

*Can International Human Rights Law Smash the Patriarchy? A
Review of 'Patriarchy' According to United Nations Treaty Bodies
and Special Procedures*

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Abstract

This article interrogates whether and how the concept of 'patriarchy' is used by UN human rights treaty monitoring bodies ('treaty bodies') and special procedures to interpret state obligations to respect and ensure women's human rights. There are two key points that arise out of this study: first, that several treaty bodies and special procedures purposely and consistently use the concept of 'patriarchy' when discussing women's human rights; and, second, that although not all treaty bodies and special procedures have referred to 'patriarchy' or 'patriarchal', an examination of those that have reveals a marked difference in how the terms are used by treaty bodies when compared with special procedures. While treaty bodies render the meaning of 'patriarchy' as being synonymous with certain harmful practices, such as female-genital mutilation, special procedures utilise 'patriarchy' as a system of power, permeating every facet of society. In this article I will argue that the current state of dissonance between the understandings of 'patriarchy' by treaty bodies and special procedures creates an unnecessary ambiguity that does nothing to advance gender equality. Furthermore, that utilising a nuanced understanding of patriarchy, as articulated by intersectional and anti-essentialist feminist scholars, would potentially equip treaty bodies and special procedures for more meaningful interpretation of rights themselves, and greater protection of women's human rights.

Keywords: Patriarchy. Women. Human Rights. International Law. United Nations.

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Introduction

The concept of ‘patriarchy’ has been both a call to action and an analytical tool for feminist understandings of women’s experience in the world. Over the past century, feminist activists have proudly displayed or loudly exclaimed the mantra: ‘smash the patriarchy’ (Hanson 2019; Higgins 2018). In the international arena, as early as 1946 the UN-established Commission on the Status of Women was advocating for a specific international treaty to codify women’s human rights in a male dominated world (Halperin-Kaddari and Freeman 2016, 187). Since then, albeit slowly, there have been a number of international legal developments that centre on women (UN Women 2019, 5). Most notably these include the 1979 Convention on the Elimination of All Forms of Discrimination against Women (‘CEDAW’). This Convention and its monitoring body, the Committee on the Elimination of Discrimination against Women (‘CEDAW Committee’), obligates states parties to dismantle social, religious and cultural structures that foster the subordination of women.¹ This would seem to suggest that CEDAW requires states to dismantle patriarchal structures and attitudes, in both the public and the private spheres: or put simply, to ‘smash the patriarchy’. However, CEDAW itself does not use the word ‘patriarchy’. In fact, no international legal instrument does. Therefore, the question becomes: to what extent are states required to dismantle the ‘patriarchy’ (if at all)?

This article interrogates whether and how the concept of ‘patriarchy’ is used by UN human rights treaty monitoring bodies (‘treaty bodies’) and special procedures to interpret state obligations to respect and ensure women’s human rights. This study undertook a textual and content analysis of concluding observations, general comments and annual reports, searching for the terms ‘patriarchy’ and ‘patriarchal’. Although the term ‘patriarchy’ is absent from international treaties, this does not mean that treaty bodies and special procedures do not draw

¹ CEDAW, art 5.

on the concept when discussing the rights and responsibilities of states in the context of women's human rights.

A total of 4771 documents were searched: including 3534 concluding observations, 171 general comments and 1066 annual reports, dated from 1980 to 2018, and encompassed eight treaty bodies and 42 special procedures. Collectively, 'patriarchal' and 'patriarchy' were mentioned 658 times. Each mention of either term was recorded alongside the date of publication, the specific provisions and treaty being discussed (for treaty bodies), and the general right(s) being discussed (for special procedures). The appendix to this article provides various representations of the data collected (further discussed in Section II).

There are two key points that arise out of this study: first, that several treaty bodies and special procedures purposely and consistently use the concept of 'patriarchy' when discussing women's human rights; and, second, that although not all treaty bodies and special procedures have referred to 'patriarchy' or 'patriarchal', an examination of those that have reveals a marked difference as to how the terms are used by treaty bodies when compared with special procedures. While treaty bodies render the meaning of 'patriarchy' as being synonymous with certain harmful practices, such as female-genital mutilation (FGM), special procedures utilise 'patriarchy' as a system of power, permeating every facet of society. These different approaches to the concept of 'patriarchy' may have important implications for state obligations to respect and ensure the protection of women's human rights.

This article will begin with a brief overview of 'patriarchy' as a feminist tool of analysis, providing a useful framework in which to examine the use of the concept by treaty bodies and special procedures. Section II will outline the methodology of this study and provide a cursory explanation of the various representations of the collected data in the appendix. Section III will provide an overview of this study's findings. A closer analysis of

these findings will be explored in sections IV and V, which will investigate the context in which treaty bodies and special procedures utilise ‘patriarchy’ and/or ‘patriarchal’. Finally, having established that both groups ascribe different meanings to ‘patriarchy’, section VI will discuss the consequences of these differing concepts on states’ rights and responsibilities under international human rights law. I argue that the current state of dissonance between the understandings of treaty bodies and human rights bodies creates an unnecessary ambiguity that does nothing to advance gender equality. Furthermore, that utilising a nuanced understanding of patriarchy, as articulated by intersectional and anti-essentialist feminist scholars, would potentially equip treaty bodies and special procedures for more meaningful interpretation of rights themselves, and greater protection of women’s human rights.

I. ‘Patriarchy’ in Feminist Scholarship

Although the concept of ‘patriarchy’ has endured since the classical period, it is only in the modern era that ‘patriarchy’ has become an essential analytical tool in feminist scholarship.² However, this does not mean there is one unified understanding of ‘patriarchy’. The term is defined differently by various feminist scholars and has, over the past seven decades, been necessarily challenged and critiqued. In fact, some scholars have rejected the concept of ‘patriarchy’ altogether as an oversimplification of complex social and economic systems which are interrelated and constantly changing (Acker 1989; Higgins 2018). Despite these criticisms, ‘patriarchy’ remains a central theoretical device within the mainstream of feminist scholarship.

What follows is not a detailed overview of ‘patriarchy’ as a feminist concept; others have undertaken this task with great care (Fox 1988; Patil 2013). Alternatively, this section

² The Greek term, *patriarkhēs*, translates literally to ‘a man who rules a family’ see American Heritage. 2016. *The American Heritage Dictionary of the English Language*, 6th edn.

will summarise two general approaches to understanding 'patriarchy': first, the traditional meaning of 'patriarchy' and secondly, 'patriarchy' as a system of power, permeating all facets of society.

The first and traditional meaning given to 'patriarchy' is simply the overt subordination of women by men (see generally, Walby 1989; Millett 1970; Daly 1978). This subordination is centralised in the family structure, where men are the head of the family unit and male relatives control women. Male oppression of women is based on perceived biological differences and the cultural construction of gender and gender roles within the family and within society more generally (Millett 1970; Weber 1946, 206). These strict gender roles and family structures may be codified in legal frameworks, reproduced by social and cultural practice, and reinforced by male violence against women (MacKinnon 1989).

However, during the 1980s and 1990s some feminist scholars questioned this traditional meaning of 'patriarchy'. Instead of being confined to the family and certain cultural practices, these scholars argued that 'patriarchy' in fact pervades every aspect of society (El-Saadawi 1983; Morris 1993; Pateman 1988). As historically entrenched unequal power dynamics between men and women, 'patriarchy' places men and male interests at the head of *all* institutions, including the family, religious and social groups, workplaces, the judiciary, and the government (see generally, Morris 1993; Lerner 1989). This male hierarchy is, once again, maintained through culturally constructed gender roles for men and women that are reproduced and reinforced through social practices and rules, the education system, the legal system, and the media (MacKinnon 1989). As a result, 'patriarchy' is both seen and unseen. This understanding forms the basis of the second general approach to 'patriarchy', as a system of power.

There are different lenses through which to frame 'patriarchy' as a system of power. One such lens is drawn from the Marxist-Feminist tradition (Eisenstein 1999). 'Patriarchy' is interpreted as both a political and economic systems (capitalism) that operate together to stratify society based on sex and class. Expanding on this 'dual-system' approach, African-American feminist, bell hooks (2005), argued that patriarchy exists alongside other hierarchical systems of oppression which included not only capitalism, but also racism. hooks uses the term 'imperialist white-supremacist capitalist patriarchy' to capture properly this lens.

Notwithstanding the different lenses used in this second approach to 'patriarchy', an anti-essentialist feminist critique exposes its limitations (see for example, Mohanty 1984; Lorde 1984; Crenshaw 1991; Narayan 1997). Feminist scholar, Chandra Mohanty (1984), questioned the supposed universal application of the concept. Mohanty (1984, 353) argues that 'patriarchy' as conceived in the literature represented only a narrow understanding of women's experiences: that of white, western and middle-class women. Moreover, applying this understanding across different cultures created an artificial binary between 'first world' and 'third world' women. First world women are characterised as political agents whereas third world women are the homogenous victimised 'other'. Some African feminist scholars have been particularly critical of this approach which places 'third world' women into a passive role, becoming the victim of their own patriarchal cultural practices as being paternalistic and imperialistic (see for example, Tamale 2008; Oloka-Onyango and Tamale 1995; Goredema 2010). Similarly, Sri Lankan-born feminist scholar, Vasuki Nesiiah (1993), has been critical of western feminism from the 'Global North' dominating the development of 'universal' women's human rights as, again, essentialising women's experiences. Nesiiah (1993, 204) framed these dominant essentialist views as a 'neo-colonialist project'. Furthermore, Mohanty (1984, 335) argues that the liberal feminist understanding of 'patriarchy' fails to recognise that patriarchy looks and operates differently around the world. Likewise, critical race theorist

Kimberlé Crenshaw (1991, 2143) asserted that there are multiple grounds of identity in any given social context that affect the experiences of women.

Therefore, applying an intersectional approach, ‘patriarchy’ varies widely between states and communities. Women within those same systems will experience patriarchy differently depending on other social identities such as wealth, class, race, gender identity, or sexual orientation. For example, scholars Joe Oloka-Onyango and Sylvia Tamale (1995, 703) frame patriarchal oppression as operating in two interconnected spheres for women on the African continent; the local and the international. At the local level there is an internal patriarchal ordering, which impacts women differently region-to-region based on cultural tradition and the history of colonialism and process of decolonisation (Oloka-Onyango and Tamale 1995, 701). However, these local experiences are also impacted by international law, politics and economics, as well as exploitation, in a way that is not experienced by women in the ‘Global North’ (see also Goredema 2010, 35). Other scholars, such as Deniz Kandiyoti (1988, 275), argue further that within such paradigms women navigate oppression through making ‘patriarchal bargains’; they leverage what power they do have to influence the shape of gender relations. This power or influence depends on cultural, social and historic context. A ‘universal’ or essentialist view of patriarchy does not allow for such nuance. Nor does it recognise how women are “products of different histories, expressions of different circumstances, and manifestations of different structured desires” (Abu-Lughod 2002, 783).

An anti-essentialist and intersectional understanding of patriarchy acknowledges that women experience male oppression differently depending on the particular form of hierarchy and where individual women operate within that hierarchy. As such, this second general approach to ‘patriarchy’ aims to be more reflective of the complex and multifaceted reality of the oppression of women by men globally. According to this understanding, to ‘smash the

patriarchy' would require transformation of gender power dynamics across all levels of society. If the purpose of women's human rights in the international human rights framework is to ensure women have equal enjoyment and protection of their human rights (inclusive of civil, political, social, economic and cultural rights), then this second approach to 'patriarchy' would be expansive enough to capture this intention. This is contrasted with the first general approach to 'patriarchy' as merely the overt subordination of women, which might only capture a narrow understanding of women's experiences with male oppression. Moreover, international human rights law may have originally been designed to be universal, including women's human rights, however, this does not mean that treaty bodies and special procedures should interpret and apply such rights in a one-size-fits-all approach.³ Indeed, treaty bodies themselves report on individual states which is itself an opportunity to consider the unique local experiences of women. Utilising a concept of 'patriarchy' which allows such diversity is arguably the best approach to interpreting women's human rights. To limit or essentialise women's experiences of oppression would be to continue to risk 'othering' significant groups of women, thus failing to hold states accountable in protecting and ensuring *all* women's human rights.

The two general approaches to the concept of 'patriarchy' as just outlined are just that: general. As such, these approaches provide a useful framework within which to interrogate whether and how treaty bodies and special procedures use 'patriarchy'. Depending on which approach has been adopted (if any), there may be significant and varied implications on the interpretation of states duties to respect and ensure women's human rights. If there is dissonance between the two groups, then this article will posit the consequences of such

³ For critique of the development of international human rights law as an overwhelmingly male project see: Bunch (1995); Charlesworth et al. (2000). For critique of international women's human rights as a western project see: Chanock (2000); Nesiiah (2003); Oloka-Onyango and Tamale (1995); Rao (1995).

conflict. As key mechanisms for international human rights law, this article will argue that there should be a shared understanding of ‘patriarchy’ between treaty bodies and special procedures. Furthermore, that this shared understanding should conceptualise ‘patriarchy’ as a system of power as articulated by anti-essentialist and intersectional feminist scholarship.

II. Methodology

This study applied textual and content analysis based on document searches.⁴ In order to understand whether and how UN human rights institutions use the concept of patriarchy the study examined the primary documents of treaty bodies and special procedures: these are the concluding observations and general comments of treaty bodies (from 1987 to 2018)⁵ and the annual reports of special procedures (from 1980 to 2018).⁶

Treaty bodies are committees that monitor the implementation of the respective parent treaties: for example, the CEDAW Committee monitors the extent to which states parties have taken the necessary steps to respect and ensure rights under CEDAW.⁷ Every four or five years, each state party must submit a report to the respective treaty body regarding each state’s domestic implementation.⁸ Meetings are then held where treaty body committee members ask

⁴ No specific software was used to perform these searches. The author and a research assistant used the search functions available in pdf or Word documents.

⁵ This date range was selected because it includes all of the relevant documents from the first concluding observation of the CEDAW Committee – the most relevant of the treaty bodies studied to the topic of the paper - to 2018, thus creating the most comprehensive dataset.

⁶ This date range was selected because it includes all annual reports from special procedures from the first annual report in 1980 (Working Group on Enforced or Involuntary Disappearances) to 2018, thus creating the most comprehensive dataset.

⁷ CEDAW arts 20-22.

