpetrators from liability, while imposing penalties to the female parties to the case. As shown in Chapter 6, in Case A, the courts failed to take key evidence relating to the context of the divorce application by the woman into account. In Case B, the various courts overlooked the claims of the victim, leading to a similar outcome. In Case C, the failure to account for the misjudgements at the arbitration level led the appellate judges to perpetuate the earlier injustice.

Third, the findings reveal that while there are laws designed to address the oppression of women, some aspects of oppression exist within the extra-legal purview, thereby limiting the utility of the recent interventions under the legislative and jurisprudential domains.⁶³⁵ These challenges culminate in the failure of the courts to adhere to the spirit of the law, thereby overlooking the context within which the oppression occurred.⁶³⁶ For instance, as shown in the cases, while husbands have autonomy over finances, property and dowry, their rights as wives are not clear. The resultant issues with power dynamics arise from the fact that the Qatari legal system lacks concrete provisions for women's rights. The three cases analysed in Chapter 6 highlight how Qatari jurisprudence failed to achieve some fundamental elements of the spirit of the law in addressing the oppression of women arising from lack of economic autonomy, especially within marriages. In the three cases above, the laws were interpreted in a manner that failed to correct the long-standing notions developed under patriarchy, that any evidence provided by men bears more weight than evidence provided by a woman. Consequently, this skewed the actual trial process in favour of the men. These failures had an impact on how provisions in some key legislation were interpreted, as well as the efficacy of those provisions in alleviating the oppression of women. For instance, the interpretation of QFL of 2005 Article 171-173 under Appeal by Cassation in Case A entailed the recognition of the spirit of the law, based on the tenets of the 'best interest of the child'. The court of cassation rejected the appeal, even though it was justified due to errors of law. The court in this case decided to emphasise on the substantial rules, which provide

⁶³⁵ See , who indicates that these forms of oppression do not fall under the illegal categories, but their effects are real and far-reaching.

⁶³⁶ These decisions are aligned with the norms under the *Hanbali* school of thought, whereby the context of the issues is overlooked.

guidelines on custody of children with the mother, rather than focusing on the procedural rules, which denote the Islamic school of thought that the decisions in Qatari courts are based on. Based on the tenets of the ‘best interest of the child’, the court of cassation rejected the appeal, with a justification based on errors in law.

Fourth, the application of laws in making rulings without the right knowledge can lead to fundamental misunderstandings, primarily since the rulings run counter to the valid guidelines provided by the *Quran*. As shown in the discourse on Islamic feminism, the *Shariah law*-based solutions to gender-based oppression are capable of achieving dramatic improvements in the status of women, as long as they are applied correctly.⁶³⁷ On paper, the changes to the legal systems are a step in the direction of liberating women, from both an absolute and a relative perspective. On the other hand, there have been limited changes in how the laws are interpreted and applied in courts, as well as who interprets the laws. The persistence of patriarchy in the legal system permits the explicit instrumentalisation of gender empowerment in a manner that limits the sustainability of progress. The dichotomy is evident from the three cases analysed in Chapter 6 (Section 6.5). The three cases reveal that while women are free to initiate divorce as a way of escaping abusive marriages,⁶³⁸ there are no measures to protect women from the adverse effects of the decision to initiate divorce. The flaws in the decisions by the courts are indicative of the failure of the Qatari courts to legislate against some forms of marital abuse, such as coercive control. The decisions in the three court cases highlight how judicial procedures in place perpetuate the oppression of women, through the failure to focus on what is reasonable.⁶³⁹ The application of different legal standards for males and females, leading to unfairness and fragmented justice based on subjective choices is evident from how the laws are applied in arriving at the decisions in the three cases. The approach highlights how discrimination is perpetuated as a norm, with men being perceived as being justified to use violence in acceptable ways, even when it has outright adverse effects on the victims.⁶⁴⁰ Qatari courts have in the past been accused of overlooking certain aspects of evidence, in line with the law, whereby the evidence and input from male claimants is weighted higher than

⁶³⁷ See Al-Hibri (n), Mir-Hosseini (n), El-Ali (n) and Al-Sharmani (n),

⁶³⁸ See Chapter 4, Section 4.4.2.2 for a discussion of the various provisions under the Constitution, and QFL No. 22 of 2006, for women to initiate divorce, legally.

⁶³⁹ Reasonability is a key component in achievement of the tenets of feminist ideology, since it exposes how norms are overlooked or utilized to reinforce power.

⁶⁴⁰ See Treuthart and Rosenbaum, (n 98), who provides the *Shariah*-based text on what

that of women. The effects of these actions on the oppressive treatment of women are apparent in two of the cases,⁶⁴¹ whereby evidence of aggravated violence was overlooked during the litigation process. Essentially, while Qatari law does not delineate liability for IPV, its legal system is cognisant of the reality that the actions are not in line with *Shariah law*.

Fifth, some aspects of the Qatari jurisprudence concerning international women's rights tend to undermine the agenda of women empowerment. The effects of legacy elements of *Fiqh* in the jurisprudence of Qatari courts have crept into the transactional aspects of the provisions, with the bulk of the adverse effects befalling women. The transactional nature of the interpretation of the law places women at a disadvantage, since, even though most of the natives have been absorbed into the workforce, women face relatively higher barriers in accessing gainful employment and amassing economic resources necessary for supporting a household.⁶⁴² The cases analysed in Chapter 6 revolve around spousal support, commonly referred to as *Mut'ah*. From a historical perspective, these payments were necessitated to support the woman until she settled into post-divorce living.⁶⁴³ While these provisions are retained in the current legal system, it is often conceptualised as a recommendation, rather than an entitlement.⁶⁴⁴ Essentially, these forms of spousal support are designed to be paid by the husband to the wife, since in the post-divorce period, women have the responsibility to oversee the raising of the children.⁶⁴⁵ Furthermore, in most cases, married women lacked opportunities for gainful employment, which limits their economic autonomy. At its core, the payment is designed as a way of enabling a woman to establish herself under the new life, while also fulfilling her responsibilities of parenting for the period during which she is mandated to oversee their growth.

These jurisprudential factors explain how the Qatari legal system perpetuates the oppression of women. Evidence is provided in the three cases, whereby women faced challenges in accessing a fair trial due to uncertainty in the judicial procedures, faced challenges in accessing

⁶⁴¹ Case B (Appeal No. 51/2012/Civil Cassation) and Case C (Appeal No. 131 of 2012).

⁶⁴² See Babar (n 33), 417, who indicates that under Qatar Human Resources (QHR) Law No. 8 of 2009, single employees, including the divorced, earn 40% lesser in stipends. Similarly, divorced women face social isolation, which limits the employability.

⁶⁴³ Abdullah and others (n 357), 156.

⁶⁴⁴ Hasbullah and others (n 358), 123, who indicates that both *Shariah* and common law principles concur on the obligatory nature of the sufficiency in the post-divorce maintenance that is granted to the deserving party.

⁶⁴⁵ Shahid (n 354) 59, who indicates that customarily, post-divorce maintenance is supposed to be paid for three years, to enable the divorced woman to meet her obligations of parenting, until they can support themselves fully.

spousal support after divorce, and ended up with sub-optimal judicial awards following the overlooking of key evidence in their claims.

Sixth, the involvement of the political class as sponsors and architects of the gender-related reforms is problematic, since the solutions orchestrated by the state are designed to consolidate power and engender support in response to imminent crises of legitimacy.⁶⁴⁶ CEDAW indicates that normally, the political class is drawn from those with socio-economic power, and hence, they may not appreciate the challenges facing some categories of women. For instance, the three cases analysed show that despite women being allowed to initiate divorce as a way of emancipating themselves from abusive marriages, the judicial proceedings are tied to the fundamental *Shariah law* principles, whereby the evidence from a woman holds lower value compared to that of a man. The discussion herein, concerning the analysis of the court decisions in Chapter 4, reveals that while the legal solutions may prevent some of the prominent forms of oppression, there are no countermeasures to ensure that women are emancipated from suffering. As a result, the legal solutions fail to address the systemic, systematic and structural forms of oppression.

Seventh, Qatar lacks a robust jurisprudence on antidiscrimination, due to failures in the application and enforcement of laws, commensurate with the nature of IPV as an illegality.⁶⁴⁷ According to liberal feminist theories, this could be attributed to men making up a significant proportion of those involved in law enforcement and judicial functions.⁶⁴⁸ Their inclination towards protecting patriarchy is apparent from how they enforce the law, as well as which actions they consider crimes, and how such crimes are framed. The decisions in the three cases reviewed, which were determined successively between 2004 and 2012, reveal an inclination towards adhering to the principles of precedence where male perpetrators are absolved of wrongdoing, even though there are unique mitigating factors in each case.

Eighth, the personal status laws are a key reflection of the position of women in any society. In Qatar, family law serves as a key vehicle for engendering the socio-economic dependency of women on men, thereby inculcating the inequities in gender roles and imposing status-harm on women. Marriage fosters private and public patriarchy. Private patriarchy denotes the control that

⁶⁴⁶ 73rd CEDAW Session, ‘Thematic Report On Article 16, Muslim Family Law and Muslim Women’s Rights in Qatar’. (2019). <<https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf>> [accessed 22 March 2021].

⁶⁴⁷ Elghossain, and others, (n 87), 7.

⁶⁴⁸ These officials include police officers, prosecutors and judges.

a husband exerts over their wife within the institution of marriage, while public patriarchy denotes the impairment of the position of women within the larger societal level, which leads to inequities in status, access, agency and other dimensions, vis-à-vis education, politics, work and other aspects of life. Essentially, equality cannot be achieved without addressing these aspects of gender hierarchy within marriages and society. These concerns trickle down to divorce laws since divorce is a principal cause of the subordination of women in highly conservative societies. The establishment of procedural and substantive rules on divorce that are based on a fault regime makes the dissolution of marriage a system for maintaining gender hierarchies and reifies stereotypes on gender roles.

Finally, the role and status of a husband is magnified within the institution of marriage, since, based on Islamic jurisprudence, he is viewed as the head of the household, with responsibility to provide economic sustenance, as well as a representative from a political perspective.⁶⁴⁹ The power to make decisions affecting the entire family unit is limited to the husband, except in the case of divorce. Under this Islamic jurisprudence, to a woman, the marriage contract is unenforceable and non-modifiable, since they have limited abilities to enforce the bare protections afforded within the institutions. Courts tend to steer clear of interventions that contradict Islamic jurisprudence, as long as the contract is in place, regardless of how grossly the husband abuses his prerogatives within marriage or fails to fulfil his duties. The effect is that most married women are compelled to tolerate submissiveness and consent to the imposed domesticity. The effects of these norms are evident in all three cases, but particularly in Case C (Appeal No. 131 of 2012).⁶⁵⁰

The combination of legal factors (legislative and jurisprudential) reveals the extent to which oppression of women is facilitated or perpetuated through the development, interpretation and application of laws. The integral nature of domestic legal systems in the achievement of order in society is evident from the discussion herein, even when it relates to international standards. Since laws establish standards that apply to all individuals, they play an integral role in the

⁶⁴⁹ N Olsen, *Marriage and Divorce in Islamic and Mormon Polygamy: A Legal Comparison* (2009), 1, *Intermountain West Journal of Religious Studies*, 1, 87, 95, who indicates that women are compelled to assume the identity of their husbands, including adopting their name, which can lead to the perspective that wives do not hold a separate identity from their husbands.

⁶⁵⁰ See Section 6.5.3, whereby the claims by the woman extend beyond IPV to criminal assault, which led to hospitalisation, and loss of life.

empowerment of women. The analysis of the cases reveals that there are gaps in the law, which explain the oppression of women, in particular, within the institution of marriage and during divorce. The cases also highlight the role of the judicial institutions in oppressing women, based on how they interpret the laws. The apparent restrictions on divorce manifest from a society that has failed to perceive women as playing an integral role in society other than domestic functions, such as motherhood and wifhood. The discussion raises questions on whether these factors exist by design or are the product of unintended outcomes. Either way, their existence calls for a change in how Qatar deploys its laws to address the issue of oppression, whose effects are shown to exist within its borders.

7.2.2 Cultural Factors

As shown in Chapter 4, Islamic culture plays a significant role in the actions, perspectives, choices and reactions of Qataris. These effects arise from the influence of culture on the legal norms under Islamic jurisprudence. Within Qatari culture, some aspects of oppression, including GBV and IPV, are glossed over within Qatari communities.⁶⁵¹ The effects of culture are evident in the facts and decisions in two of the cases analysed in Chapter 6 (Case B and C). In particular, the severity of domestic abuse reported in the case stands out, especially since the different judicial forums where the evidence was tabled were overlooked. By overlooking the harm suffered by the victim, the courts reinforced the culturally ingrained position that Qatari men can use violence against women without any consequences.

With the absence of legal measures to outlaw this form of self-fulfilling deployment of violence by men over time, Qatari women are faced with a dilemma that has become commonplace. On one hand, husbands can use violence within marriage without suffering any consequences, while retaining the option of banking on the law and/or jurisprudence as a form of defence.⁶⁵² As evidenced in the three cases analysed in Chapter 6, while women can initiate divorce

⁶⁵¹ Al-Ghanim (n 9) 80. Additional reporting by The Qatar General Secretariat for Development Planning, 2011. Qatar national development strategy report (2011-2016). Available at <http://www.gsdp.gov.qa/gsdv_vision/docs/NDS_EN.pdf>, reveals that while nearly a third of married couples experience some form of violence, these incidences are not a primary focus, due to the normalisation of actions such as husbands disciplining their wives under cultural and religious norms.

⁶⁵² Treuthart and Rosenbaum (n 98), 9, who indicates that the permission for husbands to correct their wives using a piece of stick, 'miswak', has been interpreted as a carte blanche for open-ended use of violence in marriage towards an undisciplined wife, with past judicial decisions in official and unofficial settings providing additional support for the practice.

proceedings due to IPV, the same incidence of IPV is not sufficient to confer liability on the male perpetrator. On the other hand, wives who are victims of violence suffer additional consequences of having to reorganise their lives again within the context of limitations to remarriage, and society imposing additional barriers to women's agency, including mobility inside and outside the country.

Through deeply embedded structural accommodations for patriarchy, divorced women are often shunned in Qatari societies, since they are viewed as mavericks, both by the society and their families alike.⁶⁵³ Similarly, due to cultural reasons, the post-divorce period presents a challenging period for a woman seeking to fit into society.⁶⁵⁴ As evidenced in the three cases, the process of finalising the divorce can take years, during which she is in a period of transition.⁶⁵⁵ The lack of clarity of the socio-economic agency of women can act as a factor in driving women to seek sub-optimal awards. Being expected to navigate the choices and expectations that surround marriage and divorce further magnifies oppression, since women have to negotiate the expectations from different circles, while also balancing their interests.

The entrenchment of the traditional marriage model arises from the 'provider complex', with the husband as breadwinner and the wife as caregiver.⁶⁵⁶ Under this model, males conceptualise their role as revolving around providing financial support to the family, while women handle other auxiliary and often nondescript duties that facilitate the man's ability to focus on work. Essentially, the role of the woman within the institution of marriage is often structured as a support function for enabling the husband to achieve their goals.⁶⁵⁷ The 'provider complex' persists even among the most egalitarian relationships, whereby the husbands perceive themselves as being solely responsible for providing for their families. Essentially, this drives them to expect their wives to make commensurate sacrifices, including sacrificing gainful employment to fulfil their domestic responsibilities. The effects of the 'provider complex' are evident from the decisions in cases included in Chapter 6. First, in Case A, the court overlooks the incidence of IPV, primarily because the husband argues that the woman was disobedient. The socio-economic challenges facing the woman are also highlighted in the case, with specific information on the

⁶⁵³ See Salem and Yount (n), who discusses the structural accommodations of patriarchy in Qatari societies.

⁶⁵⁴ Akhtar, (n 208), 1.

⁶⁵⁵ See Appeal by Cassation No. 30 of 2006, Personal Status Cassation, which relates to a case that was initiated two years earlier, in 2004, while Appeal No. 51/2012/Civil Cassation relates to a case initiated in 2010.

⁶⁵⁶

⁶⁵⁷

choices that the woman has made to avoid incurring expenses that she cannot afford. On a similar note, in Case B, the victim is faced with challenges of finalising the divorce, since there are conflicts in the views on how divorce settlements and deferred dowry should be allotted between the parties during the dissolution of the marriage. In Case C, part of the claim relates to child support payments, which are justified on the basis that the husband was the primary source of income for the family. These situations arise from the culturally accepted conditions that men are providers within the institution of marriage, with the earning capacity giving them some form of power over women.

The role of culture in discrimination against women arises from the propensity of society to perceive the long-standing practices as being justifiable, just because they have been practised for a long time.⁶⁵⁸ This is evident from the treatment of IPV as a non-issue in the three cases, even though it is recognised as a cause for women to initiate divorce. In spite of the cultural similarities among Middle Eastern countries that practice *Shariah law*, Qatar, like other countries in the region, has context-specific peculiarities. Qatar often perceives some of the international law standards, including those designed to advance the rights of women, from a neo-orientalist and reductionist perspective. Although Qatar has experienced extensive cultural shifts, some of the artefacts of its classic culture based on conservative *Shariah law* rules persist to date.⁶⁵⁹ These artefacts are not necessarily seen as negative by Qatari women, since at its core, Qatari societies are more concerned about fulfilling familial obligations, with women focused on domestic duties, than the fulfilment of the expectations under professional obligations. While the Islamic patriarchy promotes such a position as part of ensuring adherence to cultural norms, they also recognize the fact that it sets limits to how far women can go in terms of progress. However, it is necessary to identify those elements that perpetuate the oppression of women and make the necessary adjustments to the practices that reinforce the culture.

7.2.3 Economic factors

As shown in the literature review, the ability of women to exercise agency leads to improved welfare, including opportunities for acquiring marketable skills, access to gainful employment, acquisition of property, and empowerment to make decisions relating to their actions

⁶⁵⁸ See Kassem (n).

⁶⁵⁹ See Chapter 4 on the laws and jurisprudence on divorce domestic abuse in Qatar.

in public spaces.⁶⁶⁰ The availability of economic opportunities, including participation in the labour force, leads to the empowerment of women by providing them with an opportunity to earn income. The family-oriented and community-centred norms in Qatar imply that women in professions face challenges in balancing their domestic responsibilities with their professional roles.⁶⁶¹ In the absence of the requisite institutional support, women face double or triple burdens which worsen their situation, rather than improving it.

The increased participation of women in economic activities as a way of liberating them has limited utility in post-divorce periods for several reasons. As observed in the three cases reviewed in Chapter 6 (Cases A, B and C), women are often unprepared for divorce proceedings since their decision is borne out of necessity rather than choice. The three cases involve claims arising out of the economic disempowerment of women within the institution of marriage, albeit in varying ways. In cases A and B, the choices of the female victims are influenced by the lack of access to economic resources, which left them reliant on their spouses, even though they had initiated divorce for emancipation from IPV. The position compromises their ability to assert their position as victims, while also making it necessary for them to make concessions, as a way to avoid additional costs in the form of court fines and expenses (Case A). The concessions are also necessary to fast-track the divorce process, as a way to achieve emancipation from the abusive marriage.

From the perspective of intersectionality, the effects of these economic factors associated with the oppression of women vary according to the ability of the individual to intervene in their situation, such as possession of family wealth or employability. The circumstances can also amplify the oppression of the woman. For instance, the analysis in Chapter 6 reveals that women require economic resources during and after the divorce process. The lack of access to resources needed to cover the costs associated with divorce proceedings can limit the options available to a woman in terms of appeals or the ability to mount a suitable claim. As shown in the three cases, and in particular Case C, women are limited in the extent to which they can acquire evidence, access witnesses, and prove their case beyond a reasonable doubt. Similarly, since women rely on the support of their former husbands during the period when the proceedings are ongoing, their

⁶⁶⁰ Sen (n 95), 191, who discusses the link between freedom, the transmissibility of freedom, and the creation of advantages for women in achieving socio-economic development.

⁶⁶¹

ability to defend themselves is limited, specifically in terms of providing evidence that can cause shame and disgrace to their abusive husbands. This scenario creates a dilemma for a woman who is left with one of two unfair options. On one hand, she can seek justice, which is costly, and risks the ability and willingness of the divorced husband to support her after the divorce. On the other hand, she can perceive the divorce as a sufficient punitive measure for the husband, despite the circumstances, and retain as much goodwill as possible for the post-divorce interactions. As shown in Chapter 2, the subordinate economic situation that most women find themselves in magnifies the power imbalance vis-à-vis men, which can underpin domestic abuse and make it harder for the woman to resist and escape the marriage. Even if the woman can escape the marriage, since she is dependent on the husband for post-divorce settlements, or her male relatives for sustenance, the subordinate position perpetuates the discrimination.

7.2.4 Political Factors

As shown in the literature review, political factors denote the norms arising from how Qatar is governed. The application of a combination of autocratic and democratic governance mechanisms under the constitutional monarchy makes Qatar a unique political environment.⁶⁶² In line with the propositions under Islamic feminism, there is evidence that the country has undergone modernisation, which is aimed at alleviating the oppression of women, through multifaceted empowerment to ensure gender equality. The measures include the pillars under the QNV 2030, which are expressed under the various NDSs, with the objective of ensuring gender parity.⁶⁶³

However, Qatar still operates as a constitutional monarchy, whereby elements of autocracy persist, in spite of the existence of democratic systems. For instance, while there are numerous cases in the public domain relating to commercial decisions in Qatari courts, with most of those cases containing extensive details, the three family cases included in Chapter 6 were the only available information from an online search. Furthermore, the case details are available in Arabic, which limits scholarly review by international researchers interested in examining the subject. Ultimately, this leads to a limited academic review of the cases, with the only information available being the statistics on divorce, which do not provide intricate details on oppression. As indicated

⁶⁶³ R Naguib, 'Women's Empowerment and Public Policy in the Arab Gulf States. Gulf Studies', (Springer, Singapore, 2023), 15

in Chapter 6, information is scarce on cases relating to family law. It is not clear whether it is a deliberate strategy by the government or the lack of willingness by the judicial system to expose itself to public scrutiny. Surprisingly, as shown in Chapter 5, Qatar, through the MDPS, publishes statistics on divorce, with details on the categories of divorce, such as the demographic, geographic and economic characteristics of the parties. There is a need for this type of reform, as a way of exuding confidence in the level of progress within the country.

7.3 International Women's Rights Frameworks: Typologies, Structures and their Implementation in Qatar

In this section, the discussion relates to the second objective of the research, which highlights the extent to which the current legal framework in Qatar complies with the international human rights standards of women. In the discussion, the findings from Chapters 4, 5 and 6 will be taken into account.

As shown in the introduction in Chapter 1 and the literature review in Chapter 2, the establishment of international legal frameworks to guarantee the rights of women in the late 1960s started with the adoption of the Declaration on the Elimination of Discrimination against Women, under the UN.⁶⁶⁴ The declaration sought to eliminate all forms of discrimination against women, as a foundation for ensuring gender equality, through the abolition of policies, customs, practices, regulations and laws that perpetuated the inequality. The treaty seeks to amplify the application of Article 16 of the UDHR in 1948, which aligns with the doctrine of '*al-ṭafakkuk al-usarī*', which entails the protection of the family unit and institution of marriage.⁶⁶⁵ The doctrine, which reiterated the importance of family cohesion, inadvertently imposed responsibilities on couples without recognising the rights of the individuals.

To a large extent, these international legal standards sought to achieve gender parity, to provide women with the same opportunities as men. The measures reflect the Islamic feminist perspectives in a number of ways. First, the treaties This approach has been criticised in several ways, some of which are relevant to the current study. First, the universality of international human

⁶⁶⁴ Galtry (n 11), 29 indicates that the framework, which was instituted in 1981, is fundamentally a bill of rights for women.

⁶⁶⁵ UN, 'Universal Declaration of Human Rights', (2015), Available at <https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> Accessed June 6, 2024.

rights for women overlooked the context within which the propositions are to be implemented.⁶⁶⁶ The differences in the contexts where the women are located influence how they conceptualise needs and wants, as well as their ability to achieve the targeted outcomes. The challenge is attributable to the framing of the propositions from a neoliberalist perspective, which treated each country as characteristically monolithic.

Second, the framework adopted a top-down approach, with implementation linked to the domestic political agenda. The establishment of CEDAW in 1979 offered a framework through which nation-states across the globe could protect the rights of women.⁶⁶⁷ However, a number of drawbacks exist in how the framework is designed, including the fact that the propositions are essentially baselines for countries to implement, with the only oversight and enforcement mechanism being the annual reports produced by the various countries.⁶⁶⁸ Although aggregate reports are produced to highlight the failures of certain countries under specific domains in the provisions, there are no legally binding mechanisms to enforce the provisions. The commitments under the framework offer qualitative standards under the five categories of fundamental rights, which leads to extensive reliance on subjective assessment in determining compliance.⁶⁶⁹

To address the apparent incompatibility among cultural orientations that influence the conceptualisation of international women's rights, countries in the greater MENA region established their customised frameworks. The vacuum in the law is responsible for the adoption of culturally accepted procedures, which contributed to the establishment of the OIC in 1966.⁶⁷⁰ Subsequently, the Cairo Declaration of 1990 co-opted Islamic law versions into the UDHR, thereby providing Muslim-majority countries with the option to reassert their national sovereignty over the perceived neoliberal takeover of the women's rights agenda.⁶⁷¹ However, the

⁶⁶⁶ Naguib (n 582), 50.

⁶⁶⁷ Englehart and Miller (n 12) point out that the effects of CEDAW differed from one country to another, primarily due to the differences in the characteristics of the signatories, as well as the speed with which the countries were willing to adopt and implement the propositions.

⁶⁶⁸ For instance, see CEDAW, '73rd CEDAW Session, Thematic Report On Article 16, Muslim Family Law and Muslim Women's Rights in Qatar'. (2019). <<https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf>> [accessed 22 March 2021], which is an example of such a report.

⁶⁶⁹ Michele and Kaplan (n 11), 105, "The right to Live Free from Violence, discrimination and Slavery, The Right to be Educated, The Right to own Property, The Right to Vote, and The Right to Earn a Fair and Equal Wage.

⁶⁷⁰ See Blitt (n 18), 8, who indicated that the OIC established a framework for human rights that is *Shariah*-friendly, by conceptualising the proposals under the Islamic values.

⁶⁷¹ See Amayreh 117 and OIC, "The Cairo Declaration on Human Rights in Islam," (August 5, 1990), Available at https://www.oic-iphrc.org/en/data/docs/legal_instruments/OIC_HRRIT/571230.pdf> Accessed March 22, 2021),

customisation agenda was criticised as an avenue for MENA countries to hijack the rights movements and water down the commitments of the Muslim-majority nations. The subsequent CDHRI, which offers a broader range of commitments by member states, sought to enhance the legitimacy of the proposed framework.⁶⁷² The weaknesses under these regionalised frameworks led the OIC to create a plan of action to advance women,⁶⁷³ which was aimed at resolving the challenges associated with the marginalisation and exclusion of women in society. The action plan deviated from the CEDAW approach through its organisational structures and operational norms. The adverse outcome of the structure is the increased politicisation of the women's rights agenda, especially in a region where patriarchal structures influence decision-making, thus limiting the potential for tangible results. Other frameworks introduced include the IPHRC, which is only designed to handle cases of the most extreme human rights violations.⁶⁷⁴

The transitions in frameworks designed to address the international women's rights agenda included above reveal the inclination towards localisation and contextualisation of the practices. While these developments chime with a feminist and post-structuralist perspective, they also lead to the dilution of procedural norms, as different countries and institutions seek to align their goals with a pre-existing norm or system. Consequently, it is apparent that while the progressive regionalisation of the international women's agenda is aimed at addressing the contextual challenges that persisted under the global frameworks, it has inevitably led to the creation of frameworks that accommodate facets that perpetuate infringements on the rights of women. It is thus necessary to ensure that the change is localised and driven by oppressed people or groups themselves, thereby enhancing the changes so that the process does not lead to reinforcement of the existing discriminatory order.

which sought to provide a framework that safeguards Muslim-majority countries and societies, through unification towards a singular goal that was localised and contextualised to their region.

⁶⁷² Blitt (n 17), 92, whereby the CDHRI promoted a relativist rather than universal approach to achieving human rights.

⁶⁷³ OPAAW, the OIC Plan for the Action for Advancement of Women.

⁶⁷⁴ OIC, "The Cairo Declaration on Human Rights in Islam," (August 5, 1990), Available at https://www.oic-iphrc.org/en/data/docs/legal_instruments/OIC_HRRIT/571230.pdf [Accessed March 22, 2021].

7.3.1 Treaty Membership by Qatar

Qatar became a signatory to CEDAW in 2009,⁶⁷⁵ with significant changes in its domestic legal system following soon after. The literature review outlines the trajectory of change through which the legal frameworks in Qatar have evolved, through the concepts of norm diffusion, norm vernacularization, and norm localisation. The four-phase lifecycle, which denotes the concept of eliminating discrimination against women, emerged when it was fully internalised under domestic laws in the various countries that are signatories to the convention.⁶⁷⁶ Essentially, the objective of the legal frameworks is to achieve parity in the guarantee of the rights of women across the globe. An assessment of the current progress based on the typology by George⁶⁷⁷ reveals that Qatar is among the countries in the process of norm vernacularization and norm localisation.

During the domestic implementation of the international human rights of women, evidence shows that Qatar has reconstructed how gender equality is perceived through changes in laws and policies, with local agents involved to ensure that the international norms fit seamlessly into the domestic approaches. The process has led to the identification of novel meanings of gender equality under the local context, commonly referred to as vernacularisation.⁶⁷⁸ The outcome is the increased involvement of women in activities that were previously reserved for men, through a process that features extensive complementarity in recognition of the differences and capabilities of each gender. However, as discussed in Chapter 5, in instances where the international norms are not compatible with the domestic systems, it is common for countries to adopt RUDs.⁶⁷⁹ As shown in the chapter, there are two schools of thought on the role and effect of RUDs on international rights of women. Under one school of thought, which conceptualises the RUDs to CEDAW as negative, these RUDs by Qatar are informed by a combination of factors, including the prominence of the conservative culture, which influences legal and jurisprudential matters in the country. These factors are attributable to the norms of *fiqh* and *Shariah law*, which determine

⁶⁷⁵ CEDAW, 'The second periodic report of Qatar on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women', (2018), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fQAT%2f2&Lang=en [Accessed 22 March 2021].

