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Female Citizenship in the Middle East: Comparing family law reform in Morocco, Egypt, Syria and Lebanon

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> *Issues of gender and citizenship* [...] *are not limited to legal issues, but also raise issues of practice, specifically the practice that comprise governance*[2]

Abstract

This article explores the relationship between type of court system, parliamentary reform, and expanded female citizenship in four Arab states between 1990 and 2010. I argue that female citizens have acquired wider civil rights through parliament in relatively homogenous states with unitary court systems than in multireligious states with dual court systems. In Egypt and Morocco, unitary courts curbed clerical judicial authority over family law and weakened the resilience of conservative religious authorities. In these states, renewed pressures for reform after 1990 yielded strengthened female civil rights. In Syria and Lebanon, dual courts safeguard the judicial autonomy of clerics and enable them to resist pressures for family law reform more forcefully. In these states, little changed because the interests of political and religious authorities converge in ways that bolster group-based citizenship and constrain the civil rights of female citizens.

Keywords

comparative politics; citizenship; religion; family law; reform; Middle East; women

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[2] Suad Joseph, "Gender and Citizenship in Middle Eastern States," *Middle East Report*, 198 (1996): 49.

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Until the early 1990s, women in Egypt, Lebanon, Syria, and Morocco lived under comparable family law regimes. Within all religious denominations, similar cultural justifications and clerical arguments gave prominence to patriarchal family ideals: state laws privileged male citizens over female citizens, solidifying gendered and group-based citizenship. In the last twenty years, all four states were exposed to similar exogenous forces of change, i.e. economic globalization, political liberalization (through media and international agencies), and the UN Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) adopted in 1979. By 2010, their reactions diverged: women's civil rights were considerably strengthened in Morocco and – to a lesser degree – in Egypt, while, in Syria and Lebanon, little changed.

Return of the political[3]: why family law?

Although Egypt, Lebanon, Morocco and Syria applied secularized, Western legal standards of rationality and positive law in most realms after independence, family law remained under religious jurisdiction.[4] Family law regulates legal issues linked to the kinship structure and what is often termed as a person's 'private sphere', such as marriage, divorce, custody over children, maintenance, inheritance, and adoption.[5] In most Arab states, family law embodies the clerical imprint of religious law which principles male guardianship over females. Herein lies 'the political': because the state administers family law, it implicitly institutionalizes gendered citizenship where state laws confer differential rights and duties to female and male citizens.[6]

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3) See Chantal Mouffe, *The return of the political* (London: Verso, 2005), 70 who points out that "some existing rights have been constituted on the very exclusion or subordination of the rights of other categories."

4) George N. Sfeir, "The place of Islamic law in modern Arab legal systems: A brief for researchers and reference librarians," International Journal of Legal Information, 28, no. 117 (2000).

5) 'Family law' is more precisely termed 'law of personal status' in Arabic. Both terms are used here interchangeably.

6) 'Gendered citizenship' reflects the legal incongruence between constitutional laws, which maintain that citizens are equal before the law, and gendered state laws found in four legal spheres: i) family law – by far the most extensive set of laws regulating women's civil rights – puts female citizens under the guardianship of male citizens; ii) nationality law, where a female citizen is unable to pass citizenship to her children if married to a non-national; iii) criminal law, where femicide – the killing of a female by a male relative – is

Seen in theoretical terms, family law plays a crucial role in limiting the legal authority of female citizens as full members of the polity.

This article seeks to discern why similar pressures for parliamentary reform in family law since 1990 led to different outcomes two decades later. Focus is on contestations regarding change in family law, which, in some cases, led to expanded female citizenship through legislative reform. While Islam predominates in studies on family law in the Arab world, the scope of analysis is here widened and includes the impact of non-Muslim communities on the state's management of religious law. Reform in family law is the dependent variable, while type of court system, clerical judicial autonomy, and legislation in parliament are independent variables that constitute contest arenas related to governance through which female citizenship is maintained, expanded or contracted.[7]

I first present an analytical differentiation between 'group-based citizenship' and 'individually-based citizenship' and then point at differences between states with unitary and multiple court systems. Transnational and domestic pressures for reform are pointed at and then compared pairwise in part 3 and 4. Variances in conditions that strengthen or weaken female citizenship are discussed in part 5 before some conclusions are drawn in part 6.

1. Group-based citizenship and female civil rights

My analysis is informed by an understanding that family law reform entails a contest between two fundamentally different notions of citizenship rights: first, *group-based* citizenship rights reflect notions of citizens as members of a larger kinship structure organized along patriarchal lines, privileging male citizens over females; and, second, *individually-based* citizenship rights are grounded in a citizen's direct membership in the state where she (or he) has autonomous rights guaranteed by state authorities

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either pardoned or legitimized through milder prison sentences compared to homicide; and iv) customary law, where non-official normative rules are not penalized by state authorities (eg. patriarchal inheritance laws).

7) See appendix for factors that impact on reform. On the expansion and contraction of citizenship, see Jean Leca, "Democratization in the Arab world: uncertainty, vulnerability and legitimacy," in *Democracy without Democrats*, ed. Ghassan Salame (London, New York: I.B.Tauris, 1994), 49.

regardless of religious or ethnic group affiliation. Individually-based citizenship is in line with governance according to rule of law criteria and embodies core elements in CEDAW which profess gender equality.[8]

Differentiating between individually-based and group-based citizenship rights serves two analytical purposes. First, rather than proposing that individually-based citizenship rights lead to less gendered citizenship, my purpose is to point out that what is often referred to as 'the woman question'[9] in Arab polities can thereby be theoretically handled as a classical *demos* issue pertaining to different degrees of affiliation to the polity which reflects less than full membership.[10] Second, legal reforms regarding guardianship, consent, minimum marital age, divorce, nationality, polygyny, and violence against women can be assessed as necessary, though not sufficient, steps toward expanded female citizenship in Arab states.

Debates over family law are multifaceted. On the one hand, they should be understood as fundamental individual and group struggles for welfare, since, in the absence of expansive welfare states, family remains the essential guarantor of individual welfare in Arab states. The primacy of kinship-based social and political systems thus accentuates the importance of family laws due to the substantial social and economic impact of these laws on the quality of life of all family members, including females, who are predominantly outside the waged labour market. These debates should also be understood as struggles over the fundamental nature of citizenship: whether it should be *primarily* entrenched in an individually-based relationship between citizen and state, or based on kinship and gender roles as

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8) On rule of law and Islam, see Ann Elizabeth Mayer, "Islamic law as a core for political law: The withering of an Islamist illusion," in *Shaping the current Islamic reformation*, ed. B. A. Roberson (London: Frank Cass, 2003). Since 2008, CEDAW has been under the UN High Commissioner for Human Rights. See http://www2.ohchr.org/english/bodies/cedaw/index.htm.

9) Vogt et al. indicate "[c]ertainly, the "women's question" will remain a central object of reformist concern". Kari Vogt, Lena Larsen and Christian Moe, eds., *New directions in Islamic thought: exploring reform and Muslim tradition* (London: Tauris, 2009), 5.

10) On the *demos*-problematique, i.e. deliberations around who compromises the citizen body of a political entity, see Michael Walzer, *Spheres of justice: a defense of pluralism and equality* (Oxford and Cambridge: Blackwell, 1994), 62.; Robert A. Dahl, *Democracy and its critics* (New Haven, Conneticut: Yale University Press, 1989), 3, 19.; and Nils A. Butenschøn, Uri Davis and Manuel S. Hassassian, eds., *Citizenship and the state in the Middle East: approaches and applications* (Syracuse, N.Y.: Syracuse University Press, 2000), 23, 60. See also my *The politicization of the demos in the Middle East: Membership and participation in the state*, Ph.D. thesis presented to the Department of political science, University of Oslo, 2012.

expressed through group-based citizenship rights. Finally, it is important to note that the struggle over gendered citizenship has a profound impact on the authority of communal leaders. Their influence on interpreting family law is crucial in maintaining the boundaries of communal groups which ultimately lay the basis for gendered citizenship.