⁸ See for example, CEDAW art 18(b).

states representatives questions related to that report. At the end of the process, the treaty body publishes a ‘concluding observation’ with recommendations to the state party.⁹ Although non-binding, these documents are important indicators of how the treaty body interprets state obligations under the parent treaty and how states parties can appropriately discharge those obligations. Concluding observations are also organised thematically and in the order of the treaty articles that they monitor. The context of the terms ‘patriarchy’ or ‘patriarchal’ in these observations can therefore offer insights into how each body defines the concept.

In addition to reviewing state practice, treaty bodies periodically publish ‘general comments’ (or ‘general recommendations’) to clarify state obligations under specific treaty provisions or according to thematic issues.¹⁰ As an illustration, the Committee on Economic, Social and Cultural Rights (‘ESCR Committee’), which oversees the 1976 International Covenant on Economic, Social and Cultural Rights (‘CESCR’), has published 24 general comments. These cover a range of thematic topics and specific provisions including, *inter alia*, the reporting obligations of state parties,¹¹ the right to adequate housing,¹² the right to water,¹³ and the interpretation of CESCR article 6 (the right to work).¹⁴ Although, once again, not legally binding, general comments provide a deeper understanding of treaty obligations as interpreted by the treaty bodies themselves. Therefore, these documents can provide insight on whether and how treaty bodies utilise the concept of patriarchy.

⁹ For an overview of the function and mandate of treaty monitoring bodies, see Keller and Ulfstein (2012).

¹⁰ See for example, CEDAW art 21.

¹¹ CESCR ‘General Comment No. 1: Reporting by States Parties’ E/1989/22 (July 27, 1989).

¹² CESCR ‘General Comment No. 4: The right to adequate housing art. 11 (1) of the Covenant’ E/1992/23 (December 13, 1991).

¹³ CESCR ‘General Comment No. 15: The Right to Water’ E/C.12/2000/4 (August 11, 2000).

¹⁴ CESCR ‘The Right to Work General Comment No. 18’ E/C.12/GC/18 (February 6, 2006).

Eight treaty bodies were chosen for this study: the CEDAW Committee; The Committee on the Elimination of Racial Discrimination ('CERD Committee') which oversees the 1969 International Convention on the Elimination of All Forms of Racial Discrimination ('CERD'); the Human Rights Committee ('HRC') which oversees the 1976 International Covenant on Civil and Political Rights ('ICCPR'); the ESCR Committee; the Committee against Torture which oversees the 1987 Convention against Torture ('CAT'); the Committee on the Rights of the Child ('CRC Committee') which oversees the 1990 Convention on the Rights of the Child ('CRC'); the Committee on Migrant Workers ('CMW Committee') which oversees the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ('CMW'); and the Committee on the Rights of Persons with Disabilities ('CRPD Committee') which monitors the 2008 Convention on the Rights of People with Disabilities ('CRPD'). These treaty bodies were selected because they represent the core international conventions on international human rights.¹⁵

Operating parallel to treaty bodies are special procedures.¹⁶ In order to assist in the global promotion and monitoring of human rights, the UN Human Rights Council establishes special procedures.¹⁷ These special procedures are made up of individual experts in particular areas of human rights (referred to as Special Rapporteurs or Independent Experts) and groups of experts in particular areas of human rights (referred to as Working Groups). Special

¹⁵ Excluded from the analysis is the Committee on Enforced Disappearances, because there is no automatic reporting requirement (and so no regular concluding observations).

¹⁶ For an overview of the function and mandate of special procedures, see Nolan et al. (2017).

¹⁷ UNGA 'Human Rights Council' A/60/251 (April 3, 2006).

Rapporteurs, Independent Experts and members of the Working Groups are appointed by the Human Rights Council and are expected to serve independently from the Council itself.¹⁸

As at 2019, there are 42 such special procedures: 30 Special Rapporteurs, 6 Independent Experts and 6 Working Groups.¹⁹ Together, these special procedures advise the Human Rights Council and UN member states across all matters relating to civil, political, economic, social and cultural rights. Special procedures provide annual reports, thematic reports, and advice based on country visits – all of which are non-binding.²⁰ This study selected all 42 special procedures' annual reports to the Human Rights Council and the UN General Assembly to examine, because these documents highlight trends and developments of international human rights law over time. This may include the utilisation of the concept of patriarchy in such trends and developments.

Two words were searched within concluding observations, general comments and annual reports: 'patriarchy' and 'patriarchal'. These terms were chosen to maximise the coverage of how the concept of patriarchy might be used by treaty bodies and special procedures. It should be noted, however, that by searching only for key terms the results will

¹⁸ Working Groups are comprise of five members, representing each of the five United Nations regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western group; see also UN HRC 'Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council' A/HRC/RES/5/2 (June 18, 2007).

¹⁹ See UNOCHR. 2019. Thematic Mandates.

<https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>. Accessed 3 October 2020.

²⁰ UN HRC 'Outcome of the review of the work and functioning of the United Nations Human Rights Council' A/HRC/RES/16/21 (April 4, 2011).

not include incidences where treaty bodies or special procedures draw on the concept of patriarchy implicitly rather than explicitly.

Each mention of ‘patriarchy’ and ‘patriarchal’ was recorded alongside the following: (i) the year of the concluding observation/general comment/annual report, (ii) the number of times the term(s) was (were) mentioned, (iii) the specific article(s) under the treaty that was being discussed when the term was mentioned (in regards to concluding observations and general comments), and (iv) the general right(s) that was/were being discussed when the term was mentioned (in regards to special procedures’ annual reports).

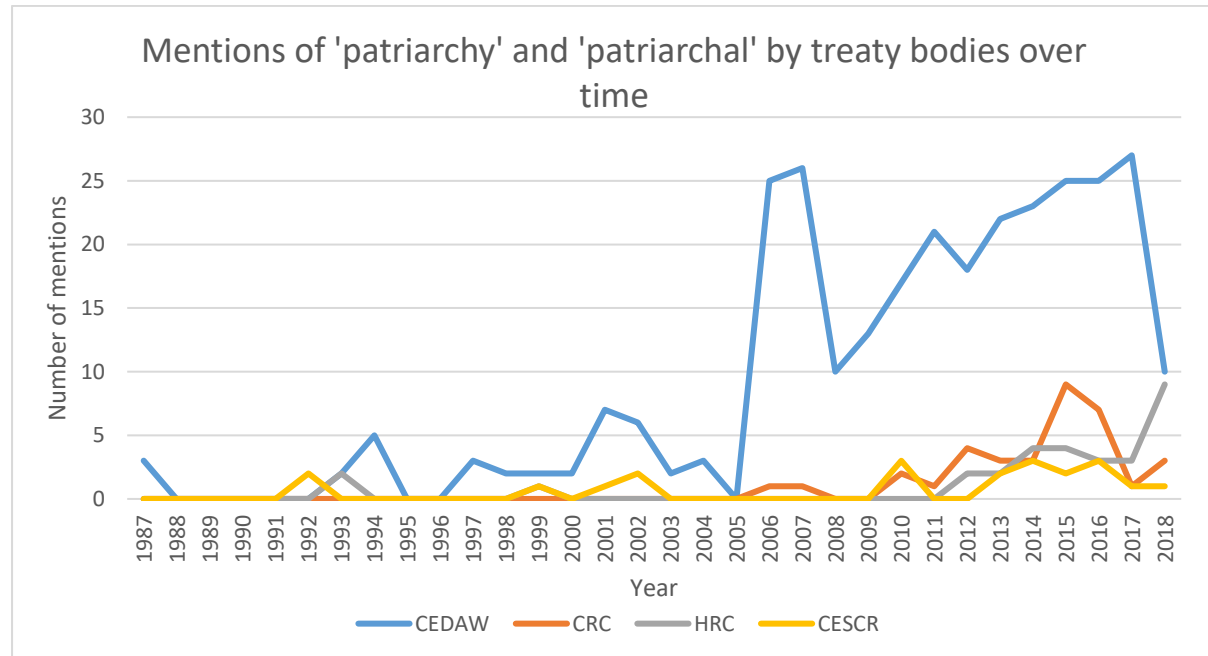
III. Overview of Findings

Applying only the numbers, this study confirms that the terms ‘patriarchy’ and ‘patriarchal’ are utilised by both treaty bodies and special procedures. However, the numbers also indicate a difference in the use of such language between the two groups.

Table 1 (in the Appendix) illustrates that ‘patriarchy’ and ‘patriarchal’ are only utilised by five treaty bodies: the CEDAW Committee, the HRC, the ESCR Committee, the CRC Committee and the CRPD Committee. In 3705 concluding observations and general comments, ‘patriarchy’ was mentioned only 4 times, whereas ‘patriarchal’ appeared 432 times. As ‘patriarchy’ is a noun and ‘patriarchal’ is an adjective, it is apparent that these treaty bodies overwhelmingly use ‘patriarchal’ as a descriptor. Although this may have implications for an analysis of what ‘patriarchy’ means to these treaty bodies, there may still be a certain concept of patriarchy lurking behind the use of such a descriptor. Of all the treaty bodies, the CEDAW Committee used the term ‘patriarchal’ the most often, a total of 330 times (‘patriarchy’ was mentioned 3 times). Being the only specific treaty on women’s human rights, this is unsurprising.

The treaty bodies which mention ‘patriarchy’ and ‘patriarchal’ in their concluding observations have done so consistently and with increasing use over time. Figure 1 shows that there are similar highs and lows between the treaty bodies themselves, although there is a large increase in references by the CEDAW Committee in 2006 (with a continued upward trend).²¹ Since 2010, there is also an upward trend of usage by the CRC Committee, the HRC and the ESCR Committee. The increase in usage over time indicates that the terms are being used intentionally. Additionally, the other treaty bodies’ mirroring of the CEDAW Committee’s usage over time could indicate the CEDAW Committee’s leadership in the use of such language. However, this can only be determined when scrutinising the context of mentions which this article will explore further below.

Figure 1. The use of ‘Patriarchal’ and ‘Patriarchy’ by UN Treaty Bodies over Time (in concluding observations).



²¹ For further discussion of the implications of upward trend for the CEDAW Committee, see [REDACTED] 2020.

Regarding special procedures, a total of 1066 annual reports were searched. The terms ‘patriarchy’, ‘patriarchalism’ and ‘patriarchal’ were used by 27 special procedures. Table 2 (in the Appendix) shows that the most prolific users included the Special Rapporteur on Violence against Women (80 times), the Special Rapporteur on the Right to Education (33 times) and the Working Group on the issue of Discrimination against Women in Law and in Practice (28 times). As these experts engage directly with the human rights of women and girls (and CEDAW in particular), these results are again unsurprising.

To a lesser extent, the following experts have used the terms five times or more: the Special Rapporteur on Cultural Rights, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on the Independence of Judges and Lawyers, the Special Rapporteur on Contemporary forms of Racism, the Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on the Sale and Sexual Exploitation of Children, and the Special Rapporteur on Contemporary Forms of Slavery. This indicates that the concept of patriarchy is not limited to any one class of rights but is being drawn upon to interpret a variety of civil, political, economic, social and cultural rights.

Although the word ‘patriarchal’ was the most common term found, special procedures use the noun ‘patriarchy’ more often than treaty bodies. Of 222 references recorded, ‘patriarchy’ was used 38 times and ‘patriarchal’ 169 times. Additionally, the study found that the term ‘patriarchalism’ was mentioned 14 times, exclusively by the Special Rapporteur on the Right to Education. The term ‘patriarchies’ was used twice. The more varied language used by special procedures in comparison with treaty bodies may have implications for the meaning of ‘patriarchy’ being utilised by the special procedures (an issue explored herein).

A similar trend over time can be seen from figure 2 when comparing the special procedures' use of 'patriarchy', 'patriarchalism' and 'patriarchal' with that of treaty bodies. Although the terms have been used sporadically in annual reports since 1992, there is once again a noticeable spike in 2006 and 2007. This peak is repeated in 2009, 2014, 2017 and 2018. As with treaty bodies, it is arguable that since 2006 some special procedures have consistently utilised the concept of patriarchy in their annual reports. Furthermore, the sharp increase of 'patriarchy', 'patriarchalism' and 'patriarchal' since 2006 may indicate intentional usage of the terms and so too the concept.

Figure 2. The use of 'Patriarchal', 'Patriarchalism' and 'Patriarchy' by Special Procedures over time (in annual reports).



These numbers and trends only illuminate a partial picture of the meaning of patriarchy and it is only by analysing the context of these mentions that a clearer image may be drawn. The subsequent sections of this article examine closely the context in which these words have been used. It will be argued that there is a clear difference between how treaty bodies have

ascribed meaning to ‘patriarchy’ compared with special procedures. These differences may have a significant impact on states’ obligations to respect and ensure women’s human rights.

IV. The Treaty Bodies – A Traditional Understanding of ‘Patriarchy’

The following discussion outlines and analyses the use of ‘patriarchy’ and ‘patriarchal’ in concluding observations and general comments of treaty bodies.