⁶⁷⁶ Koh and others (n 76), 89.

⁶⁷⁷ George (n 111) 47.

⁶⁷⁸ Acharya (n 73) 46, whereby the local systems are adjusted to mirror the international norms.

⁶⁷⁹ E Neumayer, Qualified ratification: explaining reservations to international human rights treaties, (2007) 36 J of Legal Studies, 2 397 405, who indicates that most signatories to international treaties on women's rights rely on RUDs to facilitate the gradual transition to the new order.

the prevailing governance strategies utilised at the various levels of leadership in the constitutional monarchy. The RUDs are also attributable to the perception under the conservative ideologies that some of the propositions under the CEDAW reform agenda are simply justifications for the implementation of the neoliberal agenda, seeking to further westernise the country, in furtherance of the anti-Islamic stance that is characteristic of the interventionist culture. The negative effects of the RUDs are apparent from the three cases analysed in Chapter 6, whereby there was a lack of access to justice for victims of harm arising from IPV. Furthermore, the gaps in procedural and substantive rules under laws relating to IPV can be directly attributed to the RUDs. However, several explanations exist as to why Qatar has imposed the RUDs regime, despite the potential negative effects on citizens, specifically women who are faced with gender-based discrimination.

A different school of thought frames the RUDs as positive, on account of several perspectives. Over time, RUDs have continued to play a key role in the treaty process,⁶⁸⁰ since nation-states have a third option for responding to international treaties. The process is referred to as constructive non-compliance, whereby the failure of some nation-states to comply with treaty agreements can lead to improvements in the provisions therein, thereby leading to favourable outcomes.⁶⁸¹ However, the analysis herein reveals that the constructive non-compliance under the RUDs, as utilised in Qatar, has adverse effects on the utility of the treaty. In addition to the loss of reputation for the country, constructive non-compliance can increase the costs of achieving the targeted objectives of the treaty.⁶⁸² Using the example of CEDAW, it is apparent that the original framing of the agreement overlooked several contextual concerns, most of which are borne out of the legal, political, social, economic and cultural norms.

The analysis herein has revealed a number of positive outcomes from the constructive non-compliance by Qatar. These include a diversity of programs to empower women within Qatari society, as discussed in detail in Chapter 5 (Section 5.2). However, the effects of constructive non-compliance are overshadowed by the multiplicity of negative effects of failure to accede to the

⁶⁸⁰ See chapter 4, where the role is summarized as including “The reservations regime is fundamentally a concession under international legal standards by any reservation-setting jurisdiction that, while their legal and governance systems do not meet the universally-accepted standards, they are willing to join the treaty, with the commitment to improvements in the relevant domains of non-compliance”.

⁶⁸¹ S Gray, *The Domestic Compliance System and Compliance Barriers: A UK Child Rights Case Study*, (2022) 44 *Policy Studies* 2 195, 198.

⁶⁸² Lily L Tsai, *Constructive Noncompliance*, (2015) 47 *Comparative Politics* 3, 253, 254.

CEDAW treaty as is. Furthermore, based on the analysis, the benefits reported under the constructive non-compliance can still have been achieved without the imposition of the RUDs.

While the country has achieved several steps in the internalisation of the norms on gender equality, the literature review in Chapter 2, the discussion of Qatar's reservations to CEDAW in Chapter 5, and the analysis of the court cases in Chapter 6 together strongly indicate the continued existence of systemic, systematic and structural barriers.

7.3.2 Application of Treaty Obligations by Qatar

The existing policies reveal that there are three positions regarding the rights of women, vis-à-vis empowerment and gender equality. First, proponents of the international standards, such as those presented under CEDAW, seek to justify equality between genders. Second, the opponents of the neoliberalist approach, who deny the rights of women.⁶⁸³ Finally, there is a group that proposes the reframing of the position and rights of women, to acknowledge the essential aspects, from a better appreciation of the complex circumstances they face. Qatar, which lies in this latter category, has achieved gradual progress in achieving some of the goals under these frameworks, but with limited progress in achieving gender equality and empowerment of women. Qatar applies its treaty obligations through a multiplicity of pathways, all informed by its stated commitment to achieving gender parity while recognising the peculiarities of its domestic context. First, the country adjusted the provisions in its constitution, intending to recognise gender parity. However, its constitution still highlights the centrality of *Sharia* as the primary source of its legislation and jurisprudence. Due to the conservative nature of the Qatari society, most of the recent constitutional changes have been driven by the goals of ensuring that the country retains its cultural and religious identity, rather than for legislative and constitutional efficiency and effectiveness. This approach has led to reluctance towards certain aspects of change, especially those which challenge fundamental norms under *Shariah law*.

Second, Qatar has also made significant adjustments to a number of its laws, with a focus on substantive and procedural norms. Commensurate changes to relevant legislative provisions have been made to promote the inclusion and empowerment of women. As shown in Chapter 5,

⁶⁸³ See Shahid (n 354), 69, who identifies Iran as one of such countries which have failed to ratify CEDAW. Other notable countries include the US (as of 2019), which, in spite of its extensive legislative and jurisprudential developments in terms of human rights, is yet to ratify CEDAW.

the primary changes are evident under QFL No. 38 of 2005, Qatar Labour Laws under Act No. 2016 on Civil Human Resources to facilitate the increased participation of women in the workplaces; Code of Criminal Procedures under Law No. 23 of 2004 and Qatar Penal Code Law No. 11 of 2004 to clarify the principles of accountability relating to assault on women; cybercrime prevention Law No. 14 of 2014 designed to protect women from online assaults and other forms of crimes perpetrated in the cyber space; Qatar Human Resources (QHR) Law No. 8 of 2009 to prevent discrimination against women at the workplace; Law No. 38 of 2005 which relates to nationality and citizenship; Law No. 22 of 2006 which relates to regulation of marriage conditions such as age; Law No. 38 of 2005 on birth right citizenship. The additional adjustments to its jurisprudential norms go a long way in ensuring that the justice system is aligned with the objectives of ensuring that the rights of women are upheld by all residents. The changes to jurisprudence entail recognition of a more diversified set of determinants of how laws are interpreted, to dispense justice. The reconceptualisation of how laws are framed and applied is a step towards challenging the long-standing practices, some of which serve as barriers to progress.

However, as noted in Chapter 2, (the literature review), Chapter 5 (regarding the fulfilment of treaty commitments), and Chapter 6, (in the three cases involving victims of violence), these changes have not always translated to tangible results in preventing the discrimination of women. There are gaps in implementation, coupled with bottlenecks arising from the socio-cultural norms that influence the application of laws within Qatari courts. There are also some aspects of patriarchy whose effects are challenging to legislate against, since they create structural barriers to the adoption of change across all levels of community. For instance, as shown in Chapter 6, specifically the three cases, it is common for incidents of IPV to be overlooked as an individual factor affecting women, especially if the husband grants a divorce for emancipation. Based on the analysis, the element of violence as a valid claim and separate infringement appears to be nullified, as long as divorce is granted to emancipate the woman from further harm. Ultimately, the cases reveal that the acceptability of divorce for emancipation from further IPV

7.3.3 Degree of Enforcement of Treaty Obligations by Qatar

The findings in Chapter 5 reveal that Qatar enforces its treaty obligations under international women's rights agreements to a large extent, subject to the RUDs in place. Due to its willingness to achieve the goals of the treaties, the RUDs made by Qatar relate to specific

provisions in the treaty, rather than involving entire sections. The specificity in the RUDs is indicative of the extent to which Qatar appreciates the importance of women's rights, as well as the fact that the country is committed to making changes to fulfil those provisions over time. However, the findings reveal that a challenge arises since a significant portion of the RUDs are justified on account of their incompatibility with the principles of *Shariah law*. Consequently, the justification limits the possibility that the RUD regime will change since *Shariah law* principles are extensively entrenched into the social, political, cultural and economic systems in the country. Since there are variations in the types of RUDs adopted by other countries that rely on *Shariah law*, there are opportunities for change in the degree to which Qatar accedes to the treaties, without affecting the systems based on *Shariah law*. Qatar has reserved its accession on four key issues: the hereditary transmission of authority;⁶⁸⁴ equality in power to transmit citizenship for both men and women;⁶⁸⁵ gender equality;⁶⁸⁶ and rights under the institution of marriage.⁶⁸⁷

The reservations on gender equality arise from the differences in how gender equality is conceptualised under *Shariah law*, which, rather than promoting equality between men and women without any restrictions, recognises that differences in characteristics, responsibilities and capabilities lead to the need for complementarity. As a result, while Qatar has recognised and promoted the empowerment of women, this occurs with the recognition of the existence of differences between men and women. The analysis of the case law in Chapter 6 also reveals the effects of the RUDs regime in place. First, they reveal that the conceptualisation of gender equality within the institution of marriage, specifically the complementarity between genders, can create gaps in the enforcement of laws against IPV. The judicial decisions in Cases A, B and C, whereby the incidences of IPV were overlooked mainly since divorce was granted to the victim, show that the RUDs regime has led to, or failed to stem the perpetuation of the discrimination of women in Qatar. While the RUDs do not explicitly cause these outcomes, they have failed to prevent the

⁶⁸⁴ Amnesty International, 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the protection of women from violence in the Middle East and North Africa region, (2004), Available at <<https://www.refworld.org/pdfid/42ae98b80.pdf>> accessed July 20, 2024, As provided under Article 2(a) under CEDAW, since it contradicts Article 8 of the Constitution of the constitutional monarchy.

⁶⁸⁵ Ibid, Article 9.2, under CEDAW, whereby only native men can automatically transmit birth right citizenship to their children.

⁶⁸⁶ Ibid, Article 15.1, under CEDAW, since Islamic law promotes complementarity between genders, rather than equality. Similar reservations are made under Article 15.4, which relates to equality in making decisions affecting their mobility.

⁶⁸⁷ Ibid, Article 16.1(a) and (c) under CEDAW.

structural barriers that are necessary for ending discrimination against women, especially those barriers justified through socio-cultural norms and *Shariah law*. In two of the cases (A and B), victims of IPV faced challenges in getting remedies for the harm caused, since the judicial proceedings focused on the applications for divorce. To a large extent, these decisions paint a picture that divorce as a pathway for ending IPV is a sufficient remedy for female victims.

In spite of these challenges, the findings reveal that Qatar is committed to improving the level of compliance with treaty commitments through the progressive development of capabilities to empower women. The programmes, policies and laws adopted for the empowerment of women span across a multiplicity of domains, with justifications found under the tenets of both common law and *Shariah law* principles. Despite the incidences of convergence that amplify success, Qatar is still faced with several shortfalls in its obligations.

However, despite these measures, the country faces structural,⁶⁸⁸ systemic,⁶⁸⁹ and systematic⁶⁹⁰ barriers to its ability to achieve the enforcement goals. An assessment of its implementation procedures based on the first principles approach led to the deduction that a number of the injustices faced by women are not fundamentally associated with the lack of equality with men. Similarly, under Islamic practices, jurisprudence and theorisations, it is not possible to achieve equality between men and women. The justification for this is derived from the *Quran* and *Hadith*, whereby the position of the woman is conceptualised as complementary to that of men. In the grand scheme of things, the illusion that lack of equality is the primary cause of the injustices experienced by women can lead to obscuring other deep-seated social failings that are more persistent, but with clear signifiers on how they affect the rights and position of women in society. The global indicators of progress, which emphasise a one-size-fits-all methodology, display bias and imbalanced influence by neoliberalist ideologies and values, as posited in the conceptual framework.⁶⁹¹ The indicators are also not contextualised, since they adopt an external normative viewpoint while disregarding the local practices and knowledge. The concerns are further rooted in the neoliberal conceptualisation of equality under international treaties, specifically in Islamic

⁶⁸⁸ Salem and Yount (n 15), 504, The challenge arises from the absence of options to address one issue, without affecting others.

⁶⁸⁹ Sholikhah and Jamilah (n 336), 118, implying that they arise out of how an entity is organised, or actions that have been practiced for long enough to be considered the norms fundamental for continuity.

⁶⁹⁰ Manjoo and Jones (n 4) 98, whereby the issues arise from the recognised methodology or fixed plan of operation, which is designed by those responsible, thus limiting the possibility of being challenged from a technical perspective.

⁶⁹¹ Broberg and Sano (n 100), 665.

societies, arising from the negation of inequality,⁶⁹² and the futility of measures to change the norm.

7.4 Effects of Discrimination on Women's Choices During Divorce

The discussion herein answers the third research objective, regarding an evaluation of the process of divorce in Qatar from an international human rights perspective of women. The analysis aims at identifying how the laws that govern divorce procedures perpetuate the oppression of women in Qatar. The discussion focuses on the findings in Chapters 4 and 6 primarily.

The discourse on discrimination in this section transitions to the issue of nationality, which under feminist ideology is conceptualised as having presumptive connotations in the contemporary world. The embedding of provisions in the Constitution regarding nationality, coupled with laws to govern the transmission of citizenship from parents to children, becomes a concern during divorce, especially when one of the parents is a non-native. The implications of whether an individual is classified as a citizen in Qatar are significant, on account of how social and governance structures are implemented. Ultimately, feminism is focused on correcting the political or legal structures that impose disproportionate burdens on women or children as they seek to live or achieve citizenship in the country where they were born. At the foundation of the arguments hereunder is the position that Qataris perceive marriage to non-nationals as a deviation from tradition. Despite the norm, there is an increase in the incidence of marriages involving non-natives, due to the significantly higher number of foreigners in the country, the cost-efficiency of such marriages and that it provides the natives with additional options in a country where the native population is low.⁶⁹³ The challenge discussed hereunder refers to marriage arrangements whereby the husband is a non-native.

⁶⁹² Inequality under Islamic societies is conceptualized under three aspects of universal law, including its role in maintaining a balance, the mutually beneficial and interdependent nature of all creations, and finally, its role in engendering responsiveness, whether voluntary or mandated.

⁶⁹³ Alharahshes and Almeer, (n 238) 173, For additional OECD Report, 'Social institutions and Gender Index for Qatar 2019'. (2019), Available at <<https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf>> Accessed on July 27, 2024, who indicated that in spite of the increased incidence of marriages involving non-nationals, most Qataris show a preference for spouses from locations with a similar socio-cultural profile as Qatar, with most choosing Arabs from the GCC, or from outside the GCC, and only marrying non-Arabs in limited cases.

7.4.1 Birthright Citizenship

The discourse on the transmission of citizenship to children upon divorce by non-native spouses married to Qataris is primarily based on the review of the fulfilment of treaty obligations under Chapter 5. The decisions relating to birthright citizenship are part of the provisions upon which Qatar has imposed reservations under CEDAW, specifically under Articles 1 and 2, regarding equality between genders, Article 2 on discrimination of women, Article 3 on the fundamental rights and freedom of all individuals. Qatari laws impose limitations on women's rights vis-à-vis the nationality of their children, as provided for under Article 9 of the CEDAW treaty. Normally, children born of Qatari men get automatic 'birthright' citizenship even when the spouse is a foreigner, but the same does not apply to children born to a non-native father, even if the mother is a Qatari citizen.⁶⁹⁴ The provisions imply that, unlike Qatari women, Qatari men have the freedom to marry whichever spouse they prefer, without facing any challenges in transmitting citizenship and its associated benefits to their children. Women face an uphill task if they are involved in cross-national marriages. The provision also implies that Qatari women seeking to continue enjoying the benefits of citizenship in the country have to choose native spouses. All these circumstances represent the power dynamics that can contribute to the discrimination of Qatari women.

In summary, the evidence herein reveals that the state has enforced the subordinate status of women in society through regulations targeting the family. Similarly, feminist theory highlights the mundane appreciation that over time, patriarchy has contributed to the subjugation of women in societies. Most of these effects persist to date, with evidence from the legal, social, economic, political and cultural systems in place. As shown in this discussion, feminist theory perceives the domestic responsibilities of women as an inevitable source of disadvantage during and after divorce. The possibility of social and functional incapacitation arises when issues such as mandated child support and alimony payments are not provided accordingly. The approach, whereby changes are attached to the socio-historical understanding of equality between genders, heightens the scrutiny of any gender-based classifications (such as the establishment of measures

⁶⁹⁴ Babar (n 33), 403, who denotes this approach as the only way through which citizenship can be acquired in Qatar, since there are restrictions on other forms of acquiring citizenship, such as naturalization or registration.

to ensure equality within the institution of marriage), but also of other actions by the state regarding the regulation of family life to avoid denying women their international human rights.

7.5 Conclusion

The application of the feminist lens serves two purposes in this discussion: exposing how interactions between people and systems lead to oppression, while also providing the basis for the development of solutions targeting the causative and mitigating factors for the forms of discrimination, in line with the objectives of the study. The application of stand-point feminism leads the discussion a step further into the territory of customising the solutions to the people who are affected by oppression, based on the particularities of their circumstances. The discussion in this chapter also applied post-structuralism, by assessing the different aspects of oppression against women, specifically focusing on the role of structural, systemic and systematic conditions in the country. The discussion also showed how and why the oppression of women is not conceptualised uniformly, by identifying the various dimensions of intersectionality. In this part of the discussion, attention is drawn towards the notion of the lack of universality in oppression, hence the need for multifaceted customisation to address the issue. However, the discussion also recognises the possibility of logistical challenges in attending to each aspect of individual oppression, hence the introduction of measures for participatory methodologies, whereby those affected can contribute to the resolution of the issues. Finally, the social choice theory is applied to provide justifications for Qatar to invest in the reform process targeting the oppression of women as identified in the analysis. Based on the tenets of the theory, socio-economic progress is tied to the presence of freedoms within society. Consequently, and as observed from the extensive economic developments following the absorption of women in the workforce, the country stands to achieve its national development goals through improved treatment of women, as proposed under the international human rights frameworks.

8 CHAPTER 8: A FRAMEWORK FOR REFORM

8.1 Introduction

This section answers the fifth research question by providing a framework through which reforms can be implemented to overcome the oppressive practices identified in this study. To remedy the discrimination faced by women in Qatar, the findings from the analysis of Qatar's compliance with its obligations under CEDAW and DEVAW, together with the analysis of the judicial decisions, in the context of the literature reviewed, as well as the analysis of judicial decisions, reveal that Qatar must adopt a multifaceted approach. As shown in Section 5.3, the deeply entrenched factors that cause discriminatory treatment, including oppression, are structural, systemic and systematic. The prominence of IPV as the cause of divorce is evident from the cases analysed in Chapter 6 and from the literature review. The abusive husbands in those cases perpetuated the perspective that they ought to dominate or control their wives, based on the belief that the independence of the woman leads to loss of control over the family by the man.⁶⁹⁵ Essentially, they use violence as a way of coercing or persuading the woman into adopting the male perspective of the structure and functioning of the relationship. These actions are supported by Qatari jurisprudence, and reinforced by the patriarchal system, which plays an integral role. The recommendations discussed in this chapter also include viable approaches based on alternatives to the neoliberal perspective, since they support and acknowledge the visibility and provision of the domestic responsibilities of women, create pathways for balancing the private and public spheres, and engender agency among women.

In extending the discourse on how the dilemma of differences is conceptualised from a feminist perspective in Section 7.3 (under legal factors), the propositions discussed in this chapter are framed to achieve equality, while recognising the existence of differences between genders. The propositions are aimed at dispelling the perception that the measures to accommodate women within the patriarchal system amount to special differences, while also avoiding the imposition of

⁶⁹⁵ Hala A Al-Ahmadi, and Khalid J Al-Naama, *Myths and misconceptions as obstacles to combating domestic violence against women: policy and practice implications*, (2023) 1 Doha International Family Institute Journal 3, 1 reiterates this position, by stating that reforms in Qatar “violence is seen as an integral part of a systematic pattern of deliberate behavior aimed at initiating and maintaining “power and control” over the victim.”

standards that undercut the ability of men to contribute to society in ways that are integral to national development goals, such as the ability to pay spousal support.⁶⁹⁶

8.2 Components of the Framework for Reform

Based on the assessment of the current progress, there is a gap between the initiatives designed to facilitate the empowerment of women and the actual changes and effects experienced by women in the country.⁶⁹⁷ This calls for the development of context-specific solutions to address the discrimination of women, while accounting for the neoliberal ideologies that are integral to the agenda on the empowerment of women across the globe, without disregarding the importance of family and domestic spheres in the empowerment of women.

The propositions are also made with recognition of the reality that there is a disparity between the official rhetoric on the empowerment of women and the experiences of individual women in the country.⁶⁹⁸ The increased incidences of divorce in the country, whether driven by decisions by men or through the feminisation of divorce, expose the country to a scenario where it is necessary to recognise the importance of equality within marriage, as a way of fulfilling the national development goals that are pegged on the stability of the family unit across the country. There is an increased realisation that the effects of divorce are the emancipation of women, which was conceptualised as a favourable outcome, but tends to perpetuate oppression, during the process of procuring the divorce, and in the post-divorce period, as shown from the experiences of the three women in the cases analysed herein.

The reforms proposed hereunder are also based on the assertions in the conceptual framework in Chapter 3, that there is a need for identifying the areas of complementarity, as well as opportunities for improvement to address the issues associated with international women's rights while upholding the rights and responsibilities that are established under Islamic law in Qatar. However, the issues of discrimination relating to divorce as discussed herein are unique, hence the need to look beyond what exists in current literature.

⁶⁹⁶ For instance, A Kaltham, 'Perceptions of Women's Roles between Traditionalism and Modernity in Qatar.' (2019) 9 *Journal of Arabian Studies* 1 52, 57, the provisions for spousal support is dependent on the capabilities of the husband.

⁶⁹⁷ Naguib (n 582), 87.

⁶⁹⁸ See Mir-Hosseini (n **), who recognizes the need for intersectionality in the process, as a way of ensuring that the changes take into account the challenges faced by women, based on their lived experience.

8.2.1 Improved Compliance with Women's Rights Treaty Commitments

The RUD regime adopted by Qatar is justified due to its incompatibility with *Shariah law* provisions, as a component of the laws of Qatar. As shown in Chapter 5, those reservations have the effect of limiting the applicability of some of the international women's rights for Qatari women. The imperativeness of complying with treaty commitments, such as CEDAW, is highlighted by Barrett, regarding the USA, which, in spite of its considerably favourable record in the rights of women, has not acceded to CEDAW.⁶⁹⁹ By acceding to CEDAW and integrating it into domestic law, a nation-state can match its rhetoric on women's empowerment and protection of the rights of women with practice within its jurisdiction.⁷⁰⁰ The ratification has additional implications since it sends a message to other nations regarding its commitment to the rights of women and its obligation to women.⁷⁰¹ Such a ratification can also enhance the legitimacy of the human rights treaty at the global level.

Compliance with women's rights treaty commitments normally leads to improved marital freedom, which is an integral constituent of gender equality.⁷⁰² Qatar should thus focus on the propositions under GR 33 (to ensure justice) and 35 (to address gender-based violence), to ensure that the propositions of international law are impactful in addressing the oppression of women. These propositions address two particular situations, which were found to be lacking in a multiplicity of jurisdictions.

8.2.2 Due Process Equality

Due process equality, which is a novel technique in jurisprudence, seeks to ensure that analysis of due process in judicial processes takes into account not only procedural but also substantive equality.⁷⁰³ The embedding of norms on equality, liberty and dignity into substantive due process is integral in developing jurisprudence on fundamental rights.⁷⁰⁴ The growth in

⁶⁹⁹ Morganne Barrett, *Defenders Aplenty: Access to Justice for Women Human Rights Defenders* (2019) 43 *Fordham International Law Journal* 2, 457, 492.

⁷⁰⁰ Mir-Hosseini (n **) provides a pathway for removal of the reservations, through a reinterpretation of *Shariah law*, which would lead to changes to *Fiqh*-based jurisprudence, which contains a number of provisions that perpetuate discrimination of women.

⁷⁰¹ *Ibid*, 493.

⁷⁰² Al-Ghanim, Gardner, and Lari, (n 264), 6.

⁷⁰³ Yefet, (n 554), 474.

⁷⁰⁴ *Ibid*, 475, who uses the example of jurisprudence on fundamental rights such as right to abortion in the US, where the right to equality is linked to the right to dignity.

doctrines on substantive due process opens doors to novel appreciations of how the social position of women relates to their international human rights, and what counts as a necessity in furthering their equality in society.⁷⁰⁵ While Qatar has instituted numerous measures to empower women, including programmes to facilitate their employment, employability and ability to fit in the workplace, there is an overriding notion that women are individually responsible for their empowerment, specifically in personal and professional issues. Normally, when women find themselves in oppressive scenarios, most systems of empowerment are withdrawn, thereby removing the safety nets necessary for individuals to liberate themselves.

This proposition, which is derived from the principles of Islamic feminism,⁷⁰⁶ is particularly designed with the findings in Chapter 6 in mind, considering the failures in how the law is applied in addressing the oppression of women in Qatar, since historically, they have been marginalised, disadvantaged, oppressed, and their plight has been ignored. The process entails the importation of themes on equality into jurisprudence on international human rights for women, with explicit recognition of the implied spirit and objectives of the law.⁷⁰⁷ Based on the discussion by Helman, due process equality played a key role in addressing women's rights issues in the US, including inequality in access to labour-market opportunities and reproductive health issues, among others.⁷⁰⁸ By situating due process equality within family law in Qatar, the judicial system can address the concerns regarding the dignity and equality of women, without compromising the fundamental principles and provisions of *Shariah law*. Additional measures include

The process entails recognising that women have a right to be treated as equal to men under the law, thereby eliminating instances where men utilise the law as a tool for oppression or as a shield from consequences for their oppressive treatment of women.⁷⁰⁹ The intersection of the

⁷⁰⁵ Sandra Fredman, Substantive equality revisited (2016) 14 International Journal of Constitutional Law 3 712, 714, who defines substantive due process to four elements, including "the right to substantive equality should not be collapsed into a single formula, such as dignity, or equality of opportunity or results. Instead, drawing on familiar conceptions, a four dimensional approach is proposed: to redress disadvantage; address stigma, stereotyping, prejudice, and violence; enhance voice and participation; and accommodate difference and achieve structural change."

⁷⁰⁶ See Mir-Hosseini (n **), who advocates for an intellectual reinterpretation of Islamic law to address the procedural injustices that have developed due to cultural aspects driven by patriarchy.

⁷⁰⁷ Yefet, (n 554), 475.

⁷⁰⁸ Deborah Hellman, The Epistemic Function of Fusing Equal Protection and Due Process (2019) 28 Wm. & Mary Bill Rts. J 383, 1.

⁷⁰⁹ See El-Ali (n **), who asserts that the hierarchical classification of humans is antithetical to *Shariah law*, as well as Mir-Hosseini (n **), who advocates for the decoupling of cultural norms from religion, and following through to how they influence judicial proceedings.

principles of equality, liberty and dignity under due process equality serves a more definitive and explicit role as compared to the blanket equal-protection jurisprudence. Such a procedure would pave the way for the development of jurisprudence on IPV, which is extensively overlooked, as is evident in Chapter 5 (Section 5.4), as well as the three cases analysed in Chapter 6.

The process would also entail designing laws with consideration of the intent, as well as the effect of the provisions, thereby reducing the possibility of semantic atrophy in the provisions, especially in the highly dynamic socio-cultural norms in the country.⁷¹⁰ It would also feature the separation of morality from religion by disentangling the moral beliefs based on traditionalist values from the legislative and jurisprudential procedures.

8.2.3 Combining Islamic Feminism with Standpoint Feminism

The empowerment of women in the Gulf region is linked to the cultural processes that form a significant part of the identities of women from the region. The empowerment of women, as conceptualised from a Western-led perspective, is based on the wrong presumption that governance systems based on *Shariah law* are an integral obstacle to the achievement of goals.⁷¹¹ It also conceptualises gender equality as empowerment. However, emergent and extant literature points to the notion that in the Arabic region, empowerment is conceptualised from complementarity, whereby women, rather than seeking to be equal to men, are content with being perceived in a manner that does not nullify their identity as women.⁷¹²

Over time, the development of Islamic feminism arose from the need to contextualise the issues affecting women in society in the Gulf context, to align the feminist movement with the social, economic, political, cultural and historical characteristics of the region.⁷¹³ Essentially, the process seeks to change the norms that perpetuate the oppression of women through the misconstruction of Islamic principles, thereby leading to the achievement of the goals of

⁷¹⁰ Vincent J. Samar, *At the Intersection of Due Process and Equal Protection: Expanding the Range of Protected Interests* (2019) 68 Cath. U. L. Rev 8 87, 106.

⁷¹¹ Blitt (n 18), which attributes a significant portion of the existing literature on the misconception. See also Golkowska (n 157), 58, who discusses the concepts of Islamic feminism from the perspective of the specific challenges that Muslim women experience.

⁷¹² Amnesty International, 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the protection of women from violence in the Middle East and North Africa region, (2004), Available at <<https://www.refworld.org/pdfid/42ae98b80.pdf>> accessed July 20, 2024.

⁷¹³ See Seedat (n 290), 29, who stated that under Islamic feminism, gender parity entails mainstreaming women, by promoting their socio-cultural and religious freedoms in line with Islamic principles.

international women's rights, without challenging the fundamentals of *Shariah law*. The development of Islamic feminism is also integral in alleviating the polarised perspective that feminism in general is a Western concept that is not contextualised in the Gulf society. Through Islamic feminism, it is thus possible to focus on the rights of women and gender equality, both in the private and public spheres, rather than discussing the meaning of the concept, which can generate resistance, especially in highly conservative societies.