2. Court system and clerical judicial autonomy

The influence of religious law on the legal system of contemporary Arab states is institutionalized in two modes: a unitary court system – as found in Egypt and Morocco – where verdicts on family law are made by civil judges, and a dual court system with parallel civil and religious courts – as found in Syria and Lebanon – where religious courts have various degrees of autonomy. The institutionalization of the court system informs the pairwise most similar systems design, when Egypt and Morocco are seen as 'Muslim majority states', while Lebanon and Syria are categorized as 'multi-religious states'.

Morocco and Egypt

Although Morocco and Egypt have a predominantly Muslim population, Egypt differs because the approximately ten per cent Christian Coptic population has its own family law formed in 1938. Coptic family law was applied in autonomous courts, until 1955, when a unitary court system replaced multiple courts (Law 462) following the Nasserite revolution in 1952. The application of the Coptic code has, since then, been handled in civil courts where judges rule according to *shari'a* principles codified in 1920.[11]

The establishment of unitary courts in Egypt suppressed the judicial powers of clerics, including Islamic scholars (*'ulama*). For instance, the head of al-Azhar university – Egypt's and the Arab world's distinguished

[11] This legal duality creates potential spheres of judicial conflict, where Christians in Egypt, Syria, and Lebanon, particularly women and those who choose to marry across religious denominations, face comparable problems. Shari'a-based jurisprudence is, for instance, lenient towards male-initiated divorce and 'conversions of convenience' to Islam by Christian men who abandon their wives without divorcing them, in order to bypass church laws as well as financial obligations. Also, divorce based on the father's conversion from Christianity to Islam leads to the 'loss' of Christian children who are registered as 'Muslims'.

center of Islamic jurisprudence – was thereafter appointed by the President, and not by the League of Islamic Scholars, which was replaced by the current Islamic Research Academy (*mujamma' al-buhuth al-islamiyya*).[12] The abolishment of Sunni judicial autonomy was accompanied by the violent suppression and exclusion of Islamist scholars and groups – such as the Muslim Brotherhood – from political participation. Interestingly, while Sunni clerical authority was curtailed, governmental concessions empowered the authority of Coptic clerics.[13] Conservatism is partly reflected, in that proposals for change in the Coptic family law have, since 1971, recurrently aimed at bolstering orthodox interpretations of church law such as restricting opportunities for divorce and remarriage among Copts.[14]

In Morocco, the king extracts religious legitimacy through article 19 of the Constitution, and rules as 'Commander of the Faithful'. After independence from French rule in 1956, King Mohammad V sought to modernize the judicial system by forming two councils: one sought to abolish tribal councils and multiple customary codes (such as the Berber decree of 1930), and one codified the Moroccan family law (popularly called the *mudawwana*). Although Islamic law was codified along Salafist orthodox lines that bolstered group-based citizenship, the abolishment of multiple courts centralized judicial authority in the state and reduced the judicial powers of the clergy. Many '*ulama* were replaced by graduate judges of secular law schools trained in legal institutes attached to the Ministry of Justice.[15] Clerics and religious scholars were co-opted, marginalized or suppressed until 1997 when political liberalization saw the Party of Justice and

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12) Hanna Malik, *al-ahwal ash-shakhsiyya wa mahakimiha lil-tawa'if al-masihiyya fi lubnan wa suriyya* (Beirut: dar an-nahar lil-nashr, 1991), 343.

13) Tadros argues that reformist forces within the church were marginalized following the transformation of power from the democratically elected lay-orders of the *majlis al-milli* to the clerical leadership of the Church. Mariz Tadros, "Vicissitudes in the entente between the Coptic Orthodox Church and the state in Egypt (1952-2007)," *International Journal of Middle East Studies* 41, no. 2 (2009): 269-70.

14) Adel Guindy, "Family status issues among Egypt's Copts: A brief overview," *Middle East Review of International Affairs* 11, no. 3 (2007).

15) See Mounira Charrad, *States and women's rights: the making of postcolonial Tunisia, Algeria, and Morocco* (Berkeley: University of California Press, 2001), 161-2, 67.; and Ziba Mir-Hosseini, *Marriage on trial: Islamic family law in Iran and Morocco* (London: I.B. Tauris, 2000), 26-7. The Jewish community retained its own family law and Rabbinical court. Léon Buskens, "Recent debates on family law reform in Morocco: Islamic law as politics in an emerging public sphere," *Islamic Law & Society* 10, no. 1 (2003): 76.

Development (PJD) become the first legitimate Islamist party represented in parliament.[16]

Lebanon and Syria

The legal link between the Constitution and religious law occurs through assertions that the state shall respect the religious rites and guarantee the personal religious interests of more than fifteen religious communities.[17] Clerical judicial autonomy has a distinctive history intimately linked to the state-building projects under colonial rule.[18] Despite different political and economic organization in each state,[19] the historical legacy of religious heterogeneity is safeguarded through state measures that preserve the communal rights of groups by ensuring autonomy in the domains of family law and education. Indeed, the survival of communal identity groups rests on the 'demarcation function'[20] of family law and autonomy in defining who belongs to the group and under which terms. In both states membership in religious groups is state-mandated and religious conversions and cross-religious marriages that do not meet state law are monitored by the authorities.[21]

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16) On the secular/Islamist divide in Moroccan politics, see Francesco Cavatorta, "'Divided they stand, divided they fail': opposition politics in Morocco," *Democratization* 16, no. 1 (2009).

17) Article 35 in the Syrian Constitution and article 9 in the 1926 Lebanese Constitution (Constitution Finder). There are five Muslim denominations in both states (Sunni, Shi'a, Druze, Ismaelite, and Alawite), a small Jewish community, and a plethora of Christian denominations (12 in Lebanon and 10 in Syria).

18) On reforms in religious jurisdictions under French colonial rule, see Nadine Méouchy, "La réforme des jurisdictions religieuses en Syrie et au Liban (1921-1939): raisons de la puissance mandataire et raisons des communautés," in *Le choc colonial et l'islam: Les politiques religieuses des puissances colonials en terres d'islam*, ed. Pierre-Jean Luizard (Paris: La Découverte, 2006). On Christian religious courts in Lebanon and Syria, see Malik, *al-ahwal ash-shakhsiyya wa mahakimiha lil-tawa'if al-masihiyya fi lubnan wa suriyya*: 344-54.

19) Since independence in 1943, Lebanon has professed an open *laissez-faire* economy, paired with low degrees of censorship and political repression. In Syria, the socialist pan-Arab Baath party has ruled since 1963 through centralist economic policies and repression of political dissidents. Authoritarian rule has, since 1970, been dominated by the Muslim Alawite minority, which current President Bashar al-Asad belongs to.

20) Ayelet Shachar, *Multicultural jurisdictions: cultural differences and women's rights* (Cambridge: Cambridge University Press, 2001), 51-4.

21) In Lebanon, compulsory registration was introduced through Decision 2851 on January 1, 1925, which was replaced by Law of registration of personal status affairs on December 7, 1951.