(a) The CEDAW Committee

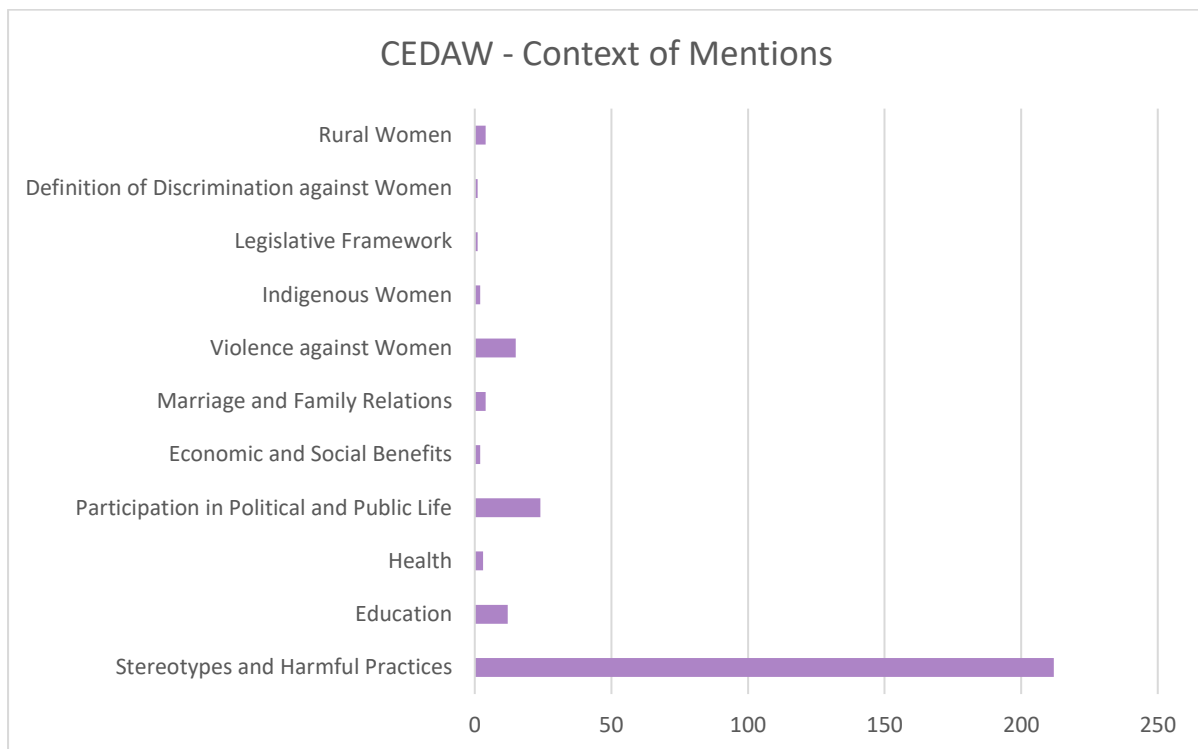
As the only treaty body with a focus on women’s human rights, figure 3 shows that the CEDAW Committee use ‘patriarchy’ or ‘patriarchal’ most often in the context of ‘stereotypes and harmful practices’. This concerns article 5, an important provision that underlies the remaining specific articles of CEDAW (see generally Holtmaat 2013, 112; Sepper 2008). There are two parts: article 5(a) obligates states to eliminate harmful gender stereotypes generally. It requires changing social and cultural practices that reinforce harmful gender stereotypes regarding the roles of women in public and in the family home.²² Such practices include religious, traditional and customary beliefs, ideas, rules, and attitudes.²³ Article 5(b) is more specific and focuses on gender roles in the family, particularly parental roles. States parties are obligated to educate and encourage men and women to take on childcare and housekeeping equally.²⁴

²² CEDAW art 5(a).

²³ See for example, CEDAW ‘General recommendation No. 28’ CEDAW/C/GC/28 (December 16, 2010), 5; CEDAW ‘Joint General Recommendation No. 31’ CEDAW/C/GC/31 (November 14, 2014).

²⁴ See for example, CEDAW ‘Concluding Comments of the Committee on the Elimination of Discrimination against Women: The Former Yugoslav Republic of Macedonia’ CEDAW/C/MKD/CO/3 (February 3, 2006), 20.

Figure 3. Context of Mentions in Concluding Observations of the Committee on the Elimination of Discrimination against Women.



Overwhelmingly, mentions of ‘patriarchal’ are associated with article 5(a). Where the CEDAW Committee uses the adjective, it does so in the following ways:

“The Committee is concerned at the persistence of deep-rooted *patriarchal attitudes* and stereotypes with respect to women’s roles and responsibilities, all of which discriminate against women, perpetuate their subordination within the family and society and ultimately restrict their rights under the Convention.”²⁵

Similarly:

²⁵ (emphasis added) CEDAW ‘Concluding observations on the second periodic report of Syria’ CEDAW/C/SYR/CO/2 (July 18, 2014), 21. See also CEDAW ‘Concluding observations on the combined initial to third periodic reports of the Marshall Islands’ CEDAW/C/MHL/CO/1-3 (March 12, 2018), 22.

“[T]he Committee reiterates its concern at the persistence of *patriarchal attitudes* and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life.”²⁶

The use of ‘patriarchal attitudes’ in the above ways has remained consistent since the late 1990s,²⁷ with only few examples of divergence.²⁸ Figure 1 shows a significant increase in the use of ‘patriarchal’ by the CEDAW Committee in 2006, with an upward trend, and yet use of the phrase ‘patriarchal attitudes’ and the association with article 5(a) has remained remarkably similar year-to-year.

On the rare occasions where the CEDAW Committee has used the noun ‘patriarchy’, this too has been with reference to article 5(a).²⁹ Furthermore, ‘patriarchal’ has also been used

²⁶ (emphasis added) CEDAW ‘Consideration of reports submitted by States parties under article 18 of the Convention: Uganda’ CEDAW/C/UGA/CO/7 (October 22, 2010), 19. See also CEDAW ‘Concluding observations on the fourth periodic report of Pakistan’ CEDAW/C/PAK/CO/4 (March 27, 2013), 21; CEDAW ‘Concluding observations on the fourth periodic report of Kyrgyzstan’ CEDAW/C/KGZ/CO/4 (March 6, 2015), 15; CEDAW ‘Concluding observations of the Committee on the Elimination of Discrimination against Women: Cameroon’ CEDAW/C/CMR/CO/3 (January 27, 2009), 24.

²⁷ See for example CEDAW ‘Report of the Committee on the Elimination of Discrimination against Women’ A/52/38/REV.1(SUPP) (August 12, 1997), 223.

²⁸ The phrase ‘patriarchal practices’ is used (despite the difference, these examples are also linked to article 5(a)). See for example, CEDAW ‘Report of the Committee on the Elimination of Discrimination against Women’ A/54/38/REV. 1(SUPP) (August 1, 1999), 86; CEDAW ‘Report of the Committee on the Elimination of Discrimination against Women’ A/56/38(SUPP) (April 19, 2001).

²⁹ See CEDAW ‘Concluding observations on the eighth periodic report of Belarus’ CEDAW/C/QAT/CO/1 (2014), 20; CEDAW ‘Concluding observations of the Committee on the Elimination of Discrimination against Women United Arab Emirates’ CEDAW/C/ARE/CO/1 (February 5, 2010), 24.

when the CEDAW Committee recommends state action under article 5(a) where a state party is urged to eliminate ‘patriarchal attitudes’.³⁰

From time to time (and especially after 2010), the CEDAW Committee have used ‘patriarchal attitudes’ when addressing specific provisions. Because article 5 permeates the remaining provisions of CEDAW, it follows that ‘patriarchal attitudes’ would appear elsewhere in concluding observations. The phrase is used the same way as the above examples. For instance, when commenting on rights concerning rural women (article 14) the CEDAW Committee states:

“[The CEDAW Committee is concerned with] the persistence of *patriarchal attitudes* and discriminatory *stereotypes regarding the roles* and responsibilities of women and men in the family and in society in rural areas ...”³¹

³⁰ See CEDAW ‘Report of the Committee on the Elimination of Discrimination against Women’ A/58/38(SUPP) (September 27, 2003), 276; CEADW ‘Concluding observations on the seventh periodic report of Greece adopted by the Committee at its fifty fourth session’ CEDAW/C/GRC/CO/7 (March 26, 2013), 19(a); CEADW ‘Concluding observations of the Committee on the Elimination of Discrimination against Women: Nepal’ CEDAW/C/NPL/CO/4-5 (July 29, 2011), 18(a); Committee on the Elimination of Discrimination against Women ‘Concluding observations on the combined fourth and fifth periodic reports of Bosnia and Herzegovina’ CEDAW/C/BIH/CO/4-5 (July 30, 2013), 20(c); CEDAW ‘Concluding observations on the combined seventh and eighth periodic reports of France’ CEDAW/C/FRA/CO/7-8 (July 25, 2016), 19(a).

³¹ (emphasis added) CEDAW ‘Concluding observations on the combined seventh and eighth periodic reports of Romania’ CEDAW/C/ROU/CO/7-8 (July 24, 2017), 34(b).

Similar language linking back to article 5(a) is repeated with ‘patriarchal attitudes’ appearing in reference to the right of women to participate in political and public life,³² the right of women to education,³³ rights connected to marriage and family relations³⁴ and the right of women to be free of violence.³⁵ These examples further support the argument that the CEDAW Committee uses ‘patriarchal’ almost exclusively in its interpretation of article 5(a). Moreover, the above examples point to the consistent and standardised use of the phrase ‘patriarchal attitudes.’

³² See for example, CEDAW ‘Concluding observations on the combined fourth and fifth periodic reports of Maldives’ CEDAW/C/MDV/CO/4-5 (October 20, 2015), 29(a). CEDAW ‘Concluding observations on the initial report of Qatar’ CEDAW/C/QAT/CO/1 (July 20, 2014), 27.

³³ See for example, CEDAW ‘Concluding observations on the eighth periodic report of Ukraine’ CEDAW/C/UKR/CO/8 (March 9, 2017), 34; CEDAW ‘Concluding observations on the combined fourth and fifth periodic reports of Croatia’ CEDAW/C/HRV/CO/4-5 (July 28, 2015), 26(b); CEDAW ‘Concluding observations on the combined eighth and ninth periodic reports of Portugal’ CEDAW/C/PRT/CO/8-9 (November 24, 2015), 32.

³⁴ See for example, CEDAW ‘Concluding observations on the combined seventh and eighth periodic reports of France’ CEDAW/C/FRA/CO/7-8 (July 25, 2016), 47.

³⁵ See for example, CEDAW ‘Concluding observations on the combined fourth to sixth periodic reports of Iraq’ CEDAW/C/QAT/CO/1 (March 10, 2014), 28; CEDAW ‘Concluding observations of the Committee on the Elimination of Discrimination against Women: Mexico’ CEDAW/C/MEX/CO/7-8 (July 27, 2012), 11; CEDAW ‘Concluding Comments of the Committee on the Elimination of Discrimination against Women: Jamaica’ CEDAW/C/JAM/CO/5 (August 25, 2006), 15.

Patriarchy as Harmful (Traditional) Practices

Since 2005,³⁶ ‘patriarchal attitudes’ has frequently appeared alongside examples of specific practices which the CEDAW Committee asserts arise out of such attitudes, these include, inter alia, FGM,³⁷ sexual initiation practices,³⁸ early and forced marriage,³⁹ polygamy,⁴⁰ son preference,⁴¹ dowries,⁴² and violence against women generally.⁴³ These

³⁶ The first concluding observations which has ‘patriarchal attitudes’ used alongside harmful practices is CEDAW ‘Concluding Observations of the Committee on the Elimination of Discrimination against Women: Benin’ CEDAW/C/BEN/CO/1-3 (October 18, 2005), 16.

³⁷ See for example, CEDAW ‘Concluding comments of the Committee on the Elimination of Discrimination against Women: Ghana’ CEDAW/C/GHA/CO/5 (August 25, 2006), 21; CEDAW ‘Concluding observations on the seventh periodic report of Malawi’ CEDAW/C/MWI/CO/7 (November 25, 2015), 20; CEDAW ‘Concluding observations on the fourth and fifth periodic reports of Eritrea’ CEDAW/C/ERI/CO/5 (February 26, 2015), 18; CEDAW ‘Concluding observations on the combined initial and second periodic reports of Brunei Darussalam’ CEDAW/C/BRN/CO/1-2 (November 14, 2014), 20.

³⁸ See for example, CEDAW ‘Concluding observations on the combined fourth and fifth periodic reports of Lebanon’ CEDAW/C/LBN/CO/4-5 (November 24, 2015), 21.

³⁹ See for example, CEDAW ‘Concluding comments of the Committee on the Elimination of Discrimination against Women: Mali’ CEDAW/C/MLI/CO/5 (February 3, 2006), 17; CEDAW ‘Concluding observations on the combined initial to third periodic reports of Solomon Islands’ CEDAW/C/SLB/CO/1-3 (November 14, 2014), 22; CEDAW ‘Concluding observations on the combined fourth and fifth periodic reports of Georgia’ CEDAW/C/GEO/CO/4-5 (July 18, 2014), 18.

⁴⁰ See for example, CEDAW ‘Concluding observations on the combined fourth and fifth periodic reports of the Gambia’ CEDAW/C/GMB/CO/4-5 (July 28, 2015), 18.

⁴¹ See for example, CEDAW ‘Concluding observations on the fifth periodic report of Azerbaijan’ CEDAW/C/AZE/CO/5 (March 12, 2015), 20.

⁴² CEDAW ‘Concluding Comments: Burkina Faso’ CEDAW/C/BFA/CO/4-5 (June 6, 2005), 27.

⁴³ See for example: CEDAW ‘Concluding comments of the Committee on the Elimination of Discrimination against Women: Cuba’ CEDAW/C/CUB/CO/6 (August 25, 2006), 17.

examples are also known as ‘harmful traditional practices’ or ‘harmful practices’ which manifest themselves as part of religious or cultural ‘tradition’.⁴⁴ According to the CEDAW Committee in their concluding observations, the elimination of such harmful practices, that are rooted in ‘patriarchal attitudes’, is a core obligation under article 5(a).

Although I have discussed elsewhere the problematic implications of conflating patriarchy and harmful (traditional) practices (Mudgway 2020), it is necessary to reiterate several relevant points here. Firstly, the CEDAW Committee’s conceptualisation of ‘culture’ and harmful practices under article 5(a) has been the subject of ongoing feminist critique. Secondly, this critique is relevant to this study because the CEDAW Committee is conflating patriarchy with harmful practices. Thirdly, that limiting patriarchy to mean specific harmful practices applies a traditional concept of patriarchy, as the overt subordination of women by men, placing women (particularly those in the ‘Global South’) in the role of passive victim of their own ‘culture’. I will address each of these points in turn.

Although harmful practices as a concept arose in the 1950s, it was not until the 1980s and 1990s that references to such practices became common in the international human rights space (Longman and Bradley 2015, 1-2). According to a 1995 UN Fact Sheet (UNOHR 1995, 12), so-called harmful ‘traditional’ practices were described as including:

“[F]emale genital mutilation (FGM); forced feeding of women; early marriage; the various taboos or practices which prevent women from controlling their own fertility; nutritional taboos and traditional birth practices; son preference and its implications for the status of the girl child; female infanticide; early pregnancy; and dowry price.”

⁴⁴ UNOHR ‘Fact Sheet 23: Harmful Traditional Practices Affecting the Health of Women and Children’ (1995).

It should be noted that many of these practices are the same as those referred to by the CEDAW Committee in their concluding observations as arising out of ‘patriarchal attitudes.’ In fact, elimination of ‘harmful practices’ has been articulated as a key concern under article 5 by the Committee themselves.⁴⁵ Therefore, it follows that references to harmful practices appear in concluding observations when reviewing state obligations under article 5. The Committee’s fixation on certain specific practices, however, has been the subject of much commentary from feminist scholars.