Standpoint feminism, as a constituent of feminist inquiry, overcomes the traditional scientific approaches to constructing knowledge by focusing on the overlooked groups and illuminating the often overlooked aspects of the study subject and object.⁷¹⁴ Essentially, the process seeks to change the norms that perpetuate the oppression of women through the misconstruction of Islamic principles, thereby leading to the achievement of the goals of international women's rights, without challenging the fundamentals of *Shariah law*. Through this approach, the experiences of women who face subordination and oppression are given expression. This approach advocates for the use of the lived experiences of women as an integral source of information and knowledge and is also integral in identifying the specificities of Middle Eastern patriarchy, which is comprised of a diverse set of cultures with variations in how women are treated. The differences arise from how Islamic law is conceptualised, as well as the laws of the particular country, as discussed in Chapter 4.

Most Gulf states, including Qatar, face a quandary in adopting international demands for modernisation through economic empowerment and meeting the contextualised needs of their citizenry.⁷¹⁵ It leads to a disparity between the priorities and values held by the locals and the standards established under the neoliberal international institutions.⁷¹⁶ Essentially, Islamic feminism offers a critique of the largely subjective choices of what neoliberal, political and capitalist stakeholders consider to be the important and appropriate components of empowerment, which originated from a singular framework for the empowerment of women at a global level.

⁷¹⁴ The theory that feminism should be appreciated from the standpoint of women, or a particular group of women, since such individuals or groups are best equipped to understand the contexts and related factors.

⁷¹⁵ Golkowska (n 157) 51.

⁷¹⁶ See for instance, Julie E Pruzan-Jørgensen, 'Islamic Women's Activism in The Arab World Potentials and Challenges for External Actors', (2012), https://www.diis.dk/files/media/publications/import/extra/rp2012-02-islamic-womens-activism_web_1.pdf > Accessed 13 January, 2025, 7, who came to a number of realisations, including that most activists seeking the empowerment of women do not seek the 'universal' women's rights as they are formulated under UN Conventions, such as CEDAW. They are opposed to the imposition of intrinsic individualism, secularism and aspirations of equality.

It has thus become necessary for a comprehensive assessment of how religion shapes the agency and subjectivity of women from the region.⁷¹⁷ Preliminary research positions Islam as a catalyst for the empowerment of women, rather than being a barrier.⁷¹⁸ The neoliberalist development policies, as framed by international institutions, promote a ‘rebellious revolutionary self’, which is in contrast with the collective subjectivity under Islamic perspectives, which promote submission to Allah’s will. A clear appreciation of the empowerment of women through the Islamic lens, informed by *Shariah law*, translates to the creation of the common good and optimisation of the public welfare, by promoting benefits and reducing harm while accounting for the spiritual and world domains.⁷¹⁹

At their core, the international agenda on women's empowerment, which is oriented towards neoliberalist ideologies, overlooks, thereby devalues, the context within which the agenda is implemented. Consequently, those ideas perpetuate oriental discourses that tend to create a contrast between Western and Arab discourses.⁷²⁰ There are moral and political dilemmas facing policymakers from the Gulf region, specifically when it comes to ratifying international conventions based on foreign policies that are in direct conflict with the underlying belief system under *Shariah law*.

Ultimately, the model of women empowerment being promoted by Qatar is a blend of transnational frameworks of neoliberalist feminism with ideals of patriotism and loyalty. The model designates the ‘ideal Qatari woman’ as a subject of neoliberalist feminism, whose contribution is measured based on its relevance to the development of the nation, through professional development and individual fulfilment.⁷²¹ To achieve this outcome, it is necessary to appreciate the links among the challenges facing women from an international human rights

⁷¹⁷ See Mir-Hosseini (n **) for a definition of intersectionality.

⁷¹⁸ Naguib (n 582) 17, with the researchers asserting their right to advocate for gender justice within an Islamic framework.

⁷¹⁹ Ibid, 18.

⁷²⁰ As evidenced in Chapter 5(Section 5.2) with support from the Chapter 2 (Section 2.5) and Chapter 4 (Section 4.3), in the range of RUDs adopted by Qatar regarding the implementation of CEDAW, as well as other measures to localize the international women’s rights frameworks, as well as other rights frameworks.

⁷²¹ A Liloia, *State Discourses on Women’s Empowerment in Qatar: The ‘Ideal Qatari Woman’ as a Neoliberal Feminist Subject*, (2022), 12 J of Arabian Studies, 1 24, 30, the model arises from a conflation of the professional advancement of women, with national progress. However, Mir-Hosseini (n **) cautions against over-Westernisation of the process, by promoting the notion of decoloniality, whereby the changes reflect the realities in the locations where the Muslim women live.

perspective, then identify the generic challenges linked to women in Muslim-majority societies, and finally, provide for the potential challenges that can affect individual women in those contexts.

8.2.4 Reconceptualising the Empowerment of Women

Empowerment, as a measure to alleviate oppression, is a continuous and dynamic process, involving having agency and the power to make decisions, based on a multiplicity of internal and external resources.⁷²² The resources and opportunities are available through specific skills, education, self-motivation, and access to support systems from relevant institutions, family and peers. As Chapter 5 (5.4) discussed, studies on the lived experiences of women in Qatar reveal a unique perspective of what the oppression of women entails. This perspective exists outside the policy decisions and actions aimed at achieving equality and features the daily experiences of women in different settings and contexts.⁷²³ It varies from the patriarchal perspective, which centres on what men perceive as equality between the genders.

The predominant goal of the discourse on international women's rights is to improve women's participation in the workforce, thereby reducing the disproportionately burdensome domestic tasks that hold them back from a socio-economic perspective.⁷²⁴ In such scenarios, the most common metrics for the success of the programmes include labour force participation and representation of women in leadership positions. However, these metrics fail to capture the entirety of the issues facing women, thereby masking the reality, even when significant steps in terms of female-friendly laws and policies are in place. It thus creates the possibility that constitutional equality can fail to facilitate the achievement of optimal results in empowering women.

The perspectives adopted by this study consider empowerment to be a multidimensional process, founded in contextualised values, fuelled by agency as well as improvements in access to resources, all of which function to enhance the well-being of women, at the individual and societal levels. The discussion herein provides a dialectical and holistic assessment of what women's empowerment entails, focusing on the complex and multidimensional nature of the concept, as

⁷²² Naguib, '(n 582), 17, including political, socio-cultural, economic, psychological, and spiritual.

⁷²³ Hasnaa Mokhtar, and Tahani Chaudhury, *Becoming Allies: Introducing a Framework for Intersectional Allyship to Muslim Survivors of Gender-Based Violence*, (2022) 4 *Journal of Islamic Faith and Practice* 1, 34.

⁷²⁴ Naguib, '(n 582), 148, who states "The overarching objective of the international women's rights discourse is to increase women's participation in the workforce and decrease their disproportionate burden of household tasks."

well as the intersections with religion, identity and gender in a specific spatial and temporal context, specifically Qatar.

The Western methodologies to women's empowerment are oriented towards reinforcing the dominant norms of market-based society, where economic exploitation and domination are paramount, and the rhetoric focuses on saving women, based on religious perspectives. The influence of neoliberal ideologies has resulted in the implications of women's empowerment becoming general and vague, and lacking in political contextualization and cultural specificity.

Empowerment goes beyond access to resources and capabilities and is rooted in agency and power. Agency denotes the freedom to make decisions and act accordingly, while power exists in three dimensions as discussed in the Literature review (Section 2.4.3), namely, personal power (which denotes the individual's sense of value and self-worth), relational power (the ability to negotiate) and collective power (access to collective conscience, which is the ability to work together for better outcomes). This approach provides women with the freedom to choose, according to their particular capabilities and interests. The conservative perspective on freedom for women creates a false narrative that this kind of freedom can cause catastrophic failure in society. However, freedom of choice is integral in engendering responsibility among women, and hence reducing the prevalence of certain unwanted incidences of oppression. For instance, the freedom to choose spouses increases the possibility of success in marriage and reduces the incidence of IPV and divorce.⁷²⁵

In Gulf countries, religion is both a catalyst and a barrier to the empowerment of women.⁷²⁶ As a driver, religion is perceived as laying the groundwork for agency and self-actualisation. In specific terms, *Shariah law* is seen as upholding the rights of women to empower themselves economically through income generation and ownership of property, while also assuring their autonomy in the management of finances. Islam offers women freedom in the personal and financial domains. Similarly, it is imperative to avoid overlooking the cultural and religious processes when analysing the empowerment of women in Gulf countries (like Qatar), due to the significant role that Islamic values play in the identities of women in the Gulf, including the

⁷²⁵ Al-Nasr, (n 230), 43, since couples who enter into marriage amicably have a higher chance of avoiding the most prevalent causes of divorce, such as intimate partner violence,

⁷²⁶ Naguib, (n 582) 43 indicates that women perceive Islam, and religion in general as a motivator for the promotion of equality and rights of women.

incorrect assumption of the passivity of women within Islamic socio-cultural settings.⁷²⁷ In this perspective, women's empowerment is conceptualised in a three-dimensional framework, which includes resources, agencies and achievements.⁷²⁸ A different three-dimensional model by Kabeer which uses an ecological methodology under which the empowerment of women is a dynamic process which is both context-specific and multilevel,⁷²⁹ indicates that to fully conceptualise empowerment, it is necessary to focus on: the 'what' (the choices and decisions to be made by the woman); the 'how' (the pre-conditions needed and resources for empowerment); the 'why' (the targeted outcomes for empowerment); the 'where' (the context of the empowerment process, which is where the women are); the 'who' (the specific category of women being referenced, based on the specific characteristics); and the 'when' (time reference for empowerment, which relates to the period when empowerment is to occur). The propositions include measures to ensure that women can develop skills and be self-motivated, can access institutional support from society and state, get encouragement and support from family and peers to contribute significantly to supporting and empowering women, access opportunities in education, improve in workplace conditions and opportunities for women of all categories, develop representative role models, and conceptualise ways to ensure financial independence among women.

8.2.4.1 A Feminist Approach to the Empowerment of Women

Qatar, like other Gulf states, has introduced priorities for the empowerment of women, as part of its national development and policy agenda under the Millennium and Sustainable Development Goals.⁷³⁰ The top-down approach adopted under such programmes seeks to empower women by creating an enabling environment and eliminating generic barriers, such as illiteracy, lack of access to social and legal amenities and unemployment, among others. As discussed in Chapter 2, the approach is commonly referred to as state-sponsored feminism. Despite the widespread criticism, state-sponsored feminism has led to several positive results.⁷³¹ The criticisms revolve around its failure to target real change since it is framed around foreign

⁷²⁷ Blitt (n 18), 34.

⁷²⁸ N Kabeer, Resources, agency, achievements: Reflections on the measurement of women Empowerment, (1999), 30 Development and Change, 3, 435.

⁷²⁹ Ibid, 436.

⁷³⁰ As evident from the QNV 2030, among other programmes.

⁷³¹ It has led to increased opportunities for women in the job market, increased literacy levels through enrollment in different levels in learning institutions, established balanced in society, raised awareness on leadership and its role in society, increased political participation, better access to legal services and justice, and improved legislative processes,

interventions and conceptualisations of equality, which are designed to benefit the elite while delivering negligible impacts to ordinary women.

Ultimately, there are challenges in reconciling the conflicting views, based on the conservative and progressive perspectives on empowerment. The progressive view advocates for changes guided by contemporary norms, while the conservative perspective, held by traditionalists, displays scepticism and resistance to change. Women find themselves in a middle ground, whereby they are keen on retaining their identity as conceptualised under the conservative norms, while also accessing the benefits of the progressive norms. To achieve this, Qatari women must shift their empowerment agenda from the externalised perspective, and then reframe the approach from an indigenous appreciation of dignity, equity and justice.

8.2.4.2 Empowerment Justified Through Results

Most studies have conceptualised the empowerment of women as an end in itself, as opposed to being the means to an end. Within those studies, successful empowerment is appraised based on indicators, including participation in the labour force, an increase in earnings capacity, access to education, and participation in key socio-economic and political domains.⁷³² The outcomes of empowerment entail improving the well-being and quality of life of women across a multiplicity of dimensions, while also creating positive changes that do not compromise the core values of family and communal growth within the society. The proposition seeks to ensure that the empowerment of women does not lead to the creation of conditions leading to the ostracising of those who benefit from the changes. The use of international standards and statistics in designing the outcome measures is one of the reasons why beneficiaries of empowerment may be ostracised within society, thus nullifying the impact of the entire process.

First, empowerment leads to improvement in the personal well-being of women by improving the quality of life of women, based on their self-esteem, life satisfaction and fulfilment, and general happiness.⁷³³ The subjectivity of these outcomes makes them challenging to define,

⁷³² Naguib, (n 583) 43.

⁷³³ A Liloia, *State Discourses on Women's Empowerment in Qatar: The 'Ideal Qatari Woman' as a Neoliberal Feminist Subject*, (2022), 12 *J of Arabian Studies*, 1 24, 30, posits that the empowerment of an individual leads to potentially positive benefits to the community and other individuals who are adversely affected in a similar or related manner.

without specifying the context, which is where the role of standpoint feminism from an Islamic perspective is integral to success.

Second, the empowerment of women involves changes leading to increased participation in society through solidarity and collective action in driving change within society. Even when women do not rise to key positions in leadership, the change leads to positive impacts in their social and communal circles. However, it is still necessary to elevate women into positions of power and influence, as a way of ensuring that the benefits that are achieved can be sustained while permeating other contexts of society.

Third, participation in the development of societies, whereby women target empowerment in a manner that aligns with their core responsibilities within the family unit and community in general.⁷³⁴ In Qatari societies, women play a key role as educators and care providers. Consequently, their empowerment goals should be aligned with achieving these outcomes. Such empowerment positions women as champions of community development, rather than being perceived as seeking empowerment for individualistic goals. While women's empowerment is integral at the individual level, it also has to be justified as part of the measures to enhance familial and communal goals, as a way of shoring up extensive support for their endeavours.

These measures will reinforce the empowerment agenda by linking equality in rights with equality in duties and responsibility, thereby closing the gap towards complementarity as conceptualised under Shariah law.⁷³⁵ Theoretically, empowerment entails understanding how rights have to be matched with duties. Under Islamic systems, the process of matching rights with duties through empowerment entails the complementary nature of the roles of men and women, whereby the contribution of one partner within the institution of marriage reciprocates what the other partner does. Several challenges arise due to modernisation, whereby women are no longer relegated to the private sphere. This is part of the second-wave feminist movement in the 1970s, which led to the introduction of CEDAW, coupled with the changing socio-economic realities where women are also concerned about the progress of the households. Under this liberalised

⁷³⁴ B I Abdelgafar, 'Re-envisioning Women's Empowerment: A Maqasid Approach to Understanding Women's Status and Rights in Islam', In: Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States. Gulf Studies*, vol 11. (Springer, Singapore, 2024).

⁷³⁵ Amnesty International, 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the protection of women from violence in the Middle East and North Africa region, (2004), Available at <<https://www.refworld.org/pdfid/42ae98b80.pdf>> accessed July 20, 2024.

ideology, questions emerged regarding the value of the work done by women within the private sphere, and whether there is a need for recognition of this form of contribution, including campaigns for compensation for women. The creation of a level playing field entails a change in how the roles of men and women within society, in general, and under the institution of marriage are conceptualised. Equality is achieved through involvement in decision-making, through consultation to enable women to determine processes and outcomes, as well as the necessary courses of action to be taken, especially in issues that affect family and society.

8.2.4.3 Justice and Its Role in Promoting Empowerment

The equal treatment of women can only be achieved through increased focus on justice and the impartiality of treatment under the law, as part of the tenets of Islamic feminism.⁷³⁶ Since equality does not lead to just the treatment of women in all contexts, the laws must be designed and interpreted in a manner that recognises the position of women in their roles within the family and society. Justice entails the application of laws to ensure fairness in addressing issues facing societies in which the law applies. Consequently, two key issues arise from the review of literature, analysis of the law and of Qatar's CEDAW obligations, and analysis of past judicial cases. First, Qatar should establish laws and jurisprudence on IPV, in line with other societies that criminalise, or at least impose civil liability, against perpetrators, to prevent the incidences and punish perpetrators. By so doing, it will eliminate the ways through which women face oppression through domestic abuse, by the establishment of strict punitive and remedial means for victims of abuse. It can also act as a deterrent against perpetrators of IPV, who, based on the current legal framework, face no consequences for their actions, based on two of the judicial decisions analysed in Chapter 6. Second, the development of gender-equality jurisprudence is a complex process which entails the establishment of formal anti-discrimination norms within the structure and purpose of the existing legislation, and ensuring that its impact, as deployed by state actors, contributes to the avoidance of the stereotypical treatment of women. By so doing, and as asserted by Yefet, Qatar can "...accord heightened scrutiny not only to sex-based classifications, but also to ostensibly neutral state action regulating family life in a way that denies "full citizenship stature" to women

⁷³⁶ See Al-Hibri (n **), who asserts there is a need for reformation of family and personal status law to ensure that justice can be achieved. See also Mir-Hosseini (n **), addressing the issue of marriage, dowry and divorce as key targets for the reforms, to ensure gender-based justice.

or that perpetuates the “legal, social, and economic inferiority of women.”⁷³⁷ The measures relate specifically to the conferment of birthright citizenship by Qatari women married to non-Natives. Such a decision would provide women with the freedom to seek spouses from outside the country, without risking losing certain benefits that accrue to Native Qataris. The process eliminates the need for such women to only have the choice of opting for marriage to Native Qatari men, whereby they (women) are perceived as being disempowered that specific power dynamic associated with the selection of spouses is limited.

Laws against violence have formed a legitimate rationale for states to interfere in the affairs of individuals, intending to engender peaceful coexistence.⁷³⁸ *Shariah law* is clear regarding the origin of the concept of punishment of a wife by a husband, and based on the provisions as outlined in Chapter 4 (Section 4.2), without involving violence. The introduction of equal-protection jurisprudence as a mediating principle is necessary in response to several changes, some of which arise from the empowerment of women. The anti-subordination principle functions by shifting the focus from hidden prejudices, such as those from state actors, towards the inequalities within groups due to social stratification that arises from the actions of the state and society.⁷³⁹ In justifying gender-based classifications and the interventions necessary to address the inherent discriminations, the tendency to rely on stereotypical gender roles offers a sub-optimal basis. From a legal standpoint, the multiplicity of approaches for equal protection based on gender classifications reflects sexual stereotypes. On one hand, in Qatar, there is a change in the perception that husbands are breadwinners, while women are seen as homemakers within the domestic sphere. This approach is thus flawed, considering the recent reforms. The increase in the number of women participating in the labour force implies that a woman can contribute to household income. Similarly, the multiplicity of modern investment opportunities and skills categories implies that women can own property easily, including non-traditional categories such as digital assets and intellectual property rights for inventions. As a result, the barriers to ownership of property and earning capacity that necessitated spousal support from husbands to wives have been reduced. This

⁷³⁷ Yefet (n 554), 472, a proposition that draws from the socio-historical understanding of the doctrines of gender equality.

⁷³⁸ 73rd CEDAW Session, ‘Thematic Report On Article 16, Muslim Family Law and Muslim Women’s Rights in Qatar’. (2019). Available at <<https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf>> [accessed 22 March 2021], who indicates that these legal principles have been widely adopted across the globe since the start of the 20th century.

⁷³⁹ Yefet (n 554), 469.

dimension of empowerment of women is often overlooked, since it presupposes that men are responsible for socio-economic and resource mobilisation; hence, to ensure the protection of the identity of the rentier state,⁷⁴⁰ several benefits are bestowed upon them.⁷⁴¹

Finally, it is necessary for the development of legal solutions and jurisprudential procedures for treating domestic violence and IPV as a component of the systematic cultural environment which perpetuates discrimination against women. The process entails a multifaceted set of interventions, designed to address the cause, mitigating factors and effects. These measures are integral in establishing an alternative approach to addressing one of the most prevalent causes of divorce in the country. This proposition has widespread benefits to individuals, including the victims and perpetrators, while also preventing the multiplicity of adverse effects arising from divorce. The proposition draws its utility from the fact that it is aligned with the goals of the reforms targeting reinforcing the robustness of the family unit within Qatari societies.

8.2.5 Establishing Contextualised Indicators of Empowerment

The social identities that are a cause and effect of discrimination against women overlap, with the related oppressive forces and privileges interacting similarly. The categories of identities, such as socio-economic class, social status, age, literacy level and race, among others, are relevant when analysing the structures of domination.

Countries in the Gulf region, like Qatar, are faced with tensions during the formulation of policies due to the disparity between local norms and international standards.⁷⁴² However, the universality of the international women's agenda necessitates the identification of overlaps in the norms under Arabic culture and neoliberal ideologies. Feminist ideologies propose the globalisation of the perspectives that encourage the revision of concepts necessary for legal reform to eliminate the oppression of women. International treaties, such as CEDAW, provide a foundation for the widespread commitment by countries, including the enactment and enforcement of the necessary laws.

⁷⁴⁰ See Beblawi (n 201), 16, who defines a rentier state as one which derives most of its revenues from rents paid by foreign governments, companies and individuals.

⁷⁴¹ Key among them is the birth right citizenship, with other categories including the existence of the patriarchal system.

⁷⁴² Melissa Langworthy, and Rabia Naguib, Through the Eye of the Needle: Lessons in Women's Empowerment and Public Policy from the Arab Gulf. In: Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*, (Gulf Studies, Springer, 2024).

An examination of the effects of policies on the empowerment of women in Qatar reveals that the perpetuation of neoliberal capitalist conceptualisations of human rights and the definition of empowerment of women from a Western perspective leads to the dichotomisation of Arab cultures from Western views.⁷⁴³ Over time, it has become apparent that the existing indicators are influenced by neoliberal ideologies and the universal conceptualisation of empowerment and the associated indicators and variables. The top-down approach leads to the imposition of standards that are not aligned with the challenges in the Qatari context, and that can compromise the viability of the objectives of equality.⁷⁴⁴ It can ultimately lead to the perception that empowerment and emancipation are not designed to better the position of women in society, but as a way to create additional ways to use them. It also encroaches upon the essence of empowerment, which is to improve the capacity for women to self-determination. There are also concerns regarding the moral legitimacy of the involvement of international organisations that tokenise the empowerment of women. Tokenisation can lead to unsustainability in the implementation of measures to enhance empowerment, especially if the domestic institutions and systems assigned the responsibility are not well-equipped for the task.

To address this issue, it is necessary for policy- and decision-makers to create indicators that are more nuanced and culturally sensitive, as a way of finding solutions that are aligned with the endogenous values and resources. The measures are designed to resolve the perception that empowerment is framed purely from a Western perspective. The process entails identifying all forms of discrimination that the Qatari women face, then identifying the most effective and efficient approaches to determining how success is achieved. Ultimately, the contextualization involves customisation in the assessment of processes and results.

Ultimately, policy-makers and those involved in the implementation of the policies will have to recognise the challenges facing women in both the private and public spheres and introduce measures to address those particular contexts. The process of contextualising the indicators should also entail the adoption of a participatory approach rather than a paternalistic viewpoint, whereby the voices of women are taken into account, and their recommendations are integrated into the reform process. By promoting the participation of women in the design and implementation of

⁷⁴³ Ibid, 149.

⁷⁴⁴ Golkowska (n 157) 57, who states that the integration of women into the workforce is often treated as the primary methodology for achieving gender equality in some locations.

policies, each country will rely on the experiences and abilities of women to frame objectives of empowerment based on what is viable and what is important to them.

Essentially, it is necessary to design a set of indicators for women's achievement in the country by targeting the domains under which women are most oppressed. Similarly, it is necessary to identify the areas where optimal results can be achieved for most women, before customising the measures to unique and individual circumstances.

8.2.6 Establishment of Justice under Islamic Principles: The New *Maqasid* Methodology

Religion plays an integral role in the socio-cultural, economic and political norms in Qatar. As discussed earlier, there is a perception, which is partly based on experiences, that Qatari laws are framed and interpreted ambiguously, and characteristically aligned with perpetuating male-patriarchal norms.⁷⁴⁵ To disambiguate the basis of the law, a clear distinction between *Shariah law* (on family life), Islamic law (*Fiqh* on marriage, divorce and domestic violence) and Qatari family law (QFL No. 22 of 2006) is provided under Chapter 4. The differences highlight the instances where a conflation among the three legal frameworks leads to the perpetuation of violence. The differentiation highlights the misconceptions that seem to be widely accepted regarding how certain issues under family law are influenced by *Shariah law* and *Fiqh*, including the interpretation of QFL No.22 of 2006. If the proper values of the Islamic religion were applied, this would play an integral role in the empowerment of women, hence the need for the establishment of policies that align the empowerment of women with the tenets and objectives of *Shariah law*. This process, which is central to Islamic Feminism, should be designed to uphold the egalitarian principles of *Shariah law*, entails the restoration of the principles of justice in line with the discourse of dignity and freedom, while also avoiding the exploitation or misinterpretation of religion for purposes of legitimising certain interests, policies or outcomes. Through the approach, Qatar can address the religious-moral concerns associated with the oppression of women, without resorting to abolitionism, politically motivated inclinations, or needing to make historical compromises with traditional Islamic institutions.

⁷⁴⁵ See the different schools of thought on *Shariah* by Smolik (n 494), 6, with additional discussion on how the principles are applied in interpretation of law provided in Chapter 4. See also M Bhatti, 'The Role of Shari'a in International Commercial Arbitration' (2019) 36 *Sharia in Int'l Arb'n*, 1, 47, for the effects of the chosen school of thought on jurisprudence in countries that apply *Shariah*.

This approach, commonly termed the New *Maqasid* Methodology (NMM), champions, among other objectives, the examination of the rights and position of women in society, from a transcended and holistic perspective.⁷⁴⁶ Based on this approach, neither the *Quran* nor the *Sunnah* define or constrains women by their biological nature. It highlights the need for the re-examination of the rights and position of women from the standpoint of the divinely inspired order, based on their purpose, connections and wholesomeness, rather than ideological perspectives of constrictions and grievances. At its core, NMM challenges the notion that “...inequality as the main cause of injustice and argues that empowering women involves recognising their relationship with their Creator as well as their relationships to their own selves, other individuals and groups, and all other creatures.”⁷⁴⁷ Through NMM, the potential of the Islamic perspective is explored, with the possibility of giving nation states the option for ratification, or use of RUDs in response to treaty obligations. The approach has a number of benefits, including the following.

First, women are recognised as autonomous subjects and agents, who play a critical part in society, with their roles extending beyond the domestic chores, motherhood and wifely duties.⁷⁴⁸ The diversity of manifestations expressed by women as they transition across life offers a guide on the empowerment of women, as well as a reconceptualization of gender equality, in line with Quranic tests, Islamic practices and *Shariah* law in three ways: (i) it places Islam as an index for assessing how humans advance or regress, from a historical stand point; (ii) it accurately reveals the complexities of the current reality on gender equality and empowerment of women; (iii) it establishes a divinely justifiable criterion for envisioning the future of the change in empowerment of women and gender equality.⁷⁴⁹ It entails the re-envisioning of Islamic scholarship through a combination of dynamic and connected patterns that express revelational implications aimed at guiding real-world experiences.

Second, as articulated under neoliberalist instruments on human rights, such as CEDAW, such limitations lead to overlooking a significant portion of its value. As observed by Abdelgafar,

⁷⁴⁶ Abdelgafar, (n 656), 58, who asserts that the tenets of NMM are aligned with the goals of Islamic feminism.

⁷⁴⁷ Abdelgafar, (n 656), 59.

⁷⁴⁸ Ibid, 55.

⁷⁴⁹ See R Naguib (n 582), 66, who indicates that the New Maqasid Methodology construes a composite criterion which focuses on examination of seven key aspects, including concepts, objectives, values, rules, universal laws, parties, and proofs (COVRUPP). The criterion is applied to the specific themes, subjects or phenomenon. See also J Auda, *Maqasid Methodology for Re-Envisioning Islamic Higher Education*, (2021), 1, *J of Contemporary Maqasid Studies* 1, 31, The methodology seeks to restructure Islamic scholarship around a system of higher objectives of Prophetic traditions and the Quranic teachings.

CEDAW provokes a number of religious-moral arguments in some locations, including Islamic countries, and no genuine response has been provided for those concerns.⁷⁵⁰ The introduction of the NMM adopts a broader yet objective approach, which is not limited to locating women in society based on their status. It focuses on promoting and defining women's rights from a comprehensive perspective within the interrelated reality of contemporary society. It also challenges the generic misconception on how injustices and oppression are framed, by emphasising how neoliberalism affects fundamental order in a particular society, and highlighting the purpose, connections and wholesome nature of creation. It offers an all-inclusive insight into the lives of women, who are essentially moral agents (involved in receiving, questioning, synthesising, and adopting messages) and unique subjects (similar to other individuals or groups with particular significance).

Third, the approach also solves the challenges arising from the introduction of *Shariah law* into public debates in a manner that is devoid of a deep appreciation of the various ways through which it supports or counters the rights of women.⁷⁵¹ The NMM, as applied to the status and rights of women under Islamic societies, offers a critical, comprehensive and progressive perspective which emphasises policy development guided by justice, equity and dignity. Thereby, it offers a feminist vision for the development of societies that recognise the role of religion in contemporary living and the interdependencies and intra-dependencies between the genders.

Finally, the perspective circumvents the limitations of modernism, traditionalism and feminism, thereby correcting the injustices through a nuanced appreciation of the multiple intersecting perspectives. Section 5.3.6 provides a snapshot of how intersections between/among factors that perpetuate oppression can magnify the effects, while also limiting the efficacy of interventions.

8.2.7 Adopting a Participatory Approach

As indicated earlier, the conceptualisation of international women's rights based on neoliberal ideology lacks nuance in contextualising the issues facing women, as well as solutions to those issues. However, the neoliberal ideology has played an integral role in highlighting the

⁷⁵⁰ Abdelgafar, (n 656) 59, who attributes the lack of responses to the tendency by supporters to and opponents to use selective traditional arguments to justify their positions.

