

GENDER AND SOCIAL POLICY: FAMILY LAW AND WOMEN'S ECONOMIC CITIZENSHIP IN THE MIDDLE EAST*

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This article examines the gendered nature of social policy and its evolution since the 1950s in the Middle East and North Africa (MENA). It argues that the MENA region's experience with development and social policy, and the gender dynamics of these processes and policies, were greatly influenced by the imperatives of state- and nation-building, by the characteristics of the regional oil economy, and by the rentier and neopatriarchal nature of the states. The article also draws attention to how family law as a social policy has had implications for social development and for women's economic citizenship. While analyzing the specificities of the gender/social policy regime for the region as a whole, it highlights and compares the cases of Iran, Jordan, and Tunisia.

Key Words: gendered social policy, patriarchal gender contract, family law, Middle East and North Africa

Social policy seeks to protect against risks and contingencies while also providing social equity to achieve social development. There remains the question of whether all social policies meet these goals. In particular do all social policies expand women's participation and rights? This article examines the evolution of the gendered nature of social policy since the 1950s in the Middle East and North Africa (MENA) to draw attention to how family law as a social policy has had implications for social development and for women's economic citizenship.¹ It highlights the cases of Iran, Jordan, and Tunisia in analyzing the specificities of the gender/social policy regime for the region.²

The literature on social policy is overwhelmingly concentrated on the experiences and models of the welfare state in advanced capitalist countries, in particular Europe and North America. The feminist component of this literature consists largely of: historical investigations of maternal politics and policies in the United States,³ comparative studies of gender and welfare regimes in

the core countries,⁴ or studies of the distribution of care and the problem of employed women's double burden.⁵ The typology of the three worlds of welfare capitalism by Gosta Esping-Andersen and the theory of the evolution of civil, political, and social rights of citizenship by T.H. Marshall often conceptually frame these investigations.⁶ The emerging literature on social policy in a development context suggests that East Asia among other regions might represent a different experience and model (Kwon, 2004). This paper expands the empirical understanding of gendered social policy in a development context, while also proposing a distinctive experience model based on the characteristics and consequences of the regional oil economy and Muslim family law in the Middle East and North Africa.

The literature on social policy in the Middle East is fairly sparse with that on gender and social policy almost non-existent. There is growing literature on poverty and some work has been done on social security reform in Arab countries but these studies as well as the

more extensive literature on socio-economic development lack attention to the gender dynamics of social policies (see, for example, Bayat, 2002; Ismael & Ismael, 1995; Loewe, 2000; Richards & Waterbury, 1996; Tzannatos & Kaur, 2002). The valuable literature on gender and women's history in MENA offers only cursory attention to women and social development, the welfare (or populist) state, and social policy.⁷ The focus of the growing literature on women's citizenship in MENA is on the problems of women's civil and political rights of citizenship, and deals only minimally with social rights associated with employment, or with economic citizenship.⁸ The large and important literature on family law has not explored the links among family law, women's economic activity, and social development (see, e.g., Botman, 1999; Charrad, 2001; Esposito & DeLong-Bas, 2001; An-Naim, 2002; Joseph, 2000). On the other hand, family law is a social policy, and a highly gendered one that has implications for women's access to employment and income, and ultimately for social development.

CONCEPTUAL OVERVIEW

The central premise of a feminist approach to social policy is that the sexual division of labor influenced by the organization of economic production shapes policy decisions and results in different outcomes for women and men. Marxist-feminist research has shown how women's and men's differential roles in production and reproduction (especially women's greater responsibilities for reproductive or domestic work) has rendered women as a "reserve army of labor" that could be marginalized, integrated, or exploited according to the demands of accumulation (see, Jenson, 1986). Feminist social policy research has posited that early welfare policies in Europe and the United States reflected the sexual division of labor and were predicated upon the male breadwinner/female homemaker ideal (Orloff, 1993; Sainsbury, 1996); as such, the welfare state was patriarchal in origins (Pateman, 1988, 1998). Some Nordic feminist scholars, however, have emphasized the "woman-friendly" nature of welfare regimes (Hernes, 1987). The relationship between gender and social policy should be seen as complex and interactive. As Orloff notes, if gender relations "profoundly shape the character of welfare states," it is also true that "the institutions of social provision—the set of social assistance and social insurance programs and universal citizenship enti-

tlements to which we refer as 'the welfare state'—affect gender relations" (Orloff, 1996: 51).

Institutions of social provision may be women-friendly (or feminist) or they may be predicated on the male-breadwinner/female homemaker model (or patriarchal). In the core countries, these institutions have evolved in accordance with economic imperatives, demographic changes, and organized women's demands; many welfare agencies are staffed by women at various levels who in turn help to initiate policy debates and policy reforms (e.g. parental leaves, "daddy days," and flexi-time). The view of Helga Hernes (1987) and others (e.g., Hobson, 1998) is that the Nordic model of the welfare state is a woman-friendly one. As evident from the discussion below, the MENA model of social welfare provisioning is analyzed in terms of *rentier* and *neopatriarchal* characteristics.

The concept of the rentier state or rentier economy is applied to a national reliance on substantial external rent in the form of the sale of oil, transit charges (e.g. the Suez Canal), or other state-owned economic activities (see Richards & Waterbury, 1996). The consequences of rentierism are said to be far-reaching. First, only a small fraction of the population is directly involved in the creation of wealth. Second, the work-reward nexus is diminished; rewards come from clientelism or patronage or proximity to the state. Distributive policies or welfare provisioning amount to handouts from the state rather than entitlements accrued to gainfully-employed tax-paying citizens. Third, because the state is not dependent on taxation, there is far less demand for political participation. (Thus: "no taxation, no representation.") Saudi Arabia is an extreme form of rentierism, but the concept has been applied to Pahlavi-era Iran and other MENA states. The rentier state has access to huge economic resources, and is able to finance generous social policies for key segments of the population, but it is also vulnerable to external shocks.⁹

In the Middle East, the rentier state is also "neopatriarchal"; this is a term coined by Hisham Sharabi (1988) to mean that the state rests on modern institutions, traditional institutions, and social relationships. The neopatriarchal state upholds the "patriarchal gender contract" (Moghadam, 1998), which mean a gender ideology, a set of cultural norms, and a social relationship predicated on the male breadwinner -female homemaker role. In the MENA region, the patriarchal gender contract includes the provision (inscribed in the Muslim family laws that prevail in the region) that men are responsible

for the maintenance of wives (and children), and wives are required to show obedience to husbands.

Muslim Family Law, also known as the Personal Status Code in North Africa and the Levant, is a social policy whose political significance and consequences for women's economic participation are specific to the countries of the MENA region. It is a code that governs marriage, divorce, maintenance, paternity, and custody of children (An-Naim, 2002). Muslim family law regulates family life according to the norms of the Sharia, or Islamic law, to ensure the rights and responsibilities of family members (especially those of the head of the family) to guarantee security to the wife in the event of divorce or widowhood. The content of family law varies to some degree across countries depending on the legal school in place.¹⁰ But the broad features of family law are similar across Muslim countries. Critics are typically concerned about the impact on civil and political rights as understood globally or as enshrined in the Convention on the Elimination of all Forms of Discrimination Against Women. Less is known about the socio-economic consequences of Muslim family law and the way that it contravenes the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR is the main global framework for economic citizenship and most MENA countries are signatory to it.

Muslim family law defines the rights and responsibilities of spouses and kin members, and aims to provide complementary justice for women and men. For example, because Muslim men have the right to unilateral divorce and women do not, Muslim family law mandates the *mahr* (a sum of money from the groom to the bride) which is sometimes paid in full and sometimes deferred until the event of divorce. The highly formal Islamic marriage contract stipulates the amount, which is usually agreed to by both families. Under Muslim family law and Islamic norms, a husband is obligated to provide for his wife and children, and in return for this maintenance (*nafaqa*), the wife is obligated to obey her husband (*tamkin*). Although a woman's right to divorce is restricted, non-maintenance by the husband is grounds for divorce. Under classical interpretations a wife is exempt from any responsibility for housework or even childcare and she is under no obligation to share her wealth or any earnings with her husband; her sole obligation is to bear him children.