Both feminist legal scholars and anthropologists have been critical of the CEDAW Committee’s approach to culture in article 5(a) (see for example, Holtmaat and Naber 2011; Winter et al. 2002; Mullins 2018; Engle 2003). This criticism arises from the Committee’s positioning of ‘culture’ as in conflict with human rights (Engle 2003, 60). ‘Culture’ is represented as fixed practices or beliefs based on ‘past’ customs, religion or ‘tradition’ (Mullins 2018, 262). Consequently, feminist anthropologist Sally Merry Engle (2003, 60-62) argued that the underlying message of article 5 was to eliminate ‘traditional’ practices or beliefs and replace them with ‘modern’ practices and beliefs. The impression being that removal of those specified practices would thus resolve gender discrimination. Furthermore, she argued that this was based on an incorrect understanding of ‘culture’, which is not fixed, but in flux, contestable and changeable according to local social, legal, economic and political contexts. Moreover, the emphasis on ‘tradition’ versus ‘modernity’ risks ‘othering’ culture itself, as something which is experienced by some but not others.

Placing culture as at odds with human rights relies on the assumption that culture is something which is *done to* women, rather than something in which women both create and

⁴⁵ See CEDAW and CRC ‘Joint General Recommendation 31 on harmful practices’ CEDAW/C/GC/31-CRC/C/GC/18 (November 14, 2014).

participate. Women are therefore seen as passive victims of their own culture or ‘traditions’ (Engle 2003, 60). For example, the phrase ‘harmful traditional practices’ has its origins in the moral panic of FGM during the 1990s, and early commentary described women who participated in FGM as “ignorant” and as “prisoners of ritual” (Njambi 2004, 286). This is further problematised by the fact that many, if not all, harmful practices continuously identified by the CEDAW Committee alongside ‘patriarchal attitudes’ are associated with the ‘Global South’ (see generally Mudgway 2020; Winter et al. 2002). Often this is done without acknowledging any local nuance such as, for example, the different reasons why FGM is practiced and the cultural significance of those practices for women themselves, and how these differ from community to community (see generally, Njambi 2004; Tamale 2005; Abu-Lughod 2002). Arguably, this approach applies an essentialised view of ‘culture’ as something which is intrinsically harmful to women, as opposed to cultural norms in the ‘Global North’ which are “often not questioned or even perceived as culture” (Ertürk and Purkayastha 2012, 148). African feminist scholar Sylvia Tamale (2005, 53) describes such exotification as a “racist misreading of African cultures,” further objectifying the ‘other.’

Additionally, this conceptualisation of culture and harmful practices neglects the fact that women have positive relationships with their culture (Geng 2019, 412; Kapur 2005). Such limitations of CEDAW’s approach were a partial driver for the 2003 Maputo Protocol (‘Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa’). African feminists were particularly frustrated with the CEDAW Committee’s lack of cultural sensitivity leading to a gap in women’s human rights (Geng 2019, 417; Banda 2006; Sithole and Dziva 2019). Although certain harmful practices, such as FGM, are specifically prohibited, article 17 recognises that women have a right to live in a positive cultural context. The definition of ‘harmful practices’ focusses on the underlying causes of such practices as

well as their negative impact on women's enjoyment of their rights, allowing for a more holistic approach than CEDAW (Banda 2006, 80).

In response to some of the above critiques, the CEDAW Committee dropped all references to 'harmful traditional practices' in favour of 'harmful practices' in 2014 (Le Roux and Bartelink 2020, 211).⁴⁶ However, despite this change, the Committee continues to refer to the same specific practices as they did prior to this change.⁴⁷ Moreover, the word 'tradition' continues to appear separately in concluding observations in the context of article 5(a).⁴⁸ Substantively, the CEDAW Committee's problematic conceptualisation of both culture and harmful practices remain.

The ongoing feminist critiques of the CEDAW Committee's approach to 'culture' and 'harmful practices' is directly relevant to this study. The CEDAW Committee's use of 'patriarchal attitudes' is closely associated with the Committee's conceptualisation of culture under article 5. Mentions of 'patriarchal attitudes' appear alongside 'harmful practices' (or examples of harmful practices), in fact, these two concepts are interconnected. Such harmful

⁴⁶ See CEDAW and CRC (2014).

⁴⁷ See for example, CEDAW 'Concluding observations on the seventh periodic report of Malawi' CEDAW/C/MWI/CO/7 (November 24, 2015), 20; CEDAW 'Concluding observations on the fourth and fifth periodic reports of Eritrea' CEDAW/C/ERI/CO/5 (February 27, 2015), 18; CEDAW 'Concluding observations on the combined fourth and fifth periodic reports of Myanmar' CEDAW/C/MMR/CO/4-5 (July 25, 2016), 24; CEDAW 'Concluding observations on the combined eighth and ninth periodic reports of the Lao People's Democratic Republic' CEDAW/C/LAO/CO/8-9 (November 14, 2018), 23; CEDAW 'Concluding observations on the combined initial to third periodic reports of the Marshall Islands' CEDAW/C/MHL/CO/1-3 (March 14, 2018), 22.

⁴⁸ See for example, CEDAW 'Concluding observations on the combined third to fifth periodic reports of Malaysia' CEDAW/C/MYS/CO/3-5 (March 14, 2018), 20.

practices are often articulated as arising out of deeply rooted ‘patriarchal attitudes.’ To eliminate ‘patriarchal attitudes’ is to remove those harmful practices. Therefore, the same criticisms outlined above apply to the CEDAW Committee’s use of ‘patriarchal attitudes’; if culture is being ‘othered’ or ‘exotified’ then so is ‘patriarchy’.

The consistent use of the adjective ‘patriarchal’ as connected with harmful practices presents the concept of ‘patriarchy’ in a limited way. The CEDAW Committee tethers ‘patriarchy’ together with certain harmful practices, such as FGM, sexual initiation practices, early and forced marriage, polygamy, son preference, dowries, and violence against women generally. It is possible that the CEDAW Committee is drawing on a wider understanding of ‘patriarchy’ here and is using harmful practices as merely examples of violent manifestations of patriarchy as a system of power. However, if this were true then it would follow that ‘patriarchy’ and ‘patriarchal’ would be regularly mentioned throughout concluding observations in varied ways. This is simply not the case. Moreover, regardless of what concept of ‘patriarchy’ the CEDAW Committee is drawing from, it is constantly being presented as narrowly constructed. This is important because the CEDAW Committee has proved to be leading how other treaty bodies approach ‘patriarchy’ and women’s human rights (as argued below). As presented in concluding observations, this concept of patriarchy is limiting oppression of women to certain religious, cultural, and traditional beliefs and practices, rather than articulating the “systematic nature of patriarchy” (Le Roux and Bartelink 2020, 210).

There are some rare occasions where use of ‘patriarchal’ depart from the standardised language, for example, in CEDAW Committee General Recommendation 21: “[M]any countries hold a belief in the patriarchal structure of a family which places a father, husband or

son in a favourable position.”⁴⁹ Another example is in the quote from General Recommendation 31 above which refers to “socially constructed gender roles and systems of patriarchal power relations”. However, it is argued that these are still reflective of a traditional understanding of patriarchy. In both examples, the surrounding contexts refer to harmful practices, beliefs and “traditions” as the source of such patriarchal structures.

These same phrases, ‘patriarchal attitudes’, ‘traditions’ and ‘harmful practices’, or specific examples of such practices, appear together in similar fashion in the CEDAW Committee’s General Recommendations. For example, in General Recommendation 29, the treaty body states that: “[i]n respect of discrimination against women, they must address *patriarchal traditions and attitudes ...*”⁵⁰

The most unique use of ‘patriarchal’ is in the 2017 General Recommendation 36 (on the right of girls and women to education).⁵¹ Here, the CEDAW Committee urges states parties to challenge “patriarchal ideologies” (27a) and laments the “persistence of patriarchal systems” (51) and “entrenched patriarchal ideologies, practices and structures that shape daily experience of teachers and students” (57). Importantly, the CEDAW Committee explicitly draws on the work of the Special Rapporteur of the Right to Education as the foundation of this General Recommendation (14) and, as will be argued below, the Special Rapporteur understands ‘patriarchy’ as a system of power, permeating all facets of society. This influence

⁴⁹ CEADW ‘General Recommendation No. 21 Equality in marriage and family relations’ CEDAW/C/GC/21 (1994), 42.

⁵⁰ (emphasis added) CEADW ‘General Recommendation No. 29: Article 16 - Economic consequences of marriage, family relations and their dissolution’ CEDAW/C/GC/29 (February 26, 2013), 18. See also CEDAW ‘General Recommendation No. 35 on gender-based violence’ CEDAW/C/GC/35 (July 14, 2017), 30(a).

⁵¹ CEDAW/C/GC/36 (November 16, 2017).

and the obvious change in language, in comparison with concluding observations and other general recommendations, suggests divergence from the rigidity of a traditional understanding of patriarchy. However, this language appears under the heading ‘cultural barriers’ (51) and, once again, the same specific harmful practices are discussed in relation to these ‘patriarchal structures’ (these include early and forced marriage and FGM). Moreover, since the publication of this General Recommendation there has been no change in the use of ‘patriarchal’ in concluding observations.

To summarise, the CEDAW Committee is presenting ‘patriarchy’ in a limiting way by connecting ‘patriarchal attitudes’ to certain harmful practices. Such practices are overwhelmingly associated with the ‘Global South’ and a narrowly constructed concept of ‘culture’ under article 5. This risks ‘othering’ or ‘exotifying’ patriarchy itself. Moreover, this approach represents a traditional concept of ‘patriarchy’ as being the overt subordination of women by men. This is concerning because this narrow conceptualisation is followed by other treaty bodies (see below). Moreover, the CEDAW Committee’s approach is totally at odds with an anti-essentialist and intersectional understanding of patriarchy as a system of power. Restricting patriarchy to mean certain harmful practices does not allow for local cultural diversity or nuance which is arguably required to fully appreciate male oppression of women around the world. It is instead an ongoing reflection of, on the one hand, essentialising women’s experiences of harmful practices and, on the other hand, ‘othering’ patriarchy as something which is experienced by states in the ‘Global South’ but not elsewhere (see further in Mudgway 2020).

(b) The HRC, ESCR Committee, CRC Committee and CRPD Committee

The CEDAW Committee’s standardised language of ‘patriarchal attitudes’ and the conflation of patriarchy with harmful practices has been adopted by other treaty bodies. In some

concluding observations and general comments, this adoption is made explicit with cross-references to CEDAW Committee jurisprudence.⁵² These echoes of the CEDAW Committee in the work of other treaty bodies is also reflective of increased integration of a gendered perspective in human rights monitoring. Otherwise known as ‘gender mainstreaming’, this policy was officially adopted by the UN in 1997.⁵³ As a result, since the early 2000s treaty bodies have incorporated the ‘gender question’ into their concluding observations. This is further illustrated by figure 1 (*supra* 15), which shows an upward trend of ‘patriarchy’ and ‘patriarchal’ mentions since the early 2000s, noting the spike in mentions in 2009 onwards. Figures 4, 5 and 6 illustrate the inclusion of ‘gender equality’, ‘violence against women’ and/or ‘discrimination against women’ as thematic scrutiny in the concluding observations of the HRC, ESCR Committee and the CRC Committee. Therefore, it is foreseeable that the term ‘patriarchal’ may be used from time to time.

⁵² See for example, CRC ‘Concluding Observations: Burkina Faso’ CRC/C/BFA/CO/3-4 (February 9, 2010), 44; CRPD ‘General Comment No. 3 on Women and Girls with Disabilities’ CPRD/C/GC/3 (September 2, 2016), 37; CRPD ‘General Comment No. 4 on the Right to Inclusive Education’ CPRD/C/GC/4 (September 2, 2016), 46.

⁵³ ESC ‘Report of the Economic and Social Council for 1997’ A/52/3/Rev. 1 (April 12, 1997).

Figure 4. Context of Mentions of ‘patriarchy’ and ‘patriarchal’ in Concluding Observations of the Committee on the Rights of the Child.

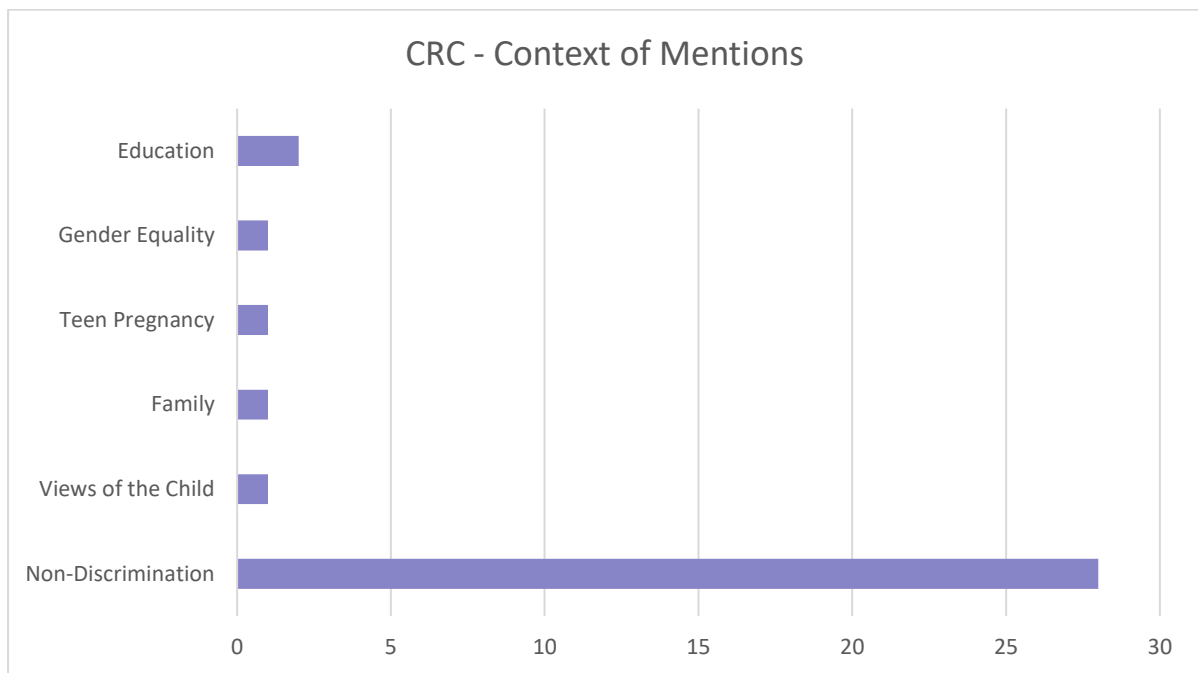


Figure 5. Context of Mentions of ‘patriarchy’ and ‘patriarchal’ in Concluding Observations by the Human Rights Committee.