⁷⁵¹ See Englehart and Miller, (n 12) 23, who indicates that CEDAW established a platform for nations across the globe to evaluate their successes.

fundamental issues facing women on a global scale.⁷⁵² This is why it is necessary to look beyond the neoliberal scope and thereby promote alternative approaches to the empowerment of women. Through this approach, it is possible to identify solutions that have not yet been prioritised under the neoliberalist and capitalist premises.

First, feminist scholarship has magnified the importance of tools such as the Internet, mass communication, and international mobility. These tools promote dialogue and interactions, leading to the exchange and refinement of ideas on issues affecting women. These tools lead to increased participation in advocacy and collective action, through solidarity, to enable the women to overcome unforeseen challenges.⁷⁵³ Through mutual support, women can get their voices heard in the forums where it is most required. Advocacy, through social dialogue, shapes public opinion about the empowerment of women to a broader audience, thereby providing a platform for the sharing of additional perspectives and ideas. Ultimately, this leads to a better appreciation and understanding of the issues facing women, with two key outcomes. On one hand, it highlights how widespread the issue is since those who are affected can report their experiences. On the other hand, it leads to the magnification of previously overlooked concerns.

Second, the participatory approach presents the most opportune pathway for achieving organic growth in the empowerment of women, thereby leading to convergence between the image and reality. It engenders the inclusion of women in the identification of pertinent issues, the relevant solutions to those issues, as well as the most suitable procedures for implementing those solutions. Inclusion is integral in promoting agency, with the resultant change revolving around establishing a sense of personal power and self-worth. The possession of personal power in the targeted groups translates to social and collective power, thus enabling women within the society to contribute to the empowerment of specific women who are oppressed in particular contexts.⁷⁵⁴

⁷⁵² Naguib, (n 582) 150, who indicates that since the 1970s, entities such as CEDAW and BPFA have continued to play a key role in shaping the global policies on the empowerment of women, even though they lack a nuanced approach for contextualization of the factors that problematize the actual agenda. Essentially, the institutions developed the moral authority that still legitimizes the perspective that the empowerment of women is a necessity in modern society.

⁷⁵³ See Al-Hibri (n **), who highlights a situation where the contributions of a woman were integral in the interpretation of *Shariah* law, hence highlighting their abilities to provide useful discourse on important issues in society, contrary to what the patriarchal position under *Fiqh* promotes.

⁷⁵⁴ See M Rajakumar, Assessing the Rhetoric of Sheikh Moza. Mistress of Ethos. In Michelle Lockhart & Kathleen Mollick (eds.), *Global Women Leaders. Studies in Feminist Political Rhetoric* (pp. 127–144). (Maryland: Lexington Books, 2014).130, who uses the example of the contributions by Sheikh Moza, who was perceived as being

Third, the participatory approach is integral in creating bottom-up initiatives, whereby women are active participants who are represented in the decision-making processes. The process entails elements of networking, capacity building, engagement in leadership programmes, provision of mentoring and support and increased engagement of the targeted women. Ultimately, the process leads to transitioning of the empowerment of women in Qatar to a proactive stance, from the current reactive stance. The transitioning involves anticipating problems and issues, then designing solutions to those issues before the problems metastasise into widespread issues.

Finally, the proposition is integral in addressing implicit forms of discrimination, whereby there is no underlying intention in the actions of the perpetrators, but the effects are registered nonetheless. The proposition targets those forms of discrimination and oppression that are challenging to prove and counteract since it establishes mechanisms for proactive response. Such implicit forms of abuse include coercive control, which can occur through subtle aggression without noticeable effects on the victims. It also accounts for interventions targeting novel forms of discrimination that have not been legislated against, thereby reducing the lag in the duration between the identification of the issue and the development of relevant solutions. It can also enable victims to provide input on the forms of abuse experienced, especially when the discrimination has occurred over a considerable duration before interventions are introduced. As observed in the judicial decisions, reliance on the generic approaches, including those utilised by formal judicial institutions, is not an assurance that victims will get fair treatment. This is why a participatory approach is proposed.

symbolic in the empowerment of women in the country, her achievements are considered a gateway for changes in the country.

9 CHAPTER 9: CONCLUSION AND RECOMMENDATIONS

9.1 Introduction

The study aimed to explore the effects of divorce, from the perspective of domestic abuse, on the international human rights of women in Qatar. The review of literature provided research-based evidence on the prevalence of oppressive treatment of women. This study focused on how the oppressive treatment of women within the institution of marriage can predispose women to sacrifice their international women's rights, such as the right to self-determination and the choice of terminating the marriage through divorce. The study relied on original analysis of Qatar's obligations under CEDAW and their domestic implementation, Qatar's relevant family and personal law provisions, as well as secondary data on court decisions relating to divorce proceedings involving Qatari women. The three cases represent instances of irrevocable divorces, whereby the process was necessitated by circumstances that are beyond the control of the woman. The analysis was carried out through a combination of doctrinal and socio-legal approaches. Through doctrinal analysis, the statutes and decisions by courts were reviewed to determine whether and how access to justice is assured through the procedural and substantive norms. The analysis also deployed the socio-legal approach, whereby the premise of legal frameworks was assessed based on the context and environment in which it is applied. The approach culminates in the identification of the rationales for the assimilation of international law standards, which are based on common law principles, into the legal system of a country whose socio-cultural, political and economic systems are built on *Shariah law* principles. The characteristics and application of the dual legal system were reviewed, leading to the determination that some forms of oppression arise due to the lack of congruence between the two systems.

9.2 Conclusion

This section entails an exposition of how the research questions of the study were met. The discussion focuses on the findings from the review of court cases in Chapter 6, the extent of the implementation of treaty obligations by Qatar as discussed in Chapter 5, as well as the discussion of findings in Chapter 7 in the context of the broad-based discourse in the literature reviewed in Chapter 2.

9.2.1 First Research Question: What factors lead to the oppression of women and IPV against women in Qatar?

The first research question was to evaluate the factors that contribute to the oppression of and discrimination against and IPV against women in Qatar. This was undertaken through the discourse in the literature review, the discussion in Chapter 4 on the current divorce laws in Qatar, including procedural and substantive rules on how divorce is carried out in the country, and the analysis in Chapter 5, which discusses the extent to which Qatar has implemented international human rights of women as outlined under CEDAW and other instruments, and finally, an analysis of the judicial decisions in relation to three women who were involved in divorce cases in the country.

The study identified five factors that cause the oppression and discrimination of women, specifically IPV in Qatar.⁷⁵⁵ It also culminates in the identification of the existence of interlinkages between those factors, which explains why the oppression and discrimination of Qatari women is structural, systemic and systematic.

The analysis herein involved the application of multiple theoretical perspectives to explore the factors that contribute to the oppression and discrimination of women. The analysis adopted feminist perspectives that reveal the role of patriarchal relations of power that lead to the oppression and discrimination of women in Qatar. The discussion transitions to the Islamic feminist perspective, which offers solutions to the persistent gender-based challenges.⁷⁵⁶ The analysis also focused on the role of the balance of power between genders, due to masculinity and dominance, in varying settings that are built into the patriarchy. The analysis applied Islamic feminism, which identifies the gender-based differences within Islamic communities.

The findings reveal that the long-held system of patriarchy in Muslim-majority societies is apparent in Qatar, despite the multiplicity of reforms designed to address the issue. This study recognises that despite some progress being made to address inequalities and discrimination, they are either sub-optimal or fail to address the issue. The study concludes that, in line with Islamic

⁷⁵⁵ See Chapter 2, Section 2.3, including economic, cultural, social, legal and political factors.

⁷⁵⁶ See Chapter 3, Section 3.2.2, with the Islamic feminism principles identified including, the need for an intellectual interpretation of *Shariah*, the elimination of the hierarchical conception of gender-relations, the need to separate cultural norms from religious principles upon which the law is based, the reformation of family and personal status laws, and application of intersectionality to fully understand the underlying factors that perpetuate the oppression of Muslim women.

feminist perspectives, rather than *Shariah law* principles being a barrier to the oppressive treatment of women, it is how they are interpreted and applied that culminates in adverse outcomes. The use of a post-structuralist perspective broadened and deepened the scope of the analysis by taking the interpretation and conceptualisation of the causes of oppression beyond a simplistic linear cause-and-effect approach, to identify both orthodox and unorthodox aspects of oppression and discrimination. The intersectional perspective revealed how different characteristics and aspects of women's identities are interlinked, leading to the magnification of the effects of oppression. Studies have shown how an intersectional perspective in this particular area of study recognises the interrelationship among different factors, and how the interrelationship influences the effects.

This study focuses on the oppression and discrimination of Qatari women, primarily within the institution of marriage, and specifically, the categories that precipitate the initiation of divorce. At the helm of the factors is the legal category, which relates to the laws in place to address oppression and discrimination, as well as how Qatari courts apply those laws.⁷⁵⁷ The prominence of legal factors arises due to the centrality of the domestic legal infrastructure in the adoption of international standards on the rights of women.⁷⁵⁸ It also arises due to the context of the data analysed herein, whereby the focus is directed on the outcome of judicial awards on claims relating to divorce proceedings. The validity of legal factors as a determinant of the oppression of Qatari women arises due to the multiplicity of incongruences in the laws of the land. On the one hand, the constitution is codified and established based on a combination of *Shariah law* and common law principles. On the other hand, the statutes developed by the legislative and judicial entities do not adhere to the same structure. The divergent use of the two systems in the two domains of law influences the predictability of the procedural and substantive norms, thereby influencing the extent to which the dispensation of justice is fair. There are also conceptual contradictions in how some of the laws are framed, which limit the certainty of outcomes of judicial proceedings.⁷⁵⁹ After all, judicial officers can opt to base their decisions on divergent bases when adjudicating one issue,

⁷⁵⁷ See Chapter 2 (Section 2.3.4) for a review of literature on the factors, coupled with the discourse in Chapter 5 and 6, and a discussion in Chapter 7, Section 7.2.1).

⁷⁵⁸ See Möller (n 415) 313, who recognises the role of international legal standards in the reforms in the domestic laws in Qatar, while Smolik (n 494) 6 reiterates the incidences where *Shariah* principles have been retained as the primary guide in interpretation and application of the relevant laws.

⁷⁵⁹ Independent Group of Concerned Citizens, 'Qatar Shadow Report to the Convention on the Elimination of Discrimination of Women,' (2013), 6, as shown in the literature review, there are contradictions in how nationality is conceptualized under the constitution (with Qatari men and women being equal), while the operative law establishes differences in the rights and responsibilities of men and women, concerning nationality and citizenship.

thereby leading to inconsistencies in the judicial awards. Some of the provisions under family law and nationality are emblematic of this challenge.

Over time, Qatar's legal framework has been changed significantly to introduce provisions that highlight the illegality of the oppression of women, while also providing for ways through which oppressive treatment can be addressed.⁷⁶⁰ The provisions are thus universally mandated upon all residents of the country, who have to abide by the laws. Additional reinforcing effects are evident from the changes within the constitution, which give effect to the overall objectives of the law to highlight the importance of the provisions as part of the legal mandates in the country. In addition to imposing certain mandates on the dispensation of the rights of women, these multilevel reforms leave no doubt regarding the degree of commitment by the country towards ending oppression. Despite these changes, the country has failed to address some of the technical issues within its legislative and jurisprudential norms regarding the oppression of women. The failure can be traced to the perspective that any gaps in the law can be addressed through interpretation by the courts. However, the differences in the Islamic schools of law that the judicial officers can opt for,⁷⁶¹ coupled with a lack of specificity on which approach to adopt in the proceedings, contribute to differences in the judicial awards for a particular set of matters of law and fact.

The changes in Qatari laws have been further effected through a number of policies and programmes that are introduced to facilitate the implementation of the laws. The programmes, including the involvement of women in the workforce and the power for women to initiate divorce, address the issue of oppression and discrimination. However, these reforms have created novel forms of challenges that magnify the oppression of women, since they create the perspective that there is progress among women in society, and can be used to suppress additional reforms, based on the premise that the country has done a lot for women.⁷⁶² Similarly, the absence of commensurate changes to the environment in which the programmes are implemented contributes to the limited impact. For instance, women still face the negative consequences of patriarchal structures in the workplace, whereby the gendered spaces lead to oppressive treatment.

⁷⁶⁰ See however, Abdullah (n **), who asserts that the changes in the substantive provisions are not entirely reflected in Qatari jurisprudence, with the effects of patriarchy apparent from procedural rules, and the dispensation of justice.

⁷⁶¹ Smolik (n 494), 6, indicates that judicial officers can opt for any of the five schools of thought in their decision making process, including *Shafi'i*, *Ja'fari*, *Hanbali*, *Maliki*, and *Hanafi* schools.

⁷⁶² See Naguib (n 582), 23.

In spite of the extensive reforms, there are still some legal provisions and jurisprudential practices that expressly perpetuate the oppression of women in the country. The presence of a dual legal system, comprised of common law systems and *Shariah law*, has implications for jurisprudence. *Shariah law* is itself static and not subject to change. Islamic jurisprudence has, in the past, differed significantly from common law systems. These differences arise due to the differences in perspectives on how laws should be interpreted. While the dual legal system is integral to the dispensation of justice, how it is deployed has implications for the achievement of the rights of women through the elimination of oppressive and discriminatory treatment. Jurisprudential norms entail the establishment of a justice system that engenders fairness and equality for all parties. While a number of adjustments to Islamic jurisprudence are evident, the provisions therein remain constant. Within the dual system, the Qatari courts can opt to apply one or both legal systems when determining cases relating to divorce.⁷⁶³ This level of discretion by the court implies that there is limited predictability of the process and outcome, which limits the recourse for the aggrieved claimants who perceive the judicial awards as unfair. Furthermore, it is common for appeals on judicial awards based on *Shariah law* to fail, since the religious principles on which the decisions are based are deeply entrenched in the socio-cultural fabric of the society. These assertions are evident from the cases analysed herein. The three cases signify scenarios where courts offer limited options for justice, even in scenarios where they are exercising their rights under the law. The situation also highlights a scenario where law-abiding female citizens have limited favourable options under the law when seeking emancipation from abusive marriages, hence predisposing them to oppression, regardless of the choices they make.

The second category is the social factors, which arise due to the unique societal organisation structures in the country. These social factors refer to how individuals relate within society, and how those relationships influence the oppression of women. Qatari societies are hierarchically framed around a patriarchal male figure, who plays a fundamental role in making decisions on all issues. While the women in society, or family, are subordinate to the men, they also hold hierarchical positions within the patriarchy. The system of cascading patriarchies in the societal structure is widely recognised as precipitating and/or perpetuating the oppression of women since the hierarchy limits the agency of women. Normally, the actions of women have to

⁷⁶³ As is evident from the case titled ‘Appeal by Cassation No. 30 of 2006, Personal Status Cassation’ in Chapter 6.

be chaperoned by a male guardian. The structure and its functioning have a bearing on marriages and divorce since it can influence the power balance within the specific patriarchy, or power relations with other families or societies. At its core, the patriarchy influences the choice of marriage⁷⁶⁴ and divorce, at the very least, by attaching its power and power balance to the decisions of the woman. It inadvertently creates conditions that can incline a husband, who is at the head of a patriarchy, to use violence within the institution of marriage, without facing commensurate consequences. As shown in the analysis of court decisions, the inclination materialised in real life, leading to adverse effects on the women.

Other precipitating factors under the social category include the fact that the social support structures, which a woman is supposed to rely on after a divorce, are attached to the patriarchy, which is built on familial ties. As a result, a woman who seeks emancipation from an abusive marriage has to rely on the patriarchy, which is ultimately responsible for the oppressive treatment of women. This includes connections that lead to opportunities for work, ownership of resources and property, and, at the national level, issues such as nationality and citizenship. These highly organised social systems that exist at a familial level imply that women are faced with unique challenges at each level, with limited alternatives. While there have been some changes in the social domains, such as increased urbanisation, an increased number of nuclear families, and cross-national marriages, these changes are often perceived as more of an exception rather than being the rule. Ultimately, in Qatar, since every aspect of life is linked to family ties, there are limited options for individuals seeking solutions outside the highly integrated system.

The third categories of factors are derived from the customs that have developed over time, refined by the beliefs, values, and practices of Qataris. As an expression of the manifestations of the collective intellectual achievements of Qataris, the culture of Qatar is a deeply ingrained construct that is at the core of the identity of the people. The cultural factors are the product of a multiplicity of artefacts developed over time. The combined effect of the cultural norms referenced herein is the creation of social pressure, which is justified based on practices drawn from religious teachings, codified legal frameworks and deeply entrenched expectations from the various formal and informal institutions. The perpetual inequity in the representation of women in key positions

⁷⁶⁴ Akhtar (n 235), 20, who indicates that in some cases, through arranged or facilitated marriages, the patriarchy can impose restrictions on who a woman can get married to, with the choices based on factors other than the interests of the parties to the marriage.

across Qatari societies, and the country at large, has led to an environment where the voice of women is lacking in formal and informal settings. The inequity in modern formal settings, including political governance, has consequences in how the tools of governance, such as laws, are applied towards women. Evidence of this is apparent in how the courts that handle family law matters are instituted, as well as the decisions arrived at in the forums.

A review of the procedure and results of judicial proceedings, whereby men are extensively involved in key judicial positions, shows that women lack access to justice, even when there is abundant evidence of their victimhood.⁷⁶⁵ While culture is often conceptualised as dynamic, Qataris are committed to retaining their identity. These conditions played a key role in the RUDs regime on treaties such as CEDAW, as well as Qatar's acquiescence to supporting the formation of alternative treaties on women's rights localised to the MENA and Gulf regions. The role of culture is evident in how *Shariah law* is framed, since before the adoption of common law systems, the country relied on Islamic law. The interrelationships between religion and culture of the country have intersectional influences on a diversity of practices, including how the patriarchy referenced in the social category of factors leads to oppression. Ultimately, the resistance to change, in the face of novel conceptualisations of standards on the rights of women, is evidence that culture contributes to the oppression of women.

Religion in the culture of Qatar plays an integral role in the perspectives and practices in different settings. Cultural practices are evident from how the society is structured, with those practices being disseminated through formal and informal channels to influence decisions and policies at the highest level. While a cultural shift is inevitable, the trajectory and momentum of the change have proven to be slow. As a result, the effects of culture on the oppression of women occur directly and indirectly. While it is possible to address the direct effect, it is the indirect effect, which is often hidden, that is immune to interventions. In most cases, the indirect effects inform the subconscious decision-making processes and actions of individuals, based on what they perceive the community as expecting of them, as well as based on what they perceive as being necessary based on the context. The effects manifest in all strata of society and are reinforced by shared perspectives on what the identity of Qatar is, or can be, the product of an individual seeking to resist change. Ultimately, the role of culture is evident in how the identity of the country is

⁷⁶⁵ As shown in the three cases discussed in Chapter 6.

invoked in the various forums, including legal and social settings, with specific incidents that culminate in the oppression of women.

The fourth category is the political factors, which denote how the country is governed. The governance mechanisms in place influence how systems of order are organised at a national level, as well as how those systems interact with other countries across the globe. The foundation of political factors can be traced to the constitutional monarchy power system in place.⁷⁶⁶ A more direct link on how political factors influence oppression arises from how political participation is framed, as well as the political issues that are tabled for discourse. Starting from appointments to key positions in the branches of government to the development of policies on how each branch operates, the fingerprints of the constitutional monarchy are evident in most decisions.⁷⁶⁷ The influence of politics is also apparent in the non-governmental sector, whether it is framed under neoliberal ideologies based on international standards, or established to provide custom extra-governmental inputs, such as humanitarian aid. These procedures arise from the widely held commitment to preserve the identity of the country, and ward off unwanted influence from Western countries, specifically those elements that run counter to *Shariah law* and the broader Islamic culture. These institutions play an integral role in the adoption of international standards, including those relating to women's rights, through their activism. The inclination of the government to exert influence on how the institutions conduct their activism within the country can lead to sub-optimal results in the protection of the rights of vulnerable and marginalised groups, such as women seeking emancipation. Their approach to resource mobilisation and capacity building often tends to place them at loggerheads with political systems. In the absence of sufficient democratic space, as is the case in Qatar, these institutions face structural barriers in designing an institutional infrastructure to address the failures of the government.

Ultimately, the politics in Qatar have played a role in the oppression of women, due to the inclination towards patriarchy. While the establishment of democratic spaces has led to the addressing of some aspects of the oppression of women, these processes occur under the sponsorship of the patriarchy, which sets outer limits to the extent to which emancipation can be

⁷⁶⁶ Babar (n 33), 403, who indicates that as a constitutional monarchy, Qatar is in a unique position due to the intersection of democratic governance, whereby the interests of the majority are taken into consideration in decision making, with autocratic leadership, under which the leaders make unilateral decisions that cannot be challenged.

⁷⁶⁷ See Naguib (n 582), 94, who indicates that a bulk of judicial officers, as well as individuals who make judicial decisions are men.

achieved. The close link between political governance and how laws are formulated and applied is also evident from the discussion herein.

The fifth category includes economic factors. The inclusion of these factors arises from the connection to empowerment at its core. The possession of resources and capabilities enables an individual to overcome oppression and discrimination since they can control outcomes or make rich choices among the available options for emancipation. The oppression of Qatari women is firmly rooted in the system in place to deny them economic autonomy, including access to gainful employment, mobility within the country, and general agency in decision-making. Similarly, compared to single women, married women face certain barriers to their employability, since, from a cultural perspective, their primary job is to cater to the domestic setting, including parental responsibilities, all aimed at facilitating the interests of the husband. As a result, some of the progress made in terms of the empowerment of women ends up contributing to their disempowerment, with the driving factor being how the patriarchy is organised.

Ultimately, women are faced with the daunting task of balancing their responsibilities in the public sphere, which involve buttressing the status of the husband, and their duties in the private sphere, whereby there is no commensurate compensation. The barriers to economic autonomy perpetuate oppression by limiting the options available to women, as well as placing them in perpetual marginalisation, whereby they rely on patriarchy for survival. It imposes barriers to the progress of women through the unfair allocation of rewards for efforts and results.

The centrality of economic factors as determinants of oppression is evident from the social structures in the country, whereby power is determined based on economic abilities. Similarly, from a cultural perspective, the patriarchy is built around the prominence of men, since they possess the ability to acquire wealth. Under the principle of complementarity, men are seen as the head of the family, their unique position warrants goodwill. The political system is also built on power and influence. Ultimately, access to justice under the legal system is linked to access to economic resources, as is evident under the patriarchy. As is evident from the judicial decisions, the courts are inclined towards the preferential treatment of men, on account of the fundamental role that they play in providing for their families. The inclination of courts to temper punishments towards men despite their severity arises from the view that men play an important role that cannot be substituted by women. Ultimately, the imposition of the responsibility for men to act as

providers and heads of family is interpreted as a justification for permitting their dominance over women.

The five categories of factors highlight the prevalence of ways through which oppression against women can be perpetrated. The existence of interlinkages between these factors has additional implications on how oppression occurs, with certain causes of oppression gaining increased validity based on the context. As predicted under the Islamic feminism approaches, while the close familial ties in the societies have advantages in creating support systems for the empowerment of women, they can also play a role in amplifying the oppression of women in the same societies. As a result, the manner in which the five factors interact can influence whether and how oppression occurs, thereby elevating the potency of the oppression towards women.

9.2.2 Second Research Question: To what extent do Qatar's laws on marriage, divorce, nationality and the elimination of IPV comply with international human rights standards?

The second research question sought to determine the extent to which Qatar's laws on nationality and citizenship comply with international human rights standards. The discussion is based primarily on the findings from the literature review, as well as an assessment of the degree to which Qatar has implemented its treaty obligations under the IHR of women in Chapter 4.

As discussed in Chapter 7, Section 7.4.1. The category of circumstances that may push Qatari women to perceive divorce as an unfavourable path towards emancipation relates to laws on nationality and citizenship. Under the current legal system, citizenship is mainly transmitted through birth to children of Qatari men.⁷⁶⁸ As a result, upon finalisation of the divorce proceedings, women risk losing access to or custody of their children to their husbands after they come of age.⁷⁶⁹ The absence of options for women to confer birthright citizenship to their children predisposes women in Qatar to perceive divorce as an unviable option for emancipation, due to the implications on their children.

⁷⁶⁸ Babar (n 33), who articulates the multiplicity of challenges that individuals seeking to acquire citizenship in Qatar face, including lengthy waiting periods, requirements for continued residence, and limitations on the number of slots available per year.

⁷⁶⁹ Loss of citizenship by birth right has implications on the opportunities available to an individual in the country, including whether they can continue to live and work in the country.

The lack of provisions to enable women to transmit birthright citizenship implies that women may face a scenario where the children may become stateless. As stateless individuals, the children of such a woman may face challenges accessing social amenities. Statelessness has extensive implications on access to resources and opportunities in the country, whereby most of the social amenities and programs for empowerment are designed for citizens.

While Qatari men can transmit birthright citizenship to their children automatically, as well as confer citizenship to a non-Native woman, Qatari women do not have such power. Non-native men married to native women have to follow a complex process when applying for citizenship, which involves evidence of lengthy residence in the country, followed by at least a 5-year waiting period from the time when the application is made.⁷⁷⁰ The challenges also arise when the divorced woman is a Qatari native married to a foreigner, whereby she stands the chance of losing custody of her children once they come of age, since custody reverts to the husband, who may not be a permanent resident in the country. In some scenarios, even when the woman retains custody of the children, the children can't access the full set of benefits from recognition as Qatari citizens. Worse still, the children may end up lacking a nationality if the husband is not available to confer the nationality of the country of origin.

9.2.3 Third Research Question: To what extent does Qatar apply and enforce its treaty obligations regarding women's human rights on marriage, divorce, nationality, and the elimination of IPV?

The third research question was: to what extent does Qatar apply and enforce its treaty obligations regarding women's human rights on marriage, divorce and the elimination of domestic abuse? The question was answered through the discussion in three chapters: Chapter 4, which reviewed the current divorce laws in Qatar, as well as procedural and substantive rule on how divorce is carried out in the country; Chapter 5, which discusses the extent to which Qatar has implemented international human rights of women as outlined under CEDAW and other instruments; and finally, an analysis of the judicial decisions of three women who were involved in divorce cases in the country in Chapter 6.

⁷⁷⁰ Qatar law mandates that applicants are required to have been residents for at least 25 successive years, without having stayed outside the country for more than two consecutive months during that period, the requirement is a challenge, due to the fact that most individuals who live and work in Qatar do so on contractual basis. Similarly, the establishment of limits to the number of people who can be naturalized.

The findings reveal that to a large extent, Qatar applies and enforces its treaty obligations on international women's rights, in line with the accession and RUDs regime on CEDAW.⁷⁷¹ The country has implemented a number of legal and policy-based changes aimed at ensuring achievement of its commitments under the treaty. There are a number of corresponding changes to the institutional infrastructure to make those changes possible. A review of the changes in family law in the country reveals increased freedom of women to exercise their right to enter and exit the institution of marriage.

By way of context, the review of the literature revealed that laws on marriage, as well as the accompanying fault-based laws on divorce, can perpetuate the discrimination of marriage. In Qatar, these effects are apparent due to the long-standing position of patriarchy, whereby men are perceived as providers, while the roles of women relate to domestic duties. Consequently, despite the multiplicity of rules aimed at ensuring gender equality within the institution of marriage, the *Shariah law*-based perspective of the complementarity of roles between men and women positions women as the 'weak' party in the power dynamics of the market institution.⁷⁷² To counterbalance the situation and offer women an option for emancipation, Qatar has implemented measures to empower women from a socio-economic perspective.⁷⁷³ The empowerment reduces the predisposition to over-reliance on men, which offers them agency to escape abusive relationships; The country has also introduced laws that formalise divorce initiated by women. The procedures make it possible for women to initiate divorce to escape abusive marriages. While there has been an increase in the incidence of women exercising emancipation through divorce in Qatar, the extent to which emancipation can occur is limited, especially if children are involved. On one hand, women seeking divorce from a marriage where children are involved have to consider how the children will be affected by the divorce. The law is also designed to be applied with the 'best interest of the child' as a central determining factor. In the three cases, the role of decisions relating to post-divorce maintenance, including child support payments, was a central part of the claims by the women, while also forming a key basis for appeals. As a result, while Qatar has taken extensive

⁷⁷¹ CEDAW, '73rd CEDAW Session, Thematic Report On Article 16, Muslim Family Law and Muslim Women's Rights in Qatar'. (2019). <<https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf>> [accessed 22 March 2021].

⁷⁷² CEDAW, 'Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018', (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

⁷⁷³ Lari (n 166), 15, which includes the changes to laws and policies that enhance the ability of women to access employment activities, thus enabling them to enjoy financial independence and agency.

measures to adopt the treaty provisions, the experiences of some women provide a different picture. This is evident from the experiences of the women in the three judicial decisions discussed in Chapter 6.

The first category of rationales relates to the uncertainty in access to justice for women under the laws on divorce.⁷⁷⁴ The findings in the review of past judicial decisions in the three cases, specifically Case C, reveal a scenario where divorce proceedings initiated by women, whereby the husband utilises a multiplicity of delay tactics designed to frustrate the woman, and to further alleviate her suffering.⁷⁷⁵ Similarly, the awards in the judicial decisions reveal that women are not always assured that the law will be applied as stated, with women facing challenges in getting judicial awards that are fair, in terms of spousal support, responsibility for grievances regarding IPV by the husband, and timely determination of cases. These circumstances create the impression among women that even when faced with abusive marriage conditions, the decision to initiate divorce proceedings is not an assurance of emancipation from oppression. The process can perpetuate the oppression of women and predispose them to other forms of discrimination, such as coercive control. Consequently, the judicial decisions highlight the possibility that Qatari jurisprudence is inclined towards perpetuating the perception that, while women have the legal right to initiate divorce, the courts may not necessarily consider the mitigating factors when making decisions on the relevant judicial awards.⁷⁷⁶ One of the overlooked mitigating factors is IPV, and the lack of a criminal code to legislate against such actions leads to a lack of remedies for victims. A number of gaps in procedural rules magnify these challenges as well. For instance, the propensity of appellate judicial forums such as the cassation courts to defer to the original views from the lower judicial forums, including arbitrations, which are informally organised,

⁷⁷⁴ Focus is directed towards the provisions under family law, which create contradictions with the provisions in other laws, or deviate from the norms under international law standards, as well as the jurisprudential norms that influence certainty in the application of laws to achieve justice for victims.