The Islamic marriage contract requires the consent of the wife, and in some countries women may insert stipulations into the contract such as the condition that

she be the only wife (An-Naim, 2002). However, the principle of patrilineality is inscribed in the law as is male privilege. For example, children acquire citizenship and religious status through fathers not mothers. Muslim women are not permitted to marry non-Muslim men although Muslim men may marry non-Muslim women. Marriage gives the husband the right of access to his wife's body; thus marital rape is not recognized (Shehadeh, 1998; Welchman, 2001). A woman may forfeit her *mahr* and any maintenance due her should she initiate divorce or be otherwise be found at fault. As Pateman (1988) argued in relation to the marriage contract in early modern Europe, Muslim family law denies daughters and wives full civil rights.

Islamic law gives women the right to own and dispose of property, but women inherit less property than men do. Non-Muslim widows cannot inherit from Muslim husbands.¹¹ Like Sharia law in general, from which it is derived, Muslim family law distinguishes principally between women and men and between Muslims and non-Muslims. Men have more rights than women, and Muslims more than non-Muslims. As such, it contradicts any sentiment of universality that is expressed in constitutions (e.g., those of Algeria and Egypt) while also contravening the notion that social policy seeks to ensure social equity.

The broad contours of Muslim family law as discussed above constitute an ideal type of what may be termed, in a variation of Carole Pateman's discourse on early modern Europe, the "Islamic sexual contract" or the patriarchal gender contract. As an ideal-type, there are variations of Muslim family law across Muslim societies and social classes, and gaps between norms and realities. Thus, care must be taken in distinguishing the empirical from the normative. Nevertheless, because the patriarchal gender contract is inscribed in the Sharia-derived family law, it retains considerable ideological power. Within this legal and cultural framework, women are seen primarily as mothers and men as breadwinners. As a result, the discourse of motherhood is pervasive in Middle Eastern societies, and few policies are in place to actively encourage the sort of adult worker family model that is characteristic of many European countries, the U.S., or China.

To summarize, this article will show that in contrast to the rights-based model of the Nordic welfare state or the developmentalist East Asian experience of social welfare, social welfare provisioning in post-colonial MENA was tied to the imperatives of state-building and

legitimation. It was financed by the regional oil economy and it reflected and reinforced by a patriarchal gender contract premised on women's family roles. State expansion and social expenditures in the MENA region resulted in literacy increases, social mobility, and access by some women to education and employment. The MENA model did allow for generous, non-inclusive social provisioning and high wages, and provided the (rather small) salariat with generous benefits. But the achievements of health and education policies that took place in the 1960s and 1970s were undermined by the gender bias implicit in the economic strategies and explicit in the family law, both of which served to widen the gender gap in education and access to employment. The MENA state "developmentalism" was undermined by a "neopatriarchal" approach to women, gender, and the family. Together with the effects of oil wealth, the regional family laws prevented women's "labor commodification," in contrast to other regions in the world-economy. Until the end of the last century, the vast majority of MENA women constituted an untapped labour reserve and lived primarily within family support systems.

The remainder of the article comes in three parts. The following section begins with a historical overview of the gender/social policy regime in MENA and highlights effects on regional social development. Muslim family law and the relationship to women's economic citizenship is examined next. This is followed by a detailed look at gender, social policy, and women's economic citizenship in Iran, Jordan, and Tunisia. The end follows with some concluding thoughts and suggestions for future research.

THE GENDER-SOCIAL POLICY REGIME IN MENA: 1950'S-1980'S

Even before OPEC took center stage in the 1970s, MENA countries were experiencing high or respectable levels of economic growth (World Bank, 2000). The income growth of the MENA region from 1960 to about 1985 at around 3.7 percent per annum surpassed that of any other developing region but did not translate into high levels of literacy or educational attainment, especially for women. During this period, the family wage (financed by oil revenues) as well as family laws served to depress women's economic participation and reinforce the institution of the (patriarchal) family. Most

women had access to social welfare programs through fathers or husbands. This is in some sense similar to what Ann Orloff (1993) has described as "paternalist" social policies in the early years of the welfare state in Europe and North America. An historical overview places the distinctive gender-social policy regime of the MENA region in perspective.

MENA states have had different historical trajectories, including diverse experiences with European colonialism, encounters with Ottoman rule, and state-building models. Many Arab countries came into existence following the collapse of the Ottoman Empire after World War I and some remained under British or French mandates for several decades. Iran was never colonized in the strict sense, although it was manipulated by the British and the Russians in the late 19th century. It underwent a Constitutional Revolution in 1906-11 (which historians concede was incomplete with goals eventually compromised by the landowning class and the clergy), and it began modern state-building under Reza Shah in the 1930s. Turkey was at one time the center of the Ottoman Empire, which had colonized parts of the Middle East and North Africa as well as the Balkans. Modernization began earlier in Turkey than in Iran, and constitutionally-mandated secular republicanism was launched in the 1920s under Mustafa Kemal Atatürk. Tunisia was under the colonial control of the Ottomans and then of France, obtaining independence in the post-World War II period. Such diverse histories make it difficult to generalize the impact of colonialism on state-building, gender relations, or social policy. The evidence does suggest, however, that Tunisia was somewhat more positively influenced by the experience with France, in terms of both the building of a welfare state and of women's rights, than was the case elsewhere.¹²

The 1950s was a turbulent time in the region, as a result of coups, revolutions, national liberation movements, British/French/U.S. interference, and the emergence of the Arab-Israel conflict. Turkey was largely spared these travails, but Tunisia fought for and gained independence, and Habib Bourguiba, the modernizing French-educated lawyer, became the first president. Iran underwent a coup d'état in 1953 that overthrew the government of Dr. Mohammad Mossadegh, ending a period of liberal constitutionalism and non-aligned nationalism and ushering in two decades of authoritarian monarchical rule that itself came to an end through a social revolution followed by authoritarian Islamist rule. Egypt's 1954 coup by the Free Officers launched the Nasserist

period of Arab socialism (emulated also in Iraq, Syria, Libya, and Yemen, though in somewhat different forms) that promoted women's advancement and instituted populist social policies and state-led economic development in an authoritarian manner. The Algerian FLN fought a long battle for independence with Algerian women actively involved. After independence the country instituted a socialist model of development led largely by the oil and gas sector. The 1960s and especially 1970s saw massive increases in economic growth and national incomes through oil revenues (most dramatically after the 1971 and 1973 OPEC oil price increases), and "petrodollars" came to finance costly development projects, military expenditures, and Western banks, along with generous social policies for salaried workers.

During the state-building, oil-boom era, social policies included guaranteed public sector employment for graduates, labor legislation that favored workers, free education, social insurance for government workers and those in large enterprises, subsidies (utilities, petrol, bread), and paid maternity leaves for women professionals. In Iran, various state enterprises and ministries had policies for benefit packages. The most generous were offered by the armed forces and the National Iranian Oil Company, while the Ministry of Roads had a hospital

and seaside resort for employees.¹³ Social security benefits (sickness, disability, death, pensions) were available to all regular employees, including women employees. In most MENA countries, women in civil service employment were entitled to fairly generous paid maternity leaves, with no limits on the number of leaves.¹⁴ (See Table 1.) State-owned factories employing a certain number of women (variously 20, 50, 100) were required to establish nurseries, and the working mothers were also entitled to nursing breaks. Egyptian Labor Law no. 91 passed in 1959 gave working mothers 50 days of paid maternity leave, provided them with childcare services where there were 100 or more workers, and protected women from unfair termination during or after pregnancy (Hatem, 2000: 50; Moghadam, 1998, ch. 5). Government employees could take leaves to further education or to work abroad, and women workers were entitled to early retirement. Egypt's Health Insurance Organization was established in 1964 to cover workers and government employees and was extended in 1975 to include widows.

The imperatives of state-building and state legitimacy provided the impetus for many of the social policies adopted at the time. In Iraq, the government of Prime Minister Kassem tried to undermine the Communist

Table 1. Maternity Leave Benefits for Women, MENA Countries, 1990s

Country	Length of maternity leave	Percentage of wages paid in covered period	Provider of coverage
Algeria	14 weeks	100	Social Security
Bahrain	45 days	100	Employer
Egypt	50 days	100	Social Security/Employer
Iran	90 days	66.7 for 16 weeks	Social Security
Iraq	62 days	100	Social Security
Israel	12 weeks	75 ^a	Employer
Jordan	10 weeks	100	Employer
Kuwait	70 days	100	Employer
Lebanon	40 days	100	Employer
Libya	50 days	50	Employer
Morocco	12 weeks	100	Social Security
Qatar	40-60 days	100 (civil servants)	Agency concerned
Saudi Arabia	10 weeks	50 or 100	Employer
Sudan	8 weeks	100	Employer
Syria	75 days	100	Employer
Tunisia	30 days	67	Social Security
Turkey	12 weeks	66.7	Social Security
UAE	45 days	100	Employer
Yemen	60 days	100	Employer

Source: UN, *The World's Women 2000*, Table 5.C.