In Syria, eight family laws regulate marriage and divorce, while all other matters, such as inheritance, guardianship, kinship, and adoption, fall under the *shari'a*-based 1953 Code. In Lebanon, there are fourteen family laws with roughly the same number of courts.[22] The institutionalization of family law in the two states differs in two significant ways. First, the Lebanese have no common family code, while Syrians have a common, though not unified, family law. Second, in Syria, final appeals are held in a single High Court where civil judges rule. In Lebanon, final appeals lie within each of the religious courts headed by religious judges.

3. International influences on reform after 1990

The debate over family law reform is heavily influenced, although certainly not determined, by international forces. Sikkink et al. have argued that transnational networks and the human rights discourse go hand in hand with domestic structural change toward rule of law standards which usually "begins with [...] strategically motivated adaptation by national governments to growing domestic and transnational pressures."[23] Indeed, international influences fostered demands for change, and gave women in each country a basis from which to make their demands. Yet, transnational networks are – as will be argued here – only as effective as the strength of pressures for change that emanate from national actors. Domestic pressures for change are essential to any reform.

Although women's groups advocated family law reforms after independence, it was the union of women's rights and human rights discourse after 1990 that framed the question of unequal civil rights in a way that rejuvenated calls for change. CEDAW was the single most important document that enabled women's and human rights groups – both governmental and non-governmental – to aim political and moral pressure at changing gendered state laws. All four states have signed the convention, with reservations pertaining to gender equality in nationality laws (art. 9), regulation of marriage and divorce (art. 16), freedom of movement, and of residence and domicile (art. 15), and article 29 concerning arbitration between states in

22) Akram Yaghi, *qawanin al-ahwal ash-shakhsiyya lada al-tawa'if al-islamiyya wal-masihiyya*. (Beirut: manshurat zein al-huquqiyya, 2008), 55, 59-60.

23) Kathryn Sikkink, Thomas Risse and Steve C. Ropp, eds., *The power of human rights: international norms and domestic change* (Cambridge: Cambridge University Press, 1999), 10.

the event of dispute. Upon ratification, Egypt, Syria, and Morocco (but not Lebanon) made reservations to article 2, which compels states to abolish laws and practices that discriminate against women.

The impetus of economic openness on political liberalization is strong.[24] The years in which the states signed the CEDAW coincide with periods that signalled economic openness: Egypt was first to sign, in September 1981, after its *infitah*-policy at the end of the 1970s; Morocco next, in June 1993, after initiating wide-ranging privatization policies; Lebanon, in April 1997, amid the post-war rebuilding boom and the renewal of economic ties with Western financial centres; and Syria, in March 2003, as part of the state-initiated 'Damascus Spring' movement. While a plethora of NGOs were formed, it is noteworthy that the authorities of each state established institutes which confirmed their pledge to fuse international standards of human rights and to adhere to women's rights.[25]

With economic liberalization, employed women and labour unions have highlighted economic, social, and legal issues and presented demands in order to improve women's living conditions. In all four states, the result is a pattern of alliances where unions, governmental, and non-governmental groups have cooperated in order to counteract social injustice through legal means.[26]

The discrepancy between national and international law since 1990 put the domestic autonomy of contemporary Arab states under increasing

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24) Laurie A. Brand, *Women, the state, and political liberalization: Middle Eastern and North African experiences* (New York: Columbia University Press, 1998).

25) In Morocco, Omar Azziman, later appointed Minister of Justice, established an independent Ministry of Human Rights in 1993, while, in Egypt, first lady Suzanna Mubarak established the National Women's Council in 2000. In Syria, the Syrian Commission for Family Affairs (SCFA) was established in 2003 under direct organizational link to the Prime Minister's Office immediately after signing CEDAW. The SCFA coordinates the work of international organizations such as the UNIFEM, UNICEF, and the UNDP. After signing CEDAW, Lebanon's first lady became leader of the Lebanese National Commission for Women's Affairs.

26) For Morocco, see Valentine M. Moghadam, "States and Social Rights: Women's Economic Citizenship in the Maghreb," *Middle East Law and Governance* 2, no. 2 (2010). For Egypt, see Diane Singermann, "Rewriting divorce in Egypt: Reclaiming Islam, legal activism and coalition politics," in *Remaking Muslim Politics: Pluralism, contestation, democratization*, ed. Robert W. Hefner (Princeton, N.J.: Princeton University Press, 2005). For Syria, see Rania Maktabi, "Gender, family law and citizenship in Syria," *Citizenship Studies* 14, no. 5 (2010). For Lebanon, see Sherifa Zuhur, "Empowering women or dislodging sectarianism? Civil marriage in Lebanon," *Yale Journal of Law and Feminism* 14, no. 1 (2002).

pressure and is reflected on three levels. First, to the extent that state authorities respond either to international pressure or their own religious communities, their sovereignty as autonomous producers and implementers of laws is constrained. Second, pressures for change have generated spheres of consent and dissent between fundamentalist, conservative, and liberal forces over the reformulation and interpretation of religious tenets in family laws. This competition is closely related to struggles over expanding individually-based citizenship or bolstering existing group-based citizenship. Third, family law has become a battlefield where political authorities have approached opposing groups in a variety of ways: aligning with some groups and distancing support from others, spearheading changes in the law, and, at times, changing support towards different factions. This polarization is reflected in pressures for change, which, in some cases, proceeded to parliament and ended in reform.

4. Pressures for legislating family law reform in parliament

Welchman points out that Muslim family law reform after 1990 constitutes a 'third phase' because it involves a wider range of actors and is distinguished by civil society mobilisation and networking capabilities which impact on the debates about, as well as the substance of, the laws.[27] From a classical Islamic law perspective, Layish maintains that legislature is "totally alien to *shar'i* legal theory", but affirms that "parliament, however, is the declared source of sovereignty; it is parliament that sets bounds to the *shari'a* rather than the other way round".[28]

Although legislation in Arab states is usually a process where the ruling regime – headed by a king, president or a prime minister – has authoritative power in neglecting, supporting or opposing change, it is noteworthy that substantial as well as incremental reforms within family law after 1990 in Egypt, Morocco, and Syria occurred through parliament.

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27) The 'first phase' reflects the codification of the law, which implies the explicit writing down of rules, norms, and regulations of *shari'a* principles into the Ottoman Law of Family Rights of 1917. The 'second phase' comprises the codification of statutory laws upon independence during the 1950s, where ruling authorities appointed civil lawyers and religious scholars to form the state's family law. Lynn Welchman, *Women and Muslim family laws in Arab states: a comparative overview of textual development and advocacy* (Amsterdam: Amsterdam University Press, 2007), 12-3, 42-3.

28) Aharon Layish, "The transformation of the Shari'a from jurist's law to statutory law in the contemporary Muslim world," *Die Welt des Islams* 44, no. 1 (2004): 98.

4.1. Egypt: Law no. 1 of January 2000

Law no. 1 passed through parliament in January 2000 and reflected the culmination of efforts by Egyptian reformers who had worked for a decade to draft and shepherd provisions that strengthen female civil rights in divorce.[29] Only twice before had family law issues been amended since 1925. In 1979, two decrees issued by President Sadat strengthened female civil rights. These were, however, withdrawn by President Mubarak in 1985 in order to appease Islamist radicals and the Muslim Brotherhood opposition following the assassination of President Sadat in 1981.[30]

The last draft proposal was made by female leaders of the ruling National Democratic Party (NDP) in 1998 and presented to the Minister of Justice, who collaborated with the National Council of Women before forwarding it to parliament. The debate over suggested amendments accelerated immediately.

