

Governance in the Middle East and North Africa

A handbook

Editor: Abbas Kadhim

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24 March 2004.
- 84 Of all the countries studied, only Israel is without a written constitution or a set of basic laws.
- 85 Seznec, 2003, 80–1.
- 86 For example, Ken Pollock argues that: ‘The Coalitional Provisional Authority (CPA) must reach out to the Sunni tribal community, to eliminate its sense of grievance against the United States and so quell its support for the insurgency’, in Ken Pollock, ‘After Saddam: Assessing the Reconstruction of Iraq’, *The Saban Center for Middle East Policy at the Brookings Institution* No. 1 (January 2004), iv. Likewise, Anthony Cordesman argues that the Sunni Triangle will be ‘lasting losers in terms of wealth and power indefinitely into the future’, and that this sense of loss will fuel political and military instability in the country. See Anthony Cordesman, ‘One Year On: Nation Building in Iraq’, *Working Paper: Center for Strategic and International Studies* 6 April 2004.
- 87 See, for example: Ali Akbar Dareini, ‘Iran Reformers Protest Clerics’ Crackdown’, *Associated Press*, 20 October 2003; Ali Akbar Dareini, ‘Iranian Court Reimposes Death Sentence That Sparked Massive Demonstrations on Campuses’, *Associated Press*, 3 May 2004.
- 88 For more on domestic groups within Saudi Arabia that are challenging the government, see Mamoun Fandy, *Saudi Arabia and the Politics of Discontent* (New York: Palgrave, 1999).
- 89 Seznec, 2003, 82.
- 90 Milton-Edwards, 1993, 202.
- 91 Diane Singerman, ‘The Networked World of Islamic Social Movements’, in Quintain Wiktorowicz (ed.), *Islamic Activism: A Social Movement Theory Approach* (Bloomington, IN: Indiana University Press, 2004), 144.
- 92 Mohammad M. Hafez and Quintain Wiktorowicz, ‘Violence as Contention in the Egyptian Islamic Movement’, in Quintain Wiktorowicz (ed.), *Islamic Activism: A Social Movement Theory Approach* (Bloomington, IN: Indiana University Press, 2004), 63.
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The improvement of women’s rights in the Arab world

The importance of governing authorities

Vickie Langohr and Amaney Jamal

Although there is significant diversity in the level and types of rights that women enjoy in different Arab countries, women’s status across the region as a whole is quite low. This can be seen in several easily quantifiable cross-national indicators, such as the percentage of women in parliament and in the workforce, where the Arab world scores lowest in the world. It can also be seen in less easily measured factors that affect women’s lives equally if not more deeply, such as personal status laws (PSLs), which in almost all countries give women significantly fewer rights than men in marriage, divorce and other family matters. However, while Arab women face many problems, significant improvements are also occurring; Freedom House’s 2010 *Women in the Middle East Report* noted important advances in women’s rights since 2005 in all but three countries, and several governments have passed key PSL changes over the last decade.

This chapter examines three areas of women’s participation in society: education, work outside the home, and women’s rights in PSLs and in penal codes, which affect the punishments for violence against women. We focus on aspects of government performance in these areas, while also assessing how much other factors such as public opinion, women’s non-governmental organization (NGO) activity and international pressure may also affect these outcomes. Government influence is most direct in the area of PSLs and penal codes, as becomes clear in attempts to change them in Egypt, Jordan, Morocco and Yemen. In each of these cases executives (kings or presidents) introduced PSL or penal code reform bills to parliament and spent political capital trying to pass them. Where they passed, executives’ commitment was essential to this outcome. In Jordan, where parliament rejected them, executive commitment manifested itself differently, as King Abdullah pursued the goals behind the legislation through extraparliamentary means for 10 years.

Government influence is also clear in the rapidly rising rates of Arab women’s education. Female literacy levels are lower in the Arab world than in other equally economically developed regions, but they are growing faster in the region than elsewhere. Rapid increases in girls’ schooling are facilitated by the fact that Arab governments dedicate higher percentages of their gross domestic product (GDP) to education than do governments elsewhere, but rising education rates are also due to social norms that support it. One of the region’s biggest weaknesses in female education, though—the rates at which enrolled girls complete school—also demonstrates popular expectations in some countries that young women’s primary responsibility is for the home.

One of the most striking deficiencies in Arab women’s status is their low rates of workforce participation, which are particularly anomalous in light of increasing rates of female education. The Arab region has one of the world’s highest unemployment rates;

this context of overall job scarcity may decrease women's chances for jobs. Others have suggested that economies reliant on oil, as many Arab country economies are, have lower women's workforce participation.¹ Our examination of this issue will focus on the employment opportunities that the government most directly controls: public-sector work. Public sectors employ large percentages of men and women in most Arab countries, but they provide an overwhelming percentage of women's jobs. As more countries adopt structural adjustment programmes, there is a very clear connection between government decisions to shrink the size of the public sector and an outcome—firing existing or not hiring new public-sector workers—that disproportionately hurts employed women.

Education

The opening pages of a 2010 World Bank report on women's opportunities in the Middle East and North Africa (MENA)² noted three facts that illuminate the current status of women's education in the Arab world. While the percentage of Arab girls who are literate is lower than the average for countries in the low-to-medium income (LMI) bracket in which most Arab countries are located, when compared to all regions of the world, 'MENA ranks first by a good margin in the *growth* rate of women's literacy'.³ Moreover, 'the region is at par with the LMI average in measures of gender gaps in education', with both a 'high rate of growth in the ratio of female to male primary enrollment'⁴ as well as more women than men in university.⁵ Freedom House notes that Qatar and the United Arab Emirates (UAE) have the 'highest female-to-male university enrollment worldwide'.⁶

In terms of literacy as an indicator of women's rights, two issues are important—levels of literacy, and the gap between the percentage of men and women who are literate. Low levels of women's literacy are not in and of themselves signs of discrimination, as men might have equally low levels, but a gap between men's and women's levels of literacy suggests consistent differences in access to education. Thus we examine both absolute levels of literacy and school enrolment for women on the assumption that higher levels are important tools of women's empowerment, and the literacy gap, as a sign of discrimination in access. In many Arab countries the literacy gap today is still notable, but when we look at younger men and women, who are the most likely to have benefited from recent increases in educational opportunities, female literacy rates are rapidly increasing, and the literacy gap is decreasing substantially.

In some Arab countries, rich as well as of medium income, illiteracy has been all but eliminated for both boys and girls. In Bahrain there is universal literacy in the 15–24 age group,⁷ while in Jordan, which has about one-fifth of Bahrain's per capita income, in eight of twelve of the country's governorates, less than 1 per cent of women 15–24 years old are illiterate.⁸ In the Arab world as a whole, 81 per cent of men 15 and older and 64 per cent of women 15 and older are literate, for a literacy gap of 17 per cent. In the 15–24 age group, however, 91 per cent of men and 84 per cent of women are literate, a literacy gap of only 7 per cent.⁹ This trend towards both increasing female literacy and decreasing literacy gap can be seen in Arab countries at widely varying levels of literacy performance. In historically strong-performing Tunisia, 71 per cent of women 15 and above (henceforth referred to as 'adult women') were literate in 2008, with a literacy gap between them and men in their age group (86.4 per cent of whom were literate) of 15.4 per cent. Women 15–24, by contrast, have a literacy rate of 95.8 per cent, with a literacy gap between them and men in

the similar cohort of only 2.3 per cent.¹⁰ In Morocco in 2009 only 43.9 per cent of adult women were literate, a gap of 25 per cent, while 72.1 per cent of women 15–24 could read, with a gap of 14.6 per cent.¹¹ In Yemen in 2009 44.7 per cent of adult women were literate, with a 35.2 per cent literacy gap, while 72.2 per cent of women 15–24 are literate, with a literacy gap of 23.4 per cent.¹² With more than half of adult women in Morocco and Yemen today still illiterate, these statistics demonstrate the challenge of education in the region, but also progress among younger women.