⁷⁷⁵ See OECD Report, 'Social institutions and Gender Index for Qatar 2019'. (2019). Available at <<https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf>> (Accessed March 27, 2021), whereby the woman is forced to jump through legal hoops that can amplify the cost of accessing justice, while also perpetuating psychological suffering as part of gender-based violence. The absence of procedural and substantive rules to address this issue further limits the willingness of the woman to initiate divorce.

⁷⁷⁶ For although women have in the past been allowed to initiate divorce when the circumstances warrant such a need, as it is in the three cases referenced in Chapter 4 herein, there are provisions in QFL to the effect that divorce may be initiated by the husband personally or his agent, who has the special power of attorney to that effect, or by the wife if the husband gave her such power", implying that for a wife to institute divorce proceedings, her husband has to permit such a process.

reveals that the reforms in the judicial system have not been robust enough to stimulate changes in how women are oppressed. The technical and operational conflicts in the implications of legislation under the family law category can perpetuate fear that predisposes women to remain in abusive marriages, rather than opt for justice as is assured under the law. These factors create the impression that while Qatari women may be explicitly assured of access to international women's rights, there are implicit barriers to the enjoyment of those rights, due to the structural, systemic and systematic conditions in place.

The challenges are further magnified by the existence of laws that potentiate the lack of, or insufficiency in, spousal support after divorce. The three cases analysed herein reveal that while spousal support by men towards women is recognised as a requirement during support, there are no assurances that the courts will mandate the payments.⁷⁷⁷ Although there is a convergence in the provisions in *Shariah law* and common law systems that spousal support should be provided for up to three years, evidence shows that this is not always assured in practice. Furthermore, the challenges facing married or divorced women in accessing work opportunities limit their ability to engage in gainful employment in the post-divorce period. Ultimately, divorce leads to economic uncertainty, which arises from the lack of certainty in the resolution of the issue, as well as limited assurances for continued spousal support. The termination of the marriage implies that the divorced woman has to revert to her father's abode, whereby her economic sustenance is not assured.

Similarly, the option for women to initiate divorce is a recently installed intervention under the reforms driven by the neoliberal movement for the rights of women. As a result, while the procedural norms under *Shariah law* provide protections for women in the post-divorce period, the previous system was built on principles whereby divorce proceedings were initiated by men. These changes form part of the artefacts of neoliberalism in the Qatari society, which, from a conservative perspective, is perceived as foreign and an imposition of Western culture. The termination of marriage places the divorced woman in a unique class of individuals who are perceived as outliers in society. The perception is that divorced women are defiant of the norms in society. Such a reputation reduces the options available for her, including the opportunities for

⁷⁷⁷ Furthermore, there are no assurances that the payments will be sufficient to cover the expenses of the woman over the customary period.

subsequent marriage, as well as chances for employment. Ultimately, divorce can lead to a different form of oppression and disempowerment, since society perceives them as women who have gone against the norm. The combination of factors, as postulated from past studies and supported in their entirety under the three case laws analysed, reveals that the provision for women-initiated divorce as an avenue to escape abusive marriages, the option is laced with a diversity of adverse consequences. The consequences are the product of the factors that perpetuate the oppression of women, with additional effects trickling down from the informal effects of the ultra-conservative structures in Qatari societies.

The third category arises since marriage is an integral component of the patriarchal system, which influences familial ties, as well as professional relationships. For a woman, the decision to enter, stay or depart from a marriage has implications on her socio-economic status, and that of her family. Decisions surrounding marriages are thus based on more than just the interests of the husband and wife.⁷⁷⁸ The norm has led to the inclination of the judicial process for terminating a marriage to start with reconciliation through arbitration, where representatives of the two parties to the marriage are involved in finding solutions to the issues. Ultimately, the goal is to provide the parties with an opportunity to resolve the issue without terminating the contract. The three cases analysed herein reveal the extent to which these fairly informal arbitration forums play an integral role in the subsequent formal proceedings in higher courts. It thus raises questions on the procedural rigour and whether the voice and interests of women are taken into consideration when making judicial awards, since the process is built on a reconciliatory model of justice.

The combined effects of these categories of factors reveal that Qatari women are often operating from a position of weakness when initiating divorce proceedings. This position is further compromised by the failures of the legal system to deliver justice as assured under the law. Ultimately, while Qatari women may be empowered to terminate a marriage, the uncertainties associated with the process of divorce and the conditions during the post-divorce era tend to push women to remain in marriages, despite the oppression. These conditions further highlight the position that despite the numerous reforms put in place to empower Qatari women, oppression can

⁷⁷⁸ Al-Nasr, (n 230), 43, who indicates that men and women choose their partners with the goal of promoting the goals of the family, and this can influence their choice on whether to terminate the marriage, considering the potential adverse effects from the divorce, which can include loss of social status, financial implications due to payment of accruing dowry, and the possibility that future marriage will involve the development of novel tie with other families.

only be addressed once the entire set of international women's rights is respected, protected and fulfilled as conceptualised under the international law standards.

9.2.4 Fourth Research Question: To What Extent Do Qatar's Reservations to CEDAW Impact Women's Human Rights in Qatar?

The fourth objective relates to the degree to which the reservations that Qatar made to CEDAW influence the women's rights in the country. Qatar's RUDs regime under CEDAW entails the implementation of specific reservations, whereby it selected specific aspects of the provisions, rather than opting for RUDs towards entire articles in the treaty. The RUDs regime covers 2(a) (hereditary transmission of authority), 9(2) (citizenship) 15(1) (issues of inheritance and testimony), 15(4) (family law and related practices, 16(1)(a), (c), and (f) (relating to Islamic law and family law).⁷⁷⁹ An additional reservation exists in the type of marriages recognised as legitimate under Qatari law. As a result, Qatar's RUD regime is highly customised and restricted to particular provisions, with accompanying justifications based on *Shariah law* and Islamic law. This accounts for the lack of willingness by the country to withdraw any of its original reservations yet, based on the most recent report in 2018.⁷⁸⁰ It also points to the possibility that Qatar's RUD regime will be in place for the foreseeable future. The imposition of RUDs by Qatar has positive and negative effects on women's rights in Qatar.

The positive effects, which are summarised as part of the constructive non-compliance concept, arise from the effects of the partial accession to CEDAW by the country. Qatar has implemented a number of programs, policies and laws to address the discrimination of women. The partial compliance with the laws has led to empowerment of women, through increased participation in social, economic, cultural and political activities. While there are limitations to their participation relative to men, the changes provide women with more opportunities than was the case before the adoption of CEDAW in 2009. However, from the post-structuralist perspective, the positive effects of these opportunities can overshadow the underlying and more pervasive forms of discrimination, including those associated with coercive control. This is why a proposition is made for the establishment of contextualised indicators, coupled with the adoption

⁷⁷⁹ See detailed discussion in Chapter 5 (Section 5.3.2).

⁷⁸⁰ CEDAW, 'Second Periodic Report Submitted by Qatar Under Article 18 Of The Convention, due in 2018', (2018), <<https://documents.un.org/doc/undoc/gen/n18/044/40/pdf/n1804440.pdf>> Accessed 17 January, 2025.

of a participatory approach to empowerment of women, in the achievement of the goals of women's rights.

There are negative effects of the RUDs on CEDAW on women's rights in Qatar. The reservations are made justified based on their incompatibility with *Shariah law* provisions and practices. First, the RUDs minimise the effectiveness of the policy and legislative changes adopted by Qatar. The minimisation of the effects arises from sub-optimal implementation of the programs, which are promoted as part of the achievements by the country. It also arises from the failure to conceptualise the discrimination of women from all dimensions, hence the failure to legislate against all forms of domestic abuse affecting women. The absence of legislation that criminalises IPV in the country, as well as the lack of willingness to apply laws related to IPV in cases where a husband has abused his wife, is directly or indirectly attributable to the RUDs regime. A number of rationales are provided for the tendency, and it is evident from the existing procedural and substantive rules. For instance, the laws which position the husband and the head of the family, as well as restrictions on divorce initiated by women, relative to divorce initiated by the husband, perpetuate the lack of power balance between men and women in Qatari societies.

In spite of the positive effects, it is apparent that the adverse effects of the RUDs have an overshadowing effect on the achievement of the rights of women. The multiplicity of results achieved in terms of empowerment of women is precariously compromised by the diversity of ways through which the rights of women are left unprotected. While some concepts, such as coercive control, are not recognised as relevant causes of discrimination against women in Qatar, their effects are apparent from the findings herein.

9.2.5 Fifth Research Question: Proposals for Overcoming the Oppressive Practices

In the final objective, the study sought to identify how oppressive practices can be overcome to ensure respect for Qatari women's human rights and to propose recommendations and reforms. At their core, international women's rights are derived from human rights principles. To avoid oppression, these rights have to be respected, protected and fulfilled in their entirety, since partial assurances are as efficacious as no assurances at all.⁷⁸¹ Similarly, the country should

⁷⁸¹ See Manjoo and Jones (n 4) 98, who indicated that women's rights are universal, indivisible, and inalienable, interdependent and interrelated, equal and non-discriminatory, inclusive and built around accountability under the rule of law.

display political goodwill to address the oppression of women as a national priority. The discussion herein reveals that since acceding to international law standards under CEDAW, Qatar has invested in reforms aimed at enhancing the empowerment of women, intending to reduce their oppression. Despite the RUD regime in place, Qatar has continued to assert its commitment to empowering women in the process of alleviating their oppression. However, the measures to empower women are curtailed by the lack of commensurate commitments to end specific forms of oppression. The evidence herein points to a scenario where the empowerment of women has not solved the fundamental oppressive treatment, hence the need for a re-conceptualisation of how to respect, fulfil and protect all the rights of all women.

The specific oppressive practices identified in this study include the following. First, Qatari women face challenges accessing justice when faced with IPV within the institution of marriage. While women have the option to terminate marriages through divorce, the option predisposes them to uncertainty, since divorce initiated by women is a practice that is shunned in the highly conservative society. Similarly, there are secondary considerations regarding their ability to enjoy their rights as other citizens in the post-divorce period. Second, women lack agency within the institution of marriage, which limits their ability to exercise their rights and freedoms as Qataris. Some of those limitations, such as the inequality in earnings capacity and ownership of property, have implications for the viability of divorce as an avenue for emancipation. Third, women are faced with challenges getting spousal support as is assured under the law. The challenge arises since women do not have the right to own property within the institution of marriage, and after terminating a marriage, there are limited provisions for spousal support.

To address the oppression of women, the first category of propositions is aligned with the need for changes in the legal system in place. Qatar should start by changing the constitutional and legal provisions that have imposed limitations on the extent to which women can enjoy the rights assured to Qatari men. The centrality of legal and jurisprudential factors in precipitating and perpetuating the oppression of women is apparent from the existence of reinforcing conditions under the law. The structure of the law is thus implicated through the patriarchy, which determines how the social, cultural, political, economic and religious norms are conceptualised and interpreted. The re-conceptualisation of due process under the law is necessary since it eliminates the procedures that limit access to justice, which enhances the time and cost efficiency of procedures. There is also a need to decouple *Shariah law* from common law processes, as a way

of ensuring certainty and limiting the influence of patriarchy on the justice system. The supremacy of *Shariah law* as provided for under the Qatari constitution is the basis for the multiplicity of ways through which oppression occurs.⁷⁸² The process of decoupling the two systems should start with a critical review of the basis for the customary practices that have led to the establishment of some of the Islamic practices. The close link between patriarchy and *Shariah law* contributes to the lack of willingness by judicial institutions to address issues affecting women. This includes addressing issues that arose from traditional practices and which persist, such as the limited weight given to evidence provided by a woman compared to that provided by a man.⁷⁸³

The legal reforms should also extend to jurisprudence, specifically how the dispensation of law facilitates the oppression of women, through the lack of certainty regarding which legal system and school of thought should be applied during judicial processes.⁷⁸⁴ The measures should include changes to arbitration procedures, which, based on evidence herein, have a significant influence on decisions in higher courts, even though the forum is constituted by information. Qatar should also enhance the procedures for judicial transparency by improving the accessibility to information about court cases, specifically those relating to family law. Transparency would provide the opportunity for academicians and practitioners to assess the merits of cases and the associated awards, thereby providing an assessment of the suitability of the judgment. The increased involvement of women in the justice system, as well as in auxiliary functions such as activists and non-government officials, places them in a position to assess the outcome of these processes, so they can initiate measures to improve access to justice. The limited information on

⁷⁸² As shown in Chapter 4 and 5, *Shariah* has been used to explain or justify a number of the ways through which women are oppressed in the country, with reinforcing effects evident from the legal and jurisprudential norms that permeate other systems in place.

⁷⁸³ See UNICEF, 'MENA Gender Equality Profile: Status of Girls and Women in the Middle East and North Africa (2011)', available at <<https://www.unicef.org/gender/files/Qatar-Gender-Eqaulity-Profile-2011.pdf>>, (Accessed July 5, 2024), who indicates that *Shariah* places limited weight on the evidence provided by a woman compared to that provided by a man. The practice is derived from traditional practices, where judicial settings relied on the word of mouth by the claimants in front of the adjudicator. In such a setting, the maxim originates from the general practice, whereby women were not allowed in the public spaces without the company of a male guardian. See PSA, 'Labor force sample survey 2022: Statistical analysis', (2022), Available at <https://www.psa.gov.qa/en/statistics/Statistical%20Releases/Social/LaborForce/2022/LF_Q2_2022_AE.pdf> Accessed July 5, 2024, whereby men a paid 11% higher than women, without commensurate compensation and recognition for the domestic chores.

⁷⁸⁴ Currently, parties to a claim lack certainty on the Islamic school of thought which will be applied when the judicial proceedings start. They are also unaware whether the court will base its decisions on common law or *Shariah*. Furthermore, the adoption of the inquisitorial judicial model by Qatari courts implies that the active involvement of judges in the investigatory phase of cases can influence their ultimate decisions, thereby disadvantaging women, who are rarely represented in the judicial institutions.

past divorce cases handled by Qatari courts, together with the significant challenges encountered in obtaining access to court judgments for this research, highlights the importance of this recommendation.

The second category of recommendations entails the structural adjustments to the patriarchal order, which presents the single most important approach to eliminating the oppression of Qatari women. It is necessary to appreciate the reality that the empowerment of women does not imply a challenge to the role of men within society. The presence of provisions for complementarity under *Shariah law* offers sufficient latitude for the empowerment of women, without necessarily disadvantaging men.⁷⁸⁵ Essentially, the perspective that men are superior to women in all domains is an erroneous interpretation and conceptualisation of *Shariah law* principles. This is evident from the measures to integrate women into the workplace, which have led to improvement in family life at the household level, as well as the achievement of national development goals under the QNV 2030 program.⁷⁸⁶

The change to patriarchy will invalidate the perception among men that they ‘own’ a woman under the institution of marriage, a perspective which is based on the erroneous misconstruction of *Shariah law* principles on complementarity in the gender roles, and the responsibility of a man towards a woman within the institution of marriage. The perspective is responsible for the numerous incidences of abuse within marriages. It also extends to a multiplicity of practices and customs that buttress the oppression and discrimination of women in society. The perspective establishes the basis for the notion that women cannot be equal to men, while also contradicting the guidelines on complementarity under *Shariah law*. The outcome of the subjugation is the imposition of limits to the progress and empowerment of women by tying every aspect of their lives to a man.⁷⁸⁷ The changes to reliance on patriarchal order in Qatari societies

⁷⁸⁵ T Masoud, and others, Using the Quran to empower Arab women? Theory and experiential evidence from Egypt, (2016), 49 Comparative Political Studies, 12, 1555, 1570, who indicates that although the Quran asserts that God gave men more capabilities than women, this does not imply that there is a Qur’anic justification against the empowerment of women.

⁷⁸⁶ See Naguib (n 582), who indicates that the empowerment of women has led to increased productivity in the country, which relies significantly on the input from foreigners. See also, Golkowska (n 157), 51, who indicates the education of women has enabled mothers to contribute positively from the household level, thereby complementing and supplementing the contribution of men within the 21st socio-economic environment.

⁷⁸⁷ As shown earlier, the fate of women is linked to men, with young girls supposed to be overseen by male guardians, while husbands are responsible for overseeing their wives.

will enable women to exercise agency within and outside the institution of marriage, while also increasing their ability to act autonomously.

The underlying challenge in the path towards addressing the oppressive treatment of Qatari women lies squarely in the recognition of the issues of oppression as being valid, and the willingness of the country to take significant steps towards broad-based reforms. Acknowledging that there is a need for change and a willingness to make concessions is the foundation for radical change. The prevailing notion that change translates to a potential loss of identity and autonomy of Qatar as a country has been invalidated based on the ability of the country to retain its identity, despite the recent spate of reforms. Consequently, there are numerous pathways to empower women that do not involve changing the fundamental structures of patriarchy. While the system of patriarchy does indeed perpetuate the oppression of women, it is not the primary factor.

The third category of proposals is aligned with the re-conceptualisation of neoliberalism as an integral component of modernisation, rather than a challenge to the identity of traditional Qatari societies. While these changes are often resisted since they originate from Western countries and represent the neoliberalist transformation of the conservative country, there are numerous pathways through which these unwanted outcomes can be addressed, without compromising the rights of women. Qatar, which is currently in transition towards modernisation, has to embrace neoliberal ideologies as a way of fast-tracking its progress. Qatar can adopt a customised approach to modernisation, whereby it achieves internationally recognised standards while retaining its identity. While past attempts at absorbing and assimilating certain aspects of neoliberalism were not entirely successful,⁷⁸⁸ they highlight the extent to which the country recognises the importance of recognising international women's rights in the process of modernising the country. Qatar has registered notable success in enforcing some of the provisions under treaties on international women's rights, such as CEDAW.⁷⁸⁹ The reforms have enabled the country to unlock the potential of women through their participation in gainful employment across different sectors.⁷⁹⁰

⁷⁸⁸ Blitt (n 18), 8, who indicated that the OIC established a framework for human rights that is *Shariah*-friendly, by conceptualising the proposals under the Islamic values in 1966, followed by the Cairo Declaration of 1990.

⁷⁸⁹ See 73rd CEDAW Session, 'Thematic Report On Article 16, Muslim Family Law and Muslim Women's Rights in Qatar'. (2019). <https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf> [accessed 22 March 2021], which highlights the multiplicity of changes that Qatar has achieved on account of its reforms targeting the implementation of international women's rights treaties.

⁷⁹⁰ See Planning and Statistics Authority (PSA), Labor force sample survey 2022: Statistical analysis, (2022), Available at <https://www.psa.gov.qa/en/statistics/Statistical%20Releases/Social/LaborForce/2022/LF_

The fourth category of proposals relates to improvements in governance infrastructure. The Qatari government should enhance its governance procedures to promote the adoption and assimilation of international women's rights standards, without relying on the RUDs to limit the efficacy of the treaty obligations. The improvements in government should extend to how the government implements policies and programmes domestically, to further drive the change towards the elimination of discriminatory treatment of women. The most prominent avenue is the provision of autonomy to non-governmental institutions, to enable them to target the marginalised women at the grassroots level, as well as to address the unique incidences of oppression. The proposition extends to the allocation of resources and capabilities to the non-governmental entities involved in the emancipation of women. These measures are founded on the notion that the improvements in access to international women's rights for Qatari women create a positive domino effect that enhances the achievement of national development goals. It can also address the failures in the legal avenues, such as creating funds for women who are unable to access spousal support, spearheading the processing of citizenship applications for deserving individuals, and arranging work placement for divorced women who need income-generating opportunities.

The final category of proposals relates to the reorientation of the perspective towards the status of women in Qatari societies, with a system-wide transformation in how women are treated in the country. The current approach is informed by a combination of modern ideologies on the integral nature of women in the achievement of national goals and the traditionalist view of the imperativeness of order established around the patriarchy.⁷⁹¹ The process of reconciling the two perspectives is key to the ability of the country to emancipate women, without losing its identity as a country. At its core, the system of patriarchy should be reconceptualised as a basis for the position of men in society, rather than the basis for the oppression of women. That way, several reforms can be introduced without compromising the status of men in society. As a first step in eliminating IPV, laws criminalising domestic abuse should be enacted, which would help to safeguard women while presenting limited challenges to the role of the man as the head of the

Q2_2022_AE.pdf> (Accessed July 5, 2024), which highlights the extent to which the involvement of women in certain sectors such as administration, healthcare and teaching has led to increased efficiency in the attainment of national development goals. Furthermore, women provide an alternative source of labour force in a country where the native population is outnumbered by foreigners.

⁷⁹¹ Caeiro (n 607), 7, who indicates that patriarchy in Islamic societies emerged in ancient times since only men were engaged in economic activities. Over time, countries like Qatar have transitioned their economies to activities that involve women, hence the need for reconceptualization of traditional patriarchy.

family. Similarly, although women have the right to initiate divorce in the country, it has not compromised the stability of the family unit in the country. The transformation in perspectives should be targeted at all levels of society, to emancipate women at all demographic, psychographic and geographic levels in the country.

In summary, the oppression of women culminates in the emergence of circumstances that predispose Qatari women to prefer staying in abusive marriages rather than liberating themselves through the formal dissolution of the marriage. The perpetuation of these conditions creates snowballing dissatisfaction with how the country is governed, with the marginalised individuals gaining political capital against the government. While the country has taken significant measures to correct some of the shortfalls, there are still gaps in how the proposals are assimilated and implemented in the Qatari context. The propositions provided herein are based on their validity in deconstructing the five categories of barriers while targeting the structural, systemic and systematic conditions.

9.3 Implications for Policy

The subject of the oppression of Qatari women, and indeed women in Islamic countries in general, has been studied extensively, as highlighted in the literature review. The bulk of studies culminate in the conclusion that *Shariah law* principles are the primary basis for the inability of the Muslim-majority countries to assure women of equality, as a foundation for eliminating oppressive treatment.⁷⁹² The effects of *Shariah law* principles are systemic in those countries, due to the centrality of Islam as a religion in social, cultural and political processes.

First, there is a need to introduce measures to alleviate the deeply ingrained perspective that men and women are not equal, as perpetuated across Qatari societies.⁷⁹³ Qatar's policy decisions regarding the rights of women are firmly rooted in ensuring that the emergent neoliberalist ideologies do not replace the conservative *Shariah law* principles that have played a

⁷⁹² See Library of Congress, 'Legal Provisions on Gender Equality', (2020), Available at < <https://www.loc.gov/law/help/gender-equality/legal-provisions-gender-equality.pdf>>, [accessed 22 March 2021] which reveals that nine out eighteen Middle East countries, including Egypt, Iran, Iraq, Kuwait, Libya, Oman, Qatar, Syria and Yemen, have not yet established legislation against domestic violence. Among the remaining nine jurisdictions, three only recognise certain activities (Jordan, Lebanon and Morocco), but has no express legislation against marital rape, which one of the most prevalent form of gender-based violence.

⁷⁹³ Supra note 212, which highlights the extent to which gendered spaces are constructed across the lives and existence of all members of society, to an extent that it becomes a fundamental consideration in decision making, over and above

fundamental role in the socio-cultural, economic, political and religious hegemony. The framing of the international women's agenda to implement propositions that do not address its effects on the status of men has led to the emergence of loopbacks that have adverse effects on women. However, Qatari society has experienced extensive modernisation, which necessitates the adoption of some of the neoliberalist ideologies, albeit from an Islamic perspective. The recognition of this reality holds the key to how the country will adjust its policy on key issues, specifically those relating to gender relations and family law issues.⁷⁹⁴ At the core of Qatar's commitment to protecting its identity from the influence of Western and neoliberalist ideologies is the recognition that its citizens, including women, are integral to the development and survival of the country.

Second, the long-held perspective that it is only through the adoption of neoliberalist ideologies that the oppression of Qatari women can end is false. The perception that *Shariah law* principles offer limited options for resolving the oppression of women is dispelled in this study. The adoption of the New *Maqasid* Methodology (NMM) offers Muslim-majority countries an opportunity to re-examine the rights and position of women in society from a transcendent and holistic perspective. Through the approach, the limitations imposed on the interpretation of *Shariah law* should be reviewed, based on their purpose, connections and wholesomeness, rather than the perspective of ideological constrictions and grievances. The approach offers multiple benefits in addressing the oppression of women within the current context, since it recognises the integral nature of an evidence-based approach, without overlooking the concerns about the importance of retaining the identity of Qatar as a country. The perspective has led Qatar to join other Gulf countries in their approach to designing RUD regimes on treaties on international rights of women. A critical review reveals that how those principles are applied plays a more potent and diverse role in the oppression of women.⁷⁹⁵ As a result, reforms that target the practices, rather than the principles, offer a more viable and efficacious approach to further addressing the outstanding issues of the oppression of women.

The potential for success through changes to practices establishes the basis for addressing some of the rationales for rejecting the neoliberalist ideologies on the emancipation of women,

⁷⁹⁴ For instance, the successful integration of women into workplaces, thereby leading to increased household incomes is part of the benefits to the Qatari societies. Women have also excelled in key sectors where they are more suited to the work compared to men, such as administration, education and healthcare.

⁷⁹⁵ For instance, the concept of complementarity as conceptualized under Islamic law offers more value to women, as

since they are based on Western ideologies. A review of the trajectory and momentum of change in the adoption of international women's rights in the country reveals that the country relies on a lengthy procedure in transitioning from norm diffusion to norm localisation. Similarly, considering that the evidence shows that success is only registered after the norm is fully localised, the country should invest in governance systems that drive change across different structures within the country. The establishment of these institutions can lead to the amplification of the democratic space in the country, without significant changes to the existing governance mechanisms in the constitutional monarchy. These institutions can also provide a robust infrastructure to complement the social support structures that are normally based on familial ties but may be unavailable to women who are ostracised due to involvement in divorce proceedings.

Third, Qatar should review its approaches to the empowerment of women to eliminate barriers that have plagued the programmes since they were introduced. The review is integral to the achievement of the fundamental goals of the programmes, and ultimately, the achievement of national development plans that are key to the progress of the country.⁷⁹⁶ These programmes have only focused on enhancing the opportunities for women in society, without addressing the underlying causes of oppression. As a result, the empowerment of women has not translated to a reduction in the oppression of women. For instance, the measures to accommodate women in the workplace were introduced without addressing the barriers to their rights and ability to work on account of their marital status. Similarly, the differences in pay scales, as well as the facilitation of women to fit into different work environments, are apparent. The circumstances originate from the patriarchal system, whereby husbands are perceived as being responsible for their wives,⁷⁹⁷ as well as the establishment of gendered spaces that only cater to the needs of men. These long-standing positions are part of the legacy beliefs which have become obsolete over time. Over time, the country has progressed to an extent where there are work opportunities that women can handle. Furthermore, with increased access to training and development programs at a national level, women have been given opportunities to acquire the capability to fulfil those responsibilities.

⁷⁹⁶ Such as QNV 2030.

⁷⁹⁷ For divorced women, their father or a male relative serves as a reference guardian.

Fourth, the country should review its RUDs regime, specifically those which relate to international women's rights treaties.⁷⁹⁸ The RUDs regime signifies the areas where Qatar has failed to abide by the basic minimums in the provisions for the liberation of women. Essentially, the RUDs regime provides the areas where the country has committed to improving, whether through legislative or policy changes. Since it acceded to the treaty in 2009, there have been no incidents of review of its progress or withdrawal of some or all of the RUDs.

9.4 Proposals for Change in Procedural and Substantive Rules in Qatar

The analysis reveals that the degree to which an international norm is legalised within a jurisdiction is dependent on three aspects. First, the obligation, which denotes the degree to which the norm is legally binding on the state or other actors involved in the process. Second, precision, which relates to the degree to which the norm is articulated, based on the requirements, authorisation, or other proscribed forms of conduct. Finally, the extent to which delegation to third-party institutions occurs, including to international and domestic courts, and other independent agencies. The delegation leads to the implementation, interpretation and application of the rules within different fora, thereby leading to the resolution of disputes, and possibly, the further expansion of the rules.

In addition to dealing explicitly with criminal, civil and family law issues, *Shariah law* integrates the fundamental principles of social justice, whereby the goal is the improvement of the situation for the weaker member of the society, good faith dealings, equity, and ensuring that the administration of justice is not corrupted.

Qatar has taken a multiplicity of measures to align its concept of human rights with international standards, as evidenced by the most recent attempt, the GDHR. The process entails a review of the areas where the fulfilment of human rights objectives is lacking, specifically under family law claims. The solutions to the issues exist within the ability of the domestic courts to ensure that the procedural and substantive rules under Qatari law mirror the goals and objectives of the treaties that the country is a signatory to.

⁷⁹⁸ See the 73rd CEDAW Session, 'Thematic Report On Article 16, Muslim Family Law and Muslim Women's Rights in Qatar'. (2019). Available at <<https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf>> [accessed 22 March 2021], which chronicles the incidences where Qatar has succeeded or failed in its mandates towards addressing the oppression of women, while also reiterating the standing RUDs regime.

First, Qatar should adopt legislation designed to proscribe systemic IPV, through criminalisation of domestic abuse and in the civil sphere, the provision of urgent restraining orders and the imposition of sanctions against any violation. Under the current system, and as is evident from the decisions in the three cases, while an incident of IPV is perceived as a justification for divorce through application by the victim, there are no subsequent sanctions on the perpetrator. In theory, the absence of substantive rules on this issue can perpetuate incidents of divorce, since perpetrators do not get sanctioned sufficiently.