Note: ^a Up to a ceiling.

Party rivals and recruit followers to the Baath Party by implementing generous social policies, including (at least initially) a program for women's rights (Ismael and Ismael, 2000).¹⁵ The new Egyptian constitution under President Nasser guaranteed free education and the eradication of illiteracy; Articles 18 and 19 stipulated that the state would secure the support of the family and the protection of mothering and childrearing; and that the state would facilitate women's reconciliation of work in society and obligations within the family (Hatem, 2000: 48). In the 1960s, as the Shah of Iran sought to establish national unity and mobilize support for his rule, the government launched an array of social policies and welfare benefits. These included pensions for government employees; the worker shares scheme in large establishments; free schools and health clinics, cheap food for the urban poor and other social strata; and land reform and the literacy campaign for peasants. Social welfare services for the poor, including poor women, were channelled in part through institutions such as the Pahlavi Foundation and the Women's Organization of Iran.

In most MENA countries, class, urban, and gender biases were inscribed in the social policies, and especially in the social security policies and provisions of labor law. For the most part, the principal beneficiaries were men, members of the urban middle class or the "labor aristocracy." Social security and labor legislation did not extend to domestic workers/servants, irregular or casual workers, unpaid family workers, or peasants, rural workers, and small farmers. Given the size of rural populations in MENA countries such as Egypt, Iran, Syria, and Turkey, this meant that the majority of citizens relied on family support systems in a situation that helped to reproduce the patriarchal family (e.g., large, extended families with a preference for sons, and the unpaid labor of female members). At the same time, many social welfare benefits were issued to male household heads in the form of a family registry book. In Jordan, for example, entitlements such as the bread subsidy, voting cards, or registration of children in schools required the presentation of the registry (Amawi, 2000: 166). Similarly, in Saudi Arabia, women had access to state-administered economic welfare programs, education, healthcare, and housing "only as extensions of male kin" (Altorki, 2000: 222). A majority of Egyptian women lacked the identity cards needed to obtain social services and subsidized products; their access was mediated by spouses or male kin.

Throughout this period, pro-natalist sentiments pre-

vailed and sometimes were translated into state ideology, as in post-independence Algeria. In some cases pronatalism led to family allowances and child benefits. Countries that established a system of family allowances in the 1950s were Tunisia, Lebanon, Algeria, and Morocco (Estes, 2000).¹⁶ But in all cases the pro-natalist stance favored women's maternal roles, even when lip service was paid to the importance of women's social participation, as in Egypt and Iraq. This had spillover effects in the area of education. In a 10-year period in Egypt, for example, female enrollment in primary schools increased only 1 % (compared to 35% for boys) from 38% in 1953 to only 39% by 1965. By 1985 only 43% of eligible girls were enrolled in primary schools (Bayat, 2005).¹⁷

The 1960s and 1970s witnessed the emergence of the regional oil economy, with capital and labor flows across borders, especially after OPEC began to take a more assertive and active role regionally and internationally. The oil-rich countries used part of the "petrodollars" to extend development assistance to Arab and African countries (Oweiss, 1983). Tunisian workers migrated to Libya; Yemenis, Palestinians, Jordanians, and Egyptians to Saudi Arabia, Kuwait and other Gulf sheikhdoms. Meanwhile, countries such as Iran, Iraq, Saudi Arabia, and the UAE also imported foreign contract labor (e.g., South Koreans in Iran in the 1970s, Yugoslavs in Iraq in the 1970s and 1980s, various Europeans, southeast Asians and south Asians into the Gulf Sheikdoms). In 1975, some 65% of the total number of the region's migrant workers were from MENA countries (other than Iran); after the outbreak of the Lebanese civil war, Syrians and Lebanese joined the labor pool (Abu-Lughod, 1983: 243).

Much of the imported labor in the capital-rich and labor-poor countries was necessary to "man" the new development and construction projects financed by oil wealth; but some of it also took the place of native-born workers, and especially women. For example, in Kuwait in 1990, 86 percent of the work force was foreign (ESCWA, 1993). Meanwhile, Kuwaiti women's labor force participation rate was only 18 percent, and women constituted just 19.7 percent of the labor force (ILO, 1990: Table 1, p. 67; Table 2, p. 286). Jordan was unique among MENA states in that it was both a labor-sending and a labor-receiving country. Instead of developing a female labor force, it imported Egyptian and Syrian men, and Filipino and Sri Lankan women, for various types of service jobs (Moghadam, 1998: ch. 6). Thus the

female labor force participation rate during the 1970s and 1980s was a mere 4-8 percent.

During this period, the formal sector in most MENA countries was largely constituted by the public sector and state-owned enterprises. Karshenas (2001) has studied wage levels comparatively and has established that manufacturing wages were higher in the Middle East than in southeast Asia and Mexico (see also Karshenas & Moghadam, 2001). At the same time, income and other taxes were among the lowest in the world (Karshenas, 1997; CAWTAR, 2001). High wages were made possible by the oil revenues or other rents accrued to the state. High wages and generous social policies for government employees—financed not by income taxes or employee contributions but by revenues from oil and other rents—also served to strengthen and expand the state, establish national integration, and build a social base of support for the state. Ultimately, the political economy of oil was a mixed blessing, as Serageldin, Socknat, and Birks (1983: 32-33) pointed out:

In the labour-importing countries, oil revenues, investment, and employment of imported labour have generated a standard of living for nationals that is remarkably high, ... A profound and unforeseen consequence of labour importation has been stunted development of indigenous

human resources; migration permits a proliferation of sinecure public sector employment for nationals in the capital-rich states, causing their withdrawal from the productive work force. The education systems in these states prepare nationals for this sinecure employment rather than for productive tasks.

High wages for male workers, imported labor, remittances sent back by (male) migrant workers, and the male breadwinner/female homemaker ideal all served to depress the supply of and demand for female labor. As a result, the MENA region in the 1970s and 1980s did not exhibit the levels of female labor incorporation that were beginning to be seen in Southeast Asia or in Mexico along the border with the United States. Table 2 shows patterns of women's employment and occupational distribution across regions in the world economy. As seen, the vast majority of employed women in MENA in 1990 were professionals (largely in social and public services related to education and healthcare). Compared to other regions, MENA women were under-represented in production jobs, in clerical and sales work, and in administrative and managerial positions. The female share of the total labour force was under 20 percent, and in some of the oil-rich sheikhdoms, was almost negligible.¹⁸

In the post-independence, state-building years, there

Table 2. Women's Share in Major Occupational Groups, 1990, by Region

	Prof./Tech. & related	Admin./manag.	Clerical & service	Sales workers	Production workers
Developed countries					
Western Europe	50	18	63	48	16
Other	44	32	69	41	22
Eastern Europe	56	33	73	66	27
Developing countries					
Sub-Saharan Africa	36	15	37	52	20
Oceania	41	18	52	53	17
Latin America	49	23	59	47	17
Caribbean	52	29	62	59	21
Eastern Asia	43	11	48	42	30
Southeast Asia	48	17	48	53	21
Southern Asia	32	6	20	8	16
Western Asia*	37	7	29	12	7
North Africa	29	9	22	10	10

Note: Western Asia refers to the Middle East.

Source: UN, *The World's Women 1995: Trends and Statistics*, Chart 5.16.