Some Muslim clerical authorities reacted with anxiety. The 36-member Islamic Research Academy approved the propositions on February 11, 1999, in the presence of the Minister of Religious Endowments, the Mufti of the Republic, and the Dean of al-Azhar University. But, according to the record of the approval meeting, the support received from the Academy was minimal: only five members voiced their support to the draft law, one of which was Sheikh Tantawi.[31] Not all *'ulama* outside the Academy were critical, however. Progressive Islamists such as Hassan Duh, Gamal al-Banna, the late Shaykh Mohammad al-Ghazali, and Shaykh Gamal Qutb, former head of the Fatwa committee at al-Azhar, supported *khul'* divorce.[32]

The law proposal was discussed in parliament in six sessions, where approximately a fourth of the total number of representatives in the People's Assembly – 111 MPs out of 454 MPs – participated. The five main

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29) Singermann, "Rewriting divorce in Egypt", 162. Judith E. Tucker, *Women, family and gender in Islamic law* (Cambridge: Cambridge Universtiy Press, 2008), 128. The law enables a woman to initiate her own divorce if she waives her financial rights, such as dowry and maintenance, by introducing a *shari'a* tenet known as '*khul'*.

30) One decree allowed the wife to obtain divorce if her husband married another woman without her consent. The other allowed the divorced mother to live in the marital home with the children during her custody period.

31) Fourteen members were absent from the meeting and eight members opposed law amendments, while nine members remained silent. Essam Fawzy, "Law no. 1 of 2000: a new personal status law and a limited step on the path to reform," in *Women's Rights and Islamic Family Law*, ed. Lynn Welchman (London: Zed Press, 2004), 59.

32) *Ibid.*, 62-3.

parties differed in position toward the draft law, but the views reported were mostly non-supportive. Female NDP members were apparently instructed not to voice their views; only one NDP female MP was present when the law was passed. Discontent aired by male NDP members was supported by the Ahrar party, the Wafd, and the Labor party, who feared the destruction of the family and attributed the changes to foreign powers. Fawzy links these disapprovals to electoral calculations, where MPs were eager to "present to the electorate [...] an image of being defenders of religion", thereby filling the void of public opinion created by the exclusion of the Muslim Brotherhood.[33]

Despite considerable opposition in parliament, the *khul'* provision passed, while parliament discarded article 26, which would have allowed a woman to travel without the consent of her husband. The *khul'* law established the principle of individually-based right to divorce for all Egyptian women, including Coptic women, thereby infringing the judicial authority of the Coptic Church in matters concerning divorce and remarriage.[34]

Four years later, three reforms expanded female citizenship further. Law no. 154 amended the nationality law, enabling Egyptian women to give their citizenship to their children on certain conditions, while Law 10 and Law 11 saw the establishment of family courts specialized in family law cases and a government-run Family Fund, which allocates maintenance funds for divorced women with custody of children.[35] Another significant reform that strengthened female citizenship occurred in 2008, when minimum marriage age was raised to 18 years.[36]

4.2. Morocco: the mudawwana *reform in January 2004*

The *mudawwana* reform in 2004, which installed the principle of equality between males and females in marriage and divorce, had more than a

33) *Ibid.*, 65.

34) The reform split Copts who opt for civil rights independent of religious membership and Copts who maintain that group-based citizenship guarantees their survival as a religious community. See Katherine Kaiser, "Coptic marriage law and the church-state divide in Egypt," *The Review of Faith & International Affair* (2010). http://rfiaonline.org/extras/articles/678-coptic-marriage-law-and-the-church-state-divide-in-egypt.

35) Mulki al-Sharmani, "Egyptian Family Courts: Pathway to Women's Empowerment?", *Hawwa: Journal of Women of the Middle East and the Islamic World*, 7, (2009): 89-119.

36) Gamal Essam El-Din, "Children accorded greater rights," *Al-Ahram Weekly*, 12-18 June, 2008, http://weekly.ahram.org.eg/2008/901/eg4.htm.

decade-long history. In 1993, incremental changes were made that did not placate demands by women's groups. Pressure for reform reemerged when a new government came to power in 1998, along with the first representation of the Islamist PJD. The government sought, specifically, to improve the position of women through a plan that addressed the integration of women in development. Presented in March 1999, two months after the succession of King Mohammed VI to the crown, the plan addressed literacy, reproductive health, and women's participation in economic development, and also strengthened female legal capacity through reforms in criminal law, nationality law, and family law.

Resistance against the plan came from the Minister of Islamic Affairs and the League of the *'ulama* of Morocco, who argued that it was a product of secularization and corrupting Western ideas, and that *'ulama* should have been consulted.[37] Liberal politicians, journalists, the women's movement, and human rights groups stressed that the clergy does not possess exclusive right to interpret sacred texts and argued that the *mudawwana* was a manmade text open to reinterpretation. Nine months later, in January 2000, the PJD allied with the Unity and Reform Movement (*harakat at-tawhid wal-islah*) in condemning the governmental plan, and presented an alternative plan. Support for and opposition to the proposed reforms reached a climax on March 12, 2000, when one march that gathered between 40,000 and100,000 people supported women's rights, while between 100,000 and 200,000 persons protested against anti-Islamic influences in another counter-march. The polarization put family law reform at the top of the domestic political agenda for more than a year, with each group expecting the king "to defend their particular interpretation of Islam".[38]

Finally, in April 2001, the king established a sixteen-member *mudawwana*-commission and requested members to apply *ijtihad*, i.e. interpretations of Islamic *shari'a* principles, in accordance with Morocco's development plans. Islamist opponents reacted and Minister of Religious Endowments M'Daghri issued a *fatwa* in September 2001, condemning the commission's work and Morocco's alliance with the United States. The king, however, showed his support by attending two working sessions in November 2001 and March 2002.

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37) Buskens, "Recent debates on family law reform in Morocco", 91.

38) *Ibid.*, 108.

Eventually, the 'Casablanca bombings' in May 2003 tipped the scale in favour of reform.[39] The women's movement intensified its pressure, while Moroccans - numbering up to a million - marched under anti-terrorism slogans.[40] Barely six months later, on January 16, 2004, parliament approved a new *mudawwana*, after an extensive debate where 110 amendments were made to the 400 proposed articles before the assembly unanimously approved it.[41]

The text of the code illustrates a fusion of *shari'a* and human rights principles of gender equality and reflects a novel way of carrying out *ijtihad* in the legislative process. Reforms raise the minimum age for women from fifteen to eighteen; establish a woman's unilateral right to divorce; set stricter judicial control on polygyny and repudiation; incorporate the principle of the protection of children; make both spouses responsible for the family; eliminate a wife's legal obligation of 'obedience of husband'; and eliminate male guardianship (*wali*) over female citizens in marriage.[42]

Three years later, in January 2007, the government passed a nationality bill, enabling Moroccan women to give Moroccan citizenship to their children on certain conditions.[43]

4.3. Reform in Muslim majority states: Egypt and Morocco compared

The centralization of the judicial system into unitary courts in Egypt and Morocco curtailed the judicial authority of religious clerics as primal

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39) These were a series of suicide bombings where 14 bombers killed 33 civilians and injured 100. Ten days after the attacks, parliament hastily passed antiterrorist legislation introduced in 2002. Abdeslam Maghroui, "Morocco's Reforms after the Casablanca bombings", sada, July 26, 2003, http://www.carnegieendowment.org/arb/?fa=show&article=21592.

40) Janine A. Clark and Amy E. Young, "Islamism and Family Law Reform in Morocco and Jordan," *Mediterranean Politics* 13, no. 3 (2008): 340.