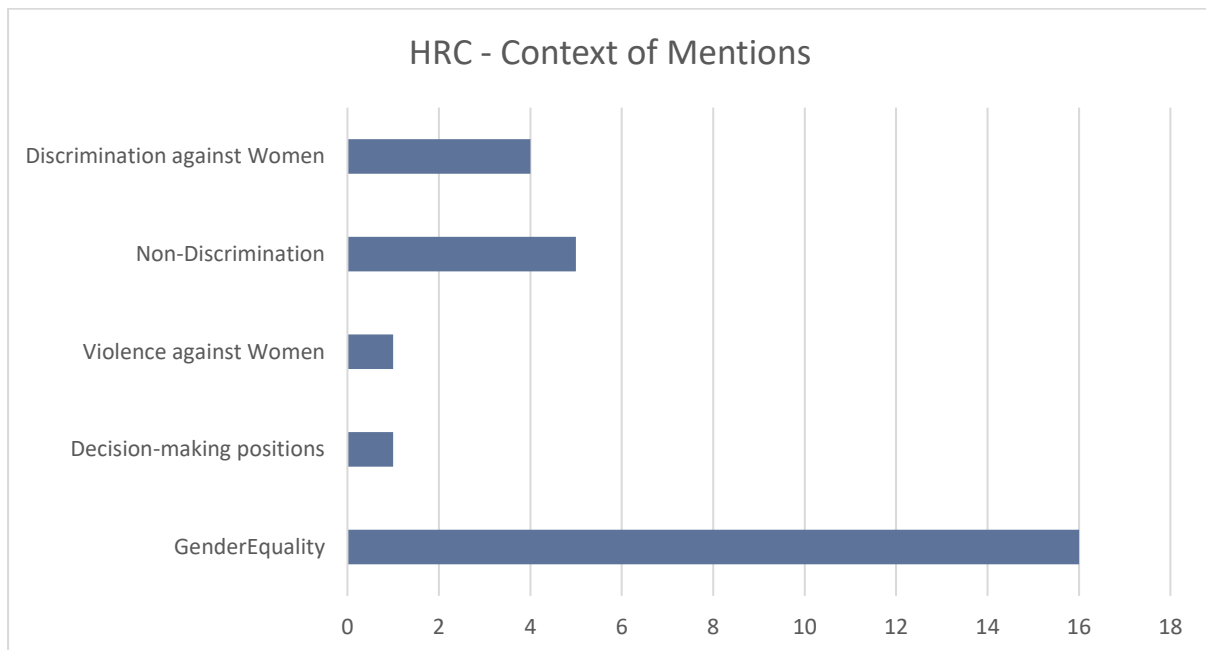
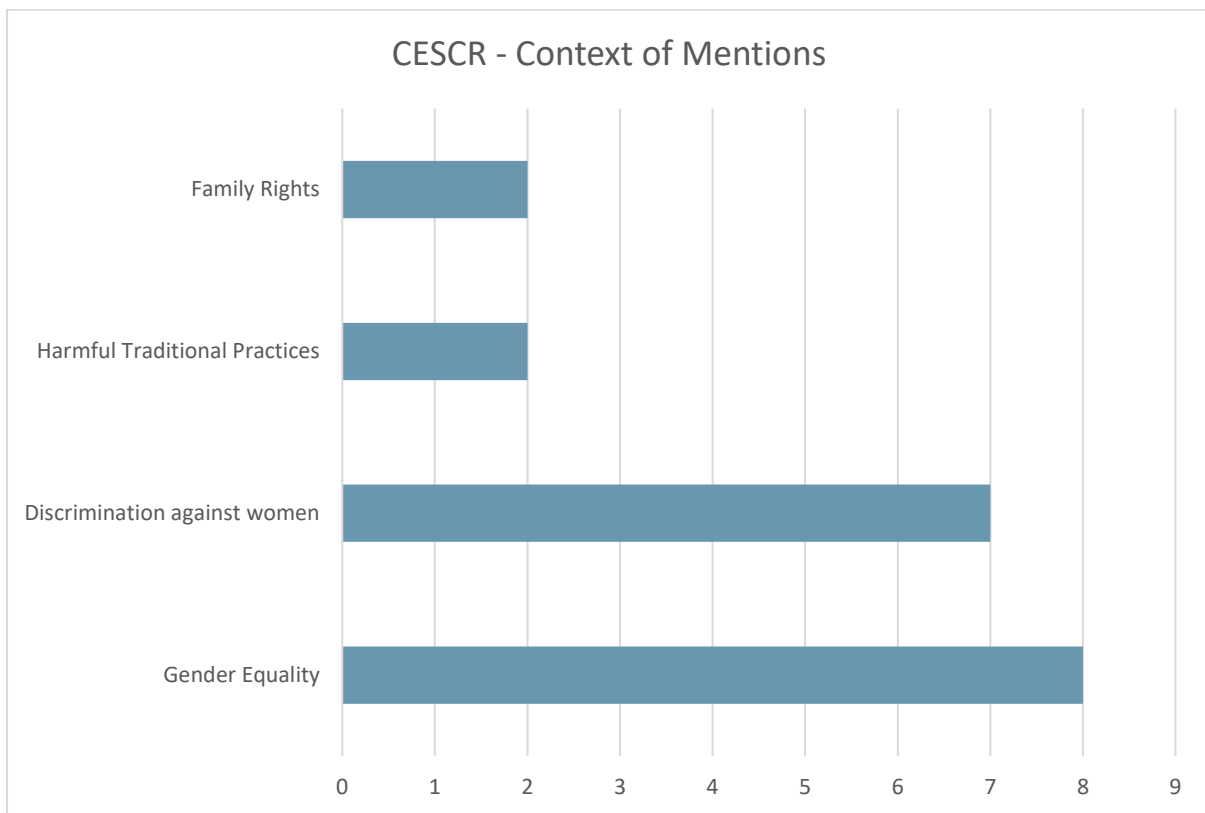


Figure 6. Context of Mentions of ‘patriarchy’ and ‘patriarchal’ in Concluding Observations by the Committee on Economic, Social and Cultural Rights.



Beginning with the concluding observations of the HRC (monitoring the ICCPR), mentions of ‘patriarchal’ appear primarily in relation to ‘gender equality’, ‘discrimination against women’ and ‘non-discrimination’. These engage the following ICCPR provisions: article 2 (states parties are required to respect and ensure rights under the treaty without discrimination based on sex); article 3 (states parties are required to ensure equal rights of women and men); article 6 (the right to life); article 23 (the right to marriage with free and full consent); and article 26 (the right to equality before the law). Where the HRC use the term ‘patriarchal’, they do in the following way:

“[T]he committee is concerned about the persistence of *patriarchal stereotypes* about the role of women and men in the family and in society.”⁵⁴

When the adjective is used, certain harmful practices are also discussed, including honour-killings,⁵⁵ early and forced marriage,⁵⁶ and sex-selective abortion:⁵⁷ all of which is reminiscent of the CEDAW Committee’s use of the term.

The ESCR Committee (monitoring CDESCR) uses ‘patriarchal’ in the same way as the HRC. References occur under the headings ‘gender equality’, ‘discrimination against women’ and harmful practices. These relate to CDESCR article 2 (states parties to take steps to guarantee rights under the treaty); article 3 (states parties are required to ensure equal rights of women and men); and article 12 (the right to health). The ESCR Committee’s use of ‘patriarchal’ is typically described in the following terms:

“[T]he committee is concerned that deep-rooted stereotypes and *patriarchal attitudes* that discriminate against women and girls continue to be prevalent in society...”⁵⁸

⁵⁴ HRC ‘Concluding Observations: Bahrain’ CCPR/C/BHR/CO/1 (November 18, 2018), 21. See also HRC ‘Concluding Observations: El Salvador’ CCPR/C/SLV/CO/7 (May 9, 2018), 13; HRC ‘Concluding Observations: Liberia’ CCPR/C/LBR/CO.1 (August 27, 2018), 25(e); HRC ‘Concluding Observations: Sierra Leone’ CCPR/C/SLE/CO/1 (March 25, 2014), 10.

⁵⁵ See for example, HRC ‘Concluding Observations: Azerbaijan’ CCPR/C/AZE/CO/4 (November 16, 2016), 14.

⁵⁶ See for example, HRC ‘Concluding Observations: Gambia’ CCPR/C/GMB/CO/2 (August 30, 2018), 13; HRC ‘Concluding Observations: Nepal’ CCPR/C/NPL/CO/2 (April 15, 2014), 8.

⁵⁷ See for example, HRC ‘Nepal’ (2014), 8.

⁵⁸ CDESCR ‘Concluding Observations: Nepal’ E/C.12/NPL/CO/3 (August 31, 2014), 14. See also CDESCR ‘Concluding Observations: Afghanistan’ E/C.12/AFG/CO/2-4 (June 7, 2010), 18; CDESCR ‘Concluding

Again, this is accompanied by examples of harmful practices, such as sex-selective abortion and son-preferences,⁵⁹ and early and forced marriage.⁶⁰ However, unlike the HRC, the ESCR Committee has used the noun ‘patriarchy’, but only once in 1999:

“[T]he committee notes with concern that, despite a constitutional non-discrimination clause and the recent adoption of a national women’s policy, women remain subject to patriarchy ... their status is nevertheless inferior to that of men. As a consequence, women have limited access to the political and economic life of the country.”⁶¹

This suggests an understanding of patriarchy as a system of power that permeates social, cultural, economic structures and political institutions. Nevertheless, this reference is not repeated in future concluding observations. ‘Patriarchy’ and ‘patriarchal’ are never mentioned in the general comments of either the HRC or the ESCR Committee.

In an almost identical approach, the CRC Committee echoes the CEDAW Committee when using the term ‘patriarchal’ in concluding observations by referencing ‘patriarchal attitudes’ alongside ‘customs and traditions’.⁶² As noted in figure 4 (*supra* 32), the term has

Observations: Niger’ E/C.12/NER/CO/1 (May 29, 2018), 14; CESCR ‘Concluding Observations: Rwanda’ E/C.12/RNA/CO/2-4 (2013), 9.

⁵⁹ See for example, CESCR ‘Concluding Observations: Albania’ E/C.12/ALB/CO/2-3 (2012), 33.

⁶⁰ See for example, CESCR ‘Concluding Observations: Sri Lanka’ E/C.12/LKA/CO/2-4 (December 9, 2010), 15.

⁶¹ CESCR ‘Concluding Observation on Solomon Islands’ E/C.12/1/Add.33 (May 14, 1999), 16.

⁶² CRC ‘Concluding Observations of Burkina Faso’ CRC/C/BFA/CO/3-4 (February 9, 2010), 44. See also, CRC ‘Concluding Observation of Algeria’ CRC/C/DZA/CO/3-4 (June 15, 2012), 28; CRC ‘Concluding Observations: Andorra’ CRC/C/AND/CO/2 (December 3, 2012), 24; CRC ‘Concluding Observations: Brazil’ CRC/C/BRA/CO/2-4 (October 2, 2015), 23; CRC ‘Concluding Observations: Cuba’ CRC/C/CUB/CO/2 (August 3, 2011), 24; CRC ‘Concluding Observations: Colombia’ CRC/C/COL/CO/4-5 (March 6, 2015), 19(b); CRC

been located primarily under the heading ‘non-discrimination’. This is in relation to CRC article 2 (states parties are required to respect and ensure rights under the treaty without discrimination based on sex); article 3 (the best interests of the child shall be a primary consideration); article 6 (the right to life); and article 12 (right of a child to express their views). A similar pattern emerges in the CRC Committee’s general comments, for example, in General Comment 20, the Committee states that: “[s]tates need to invest in proactive measures to promote the empowerment of girls, challenge *patriarchal and other harmful gender norms and stereotyping* ...”⁶³ Just as the above treaty bodies, the CRC Committee also highlights examples of harmful practices alongside the term ‘patriarchal’, for example, FGM,⁶⁴ early marriage,⁶⁵ female infanticide,⁶⁶ and abandonment of girls.⁶⁷

Although never mentioned in their concluding observations, the CRPD Committee has used ‘patriarchal’ in three of its general comments.⁶⁸ Predominantly, use of the term, once more, echoes that of the CEDAW Committee. For example, in General Comment 3 (on women and girls with disabilities), the CRPD Committee provides that: “*Harmful practice based on patriarchal interpretations of culture cannot be evoked to justify violence against women and*

‘Concluding Observations: Ecuador’ CRC/C/ECU/CO/5-6 (October 26, 2017), 18(c); CRC ‘Concluding Observations: Honduras’ CRC/C/HND/CO/3 (May 3, 2007), 31.

⁶³ CRC ‘General Comment No. 20 on the Implementation of the rights of the child during adolescence’ CRC/C/GC/20 (December 6, 2016), 28. See also CRC ‘General Comment No. 12 The Right of the Child to be heard’ CRC/C/GC/12 (June 20, 2009), 77.

⁶⁴ See for example, CRC ‘Concluding Observations: Sri Lanka’ CRC/C/LKA/CO/5-6 (March 2, 2018), 26(a).

⁶⁵ See for example, CRC ‘Concluding Observations: Namibia’ CRC/C/NAM/CO/2-3 (October 16, 2012), 30(b).

⁶⁶ See for example, CEDAW and CRC (2014), 9.

⁶⁷ See for example, CRC ‘Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session’ CRC/C/CHN/CO/3-4 (October 3, 2013), 27.

⁶⁸ See for example, CRC ‘Concluding Observations: India’ CRC/C/IND/CO/3-4 (June 13, 2014), 33.

girls with disabilities.”⁶⁹ Moreover, the CRPD Committee directly cross-references the CEDAW Committee’s General Recommendation 31 on harmful practices in support of this point, making the latter Committee’s influence explicit (37). However, in 2017 the CRPD Committee broke from this borrowed standardised language, referring to “patriarchal social patterns” instead.⁷⁰ Nonetheless, in the same paragraph the CRPD Committee also discusses stereotypes and once again cross-references the CEDAW Committee (General Recommendation 21).

Mentions of ‘patriarchal’ in the concluding observations of the HRC, the ESCR Committee and the CRC Committee bear remarkable resemblance to one another. Not only do they replicate the language of the CEDAW Committee, but they also relate ‘patriarchal’ with the same or similar rights across their parent treaties. For instance, to ensure both genders have equal opportunity to enjoy rights guaranteed under the requisite treaty is to eliminate harmful practices rooted in ‘patriarchal attitudes.’ This is repeated in the general comments of the CRC and CRPD Committee. Once more, the treaty bodies are predominantly drawing on a traditional understanding of patriarchy (as the overt subordination of women) and not as a system of power. Furthermore, the copy and pasting of the CEDAW Committee’s language both carries over a particular meaning of patriarchy and undermines the transformative purpose of gender mainstreaming (see generally Parisi 2013). The simple adoption of phrases without adding anything new can appear merely symbolic rather than meaningful engagement with gender perspectives. Therefore, it is difficult to ascertain whether there is a *shared* understanding of

⁶⁹ CRPD ‘General Comment No. 3 on women and girls with disabilities’ CRPD/C/GC/3 (September 2, 2016), 37 and 55.