Table 3. Mean Years of Schooling, 25+, Early 1990s, by Country and Sex

MENA country	males	females	Other developing countries	males	females
Algeria	4.0	0.8	Argentina	8.5	8.9
Egypt	3.9	1.9	Chile	7.8	7.2
Iran	4.6	3.1	China	6.0	3.6
Iraq	5.7	3.9	Colombia	6.9	7.3
Jordan	6.0	4.0	Malaysia	5.6	5.0
Kuwait	6.0	4.7	Mongolia	7.2	6.8
Lebanon	5.3	3.5	Philippines	7.8	7.0
Libya	5.5	1.3	Sri Lanka	7.7	6.1
Morocco	4.1	1.5	Thailand	4.3	3.3
Saudi Arabia	5.9	1.5	Viet Nam	5.8	3.4
Tunisia	3.0	1.2	Uruguay	7.4	8.2

Source: UNESCO, *Education for all: Status and Trends 1994*. Paris, UNESCO, 1994.

were ambitious plans throughout the MENA region to eliminate poverty, educate entire population, and provide health care for all. With the huge increases in national incomes in the 1970s, governments invested in healthcare and especially education, though they did not succeed in creating a literate, educated, and skilled labor force, whether male or female. Public services did expand to a large extent partly due to high birth rates and high military expenditures, MENA countries did not achieve full literacy or eradicate child and maternal mortality. Thus by 1990, the educational attainment rates of MENA countries were below those of other countries at comparable levels of development or income. In particular, illiteracy was high among adult women, and gender gaps were very wide.¹⁹ Table 3 shows the consequences of the MENA social policy and social development model in 1990. As can be seen, a poor, rural, largely peasant country such as Vietnam—which was once colonized by the French and then suffered the ravages of long wars with France and later the United States—registered higher rates of educational attainment for the adult female population than did rich MENA countries. The table also shows that Malaysian adult women had higher educational achievement than any of the MENA countries. Oil wealth, rents, and public spending may have allowed literacy and education to expand, but large sections of the population, and especially adult women, were excluded from the benefits.

A number of external shocks ended the oil boom era. The declining price of oil in the 1980s, the debt crisis, the mass return of labour migrants, and economic restructuring led to new problems, including the deterioration of real wages and rising unemployment, which in

turn made household incomes fall substantially in many countries (Karshenas, 1997). One response was for more women from across the social classes to seek jobs. Young women in particular increasingly sought work to supplement family income. But the untoward economic situation, including sluggish job creation compared with the growing labour force, resulted in very high rates of unemployment during the 1990s. Women's unemployment was disproportionately high, given the lower labour force participation rates and smaller labour force shares. The spike in women's unemployment was a sign of the growth of the population of job-seeking women in a context of real economic need. Those countries with unemployment insurance did not make it available to new entrants to the labour market, who were the majority of the registered unemployed in most countries.

In the 1990s many of the women who had benefited from the boom years, acquiring educational credentials and work experience, became concerned by the changing political economy and the policies of "structural adjustment" that were being discussed, if not fully implemented, in relevant countries. In Egypt, women activists voiced concerns about changes to the labour law, including possible new restrictions on maternity leaves (Moghadam, 1998). There and in the other MENA countries, women activists turned attention to the family law, the one social policy that inhibited the capacity to act as autonomous social agents and economic citizens.

THE STATE, FAMILY LAW, AND WOMEN'S ECONOMIC CITIZENSHIP

While the concept of "rentier state" applies to MENA states, in gender terms, "neopatriarchal state," adopted from Hisham Sharabi (1988), is another useful label for the various state types in the Middle East. Religion is bound to power authority in the neopatriarchal state, unlike liberal or social democratic societies and the family rather than the individual constitutes the universal building block of the national community. The neopatriarchal state and the patriarchal family reflect and reinforce each other. Most states have sought the apparently contradictory goals of economic development and strengthening of the male-dominated, patriarchal family. The latter objective is often a bargain struck with more conservative social elements such as religious leaders or traditional local communities.

For example, the Nasser period often has been described as "state feminist" (Hatem, 1994), but Botman (1999) shows that despite Nasser-sponsored state feminism allowing women unprecedented access to education and employment, the regime would not address the family law. This served to reinforce patriarchal gender relations and the distinction between the public and private spheres. It also allowed the religious establishment control over a key societal institution. In post-independence socialist Algeria, a kind of political and gender compromise prevented the adoption of Muslim family law, but the practical implications of Algerian political economy and official pro-natalist policy was to ensure that the vast majority of Algerian women were marginalized from the productive process (Cherifati-Merabtine, 1995). In newly independent Morocco kin-based structures were strong and the legal frameworks that emerged sought to "enshrine kin privileges" (Charrad, 2000: 71).

In some cases modernizing or revolutionary states undermined patriarchal structures or attempted to do so through legislation aimed at weakening traditional rural landlord structures or the power of tribes. This was done in different ways in the People's Democratic Republic of Yemen (PDRY), through the socialist revolution in the late 1960s and 1970s, and in Iran through the land reform program of the 1960s. Similarly, significant reforms to Muslim family law were adopted in a number of countries between the 1950s and 1970s. In 1956 Tunisia banned polygamy and repudiation and gave women the right to divorce; Iran's Family Protection Act of 1967 and 1973 gave women greater rights with

respect to marriage, divorce, and child custody. The former PDRY (then known as "the Cuba of the Middle East") adopted an audaciously egalitarian family law. Iranian reformed family law was abrogated after the 1979 Islamic Revolution, and the PDRY was dissolved when South Yemen merged with North Yemen in 1990.

Women's rights activists who focused on the reform of family law in the 1990s did so because of the contradiction between personal achievements and aspirations and the legal restrictions placed on them by the family law. Muslim family law also contravened the emerging global consensus on equal rights for women in political, social, and economic domains. For example, in Iran and Jordan, a husband had the legal right to forbid his wife (or unmarried daughter) to seek employment or continue in a job. Although wives (at least those who are educated and politically aware) may stipulate the condition to be allowed to work in marriage contracts, many wives made no such stipulations, and courts have been known to side with the husband when the issue was contested (see, for example, Sonbol, 2003: 89-99).

The unequal inheritance aspect of Muslim Family Law compromises women's economic independence and the rights to equal economic citizenship. A son inherits twice as much as a daughter, even though the daughter may have worked to contribute to household incomes and family welfare, and a widow receives only a small share of the wealth or income of the deceased husband, which also may be divided among male kin as well as the children of the deceased. Although polygamy is not practiced widely in MENA it does exist. In such cases, a man's wealth and pension may be divided among widows, children, and other relatives that he may have been supporting. As a result, many widows receive insignificant pensions. Sonbol reports that this is recognized to be a problem in Jordan (see Sonbol, 2003: 110-111). The situation is exacerbated in a country like Egypt where as recently as 2000 over half of the female population did not hold an identity card which is required to apply for a pension or social assistance, to withdraw savings from a bank account or to sue for land ownership. Hence, "poverty is more often found among unmarried, divorced, widowed and abandoned women than in any other social group" (Loewe, 2000: 3). Indeed, in many MENA countries, the income and human poverty of women has become a noticeable trend (Moghadam, 1997, 2002). Thus, even though Islamic norms and some laws require that fathers and husbands financially support daughters and wives, it is also the case that

divorced, widowed, or abandoned women without access to jobs or a steady source of income, especially among the low-income social groups, are often left in a state of impoverishment.

Within the framework of Muslim family law women do have certain rights, such as *mahr* (dower, a sum of money promised by the groom before marriage). But where this practice was initially meant to provide a sort of social insurance for the wife in the case of divorce or widowhood, in the modern era it symbolizes women's economic dependence. Legal statutes assert that men owe wives material support or maintenance (*nafaqa*) and cannot command them to contribute to the family economy. This legal requirement, too, may have been salutary in early Islamic history, but in the modern era it has functioned to perpetuate the patriarchal gender contract. It may also help to explain the age and marital-specific patterns of female labor force participation. The study of factory workers in Fez Morocco by Laetitia Cairoli showed that the overwhelming majority of female garment workers have been unmarried women living at home. This is because a married woman who works for a wage is not obligated to give the salary to the husband and has the right to keep her earnings for herself if she so chooses, according to Islamic norms as inscribed in Muslim family law. As a result, working-class men prefer that daughters rather than wives work in city factories (Cairoli, 2002).

As a social policy Muslim family law is inconsistent with other social policies such as labor laws that spell out the social rights of working women. It also contravenes the UN's International Covenant on Economic, Social and Cultural Rights, which is the main framework of economic citizenship. The ICESCR prescribes the right of people to a freely chosen job; equitable and equal wages for work of equal value; dignified working conditions for workers and families; professional training; equal opportunities for promotion; protection for families, especially for children; maternity protection; protection of boys, girls, and teenagers against economic exploitation. Because Muslim Family Law and norms in many countries prevent women from applying for or staying in a job without permission of father or husband, and in some countries certain occupations and professions are off-limits to women, this denies women the right to enjoy the ICESCR's provision for "a freely chosen job" and thus inhibits economic citizenship.