41) Professor Baudouin Dupret, who heads Centre Jaques Berque in Morocco, points out that, although the *mudawwana* was officially discussed in parliament, all the important discussions occurred in the Commission, whose records are not available (personal correspondence with author, February 18, 2011). For more on the *mudawwana* reform, see Ziba Mir-Hosseini, "How the door to Ijtihad was opened and closed: A comparative analysis of recent family law reforms in Iran and Morocco," *Washington & Lee Law Review* 1499 (2007): 1509-10. Clark and Young, "Islamism and Family Law Reform in Morocco and Jordan", 345-6.

42) See http://www.hrea.org/moudawana.html for the *mudawwana* in English.

43) A claim must be made for a child within the age of two, and it must reside in Morocco. Moroccan women continue pressures for the unconditional right to pass on their nationality to their children. See http://www.learningpartnership.org/lib/morocco-amends-nationality-code.

definers and regulators of family law tenets and enhanced the governance capability of state authorities in adjudicating family law. Unification did not, however, empower political authorities to legislate reform without keeping an eye on the disapproval of clerical and conservative religious forces. This is evidenced by President Mubarak's accommodative measures, when two women-friendly decrees were repealed in 1985, and the cosmetic changes that King Hassan II made to the *mudawwana* in 1993.

Why did the NDP risk its frayed political record among Islamists by processing *khul'* amendments in 2000? In Egypt, issues regarding women's civil rights have, since the 1980s, been conflated with domestic political calculations that are inseparable from the repression of Islamists. Tactically, the NDP presented proposals for reform by the end of 1998 as minor bureaucratic amendments to reduce the piling up of divorce cases in court. Shortly after, in May 1999, political freedom was suppressed through amendments to the Law of Association, which banned the receipt of money from abroad and antagonized the human rights movement.[44] Ironically, advocates of women's rights within the NDP found leeway in pressuring for reform amidst this period of political repression. Knowing that concessions for enhanced female civil rights are easy prey to allegations of 'foreign influence', female NDP members exercised self-restraint in projecting these concessions as political achievements. What is first seen as limited changes within gendered state laws in Egypt can, thus, be understood as the political regime's savvy. Interests of both traditional and conservative forces were appeased within its own ranks, while conservative Islamist forces outside its ranks were pacified by adhering to low-profiled concessions.

In Morocco, the monarch's religious authority was central for reform.[45] The king was, however, supportive and responsive rather than causal for change, which was firmly vested in development plans and linked with fusing human rights advocated in parliament since 1998. Importantly, the reform signalled the weakening of the king's alliance with tribal and conservative religious forces and the strengthening of ties with reformist forces, such as the women's movement and human rights groups. The reluctant, but necessary, support of a unanimous Islamist oppositional force in

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44) Neil Hicks, "Transnational human rights networks and human rights in Egypt," in *Human Rights in the Arab World*, ed. Anthony Tirado and Hamzawy Chase, Amr (Philadelphia: University of Pennsylvania Press, 2006), 82-3.

45) See Mir-Hosseini, "How the door to Ijtihad was opened and closed", 1510.

parliament was important for endorsing change.[46] At the time of voting, the PJD experienced a classical political dilemma: critical MPs moderated their unwillingness and accepted proposed changes in order to remain a potent parliamentary force. Also, what was, since 2003, perceived as a unitary Moroccan Islamist opposition was split between a conservative branch (the PJD) and an orthodox branch (the brotherhood of Justice and Benevolence [*jama'at al'adl wal-ihsan*]), which evolved into an extra-parliamentary oppositional group.[47]

4.4. Syria: Incremental changes since 2003

The ratification of CEDAW in 2003 spurred varied forms of pressures for reform. The Association of Social Initiative (ASI), a women's advocacy group was, for instance, central in pressuring for the custody rights of divorced mothers when Law 18 was passed on October 19, 2003.[48] The custody period was prolonged by two years (sons up to 13 and daughters up to 15). A proposal enabling a divorced mother to live in the marital home during her custody period did not pass. This was the first amendment to a family law issue since 1975.

Three years later, parliament accepted a new Catholic family law (Law 31, *Official Gazette*, July 5, 2006). Internal reform started in 1990, when Law of Oriental Churches addressed international conventions on the rights of women and children.[49] Suggested changes fit well with the liberalization agenda of the new president at the turn of the millennium when the centralist regime was eager to accommodate religious pluralism.[50] Changes stipulated the principle of equality between daughters and sons (in matters

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46) The PJD, as all political parties, suggested amendments and abstained from voting on 21 of them. None of the 42 MPs objected to the amendments made. See Clark and Young, "Islamism and Family Law Reform in Morocco and Jordan", 337.

47) The brotherhood remains the largest Islamist group. It has an orthodox ideological agenda that rejects political participation, unless article 19 of the Constitution is abolished.

48) On parliamentary deliberations before the law passed, see Zohair Ghazzal, Baudouin Dupret and Souheil Belhadj, "Civil law and the omnipotence of the Syrian state," in *Demystifying Syria*, ed. Fred Lawson (London: Saqi, in association with London Middle East Institute SOAS, 2009), 65-7.

49) Bishop Mousleh headed the commission that drafted the law and approached MPs in order to secure parliamentary support (interview, November 20, 2006).

50) Frida Nome, "Strained Harmony: Religious Diversity in Syria," report to the Norwegian Ministry of Foreign Affairs (Oslo, 2006).

of inheritance) and mothers and fathers (in relation to their children). The financial rights of Catholic women were considerably strengthened.

In between these two legal reforms, family law issues were widely discussed in Syrian society. The SCFA[51] organized workshops where politicians, union representatives, civil society groups and *'ulama* discussed Syria's CEDAW reservations. A nation-wide public campaign on violence against women was a tangible result of the government's commitment to gender specific issues, resulting in the publication of a study in 2005 and the establishment of public shelter homes for abused women in each governorate in 2009.[52] Networking facilitated the first national civil campaign against femicide, launched in 2005 by the Syrian Women's Observatory (SWO) as a direct response to the killing of a young Druze woman who had married a Sunni Muslim and thus broken the Druze family law prohibiting extra-communal marriage.

Conservative orientations prevailed among scholars and politicians who did not challenge orthodox clerical interpretations of family law.[53] MP and lawyer Hanan 'Amro, for instance, refrained from signing the national petition against femicide. 'Amro represented the Druze district of Suweida, where the murdered Druze woman came from. Her signature would have illustrated a discord with Druze family law tenets that forbid extra-communal marriage and would, most probably, have been translated as criticism against Druze clerical authority.[54] MP and religious scholar Mohammad al-Habash, who supported the custody amendment two years earlier, revealed similar conservative leanings when he pointed that Syria's CEDAW reservations can be lifted, except for article 16 because "shari'a grants a woman the right to abolish marriage through court and not by individual will. I believe reservation on this article is necessary and absolute".[55]

By the end of 2006, Syrian political authorities demonstrated a Janus-faced approach towards pressures for reform. In February 2007, the ASI's

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51) See note 25.

52) The Syrian Central Bureau of Statistics, UNIFEM, The Syrian Commission for Family Affairs and the Women's Union, "Dirasat midaniyya hawlal-'unf al-waqi' 'alal-mar'a" (2005).

53) Maktabi, "Gender, family law and citizenship in Syria", 567-8.

54) Personal communication with Bassam Al-Kadi, who fronted the femicide campaign, November 28, 2006.