If we move beyond literacy to levels of school enrolment, the World Bank notes that 'in most (Arab) countries female enrolment rates now equal or exceed male enrolment rates', but that the female-to-male enrolment rate ratio is less than 100 per cent in several countries including Egypt, Morocco and Syria.¹³ A thumbnail sketch of the situation in Egypt provides some insight into what type of girls are most likely to not receive education, and the common consequences. The Egypt Labor Market Panel Survey of 2006 found that 26 per cent of girls aged 13–19 in rural Upper Egypt either had no schooling or had left school after only one-to-two years.¹⁴ A Population Council study argued that 'arranged and early marriages are far more likely for these girls, followed rapidly by successive pregnancies, thus perpetuating the cycle of illiteracy and poverty'.¹⁵ Even where girls finish several years of education, drop-out rates can remain high: a 2009–10 World Bank household survey found that 91 per cent of 11-year-old Moroccan girls, but only 65 per cent of 14-year-old girls, were in school.¹⁶

How have the rapid increases in girls' education occurred? Consistent government financial commitment has been essential to this outcome, a phenomenon seen both on the level of the region as a whole and in the expenditure levels of specific countries. In 2000 the average percentage of GDP spent by MENA governments on education was 5.3 per cent, while the South Asian average was 2.5 per cent and that in sub-Saharan Africa was 3.4 per cent.¹⁷ Even some of the poorest Arab countries dedicate significant sums to education. In 2007–8 Yemen was tied for the fourth largest spender (as a percentage of GDP) on education of all 154 countries in the United Nations Development Programme's (UNDP) *Human Development Report*.¹⁸ When we compare Yemen, with a GDP per capita of US\$930 in 2005, to all countries with GDPs under \$1,500 in the *Human Development Report* for 2007–8, we find that between 2002 and 2005 Yemen spent 9.6 per cent of its GDP on education, compared to an average for that income group of only 3.9 per cent.

Another factor that has facilitated the spread of girls' education is widespread popular support for it. As the World Bank noted in 2004, 'education has been a widely accepted and uncontroversial area of gender inequality for governments to address'.¹⁹ Survey answers about gendered access to university education bear this out. The Fourth Wave of the World Values Survey (2005), a set of questions asked in 65 countries across the world, bears this out in a comparative regional context. Fewer respondents in the five Middle Eastern countries²⁰ surveyed agree or strongly agree with the statement 'is university more important for a boy than for a girl?' than do respondents in Central Asia, and there are only slightly more South and Southeast Asians who disagree with the statement than the Middle Easterners. It is interesting to note that Middle East respondents disagreed with this question at higher rates than did citizens of two Asian democracies. More Indians agreed that university was more important for a boy than did citizens of any of the five Arab nations—for example, 48 per cent of Indians agreed compared to only 38 per cent of Jordanians—and more respondents in the Philippines agreed than did the average Middle Eastern respondent in the five countries surveyed.

In her ethnography of a girls' secondary school in a Jordanian village, Fida Adely suggests what changes, and doesn't change, in girls' lives as a result of school enrolment. She notes that the village's reputation for educating their daughters prior to other villages was a point of pride for residents,²¹ and that discussions with girls in the school suggested that being seen in public for the purpose of going to school was 'appropriate' and in fact 'necessary'.²² However, 'for the vast majority of adolescent girls' with whom Adely spoke, 'school was typically the only place they were allowed to go'.²³ The girls did not socialize outside of school, and a teacher told Adely that 'good' girls went home straight after school. Teachers and administrators were clearly afraid that inappropriate behaviour between boys outside the school and their female students might ensue; similar findings emerge from ethnographies of schools in Cairo.²⁴

Employment

Despite rapid rates of increase in girls' education, as the World Bank notes, 'the region's female labor force participation rate of 26 per cent is well below the LMI rate of 51 per cent (and this regional average is even lower if the Gulf Cooperation Council countries—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE are taken out)'. It also notes that 'this rate is the lowest among developing regions: East Asia (68.2 per cent), Sub-Saharan Africa (61.5 per cent), LA and Caribbean (52.4 per cent) and South Asia (35.8 per cent)'.²⁵

What is keeping women out of the paid workforce? The lowest levels of female workforce participation are in areas with significant armed conflict, including the West Bank and Gaza and Iraq.²⁶ Unemployment rates, particularly youth unemployment rates, are high throughout most of the Arab world, but given the fact that for 'the region as a whole, unemployment is about 20 per cent higher for women',²⁷ it is not clear that employment is a zero-sum game. On the other hand, some analysts suggest that one reason for the much higher rates of female employment in the Gulf than elsewhere is the 'lower unemployment rates overall, meaning women do not have to compete with men for jobs'.²⁸ The Fourth Wave of the World Values survey also shows that more respondents in the five Middle Eastern countries surveyed agreed or strongly agreed with the statement that 'when jobs are scarce men should have more right to a job than a woman', than did respondents in Central Asia, South and Southeast Asia, and Africa.²⁹

In most Arab countries, most employed women work directly for the government through public-sector employment. In Jordan in 2007, 46.6 per cent of female employment was in the public sector, while only slightly over 25 per cent of all men worked there.³⁰ In 2006 in Egypt, 36 per cent of women worked in the public sector, compared to only 6 per cent in formal private employment and 45 per cent in non-wage work, while only 22 per cent of men worked in the public sector.³¹ Preferences for public-sector employment remain stronger among women than among men: the 2003 Unemployment Survey in Syria shows that while 60 per cent of unemployed 15–29 year olds 'sought jobs exclusively in the public sector', 71 per cent of unemployed young women were only looking for jobs there,³² while 26 per cent of job applications to the Jordanian Civil Service Bureau in 2009 came from men and 74 per cent from women.³³

Some of the reasons for women's strong preference for public-sector work are driven by straightforward financial cost-benefit calculations, while others demonstrate gendered expectations about women's proper role in society. Across the Arab world, women and men are paid much more equally in the public than in the private sector. While in many

countries public sector wages are lower than those in the private sector, public sector benefits are generally much stronger. Due in large part to different levels of payment into pension schemes, Nader Kabbani found that in Syria 'lifetime earnings (including pensions) for young public sector workers exceed those for private sector workers among all groups except men with a primary education or below. The differences were greatest for young women across all educational levels'.³⁴

Another marked difference in benefits between the public and private sectors demonstrates the importance of gendered expectations in influencing women's decisions on where to work. Public-sector work days are usually shorter—often from approximately 9 am to 3 pm—than in the private sector, making public-sector work more compatible with what are presumed to be women's child-raising duties. Maternity leave benefits are also much stronger for public-sector than private-sector workers. One study in 2006 in Egypt showed that the percentage of public wage workers who receive no paid maternity leave was 6.9 per cent, compared to 18.5 per cent of formal private-sector workers, while 41 per cent of public-sector workers had more than 12 weeks' maternity leave, compared to 25.4 per cent of formal private-sector workers.³⁵ It is perhaps no surprise, then, that a World Bank study found that a 20-year old Egyptian woman working in a public-sector job in 1998 would have a 22 per cent chance of leaving the workforce by 2006 if she had got married during that period, but a 54 per cent chance of leaving a position in the private sector.³⁷ The case of Iraq shows how governments can alter maternity leave policies with the specific goal of influencing women's roles as workers and mothers. Al Jawaheri notes that Iraqi public-sector women first received paid maternity leave in 1970. In the early 1980s, when the government needed to keep women working as men went to fight in the Iran–Iraq War, maternity leave rights were reduced, but as the war dragged into the later 1980s and women were 'encouraged to leave their formal jobs as workers and civil servants in order to give birth to ... a minimum of five children',³⁸ laws were changed to make women's retirement from the public sector for family reasons more lucrative, but also to increase lengths of maternity leave for those who continued working, especially for those who gave birth to twins.³⁹

Evidence from several countries shows that male attitudes about women, in their capacity as wives and as workers, also keep women predominantly in the public sector. Some 41 per cent of owners of private-sector enterprises with fewer than 99 employees in Jordan who were surveyed said that having female employees caused 'many' problems; 23 per cent cited 'family refusal of female work' as a problem, as well as other 'problems' related to women's social role, including the 20 per cent who cited 'inability of females to work late hours', and the 9 per cent who cited women's 'vacations and personal days',⁴⁰ largely taken for family purposes. Al Jawaheri's interviews with Iraq women in pre-2003 Iraq show many women who were either forbidden by their families to work outside the public sector, 'allowed' into the private sector only if the family personally knew the private-sector owner, or faced social disapproval for working in the private sector, largely due to the assumption that chances for inappropriate sexual behaviour were greater in the private sector.⁴¹

What is the impact on women of the fact that they are disproportionately employed in the public sector? For one thing, in most of the Arab world public-sector wages are significantly lower than those in the private sector and often cannot support a family, a fact responsible for the ubiquitous phenomenon of men who work in the public sector during the day and drive taxis or do other informal labour after that to make ends meet,

something which female public-sector employees, due to a combination of child-rearing duties and social norms, do not do. This diminished earning potential means that women generally cannot contribute equally to household expenses, perhaps diminishing their decision-making power in the family; it particularly bodes ill for women who head their households, a phenomenon that will increase as divorce rates rise across the Arab world. The fact that women primarily seek jobs in a sector which, due to structural adjustment, is shrinking in most Arab countries, only further suggests increasing economic marginalization for women in the future. In Egypt, Assaad and al Hamidi note that workforce participation among 'educated women has been declining over time since 1988 ... [which] can be directly attributed to the contraction of the public sector in hiring in recent years'.⁴²

In conclusion, it is interesting to note that in the first wave of Arab Barometer surveys in seven Arab countries,⁴³ majorities of men hold positive attitudes about women's work, but women are more strongly supportive of these rights than men. While 88 per cent of women held the view that married women should be able to work, only 72 per cent of men shared that viewpoint; 78 per cent of women believed they should have equal job opportunities to men, but only 62 per cent of men shared that assessment; finally, 90 per cent of women believed they should get equal wages for equal work, while 77 per cent of men supported this.