In the 1990s, women activists throughout the MENA region targeted Muslim family law as an obstacle to

women's participation, equality, and rights. North African women's groups formed the Collectif 95 Maghreb Egalité, which was the major organizer behind the "Muslim Women's Parliament" at the NGO Forum that preceded the fourth UN world conference on women, in Beijing in September 1995. In preparing for the post-Beijing follow-up, the Collectif 2000 formulated an alternative "egalitarian family code" while also promoting women's political participation. For Moroccan women the strategy bore fruit when a new government and new king responded positively to demands for a change to the family law. After several years of intense social dialogues pitting feminists against fundamentalists, the family law was changed by royal decree in late 2003, and adopted by the Moroccan parliament in January 2004.

CASE STUDIES: IRAN, JORDAN, TUNISIA

Muslim family law may be seen not only as a pre-modern or pre-feminist code for the regulation of family relations, but also as a way of retaining family support systems in the place of a fully functioning welfare state predicated on concepts of citizen contributions and entitlements. The welfare of wives and children remains the responsibility of the father or husband. When a woman seeks a divorce or is divorced, her maintenance comes not in the form of transfers from the state but in the form of the *mahr* that is owed to her by her husband, or (in the Islamic Republic of Iran) the *ujrat ul-mithl*, which is the monetary value of the domestic work she has performed over the years, and the sharing of assets acquired during the marriage.

Iran Before and After the Islamic Revolution

Although women were involved in the textile industry in the 19th century and benefited from the modernization drive of Reza Shah in the 1930s, by the mid-1960s, the rates of female illiteracy rates remained high. The literacy rate for women (17 per cent) was less than half that for men (40 per cent). Fifty per cent of the urban population was literate compared with only 15 per cent of rural population. The six-point reform program known as the White Revolution, which was launched by Mohammad Reza Shah in 1963, helped improve the situation. After nearly a decade of the rural literacy campaign spearheaded by the Literacy Corps, the male rural

literacy rate grew to 31 per cent and rural women's literacy rate increased to 8 per cent.

During the same period, partly due to international pressure and partly due to advocacy by the small population of elite women, the Shah Mohammad Reza Pahlavi extended the vote to women, launched the land reform, initiated a workers' shareholding program in the large industrial sector, and modernized family law. The female labor force grew to constitute 12-14 percent of the total labor force by 1978. Women were found in the civil service (largely in teaching, healthcare, and social services, with some participation also in public administration), in large-scale factory employment, and in traditional small-scale activities. The now-large and capital-intensive oil and petrochemicals industries were male-dominated, although a small proportion of women worked in clerical positions in the National Iranian Oil Company. Those in the modern sector were beneficiaries of labor legislation and social insurance. As Meskoub (2005) shows, in the 1970s women comprised around 15 per cent of all pension recipients; women retired on average 2-3 years before men but with similar annual pensions.

The 1979 revolution initially had the limited objective of ending the dictatorship, but Islamization set in and transformed gender relations as well as the country's social policies, in particular the family law (inscribed in the Civil Code). The constitution of the Islamic Republic of Iran requires the government to provide full employment to citizens, including (presumably) women. But this constitutional guarantee has been undermined by (a) poor economic conditions, inadequate domestic and foreign investments, and subsequently low levels of job creation, (b) a preference for investments in capital-intensive, male-intensive sectors such as oil, gas, and nuclear energy, (c) a constitutional clause extolling the virtues of motherhood, and (d) the ubiquitous Islamic criteria, including the fact that under the Islamic Republic's Sharia-based civil code, women cannot seek jobs without the approval of fathers or husbands.

The Iranian Islamic Revolution had a number of adverse outcomes, especially for women. First, women's employment patterns and rates changed. Most Iranian women had been working in the fields of teaching and healthcare, and this remained the case after the revolution, too. Many individual women who lost jobs due to political, ideological, or religious backgrounds were replaced by "Islamic" women. As a result, the proportion of women in public services remained stable. How-

ever, a number of occupations and professions were deemed inappropriate to women, and these included jobs in the judiciary, engineering, and certain medical fields. Female judges and many high-ranking lawyers lost jobs, but the greatest job loss was experienced by working-class women in medium-sized or large factories (Moghadam, 1988). During the 1980s the Islamic state relied heavily on oil exports for revenues; these were needed to fight the war with Iraq and to finance an array of subsidies for the population. As a result, the Iranian economy did not experience the diversification that the revolutionary coalition and the new constitution called for. Women's share of the roughly one million civil service jobs steadily increased, especially in the 1990s, but the overall share of the labor force remained small, because of far higher involvement in the oil industry, state-owned industrial enterprises, hotels, and the private sector by men. In 1996 women's share of manufacturing jobs (formal and home-based) was 14 percent and the overall share of paid employment was 12 percent (Moghadam, 2003: chs. 2, 7).

Second, after the revolution, a massive ideological campaign was launched to tie women to the family roles, and the new Islamic family law restored male rights to polygamy, unilateral divorce, and automatic custody of children after divorce. In matters of inheritance, women became severely disadvantaged. For example, a man could inherit all of the wife's wealth, but she was entitled only to one-fourth (if he had no child) or one-eighth (if he had children) of his movable property and of the value of his estate. This pertained to cases of permanent marriage; partners in a temporary marriage received no inheritance.²⁰ In polygamous marriages, wives had to divide amongst themselves the allotted inheritance, which according to Article 942 of the Civil Code, could never exceed the designated fourth or eighth. Article 1117 of the Civil Code stipulated that a man has the right to prevent his wife from employment "if he deems such employment would be at variance with their family interests and values."

Throughout the 1980s and 1990s, Iranian social policies, legal frameworks, and pro-natalist discourse ensured the persistence of the patriarchal gender contract, women's economic dependence, and inequalities in economic citizenship. The Civil Code stipulated that a husband is responsible for the upkeep of the family, and Article 1107 even states that "the wife's living expense includes shelter, clothing, food and furniture that are commensurate with her status, which may even include

a maid in case she is used to having one or she needs one due to illness or incapacity.” As one commentator explained (Mehrpour, 1995: 60): “According to the Iranian legal system, women are not legally obliged to do any household activity.” Even nursing by the wife of her own child is not one of her responsibilities. In the event of divorce, “when the wife is free from any blame or fault, [the husband] is obliged to pay a lump sum to his wife, which payment is in addition to his obligations on the marriage portion [*mehrieh*, or dower], recompense of the past services in married life by the wife and alimony payment during the specified time after divorce when she is religiously prohibited from a new marriage” (Mehrpour, 1995: 61; my emphasis).

The Civil Code also stipulates that women’s share of inheritance is half of the share of men and it is explicitly based on the Quranic verse “God has ordained that amongst the children, the son’s share is double the daughter’s.” As noted in one account, “A husband’s share of inheriting his wife’s wealth, depending on whether his wife has born children for him or not, is one-half and one-fourth whereas the wife’s share would be one-fourth and one-eighth, respectively” (Mehrpour, 1995: 58). There are stated justifications for women’s lesser shares: “the marriage portion and provisions of women’s living expenses by the husband” (ibid), which, as we have seen, are conditional upon the wife’s good behavior. Interestingly, advocates of the legal and social policy frameworks of the Islamic Republic insist that “men and women are entitled to equal rights in possessing and executing the privileges of the legal capacity, and as such there is no distinction between men and women. All the means and tools by which men can obtain economic resources are legally at the disposal of women as well. ... The only limitations on the employment of women concern jobs which defy family values and interests” (Mehrpour, 1995: 61).

In 1992 amendments to the family law extended divorced wives’ financial rights from maintenance during *idda* and deferred dower, to the right to claim compensation for household services rendered to husband during marriage. The Shiite version of wages for housework, *ujrat ul-mithl*, is considered a major accomplishment by the advocates of women’s rights in Iran (Hoodfar 2000). Although the law clearly benefited women and increased the “cost” of divorce to men, *ujrat ul-mithl* was functional for the Islamic Republic in that it carried no financial implications for the state, it reinforced women’s maternal roles, and there was no onus

on the government to provide employment or any other social assistance to divorced women. Moreover, as seen above, these entitlements are due only to wives who are deemed to be not at fault in the case of divorce. This modification to Muslim family law in Iran could be seen as reinforcing the patriarchal gender contract rather than expanding women’s economic citizenship. Moreover, *ujrat ul-mithl* “is difficult to apply in practice, partly because of the difficulty in assessing wages for housework” (An-Naim, 2002: 110).