55) Mohammad al-Habash, "dirasa fiqhiyya liltahaffuthatal-lati wada'aha al-marsum al-tashri' li'am 2002 'ala ittifaqiyyat mukafahat kull ashkal al-tamyiz didd al-mar'a" (Damascus: markaz al-dirasat al-islamiyya & al-hay'a al-suriyya li-shu'un al-usra (SCFA), 2005), 22.

license to operate as a civil society was withdrawn. A neo-conservative sheikh accused the ASI of instigating war against the family because the ASI had conducted a survey on personal status issues. The government's subtle support of conservative religious forces became more overt in June 2009, when the SWO disclosed a previously unreleased draft code on personal status which a ministerial committee had been working on for nearly two years.[56] Following the leak in the press, a social outcry erupted against the 'Talibanization' of the code, which displayed references to orthodox Sunni Islamic jurisprudence. Christian and moderate Muslim clerics were particularly sharp in criticizing the draft and reiterated the right of religious minorities to maintain judicial autonomy in marriage and divorce.[57] The controversy reflected conflicting views within the state apparatus regarding reforms: the Ministry of Justice and the Ministry of Religious Endowments (the *awqaf*) proposed reforms that bolstered communal rights based on Sunni orthodoxy, while the SCFA and the Women's Union supported reform in line with CEDAW measures. By the end of the month, three official statements appeared in which the government downplayed the importance of the secret draft and informed that it was withdrawn from parliament.

On July 1, 2009 - amidst the outcry - parliament changed article 548 in the criminal law by including a clause that specifies a minimal period of two years' imprisonment for femicide. This was the third legislative reform in less than a decade that targeted gendered state laws.[58]

4.5. Lebanon: standstill since 1950

Pressures to change gendered citizenship in Lebanon do not address women's civil rights within family laws directly. Indirectly, efforts that deal with

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56) The leak showed that Prime Ministerial order 2437, set on June 7, 2007, empowered former Minister of Justice Mohammad al-Ghufri to form a committee. The draft code was published by the Syrian Women Observatory on May 21, 2009. See http://nesasy.org/content/view/7366/336/. (accessed May 15, 2011).

57) See my "Female Citizenship in Syria: Framing the 2009 Controversy over the Draft Laws on Personal Status," paper presented at the conference Bashar Al-Asad's First Decade: A Period of Transition, The Center for Middle Eastern Studies (CMES), October 7-10, 2010, forthcoming in a book by Raymond Hinnebusch and Tina Zintl, eds.

58) "Syria: No exceptions for 'Honor killings'" Human Rights Watch, July 28, 2009, http://www.hrw.org/ en/news/2009/07/28/syria-no-exceptions-honor-killings. Before the amendment, prison sentences varied between 2 and 4 months for femicide, while prison sentences for homicide are 15 years.

the sectarian nature of the confessional system implicitly handle the legal status of women. Since 1990, pressures for change have addressed the nationality law,[59] the penal code,[60] and an optional family law through which the Lebanese could bypass religious courts and be subject to civil legislation and courts.

The optional civil family law was proposed by president Hrawi in November 1996 as a step towards surpassing political sectarianism.[61] This was the first attempt by a high-ranking political figure to front a family law issue since 1971.[62] Hrawi lobbied for a year and a half before presenting a fourteen-page bill to the Cabinet on February 2, 1998. Six weeks later, on March 18, the Cabinet meeting demonstrated a show of force between President Hrawi, who was eager to promote political restructuring, and PM Hariri, who argued that timing was inappropriate. The president insisted that the 28 ministers vote on whether the draft code could be sent to parliament, while PM Hariri repeatedly objected to voting, which was, nevertheless, carried out. The fallout showed 21 ministers in favor, 6 ministers against, and one abstention. The result was described as a "stunning surprise".[63] According to the Taif agreement, the Cabinet had mustered necessary and sufficient support to enable it to send the draft to parliament.[64]

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59) The formation of a new nationality law was among the points included in the Taif Agreement of 1989, which is part of the Lebanese Constitution and the textual basis that ended the civil war (1975-1990). Since 2002, civil society groups front "My Nationality Campaign", which advocates for the gendered nationality law.

60) Article 562 of the penal code was changed through Law 7 on February 20, 1999. The provision that pardoned those who commit femicide was abolished, but the penal code still retains references to 'honor' crimes. See Laur Moghayzil, *huquq al-mar'a al-insan fi lubnan fi daw'ittifaqiyat al-qada' 'ala jami' ashkal al-tamyiz did al-mar'a* (Beirut: al-lajna al-wataniyya li-shu'un al-mar'a, 2000). See, also, "The status of women in Lebanese legislation", *al-Ra'ida*, Fall/Winter (2005-2006).

61) Antoine and al-Hindi An-Nashef, Khalil, *az-zawaj al-ikhtiyari fi luban* (Tripoli: almu'assasa al-haditha lilkitab, 1998), 256-84.

62) The Order of Lawyers worked out a draft proposal for a civil law at a meeting on October 20, 1951. A second attempt was made by Abdallah Lahoud of the Independence party in 1971. *Ibid.*, 40, 116, 27-9.

63) *as-safir*, March 20, 1998.

64) Article D6 states: "[t]he legal quorum for a cabinet meeting is 2/3 the cabinet members. The cabinet shall adopt its resolutions by consent. If impossible, then by vote. The resolutions shall be adopted by a majority of the members present. As for major issues, they require the approval of 2/3 the cabinet members." See http://www.mideastinfo.com/documents/taif.htm. The citizenship law and the personal status laws are two of thirteen issues explicitly stated as 'major issues'.

To gather support outside the Cabinet that could substantiate PM Hariri's refusal to pass the draft to parliament,[65] he summoned religious authority and ally *mufti* Muhammad Qabbani, Lebanon's highest ranking cleric among the Sunni community. Underlining the code's political significance, the *mufti* mustered external support from Saudi-Arabian Islamic scholars[66] and headed to Damascus, where Deputy President Khaddam urged its withdrawal.[67] A cross-confessional alliance of sheikhs, priests, and politicians rallied daily in public demonstrations. Protesters argued "civil marriage today, abolition of religious courts tomorrow".[68] Christian clerics opposed the draft on the grounds that it diminished their influence over their own communities.[69] They were joined by citizens who believed that the draft code was a threat to their religious identity. Newspapers reported heated activities that could lead to civil unrest. By the end of 1998, it was clear that the draft law was shelved.

Since 2005, in the void created by governmental and parliamentary stalemate, a previously unlikely coalition of interests between civil courts and litigants can be discerned. Two decisions made by civil courts in 2006 overruled the verdict by a Sunni religious court and illustrate these on-going contests. One case concerned adoption (where a Sunni couple was not allowed to adopt a child, a verdict consistent with Islamic jurisprudence prohibiting adoption); the other case concerned custody (where a mother appealed to the civil court in order to gain custody of her child). The civil rulings are a novelty that powerfully illustrates the ability of state officials to use new laws, such as the new civil law on the protection of minors, or new interpretations of current laws to counter gendered family laws.[70]

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65) Article C5 of the Taif Agreement states that the Prime Minister has the power to sign requests for the reexamination of laws.

66) Three legal bodies heeded the *mufti*'s call: the authoritative Saudi Committee for Scientific Research and *Ifta'*, the Higher Council for Islamic *Shari'a* in Saudi Arabia, and the Council of (Sunni) *muftis* in Lebanon. On July 17, 1998, the Saudi Embassy Press Release issued a religious ruling (*ifta*) against civil marriage that would "promote secularism at the expense of religious authorities and religious courts". See Zuhur, "Empowering women or dislodging sectarianism?", 203.

67) For more on the opposition among the Sunni clergy and the role of Syrian politicians, see Maurus et al.,"A nation divided. Lebanese confessionalism," in *Citizenship and ethnic conflict: challenging the nation-state*, ed. Haldun Gulalp (London: Routledge, 2006), 106-15.

68) *as-safir* , March 23, 1998.

69) Zuhur, "Empowering women or dislodging sectarianism?", 177.