Second, Qatar should introduce procedural guidelines for the education of law enforcement officers and other relevant institutions (such as medical personnel involved in handling the victims). The awareness campaigns are necessary to enable persons who are first in contact with victims of IPV to initiate the processes that guarantee fair treatment of victims, and the sanctioning of perpetrators according to the law. The country should also allocate sufficient resources and distribute the institutional capacities across the country to ensure that victims of IPV have access to such services.

Third, there is a need for reformation of the procedural and substantive rules under family law to ensure that neither spouse can manipulate the options and processes of divorce in a manner that compromises the ability of the other to get justice. The cases discussed herein reveal instances where the husbands utilised the legal system to deny the wife's ability to get justice, including financial support, and other forms of post-divorce settlements. These rules should be applied at all levels of the judiciary, with a special focus on the arbitration level.

Fourth, the reformation of the matrimonial property law regime is necessary, as a way of protecting men and women from financial hardships during and after divorce. The changes in the socio-economic and cultural norms within the country imply that it is not just men who do and can own property and other elements of economic value. The reformation can ensure fairness during the divorce proceedings, thereby enabling the parties to transition into the post-divorce period with arrangements that lead to the protection of their former spouses and children accordingly. This can be achieved in the following ways: (i) identify the relevant elements of Islamic teaching that are integral to this goal, including fairness, grace and respect during the divorce proceedings, while upholding the customs of *Shariah* law; (ii) adjustment to the state laws and the constitution, to introduce clauses on equality and equity regarding the treatment of men and women within and outside the institution of marriage; (iii) implement the proposed international human rights, which

guarantee equality in rights between men and women, with a specific focus on the problematic areas such as within marriage, and in the post-divorce period; (iv) the reforms should consider the lived realities of men and women when structuring the progressive pathways for the interpretation of family law.

Finally, the arbitration process should be improved in recognition of the reality that it impacts matters of fact and law relating to the case, and significantly influences the decisions of the Appellate courts. Normally, arbitral decisions are organised around the reconciliation of the parties, which limits the establishment of an environment under which evidence from the two parties can be extracted.

9.5 Proposals for Future Research

This study intended to conduct interviews with Qatari women to gain novel data on their lived experiences of divorce and IPV. However, this method could not be pursued due to significant difficulties in obtaining ethics approval, despite the strenuous efforts of the researcher. It is therefore a primary recommendation that further research be undertaken that incorporates interviews with women in Qatar so that their voices can be heard. Similarly, it was not possible to interview professionals or women's organisations for the same reason. It is therefore recommended that further research would benefit from interviews with relevant women's organisations and key professionals, such as family lawyers and human rights experts, for their unique and imperative insights. The efforts of the researcher in this project to gain ethics approval for such interviews will provide some insights into the challenges to be overcome to pursue research involving these methods.

It is also recommended that a more extensive review of Qatari divorce judgments be undertaken to determine how widespread the practices and problems identified in the three cases analysed are. This will require concerted efforts to obtain access to such judgments as they are not readily available in the public domain.

BIBLIOGRAPHY

Cases

Appeal by Cassation No. 30 of 2006, Personal Status Cassation

Appeal No. 131 of 2012

Appeal No. 51/2012/Civil Cassation

Belilos v. Switzerland ECHR 1988 Series A.

Legislation

Family Law (2006).

Law No.2 of 1961 on the Qatari Nationality (Repealed).

<<https://almeezan.qa/LawView.aspx?opt&LawID=2578&TYPE=PRINT&language=en> >

[accessed 22 March 2021]

Qatar Human Resources Law Number 8 of 2009,

State of Qatar, 'Law No. 38 of 2005 on the Acquisition of Qatari Nationality'.

<<https://www.refworld.org/pdfid/542975124.pdf> >[accessed 22 March 2021]

Secondary sources

Jaber N. Beyond International Human Rights: Islamic Feminism as Alternative Rights Praxis. (2026) 34 Fem Leg Stud, 115.

Caeiro A, 'Islamic Law, Oil Wealth, and the Modern State in the Gulf: The Scope of the Sharia in Twentieth-Century Qatar', (2024) 65 Die Welt des Islams, 2-3, 214,

Ziniakova, T. Gender-Based Violence in International Human Rights Law: Evolution Towards a Binding Post-Binary Framework, (2021), 27 Wm. & Mary J. Race, Gender, & Soc. Just. 3, 709.

Deane, T. 'Gender-Based Violence in International Human Rights Law – The Efficacy of The United Nations Human Rights Legal Framework and CEDAW in Addressing the Issue,' (2024) 23 The Age of Human Rights Journal, 1.

Welton S L, and others, 'Feminist waves, global activism, and gender violence regimes: Genealogy and impact of a global wave,' (2023) 99 Women's Studies International Forum, 1.

- McQuigg, R J A. 'The CEDAW Committee and Gender-Based Violence against Women: General Recommendation No 35.' (2017) 6 International Human Rights Law Review, 2, 263.
- Vijayarasa, Ramona. 'CEDAW's General Recommendation No. 35: A Quarter of a Century of Evolutionary Approaches to Violence against Women.' (2020) 19 Journal of Human Rights, 2 153.
- Briddick, C. 'Unprincipled and unrealised: CEDAW and discrimination experienced in the context of migration control,' (2022) 22 International Journal of Discrimination and the Law 3, 1.
- Nissen, A, 'Please Give Me a Remedy: Women Human Rights Defenders Mobilize for Occupational Safety and Health', (2024) 16 Journal of Human Rights Practice, 2, 638.
- CEDAW 'General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19,' (2017) Available at https://www.istat.it/it/files/2018/04/CEDAW_GR_35.pdf [accessed 22 March 2026]
- CEDAW 'General recommendation No. 33 on women's access to justice,' (2015) Available at <https://digitallibrary.un.org/record/807253?v=pdf> [accessed 22 March 2026]
- Akalu, H, "Who Am I?": Understanding the Impact of Intersectional Invisibility Among British Muslim Women' (20 Mar. 2025), in Sarah Milton (ed.), *Gender, the Body, and Relationships*, in Meena Dhanda (ed.), Oxford Intersections: Racism by Context (Oxford, online edn, Oxford Academic, 2025)
- Riahi, H. 'Intersectionality and Islamic feminism: Key tools for eradicating gender inequality in the Saudi labour market', (2026) 10 Feminist Encounters: A Journal of Critical Studies in Culture and Politics, 1, 22.
- Abdelgafar, B I 'Re-envisioning Women's Empowerment: A Maqasid Approach to Understanding Women's Status and Rights in Islam', In: Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*. Gulf Studies, vol 11. (Springer, Singapore, 2024), 55.
- Blaydes, L, Gengler, J and Lari N A, 'Understanding Cultural Constraints to Female Labor Force Participation: How Family Dynamics Influence Women's Employment in Qatar and the Arab Gulf States' (2021) Available at <https://aalims.org/wp-content/uploads/2021/04/Blaydes-Qatar-Women-Labor-Force-Participation-v5.pdf> >[accessed 22 March 2026]

- Naguib, R., and Madeeha, M. 'Making visible the invisible': Exploring the role of gender biases on the glass ceiling in Qatar's public sector,' (2023) 98 Women Studies International Forum, 1.
- Jannat, M. 'Qatari Women, Family, and Workplace: Navigating the Domestic-Public Divide'. In: Rahman, M.M., Al-Ghanim, K., Hossain, Z., Umar, S. (eds) Handbook of Families in the Arab Gulf States. (Gulf Studies, vol 19. Springer, Singapore, 2025).
- El-Ali L, 'No Truth Without Beauty: God, the Qur'an, and Women's Rights' (Springer, 2022).
- Al-Hibri A 'Islam, Law and Custom: Redefining Muslim Women's Rights.' (1997) 12 American University International Law Review, 1, 1.
- Mir-Hosseini, Z. "The Construction of Gender in Islamic Legal Thought and Strategies for Reform'. (2003) 1 Hawwa 1, 1.
- Al-Sharmani, M. 'Islamic Feminism: Hermeneutics and Activism,' (Bloomsbury, 2024).
- Welchman, L and others (2022) "Muslim Family Law: Trajectories of Reform," In: Justice and Beauty in Muslim Marriage: Building Egalitarian Ethics and Law edited by Ziba Mir-Hosseini et al, (Oneworld Academics, 2015).
- Marwa Sharafeldin, Islamic Law Meets Human Rights: Reformulating Qiwwah and Wilayah for Personal Status Laws Reform Advocacy in Egypt," In: *Men in Charge? Authority in Muslim Legal Tradition* edited by Ziba Mir-Hosseini et al, (Oneworld Academics, (2015), CEDAW, 'Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018,'
- <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://digitallibrary.un.org/record/1485883/files/CEDAW_C_QAT_2-EN.pdf&ved=2ahUKEwjVqvrNvoOUAxU2hP0HHUpEBYcQFnoECBwQAQ&usg=AOvVaw1Q1QHqKFN1BDi4xD4S1uCS> [Accessed 10 January 2025].
- Amin, H, Khoulood Sakbani, and Evren Tok. 'State Aspirations for Social and Cultural Transformations in Qatar,' (2024) 13 Social Sciences 7, 359.
- Abdu Y, Ahmed K, Ibrahim M I, Abdou M, Ali A, Alsiddig H, Selim N A, and Yassin M A, Perception of consanguineous marriage among the Qatari population, (2023) 4 Frontiers in Public Health 11, 1.
- Abduljaber M, Effects of Modernization and Globalization on Values Change in the Arab World (2018) 2 changing Societies and Personalities 2, 161.

- Abdullah Abdullah, *The Legal Impact of Islamic Law in the Identity and Provisions of Qatari Legal System: Conceptual Frame and Legislative Directions*, (2020), 58 *Journal of Islamic Studies*, 2 1
- Abdullah M H, and others, 'Relationships between Satisfaction of Muslim Women on Financial Supports After Divorce and Ex-Husbands' Compliance to the Supports with Post-Divorce Welfare', (2009), 17, *Pertanika J Soc Sci & Hum*, 2, 153.
- Abela, A and Janet Walker 'Contemporary Issues in Family Studies: Global Perspectives on Partnerships, Parenting and Support in a Changing World', (London: Wiley-Blackwell, 2013, 59).
- Abu-Lughood, L. 'The Cross-publics of ethnography: The Case of "the Muslim woman"'. (2016), 43, *American Ethnologist*, 595.
- Abu-Ras W, Elzamzamy K, Burghul M M, Al-Merri N H, Alajrad M, and Kharbanda V A, Gendered Citizenship, Inequality, and Well-Being: The Experience of Cross-National Families in Qatar during the Gulf Cooperation Council Crisis (2017–2021) (2022) 19 *International Journal of Environmental Research and Public Health* 11 1, 1.
- Acharya A, 'Constructing Global Order: Agency and Change in World Politics. (Cambridge: Cambridge University Press, 2018).
- Adebowale A, 'Spousal age difference and associated predictors of intimate partner violence in Nigeria'. (2018), 18, *BMC Public Health*, 212, 1.
- Afary J, 'The Human Rights of Middle Eastern & Muslim Women: A Project for the 21st Century', (2004), 26, *Human Rights Quarterly*, 1, 106.
- Ahmad N, 'The Right to Nationality and the Reduction of Statelessness –The Responses of the International Migration Law Framework' (2017), 5, *Groningen J. of Int. Law*. 1, 1.
- Akhtar R C, 'Contemporary Issues in Marriage Law and Practice in Qatar,' (2022) 20 *HAWWA: Journal of Women of the Middle East and the Islamic World*, 1, 1.
- Akhtar R C, 'Non-Legally Binding Muslim Marriages in England and Qatar: Circumventing the State' (2020), *Elec. J. of Islamic M.E Law*. 1, 20.
- Al Meezan, 'Law No 22 of 2006, Promulgating 'The Family Law'', 22/ 2006. <https://www.ius.uzh.ch/dam/jcr:000000000-74d3-1f02-ffff-ffff87068da3/Law_22_2006_2558.pdf> [Accessed 10 January 2025].

- Al Meezan, 'Law No. 30 of 2005 on the Acquisition of Qatari Nationality 38/2005',
<https://www.refworld.org/themes/custom/unhcr_rw/pdf-js/viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F2005-10%2F542975124.pdf> Accessed 12 January 2025
- Al Meezan, 'The Permanent Constitution of the State of Qatar 0 / 2004',
<https://www.icnl.org/wp-content/uploads/Qatar_1_Qatar_Const_2004.pdf> Accessed 10 January 2025
- Alahbabi A M, The Emergence Of The Administrative Judiciary: An Applied Study Comparing The Similarities And Differences Between Qatar And Britain (2024) 12 J of Law and Sustainable Development 4, 1.
- Al-Atawneh M, *Wahhābī Islam Facing the Challenges of Modernity: Dār al-Iftā in the Modern Saudi State*, (Leiden: Brill, 2010).
- Al-Daraweesh F, and Dale T. Snauwaert, 'Toward A Hermeneutical Theory of International Human Rights Education', (2013), 63, Educational Theory, 4, 389
- Aleinikoff, A and Klusmeyer D, 'Citizenship Policies for an Age of Migration, (Washington, DC: Carnegie Endowment for International Peace, 2002),
- Al-Ghanim K A 'Violence against women in Qatari society'. (2009), 5, Journal of Middle East Women's Studies, 80.
- Al-Ghanim K A, Gardner A, and Lari N, 'Contemporary Women in Qatar: An Ethnographic Study of Their Challenges in Terms of Traditional Applications and Modern Requirements'. (2023) 13 Sage Open, 3.
- Alhajaji, A, and others, 'Exploring the state of Qatar's child protection system through the lens of frontline social workers', (2024), Int'l Social Work, Available at <<https://doi.org/10.1177/00208728241245916>> Accessed June 5, 2024.
- Alharahsheh S T, and others, Marrying Out: Trends and Patterns of Mixed Marriage amongst Qataris, (2015), 3 International Journal of Social Science Studies 6, 211.
- Alharahshes S T, and Faras K. Almeer, 'Cross-National Marriage in Qatar', (2018), 16, J. of W. in the ME and the Islamic World, 1, 170.
- Ali A, and Cochrane L, Residency and citizenship in the Gulf: recent policy changes and future implications for the region (2024) 12 Comparative Migration Studies 16, 1.
- Allen F J, *Qatar. A Modern History*. (Washington/DC: Georgetown University Press, 2012).

- Al-Najjar B, 'Challenges of Globalization and the Future of the Family in Arabian Gulf' (Preliminary reading), Kuwait, Jan 2003.
- Al-Nasr T J, 'Gulf Cooperation Council (GCC) Women and *Misyar* Marriage: Evolution and Progress in the Arabian Gulf, (2011), 12, J Int. Women's Studies. 2, 43.
- Alqahtani S M, 'The Extent to which Qatari Law takes into Account the Provisions of the Declaration on Eliminating Violence against Women,' (2024), 22 Pakistan Journal of Life and Social Science 2, 2710.
- Alsharekh A. (ed.), *The Gulf Family: Kinship Policies and Modernity*, (London: Saqi & The London Middle East Institute – SOAS, 2007).
- Amal A, 'Al-Adat wa al-taqalid wa sihha al-mar'a (Customs and habits and woman's health). Working paper presented at the Arab Conference on Violence against Women from a General Health Perspective', (Amman, November 22–24, 2005).
- Amangeldiyevna K G, 'Some Issues of International Legal Standards Compliance in the Area of Individual Rights in Criminal Proceedings of the Republic of Kazakhstan', (2013), 81, Procedia Soc and Beh Sci, 552.
- Amayreh M K, 'A Critical Analysis of the OIC Plan of Action for the Advancement of Women (OPAAW) as the Empirical Approach to Maqasid Al-Shari'ah', (2018), 14, Journal of Islamic Law Review, 2, 351.
- Amayreh M K, Datosri Z Kanarudin and Muhamad H Ahmad, 'A Critical Evaluation of the OIC Plan of Action for the Advancement of Women (OPAAW), (2020), 16, J. of Islam L Rev. 2, 117.
- Amin H, and Cochrane L, The Development of the Education System in Qatar: Assessing the Intended and Unintended Impacts of Privatization Policy Shifts, (2023) 51 *British Journal of Middle Eastern Studies* 5 1091.
- Amnesty International, 'Annual State of the World Report (2013): Qatar,' p. 216, available at: http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf
- Amnesty International, 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the protection of women from violence in the Middle East and North Africa region, (2004), <<https://www.refworld.org/pdfid/42ae98b80.pdf>>[accessed 22 March 2021]

- Andrusyshyn B I, and others ‘Right To A Fair Trial In Extraordinary Conditions’, (2023), 20, *The Age of Human Rights J*, 1.
- An-Na'im A, ‘The Spirit of Laws is Not Universal: Alternatives to the Enforcement Paradigm for Human Rights’, (2016), 21, *Tilburg Law Rev*, 2, 255.
- An-Na'im, A. The rights of women and international law in the Muslim context, (1987), 9, *Whittier Law Review*, 491.
- Arzt D E, "The Application of International Human Rights Law in Islamic States’, (1990), 12, *Human Rights Quarterly* 2: 202.
- Asifa Q, and Frank Vogel, eds. ‘*The Islamic Marriage Contract: Case Studies in Islamic Family Law*’. (Cambridge, MA: Islamic Legal Studies Program, Harvard Law School, 2008).
- Aslam J, ‘Judicial Oversight of Islamic Family Law Arbitration in Ontario: Ensuring Meaningful Consent and Promoting Multicultural Citizenship’, (2006), 38, *Int'l Law and Politics*, 840.
- Audra B J, and Shannon Seitz. "Domestic Violence, Employment, and Divorce." (2006), 47, *International Economic Review*, 4, 1113 <http://www.jstor.org/stable/3877455>.
- Babar Z R, ‘The Cost of Belonging: Citizenship Construction in the State of Qatar’, (2014). 68, *Middle East Journal*, 3, 403.
- Baccaglioni L, ‘Arbitration on family matters and religious law: A Civil Procedural Law Perspective’, (2021), 5, *Civil Procedure Rev*, 2, 3.
- Baderin M, *International human rights and Islamic law*. (New York: Oxford University Press, 2003)
- Bantekas I, and Al-Ahmed A, ‘Contract Law of Qatar’, (Cambridge University Press, 2023).
- Barnett M J, ‘Making (Some) Sense of Feminist Post-structuralism in Environmental Education Research and Practice’, (2005), *Canadian J. of Environ. Ed.* 10, 75.
- Barrett M, *Defenders Aplenty: Access to Justice for Women Human Rights Defenders* (2019) 43 *Fordham International Law Journal* 2, 457.
- Beblawi H, “The Rentier State in the Arab World,” in *The Arab State*, ed.,Giacomo Luciani (Berkeley, CA: University of California Press, 1990).
- Begum R, Qatar’s Permanent Residency Law a Step Forward but Discrimination Remains, *Hum. Rts. Watch* (Sept. 11, 2018), <https://perma.cc/CP5Y-K3YG>.
- Behrouz, A N, ‘Women’s Rebellion: Towards a New Understanding of Domestic Violence in Islamic Law’, (2006), 5, *UCLA J. Islamic & Near E. L.*153, 161.

- Belk B, and Rana Sobh, "Behind Closed Doors: Gendered Home Spaces in a Gulf Arab State", (2009) in AP - Asia-Pacific Advances in Consumer Research Volume 8, eds. Sridhar Samu, Rajiv Vaidyanathan, and Dipankar Chakravarti, Duluth, MN: Association for Consumer Research, Pages: 34-34.
- Berrais A, "Arab Women in Engineering Education: Current State and Future Perspective," in *Symposium Female Higher Education: Trends and Perspectives*, 2011.
- Bertocchi G, and Chiara Strozzi, 'Citizenship Laws and International Migration in Historical Perspective,' (2005), 71, FEEM Working Paper, 05, 28.
- Bhatti M, 'The Role of Shari'a in International Commercial Arbitration', (2019), 36, Sharia in Int'l Arb'n, 1, 47.
- Black D S, Steve Sussman, and Jennifer Unger, 'A further look at the intergenerational transmission of violence: witnessing inter-parental violence in emerging adulthood', (2010), 25, *Journal of interpersonal violence*, 6, 1022
- Blitt R C, 'Equality and Nondiscrimination through the Eyes of an International Religious Organization: The Organization of Islamic Cooperation's (OIC) Response to Women's Rights (2017), 34, *Wisconsin International Law Journal*, 4, 1
- Blitt R C, 'The Organization of Islamic Cooperation's (OIC) Response to Sexual Orientation and Gender Identity Rights: A Challenge to Equality and Non-discrimination Under International Law' (2019), 28, *Transnational Law & Contemporary Problems*, 1, 89
- Bloemraad I, Anna Korteweg, and Gökçe Yurdakul, "Citizenship and Immigration: Multiculturalism, Assimilation, and Challenges to the Nation-State," (2008), 34, *Annual Review of Sociology*, 164.
- Booley A, 'Divorce and the law of khul: A type of no fault divorce found within an Islamic legal framework', (2014). 18 *Law, Democracy and Development*, 37.
- Bouchoux D E, 'Legal Research Explained', (Washington DC: Wolters Kluwer law & Business, 2019)
- Brandt M, and Kaplan J A, The Tension between Women's Rights and Religious Rights: Reservations to CEDAW by Egypt, Bangladesh and Tunisia (1995) 12(1) *Journal of Law and Religion* 105
- Brassiolo P, 'Domestic Violence and Divorce Law: When Divorce Threats Become Credible, (2011), Available at

- http://www.sofi.su.se/polopoly_fs/1.74432.1328265268!/menu/standard/file/Pablo_Bras_siolo.pdf>[Accessed 22 March 2021]
- Braun V and Victoria Clarke, 'Using thematic analysis in psychology', (2006), 3, *Qualitative Research in Psychology*, 3, 77.
- Brinkmann S, '*Philosophies of Qualitative Research*'. (London: Oxford University Press, 2018).
- Broberg M, and Hans-Otto Sano, 'Strengths and weaknesses in a human rights-based approach to international development – an analysis of a rights-based approach to development assistance based on practical experiences', (2018), 22, *The International Journal of Human Rights*, 5, 664.
- Buckley, M. 'Locating Neoliberalism in Dubai: Migrant Workers and Class Struggle in the Autocratic City', (2012), *Antipode*, 256.
- Bu-Zaboon, B 'Al- 'unf al-manzili... fi al-mujtama 'al-bahraini (Domestic violence... in Bahraini society). (Manama: Al-Markaz al-Watani li al-Bahth, 2004)
- Caeiro A 'The Politics of Family Cohesion in the Gulf: Islamic authority, new media, and the logic of the modern rentier state', (2018). 10, *Arabian Humanities*, 1.
- Cane P, and Herbert Kritzer, *The Oxford Handbook of Empirical Legal Research*', (London, OUP Oxford, 2012).
- Cannon C, Katie Lauve-Moon, and Fred Buttell, 'Re-theorizing Intimate Partner Violence through Post-Structural Feminism, Queer Theory, and the Sociology of Gender' (2015), *Social Sciences*, 4, 668.
- Carbin M, and Sara Edenheim. "The Intersectional Turn in Feminist Theory: A Dream of a Common Language?" (2013), 20, *European Journal of Women's Studies* 3, 233 <https://doi.org/10.1177/1350506813484723>.
- Carl H, and Mohanalakshmi Rajakumar. 'Qatar Narratives'. (Doha: Bloomsbury Qatar Foundation Publishing, 2008).
- Caryle M, '*A Kingdom's Future: Saudi Arabia Through the Eyes of Its Twenty somethings*'. (Washington, DC: Wilson Center, 2013).
- Catherine M, and Jean-Pierre Tranchant. 'Report. International Institute for Environment and Development', 2017. Accessed February 24, 2021. <http://www.jstor.org/stable/resrep02733>.

Cayanan R, and Maecel Angelica, '*Women's Rights, International Law and Islamic Law: The Case of the Philippine ARMM Gender and Development Code. Social Justice Perspectives (SJP)*', (2013), <http://hdl.handle.net/2105/15472>

CEDAW, '57th CEDAW Session Musawah Thematic Report on Article 16: Qatar', (2014), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16419_E.pdf >[accessed 22 March 2021]

CEDAW, '73rd CEDAW Session, Thematic Report On Article 16, Muslim Family Law and Muslim Women's Rights in Qatar'. (2019). <https://www.musawah.org/wp-content/uploads/2019/09/Qatar-Musawah-Thematic-Report-CEDAW73-2019.pdf> >[accessed 22 March 2021]

CEDAW, 'Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979: entry into force 3 September 1981, in accordance with article 27(1)', <<https://www.ohchr.org/sites/default/files/cedaw.pdf>> [Accessed 3 November, 2024].

CEDAW, 'Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: initial reports of States parties / Qatar', 21 March 2012, CEDAW/C/QAT/1, <<https://www.refworld.org/docid/52dd18bf4.html> [accessed 22 March 2021]

CEDAW, 'General Recommendation No. 35 On Gender-Based Violence Against Women, Updating General Recommendation No. 19', (2017), <https://www.right-to-education.org/sites/right-to-education.org/files/resource_attachments/CEDAW_C_GC_35_8267_E.pdf> Accessed 3 November, 2024.

CEDAW, 'Second Periodic Report Submitted By Qatar Under Article 18 Of The Convention, Due In 2018', (2018), <https://nwm.unescwa.org/sites/default/files/2023-09/second-periodic-report-cedaw-qatar-en.pdf> > Accessed 10 January 2025

CEDAW, 'Second periodic report submitted by Qatar under article 18 of the Convention, due in 2018', CEDAW/C/QAT/2 (2019). Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/QAT/2&Lang=en >[Accessed 22 March 2021]

CEDAW, 'The second periodic report of Qatar on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women', (2018),

- https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fQAT%2f2&Lang=en >[Accessed 22 March 2021]
- Chang J C, Diane Dado, Susan Ashton, Lynn Hawker, Patricia A Cluss, Raquel Buranosky, and Sarah H. Scholle, 'Understanding behavior change for women experiencing intimate partner violence: Mapping the ups and downs using the stages of change', (2006), 62, *Patient Education and Counselling*, 1, 330.
- Charlesworth H, Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law'. (1991), 85, *The American Journal of International Law*, 4, 613.
- Coker A L, Hopenhayn C, DeSimone C P, Bush H M, and Crofford L. 'Violence against Women Raises Risk of Cervical Cancer.' (2009), 18, *J Womens Health (Larchmt)*. 8), 179.
- Collins P H, Elaini da Silva C G, Ergun E, Furseth I, Bond K D, and Martínez-Palacios J, Intersectionality as Critical Social Theory (2019) 20 *Contemporary Political Theory* 3 690.
- Cooke M, '*Tribal Modern: Branding the New Nations in the Arab Gulf*,' (Berkley: University of California Press, 2014), 12
- Coolican H, '*Research Methods and Statistics in Psychology, Fifth Edition*'. (New York: Routledge, 2013).
- Copp J, Peggy C Giordano, Monica A Longmore, and Wendy D Manning, 'Stay-or-Leave Decision Making in Nonviolent and Violent Dating Relationships', (2015), 30, *Violence and victims*, 4, 581
- Cowan D, and Wincott D, *Exploring the 'Legal' in Socio-Legal Studies* (London, Palgrave Macmillan 2015) 169
- CRC, 'Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990, in accordance with article 49', (1989), Available at <<https://www.unicef.org/media/52626/file>> Accessed June 5, 2024.
- Creswell J W, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, (London: Sage Publication, 2013).
- Crocker T P, Equal Dignity, Colorblindness, and the Future of Affirmative Action beyond *Grutter v. Bollinger* (2022) 64 *Wm. & Mary L. Rev.* 1, 1.
- Dahal P, Joshi S K, and Swahnberg K, A qualitative study on gender inequality and gender-based violence in Nepal (2022) 22 *BMC Public Health* 2005, 1.

- Dahdal A, 'Navigating Judicial Conflict amidst Jurisdictional Expansion: Common Law Commercial Courts in Arab Civil Law Countries' (2023) 11 *The Chinese Journal of Comparative Law* 2 1.
- De Pauw M 'Women's rights: from bad to worse? Assessing the evolution of incompatible reservations to the CEDAW Convention', (2013), 29, *Utrecht J of Int and Euro Law*, 77, 51.
- Dcaigny T, 'Inquisitorial and Adversarial Expert Examinations in The Case Law of the European Court of Human Rights', (2014), 5, *New J of Euro Crim L*, 2, 148
- Deshmukh A K, 'Adversarial and Inquisitorial Models of Criminal Justice System: A Comparative Analysis', (2020), 2 *Int'l J of Legal Science and Innovation*, 2, 70
- DEVAW, 'Proclaimed by General Assembly resolution 48/104 of 20 December 1993', <https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.21_declaration%20elimination%20vaw.pdf> Accessed 2 November, 2024.
- Dhaheer E A, 'Women's Attitudes Toward Accepting Wife Beating in the Southern Region of Saudi Arabia', (2020) 6, *Australasian Journal of Social Science*, 1.
- Dialo B S, 'The Binding Force of International Legal Standards in the Face of the Recurrent Practice of Soft Law', (2017), 7, *Adam Mickiewicz Uni Law Rev*, 1.
- Doha International Family Institute, *Marrying Out: Exploring Dimensions of Cross-National Marriages Among Qataris*, (2020), <<https://difi.org.qa/wp-content/uploads/2021/05/Marrying-Out-EFINAL.pdf>> Accessed 10 January 2025.
- Donders Y, 'Cultural Pluralism in International Human Rights Law: The Role of Reservations'. (2013) Amsterdam Law School Legal Studies Research Paper; No. 2013-16). Amsterdam Center for International Law, University of Amsterdam. <http://ssrn.com/abstract=2230276>
- Dorzadeh H, *Precarious Legal Status and 'Reactive Transnationalism': The Case of Baloch in Qatar* (2022) 16 *Asian Journal of Middle Eastern and Islamic Studies* 4 448.
- Eckstein J J, 'Reasons for Staying in Intimately Violent Relationships: Comparisons of Men and Women and Messages Communicated to Self and Others', (2011), 26, *J. Fam. Viol.* 21.