PSLs and penal codes

In all Arab countries except Tunisia, policies governing marriage, divorce and child custody for Muslims⁴⁴ are determined by personal status laws (PSLs) which are set in accordance with (that country's interpretation of) *Shari'a* law and generally give men more rights than women. A man can often divorce his wife by pronouncing *talaq* (divorce) three times, while in many countries women can initiate divorce only in response to a limited number of conditions such as impotence or abandonment, which are difficult to prove in court. *Khula* divorce, which allows a woman to initiate divorce without proving maltreatment if she renounces financial support, was, according to Judith Tucker, 'a very ordinary occurrence' in the pre-colonial Muslim world,⁴⁵ but it was only made available in 2000 in Egypt, in 2001 in Jordan, and in 2005 in the UAE. Polygamy is another example of discrimination built into PSLs. Some penal codes also harm women, as in Jordan, where until very recently laws allowed men who killed female relatives accused of 'inappropriate' behaviour with other men, in so-called 'honour crimes', to serve as little as a few months in prison.

In the last decade, new laws have offered women more legal rights. In addition to the legislation of *khula* referred to above, Algeria in 2005 saw significant PSL improvements. The final section of this chapter offers a very preliminary examination of factors that facilitate and hinder attempts to change PSLs and penal codes by exploring the disparate outcomes of such attempts in Egypt, Yemen, Jordan and Morocco. The Moroccan *moudawana* of 2004, which among other things increased girls' age of marriage and restricted polygamy, and the Egyptian Child Law of 2008, which included provisions criminalizing female genital mutilation, and awarding custodial mothers more rights to make decisions for their children after divorce, were passed rapidly by parliament and became law.⁴⁵ While neither country is a democracy, and neither Morocco's King Muhammad VI nor Egypt's Hosni Mubarak were historically much hindered by the existence of parliament when they wanted to do something without its approval, introducing these PSL changes into parliament and debating and passing them there gave the

new legislation full legal weight and legitimacy. The case of Jordan, by contrast, shows a kind of cat-and-mouse game between King Abdullah and parliament for over a decade, as the parliament repeatedly rejected specific amendments to increase punishment for honour crime killings and the King responded with extraparliamentary measures such as putting the amendments into temporary effect while parliament was dissolved. In Yemen, the president's attempt to increase girls' marriage age was passed by a majority in parliament, but held up repeatedly due to the vocal opposition of a small minority of primarily Islamist MPs, and has not become law.

These cases illuminate some factors that seem to matter, and others that are less important, in attempting to change PSLs and penal codes to improve women's rights. Advances in certain areas of women's rights are not strongly correlated with advances in others, as we have already seen with the sharp disconnect between rising rates of women's education and continuing low rates of women's employment. Rising rates of girls' and women's education have not significantly changed female support for honour crime killings, suggesting that simplistic modernization theories positing that education automatically creates a greater desire for rights need to be qualified.⁴⁶ The specific subtype of authoritarian regime—monarchy vs. presidential system—has little effect on the outcome of these battles. The Moroccan king and the Egyptian president passed the most beneficial reforms, while the Jordanian king was unable to pass his bill in parliament and the Yemeni president abandoned his bill in the face of minority parliamentary opposition. Similarly, the level of democracy of the regime has little effect: in 2010 Freedom House rated Tunisia, one of the most authoritarian regimes in the Arab world before 2011, as the country where Arab women enjoyed the most rights, followed by Morocco, which was one of the freest Arab countries.⁴⁷

Another factor that does not appear decisive is activism by women's groups, except in the unusual (in the Arab world) case in which they are closely connected to leftist political parties that also prioritize women's rights. The work of feminist activists can be crucial in calling attention to an issue, as in journalist Rana Husseini's ground-breaking articles on honour crimes, which helped bring the phenomenon to royal attention in Jordan, and women's movements have actively worked to support most of the PSL changes discussed here. However, there is little evidence that activism by women's rights groups *in and of itself* spurs otherwise disinterested regimes to seek reform. In Morocco, where women's PSL activism had the highest profile, many women's groups emerged from and were part of a larger culture of strong leftist parties,⁴⁸ one of which, the Socialist Union of Popular Forces (USFP), which formed the government in 1998, worked assiduously for women's rights reforms.

One factor that is present in almost, but not all, cases of PSL and penal code reform is strong opposition to these reforms from Islamist parties, but this is often less decisive than it at first appears. In Egypt, Jordan and Yemen, where Islamist parties battled PSL and penal code reform, none of these parties had more than 20 per cent of the seats in parliament. Where Islamist opposition helped to scuttle reforms was when it was added to opposition from forces with more seats—groups affiliated with tribal movements in Jordan—or where a president was willing to sacrifice reforms to appease Islamists who only had a small minority of seats, as in Yemen. The cases of Yemen and Egypt highlight what may be the most consistently important factor in achieving PSL change: sustained commitment to it by executives. In Egypt the article of the Child Law which awarded custodial mothers rights to make educational decisions for their children was initially almost

defeated by the votes of the minority of Brotherhood MPs when large numbers of MPs from the ruling National Democratic Party (NDP) failed to appear for the vote. This outcome was avoided when top NDP leaders rapidly rounded up enough members to make it pass. In Yemen, a majority parliamentary vote in favour of the marriage age bill was irrelevant when President Saleh seems to have made the calculation that passing the bill over the entrenched objections of most of the Islah MPs would have weakened his regime, despite the fact that they only had 15 per cent of the seats in parliament.

The reality that executive commitment was of decisive importance offers an impression of leaders normatively committed to the expansion of women's rights. Without offering a judgement on leaders' motives—and while noting that any purported executive commitment to women's rights is notably absent when women calling for political change are regularly abused by these same countries' state security forces—it is clear that several other factors are at least as important in creating executive commitment. International influence is clearly an important factor, measured either as international press attention to abuses of girls' and women's rights, which is often closely correlated in time with the introduction of PSL legislation, or the need to bring domestic legislation into line with international agreements like the Convention on the Rights of the Child. Marina Ottaway suggests that one reason why Arab governments may pursue women's rights initiatives, particularly in a context in which Western governments are pressuring them to make pro-democracy reforms, is that Western concerns about Arab women's rights 'can be translated in practice into many concrete, small projects that are not seen as threatening by most Arab regimes and are even welcomed by them as a means to demonstrate their willingness to democratize ... An improvement in the rights of women does not threaten the power of the incumbent authoritarian government in the same way as free elections or a free press would'.⁴⁹ As such, Ottaway notes that 'family status laws are improving slowly in a number of countries; and this process is likely to continue because this is an area where incumbent governments can demonstrate to the world their reforming zeal without undermining their power'.⁵⁰ The converse of this argument may help explain why executives in Jordan and Yemen abandoned women's rights initiatives: when a government feels that its hold on power is precarious or that its ability to pursue initiatives that it values more highly is threatened by pursuing women's rights reform, those reforms are relatively easily sacrificed or at least substantially delayed.

Finally, before examining PSL changes in particular, it is important to address the question of how much they matter to women's lives. In patriarchal societies where illiterate women may not even know about legal changes or have to rely on conservative male judges to enforce them, legal change does not automatically lead to widespread social reform.⁵¹ For example, Fatima Siddiqi notes that despite the *moudawana* increasing girls' marriage age, 'as a practical matter, judges are very reluctant to uphold the minimum age'.⁵² However, even where legal changes are not fully applied, they can often make a real difference. One year after *khula* divorce was allowed in Egypt, a study by the Centre for Egyptian Women's Rights Legal Aid in six Egyptian governorates found that while large numbers of cases languished in the courts far beyond the time limits set by law, in the first year women filed 5,431 cases of *khula*, suggesting strong demand for this right. The overwhelming majority of these cases were due to verbal and physical abuse by the husband,⁵³ which would have been much harder to 'prove' in court, as these women would have had to do in order to get divorced without *khula*. While fully acknowledging the need to improve the circumstances that would empower women to better apply new

rights, the authors take the position that passing these laws is nonetheless an important first step worthy of study.