Mahr and *ujrat ul mithl* are important options in a socio-economic context where the majority of women have limited prospects for earned income through gainful employment. But for the small percentage of economically active women employed in the formal sector, government employment provides many advantages. A large proportion of wage- and salaried women are in the public sector, where they enjoy insurance, pensions, and other benefits. The 1990 Labor Law of the Islamic Republic includes a number of protectionist measures for working women. It bans women and all workers under 18 from working at night. For pregnant women, the labor law: proscribes the assignment of heavy work to pregnant women; requires employers to transfer pregnant women to lighter work at the same pay when regular work is deemed heavy or otherwise harmful to their condition; and prohibits women from carrying heavy loads during pregnancy and for 10 weeks after giving birth. It entitles women to 90 days of maternity leave, at least half of which must be taken after childbirth, for the first three children; this is accompanied by a job-back guarantee with no loss of seniority. New mothers are given a half-hour break every three hours for breastfeeding, with a creche provided at the workplace (IRI, 1990; Center for Women’s Participation, 1999).

In the early 1990s, and in response to the concerns of supporters about the status of women, the Islamic Republic established the Bureau of Women’s Affairs. Among other things, the Bureau helped set up women’s units in various ministries, and a nationwide network of women volunteers who engaged in a variety of charitable and social service work among the poor. At the same time, and continuing its pattern of pro-family policies, the Islamic Republic instituted the following policies (IRI, 1999):

- Payment of a marriage allowance and family support allowance to insured male or female employees
- Early retirement for women aged 45 with a minimum

service period of 20 years

- Reduction in the working hours of women in government employment
- Payment of pensions to survivors of deceased female government employees

Healthcare services have expanded in the Islamic Republic and special programs for pregnant women are in place. For example, pregnant women must be immunized against diphtheria and tetanus. Maternal mortality rates have fallen, and couples are required to attend a seminar in family planning prior to receiving a marriage certificate. Much of this has been accomplished under the public health care system through the network of Rural Health Centers and Urban Health Centers. In addition since 1990 the Ministry of Health and Medical Education has employed the services of women Community Health Volunteers.²¹ According to a 1999 government publication, “about 80% of urban mothers and 73% of rural mothers have been attended to more than twice during their pregnancy. Trained professionals assist at 86% of births in I.R. Iran, although the number of deliveries attended by untrained people is six times higher in rural areas than it is in the cities” (IRI, 1999: 103).

These policies and outcomes may reflect social welfare goals, concerns for the health of mother and child, and the advancement of women. But in 1998, a year after the reformist President Khatami was elected (but before the parliamentary elections that brought in a reformist majority in 2000), the Iranian parliament drafted two bills that caused concern among women’s rights activists. One stipulated that “the instrumental use of women’s pictures in the media which insult women’s status in the society is strictly banned”; the other would ban sexual integration at hospitals and public health facilities.²² A bill that would have allowed women the same inheritance rights as men was rejected as contrary to Islamic law by a large majority in the Majlis in 1998 (Shahidian, 2003: 222). Later, the Expediency Council and Guardian Council turned down a parliamentary bill to award a temporary stipend to widows disadvantaged by inheritance laws from the estates of late husbands.

Because factory work is generally deemed inappropriate for women, relatively few women are involved in manufacturing and there have been no campaigns to encourage working-class women’s employment. The burgeoning private sector remains a largely male domain in Iran, with work conditions that are not appealing to

most women. Thus maternity leaves, nursing breaks, and crèches are enjoyed by only a fraction of the economically active female population. Moreover, although more women are seeking jobs due to both higher educational attainment and economic need, they are not necessarily obtaining them. As conceded in the *Human Development Report 1999* of the Islamic Republic, women’s unemployment rates have been higher than men’s and their share of total unemployment is twice as large as the share of total employment (see IRI, 1999: 99). The most recent household survey in Iran found that while women constituted 33% of professional and technical workers, they made up only 13% of the total labor force (Hourcade, 2004).

Jordan

The Jordanian monarchy mobilized among the Bedouin tribes when the new military was created after 1946; in return for loyalty the monarchy retained tribal law among the legal frameworks until 1972 and permitted a version of Muslim family law and the penal code highly colored by tribal customary law (Amawi, 2000; Brand, 1998a; Sonbol, 2003). Among other things Jordan’s tribal-inflected laws allowed fathers absolute control over daughters, and permitted vigilante ‘honor crimes.’ During marriage, according to Jordanian family law, the wife has no financial obligations for personal upkeep and medical expenses are included in the maintenance due from her husband. The institution of the “house of obedience” is not forcibly executed even if the court rules against the wife, but she is not entitled to any maintenance rights against her husband (An-Naim, 2002: 121).

Compared with other MENA countries, educational attainment is relatively high in Jordan, but female labor force participation has been historically low—which may be a significant factor behind Jordan’s high fertility rates. In the 1970s, the female share of the paid labor force was a mere 8 percent in the 1970s. This gradually increased to 9 percent in 1980, 10 percent in 1990 and 11 percent in 1993 (Moghadam, 2003: 51). At the same time, as the real value of wages declined in Jordan, women began to seek jobs to augment the household budget. However, whether due to economic difficulties or gender bias or both, women were not able to find jobs, and as a result unemployment rates began to soar. In 1991, women’s unemployment rate was 34.1 percent (compared to 17.1 percent for men) and in 1997 the rate

was 28.5 percent (compared with men's 14.4 percent unemployment rate). There was no campaign in place to alleviate women's unemployment; instead, there was a subtle campaign to encourage women to exit the labor force through early retirement and other measures, in order to provide more job opportunities for men (CAW-TAR, 2001).

As in many MENA countries, social insurance in Jordan provides more entitlements to the male household head; the woman employee is not deemed a breadwinner in the eyes of the law. In Jordanian Social Security Law a woman employee's rights and entitlements are unequal to those of a man. Upon her death, her family does not receive social security benefits unless they can prove that she was the sole provider for the family. Old-age benefits accrue only to the husband, on the assumption that he is the sole provider. Restrictions in the Health Insurance Law prevent a woman from being included in the policy of the husband if she is employed, and excludes her family from her own health insurance benefits (Amawi, 2000).

Some labour policies for women may be deemed protectionist, others evidence of gender bias. Yet others are inconsistent as well as sometimes disadvantageous to women seeking jobs.²³ Early retirement for women may be understood as compensation for women's dual roles in production and reproduction. Or it may be seen as a way of encouraging women's early exit from the labor force. For example, the retirement age for men is 60 and for women, 55; a man may retire after 20 years of service, a woman after 15 (Brand, 1998b: 131). According to Article 14 of Jordanian labor law, "Benefits payments deducted from the salary of an employed woman who resigns her job are to be returned to her," and "a woman has the right to leave her job and receive her end-of-service bonus at the time of her marriage" (Sonbol, 2003: 108). Noting that this appears to be a "push factor," Sonbol writes: "It is curious why a government would encourage women to work, offer them job equality through its constitution and labour laws, and at the same time make it rewarding for women to quit their jobs" (Sonbol 2003: 108).

The Civil Status Law has also been a source of criticism, particularly in connection to the "family book" (*daftar al-a'ilab*), which is needed for almost all official transactions. A woman is transferred from the *daftar* of the father to that of the husband (Brand, 1998b: 132). However, if she is divorced or if her husband should leave with the document she faces serious difficulties;

such as the inability to vote, obtain food assistance, or register children in school, university, or civil service jobs. What is more, the few protections that are included in the family law are often not respected. This may happen in the case of arbitrary divorce and inheritance cases, "in which women are generally forced by their families to relinquish even their inferior shares to their male relatives" (Brand, 1998b: 132).

In the early 1990s, Jordanian women's groups, including the Jordanian Women's Union, the Jordanian National Committee for Women, the Business and Professional Women's Association, the General Federation of Jordanian Women, and the Women's Status Committee of the Jordanian Lawyers Union were engaged in studies, seminars and campaign aimed at changing the discriminatory policies and laws (Brand, 1998b: 134). One of the accomplishments was the change in health insurance provisions; in late 1993 the minister of health decreed that children would be eligible to be covered by working mothers' health insurance (and not only by fathers). The next year, they succeeded in a revision to the Landlords and Tenants Law to allow a divorced mother or a widow to continue to live with the children in the family's apartment after divorce or the death of the husband. In June 1995 maternity leave for civil service employees was extended from 60 to 100 days. Jordanian feminists also lobbied hard against a proposed amendment to the Income Tax Law that would allow a man tax exemptions for multiple wives. Despite the backing of Islamists in the parliament for this amendment, it was defeated partly because of the continuing budget shortages of the state (Brand, 1998b: 137).