- Eckstein J J, 'Reasons for Staying in Intimately Violent Relationships: Comparisons of Men and Women and Messages Communicated to Self and Others', (2011), 26, *J. Fam. Viol.* 21.
- Economic and Social Commission for Western Asia [ESCWA](2016), *Against Wind and Tides – a Review of the Status of Women and Gender Equality in the Arab Region*, https://sustainabledevelopment.un.org/content/documents/2283ESCWA_Women%20and%20Gender%20Equality%20in%20the%20Arab%20Region_Beijing20.pdf
- Edwards A and Laura Van Waas, 'Nationality and statelessness under international law'. (Cambridge University Press, Cambridge, 2014, 169)
- Edwards A, 'Violence against women under international human rights law'. (London, Cambridge University Press, 2010).
- Edwards T A, and Others, 'Stages of change as a correlate of mental health symptoms in abused, low-income African-American women', (2006), 62, *Journal of Clinical Psychology*, 1, 1531.
- Elghossain T, and others, 'Prevalence of intimate partner violence against women in the Arab world: a systematic review', (2019), 19, *BMC Int Health Hum Rights*, 29, 1.
- El-Husseini R 'Is gender the barrier to democracy? Women, Islamism, and the "Arab spring"'. (2016), 10, *Cont Islam*, 53, <https://doi.org/10.1007/s11562-015-0324-4>
- El-Mumin M, 'The GCC Human Rights Declaration: An Instrument of Rhetoric?', (2020), *Arab Law Quarterly*, 34, 86.
- Englehart N A, and Melissa K. Miller, 'The CEDAW Effect: International Law's Impact on Women's Rights', (2014), 13, *Journal of Human Rights*, 1, 22.
- Ennis C A, 'The Gendered Complexities of Promoting Female Entrepreneurship in the Gulf,' (2018), *New Political Economy*, 1.
- Erulkar, A, 'Early marriage, Marital Relations and Intimate Partner Violence in Ethiopia. (2013), 39, *Int. Persp. on Sex. and Rep. Hea.* 1, 1.,
- Esposito J L, *Women in Muslim Family Law* (Syracuse, NY: Syracuse University Press, 2001), 15.
- Estin A E, 'Marriage and Divorce Conflicts in International Perspective. (2017), 27. *Duke J. of Comp. & Int. Law.* 485

- Facio A and Martha I Morgan, 'Equity or Equality for Women? Understanding CEDAW'S Equality Principles', (2009), 60, *Alabama Law Review*. 5, 1133.
- Falch-Eriksen A, and Backe-Hansen E, 'Human Rights in Child Protection: Implications for Professional Practice and Policy', (Palgrave MacMillan, 2018),
- Ferreira G M, and M P Ferreira-Snyman, 'The impact of treaty reservations on the establishment of an international human rights regime', (2005), 38, *The Comp. and Int. Law J. of S. Africa*. 2, 148.
- Fouad N H, 'Closing the Divide: Women Empowerment in Qatar Between Rhetoric and Reality', Naguib, R. (eds) *Women's Empowerment and Public Policy in the Arab Gulf States*, (Gulf Studies, Springer, 2024), pp.135.
- Frain-Bell W, Enforcement's "Coming Home" -Remember Qatar? Pre-World Cup Optimism For The Recognition And Enforcement Of Arbitral Awards (2019) 2 *The Journal Of Enforcement Of Arbitration Awards* 2, 33.
- Fredman S, Substantive equality revisited (2016) 14 *International Journal of Constitutional Law*, 3, 712
- Freedom House, *Women's Rights in the Middle East and North Africa - Qatar*, 14 October 2005, available at: <https://www.refworld.org/docid/47387b6fc.html> [accessed 24 February 2021]
- Garcia S M, and others, 'The letter versus the spirit of the law: A lay perspective on culpability', (2014), 9, *Judgment and Decision Making*, 5, 479.
- Goldsmith J, and Posner E, *The Limits of International Law* (Oxford University Press 2005),
- Golkowska K, 'Arab Women in The Gulf and The Narrative of Change: The Case of Qatar', (2014), 16, *International Studies Interdisciplinary Political and Cultural Journal*, 1, 51.
- Golkowska K, 'Qatari Women Navigating Gendered Space' (2017), 6, *Social Sciences*, 123, 1.
- Gondolf E W, 'Service barriers for battered women with male partners in batterer programs', (2002), 17, *J Interpers Violence*, 217.
- Goodmark L, 'Reimagining VAWA: Why Criminalization Is a Failed Policy and What a Non-Carceral VAWA Could Look Like', (2020), *VAW*, 1.
- Gray S, 'The Domestic Compliance System and Compliance Barriers: A UK Child Rights Case Study', (2022) 44 *Policy Studies* 2, 195.

- Guazzone L, and Pioppi, D. (eds)., 'The Arab State and Neo-liberal Globalization: The Restructuring of State Power in the Middle East (Cairo: American University in Cairo Press, 2009).
- Guest G, Kathleen M MacQueen, and Emily E Namey, '*Applied Thematic Analysis*', (London: SAGE, 2012)
- Gulf Centre for Human Rights & International Human Rights Law Clinic, Who Will Be Left to Defend Human Rights? Persecution of Online Expression in the Gulf and Neighbouring Countries, (2021), Available at <<https://www.law.berkeley.edu/wp-content/uploads/2021/12/Qatar.pdf>> Accessed June 6, 2024
- Hafid M, and Sumbulah U, Living Hadith: The Role of Husband and Wife in Family Law, (2022), 11 Legal Brief, 2, 1580
- Hajjar L 'Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis' (2004) 29, LAW & SOC. INQUIRY 1, 31
- Haller k, Muslim Women and the West: Faith, Feminism, and the Quest for Gender Equality', Graduate Theses and Dissertations (2011). <<https://scholarworks.uark.edu/etd/161>> Accessed 14 January, 2025, 56
- Hanieh A, 'Capitalism and Class in the Gulf Arab States' (New York: Palgrave Macmillan, 2011).
- Hasbullah M B, and others, 'Knowledge and Accessibility of Muslim Women to The Law On Post-Divorce Financial Support', (2010), 18, IIUM L J, 1, 123.
- Hassan I, Social Stratification in Qatari Society Family, Marriage, and Khalījī Culture, (2018), 16 Journal of Women of the Middle East and the Islamic World, 144.
- Hayajneh A Z, Theoretical Framework For Judicial Discretion Within Qatari And Jordanian Civil Laws: Indications And Implications, (2015) 12 British Journal of Humanities and Social Sciences 2, 70.
- Hayat, A, 'Women's Rights Movements in the 'Arab Spring': Major Victories or Failures for Human Rights? (2015), 16, *Journal of International Women's Studies*, 3, 294.
- Hellman D, The Epistemic Function of Fusing Equal Protection and Due Process (2019) 28 Wm. & Mary Bill Rts. J 383, 1.
- Heyns C, and Frans Viljoen, 'The impact of the United Nations human rights treaties on the domestic level', (2001), 23, Human Rights Quarterly, 3, 483.
- Hidemitsu K, *The Influence of Human Mobility in Muslim Societies*. (New York: Routledge, 2003).

- Hillman S, and others, "Being Female and an Engineering Student in Qatar: Successes, Challenges, and Recommendations," (2017), <https://www.asee.org/public/conferences/78/papers/18122/view>.
- Honeyman C A, 'The Orderly Entrepreneur: Youth, Education, and Governance in Rwanda (Stanford: Stanford University Press, 2016).
<https://encyclop.sjc.gov.qa/Portal3/ahkam/OpenPrinciples.aspx?ct=1&leg=43&art=0>
https://eprints.soas.ac.uk/3469/1/Women_Muslim_Family_Laws_Arab_States.pdf
- Hughes C, and others, 'Women's economic inequality and domestic violence: Exploring the links and empowering women'. (2015), 23, *Gender & Development*, 2, 279.
- Human Rights Watch, 'Qatar/Saudi Arabia: Allow Man Trapped at Border to Enter / Stateless Clan Victim of Gulf Dispute, 1 July 2017, accessible at: <https://www.hrw.org/news/2017/07/01/qatar/saudi-arabia-allow-man-trapped-border-enter> >[accessed 22 March 2021]
- Human Rights Watch, "Everything I Have to Do is Tied to a Man": Women and Qatar's Male Guardianship Rules, (2021), Available at https://www.hrw.org/sites/default/files/media_2021/03/qatar0321_web_0.pdf> Accessed May 31, 2024.
- Independent Group of Concerned Citizens, 'Qatar Shadow Report to the Convention on the Elimination of Discrimination of Women,' (2013), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/INT_CEDAW_NGO_QAT_16177_E.pdf
- Institute of Statelessness and Inclusion, 'Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review' (2019). https://files.institutesi.org/UPR33_Qatar.pdf >[accessed 22 March 2021]
- International Justice Resource Centre, 'Qatar to Become Party to Two UN Human Rights Conventions', (2018). <https://ijrcenter.org/2018/06/05/qatar-to-become-party-to-two-un-human-rights-conventions/>
- Ireland J L, and Philip Birch, 'Emotionally abusive behavior in young couples: exploring a role for implicit aggression,' (2013), 28, *Violence and victims*, 4, 656.
- Jewkes R, Julianne Corboz, and Andrew Gibbs, 'Violence against Afghan women by husbands, mothers-in-law and siblings-in-law/siblings: Risk markers and health

- consequences in an analysis of the baseline of a randomised controlled trial', (2019), 14, *PloS one*, 2, 1,
- Judith G, 'Strengthening the human rights framework to protect breastfeeding: a focus on CEDAW'. (2015), 10, *Int. Breastfeed J*, 29, 1.
- Kahraman F, and others, 'Domestic courts, transnational law, and international order', (2020), 26, *Euro J of Int'l Relations*, 1 184.
- Kalmijn M, 'Intermarriage and Homogamy: Causes, Patterns, Trends,' (1998), 24, *Annual Review of Sociology*, 1, 39.
- Kaltham A 'Perceptions of Women's Roles between Traditionalism and Modernity in Qatar. (2019), 9, *Journal of Arabian Studies*, 1, 52.
- Kanna, A., '*Dubai: The City as Corporation* (Minneapolis: University of Minnesota Press, 2011)
- Karakurt G, and Kristin E Silver. "Emotional abuse in intimate relationships: the role of gender and age." (2013), 28, *Violence and victims*, 5, 804.
- Kassem L M, Fatema M Ali, and Tamadher S Al-Malek, 'Domestic Violence Legislation and Reform Efforts in Qatar, (2012), 4, *Perspectives*, 29.
- Kassem L, 'Domestic Violence Legislation and Reform Efforts in Qatar. (2012), 4, *Perspectives*. 1
- Kassem L, 'Qatari Family law, When Custom Meets Sharia', In Adrien K. Wing Ed. *Family law and Gender in the Modern Middle East and North Africa*, (Cambridge University Press, 2023),
- Kelly S, and Breslin, J. (Eds.). (2010). *Women's rights in the Middle East and North Africa: progress amid resistance*. Rowman & Littlefield Publishers.
- Kessler D, and others, 'Measuring public-private-substitution after divorce: Ex-spouse income and the effect of marital separation on social assistance take-up', (2022), 31, *Int'l J of Social Welfare*, 2, 176.
- Kfir I, 'Feminist Legal Theory as a Way to Explain the Lack of Progress of Women's Rights in Afghanistan: The Need for a State Strength Approach', (2014), 21 *Wm. & Mary J. Women & L*. 87
- Khalifa A N, 'Qatari Women's Engagement in Politics. Qatar Foundation Annual Research Conference Proceedings', (2016), Available at <https://www.qscience.com/content/papers/10.5339/qfarc.2016.SSHASP2414>

- Khan K A, Buisman C, and Gosnell C, 'Principles of Evidence in International Criminal Justice', (Oxford University press, 2010), 151.
- Khaw L, and Jeniffer L Hardesty, 'Leaving an abusive partner: exploring boundary ambiguity using the Stages of Change Model', (2009), 1, J. of Family Theory and Review, 1, 38.
- Khair B M, 'The right of women to no-fault divorce in Islam and its application by British Muslims', (2006), 17, Islam and Christian-Muslim Relations, 3, 295.
- Kidman R, 'Child marriage and intimate partner violence: a comparative study of 34 countries', (2017), 46, Int. J. of Epid., 2, 662
- King A, 'UN Declaration on the Elimination of Violence against Women', (2019), The Encyclopedia of Women and Crime, 1
- Kisa S, Gungor R, and Kisa A, Domestic Violence Against Women in North African and Middle Eastern Countries: A Scoping Review (2023) 24 Trauma Violence Abuse 2, 549.
- Koh CY, Wee K, Goh C and Yeoh B, 'Cultural Mediation Through Vernacularization: Framing Rights Claims Through the Day-off Campaign for Migrant Domestic Workers in Singapore', (2017), 55, International Migration, 3, 89.
- Korkelia K, 'New Challenges to the Regime of Reservations under the International Covenant on Civil and Political Rights', (2002), 13, Euro J of Int Law, 2, 437.
- Kremer P, Symmons M, and Furlonger B, Exploring the Why of Psychologist Misconduct and Malpractice: A Thematic Analysis of Court Decision Documents, (2018) 53 Australian Psychologist 5 454.
- Krivenko, E Y, 'Women, Islam and International Law Within the Context of the Convention on the Elimination of All Forms of Discrimination against Women' (Geneva: MartinusNijhoff Publishers, 2009).
- Langworthy M, and Naguib R, Through the Eye of the Needle: Lessons in Women's Empowerment and Public Policy from the Arab Gulf. In: Naguib, R. (eds) Women's Empowerment and Public Policy in the Arab Gulf States, (Gulf Studies, Springer, 2024)
- Lari N, and Al-Thani M, 'Divorce Legislation in the Arab Gulf: Trends and Educational Differentials', (2021), 11, J of Arabian Studies, 2, 289
- Lawal M Bani, and Hamza A Pate, The Role of Spouses under Islamic Family Law, (2015) 37 International Affairs and Global Strategy, 1,

- Leeuw F L, and Hans Schmeets, 'Empirical Legal Research: A Guidance Book for Lawyers, Legislators and Regulators', (Cheltenham, Edward Elgar Publishing, 2016)
- Leila A. 'A Quiet Revolution: The Veil's Resurgence, from the Middle East to America' (2012), New Haven: Yale University Press.
- Levitt P, and Merry S E, 'Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States, (2009), 9, Global Networks, 4, 441.
- Library of Congress, 'Legal Provisions on Gender Equality', (2020), <https://www.loc.gov/law/help/gender-equality/legal-provisions-gender-equality.pdf>
- Lyndal B L Khaw and Jennifer L Hardesty, 'Leaving an Abusive Partner: Exploring Boundary Ambiguity Using the Stages of Change Model', (2009), 1, J. Of Fam. Theory & Rev. 1, 38.
- Maktabi R, 'Female Citizenship and Divorce Law Reform in Arab States: The Gradual Expansion of Women's Legal Capacity in North Africa' in Mjøset, L., Butenschøn, N. and Harpviken, K.B. (Ed.) *A Comparative Historical and Typological Approach to the Middle Eastern State System (Comparative Social Research, Vol. 36)*, (Emerald Publishing Limited, Leeds 2024), pp. 159-189.
- Manjoo R, and Jackie M. Jones, 'The Legal Protection of Women from Violence: Normative Gaps in International Law', (London, Routledge, 2018).
- Mann S A, 'Third Wave Feminism's Unhappy Marriage of Poststructuralism and Intersectionality Theory', (2018), 4, J. of Feminist Scholarship, 5, 54.
- Mann S A, and Douglas J. Huffman, 'The Decentering of Second Wave Feminism and the Rise of the Third Wave', (2005), 69, Science and Society 1, 59.
- Mayans-Hermida B E, and Holá B, Balancing 'the International' and 'the Domestic': Sanctions under the ICC Principle of Complementarity (2020), 18 Journal of International Criminal Justice 5 1103.
- Mayer, A E, *Islam and Human Rights: Tradition and Politics* (New York: Routledge, 2018).
- MDPS, 'Marriage and Divorce: State of Qatar 2017-Review and Analysis', (2018), https://www.psa.gov.qa/en/statistics/Statistical%20Releases/General/StatisticalAbstract/2017/population-chapters/marriage_divorce_qatar_2017_En.pdf >[accessed 22 March 2021]

- MDPS, 'Qatar's Fourth National Human Development Report: Realising Qatar National Vision 2030: The Right to Development' (2015).
https://www.psa.gov.qa/en/knowledge/Doc/HDR/Qatar_Fourth_National_HDR_Realising_QNV2030_The_Right_to_Development_2015_EN.pdf [accessed 22 March 2021]
- Mehran, K, *Qatar: Small State, Big Politics*. (Ithaca/NY: Cornell University Press, 2013)
- Mensch B S, Judith Bruce and Margaret Greene, 'The Uncharted Passage: Girls' Adolescence in the Developing World', (New York: Population Council, 1998).
- Metcalf, B D, 'Gender and HRM in the Middle East', (2007), 18, *Int. J. of HRM*, 1, 54
- Michele B, and Jeffrey A. Kaplan, 'The Tension between Women's Rights and Religious Rights: Reservations to CEDAW by Egypt, Bangladesh and Tunisia', (1995), 12, *Journal of Law and Religion* 1, 105.
- Milanovic M, and Linos-Alexander Sicilianos, 'Reservations to Treaties: An Introduction', (2013), 24, *Euro J of Int Law*, 4, 1055
- Mokhtar H, and Chaudhury T, *Becoming Allies: Introducing a Framework for Intersectional Allyship to Muslim Survivors of Gender-Based Violence*, (2022) 4 *Journal of Islamic Faith and Practice* 1, 34.
- Mol, A Y, 'Islamic Human Rights Discourse and Hermeneutics of Continuity', (2019), 3, *Journal of Islamic Ethics*, 1, 180.
- Möller L, 'Family Law in the GCC and the Best Interests of the Child: The Multiple Meanings of a Vague Legal Concept', (2018), 16, *Hawwa – J of Women of the M E and the Islamic World*, 3, 309.
- Moloney R, 'Incompatible Reservations to Human Rights Treaties: Severability and The Problem of State Consent', (2004), 5, *Melbourne J of Int'l Law*, 1, 1.
- Moshtagh M, Amiri R, Sharafi S, and Arab-Zozani M, *Intimate Partner Violence in the Middle East Region: A Systematic Review and Meta-Analysis*, (2023) 24 *Trauma Violence Abuse* 2 613.
- Moustafa T, 'Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia', (2013), 38, *Law & Social Inquiry*, 1, 168.
- Mozaffari M H, 'OIC Declaration on Human Rights: Changing the Name or a Paradigm Change? (2020) <https://rwi.lu.se/wp-content/uploads/2021/01/2020-OIC-Declaration-of-Human-Rights.pdf>

- Murdoch J, ‘The Optional Protocol to the United Nations Convention for the Elimination of all forms of Discrimination Against Women (CEDAW): The Experience of the United Kingdom’ (2011).
<https://webarchive.nationalarchives.gov.uk/20110310110723/http://www.justice.gov.uk/publications/docs/un-optional-protocol-women.pdf> [Accessed 3 November, 2021].
- Musawah, ‘Musawah Policy Brief No. 4: Equal Divorce Rights in Muslim Family Laws’, (2023),
 <<https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Musawah-Policy-Brief-4-Equal-Divorce-Rights-in-Muslim-Family-Laws-1.pdf>> [Accessed 3 November, 2021].
- Musawah, Qatar: Overview of Muslim Family Laws and Practices: Updated as at 20 December, 2022, (2023), <https://campaignforjustice.musawah.org/wp-content/uploads/2023/05/Qatar-Overview-Table-2022-1.pdf>> [Accessed 3 November, 2024].
- Musawah. ‘Home Truths: A Global Report on Equality in the Muslim Family (2009)’, pp. 4-5, available at: http://www.musawah.org/sites/default/files/Home%20Truths-EN_0.pdf. [Accessed 3 November, 2021].
- Nasrullah M, Rubeena Zakar, Muhammad Zakria Zakar, Safdar Abbas and Rabia Safdar, ‘Circumstances leading to intimate partner violence against women married as children: A qualitative study in Urban Slums of Lahore, Pakistan’, (2015), 15, Int. H & Hum Rights, 23, 1.
- National Development Strategy, ‘Qatar national Development Strategy 2011-2016: Towards Qatar National Vision 2030 (2019)’. https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/10/Qatar_Qatar-National-Development-Strategy.pdf [Accessed 3 November, 2021].
- Neumayer E, Qualified ratification: explaining reservations to international human rights treaties, (2007), 36, J of Legal Studies, 2, 397.
- Nowra, L. ‘Bad dreaming: Aboriginal men’s violence against women and children’, (2007), 23, *POLICY*, 2, 58.
- O’Malley N, Rules of Evidence in International Arbitration (2nd edition, Informa Law from Routledge, 2019), at pp. 210–11.

- OECD (Organization for Economic Co-Operation and Development) & CAWTAR (Center of Arab Women for Training and Research, 'Women in Public Life. Gender, Law and Policy in the Middle East and North Africa'. (Paris: OECD Publishing, 2014). dx.doi.org/10.1787/9789264224636-en.
- OECD Report, 'Social institutions and Gender Index for Qatar 2019'. (2019). <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/QA.pdf> [Accessed 3 November, 2021].
- OIC, "The Cairo Declaration on Human Rights in Islam," (August 5, 1990), https://www.oic-iphrc.org/en/data/docs/legal_instruments/OIC_HRRIT/571230.pdf. [Accessed 3 November, 2021].
- Oldham, J T, 'United States: The Surprising Continuing Lack of Consensus Under U.S. Law for the Award of Spousal Support After Divorce', (2022). Available at < https://elsevier-ssrn-document-store-prod.s3.amazonaws.com/22/08/03/ssrn_id4180899_code1732621.pdf> [Accessed June 4 2024].
- Olsen N, "Marriage and Divorce in Islamic and Mormon Polygamy: A Legal Comparison." (2009), 1, Intermountain West Journal of Religious Studies, 1, 87.
- Özlem A, 'Entrepreneurial Subjectivities and Gendered Complexities: Neoliberal Citizenship in Turkey', (2014), 20, Feminist Economics, 4, 235.
- Peterman A, Jennifer Bleck, and Tia Palermo, 'Age and Intimate Partner Violence: An Analysis of Global Trends Among Women Experiencing Victimization in 30 Developing Countries', (2015), 57, J. of Adole. Health, 624.
- Petersen M J, 'Islamic or Universal Human Rights? The OIC's Independent Permanent Human Rights Commission' The DIIS Report, (2012). <https://www.econstor.eu/bitstream/10419/59841/1/688944434.pdf> [Accessed 3 November, 2021].
- Pietropaoli I, Islamic Reservations to the Convention on the Elimination of All Forms of Discrimination against Women (2019) 14 The Journal of Human Rights 2, 83.
- Planning and Statistics Authority, 'Qatar Second National Development Strategy 2018-2022',
- Pobjoy J M, 'The best interests of the child principle as an independent source of protection', (2015) 64, Int'l Comparative Law Quarterly, 2, 327,

- Polar V, and Poole N, 'From Power to Women's Empowerment: The Missing Links. In: Njuki, J., Ann Tufan, H., Polar, V., Campos, H., Morgan-Bell, M. (eds) *Gender, Power and Politics in Agriculture*. (Springer, Cham, 2025).
- Proukaki E K, 'The Problem of Enforcement in International Law: Countermeasures, the non-injured state and the idea of international community', (Routledge Research in International Law, 2010).
- Pruzan-Jørgensen J E 'Islamic Women's Activism in The Arab World Potentials and Challenges for External Actors', (2012), https://www.diis.dk/files/media/publications/import/extra/rp2012-02-islamic-womens-activism_web_1.pdf > Accessed 13 January, 2025
- PSA, 'Marriage & Divorce In the State of Qatar, 2022', (2022), Available at https://www.psa.gov.qa/en/statistics/Statistical%20Releases/Population/MarriagesDivorces/2022/Marriage_Divorce_Qatar_2022_En.pdf >[accessed 22 March 2022]
- Pugh, B Luye Li, and Ivan Y Sun, 'Perceptions of Why Women Stay in Physically Abusive Relationships: A Comparative Study of Chinese and U.S. College Students', (2018), 1, *Journal of Interpersonal Violence*, 1, 1.
- Purnamawati G A, and Utama M S, *Women's Empowerment Strategies To Improve Their Role In Families And Society*, (2019), 18 *Int J of Bus Econ and Law*, 5, 1.
- Qatar General Secretariat for Development Planning, "Qatar National Development Strategy 2011–2016" (2011). http://www.gsdp.gov.qa/gsdg_vision/docs/NDS_EN.pdf
- Qureshi T, and others, 'Criminalizing Domestic Violence in Qatar: A Case Study of Student Activism'. *Qatar Foundation Annual Research Conference Proceedings* (2016), <http://dx.doi.org/10.5339/qfarc.2016.HBSP3330> [Accessed 3 November, 2021].
- Rachel G, 'The Impact of International Human Rights Law Ratification on Local Discourses on Rights: The Case of CEDAW in *Al-Anba* Reporting in Kuwait'. (2020), 21, *Hum Rights Rev*, 43
- Raj, A and others 'Association between adolescent marriage and marital violence among young adult women in India'. (2010), *Int J Gynecol Obstet*, 110, 35
- Rajakumar M, *Assessing the Rhetoric of Sheikha Moza. Mistress of Ethos*. In Michelle Lockhart & Kathleen Mollick (eds.), *Global Women Leaders. Studies in Feminist Political Rhetoric* (pp. 127–144). (Maryland: Lexington Books, 2014).

- Rajakumar M, Mariam Bengali, Rumsha Shahzad, and Tanya Kane, 'Education, marriage, and professionalization: the modern Qatari woman's dilemma'. (2017), 9, GENDER - Zeitschrift für Geschlecht, Kultur und Gesellschaft, 1, 82.
- Rajakumar M, Shahzad R, and Kane T, Measuring Qatari Women's Progress through Reactions to Online Behavior, (2017) 2 IAFOR Journal of Cultural Studies 1, 1.
- Rakovec-Felser Z, 'Domestic Violence and Abuse in Intimate Relationship from Public Health Perspective', (2014), 2, *Health psychology research*, 3, 1821.
- Ramadhita R, and others, Gender inequality and judicial discretion in Muslims divorce of Indonesia, (2023), 9 Cogent Social Sciences, 9, 1 1.
- Ramlee Z, and Malek N A, 'Methods of Proof and Evidentiary Requirements in Divorce Cases: An Islamic Perspective', (2008), 16, IIUMLJ, 223.
- Ramzia A 'Al- 'unf dhidd al-mar'a (Violence against women). Research paper. Conference on the Rights of Arab Women', (Sanaa, December 3–5, 2005).
- Ravneet K, and Suneela Garg. "Addressing domestic violence against women: an unfinished agenda." (2008), 33, Indian journal of community medicine: official publication of Indian Association of Preventive & Social Medicine, 2: 73.
- Reddock R, 'CEDAW and Violence Against Women: Reflections After 40 Years', (2022), 28, Violence Against Women, 8, 1723.
- Reilly N, '*International Human Rights of Women. International Human Rights*. (Springer, Singapore, 2019).
- Roberts D B, 'Reflecting on Qatar's "Islamist" Soft Power', (2019), <https://www.brookings.edu/wp-content/uploads/2019/04/FP_20190408_qatar_roberts.pdf> Accessed 12 January 2025.
- Roseberry L, 'Getting Beyond Intersectionality: Toward a Post-Structuralist Approach to Multiple Discrimination' (2010). <http://dx.doi.org/10.2139/ssrn.1686774> [Accessed 3 November, 2021].
- Rossi C R, Game of Thrones: The Qatar Crisis, Forced Expulsions on the Arabian Peninsula (2019) 7 Penn State Journal of Law & International Affairs 1, 2.
- Rovira M G, '*The Project of Positivism in International Law*', (London, OUP Oxford, 2013)
- Ryngaert C M, and Siccama D, 'Ascertaining Customary International Law: An Inquiry into the Methods Used by Domestic Courts, (2018), 65, Neth Int Law Rev, 1.

- Salem R, and K M Yount, 'Structural accommodations of patriarchy: Women and workplace gender segregation in Qatar', (2019), 26, *Gender, Work & Organization*, 4, 501.
- Samar V J, *At the Intersection of Due Process and Equal Protection: Expanding the Range of Protected Interests* (2019) 68 *Cath. U. L. Rev* 8 87.
- Santhya K, U Ram, R Acharya, S J Jejeebhoy, F Ram, and A Singh, 'Associations between early marriage and young women's marital and reproductive health outcomes: evidence from India', (2010), *Int Perspect Sex Reprod Health*, 36, 132.
- Sarkar N N, 'The impact of intimate partner violence on women's reproductive health and pregnancy outcome', (2008), 28, *J Obstet Gynaecol.* 3,266.
- Saunders, D G, 'Barriers to Leaving an Abusive Relationship'. In: Geffner R., Vieth V., Vaughan-Eden V., Rosenbaum A., Hamberger L., White J. (eds) *Handbook of Interpersonal Violence Across the Lifespan.* (Springer, Cham, (2020).
- Secor A J, 'The Veil and Urban Space in Istanbul: Women's Dress, Mobility and Islamic Knowledge.' (2010), 9 *Gender Place & Culture. A Journal of Feminist Geography*, 5.
- Seedat F. "Islam, Feminism, and Islamic Feminism: Between Inadequacy and Inevitability, (2013), 29, *Journal of Feminist Studies in Religion*, 2, 25.
- Sen A, 'Development as Freedom' (New York: Alfred A. Knopf, 1999),
- Shafqat S, 'Socioeconomic, demographic, housing and health conditions of Qatari women by status of marriage and implications for family polices', (2015), 9, *DIFI Family Research and Proceedings*, 1.
- Shahid A, 'Post-Divorce Maintenance Rights for Muslim Women in Pakistan and Iran: Making the Case for Law Reform. (2018, 15, *Muslim World Journal of Human Rights*, 1, 59-98
- Shahshahani S, 'The Fact-Law Distinction: Strategic Fact-finding and Rulemaking in a Judicial Hierarchy', (2019). Available at <<https://law.utexas.edu/calendar/uploads/Shahshahani-Fact-Law-Distinction.pdf>> Accessed June 7, 2024.
- Shelton D, 'The Oxford Handbook of International Human Rights Law,' (Oxford University Press, United Kingdom, 2013, 444)
- Shenila K, 'Poststructuralist Approaches to Teaching about Gender, Islam, and Muslim Societies.'" 24, (2014), *Feminist Teacher*. 3, 169.