Egypt 2008

In June 2008 Egypt's lower house passed the Child Law, which among other things criminalized female genital mutilation and awarded the right to make decisions about education of children in divorced families to the custodial parent, who in most cases is the mother. The case of this law demonstrates two important features in attempts to change PSLs: vocal opposition by an Islamist party⁵⁴ to attempts to alter PSLs which would change the balance of power within the family by increasing mothers' rights, and the role of dominant ruling parties in PSL change in presidential systems.

Shari'a-based PSLs often afford the father a dominant role in the family. One key aspect of this dominance was challenged by Article 54 of the Child Law, which stated in part that in the event of divorce or separation:

the authority over education for the child lies with the person raising the child, and if there is a dispute about what would achieve the best interest of the child, any of those with authority in the matter can approach the president of the family court to seek his ruling, without impinging on the rights of the child-raiser.⁵⁵

This article led to a major debate about the proper role of women and men in raising children. The actual language of Article 54 is gender-neutral, referring only to the 'custodian' (the person raising the child), and the government claimed at several points that the custodian could be either the father or the mother.⁵⁶ However, the fact that, according to a 2005 law, mothers receive custody of daughters and sons until the age of 15 means that in most cases of an educational dispute the custodial parent would be the mother. Discussion of the article in parliament immediately prior to the vote was almost completely dominated by a debate between government officials and Brotherhood MPs. Not all Brotherhood MPs who spoke opposed the law, but most who rejected it argued that *Shari'a* required that fathers make decisions about a child's upbringing. At the beginning of the discussion 16 Brothers introduced an amendment that exactly reversed the article's intent, saying that the father should have educational authority and that the mother, if she disagreed, could raise the issue in Family Court, but that the Family Court president in making his decision could not injure the rights of the father to this educational authority. An additional Brotherhood MP, Dr Ahmad Mustafa Abu Baraka, argued that *Shari'a* indisputably awards that the right to make decisions for children (*wilaya*) to the paternal relatives while the bringing-up/raising of children (*hadana*) was accorded to the maternal relatives.⁵⁷ Child-raising, he explained, 'is a vessel, and child-raising is responsible for planting the values that the father sows'.⁵⁸ Not all ruling party MPs disagreed: NDP MP Faher Elaziin Mohammed Badawi argued that 'there is no doubt that the education of the child is connected to his future and his welfare and ... the *Shari'a* put these matters under the control of the father'.⁵⁹ Shortly after this disquisition, Dr Amal Othman, the president of the Committee for Constitutional and Legislative Affairs, complained about the anti-mother tone of the discussion, saying 'it could be that the father is the custodian and he is the one who doesn't want to educate the child or doesn't want to put the child in a particular school ... It is not right for us to always assume that the mother is

incapable of raising the children or not responsible for their education ... otherwise ... women's right to custody would have been removed, and we should not always assume that the mother is the source of conflict (between the parents on educational issues), it could be the father who is causing the problem'.⁶⁰

The way that the vote on Article 54 occurred helps to illustrate the dynamics of decision-making, and the importance of presidential commitment, in Arab presidential regimes. The parliaments of Arab presidential systems such as Egypt and Yemen are dominated by ruling parties headed by the president. Violence and electoral fraud are frequently used to ensure that these parties enjoy not only a majority but often as much as two-thirds of the seats in parliament.⁶¹ For example, in the parliament that passed the Child Law, NDP MPs had 73 per cent of the seats, while by far the largest opposition group, the Muslim Brotherhood, had only 20 per cent.⁶² In Egypt the rules of the parliament have been constructed so that bills are almost never introduced for discussion unless the ruling party is behind them. Thus, the very fact that a bill reaches the parliament floor means that the president supports it, and the overwhelming number of seats for ruling party MPs means that presidents can usually get bills passed that they wish to see become law, even with strong minority party opposition. Thus, as we will see in the case of attempts to raise the marriage age in Yemen, it is often assumed that when a bill is introduced into parliament but not passed, that this means that the president is not committed to its success.

It is not always possible to document the mechanics of presidents exerting influence over parliamentary votes in practice. Lists of how individual MPs voted, or the total votes for and against an article or bill, are not made public by the Egyptian government, so we cannot prove, for example, that all or most NDP members voted for a bill, or assume that all 88 Muslim Brotherhood MPs voted against it just because many Brotherhood MPs criticized it on the floor. The case of the article giving custodial mothers the right to make educational decisions for their children, however, offers a rare window into how presidential commitment to PSL change works and how important it can be, because here we can demonstrate the extent to which the absence of NDP members from the vote threatened its defeat in the face of largely Muslim Brotherhood opposition, as well as the lengths to which NDP officials went to 'save' the article. The Article 54 vote concluded in a manner unusual enough to warrant at least three separate articles on it in the semi-official *Al-Ahram* newspaper the next day. One *Al-Ahram* article noted 'a very noticeable absence of deputies of the majority [NDP MPs] and an unusually high concentration of independent MPs [who would be almost exclusively Brotherhood MPs, as Egyptian law forbidding parties based on religion meant that Brotherhood MPs run as independents], which almost tipped the scale to give the majority to the independents'.⁶³ Another *Al-Ahram* article the same day said that the independent MPs *did* have the majority because so few NDP MPs were present. That article reported that Ahmed Ezz, the NDP's secretary for organizational affairs, immediately left to try to gather as many NDP MPs as possible so that they would have the majority.⁶⁴ The article finally passed.

Why did the Egyptian government pursue Article 54 despite strong opposition from the Brotherhood? Various articles in the Child Law demonstrate the wide variety of motives that can motivate 'state feminism' on girls' and women's rights. The effective criminalization of female genital mutilation in the law was a goal that Egyptian activists had sought for decades, but it was given much greater salience by international coverage of the issue, most notably a CNN broadcast of an Egyptian girl being circumcised while Egypt was hosting the UN Conference on Population and Development in 1994. This

was a major embarrassment to which Hosni Mubarak himself responded in a follow-up CNN programme; Marie Assaad, a major Egyptian anti-female genital mutilation activist, characterized the CNN broadcast as an 'explosion' that was like 'shock therapy'.⁶⁵ Another key Child Law amendment reversed previous practice that only fathers or paternal grandfathers could officially register the birth of a child and receive a birth certificate by extending this right to mothers as well. This made children born out of wedlock, or those born in customary (*urfi*) marriages in which their father refused to acknowledge paternity, eligible for important government services such as school enrolment. One motive for the passage of this article may well have been the need to bring Egyptian law into compliance with international conventions that the government had signed, in this case the Convention on the Rights of the Child.

In contrast to the international pressure and obligations that facilitated increasing mothers' rights in educational decision-making and obtaining birth certificates, it is likely that the main motive for Article 54 was an attempt to simplify the massive congestion in Egyptian family courts on divorce-related issues. As Diane Singerman notes, the 2000 *khula* law was driven in part by the need to alleviate an enormous backlog of cases, with one source saying that of a population at that time of 64 million people, 1.5 million divorce cases were filed annually,⁶⁶ and a 1996 study noting that 'every divorce case leads to at least five other cases in other courts', including custody and alimony issues.⁶⁷ In the parliament debates on the Child Law, an adviser to the Minister of Justice argued that in the case of differences on education between the custodial parent and the non-custodial parent, 'in some cases the legal guardian (the father), in order to spite the custodial parent, does not take into consideration the best interests of the child (and) would take the child out of the school in which he and his siblings were enrolled'.⁶⁸ Many such cases would presumably end up in court, as occurred in the high-profile case of actress Athar al Hakim in 2007. Although al Hakim had custody of her three sons and paid the fees for their international school, her ex-husband transferred two of their sons into a government school against her wishes. Given the widespread assumption of Egyptians that an international school would provide a much better education than a government school, it seemed likely that the father had moved the sons solely to spite his ex-wife. Al Hakim was only able to transfer her sons back to the international school after a court ruled in her favour in 2007.