Despite these achievements, "within Jordanian state and society discourses there is a heightened emphasis on the centrality of the family" (Amawi, 2000: 181). The state has been unwilling to reform the Personal Status Code, which continues to be supported by tribal and religious leaders, and parliamentary representatives of the Islamic parties. In Jordanian family law, the husband is the direct link with the state on behalf of the wife and the children. Only through the father can children acquire names, nationality, passports, bank accounts, and place of residence; be registered in the family registry; acquire health insurance, social benefits, and marriage of the girls. Within the family, "a woman's role is enforced as the caregiver who cannot equally manage the family's affairs" (Amawi, 2000: 182).

Jordanian women's organizations have sought the reform of the Muslim family law, while also calling for

the criminalization of domestic violence, including 'honor killings.' But women's social rights and economic citizenship are also on the agenda. In the early 1990s, the Jordanian National Committee for Women forwarded the following economic demands: "Increasing the participation of women in the labor force, and guaranteeing that they are not discriminated against in employment in all spheres and sectors of work. Extending the necessary assistance to encourage women's entry and continued participation in the labor market by encouraging and developing support services" (JNCW, 1993). In the same document, they specified the need for:

Making available the necessary support services to working women, and in particular encouraging the establishment of nurseries and kindergartens that are to be provided with improved levels of supervision. These facilities would encourage women to opt for and continue in the job market, making use of the various legislative provisions contained in the Labor Law.

By the year 2000, women made up 60% of the adult (over aged 15) population in Jordan, but the share of paid employment was only 14 percent. About 56% of Jordanian employed women were found first in education (a feminized sector) and then in health care and social services. By contrast, male-dominated fields of employment were wholesale and retail trade, and general management and social security (UNIFEM, 2003: 43-44). A strategy to increase women's employment in the key areas of social services and social security could result in the design of more women-friendly social policies.

Tunisia

Unlike Iran, Tunisia is not an oil-dependent economy. It has, rather, a more diversified as well as a more open economy. Although it took part in the regional oil economy in the 1960s and 1970s and exported labor to Libya and other capital-rich Arab countries, it did not import labor (as Jordan did). Instead labor force participation rates among men and women alike steadily rose. Unlike both Jordan and the Islamic Republic of Iran, Tunisian women have had the benefit of a reformed family law (Code du Statut Personnel) since the 1950s which saw subsequent amendments in 1993. Government policy since independence has prioritized women's emancipation and integration into the economy, and the constitution and civil code have reflected and reinforced

that position. The staunchly secular first president, Habib Bourguiba, made the participation of women in public life a major policy goal. The constitution ensured all citizens the same rights and obligations. Polygamy and male repudiation were outlawed, allowing women the right to petition for divorce and custody of children. The legacy of such legal reform has made Tunisia the most liberal country in the Arab world in terms of gender relations.

In 1960 a law gave the minority of women who were members of the social insurance service (mainly those employed in industry, handicrafts, and services, with the exception of housework) the right to pregnancy leave six weeks before delivery and six weeks afterward. During this period 50 percent of monthly wages were to be paid (SIDA, 1976). Subsequently, the length of maternity leave was set at thirty days as part of government policy to lower the birthrate. Public employees were also entitled to child-care leaves. Law No. 81-6 of February 12, 1981, introduced a social security scheme for wage-earning agricultural workers and those engaged in cooperative undertakings. The following year this scheme was extended to cover small farmers and the self-employed a law that would benefit women as well.²⁴

In the 1980s the distribution of the female labor force was more balanced in Tunisia than in many other MENA countries: 26 percent in agriculture, 48 percent in manufacturing, 21 percent in services. The female share of government employment was 24.5 percent in 1987; of the country's magistrates, 13.5 percent were women; of medical personnel, 20.6 percent; of paramedical personnel, 48 percent; of the teachers, 31.5 percent (UNFT, 1987). By 1994, the female share of paid employment was 23 percent, compared with the Iranian 12 percent and Jordanian 11 percent (Moghadam, 2003: Table 2.3, p. 51). In 1997 about 40% of economically active women had secondary or higher education, slightly higher than men. The rest were working-class women in the manufacturing sector or in domestic labor with less schooling.

Tunisian women now enjoy an array of professional and occupational choices, although they face daunting unemployment rates. Because Zein el Abedin Ben Ali, president since 1988, has projected himself as a champion of women's rights, women benefit from a favourable political-legal environment. Tunisia also has developed a cadre of professional women who work with low-income women on development projects that provide

micro-credit services, vocational training, job counselling, environmental education, and civic education. One example is the "productive families" program in which NGOs were involved in poverty-alleviation and income-generating projects. ENDA Inter-Arab, based in Tunis, is a grassroots NGO with projects promoting environmental protection, poverty alleviation and women's economic activity; it is both a microfinance institution and a civil-society organization. Tunisia's Association de Promotion des Projets de Femmes dans l'Economie (APROFE) was set up in 1990 to improve the integration of women in investment, employment, and to help women start up new projects. The women in these NGOs have the potential to play a key role in developing social rights and economic citizenship for Tunisian women.

Indeed, Tunisian feminists and women's NGOs have been somewhat more successful than women activists elsewhere in working with government agencies to develop and implement women-friendly policies, such as a national action plan in accord with the Beijing Platform for Action and the insertion of the rights of working women into the labor code. In contrast to Iran and Jordan, Tunisia has seen cooperation between women's groups and the government to increase women's economic participation, alleviate poverty and unemployment, and establish social rights for working women. Members of such women's groups take part in the National Consultative Commission on Women and Development formed in 1991 to prepare a report for the Eighth National Development Plan. The Commission has continued to advise the development planning authorities from the perspective of women workers, and to issue studies on working women's issues. Similar studies are produced by CREDIF, the respected women's research institute.

Among the MENA countries, Tunisia stands out for both the welfare state system and programs to promote women's employment, welfare, and citizenship rights (Moghadam, 1998; Ben Romdhane, 2005). The social security system ranks as one of the oldest and most advanced in Africa and the Middle East, and the reforms of the 1990s improved funding and coverage (Fahm, 2000). Among policies to encourage women's labor-force attachment while also acknowledging women's reproductive labor, social security law provides for a full pension at 50 years with 180 months (15 years) of contribution to a working mother of three children. Other public sector employees may retire at age 55 with 35

years of service (Fahm, 2000).

In other areas of women's citizenship rights, the 1993 reform to the family law dropped references to wives' obligation to obey husbands, stipulated joint authority of parents, and established support for divorced mothers in need (Brand, 1998b: 212). However, the husband/father remained "head of the family," responsible for the maintenance of wife and children, while the wife is to contribute to family maintenance if she has the means to do so (An-Naim, 2002: 183). Amendments to the CSP established the joint authority of the parents, stipulated expenditure on children until the end of formal education, and revised divorce proceedings to accord with the interests of the children. The amendments also resulted in a Fund for the Guarantee of Alimony in favour of women divorcees and children. The purpose of the fund is to provide financial support to divorced custodial mothers not receiving adequate child support from the fathers of children (*Tunisia News*, no. 357, January 15, 2000).

CONCLUSIONS

This article has argued that for the MENA region as a whole, gendered social policy has been shaped and affected by political economy and by Muslim Family Law. The MENA regional experience with development and social policy, and the gender dynamics of these processes and policies, were greatly influenced by the imperatives of state- and nation-building, by the characteristics of the regional oil economy, and by the rentier and neopatriarchal nature of the states. Conditions specific to the regional oil economy rendered female labor peripheral to the productive process and resulted in both a masculine labor force and highly gendered social policies. In contrast to the Nordic social democratic model (worker rights and women's participation financed through taxes) and the South Korean model (development through a skilled work force and female labor incorporation, financed through low wages), the MENA model of high wages and low female labor force participation was financed by oil revenues that accrued to the rentier state.