- Shkuratenko O, and others, Development of international legal standards in the field of economic and social human rights: Historical and legal analysis in the context of scientific discussion in the journal "Human Rights Quarterly". (2023), 28, Sci J of the National Academy of Internal Affairs, 4, 19.
- Sholikhah A, and Jamilah J, 'Judge's Consideration of Post-Divorce Rights ('Iddah and Mut'ah) from The Perspective of Maslahah Mursalah', (2023), 7, Sakina: J of Fam Stud, 1, 111
- Silverman J G, M R Decker, N Saggurti, D Balaiah, and Raj A. 'Intimate partner violence and HIV infection among married Indian women'. (2008), J. of the Am. Med. Ass. 300,703.
- Simons K, 'Mistake of Fact or Mistake of Criminal Law? Explaining and Defending the Distinction', (2009), Available at https://scholarship.law.bu.edu/cgi/viewcontent.cgi?article=1717&context=faculty_scholarship [Accessed June 7, 2024].
- Skuban-Eiseler T, Orzechowski M, and Steger F, Access to healthcare for disabled individuals: An analysis of judgments of the European Court of Human Rights from an ethical perspective (2023) Front Public Health, 1.
- Sloss D, and Van Alstine M, 'International Law in Domestic Courts', (2015),
- Smolik A, 'Effect of Shari'a on the Dispute Resolution Process Set Forth in the Washington Convention', (2010), 1, The, 2010 J. Disp. Resol, 8, 1
- Sokhi-Bulley B, The Optional Protocol to CEDAW: First Steps". (2006), 6, Human Rights Law Review, 1, 157.
- Speizer I, and Erin Pearson, 'Association between early marriage and intimate partner violence in India: a focus on youth from Bihar and Rajasthan,' (2011), 26, Journal of Interpersonal Violence, 10,1963.
- Sprague J, 'Feminist Methodologies for Critical Researchers: Bridging Differences. (Rowman Altamira, 2005),
- Sprunger J G, and Christopher I Eckhardt, 'Predicting Past and Future Dating Violence from Implicit and Explicit Violence Attitudes: An Experimental Manipulation of Provocation in Close Relationships' (2017), 8, Partner Abuse, 4
- Stark E, 'Coercive Control: How Men Entrap Women in Personal Life', (Oxford University Press, 2023).

- Stark E, and Hester M, Coercive Control: Update and Review (2019) 25 *Violence Against Women* 1, 81.
- Stark E, Looking Beyond Domestic Violence: Policing Coercive Control (2012) 12 *Journal of Police Crisis Negotiations* 2, 199.
- State of Qatar, 'The national report of the State of Qatar on The complete and effective implementation of the Beijing Declaration and Platform for Action 2014 – 2019,' (2019) <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/64/National-reviews/Qatar_en.pdf> [Accessed 10 January 2025].
- Strong S I, 'Past as Prologue: Arbitration as an Early Common Law Court?', (2020), 57, *Hous L Rev*, 5, 1.
- Sulaiman N F, and H. AlMuftah, "A Qatari perspective on women in the engineering pipeline: an exploratory study," (2010), 35, *Eur. J. Eng. Educ.*, 5, 507.
- Suneeta K, Corinne H Rocca, Alan E Hubbard, Kalyani Subbiah, Jeffrey Edmeades, and Nancy S Padian, 'Do changes in spousal employment status lead to domestic violence? Insights from a prospective study in Bangalore, India', (2010), 70, *Social Science & Medicine*, 1, 136
- Talmon S, Determining Customary International Law: The ICJ's Methodology between Induction, Deduction and Assertion, (2015), 26, *Euro J of Int'l Law*, 12, 417
- Tang K, 'Internationalizing Women's Struggle against Discrimination: The UN Women's Convention and the Optional Protocol', (2004), 34, *The British Journal of Social Work*, 8, 1182
- Treuthart M P, and Stephen A. Rosenbaum, 'Engendering a Clinic: Lessons Learned from a Domestic Violence Clinical Course in Qatar. (2013), 1, *Int. Rev. of Law*. 1.
- Trigiyatno A, and Sutrisno S, Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco, (2022) 7 *Al-Istinbath: Jurnal Hukum Islam*, 1, 203.
- Tsai L L, Constructive Noncompliance, (2015) 47 *Comparative Politics* 3, 253.
- Ubillos-Landa S, Puente-Martínez A, González-Castro J L, and Nieto-González S, You Belong to Me! Meta-Analytic Review of the Use of Male Control and Dominance Against Women in Intimate Partner Violence, (2020) 52 *Aggression and Violent Behaviour*, 1, 1.

UN Committee on the Elimination of Discrimination Against Women (CEDAW), List of issues and questions in relation to the initial report of Qatar, 2 August 2013, CEDAW/C/QAT/Q/1, available at: <https://www.refworld.org/docid/52dd19704.html> [accessed 21 March 2021]

UN General Assembly, 'Resolution Adopted By The General Assembly: 54/4. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women', (1999), <<https://documents.un.org/doc/undoc/gen/n99/774/73/pdf/n9977473.pdf>> [Accessed 16 January 2025].

UN Treaty Collection, 'Status of the First Optional Protocol to the ICCPR'. UN OHCHR (1966). <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&clang=en>[accessed 22 March 2021]

UN Women, 'Qatar Foundation for the Protection of Women and Children' (2002). <<https://evaw-global-database.unwomen.org/en/countries/asia/qatar/2002/the-qatar-foundation-for-the-protection-of-women-and-children>>[accessed 22 March 2021]

UN, 'Universal Declaration of Human Rights', (2015), <https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> [Accessed 10 January 2025].

UN, 'Universal Declaration of Human Rights', (2015), Available at <https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> [Accessed June 6, 2024].

UNHCR, 'Background Note on Gender Equality, Nationality laws and Stateless 2014'. (2015), <https://www.unhcr.org/4f5886306.pdf> [Accessed 3 November, 2021].

UNICEF, 'MENA Gender Equality Profile: Status of Girls and Women in the Middle East and North Africa (2011)', <https://www.unicef.org/gender/files/Qatar-Gender-Eqaulity-Profile-2011.pdf> [Accessed 3 November, 2021].

United Nations, Office of the High Commissioner for Human Rights, International Bar Association, 'Human Rights in The Administration of Justice: A Manual On Human Rights for Judges, Persecutors and Lawyers', (United Nations Publications, 2003),

Vandenhoe V, and Paul Gready, 'Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective', (2014), 32, Nordic Journal of Human Rights, 4, 291.

- Vu H S, Sidney Schuler, Tu Anh Hoang & Trang Quach, Divorce in the context of domestic violence against women in Vietnam, (2014), 16, *Culture, Health & Sexuality: An International Journal for Research, Intervention and Care*, 6, 634
- Wael B H, 'An Introduction to Islamic Law'. (New York: Cambridge University Press, 2009).
- Ward T, 'Explaining and trusting expert evidence: What is a 'sufficiently reliable scientific basis'?', (2020), 24, *The Int'l J of Evidence & Proof*, 3, 233.
- Wardle L D, 'International Marriage and Divorce Regulation and Recognition: A Survey', (1995), 29, *Family Law Quarterly*, 3 497.
- Weib W, 'Human Rights in the EU: Rethinking the Role of the European Convention on Human Rights After Lisbon', (2011), 7, *EUR. CONST. LAW REV*, p 64.
- Welchman L, 'Bahrain, Qatar, UAE: First time Family Law Codifications in Three Gulf States,' *International Survey of Family Law*, Bill Atkin, ed. (July 2010), p. 1, available at: http://eprints.soas.ac.uk/10899/1/Welchman_'Bahrain,_Qatar,_UAE'_ISFL_2010.pdf [Accessed 3 November, 2021].
- Wodon Q, and Delabriere B, 'The Cost of Gender inequality: Unrealised Potential-The High Cost of Gender Inequality' (2018), Available at <<https://www.worldbank.org/en/topic/gender/publication/unrealized-potential-the-high-cost-of-gender-inequality-in-earnings>> [Accessed June 4 2024].
- Woollett N and K Thomson, 'Understanding the intergenerational transmission of violence', (2016), 106, *SAMJ: South African Medical Journal*, 11, 1068
- Yefet K C, Divorce as a Substantive Gender-Equality Right (2020) 22 *Journal of Constitutional Law* 2, 455.
- Yesil, B., 'Media in New Turkey: The Origins of an Authoritarian Neoliberal State' (Urbana: University of Illinois Press, 2016).
- Zainah A, 'Advocacy for Reform in Islamic Family Law: The Experience of Sisters in Islam'. In *The Islamic Marriage Contract: Case Studies in Islamic Family Law*, ed. Asifa Quraishi and Frank Vogel, 275–84. (Cambridge, MA: Harvard University Press, 2008).
- Zermatten J, 'The Best Interests of the Child Principle: Literal Analysis and Function', (2010), 18, *The Int'l J of Children's Rights*, 4, 483.
- Ziemele I, and Lasma Liede, 'Reservations to Human Rights Treaties: From Draft Guideline 3.1.12 to Guideline 3.1.5.6, (2013), 24, *Eur. J of Int. Law*. 4, 1135.

Zink T, Nancy Elder, Jeff Jacobson and Brenda Klostermann, 'Medical management of intimate partner violence considering the stages of change: Pre-contemplation and contemplation' (2004), 2, *Annals of Family Medicine*, 1, 231.

Zyberi G, 'Assessing The Validity of Reservations to International Human Rights Treaties Through the Lens of the International Court of Justice, (2008), 33, NJCM-Bulletin, 8, 1121.

10 APPENDICES

10.1 Appendix 1: Interview Schedule for Qatari Women

Research study title: An Exploration of the ramifications of divorce on International Human Rights of Women in Qatar

Research Team: Zahiya Abu-Khadija (Doctoral Researcher), Dr. Adrienne Barnett (Supervisor)

Ethics approval: this study has received research ethics approval from the Brunel University Research Ethics Committee.

The aim of this study is to explore the effects of divorce from the perspective of domestic abuse on the international human rights of women in Qatar. Part of the process involves collecting data from Qatari women, who are affected or knowledgeable on the subject. I have selected you to participate in the process. If you are interested in participating, I would be interested in interviewing you. The process should take up to 1 hour. The interview will be conducted through online media of your preference, and at a time and setting that is convenient to you.

1. Tell me a little about yourself and your background [married, children, divorced etc]
2. If you are divorced please tell me a little about this [when were you divorced, what was the process]
3. Have you or any women you know experienced intimate partner violence? [explain; how has this affected you? Your children?]
4. What do you think are some of the main causes of intimate partner violence against women in Qatar during marriage and on or after divorce?
6. How common do you think intimate partner violence is against women in Qatar?
7. What are the barriers to Qatari women leaving abusive marriages [financial, cultural, social etc]
8. How do you think intimate partner violence against women in Qatar can be eradicated?
9. What is your experience of the legal process on divorce and to what extent, if any, did you find this discriminatory against you? [adapt question depending on whether interviewee is

talking about her own experience or that of another woman] [To what extent do you think this process and these practices infringed your human rights and right to justice?]

10. What are the most common financial issues that affect women in Qatar upon divorce?
11. Have you or any women you know experienced problems passing on your nationality to your children on divorce? [explain further]
12. How common do you think the problems you/the woman you're talking about are? Do you think these problems apply to all women or do you think particular groups of women experience them particularly severely?
13. What options do you have when your rights are infringed upon during divorce?
14. Is there anything else that women can do personally to increase their access to international human rights during and/ or after divorce?
15. What do you think should change to improve Qatari women's rights on and after divorce? [any changes to the law? Any changes to practice?]
16. What could be done to enable Qatari women to leave abusive marriages and overcome the barriers you have told me about?
17. Anything you can add about the topic/ any other observations about the topic.

10.2 Appendix 2: Interview Schedule for Legal Professionals

Research study title: An Exploration of the ramifications of divorce on International Human Rights of Women in Qatar

Research Team: Zahiya Abu-Khadija (Doctoral Researcher), Dr. Adrienne Barnett (Supervisor)

Ethics approval: this study has received research ethics approval from the Brunel University Research Ethics Committee.

The aim of this study is to explore the effects of divorce from the perspective of domestic abuse on the international human rights of women in Qatar. Part of the process involves collecting data from professions involved in legal affairs in the country

The process should take up to 1 hour. The interview will be conducted through online media of your preference, and at a time and setting that is convenient to you.

1. Explain your role, expertise and experience in international human rights of women, IPV, divorce
2. What factors do you think lead to the oppression of women in Qatar?
3. To your knowledge, to what extent are Qatari women subjected to IPV [and what forms does this take]?
4. What do international human rights for women mean to you in the Qatari context?
5. Which international human rights for women do you think are important for Qatari women during marriage and on divorce?
6. In your knowledge and experience what legal and practical protections under Qatari law and practice do Qatari women have during and after divorce? [have you seen any changes in these in recent years? If so, what are they?]
7. Which of these local rights do you think reflect the international human rights that you have identified as important for women during marriage and on divorce?

8. Where do you think the gaps are, ie, which important international human rights of women are absent from local Qatari law and practices for women during marriage and on divorce?
9. Have you had an experience with a scenario where the international human rights of a Qatari woman or women were contravened? [Can you describe]
10. What are some of the institutional barriers to accessing those international human rights for women, specifically after divorce?
11. Can you tell me about any judicial and legal failings that you consider have impeded, or are capable of impeding equitable distribution of property after divorce for women in Qatar?
12. What do you consider are the legal and legislative barriers to improving protection against abuse and violence during/ after divorce. In your knowledge and experience, what problems do Qatari women have in passing on their nationality to their children on divorce? What options do they have if they are unable to do so under the current law?
13. Have the public and private institutions in the country done enough to facilitate the ability of women to enjoy international human rights, and avoid abuse and violence during divorce? [If 'Yes', how has that been done? If 'No', why do you think they have failed to act?]
14. In what ways can government reforms and human rights obligations to enable women to access human rights according to international standards?
15. What changes to procedural and/ or substantive law can be made to improve Qatari women's international human rights on divorce?
16. Anything you can add about the topic/ any other observations about the topic

10.3 Appendix 3: Participants Information Sheet for Qatari Women

Research study title: An Exploration of the ramifications of divorce on International Human Rights of Women in Qatar

Research Team: Zahiya Abu-Khadija (Doctoral Researcher), Dr. Adrienne Barnett (Supervisor)

Ethics approval: this study has received research ethics approval from the Brunel University Research Ethics Committee.

I am conducting a research study and am inviting you to take part in it. Before you make a decision as to whether or not you would like to take part it is important that you read through this information leaflet carefully and ensure that you understand what the research involves and why it is being conducted. Please feel free to ask me if there is anything that is not clear or if you would like more information.

What is the purpose of the study?

This study aims to explore the effects of divorce in the context of Intimate Partner Violence (IPV), on women in Qatar from an international human rights of women perspective. It first aims to evaluate the factors that lead to the oppression and discrimination of women in Qatar, in particular in relation to divorce and IPV. Second, it aims to determine whether and to what extent the fear of divorce and the possibility of losing the children due to inability to pass on their nationality forces women to stay in abusive relationships. Lastly, it aims to identify how these oppressive practices can be overcome in order to ensure respect for Qatari women's human rights on divorce and to propose recommendations and reforms.

Why have I been invited to participate?

You have been invited because you are a woman who has been personally affected or know a woman who has been affected by IPV and divorce.

Do I have to take part?

No, it is up to you to decide whether to take part in the study. Participation is voluntary and you may cease to participate at any point by emailing me. If you do decide to take part in the research, you will be asked to sign a consent form. Even if you decide to take part, you are still free to withdraw at any time up until the research team have started analysing the data. If you request to

withdraw during or after analysis, withdrawal of the data, which will have been anonymised by then, will not be possible. You do not have to give any reason if you want to withdraw from the research. You are being asked to take part in one interview.

What will happen if I take part?

If you decide to take part, you will be asked to attend an interview conducted by the researcher. We will arrange interview times that are convenient for you and will ensure that you are in a safe space while the interview is conducted. The interview will take up to 1 hour. The interview will be conducted via audio conferencing in Microsoft Teams or Zoom. The interview will be audio recorded.

The interview will ask you to talk about yourself and your background, to talk about your experience if you are divorced, whether you faced any financial issues upon divorce, whether you experienced problems passing on your nationality to your children on divorce, how common do you think intimate partner violence is against women in Qatar, and what are the barriers to Qatari women leaving abusive marriages.

After the interview, you will have the opportunity to ask questions about the study and to discuss any thoughts and feelings that might have arisen during the interview. If you would like a copy of the interview transcript it will be emailed to you. The transcript will be password protected. You will be sent the password in a separate email. There is no obligation to receive and review a copy of the interview transcript. Even if you request a copy of the interview transcript but don't wish to review it, you are fully entitled to do that. If you request a copy of the interview transcript and would like to make any corrections, you could do so and send it back to the researcher within one week of receiving it.

Will my taking part in this study be kept confidential?

Yes, all information gathered in this study will be kept confidential unless there is a possibility of harm occurring to yourself or others. If you disclose any information that raises serious concerns about the safety of yourself, and/or your child/children or anyone else, it may be necessary to inform appropriate third parties. Every effort will be made in these circumstances to take appropriate action with your consent. In exceptional circumstances, if there is an immediate risk to the safety or interests of yourself or others, appropriate third parties may be informed without your prior consent but only after prior consultation with a senior Brunel researcher. Support will be arranged and offered to you.

The interviews will be transcribed and then all data, including direct quotes, will be anonymised, and all identifiable information will be removed. Your name will be removed, and you will be given a pseudonym. The transcribed, anonymised and pseudonymised interview data will then be analysed by the research team and used for subsequent publication. Data will be kept securely in accordance with data protection legislation. All interview transcripts will be safely stored in locked filing cabinets in a locked office and/or in a Brunel University secure server in password protected files. Audio recordings will also be stored securely on an encrypted computer and password protected. Recordings will be deleted once they have been transcribed and the transcriptions anonymised. Personal data will be destroyed when it is no longer needed.

Anonymised and pseudonymised interview transcripts and analysis of the transcripts will be stored in the Brunel safe repository which is called Brunel FigShare and will be password protected. All data will be securely retained at Brunel University London for 10 years in line with Brunel University Data Management Policy. Only pseudonymised data will be published. No identifiable data will be published. Any information that you provide during interview that may identify you will be omitted from the stored transcripts or appropriately changed and no quotations that could identify you will be used in publications.

What are the possible disadvantages and risks of taking part?

It is possible that you will find the topic of discussion emotive or upsetting. If you feel upset, the interview will be paused, and you can take a break, or you can withdraw from the study. In addition, if you think participating in the study will put you at risk, it is okay for you to tell me you no longer want to participate in the study. You can withdraw at any point in the study provided the research team have not started analysing your data. If you decide you want to take part, you will be provided with details of support services at the end of the interview in a Debriefing Sheet. If you are facing immediate threat due to participation, then the relevant authorities will be contacted immediately.

What are the possible benefits of taking part?

We hope that your participation will help to shed light on the problems that lead to the oppression of women in Qatar in relation to IPV and divorce, it will also help identify the gaps in the law that promote further infringement upon women trying to leave abusive relationships, and to identify how these gaps and shortcomings can be overcome to ensure respect for Qatari women's human rights.

What should I do if I want to take part?

If you decide to participate in the interview, you will have to sign a consent form which has been sent to you by email together with this document. After you sign the consent form, you will send it back and we will schedule the date and time of the interview. After signing and returning the consent form, you will have two days to cancel the interview if you change your mind.

What if there is a problem?

If you have a concern about any aspect of this study, you should ask to speak to the researcher, and she will do her best to answer your questions. And include supervisor's contact details.

If you wish to make a complaint regarding the study, please contact the chair of the Brunel University College of Business Arts and Social Sciences: Research Ethics Committee.

What will happen to the results of the research study?

The results of this study will be published in the researcher's PhD thesis and in academic journals. The findings of the study may also be published in short briefing papers. Anonymised quotations may be used in the publications.

Who is funding the research?

The research is being funded by Qatar University.

What are the indemnity arrangements?

Brunel University London provides appropriate insurance cover for research which has received ethical approval.

Who has reviewed the study?

This study has been reviewed and approved by Brunel University London Research Ethics committee.

Research Integrity:

Brunel University London is committed to compliance with the Universities UK Research Integrity Concordat. You are entitled to expect the highest level of integrity from the researchers during the course of this research.

Further information and contact details

If you have any inquiries about the study, please contact me at:

zahiyanedalmk.abu-khadija@brunel.ac.uk

Or contact my supervisor, Dr Adrienne Barnett:

Adrienne.barnett@brunel.ac.uk

For complaints, Dr. Derek Millard Healy, Chair of the University Research Ethics Committee.
derek.millard-healy@brunel.ac.uk

Thank you for taking the time to read this information sheet

10.4 Appendix 4: Participants Information Sheet for Professionals

Research study title: An Exploration of the ramifications of divorce on International Human Rights of Women in Qatar

Research Team: Zahiya Abu-Khadija (Doctoral Researcher), Dr. Adrienne Barnett (Supervisor)

Ethics approval: this study has received research ethics approval from the Brunel University Research Ethics Committee.

I am conducting a research study and am inviting you to take part in it. Before you make a decision as to whether or not you would like to take part it is important that you read through this information leaflet carefully and ensure that you understand what the research involves and why it is being conducted. Please feel free to ask me if there is anything that is not clear or if you would like more information.

What is the purpose of the study?

This study aims to explore the effects of divorce in the context of Intimate Partner Violence (IPV), on women in Qatar from an international human rights of women perspective. It first aims to evaluate the factors that lead to the oppression and discrimination of women in Qatar, in particular in relation to divorce and IPV. Second, it aims to determine whether and to what extent the fear of divorce and the possibility of losing the children due to inability to pass on their nationality forces women to stay in abusive relationships. Lastly, it aims to identify how these oppressive practices can be overcome in order to ensure respect for Qatari women's human rights on divorce and to propose recommendations and reforms.

Why have I been invited to participate?

You have been invited because you are a legal professional involved in court proceedings or advocating for women affected by IPV.

Do I have to take part?

No, it is up to you to decide whether to take part in the study. Participation is voluntary and you may cease to participate at any point by emailing me. If you do decide to take part in the research, you will be asked to sign a consent form. Even if you decide to take part, you are still free to withdraw at any time up until the research team have started analysing the data. If you request to withdraw during or after analysis, withdrawal of the data, which will have been anonymised by

then, will not be possible. You do not have to give any reason if you want to withdraw from the research. You are being asked to take part in one interview.

What will happen if I take part?

If you decide to take part, you will be asked to attend an interview conducted by the researcher. We will arrange interview times that are convenient for you. The interview will take up to 1 hour. The interview will be conducted via audio conferencing in Zoom. The interview will be audio recorded.

The interview will ask you about your role, expertise and experience in international human rights of women, IPV, divorce. This will include your knowledge and experience about legal and practical protections women have under Qatari law during and after divorce; where the gaps within the law are; contraventions of Qatari women's international human rights; reforms to enable women to access human rights according to international standards.

After the interview, you will have the opportunity to ask questions about the study. If you would like a copy of the interview transcript it will be emailed to you. The transcript will be password protected. You will be sent the password in a separate email. There is no obligation to receive and review a copy of the interview transcript. If you request a copy of the interview transcript and would like to make any corrections, you could do so and send it back to the researcher within one week of receiving it.

Will my taking part in this study be kept confidential?

Yes, all information gathered in this study will be kept confidential unless there is a possibility of harm occurring to yourself or others. If you disclose any information that raises serious concerns about the safety of yourself, and/or your child/children or anyone else, it may be necessary to inform appropriate third parties. Every effort will be made in these circumstances to take appropriate action with your consent. In exceptional circumstances, if there is an immediate risk to the safety or interests of yourself or others, appropriate third parties may be informed without your prior consent but only after prior consultation with a senior Brunel researcher. Support will be arranged and offered to you.

The interviews will be transcribed and then all data, including direct quotes, will be anonymised (if participants want to be anonymised), and all identifiable information will be removed (if this is requested by participants). Your name will be removed and you will be given a pseudonym unless you wish to be identified. The transcribed, anonymised and pseudonymised interview data will

then be analysed by the research team and used for subsequent publication. Data will be kept securely in accordance with data protection legislation. All interview transcripts will be safely stored in locked filing cabinets in a locked office and/or in a Brunel University secure server in password protected files. Audio recordings will also be stored securely on an encrypted computer and password protected. Recordings will be deleted once they have been transcribed and the transcriptions anonymised. Personal data will be destroyed when it is no longer needed.

Anonymised and pseudonymised interview transcripts and analysis of the transcripts will be stored in the Brunel safe repository which is called Brunel FigShare and will be password protected. All data will be securely retained at Brunel University London for 10 years in line with Brunel University Data Management Policy. Only pseudonymised data will be published. No identifiable data will be published. Any information that you provide during interview that may identify you will be omitted from the stored transcripts or appropriately changed and no quotations that could identify you will be used in publications.

What are the possible disadvantages and risks of taking part?

Sensitive/upsetting topics will be discussed in interview. If you become distressed during the interviews, the interview will be paused or stopped, and you will be reassured that you can withdraw at any time. You will be encouraged to contact any of the services listed in the debriefing sheet.

All participants will be provided with a Debriefing Sheet after the interviews. Support services are set out in the Debriefing Sheet.

If you are worried that you may face backlash for participating in the study, your name will be anonymized, and any identifying information will be removed.

What are the possible benefits of taking part?

Your participation will help to shed light on the problems that lead to the oppression of women in Qatar in relation to IPV and divorce and how to overcome these.

What should I do if I want to take part?

If you decide to participate in the interview, you will have to sign a consent form which has been sent to you by email together with this document. After you sign the consent form, you will send it back and we will schedule the date and time of the interview. After signing and returning the consent form, you will have two days to cancel the interview if you change your mind.

What if there is a problem?

If you have a concern about any aspect of this study, you should ask to speak to the researcher or the researcher's supervisor (contact details listed below), and she will do her best to answer your questions.

If you wish to make a complaint regarding the study, please contact the chair of the Brunel University College of Business Arts and Social Sciences: Research Ethics Committee.

What will happen to the results of the research study?

The results of this study will be published in the researcher's PhD thesis and in academic journals. The findings of the study may also be published in short briefing papers. Anonymised quotations may be used in the publications.

Who is funding the research?

The research is being funded by Qatar University.

What are the indemnity arrangements?

Brunel University London provides appropriate insurance cover for research which has received ethical approval.

Who has reviewed the study?

This study has been reviewed and approved by Brunel University London Research Ethics committee.

Research Integrity:

Brunel University London is committed to compliance with the Universities UK Research Integrity Concordat. You are entitled to expect the highest level of integrity from the researchers during the course of this research.

Further information and contact details

If you have any inquiries about the study, please contact me at:

zahiyanedalmk.abu-khadija@brunel.ac.uk

or my supervisor, Dr Adrienne Barnett:

adrienne.barnett@brunel.ac.uk

For complaints, Dr. Derek Millard Healy, Chair of the University Research Ethics Committee.

derek.millard-healy@brunel.ac.uk

Thank you for taking the time to read this information sheet

10.5 Appendix 5. Research Ethics Assessment and Management

[[Enter Research Ethics Committee]

[Enter Department]

[An Exploration of the ramifications of divorce on International Human Rights of Women in Qatar]

RESEARCH ETHICS RISK ASSESSMENT AND MANAGEMENT

For Completion by the Researcher:

Identified Risks	Likelihood	Potential Impact/Outcome	Risk Management/Mitigating Factors
Identify the risks/hazards present	High/Medium/Low	Who might be harmed and how?	Evaluate the risks and decide on the precautions, e.g., Health & Safety
<i>Transmission of Covid-19 to researcher(s) and/or participants</i>	<i>Low</i>	<i>Neither participant nor researcher might be harmed.</i>	<i>All interviews will be conducted remotely via Zoom or Teams, so participants and researchers will not come into contact with each other.</i>
<i>Sensitive/upsetting topics will be discussed in interview</i>	<i>High</i>	<i>Participant</i>	<i>If a participant becomes distressed during the interviews, the interview will be paused or stopped and the participant will be reassured that they can withdraw at any time. The participant will be encouraged to contact any of the services listed in the debriefing sheet.</i>

			<i>All participants will be provided with a Debriefing Sheet after the interviews. Support services are set out in the Debriefing Sheet.</i>
<i>Immediate threat to participant</i>	<i>low</i>		<i>If a participant discloses any information that raises serious concerns about the safety of the participant and/or her child/children and/or anyone else, the participant will be informed that confidentiality may need to be broken and that it may be necessary to inform appropriate third parties. Every effort will be made in these circumstances to take appropriate action with the consent of the participant. In exceptional circumstances, if there is an immediate risk to the safety or interests of the participant or others, appropriate third parties may be informed without the prior consent of the participant but only after prior consultation with a senior researcher</i>
<i>The impact on the researcher of participant distress</i>	<i>Medium</i>	<i>Researcher</i>	<i>mitigated by: a limit to the number of interviews conducted in a week to avoid emotional exhaustion; encouragement of the researcher to keep a reflective diary; clinical supervision to be made available with the Student Centre, if required.</i>