70) Rose Marie Zalzal, Ghada Ibrahim and Nada Khalifa, *al-'unf al-qanuni didd al-mar'a fi lubnan. Qawanin al-ahwal ash-shakhsiyya wal-'uqubat* (Beirut: Dar al-Farabi, 2008), 53.

4.6. Reform in multi-religious states: Syria and Lebanon compared

After independence, dual courts were sustained in Syria and Lebanon, bolstering thereby clerical judicial authority, and group autonomy. In states with dual court systems, the limits of change are spelled out in two ways: first, as threats against the position of religious authorities and their sovereignty in regulating and promulgating family law; second, as threats against the minority status of communal groups in governing internal affairs. In both states, the powers of religious scholars as principal definers and regulators of family law tenets were maintained, thus making the expansion of female civil rights siege to sectarian communal interests. However, each state has its own trajectory.

Reservations to CEDAW by the Syrian regime were paralleled by minority majority considerations. In Syria, the Shi'i Alawite dominated regime claims political authority in a state where Sunnis comprise a majority of the population. Sunni orthodoxy is particularly discernible in the jurisprudential domain pertaining to defining and redefining family law tenets prevails. Faced with resilience against what both Sunni, as well as minority clerical leaders, define as their domain, the Alawite regime maintained its support of Sunni clerical interpretations of family law, although it had signalled clear support of gendered female issues. This is evidenced by the suspension of the ASI and the formation of a secret family law committee under the auspices of the Ministry of Justice and the *awqaf*, main bastions of Sunni orthodoxy in the state. Parliamentary reforms occurred, but changes were small, incremental, and – as the amendment of the penal code in 2009 indicates – a hasty response to the disclosure of the draft family law that put the government in an awkward light. Syrian Catholic women saw their civil rights strengthened, but expansion of female citizenship was segmental: it occurred on a communal level, which also increased the authority of the Catholic clerics as communal authoritative leaders.

In Lebanon, change in family law is intimately tied with the institutionalization and distribution of political power on a confessional basis, and, therefore, is not easily dismantled through legislation. Although, in 1998,

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Lebanon signed the 1989 Convention on the Rights of the Child in 1991. The Convention was a driving force that led parliament to issue a law titled "Protection of Children in Violation of the Law or Exposed to Danger" in 2002, and the creation of juvenile courts in all governorates. See Issam Saliba, "Children's Rights: Lebanon", 2007, http://www.loc.gov/law /help/child-rights/lebanon.php.

the draft civil family code was supported by a majority in the Cabinet, a powerful alliance between political and clerical leaders succeeded in preventing the draft from passing to parliament. Religious pluralism and the institutionalized legal autonomy of clerical leaders are enshrined in article 9 of the Constitution. This maintains the potency of family law as a legal arena which safeguards the authority of religious leaders over their respective communities.

The rulings made by civil courts over religious court decisions are important because they affirm new forms of civil pressures that are supported by new legislation (for example, Law on the Protection of Minors). The civil rulings are, however, most probably case-bound and not so important that they can form cases where common law drives outcome, as the legal system is institutionally too fragmented. Separate jurisdiction is found in Egypt, Syria, and Lebanon. However, only in Lebanon is the system of confessional autonomy in the regulation of internal affairs institutionalized to such an extent that governance in legal matters pertaining to personal status is constitutionally defined as outside the realm of state authority.

5. Variances in expansion of female citizenship in Arab states

The state is a "site of contestations, to survive it must be capable of adaptation and redefinition," writes Brand, who asserts that change resulting from economic and political liberalization often "call into question or threaten some of the political system's basic underlying structures", causing them to focus on the domestic level.[71] How do we explain the varying degrees of reform in the four states?

Three factors made parliamentary reform in family law more likely, given similar exogenous pressures for change since 1990: degree of religious diversity, type of court system, and the governance strategies of state authorities with regards to choice of domestic allies.

First, the degree of religious diversity in society influences the impetus for reform and the resilient power of conservative and orthodox forces. Christian minorities in Syria, Egypt, and Lebanon see the persistence of group-based citizenship rights as vital to their survival as religious communities. Importantly, while there are some reformists within all religious

71) Brand, *Women, the state, and political liberalization*, 6, 3.

denominations (such as within the Catholic community in Syria), conservative members within Christians and Muslims communities accept the subjugation of females within their own denomination.[72] Coupled with the concern that individually based rights eliminate the arena within which minority groups can establish and enforce their own rules, communal authorities in multireligious societies powerfully oppose family law reforms. As a result, we find more reform in family laws that expand the civil rights of women in the relatively more homogeneous societies of Egypt and Morocco than we do in the more religiously diverse societies of Syria and Lebanon.

Second, type of court system impacts on the ability of state authorities to support change. It is, nevertheless, not the ideological opposition of religious authorities *per se* that explains resilience against reform. We find similar defiance towards 'secular' and 'foreign' ideas of gender equality as outlined in CEDAW in all four states. Clerical resilience is, rather, related with the degree of autonomy that multiple court systems grant communal groups, and their ability to muster sufficient leverage among political authorities to oppose reform. Zuhur states that "we may admit that legal reform in a multi-religious society may be more complex than like efforts in more homogenous societies."[73] This 'complexity', I suggest, is partly explained by the dual court system in multi-religious states, which weakens the powers of political authorities over family law issues. In Lebanon and Syria, dual courts maintain the judicial powers of clerical authority and provide a stronger leverage for resilience against reform. In Egypt and Morocco, the centralization of the judicial system and the establishment of unitary courts weakened the hegemony of religious clerics as judicial interpreters of religious law and created wider opportunities for political authorities to draw on the opinions of religious scholars who endorse liberal interpretations of religious law.

Third, the governance strategies of state authorities and their choice of allies impact on reform. In Morocco – and, to a lesser degree – Egypt, reform was more likely because the political leadership saw concessions to

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72) Jean Said Makdisi, "The mythology of modernity: women and democracy in Lebanon," in *Women and Islam: Critical concepts in sociology*, ed. Haideh Moghissi (London, New York: Routledge, 2005), 346-7. Annika Rabo, "Family law in multicultural and multireligious Syria," in *Possibilities of religious pluralism*, ed. Göran Collste, Linköping Studies in Identity and Pluralism (Linköping: Linköping University Electronic, 2005), 84.

73) Zuhur, "Empowering women or dislodging sectarianism?", 208.

women's expanded civil rights as means to contain, and even challenge, the hegemony of conservative clerical forces and Islamist oppositional groups in interpreting family law. In Morocco, the palace changed its governance strategy from a unilateral interdependent relationship with tribal groups to a multilateral approach, which saw strengthened ties to women's and human rights groups. In Lebanon – and, to a lesser degree – Syria, little change occurred, because the ability of political rulers to dominate or be autonomous is curtailed by the relative strength of clerical authority. In both states, religious diversity represents a double-edged sword. On the one hand, diversity safeguards the legitimacy of religious pluralism and societal heterogeneity in society. On the other hand, it limits the manoeuvring space in which women's groups can pressure for changes in family law, as autonomy in this arena is reserved for groups. Separate religious jurisdictions make reform necessarily complex but also reflect the institutional bargain struck between political leaders and religious authorities to sustain control over community members at the expense of expanding women's civil rights.

7. Conclusions

Opposition against reforms that strengthen female civil rights is fundamentally different in Muslim majority states with unitary court systems compared to multireligious states with dual court systems. Resistance by clerics who hold judicial authority in family law is crucial in understanding the opportunities and leeway that political authorities have in supporting or suppressing reforms that aim to strengthen female civil rights. The debate over family law reform is therefore not only over expanding rights for women, but also limiting the control of group-based authorities. Recognizing when these authorities are more determined, and able, to resist change is critical to understand when reform is successful.