Social policy may mirror prevailing gender relations or it may modify them. In the case of MENA, it has tended to reflect and reinforce the patriarchal gender contract, but there have been variations across countries. Iran and Jordan resemble Pateman's patriarchal welfare

state, while Tunisia comes closest to a more modern and woman-friendly gender/social policy regime. In all three countries, middle-class and employed women have been making demands for enhanced economic participation and citizenship rights—as women have done in other places and at other times.

In her study of women's quest for economic citizenship in the United States, Alice Kessler-Harris (2001) shows how early social policy, including labor legislation, envisioned men as primary breadwinners supporting families and viewed women as wives and mothers. To the extent that women had economic rights, these consisted largely of the right to be supported by a male breadwinner and protected by the state in a maternal role (via the protective maternity provisions of labor law). She also shows how the originally masculine rhetoric behind Social Security gradually was forced to change when millions of American women joined the labor force during World War II and in the decades afterwards.

As in the United States in the early part of the 20th century, a patriarchal gender contract holds sway in the MENA region. This confirms that across cultural and economic systems, many countries have upheld marriage, motherhood, and family as key social institutions. Although marriage and the family provide important emotional and economic support and kin-based solidarities, they are also the root of patriarchal relations. Family laws and legal frameworks should thus encourage egalitarian relations within families, especially between spouses. Moreover, families should not be expected to provide essential protection vis-a-vis risk, contingencies, or disasters. Social protection is the responsibility of states, as well as employers, and should be extended to all citizens. What is argued in this paper is that Muslim Family Law today is an anachronistic social policy that reinforces the patriarchal gender contract, undermines women's economic citizenship, and does little to provide for women's welfare.

Can the "pro-family" policies and laws of MENA countries such as the Islamic Republic of Iran be seen as similar to those of continental Europe? After all, in the conservative/corporatist regimes of Esping-Andersen's theory, the family is the cornerstone of social policy and there is a commitment to the maintenance of the traditional family. To a certain extent, yes, but there are differences. Until recently, MENA countries did not have the kind of transfers that Europe developed for families in need; family support systems remained

intact. The major difference lies in the nature of the respective states; the patriarchal nature of the MENA states and practical consequences for women's economic independence far exceed the sort of gender inequality decried by some feminists writing on the Western welfare state. Comparisons also could be made between MENA and a socialist country like Cuba, which also upholds the family as the central social unit. A key difference, however, is that the Cuban Family Law of 1974 sought to equalize relations within the family, which none of the MENA states have done, except for Tunisia to a certain extent. Moreover, the socialist economic principle of full employment extends to women and this has been absent in the MENA model. It is for these reasons that MENA women have embarked on a quest for economic citizenship by demanding modern and egalitarian social policies.

Future research on gender and social policy in the Middle East could pursue some of the themes taken up in this paper, such as changes to family law or labor law and the impact on working women's social rights and economic citizenship; case studies or comparative analyses of policies for working mothers; the involvement of women employees in social services or the social insurance agency and the impact on policy making; how women's organizations engage with social policies; comparative studies of specific social policies such as family allowances; and prospects for the establishment of women-friendly welfare states.

NOTES

* This paper draws on Moghadam (2005).

1. I have adopted the concept of economic citizenship from Alice Kessler-Harris (2001), who defines it as the right to hold a job of one's choice and the economic resources necessary to sustain an average household.
2. Similarities and differences in political economy and gender policies across the three countries make them appropriate for comparison. Iran is an oil-dependent economy while Jordan and Tunisia are non-oil economies. In all three countries, family relations and the status of women are governed by Muslim family law, with implications for women's access to employment and economic resources, as well as overall citizenship. Tunisian family law is more egalitarian than Iranian or Jordanian. Tunisia has developed arguably the only modern welfare state in the MENA region, with policies specifically geared to enhance women's economic participation. By contrast, family laws and employment policies in Iran and Jordan

do not actively encourage female employment but rather emphasize women's domestic roles and economic dependence on male kin. In all three countries, women's rights activists focus on reform of Muslim family law in order to advance women's civil, political, and social rights of citizenship.

3. This includes research by Jane Lewis, Linda Gordon, Theda Skocpol, Sonya Michel and Seth Koven, Sonya Michel and Robin Rosen, and Molly Ladd-Taylor—who tend to have different approaches to and definitions of “maternalist” in the social policy or welfare state context.
4. Representative of this body of research are studies by Gisela Bock, Helga Hernes, Barbara Hobson, Ann Shola Orloff, and Diane Sainsbury.
5. See, for example, Folbre (1994), Hochschild (1989), Jensen (1997), Lewis (1998) Michel and Mahon (2002).
6. Esping-Andersen (1990) and Marshall (1964). Marshall's theory remains powerful and appealing as it integrates development and social policy frameworks and offers a historical perspective.
7. Exceptions are Moghadam (1998), where the focus is on women, work, and social policies under conditions of structural adjustment and the changing political economy in MENA; and Amira Sonbol (2003), whose book examines popular and official discourses and various policies (e.g., labor law, the civil code, the family law) pertaining to women and work in Jordan.
8. A notable exception in the collection edited by Joseph (2000) is the essay by Barbara Swirski—on Jewish and Palestinian women citizens in Israel—which contains an extended discussion of (differential access to) women's social rights and the state's welfare benefits. See Swirski (2000).
9. Political change may occur when the web of patrimonial domination is disturbed by the rentier state's fiscal crisis, such as a drop in the price of oil.
10. There are four Sunni schools (Hanafi, Hanbali, Maliki, Shafii) and one Shia school (Jaafari) of Islamic jurisprudence. For details on Islamic family law across countries and *fiqh* schools, see An-Naim (2002).
11. This is the case even in otherwise liberal Tunisia. Tunisian mothers can pass nationality to children, which women cannot do in most other countries.
12. Mounira Charrad (2001) also emphasizes the strength of kin structures, such as tribes, and the relationship to the postcolonial state. She argues that the weaker position of tribes in Tunisia, compared with Morocco, resulted in a more modern and egalitarian family law in Tunisia.
13. Information from members of the family of the author, retired civil servants. Of course, the vast majority of employees of the armed forces, the Oil Company, and the Ministry of Roads were men.
14. The authorized leaves were not as long as in the Nordic region, but it is likely that women employees took them more frequently. This, in any event, was communicated to the author by employers during fieldwork in Jordan and Egypt in 1995 and 1996.
15. “Revolutionary” Iraq initially championed women's political and economic rights, and the Communist Party-affiliated League for the Defense of Women's Rights was allowed to establish training centers and health clinics. It also promoted the reform of the personal status laws. It was banned by Prime Minister Kassem in 1963. See Ismael and Ismael (2000).
16. In the 1980s, the Islamic Republic of Iran introduced family allowances—and in the 1990s restricted them to three children only, in an effort to encourage the reduction of family size. On the Arab countries, see Estes (2000), Table 5, p. 36.
17. This is probably the net enrollment figure. According to the World Bank's *World Development Indicators 2004*, the gross enrollment rate for girls in primary schools in 1985 was 76 percent, and no data are provided for net enrollment.
18. The exceptions to the under-representation of women in manufacturing jobs have been Morocco and Tunisia. In both countries, and especially in Tunisia, fairly large proportions of the female working population have been engaged in manufacturing for export, although much of it has been of an informal or home-based nature. See Moghadam 1998, ch. 3.
19. Khalida Messaoudi, the Algerian feminist activist, former math teacher, and cabinet minister 2002-03, has noted that in post-colonial Algeria, education was free but not compulsory (See Messaoudi & Schemla, 1995: 30). She also offers a fascinating description of the travails of education in Algeria during the 1970s, when the program of Arabization was first implemented through the importation of teachers from Egypt, Syria, and Iraq—not all of whom were competent in subject-areas. See the discussions in chapters 4 and 7 of her book.
20. Temporary marriage, known as *sigheh*, is an Iranian Shia phenomenon.
21. In the early 1990s, the Iranian government mobilized around 20,000 women volunteers to help implement its new family planning policy, but later refused them permission to set up an independent organization. See Hoodfar (1998).
22. The Guardian Council favored passage of the bill but in fact stopped implementation as law in the face of overwhelming societal opposition.
23. The inconsistency lies in the prohibition of night work for factory workers, which effectively rules out female employment in the second or third shifts; there is no prohibition against night-shift work for nurses.
24. See UNFPA/Ministere du Plan 1984; UNFT 1987.

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