Jordan

The case of the repeated attempts to strengthen punishments for 'honour' crimes in Jordan between 1999 and 2009 demonstrates several things. One is the importance of Western attention to abuses of women's rights in spurring leaders to action, which reveals another commonality among these cases—Islamist movements opposing changes in part because they feel they are Western-dictated. It also demonstrates that Islamists are not the only ones who often oppose these laws, or even the most powerful group to do so. The case also shows a kind of 'dance' in which the parliament continually rejects the core goal of strong punishments for those convicted of honour crimes, while the king repeatedly seeks extra-parliamentary mechanisms to achieve this outcome, whether by introducing several different laws as temporary laws when he has dissolved parliament, or by creating a new court to hear honour crime trials. Public opinion surveys on honour crimes also provide one example of the phenomenon of advances in one area of women's rights, not necessarily

helping to create the necessary conditions for improving other areas, as Jordan's relatively very high rates of female literacy seem, so far, to have done little to alter *female* support for honour crimes.

As was previously defined, honour crimes refer to murders of women by their male relatives in an attempt to restore the family's 'honour' after the woman is accused of inappropriate contact with a man. It is generally estimated that between 20 and 25 such crimes occur per year, although one journalist suggested that 10 such murders occurred in only the first three months of 2011.⁶⁹ In the recent past it was not uncommon for men found guilty of such killings to serve as little as several months in prison. Rana Husseini notes that:

the court usually issues reduced sentences in such murder cases after invoking Article 98 of the Jordanian Penal Code, which offers leniency to perpetrators who commit a crime in a fit of fury because of an unlawful or dangerous act that is committed by the victim against the defendant. Court records show that judges often consider a woman tarnishing her family's honour as a dangerous and unlawful act.⁷⁰

In February 1999 King Abdullah initiated a process whereby the 'Ministry of Justice recommended a hasty draft amendment that abolished Article 340 [of the penal code].⁷¹ Article 340a 'exempts from punishment' an attacker who discovers his wife or female relatives committing adultery, while 340b reduces the sentence of a man who assaults his wife or female relative after finding her in an 'unlawful bed'.⁷² Janine Clark notes that some activists argued that it would have been better to focus on Articles 97 and 98 of the penal code, and that Article 98 was the most important one in leading to short prison sentences, as Rana Husseini suggests above. However, the king focused on Article 340 because it contradicted the constitution's mandate of equal treatment by applying only to adulterous wives, not husbands, and because it violated *Shari'a*, 'which clearly states that a man should not take punishment of adulterers into his own hands'.⁷³ After the cabinet approved the amendment, it was defeated in the lower house. After going back to and being approved again in the Senate, whose members are appointed by the king, it was again rejected in the lower house. When Abdullah suspended parliament for two years between 2001 and 2003, the amendment was one of the 211 temporary laws that he introduced and which would require adoption by the next elected parliament; the lower house elected in 2003 once again voted against it.

Who opposed the amendment, and why? The 1999 parliament that initially defeated the honour crimes amendment had few Islamist MPs, as the Islamic Action Front (IAF) had boycotted the 1997 elections. In the 2003 elections, which produced the parliament that rejected the amendments that year, IAF MPs still had only 15 per cent of the seats. In both cases, then, Islamist opposition alone was not sufficient to defeat the amendment, and in both cases members of parliament who came from various tribes played a key role in blocking the law. Mounira Charrad⁷⁴ has argued that societies in which tribes retain significant political influence tend to find it harder to improve women's rights. While she uses Morocco as an example of how tribal power helped hold women back at the time of independence, the continued presence of tribes in Morocco did not prevent the landmark *moudawana* PSL changes of 2004. Her larger argument, however, is substantiated by examples from other countries such as Kuwait and Jordan, where tribally affiliated MPs and Islamists often both vote against women's rights improvements, but for different

reasons. In the struggle to achieve female suffrage in Kuwait, while the tribes were committed to rejecting suffrage, Lula al-Mulla, a leading female activist, says women's activists made more headway with the Islamists. Mulla noted that 'we confronted them and asked them to tell us why Kuwaiti Islam was different than Egyptian Islam, or Palestinian Islam, or other Islams where women could vote'.⁷⁵ She said they had no good responses, and then ultimately, they began supporting the tribes' anti-suffrage position by claiming it was a cultural and traditional issue. In discussing the Jordanian parliament's votes against PSL amendments, including allowing women much easier access to divorce and raising the marriage age, Clark and Young argue that 'tribal MPs, generally, were more concerned with the traditional rights of males and the IAF focused more on the religious validity of the amendments'.⁷⁶ That also may have been the case in the honour crime amendment, as when one tribal leader supported his opposition with the argument that 'a woman is like an olive tree. When its branch catches woodworm, it has to be chopped off so that the society stays clean and pure'.⁷⁷ The IAF, by contrast, made clear that Islam prohibited honour crimes and that the party did not support them, but, Clark argues, they opposed the amendment of Article 340 because it addressed adultery and '1) there are clear punishments for adultery in Islam and 2) these should be meted out by the proper court authorities after the evidence of at least four witnesses according to Islam'.⁷⁸

Why did the government pursue the issue, and why did it drop it between 2004 and 2009, when the king established administrative courts to hear honour crime cases? The timing of the initiation of the legislation in 1999 suggests that the desire to address foreign concerns helped to move an issue that already had some royal support to the front of the agenda. Journalist Rana Husseini's articles on honour crimes raised awareness, and Clark argues that she is 'indirectly credited for bringing the issue to the attention of King Hussein, who condemned violence against women in his November 1997 address to parliament'.⁷⁹ Husseini's international awards for her work, including the Reebok Award for Human Rights in 1998, suggested increasing international attention to the issue, which was then covered by CNN in a January 1999 programme with the participation of Husseini and Queen Noor. The programme received widespread international attention. The next month King Abdullah initiated the creation of the draft amendment to Article 340, and Clark argues that royal commitment to the issue further increased in November 1999 when, during a royal visit to France, *Le Monde* published a major article on honour crimes and Queen Rania was asked about the issue in a French TV interview.⁸⁰

Islamists and other opponents of changes in women's rights legislation are well aware that one driver of these laws is a desire to appear 'progressive' in the West. Winning Western support for these initiatives is seen as an adoption of Western values on gender relations and sexuality, which Islamists generally see as immoral, and this is one reason they oppose these measures. While IAF secretary-general Sheikh Hamza Mansour said about honour crimes that 'we are not for taking the law into your own hands' (i.e. that male relatives should not take it upon themselves to punish supposed extramarital sex), he also noted that 'this whole issue is being exaggerated, and the reason behind it is not innocent ... It's as if the government is giving up our personality to turn us into a Westernised society'.⁸¹

Ironically, a different set of international pressures may have led the King to abandon the honour crime issue for several years after its defeat in 2003. The violent repression of the Palestinian second *intifada*, which began in 2000, made Jordan's always unpopular 1994 peace treaty with Israel much more controversial, while the Jordanian government's support for the invasion of Iraq in 2003 was also widely detested. As Clark notes, 'Kings

Hussein and Abdullah have pursued an unspoken policy of leaving social and cultural issues to the parliamentarians in return for the MPs' cooperation on foreign and economic policy. The Palestinian *intifada* and the Iraq war have tested the limits of this grand bargain.⁸² In other words, at a time when a primary concern of King Abdullah was decreasing domestic opposition to his foreign policy, continuing to pursue a women's rights issue that further alienated MPs may have seemed unwise.

The pattern of the King pursuing strengthened honour crime punishments through extraparliamentary measures, and of the parliament trying to circumvent them, continued in 2009 and 2010. In 2009 the King designated a special tribunal to hear honour crime cases, which has led to much harsher penalties, including a 15-year sentence for a 60-year-old man who killed his daughter.⁸³ In November 2009 the king dissolved parliament and in its absence the government unilaterally changed the penal code, finally focusing, as activists had suggested it do in 1999, on Article 98, which allowed courts to shorten prison sentences if the crimes were committed 'in a state of fury' (similar to a 'crime of passion' in Western law). The amended penal code prevented use of this mitigating factor if the murder victim was a woman or under the age of 15, while another 2010 penal code amendment stipulated a sentence of no less than 12 years for murders of women or those under 15.⁸⁴ However, with a new parliament seated after the November 2010 elections, the amendment removing the 'state of fury' mitigation, initially passed as a temporary law, has gone to the parliament for ratification. The lower house later accepted the amendment on the condition that it apply only to minors, not to women, in effect stripping it of its goal.⁸⁵