⁷⁰ CRPD ‘General Comment No. 5 on living independently and being included in the community’ CRPD/C/GC/5 (October 27, 2017), 77.

patriarchy between all treaty bodies or whether there is only the CEDAW Committee's meaning, which has been carelessly adopted by others.

In summary, the treaty bodies which use 'patriarchy' and/or 'patriarchal' are limiting such to certain harmful practices. The same criticisms noted above with respect to the CEDAW Committee are relevant here. Patriarchy is once again being presented as synonymous with harmful practices, mostly associated with the 'Global South': the impression being that 'patriarchy' is something experienced by some states but not others. Moreover, this represents a traditional concept of patriarchy, rather than as a system of power. Such a narrowly constructed view of 'patriarchy' disregards the diverse ways unequal power dynamics between men and women manifest. By focusing on the removal of a select number of harmful practices (as representing 'patriarchy'), treaty bodies risk misunderstanding or ignoring many other facets of male oppression of women.

V. The Special procedures – 'Patriarchy' as a System of Power

In contrast to treaty bodies, special procedures use 'patriarchy' and 'patriarchal' in complex ways, indicating a nuanced understanding of the concept. Although there are some examples where the CEDAW Committee's language is repeated, and so too its conflation of 'patriarchal attitudes' with harmful practices, it is rare that such language appears as the only reference to patriarchy.⁷¹ Where harmful practices are discussed, they are not presented as the only form of patriarchy. Overall, there is an absence of standardised language altogether. Figure 2 (*supra* 17) shows that special procedures have used 'patriarchal' and/or 'patriarchy' consistently since 2006, with another significant spike in mentions in 2010 and a continued upward trend. Since

⁷¹ For rare examples of adopting CEDAW Committee language and nothing further, see Working Group of Experts on People of African Descent (2018),59; De Schutter (2012), 43; Kiai (2014), 66.

2006, patriarchy is referenced in a variety of different phrases; these include, *inter alia*, “patriarchal societies” (Sekaggya 2011, 73; Maalla M’jid 2010, 46; Bhoola 2018, 24), “patriarchal control” (Ertürk 2009, 64), “patriarchal ideologies” (Working Group on the Issue of Discrimination against Women 2017, 64), “patriarchal norms” (Elver 2014, 27; Manjoo 2014, 66), “patriarchal patterns” (Šimonovic 2018, 20), “patriarchal sociocultural order” (Carmona 2014, 24), “patriarchal oppression” (Working Group on the Issue of Discrimination against Women 2018, 26; Callamard 2017, 101a; Méndez 2016, 69), and “patriarchalism” (Villalobos 2006, 15). Moreover, examining these phrases closely in each of their contexts demonstrates a broader meaning of patriarchy that is being utilised in the interpretation of state obligations to respect and ensure women’s human rights.

(a) The Special Rapporteur on Violence against Women

The Special Rapporteur on Violence against Women mentions ‘patriarchy’ and ‘patriarchal’ most often of all special procedures, and their engagement with these terms is multifaceted. The mandate has been held by four experts since it was established in 1994; this includes Sri Lankan lawyer, Radhika Coomaraswamy, 1994-2003, Turkish scholar Yakin Ertürk, 2003-2009, South African Law Professor Rashida Manjoo, 2009-2015, and Croatian jurist Dubravka Šimonovic, 2015-present. Despite the mandate itself being widely defined, all four mandate holders, so far, consistently have utilised the concept of ‘patriarchy’ when articulating the problem of violence against women, as well as state obligations to respond to such violence.⁷²

Because ‘violence against women’ in part necessitates a focus on some cultural practices which inflict such violence, ‘harmful practices’ are discussed and, often, alongside

⁷² OHCHR Resolution 1994/45 [Question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women] (1994).

references to ‘patriarchy’ and ‘patriarchal’. For example, FGM is described as the “result of the patriarchal power structures which legitimize the need to control women’s lives” (Coomaraswamy 2002, 14; 1994, 50). With similar treatment, the Special Rapporteur has addressed femicide (Manjoo 2012, 24), honour killings (Coomaraswamy 2002, 27; Ertürk 2003, 35; 2006, 68), forced marriage (Ertürk 2009, 64; Šimonovic 2016, 37), and pornography (Coomaraswamy 1994, 25; Šimonovic 2018, 25). The Special Rapporteur is also much more expansive in their coverage of harmful practices than treaty bodies, extending comment to western cultural practices, such as beauty myths leading to cosmetic surgery (Coomaraswamy 2002, 96). However, the overt subordination of women by men through these harmful practices is presented as only *one* form of patriarchy. Likewise, the removal of harmful practices forms only *a part* of state obligations in response to violence against women. Instead, challenging “hegemonic patriarchal power dynamics” is often cited as a core obligation (see for example, Manjoo 2010, 85; 2011, 78; 2013, 19; 2014, 16). In fact, in 2003, Yakin Ertürk argued that as long as ‘patriarchy’ remains, even upon the removal of the identified harmful practices, these will simply be replaced by new cultural norms of violence against women (36). Therefore, it is ‘patriarchy’ that is positioned as the deeply-rooted problem.

‘Patriarchy’ has been described in annual reports by all mandate holders as deriving from “historically unequal power relations between men and women” (Ertürk 2003, 35), as hierarchical (Manjoo 2011, 68), and as pervading social, cultural and political institutions (Coomaraswamy 1994, 54; Manjoo 2011, 60; 2014, 29; Šimonovic 2018, 16). These explanations are reflective of ‘patriarchy’ as a system of power (El-Saadawi 1983; hooks 2005; MacKinnon 1989). Furthermore, patriarchy is occasionally acknowledged as being intersectional and so is reflective of anti-essentialist understandings of the concept (Ertürk 2005, 2). Moreover, the Special Rapporteur has drawn upon Marxist-feminist iterations of

patriarchy by recognising the way that patriarchy and capitalism work together as a dual-system of power to oppress women (Ertürk 2009, 65).

Overall, there is a clear and consistent meaning of patriarchy being used to interpret rights and responsibilities regarding violence against women. This meaning does not change depending on the individual Special Rapporteur. When the Special Rapporteur asserts that states have obligations to challenge, transform and dismantle patriarchy (see for example, Ertürk 2007, 24; Manjoo 2011, 78), this is not limited to modifying certain ‘harmful practices.’ This concept of patriarchy presented by the Special Rapporteur on Violence against Women is wider than utilised by treaty bodies. Violence against women manifests as more than just specific harmful practices, and so too does patriarchy. Emphasis is placed on systems of power. In order to eliminate violence against women, it is necessary for states to challenge and remove unequal power relations between men and women from all aspects of society. The adopted approach borrows from an anti-essentialist and intersectional feminist lens, contextualising violence against women within local women’s experiences, which differ from state to state. By recognising the systemic nature of violence against women, of patriarchy, the Special Rapporteurs have broadened understanding of such violence, illuminating what was once considered solely a ‘private issue’ as one requiring a holistic, comprehensive state response (Manjoo and Nadj 2015, 332).

(b) The Special Rapporteur on the Right to Education

From 2006 to 2010, the Special Rapporteur on the Right to Education made clear their intention to use the concept of patriarchy as a framing device for their annual reports. Vernor Muñoz Villalobos not only referred to ‘patriarchalism’ but also devoted an entire section of his reports to the concept (see for example Villalobos 2006, 12). Villalobos (2010, 7) defined ‘patriarchalism’ as:

“a system of social order imposing the supremacy of men over women, although it also determines strict roles for men and even divides the sexes against themselves. In addition to gender inequality, patriarchalism impedes social mobility and stratifies social hierarchies.”

As such, ‘patriarchy’ is described as a hierarchical social system based on historical power imbalances between men and women. Villalobos (2006, 18) asserts that patriarchalism “controls economic resources and assigns social and cultural values that are essentially unjust”. Additionally, ‘patriarchalism’ is described as intersecting “race, gender ethnic origin and social background” (20). Just as with the Special Rapporteur on Violence against Women, Villalobos understands patriarchy as a system of power. Moreover, he applies this understanding to state obligations regarding the right to education. The “patriarchal system” is one of the underlying reasons children globally are not able to attend school (Villalobos 2004, 19). Furthermore, if they do attend school, the curriculum simply “uncritically reproduces patriarchal practices, ideas, values and attitudes that are a source of many forms of discrimination” (2010, 76). As a result, Villalobos (2004, 5) asserts, states are obligated to reform their education systems through a human rights approach in order to counter and dismantle ‘patriarchalism’. Overall, Villalobos is clear and consistent in his approach to patriarchy. Once again, ‘patriarchy’ is presented from an anti-essentialist and intersectional approach. However, it must be noted that later Special Rapporteurs on the Right to education do not refer to ‘patriarchalism’ in their reports. This highlights the potentially limiting nature of the vaguely defined parameters of special procedures’ mandates: it is up to the individual mandate holder what they include in their reports and how they frame rights and obligations (discussed further below).⁷³

⁷³ For further reading on the role and function of Special Procedures see generally, Naples-Mitchell (2011).

(c) Other Special Procedures

Other special procedures have also used patriarchy to interpret rights and obligations in their various areas of expertise, albeit to a lesser extent. Significantly, these special procedures frame patriarchy as a system of power. For example, many special procedures frame patriarchy as a hierarchical social system that negatively impedes women's human rights. This framing has been utilised by: the Special Rapporteur on Extreme Poverty (Carmona 2014, 24), the Special Rapporteur in the Field of Cultural Rights (Bennoune 2012, 3), the Working Group on Human Rights and Business (2017, 30), the Special Rapporteur on the Right to Food (Elver 2015, 9), the Working Group on the issue of Discrimination against Women in Law and in Practice (2013, 51; 2014, 32; 2016, 54), the Special Rapporteur on the Rights to Freedom of Peaceful Assembly (Kiai 2013, 21), the Special Rapporteur on the Right to Health (Grover 2011, 63; Pūras 2017, 22; 2018, 71), the Special Rapporteur on Adequate Housing (Rolnik 2011, 11), the Special Rapporteur on the Situation of Human Rights Defenders (Sekaggya 2011, 73), the Special Rapporteur on the Rights of Indigenous Peoples (Anaya 2021, 33; Tauli-Corpuz 2015, 17), the Special Rapporteur on the Sale of Children (de Boer-Buquicchio, 2010, 46; Najat Maalla M'jid 2015, 30), the Special Rapporteur on Contemporary Forms of Slavery (Shahinian 2012, 46; Bhoola 2018, 24), the Special Rapporteur on Torture (Méndez 2016, 5), and the Special Rapporteur on the Right to Safe Drinking Water (de Albuquerque 2012, 25; Heller 2014, 3).

Additionally, patriarchy is understood as a system that is deeply entrenched in all facets of society. This includes patriarchal ordering of the family home (Achieme 2018, 13; Bohoslavsky 2018, 17), cultural and religious beliefs, attitudes and practices (Bielefeldt 2013, 28; Shahinian 2012, 41), healthcare systems (Pūras 2017, 22 and 59), economic systems (Frost 2015, 62; 2017, 19), legal frameworks (Shahinian 2012, 44; Bhoola 2018, 12), government and

political institutions (Bielefeldt 2014, 13; Sekaggya 2011, 73; Hussain 2000, 209). Furthermore, by recognising and engaging with the concept of patriarchy across the different classes of rights, collectively these special procedures are revealing an intersectional understanding of the concept.

Particular special procedures have also directly applied this concept of patriarchy to the obligation of states. For example, in 2018 the Working Group on the issue of Discrimination against Women in Law and in Practice has argued that (85):

“The human rights community should make every effort to block any position in international human rights spaces that endorses patriarchal and discriminatory norms, misusing culture, religion and State sovereignty as fallacious justifications.”

Similarly, the Special Rapporteur on Contemporary Forms of Racism (Achiame 2018, 62) asserted that “[m]ember States should actively reject the reinforcement of patriarchy and heteronormativity through laws that, in the name of national or traditional values, undercut the autonomy of women, and gender and sexual minorities”. Likewise, the Special Rapporteur on the Sale of Children (Maalla M’jid 2006, 122) explains that states have a duty to dismantle patriarchy, as a system of “male power and control” and that “[it] is only through the empowerment of women that the demand for child sexual exploitation can be reduced”.

These examples illustrate that across different mandate holders patriarchy is understood as being more than certain practices or beliefs, but rather as a social, cultural, economic, legal and political system of male power that must be directly challenged by states, according to international human rights law. Thus, patriarchy is framed as a system of power, permeating all facets of society. This is a markedly different approach than is taken by treaty bodies.

VI. Applying Different Concepts of ‘Patriarchy’ to the Human Rights Obligations of States

Treaty bodies and special procedures ascribe different meanings to ‘patriarchy’ and apply the concept differently. On the one hand, this is surprising because both groups are cooperative and influential on one another. Therefore, one would expect a similar framing of human rights obligations where their mandates overlap. There is certainly evidence of cross-referencing, for example, the CEDAW Committee’s reference to the Special Rapporteur on the Right to Education in General Recommendation 36. On the other hand, the separate functions of the concluding observations and annual reports means that the differences in the use of ‘patriarchy’ and ‘patriarchal’ are unsurprising. In their concluding observations, treaty bodies are exclusively responding to individual states parties. This represents a direct dialogue between states and the treaty body. These documents will contain detailed and specific measures that the individual states have taken and/or should take to fulfil their obligations under the parent treaty. This process does not easily allow holistic scrutiny or a general assessment of human rights obligations. Such assessment appears instead in general comments. Therefore, where there are breaks in standardised language by treaty bodies, these appear in general comments.

Annual reports from special procedures are more likely to focus on the global situation of human rights which leaves room for expansive appraisal. However, it should be noted that mandates for special procedures are vague or widely defined, allowing for significant variation between individual mandate holders in both substance and approach to their role (Naples-Mitchell 2011; Tomaševski 2005). This is exemplified by the Special Rapporteur on the Right to Education using ‘patriarchalism’ which was dropped by future mandate holders. Consequently, it cannot be argued that all special procedures have a *shared* understanding of ‘patriarchy’. Despite this, there is a clear trend regarding those special procedures who do

utilise ‘patriarchy’ that they draw on an anti-essentialist and intersectional approach, articulating ‘patriarchy’ as a system of power. Locating this clear trend among diverse and widely defined mandates is noteworthy, just as it is noteworthy that a clear and consistent use of ‘patriarchy’ was located among diverse treaty bodies.

