

# Applying CEDAW in Qatar: Between International Obligations and Constitutional Authority



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## Introduction

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is one of the most significant international instruments dedicated to the promotion of women's rights and the achievement of gender equality. Adopted by the United Nations General Assembly in 1979 and entering into force in 1981, the Convention seeks to eliminate discrimination against women "in all its forms" in both the public and private spheres. It obliges States Parties to adopt legislative, judicial, administrative, and policy measures to eradicate such discrimination.

The State of Qatar acceded to CEDAW pursuant to Emiri Decree No. (28) of 2009, thereby affirming its commitment to the international human rights framework. However, the domestic applicability of international treaties within the Qatari legal order is governed by the Permanent Constitution of the State of Qatar. Article 68 of the Constitution provides that treaties relating to citizens' rights or involving amendments to domestic legislation must be enacted by law to acquire binding force at the national level.

This raises a fundamental constitutional issue concerning whether CEDAW satisfies the requirements necessary for its domestic application, and whether ratification by Emiri decree alone is sufficient to confer upon it the force of law. This study examines the constitutional framework governing international treaties in Qatar, the legality of the executive authority exercising a legislative role in this context, and the implications thereof for the enforceability of CEDAW before national courts.

## First: Executive Exercise of Legislative Authority via Decrees with the Force of Law

As a general principle, legislative authority is vested in the legislative branch pursuant to Article 61 of the Permanent Constitution, which assigns such power to the Shura Council. Nevertheless, the Constitution grants His Highness the Amir the authority to issue decrees having the force of law in exceptional circumstances,

namely in cases of necessity or upon the declaration of martial law, as provided for in Articles 69 and 70.

Outside the context of martial law, the exercise of this exceptional legislative power is subject to strict conditions. These include the existence of a state of necessity requiring urgent measures that cannot tolerate delay during the absence of the Shura Council. Moreover, such decrees must be submitted to the Council at its first



subsequent session, and the Council may, within forty days of submission, reject or amend them.

## Second: The Constitutional Conditions for Ratifying CEDAW by Decree

In light of the issuance of Decree No. (26) of 2009, dissolving the session of the Shura Council, which stipulated that the thirty-seventh session would conclude after the Council's meeting on 29 June 2009, two hypotheses may be considered.

Under the first hypothesis, the Shura Council was still in session during the decree ratifying CEDAW was passed. In this case, the exceptional competence of the executive authority to exercise legislative functions would not apply, due to the absence of the constitutional condition of parliamentary non-session. Consequently, the decree would not have the force of law, and a formal legislative enactment would be required to satisfy the constitutional requirement for domestic implementation. The second hypothesis assumes that the decree dissolving the Council's session preceded the ratification decree, thereby fulfilling the condition of the Council's absence. Even so, this would still require the existence of a state of necessity justifying the issuance of the decree, as well as its submission to the Shura Council at its first subsequent meeting in accordance with Article 70 of the Constitution. There is no indication of such necessity, nor evidence that the decree was submitted to the Council or that an extraordinary session was convened pursuant to Article 88. Accordingly, the ratification decree cannot be regarded as having the force of law or as satisfying the constitutional requirements governing legislative enactments. Since the Constitution does not specify a time limit for submission, the decree's acquisition of legal force would remain contingent upon such submission.

## Third: The Domestic Applicability of CEDAW in the State of Qatar

The Permanent Constitution provides that international treaties ratified by the State of Qatar form part of domestic law, prevail over prior norms, and bind the judiciary. Legislative practice indicates that decrees are consistently used as instruments of treaty ratification. Treaties ratified prior to the entry into force of the

Permanent Constitution, which were governed by the Amended Provisional Basic Law of 1972 and did not require enactment by law, have been effectively applied by national courts. By contrast, treaties ratified after the entry into force of the Permanent Constitution and subject to the requirement of enactment by law, including CEDAW, have not been judicially invoked or applied in the reported case law.

Nevertheless, reference to CEDAW appears in Cabinet Decision No. (26) of 2019 establishing the National Committee for Women, Children, the Elderly, and Persons with Disabilities. While this may be viewed as a form of implementation, it more accurately reflects the notion of international responsibility, whereby the State remains bound by its international obligations notwithstanding defects in domestic ratification procedures. In this sense, the establishment of the Committee may be understood as an effort to demonstrate compliance before international and regional monitoring mechanisms.

## Conclusion

It may be concluded that Emiri Decree No. (28) of 2009 ratifying CEDAW did not fulfil the constitutional requirement that treaties of this nature be enacted by law. The decree cannot be regarded as having the force of law due to the absence of the constitutional conditions permitting the executive authority to assume a legislative function. Even if such conditions were presumed to exist, they would remain incomplete without submission of the decree to the Shura Council. The absence of domestic judicial application further evidences the Convention's lack of effective internal enforceability. Nevertheless, this constitutional deficiency does not negate the State of Qatar's commitment to CEDAW under international law, which remains operative within the broader framework of international responsibility.

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