The honour crime issue also suggests the lack of an automatic connection between advances in some areas of women's rights and others. Jordan has by far the highest women's literacy rates of the four countries examined here—87 per cent compared to only 40 per cent, for example, in Yemen⁸⁶ and 58 per cent in Egypt. Despite this, Nermeen Murad, director of the King Hussein Foundation's Information and Research Centre, noted that a two-year European Union-Jordanian government project on honour crimes that ended in 2011 had found that 'women are less understanding and sympathetic toward victims of ["honor" crimes] than men ... [they] are more inclined to believe that the concept of honour is tied to women's behaviours and the individuals responsible for these murders are the females themselves'.⁸⁷ The finding that rising rates of female education do not necessarily translate into increasing female support for women's rights echoes similar findings in other countries such as India, where some of the highest rates of women seeking to abort female foetuses due to son preference are found in states with high levels of female literacy.⁸⁸

Yemen

When North and South Yemen were unified in 1990, the marriage age of girls was set at 15, but the minimum age was eliminated in 1999.⁸⁹ A 2009 study by the Yemeni Ministry of Social Affairs and Labour found that one-quarter of all girls were married before 15,⁹⁰ and several high-profile cases discussed below demonstrate that many girls are married earlier than that. In February 2009 a bill was sent to the Yemeni parliament to raise the marriage age to 18; after MPs lowered the age to 17, the law passed with a majority of votes. The main opposition to the bill came from the Islamist Islah party, which had 15 per cent of the seats, although Islah MPs did not uniformly oppose it. Almost immediately after the bill passed, there was significant outcry from its opponents in parliament and the bill was sent to the *Shari'a* Codification Committee for its opinion,

leading women's rights organizations to mobilize against reconsideration of the bill. Ahmed al Quraishi, the president of the Siyaj Organization to Protect Children, noted the paradox in the fact that the bill was being held up despite being passed by the majority, and questioned the ruling General People's Congress's (GPC) commitment to the bill, noting that the MPs calling for renewed discussion 'belonged to trends which were known not to have a majority of the parliamentary seats, and if the ruling party was serious about human rights in Yemen then it could use the large majority of seats belonging to its members' to make sure that the bill was put into effect.⁹¹ Given the fact that the GPC held 79 per cent of the parliamentary seats, this was a safe assumption.

In March 2010 the question of girls' marriage age once again took the public stage. In early March the GPC-affiliated *Mu'atamar* newspaper ran a series of articles seemingly intended to bolster the Islamic credentials of the marriage age law, including a lengthy article on 3 March by Islah MP Showqi al Qadi, responding to the religious arguments of opponents,⁹² and a 5 March article highlighting the support of arguably the most widely revered cleric in the Sunni Arab world, Yussuf al Qaradawi, for the bill.⁹³ On 21 March a group of *ulema* including Abd al Majid al Zindani, a high-ranking figure in the Islah party who had headed its Consultative Council several times, issued a *fatwa* labelling supporters of a minimum marriage age apostates. On 22 March there was a demonstration by what press reports said were thousands of women opposing a minimum marriage age, followed the next day by a smaller demonstration of women organized by women's rights groups to support the law.⁹⁴ Once again the fact that a bill with majority parliamentary support was being held up by the vocal opposition of a minority was raised, as GPC member Sameer Radha told the *Christian Science Monitor* that 'we have a parliamentary majority and the support of the president. We therefore have the ability to pass the law'. Radha argued that the GPC was holding up the bill in the hope of obtaining Islah's support, saying that 'if we wanted to go to war, for example, we could pass it straight through parliament, but this issue is much more sensitive as it is related to *shari'a*', and noting that if the GPC implemented the bill without Islah support the latter would label it as 'full of infidels'.⁹⁵

The same phenomenon of majority support for the bill nonetheless being blocked by vocal Islah opposition occurred when the bill was brought back to the parliament in October 2010, this time leading to the threat of a physical confrontation between Islah and GPC members. Discussion was also heated between high-profile Islah supporters of the bill Showqi al Qadi and Islah opponents. Al Qadi asked that the bill be discussed without its opponents suggesting that those who disagreed with them were apostates, and requested that each side discuss the bill without assuming that it was the only group that defended *Shari'a* rulings on the question. Islah MP Abdullah al Odeini strongly reproached al Qadi, labelling his words 'ignorant talk'. When the leader of the GPC's parliamentary bloc, Sultan al Barakani, noted that the majority of MPs supported the bill and told al Odeini that 'by God, no matter how many *ulema* you have [opposing the bill] we have the majority and we will pass what we want and you will regret it', Odeini grabbed his cane and Barakani removed his shoe. While other MPs intervened to break up the fight, one of the most high-profile Islah opponents of the bill, Mohammed al Hazmi, aimed a punch at Barakani, which was blocked by another MP, leading the speaker of the house to suspend the session. When the MPs returned to the hall, they began discussing a mining law, despite Barakani's demand for a vote on the child marriage amendment.⁹⁶ To the best of our knowledge, the bill has not been brought to the parliament again.

The timing of Yemen's introduction of the child marriage bill strongly suggests that, as with honour crimes in Jordan, international attention prompted government action on the issue. While the Yemeni Network to Resist Violence Against Women and other women's groups had begun a campaign in 2005 to demonstrate the dangers of early marriage, the bill appeared in the parliament only in February 2009, after the case of a 10-year-old girl, Nujood, who divorced her husband, received widespread international attention in 2008. Nujood's story was widely publicized in the USA and her autobiography, *I Am Nujood, Age 10 and Divorced*, topped the list of best-selling books in France for five weeks.⁹⁷ On 5 March 2009, in honour of International Women's Day and only weeks after the Yemeni marriage bill stalled, Reem al Numeiry, a 13 year old who was at that time seeking a divorce from her 30-year old husband and cousin, was named one of eight 'International Women of Courage' by the US State Department and praised by Secretary of State Hillary Clinton; she was also put on the list of *Time* magazine's 100 Most Influential People in the World in 2010.

Morocco

Morocco is unique among the countries examined here in three important ways. The first is that the scope of the PSL reforms passed in the 2004 *moudawana* is arguably broader and more impressive than that of the other cases discussed here. The second is that leftist parties are both strong in Morocco and have actually been allowed to form the government. In coalition with several other parties, the Socialist Union of Popular Forces (USFP) was allowed to form the government, a member was named prime minister with the introduction of *alternance* in 1998, and the USFP had the largest number of seats in the parliament that passed the *moudawana* in 2004. Clark and Young argue that it was these and other leftist parties that 'provided the political support necessary for the success of civil society agendas around (family code) reform'.⁹⁸ The final unique element of the Moroccan case is that Morocco's main Islamist party, the Party of Justice and Development (PJD), overcame its initial opposition to the *moudawana* to vote unanimously in favour of it, shedding some light on conditions which may facilitate other Islamist parties embracing PSL change. Finally, the Moroccan case once again demonstrates that advances in one area of women's rights often stand in sharp contrast to that in others. While in Jordan high levels of women's education did not prevent women from opposing strong punishments for honour crimes or facilitate the emergence of strong women's movements, Morocco's very low female literacy rate—only about half that of Jordan—did not prevent both the emergence of strong (largely elite) women's movements and the passage of the *moudawana*.

Prior to the *moudawana*, women's access to public life was guided by the notion of guardianship. Women needed the approval of their male legal guardians before they could legally work, travel or attend university. The existing *moudawana* laws allowed polygamy, and women had few rights to initiate divorce, while oral divorce (*talaq*) remained common.⁹⁹ Women's groups emerged in the 1970s and 1980s to call for PSL reform, culminating in the 1990s 'million signatures' campaign led by the Union for Feminist Action, the members of which were largely professional, middle-class women.¹⁰⁰ Some advances were made in 1992 when King Hasan II signed an earlier version of the 2003 reforms that made some improvements in women's rights. In 1999–2000 women again mobilized to demand additional reforms, and King Muhammad VI, who supported the reforms, had to withdraw them from deliberation due to opposition by Islamist groups.

As political liberalization allowed proponents of women's reforms space to advance their agenda, it also allowed increasing Islamic activism against the reforms.¹⁰¹ The religious establishment openly campaigned against the proposed *moudawana* changes. The Moroccan League of Ulema, an official state body, declared that the plan would undermine Islamic jurisprudence, loosen morals in the kingdom, destroy the sanctity of marriage and make it more difficult for men to marry, a position supported by the Minister of Islamic Affairs. Islamist groups in Morocco, the PJD and the Justice and Charity movement all attacked the reform package as a 'US-American imperialist conspiracy designed to destroy Islamic culture'.¹⁰²

Nonetheless, the *moudawana* was passed in 2004. Among other things, it abolished wives' duty to obey their husbands, no longer required women to have the permission of a male legal guardian to marry, raised the minimum marriage age to 18, and substantially restricted the conditions under which men contract second and later marriages. Divorce was made easier for women, while men could no longer divorce through *talaq*.