Treaty bodies that mention ‘patriarchy’ or ‘patriarchal’ follow the standardised language of the CEDAW Committee, where the treaty body expresses their concern for the “persistence of patriarchal attitudes and discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and in society”. Furthermore, the phrase ‘patriarchal attitudes’ coincides with harmful practices (or specific examples of such practices), conflating the two. Overall, the way treaty bodies use ‘patriarchal attitudes’ to mean specific harmful practices suggests a limited meaning of the concept of patriarchy as the overt subordination of women. As a result, state obligations to respond to ‘patriarchy’ is too limited to the modification or elimination of certain harmful practices.

In comparison, special procedures that mention ‘patriarchy’ and ‘patriarchal’ do not follow any standardised language. They do, however, at a general level share a particular understanding of the concept of patriarchy. ‘Patriarchy’ is described as unequal power relations between men and women which is deeply entrenched in all levels of society. In some instances, special procedures recognise that patriarchy is experienced differently depending on other systems of oppression that may exist. As a result, state obligations to respond to ‘patriarchy’ are expansive and significant.

The key issue becomes: which meaning of ‘patriarchy’, either limited or expansive, takes precedence in international human rights law? Treaty bodies are tasked with interpreting their parent treaty and providing guidance on the requisite rights and duties. Therefore, treaty bodies are dealing directly in ‘hard law’, interpreting treaties as a source of international law

(although concluding observations and general comments themselves are not legally binding on states). In contrast, special procedures report to the Human Rights Council and the General Assembly. Although their annual reports examine and expand on human rights obligations, these are primarily used to inform UN programmes and strategies, rather than individual states. It should be noted that special procedures also conduct country visits so it may be possible that this wider concept of patriarchy has been utilised in those reports (however, country reports were not included in this study). Nonetheless, the primary relationship remains between special procedures and the Human Rights Council, a political and politicised body (Freedman and Houghton 2017). Accordingly, special procedures work in 'soft law', their annual reports reference international law but have the freedom to examine all sources relating to the promotion of human rights (Piccone 2011, 209). Consequently, special procedures may receive information from all available sources, unlike treaty bodies that must rely principally on states and national human rights institutions (Smith 2011, 179). Therefore, special procedures have more flexibility to examine, explore or elaborate on the concept of 'patriarchy' in a way that treaty bodies do not. Special procedures, through annual reports, speak to the multitude and with reference to short-term change, compared with treaty bodies that speak to each state party separately and on a periodic basis, with an emphasis on long-term change (Rodley 2003, 906). Overall, perhaps it could be argued that because of their function in engaging directly with legally binding instruments, that treaty bodies have more 'authority'. If this is true, then state obligations to 'smash the patriarchy' are limited. However, this article argues that both groups may be seen as operating together within a wider framework of international human rights law in different but complementary ways. Hence, it may be that the answer as to which meaning of patriarchy applies is left ambiguous if there is such a distinct difference in language and usage between treaty bodies and special procedures. This dissonance is concerning. Generally, as it is, states fail to protect and ensure women's human rights. There are several issues that

undermine global gender equality. These include extensive treaty reservations by states parties and global backlash driven by extremism and economic austerity (Chinkin 2016, 151). An additional lack of consistency across UN human rights mechanisms risks alienating states and moving them further from compliance.

It is argued that both treaty bodies and special procedures should utilise an anti-essentialist and intersectional approach to the concept of ‘patriarchy’ when interpreting women’s human rights and state obligations regarding those rights. Although many of the treaties in this study do not explicitly refer to intersecting discrimination, the concept of intersectionality itself has nevertheless been embraced by treaty bodies. For example, in 1998 the Chairpersons of the Human Rights Treaty Bodies agreed to integrate gender into their work and, in particular, examine intersecting disadvantage (UN Secretary-General 1998, 112). So far, focus has been on the intersection of gender, race and poverty. This is illustrated by the CERD Committee’s General Recommendation 15, which addresses the intersection of gender and race. The CEDAW Committee has also explicitly noted intersectionality in concluding observations and general recommendations. For example, in General Recommendation 28 the CEDAW Committee asserts that intersectionality underscores article 2, noting that: “the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity” (18). However, there is debate among scholars about how far the CEADW Committee (and other treaty bodies) have incorporated an intersectional lens into their work (Chow 2016; Campbell 2015; Bond 2003). The CEDAW Committee’s approach has been described as “pioneering” on one end (Campbell 2015), to “sporadic” on the other, with white middle-class western women remaining as the standard “woman”, placing women of ethnic minorities as “other” (Bond 2003; Otto 2010, 357). Regarding special procedures, the Human Rights Council has also engaged with intersectionality since the

decision to adopt gender mainstreaming in 2002.⁷⁴ The Human Rights Council also holds annual discussion panels on “the impact of multiple and intersecting forms of discrimination on women and girls.” In sum, intersectionality is not an unknown concept for treaty bodies or special procedures. However, the current approach to the concept of ‘patriarchy’ by treaty bodies highlights a gap in understanding or implementation of intersectionality, or both. I argue that this gap must be addressed.

Currently, the standardised language of ‘patriarchal attitudes’ and its connection to harmful practices and the CEDAW Committee’s narrow conceptualisation of culture essentialises women’s experiences, especially of those in the ‘Global South’. Accordingly, there is an artificial binary between women in the ‘Global North’, which do not experience ‘patriarchal attitudes’, and those in the ‘Global South’ which do. Even where treaty bodies have referred to ‘harmful practices’ or ‘culture’ in concluding observations of states in the ‘Global North’, they are not described as arising out of ‘patriarchal attitudes.’ This approach risks some groups of women (and their experiences of male oppression) being ‘othered’, left behind or ignored entirely.⁷⁵ To truly dismantle patriarchal structures and attitudes, these must be first understood within local contexts – rather than by applying one-size-fits-all language, copy and pasted from report to report. Patriarchy, as a system of power, may be an abstractly shared experience, yet women experience patriarchy differently depending on other social identities (such as class or ethnicity), history (such as colonialization) and local political institutions. Treaty bodies’ concluding observations offer an opportunity to localise the universal, by contextualising systems of male oppression in these ways. Harnessing an anti-essentialist and

⁷⁴ UNHRC. 2002. *Resolution on the Integration of the Human Rights of Women and the Gender Perspective*. E/CN.4/2002/L.59, April 16.

⁷⁵ The implications of conflating ‘patriarchy’ and ‘harmful practices’ on the application of CEDAW article 5 is discussed further in REDACTED 2020.

intersectional lens to understand ‘patriarchy’ better captures the complex and multifaceted nature of male supremacy and articulates the social and cultural transformation required to dismantle systems of patriarchy.

In order to effectively and meaningfully protect and ensure women’s human rights there must be a clear and consistent approach by UN institutions. This must include a coherent understanding of ‘patriarchy’ which is expansive enough to capture the complex and multiple realities of male oppression of women that exists globally: to understand patriarchy as a system of power. It is therefore argued that treaty bodies, particularly the CEDAW Committee, should approach patriarchy in the same way as many special procedures. Such a reconceptualization of the concept would enable treaty bodies to better direct states parties on transforming gender power dynamics in a way that is holistic and multifaceted: just as states parties are obligated to do under international human rights law.

Conclusion

This study reveals two general trends. First, that the CEDAW Committee, some other treaty bodies and special procedures have consistently and purposely utilised the concept of patriarchy in concluding observations, general comments and annual reports. Secondly, there is a clear difference in how the two groups understand ‘patriarchy’. As a result, there are two approaches to interpreting states’ obligations to protect and ensure women’s rights. Treaty bodies, following the standardised language of the CEDAW Committee, apply a narrow concept of ‘patriarchy’, rendering the obligation to ‘smash the patriarchy’ as merely an elimination of a few recognised specific harmful practices. Conversely, special procedures, applying an expansive meaning of ‘patriarchy’, obligate states to go further: to eliminate patriarchy would be to eliminate unequal power relations between men and women at all levels of society. This marked difference in the UN human rights system creates an ambiguity that

may be taken advantage of by non-compliant states to remain non-compliant. Without reconciliation, this ambiguity will continue to exist and may render global gender equality impossible.

The arguable starting point is that patriarchy is a system of power, permeating all levels of society. Dismantling patriarchal structures and attitudes requires social and cultural transformation from states. However, it must be further recognised that patriarchy itself is as diverse as human culture. In order to truly understand and convey the required transformation, 'patriarchy' must be locally contextualised. To avoid the continuation of problematic and artificial binaries between the 'Global North' and 'Global South', both treaty bodies and special procedures should adopt a nuanced understanding of patriarchy, as articulated by intersectional and anti-essentialist feminist scholars.

Appendix: Tables

Table 1. Number of mentions of ‘patriarchal’ or ‘patriarchy’ by UN Treaty Monitoring Bodies (concluding observations (CO) and general comments (GC) or General Recommendations (GR), from 1989 to 2018).

Treaty Body	Number of documents searched	Number of mentions
CEDAW (CO)	673	333
CEDAW (GR)	37	10
HRC (CO)	504	30
HRC (GC)	36	0
CESCR (CO)	485	21
CESCR (GC)	24	0
CRC (CO)	541	34
CRC (GC)	24	2
CERD (CO)	765	0
CERD (GC)	35	0
CAT (CO)	419	0
CAT (GC)	4	0
CRPD (CO)	85	0
CRPD (GC)	7	6
CMW (CO)	62	0
CMW (GC)	4	0
TOTAL	3705	432

Table 2. Number of mentions of ‘patriarchal’, ‘patriarchalism’ and ‘patriarchy’ by Special Procedures (annual reports from 1992 to 2018).

Special Procedures	Number of reports searched	Number of mentions
Independent Expert on sexual orientation and gender identity	5	0
Working Group on the issue of discrimination against women in law and in practice	7	28
Special Rapporteur on Cultural Rights	16	6
Special Rapporteur on the Right to Education	27	33
Special Rapporteur on the Human Rights of Internally Displaced Persons	38	2
Special Rapporteur on minority issues	22	0
Special Rapporteur on extreme poverty and human rights	9	1
Working Group of Experts on People of African Descent	21	1
Independent Expert on the enjoyment of human rights by persons with albinism	7	0
Working Group on Arbitrary Detention	32	0
Working Group on the issue of human rights and transnational corporations and other business enterprises	19	1
Special Rapporteur on the right to development	4	0
Special Rapporteur on the rights of persons with disabilities	8	1
Working Group on Enforced or Involuntary Disappearances	58	0
Special Rapporteur on human rights and the environment	9	0

Special Rapporteur on extrajudicial, summary or arbitrary executions	52	1
Special Rapporteur on the right to food	34	10
Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights	27	1
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	33	1
Special Rapporteur on the rights to freedom of peaceful assembly and of association	14	3
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	13	0
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	37	5
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	29	2
Special Rapporteur on the situation of human rights defenders	36	7
Special Rapporteur on the Independence of Judges and Lawyers	40	1
Special Rapporteur on the rights of indigenous peoples	30	5
Independent Expert on the promotion of a democratic	15	0

and equitable international order		
Independent expert on human rights and international solidarity	20	0
Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	28	0
Special Rapporteur on the human rights of migrants	34	0
Independent Expert on the enjoyment of all human rights by older persons	5	0
Special Rapporteur on the right to privacy	6	0
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	49	10
Special Rapporteur on freedom of religion or belief	60	6
Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material	45	6
Special Rapporteur on contemporary forms of slavery, including its causes and consequences	13	5
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism	28	0
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	45	2
Special Rapporteur on trafficking in persons, especially women and children	23	1
Special Rapporteur on the promotion of truth, justice,	15	1

reparation and guarantees of non-recurrence		
Special Rapporteur on violence against women, its causes and consequences	32	80
Special Rapporteur on the human rights to safe drinking water and sanitation	21	2
TOTAL	1066	222

Acknowledgements

The author wishes to thank Research Assistant, Charlene Cooper, for their valuable help in searching the relevant UN documents.

Reference List

- Abu-Lughod, Lila. 2002. Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others. *American Anthropologist* 104: 783.
- Achiume, Tendayi. 2018. *Report of the Special Rapporteur on contemporary forms of racism, racial Discrimination, xenophobia and related intolerance*. A/73/305, August 6.
- Acker, Joan. 1989. The Problem with Patriarchy. *Sociology* 23: 235.
- Anaya, James. 2012. *Report of the Special Rapporteur on the rights of indigenous peoples*. A/HRC/21/47, August 30.
- Banda, Fareda. 2006. Blazing a Trail: The African Protocol on Women's Rights Comes into Force. *Journal of African Law* 50: 72.
- Bennoune, Karima. 2012. *Report of the Special Rapporteur in the field of cultural rights*. A/67/287, February 3.
- Bhoola, Urmila. 2018. *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*. A/73/139, July 10.
- Bielefeldt, Heiner. 2013. *Interim report of the Special Rapporteur on freedom of religion or belief*. A/HRC/25/58, December 26.
- Bielefeldt, Heiner. 2014. *Report of the Special Rapporteur on freedom of religion or belief*. A/HRC/28/66, December 29.
- Bohoslavsky, Juan Pablo. 2018. *Effects of foreign debt and other related financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights*. A/73/179, July 18.
- Bond, Johanna. 2003. International Intersectionality: A Theoretical and Pragmatic Exploration of Women's International Human Rights Violations. *Emory Law Journal* 52: 71.
- Bunch, Charlotte. 1995. Transforming Rights from a Feminist Perspective. In *Women's Human Rights, Human Rights, International feminist Perspectives*, ed. Peters and Wolper, 49-56. New York: Routledge.
- Callamard, Agnes. 2017. *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings*. A/HRC/35/23, June 6.