Cavatorta and Dalmasso are reluctant to view the Moroccan reform as a step towards intrinsic democratization of Moroccan polity.[74] Cavatorta states, nevertheless, that the reform undermined the primacy of collective rights and subscribed to the "individualization of rights", which meets the

74) Francesco Cavatorta and Emanuela Dalmasso, "Liberal outcomes through undemocratic means: The reform of the Code de statut personnel in Morocco," *Journal of Modern African Studies* 47, no. 4 (2009).

requirements of a liberal legislation underpinning a new political order.[75] What he views as an aspect of change, I see as a paradigmatic shift in the underpinnings of citizenship in Moroccan society from group-based to individually-based citizenship rights and a necessary step towards the democratization of the Moroccan polity seen from a *demos*-perspective.

The political transformational period in Egypt contains the seeds of politicized considerations around group-based and individually-based citizenship that precede the January 2011 revolution. The manner in which the new political leadership supports or suppresses pressures for strengthened individually-based civil rights will indicate whether reforms target expanded female civil rights along with individual religious liberties that are part and parcel of more inclusive democratic governance.

In Syria, and, to a greater extent, in Lebanon, conditions that maintain gendered citizenship remain intact. Resilience to reform is related to religious heterogeneity coupled with state-mandated membership in religious groups. This relationship buttresses the power of religious authorities. There are, nevertheless, differences between the two states. In Syria, state-initiated and centralized efforts to address gendered citizenship resulted in incremental changes, while little changed in Lebanon. Further development of civil legislation that targets children's rights in Lebanon strengthens women's custody rights and holds some hope for change, though. Ironically, Lebanese women enjoy the most extensive forms of freedom of expression in the Middle East, thanks to ease of media exposure and transnational networking. So, it is surprising that Lebanese women are among those Arab women who have the weakest independent legal subjecthood. This paradox of Lebanese women's civil rights is largely due to the system of multiple jurisdictions that bolsters the power of family laws, encapsulating women within the confines of the religious groups that they belong to.

The unification of family law, or the centralization of the judicial system, does not necessarily ensure the establishment of individually-based citizenship rights for female citizens in Arab states. In Christian majority states embarking on a democratization process, the state apparatus remains volatile in securing female citizenship.[76] Notwithstanding the history of the

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75) Francesco Cavatorta, "Civil society activism in Morocco: 'Much ado about nothing'?," Hivos, November 18, 2009, http://www.hivos.nl/english/Hivos-Knowledge-Programme/News/Civil-society-activism-in-Morocco-much-ado-about-Nothing, 18-9.

76) In both democratic and non-democratic states, expansion and contraction of female citizenship can be subject to governance strategies that aim at winning executive power

role of the state in expanding and contracting female citizenship, my analysis indicates that state agency is, nevertheless, significant. In Morocco and Egypt, rulership support was important for reform. This point underpins Welchman's observation that "[h]owever unreliable an ally the state may be for women's rights activists, centralized law, carefully drafted and properly implemented, remains the target of much women' s rights advocacy."[77]

More than thirty years after the establishment of CEDAW, it is evident that the professed aims of the convention are vital in supporting and sustaining domestic pressures for change. Reforms in Morocco and Egypt were, however, firmly anchored in interpretations of Islamic jurisprudence, rather than a human rights-based political agenda. This point affirms the importance of embedding notions of justice and righteousness within the religio-cultural heritage of each state. Importantly, support from the political rulership was, in both cases, crucial for reform, suggesting that feminist interpretation of religious text is a necessary, but not sufficient, condition for change. Textual analysis may well be supplemented with political insights into how, when, and why rulers endorse, resist, or are oblivious towards pressures for reform that expand female citizenship.

In the wake of revolts in Arab states after 2011, demands for broader political participation have gained momentum. In light of pressures for reform that address female specific issues in the past two decades, we may well witness more reforms, as well as conflicts, related to efforts that seek to broaden female and individually-based citizenship in the North-African states of Egypt and Morocco than in the Levantine states of Lebanon and Syria.

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with the support of conservative nationalist and orthodox clerical forces. Competitive democratic elections in Poland (1993) and Nicaragua (2006) rendered abortion illegal, hampered the reproductive health of female citizens, and resulted in the contraction of female citizenship. Illiberal outcomes were thus obtained through democratic means. This observation should be kept in mind in the face of arguments that the Moroccan *mudawwnana* reform of 2004 was a liberal outcome through undemocratic means. Cavatorta, "Liberal outcomes through undemocratic means".

77) Welchman, *Women and Muslim family laws in Arab states*, 21.

Appendix Factors that impact on reform in family law in Morocco, Egypt, Syria and Lebanon 1980 - 2010

	Morocco	Egypt	Syria	Lebanon
Citizenship regime	Group-based	Group-based	Group-based	Group-based
Court system	Unitary[78]	Unitary	Dual[79]	Dual
Family law	1956	1920 Muslims / 1938 Copts	1953	1951 Christians/1962 Muslims[80]
Political regime	Hereditary monarchy	One-party-rule under NDP	Authoritarian rule under Baath party	Semi-democratic
CEDAW signed	June 1993	September 1981	March 2003	April 1997
Strength of religious authority	Low (explicit and public) Islamist opposition coopted (1997) and marginalized (2003)	High / Medium conservative interpretations of family law prevail	High conservative interpretations of family law prevail	High Political power distributed along sectarian lines
Agents of Reform	Strengthened women's movement and leftist parties after 1997; liberal interpreters of Islamic jurisprudence	supportive state → two amendments in 1979; strong women's movement but partly co-opted by NDP	State-feministic partnership with Women's Union; external actors	Weak women's movement Elitist platform; external actors

78) Centralized judicial system.

79) Civil courts exist alongside religious courts.

80) Each of the eighteen religious denominations has its own family law. The dates indicate the establishment of an institutional legal set-up for handling family law.

Appendix (*Cont.*)

	Morocco	Egypt	Syria	Lebanon
Resilience to Reform	Conservative groups huge marches (2000) against reform → sharpened fronts between liberals and conservatives	1979-amendments withdrawn in 1985; reforms defined as 'un-Islamic' widespread in media; powerful but excluded MB oppositional forces	Conservative religious authorities supported by Alawite minority regime Orthodox 'secret draft' of family law disclosed in 2009 → controversy	Strong conservative religious authority based on autonomous jurisdiction Strong opposition against Optional civil marriage law (1998)
Ruler support for reform	Tacit but clear	Reserved and non-explicit	Tacit support Internal dissent	Low support Internal dissent
Reform in family law (dep. var.)	New family law in 2004	Law no. 1 January 2000 strengthened female civil rights in divorce	Incremental reforms. Law 18 prolongs period of custody (2003); Law 31 strengthens civil rights of Catholic women (2006)	None Civil court decisions overruled religious court decisions after 2005. Potentially precedence-setting
Reform in other gendered state laws	Citizenship law amended in 2007 (conditions remain)	Nationality law amended in 2004, minimum marital age raised to 18 in 2008	Penal code amended in July 2009	Citizenship court ruling granted Lebanese citizenship to children of Lebanese mother in June 2009 but ruling reversed in May 2010
Female citizenship (outcome)	Expanded Paradigmatic shift from group-based to individually-based citizenship	Expanded Persistence of group-based citizenship rights regime. Right to divorce hampered by financial buyout	Segmental expansion Persistence of group-based citizenship rights regime. Incremental change for majority Muslim female citizens	Weak and contained Sustained and bolstered group-based citizenship rights regime