Why was the PJD, unlike its counterparts in Egypt, Jordan and Yemen, the only Islamist party to eventually support substantial PSL reform? Analysts have typically offered two explanations for this turn of events: the suicide attacks that killed 45 people in Casablanca in May 2003, only months before the *moudawana* reforms were initiated, and the fact that the King went out of his way to justify and defend the reforms in an Islamic, not Western human rights, framework. Although the PJD was not involved in the Casablanca attacks, many scholars argue that they made the PJD feel that they urgently needed to clearly differentiate themselves from much more extreme Islamist movements of the type behind the attacks. Ennaji notes: 'analysts say ... that [in voting for the *moudawana* reforms] PJD leaders were acknowledging the king's religious authority while also moderating their language in response to May's terrorist attacks in Casablanca'.¹⁰³ Clark and Young make this argument more concrete by noting that in the September 2003 elections, the PJD won far fewer seats than had been predicted before the Casablanca bombings, presumably increasing their perceived need to alter course to achieve popular support.¹⁰⁴

The PJD maintains that its shift in support of the *Moudawana* was primarily a function of the King accommodating PJD demands about respecting the jurisprudence of Islam on matters of reform. Put differently, the PJD sought to secure that Islamic principles prevailed and that Western influences were minimal. In March 2001 the king announced his appointment of a royal consultative commission to reform personal status laws. The PJD at the time was adamant about minimizing the influence of 'Westernizers and leftists' on the reform of the personal status codes. The PJD was consistent about this position and in 2003 PJD leader Abdelilah Benkirane wrote in *al-Tajdid*, saying 'the Moroccan people will not be subject to a few Westernizers'.¹⁰⁵ Two months before the Casablanca bombings, the PJD held a conference to further discuss the *moudawana*, at which it maintained the position that any change to the personal status code should be based on *qiyas* and not Western influence.¹⁰⁶ The PJD maintained its stance even after the May 2003 bombings; the front page of the 16 June edition of *al-Tajdid*, in reference to the *moudawana*, proclaimed the existence of a conspiracy against the Moroccan family, citing external interference.¹⁰⁷

PJD leaders like Bassima Haqqaoui and Habib Shoebani attribute the movement's support for the *moudawana* reforms to changes made by the king himself, and not the post-Casablanca political climate. Shoebani outlines three noteworthy alterations crucial

for the change. First, the king included religious scholars on the Royal Consultative Commission to reform the *moudawana*. Second, the king no longer spoke of an all-encompassing plan for the 'integration of women in development', and rather downscaled the project to a reform project in the family code. Finally, the king emphasized that he could not permit what God had forbidden or forbid what God permitted.¹⁰⁸

While downplaying the 'fingerprint' of secular or Western inspirations on the *moudawana* may have been key to securing Islamist support, it is important to note that, as Clark and Young point out, socialist parties in Morocco played a key role in advancing the family law reforms that became the *moudawana*, in a sharp contrast to the other three cases here. As they note, it was the USFP-dominated government, brought to power through alternance in 1998, that in 1999 proposed a plan of action for the integration of women in development, which, had it been adopted, would have made more far-reaching PSL changes than the *moudawana* eventually did. Clark and Young also note that women's rights groups that emerged from leftist political parties and other left-leaning women have long led the women's rights movement in Morocco and 'dominat[ed] the lobbying efforts for [family code] reform'.¹⁰⁹

Conclusion

This chapter documents improvements in the status of women across several Arab states. The primary focus of this chapter is on personal status laws. Here we maintain that governing authorities have been crucial and vital in instituting reforms that allow for more equality for women across the region. Indeed, regimes have been able to bypass traditionally conservative pressures to adopt policies more favourable towards women. We also see regimes playing an instrumental role in the area of education. The literacy gap across Arab states is narrowing, while the younger generation of women is far better educated than its predecessors. Finally, although there have been marked improvements in areas of labour market participation and economic activity for women, the political economy of the region will determine the future of women's economic involvement. While there remain traditional norms and restrictions that hinder women's economic participation, the economic realities themselves will dictate the trajectory of women's economic activity. Today, the economic development infrastructure of the Arab world remains weak. Unlike women in some Western societies who experienced massive export-led growth and industrialization necessitating additional female labour in the market, this has not been the case in the Arab region. Thus, the economic activity of women will largely depend on economic development, which is also closely linked to political development and political stability. Wars and turmoil have not been conducive to economic growth and development. Nevertheless, women have made considerable advancements in the last several years. Where we've witnessed key improvements, we've seen that in addition to active civil society mobilization by women, regimes have played crucial roles in securing the rights of women—especially as they pertain to reforms in personal status laws.

Notes

- 1 Michael Ross, 'Oil, Islam and Women', *American Political Science Review* February 2008.
- 2 The World Bank's definition of MENA includes at least two countries not considered in this chapter on the Arab world: Iran and Djibouti.

- 3 *Bridging the Gap: Improving Capabilities and Expanding Opportunities for Women in the Middle East and North Africa Region* (The World Bank, October 2010), 3.
- 4 *Bridging the Gap*, 3.
- 5 *Bridging the Gap*, 3.
- 6 Sanja Kelly, 'Hard-Won Progress and a Long Road Ahead: Women's Rights in the Middle East and North Africa', in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance* (Freedom House, 2010), 8.
- 7 UNESCO Institute for Statistics, stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=480&BR_Region=40525 (accessed 5 August 2011).
- 8 UNDP, *Jordan Human Development Report 2011* (UNDP, 2011), 51. The female literacy rate in the other four governorates did not exceed 2 per cent in the 15–24 age group.
- 9 Regional Literacy Profile – Arab States, UNESCO Institute of Statistics, stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=367&IF_Language=eng&BR_Region=40525 (accessed 22 July 2011).
- 10 UNESCO Institute for Statistics, stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=7880&BR_Region=40525 (accessed 21 July 2011).
- 11 UNESCO Institute for Statistics, stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=2200&BR_Region=40525 (accessed 21 July 2011).
- 12 UNESCO Institute for Statistics, Yemen, stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=8850&BR_Region=40525 (accessed 21 July 2011).
- 13 *Bridging the Gap*, 4.
- 14 Martha Brady, Ragui Assaad, Barbara Ibrahim, Abeer Salem, Rania Salem and Nadia Zibani, *Providing New Opportunities to Adolescent Girls in Socially Conservative Settings: The Ishraq Program in Rural Upper Egypt* (Population Council, 2007), 1.
- 15 Brady *et al.*, 2007, 1.
- 16 *Bridging the Gap*, 4.
- 17 *Gender and Development in the Middle East and North Africa: Women in the Public Sphere* (World Bank, 2004), 27.
- 18 Figures are Lesotho 13.4 per cent, Botswana 10.7 per cent, Cuba 9.8 per cent, and Vanuatu and Yemen at 9.6 per cent.
- 19 *Gender and Development in the Middle East and North Africa*, 28.
- 20 Algeria, Egypt, Iran, Jordan and Morocco.
- 21 Fida Adely, 'The Mixed Effects of Schooling for High School Girls in Jordan: The Case of Tel Yahya', *Comparative Education Review*, 48(4) November 2004: 359.
- 22 Adely, 2004, 365.
- 23 Adely, 2004, 358.
- 24 Adely, 2004, 371–72. Adely points in footnote 53 to the work of Linda Herrera, who found at a girls' school in Cairo that staff were deeply concerned with tardiness due to fears of inappropriate behaviour as they went back and forth between school and home. Linda Herrera, 'Scenes of Schooling: Inside a Girls' School in Cairo', *Cairo Papers in Social Science* Vol. 15, American University Press, 1992.
- 25 *Bridging the Gap*, 6.
- 26 *Bridging the Gap*, 6.
- 27 *Gender and Development in the Middle East*, 76.
- 28 Kelly, 2010, 6. Rising rates of female employment in some Gulf countries are also strongly influenced by government policies, as in the UAE, where laws forbidding hiring non-Emiratis for such roles as secretaries or human relations officers has brought Emirati women into these positions.
- 29 World Values Survey, 4th Wave, www.worldvaluessurvey.org.
- 30 UNDP, 2011, 107.
- 31 Ragui Assaad and Fatma al Hamidi, 'Women in the Egyptian Labor Market', in Ragui Assaad (ed.), *The Egyptian Labor Market Revisited* (American University in Cairo Press, 2009), 227.
- 32 Nader Kabbani, 'Why Young Syrians Prefer Public Sector Jobs', Middle East Youth Initiative Policy Outlook, Wolfensohn Center for Development at Brookings/Dubai School of Government, March 2009, 2.
- 33 UNDP, 2011, 109.
- 34 Kabbani, 2009, 6.