- Carmona, Magdalena Sepúlveda. 2014. *Report of the Special Rapporteur on extreme poverty and human rights*. A/HRC/26/28/Add.1, May 22.
- Campbell, Meghan. 2015. CEDAW and Women's Intersecting Identities: A Pioneering New Approach to Intersectional Discrimination. *Revista Direito Gv* 11: 479.
- Chanock, Martin. 2000. "Culture" and Human Rights: Orientalising, Occidentalising and Authenticity. In *Beyond Rights Talk and Culture Talk*, ed. Mahmood Mamdani. New York: St Martins Press.
- Charlesworth, Hilary, Sam Chaiton, and Christine Chinkin. 2000. *The Boundaries of International Law: A Feminist Analysis*. London: Manchester University Press.
- Chinkin, Christine. 2016. The Convention on the Elimination of All Forms of Discrimination against Women. In *Handbook on Gender in World Politics*, ed. Jill Steins and Daniela Tepe-Belfrage, 137-143. Cheltenham: Edward Elgar.
- Chow, Pok Yin. 2016. Has Intersectionality Reaches its Limits? Intersectionality in the UN Human Rights Treaty Body Practice and the Issue of Ambivalence. *Human Rights Law Review* 16: 453.
- Coomaraswamy, Radhika. 1994. *Report of the Special Rapporteur on violence against women, its causes and consequences*. E/CN.4/1995/42, November 22.
- Coomaraswamy, Radhika. 2002. *Report of the Special Rapporteur on violence against women, its causes and consequences*. E/CN.4/2002/83, January 31.
- Crenshaw, Kimberlé. 1991. Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review* 43: 214.
- Daly, Mary. 1978. *Gyn/ecology: A Metaethics of Radical Feminism*. Boston: Beacon Press.
- de Albuquerque, Catarina. 2012. *Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Stigma and the realization of the human rights to water and sanitation*. A/HRC/21/42, July 2.
- de Boer-Buquicchio, Maud. 2010. *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* A/65/221, August 4.
- de Schutter, Olivier. 2012. *Report submitted by the Special Rapporteur on the right to food*. A/HRC/22/50, December 24.

- Eisenstein, Zillah. 1999. Constructing a Theory of Capitalist Patriarchy and Socialist Feminism. *Critical Sociology* 25:196.
- El-Saadawi, Nawal. 1983. *Two Women in One*. London: Saqi Books.
- Elver, Hilal. 2014. *Report of the Special Rapporteur on the right to food*. A/69/275, August 7.
- Elver, Hilal. 2015. *Report of the Special Rapporteur on the right to food*. A/HRC/31/51, December 14.
- Engle, Sally Merry. 2003. Human Rights Law and the Demonization of Culture (and Anthropology along the Way). *Political and Legal Anthropology Review* 26: 55.
- Ertürk, Yakin. 2003. *Report of the Special Rapporteur on Violence against women*. E/CN.4/2004/66, December 26.
- Ertürk, Yakin. 2005. *Report of the Special Rapporteur on Violence against women*. E/CN.4/2005/72, January 17.
- Ertürk, Yakin. 2006. *Report of the Special Rapporteur on Violence against women*. E/CN.4/2006/61, January 20.
- Ertürk, Yakin. 2007. *Report of the Special Rapporteur on Violence against women*. A/HRC/4/34, January 17.
- Ertürk, Yakin. 2009. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/HRC/11/6, May 18.
- Ertürk, Yakin and Bandana Purkayastha. 2012. Linking Research, Policy and Action: A Look at the Work of the Special Rapporteur on Violence against Women. *Current Sociology* 60: 142.
- Fox, Bonnie. 1988. Conceptualizing "Patriarchy". *Canadian Review of Sociology* 25: 163.
- Freedman, Rosa and Ruth Houghton. 2017. Two Steps Forward, One Step Back: Politicisation of the Human Rights Council. *Human Rights Law Review* 17: 153.
- Frost, Michel. 2015. *Report of the Special Rapporteur on the situation of human rights defenders*. A/70/217, July 30.
- Frost, Michel. 2017. *Report of the Special Rapporteur on the situation of human rights defenders*. A/72/170, July 19.

- Geng, Jing. 2019. The Maputo Protocol and the Reconciliation of Gender and Culture in Africa. In *Research Handbook on Feminist Engagement with International Law*, ed. Susan Rimmer and Kate Ogg, 411-429. Cheltenham: Edward Elgar.
- Goredema, Ruvimbo. 2010. African Feminism: the African Women's Struggle for Identity. *African Yearbook of Rhetoric* 1: 33.
- Grover, Anand. 2011. *Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. A/66/254, August 3.
- Halperin-Kaddari, Ruth and Marsha Freeman. 2016. Backlash Goes Global: Men's Groups, Patriarchal Family Policy and the False Promise of Gender-Neutral Laws. *Canadian Journal on Women and Law* 128: 82.
- Hanson, Hilary. 2019. Powerful, Funny Feminist Signs and Posters from the 2019 Women's March. *Huffpost*, January 19.
- Heller, Léo. 2014. *Report of the Special Rapporteur on the human right to safe drinking water and sanitation*. A/69/213, July 31.
- Higgins, Charlotte. 2018. The Age of Patriarchy: How an Unfashionable Idea Became a rallying Cry for Feminism Today. *Guardian*, June 22.
- Holtmaat, Rikki. 2013. The CEDAW: A Holistic Approach to Women's Equality and Freedom. In *Women's human rights: CEDAW in international, regional, and national law*, ed. Anne Hellum and Henriette S Aasen. Cambridge: Cambridge University Press.
- Holtmaat, Rikki and Jonneke Naber. 2011. *Women's Human Rights and Culture: From Deadlock to Dialogue*. London: Intersentia.
- hooks, bell. 2005. *The Will to Change: Men, Masculinity, and Love*. New York: Washington Square Press.
- hooks, bell. 2010. *Understanding Patriarchy*. Louisville Anarchist Federation.
- Hussain, Abid. 2000. *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*. 1999/36 E/CN.4/2000/63, January 18.
- Kandiyoti, Deniz. 1988. Bargaining with Patriarchy. *Gender & Society* 2: 274.
- Kapur, Ratner. 2005. *Erotic Justice: Law and the New Politics of Post-Colonialism* London: Glasshouse.

- Keller, Helen and Geir Ulfstein. 2012. *UN Human Rights Treaty Bodies Law and Legitimacy* Cambridge: Cambridge University Press.
- Kiai, Maina. 2013. *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*. A/HRC/23/39, April 24.
- Kiai, Maina. 2014. *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*. A/HRC/26/29, April 14.
- Le Roux, Elisabet and Brenda Bartelink. 2020. What's in a Name? Identifying the Harm in "Harmful Traditional Practices". In *International Development and Local Faith Actors: Ideological and Cultural Encounters*, ed. Kathryn Kraft and Olivia J Wilkinson. London: Routledge.
- Lerner, Gerda. 1989. *The Creation of Patriarchy*. London: Oxford University Press.
- Longman, Chia and Tamsin Bradley. 2015. Interrogating the Concept of "Harmful Cultural Practices". In *Interrogating Harmful Cultural Practices: Gender, Culture and Coercion*, ed. Chia Longman and Tamsin Bradley. London: Routledge.
- Lorde, Audre. 1984. The Master's Tools Will Never Dismantle the Master's House. *Sister Outsider* 110.
- Maalla M'jid, Najat. 2006. *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*. E/CN.4/2006/67, December 1.
- Maalla M'jid, Najat. 2010. *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*. A/65/221, August 4.
- Maalla M'jid, Najat. 2015. *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*. A/70/222, July 31.
- MacKinnon, Catharine. 1989. *Toward a Feminist Theory of the State*. Cambridge: Harvard University Press.
- Manjoo, Rashida. 2010. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/HRC/14/22, April 23.
- Manjoo, Rashida. 2011. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/66/215, October 10.

- Manjoo, Rashida. 2012. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/HRC/20/16, May 23.
- Manjoo, Rashida. 2013. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/HRC/23/49, May 14.
- Manjoo, Rashida. 2014. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/69/368, August 7.
- Manjoo, Rashida and Daniela Nadj. 2015. "Bridging the Divide": An Interview with Professor Rashida Manjoo, UN Special Rapporteur on Violence against Women. *Feminist Legal Studies* 23: 329
- Méndez, Juan. 2016. *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. A/HRC/31/57, January 5.
- Millett, Kate. 1970. *Sexual Politics*. New York: Rupert Hart-Davis.
- Mohanty, Chandra. 1984. Under Western Eyes: Feminist Scholarship and Colonial Discourses. *Boundary* 12: 2
- Morris, Pam. 1993. *Literature and Feminism*. London: John Wiley & Sons.
- Mullins, Lauren. 2018. CEDAW: The Challenges of Enshrining Women's Equality in International Law. *Public Integrity* 20: 257
- Naples-Mitchell, Joanna. 2011. Perspectives of United Nations Special Rapporteurs on their Role: Inherent Tensions and Unique Contributions to Human Rights. *The international Journal of Human Rights* 15: 232
- Narayan, Uma. 1997. *Dislocating Cultures: Identities, Traditions, and Third World Feminism* London: Routledge.
- Nesiah, Vasuki. 1993. Toward a Feminist Internationality: A Critique of US Feminist Legal Scholarship. *Harvard Women's Law Journal* 16: 189
- Njambi, Wairimū Ngaruiya. 2004. Dualisms and Female Bodies in Representations of African Female Circumcision. *Feminist Theory* 5: 281
- Nolan, Aoife, Rosa Freedman, and Thérèse Murphy. 2017. *The United Nations Special Procedures System*. London: Brill.

- Oloka-Onyango, Joseph and Sylvia Tamale. 1995. "The Personal is Political" or Why Women's Rights are Indeed Human Rights: An African Perspective on International Feminism. *Human Rights Quarterly* 17: 691.
- Otto, Dianne. 2010. Women's Rights. In *International Human Rights*, ed. Daniel Moeckli et al. Oxford: Oxford University Press.
- Parisi, Laura. 2013. Gender Mainstreaming Human Rights: A Progressive Path to gender Equality?. In *Human Rights: The Hard Questions*, ed. Cindy Holder and David Reidy. Cambridge: Cambridge University Press.
- Pateman, Carole. 1988. *The Sexual Contract*. Sandford: Stanford University Press.
- Patil, Vrushali. 2013. From Patriarchy to Intersectionality: A Transnational Feminist Assessment of How Far We've Really Come. *SIGNS: Journal of Women in Culture and Society* 38: 847.
- Piccone, Ted. 2011. The Contribution of the UN's Special Procedures to National Level Implementation of Human Rights Norms. *The International Journal of Human Rights* 15: 206.
- Pūras, Dainius. 2017. *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. A/HRC/35/21, March 28.
- Pūras, Dainius. 2018. *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. A/HRC/38/36, April 10.
- Rao, Arati. 1995. The Politics of Gender and Culture in International Human Rights Discourse. In *Women's Rights: International Feminist Perspectives*, ed. Julie Peters and Andrea Wolper. London: Routledge.
- Rodley, Nigel. 2003. United Nations Human Rights Treaty Bodies and Special Procedures of the Commission on Human Rights - Complementarity or Competition. *Human Rights Quarterly* 25: 882.
- Rolnik, Raquel. 2011. *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/HRC/19/53, December 26.
- Sekaggya, Margaret. 2011. *Report of the Special Rapporteur on the situation of human rights defenders*. A/66/203, October 25.
- Sepper, Elizabeth. 2008. Confronting the "Sacred and Unchangeable": The Obligation to Modify Cultural Patterns under the Women's Discrimination Treaty. *University of Pennsylvania Journal of International Law* 30: 585.

Shahinian, Gulnara. 2012. *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*. A/HRC/21/41, August 4.

Šimonovic, Dubravka. 2016. *Report of the Special Rapporteur on violence against women, its causes and consequences*. A/HRC/32/42, April 18.

Šimonovic, Dubravka. 2018. *Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective*. A/HRC/38/47, June 14.

Sithole, Linet and Cowen Dziva. 2019. Eliminating Harmful Practices against Women in Zimbabwe: Implementing Article 5 of the African Women's Protocol. *African Human Rights Law Journal* 19: 568.

Smith, Rhona. 2011. The Possibilities of an Independent Special Rapporteur Scheme. *The International Journal of Human Rights* 15: 172.

Tamale, Sylvia. 2005. Eroticism, Sexuality and Women's Secrets among Bagonda: A Critical Analysis. *Feminist Africa* 15: 9.

Tamale, Sylvia. 2008. The Right to Culture and the Culture of Rights: A Critical Perspective on Women's Sexual Rights in Africa. *Feminist Legal Studies* 16: 47.

Tauli-Corpuz, Victoria. 2015. *Report of the Special Rapporteur on the rights of indigenous peoples*. A/HRC/30/41, August 6.

Tomaševski, Katarina. 2005. Has the Right to Education a Future within the United Nations? A Behind-the-Scenes Account by the Special Rapporteur on the right to Education 1994-2004. *Human Rights Review* 5: 205

UN Office of the High Commissioner of Human Rights. 1995. *Fact Sheet 23: On Harmful Traditional Practices Affecting the Health of Women and Children*.

UN Secretary-General. 1998. *Integrating the Gender Perspective into the Work of United Nations Human Rights Treaty Bodies*. HRI/MC/1998/6, September 14.

UN Women. 2019. *A Short History of the Commission on the Status of Women*.

Villalobos, Vernor Muñoz. 2004. *Report submitted by the Special Rapporteur on the right to education*. E/CN.4/2005/50, December 17.

Villalobos, Vernor Muñoz. 2006. *Economic, Social and Cultural Rights: Girls' right to education: Report submitted by the Special Rapporteur on the right to education*. E/CN.4/2006/45, February 8.

Villalobos, Vernor Muñoz. 2010. *Report of the United Nations Special Rapporteur on the right to education*. A/65/162, July 23.

Walby, Sylvia. 1989. Theorising Patriarchy. *Sociology* 23: 213.

Weber, Max. 1946. *From Max Weber: Essays in Sociology*. Oxford: Oxford University Press.

Winter, Bronwyn, Densie Thomson and Sheila Jeffreys. 2002. The UN Approach to Harmful Traditional Practices. *International Feminist Journal of Politics* 4: 72.

Working Group of Experts on People of African Descent. 2018. *Report*. A/HRC/39/69, August 15.

Working Group on The Issue of Discrimination Against Women in Law and In Practice. 2013. *Report*. A/HRC/23/50, April 19.

Working Group on The Issue of Discrimination Against Women in Law and In Practice. 2014. *Report*. A/HRC/26/39, June 12.

Working Group on The Issue of Discrimination Against Women in Law and In Practice. 2016. *Report*. A/HRC/32/44, August 4.

Working Group on the Issue of Discrimination against Women in Law and in Practice. 2017. *Report*. A/HRC/35/29, April 21.

Working Group on the Issue of Discrimination against Women in Law and in Practice. 2018. *Report*. A/HRC/38/46, June 22.

Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises. 2017. *Report*. A/72/162, July 18.

Mudgway, Cassandra. 2020. The Elimination of "Patriarchy" under the Convention on the Elimination of All forms of Discrimination Against Women. *Berkeley Journal of Gender, Law & Justice* 36: forthcoming.