- 35 Assaad and al Hamidi, 2009, 244.
- 36 'Narrowing the Gap: Improving Labor Market Opportunities for Women in Egypt' (World Bank, 2010), quoted in *Bridging the Gap*, 14.
- 37 Yasmin Husein al Jawaheri, *Women in Iraq: The Gender Impact of International Sanctions* (Lynne Rienner, 2008), 21.
- 38 al Jawaheri, 2008, 23.
- 39 UNDP, 2011, 112–13.
- 40 See, for example, chapter 3 of al Jawaheri, 2008.
- 41 Assaad and al Hamidi, 2009, 253.
- 42 Algeria, Morocco, Lebanon, Jordan, Yemen, Kuwait and Palestine. Arab Barometer: www.arabbarometer.org.
- 43 The personal status law rights of other religious communities are derived from that community's religious laws.
- 44 Judith Tucker, *Women, Family, and Gender in Islamic Law* (Cambridge University Press, 2008), 109.
- 45 While attempts to reform the *moudawana* preceded its 2004 passage by over a decade, once the reforms were introduced into parliament in October 2003 they became law within four months. Janine Clark and Amy Young, 'Islamism and Family Law Reform in Morocco and Jordan', *Mediterranean Politics*, November 2008: 336.
- 46 Of course, it is also possible that such a change will eventually occur but that rising rates of education are too new to have yet substantially changed women's attitudes. Here it would help to know whether younger women, who, as previously demonstrated, are much more likely to be educated, have more liberal attitudes toward women's rights than older women, who are less likely to be literate.
- 47 Kelly, 2010, 4.
- 48 Clark and Young, 2008, 342.
- 49 Marina Ottaway, 'Women's Rights and Democracy in the Arab World', *Carnegie Papers* No. 42, February 2004: 3.
- 50 Ottaway, 2004, 9.
- 51 It can be noted that this is the case throughout the world: despite the fact that laws protecting the rights of battered women to prosecute their abusers have significantly improved in the USA over the last several decades, domestic abuse remains rife there.
- 52 Fatima Sidiqi, 'Morocco', *Women's Rights in the Middle East and North Africa 2010* (Freedom House, 2010).
- 53 Azza Suleiman, 'The Effects of the Application of the *Khula* Law', on the programme 'For Women Only', Al Jazeera, broadcast 20 January 2003. Suleiman, then a staff lawyer at the Centre and now its president, noted that while the law stipulates that a woman without children should obtain a *khula* divorce within six months, and a childless woman within three, after the expiration of the required efforts at marital reconciliation, of the 5,431 cases of *khula* filed in the first year in the six governorates, only 222 had been finalized. For these and other reasons, she argued that while the government claimed that *khula* had significantly decreased the suffering of Egyptian families (by ending dysfunctional relationships through the more rapid application of *khula*), she estimated that this had been achieved by 40 per cent (i.e. things had improved but not nearly as much as the government claimed).
- 54 It is important to note that some MPs outside the Brotherhood also rejected various aspects of the Child Law. Perhaps the most high-profile intervention by an MP opposing the criminalization of female genital mutilation was staged by vice-president of the Hizb al Destouri, Mohammed al Umda, in front of the parliament building on 1 June 2008. Al Umda, his mother and his three daughters carried signs that read 'No to Imported Legislation', and 'Ring the Alarm Bell ... Allowing that Which is *Haram* (Forbidden) and Forbidding the *Halal* (that which is allowed) Has Begun'. See Adel al Darghli, 'Al-Umda Takes With Him His Mother and His Daughters and They Organized a Protest in Front of *Maglis al Shaab* Against Criminalizing Clitrodelectomy' (in Arabic), *al-Misri al-Youm*, 2 June 2008.
- 55 Transcripts of the 110th Session of the Parliament, 3 June 2008.
- 56 See the comments of Dr Hassan al Badrawi, Assistant to the Minister of Justice for Affairs of *Maglis al Shaab* and *Maglis al Shura*, transcripts of Session 110, 3 June 2008, 9–10.
- 57 Session 110, 3 June 2008, 9.
- 58 Session 110, 3 June 2008, 15.

- 59 Session 110, 3 June 2008, 14.
- 60 Session 110, 3 June 2008, 14.
- 61 'The two-thirds threshold is often important because it can be the percentage of votes necessary to alter the constitution, as is the case in Egypt.
- 62 See Issandr al Amrani, 'Controlled Reform in Egypt: Neither Reformist Nor Controlled', *Middle East Report Online*, 15 December 2005.
- 63 'A Clumsy Birth Due to the Differences and Arguments About the Text of the Articles: *Maglis al Shaab* Resumes Discussion of the Articles of the Child Law Amidst the Absence of Most of the Deputies of the Majority' (in Arabic), *Al-Ahram*, 4 June 2008.
- 64 'A Crisis in Voting ... Because of the Absence of MPs' (in Arabic), *Al-Ahram*, 4 June 2008. It is unclear whether the absence of NDP MPs from the voting on Article 54 was due to their opposition to or disinterest in the article, or just another manifestation of the common phenomenon of MPs absenting themselves from parliament more generally.
- 65 Ghada Barsoum, Nadia Rifaat, Omaira al-Gibaly, Nihal Elwan and Natalie Forcier, 'Toward FGM-Free Villages in Egypt: A Mid-Term Evaluation and Documentation of the FGM-Free Village Model Project' (Population Council, 2010), 13.
- 66 Andrew Hammond, 'Personal Status Law Not A Personal Choice', *Middle East Times*, 21 January 2000; and Hosn Shah, "'Si El Sayed' ... Objects to the New Law!' (in Arabic), *Akhbar al Youm*, 9 January 2000, quoted in Diane Singerman, 'Rewriting Divorce in Egypt: Reclaiming Islam, Legal Activism, and Coalition Politics', in Robert Hefner (ed.), *Remaking Muslim Politics: Pluralism, Contestation, Democratization* (Princeton University Press, 2005), 165.
- 67 Mona Zulficar and Hoda el Sada, 'About the Project to Develop Models of Marriage Contracts' (in Arabic), *Hagar: On Women's Issues* 3–4: 251–59, cited in Singerman, 165.
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- 72 Clark, 2003, 39.
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- 74 Mounira Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco* (University of California Press, 2001).
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The Islamic veil in civil societies

Faegheh Shirazi

The purpose of this chapter is twofold: to give a background on the contemporary global events concerning both Muslim and non-Muslim nations that impose policies banning the *niqab*, or *hijab*; and to focus closely on the various governing policies examining variations in rulings, and the effects of these policies on the populace in recent years.

Introduction

During the Assyrian (20th to 15th centuries BC), Greco-Roman (31 BC to 180 AD) and Byzantine (306 CE to 1453 CE) empires and including the pre-Islamic era, both veiling and seclusion were marks of prestigious status of elite women.

Only wealthy families could afford to seclude their women. The veil was a sign of respectability but also of a lifestyle that did not require the performance of manual labor. Slaves and women who labored in the fields were not expected [or allowed] to wear the veil, which would have [not only] impeded their every movement [but also, visually associated them with the elite class to which they did not belong].¹

The Islamic veil is known as *hijab* (Arabic), a generic term referring to a modest coverage of the entire body and hair (not necessarily the face). The word veil conjures many images in our minds—from religious, pious, subservient, to exotic, and even feminist. The Arabic term *hijab* literally means curtain,² in addition to divider, coverage, or a shield. Neither the veil nor the practice of veiling is an invention of Islam. The veil has a much longer history than all the Abrahamic religions of Judaism, Christianity and Islam. Yet it has been adopted by these religions (to various degrees) as a symbol of piety, humbleness before the divine, or as a symbol of obedience to man, including husband or elder. Muslim woman's modesty has been highly associated with this piece of cloth, which is worn in various styles and colours. This symbolic modesty (the veil) unfortunately has been misunderstood and highly abused by extremists, both Muslim and non-Muslim men and, of course, by women as well. This abuse is due to ignorance and/or lack of understanding about not only the religion of Islam, but also the degree of cultural relevancy brought into the religious argument to justify imposition of the veil and its style upon women, which, in fact, has nothing to do with Islam at all. In my previous publications on the issue of the *hijab* in modern culture, I discussed how the meaning of veiling is a challenging task. The semantic versatility of the veil is dependent upon 'the specific cultural, historical, and religious contexts in which the veil is used'.³