W Woodrow Wilson International Center for Scholars

MIDDLE EAST PROGRAM
OCCASIONAL PAPER SERIES

FALL 2010

Islamic Feminism and Beyond: The New Frontier

Introduction

Haleh Esfandiari, Director, Middle East Program
Margot Badran, Senior Scholar,
Woodrow Wilson Center

In the past two-plus decades in Muslim-majority countries the egalitarian arguments of Islamic feminism have been mobilized in efforts to achieve reform of family laws that are religiously framed and also in preventing a rolling-back of equal rights in society as conservative patriarchal forces try to impose their own version of Islam. Yet, Islamic feminism alone has not been sufficient in achieving change. Secular feminism with its web of multiple discourses—which preceded Islamic feminism in Muslim societies by many decades—has played an equally crucial role in reformist efforts. Recently, there is evidence of growing identity politics connected with Islamic feminism that is troubling in religiously complex societies. There is also an indication, meanwhile, of gravitation toward what might be called a "new secular feminism" weaving together contemporary progressive Islamic gender thinking and progressive universalist discourses and displaying the inclusivity required in pluralistic environments.

With the aim to examine the contributions and conundrums of Islamic feminism and what lies beyond as activists in modern societies grapple with, or side-step, issues of inclusivity and equality of all citizens across religious and gender lines, the Middle East Program at the Woodrow Wilson International Center for Scholars convened a conference on June 15, 2010 on "Islamic Feminism and Beyond—The New Frontier: Inclusivity and Equality in Family and Society." The conference brought

About the Middle East Program

The Middle East Program was launched in February 1998 in light of increased U.S. engagement in the region and the profound changes sweeping across many Middle Eastern states. In addition to spotlighting day-to-day issues, the Program concentrates on long-term economic, social, and political developments, as well as relations with the United States.

The Middle East Program draws on domestic and foreign regional experts for its meetings, conferences, and occasional papers. Conferences and meetings assess the policy implications of all aspects of developments within the region and individual states; the Middle East's role in the international arena; American interests in the region; the threat of terrorism; arms proliferation; and strategic threats to and from the regional states.

The Program pays special attention to the role of women, youth, civil society institutions, Islam, and democratic and autocratic tendencies. In addition, the Middle East Program hosts meetings on cultural issues, including contemporary art and literature in the region.

Gender Issues: The Middle East Program devotes considerable attention to the role of women in advancing civil society and to the attitudes of governments and the clerical community toward women's rights in the family and society at large. The Program examines employment patterns, education, legal rights, and political participation of women in the region. The Program also has a keen interest in exploring women's increasing roles in conflict prevention and post-conflict reconstruction activities.

Current Affairs: The Middle East Program emphasizes analysis of current issues and their implications for long-term developments in the region, including: Palestinian-Israeli diplomacy, Iran's political and nuclear ambitions, the presence of American troops in Iraq, Afghanistan, and the Persian Gulf and their effect on the region, human rights violations, globalization, economic and political partnerships, and U.S. foreign policy in the region.

Islam, Democracy and Civil Society: The Middle East Program monitors the growing demand of people in the region for democratization, political participation, accountable government, the rule of law, and adherence by their governments to international conventions, human rights and women's rights. It continues to examine the role of Islamic movements in shaping political and social developments and the variety of factors that favor or obstruct the expansion of civil society.

The following papers are based on the authors' presentations at the Woodrow Wilson International Center for Scholars on June 15, 2010. The opinions expressed herein are those of the authors and do not reflect those of the Woodrow Wilson Center.

together scholars invited from diverse disciplines and backgrounds who offered windows into past and ongoing feminist efforts to achieve equality in complex settings where the secular and religious both intersect and diverge as they are continually being renegotiated.

Margot Badran, in "Feminist Activism for Change in Family Laws and Practices: Lessons from the Egyptian Past for the Global Present," reflects on activist campaigns to reform religiously-backed family laws in Muslim-majority societies, examining the feminist trajectory from secular feminism that emerged early in the twentieth century, followed by Islamic feminism that surfaced toward the end of the twentieth century, to what she sees as a new secular feminism in the making. Emergent secular feminism in Muslim-majority countries was created by Muslim and non-Muslim women as compatriots and was intensely local or nation-based, while Islamic feminism surfaced in the form of a discourse that was created by Muslims but which many non-Muslim activists found important in advancing the cause of equality. Recently, as Islamic feminism moves from the stage of discourse elaboration to the social movement stage, manifestations of exclusivity in directing activist efforts at the local level are increasing. Muslims and non-Muslims living together in societies ordered by secular constitutions guaranteeing the equality of all citizens, such as Egypt and other countries of the Arab east Mediterranean, and in families ordered by religiously-backed laws that uphold patriarchal structures and hence gender inequality, along with the fact that increasing numbers of families are religiously mixed, present challenges to feminist activists. Secular feminists have always been religiously inclusive in deciding their priorities, running their movements, and accommodating religious difference. Now we see Islamic feminism becoming increasingly exclusivist which does not sit well in local contexts where citizens of different religions need to work together and determine for themselves how do deal with inequalities in the family perpetuated through national laws and local practices. Badran suggests that the pioneering secular feminist activism

Fadwa Hawxhurst/Wilson Center

in twentieth century Egypt has important lessons to offer. Its collective campaigning was organized by citizens of different religions who marshaled a combination of secular and religious argumentation. Secular feminists on their national terrain built movements from the ground up and determined for themselves their priorities and strategies. As global Islamic feminism goes local it operates within communal contexts with worrying divisive implications. Nation-based secular feminisms, such as Egypt's, were seen by their supporters as indigenous—emerging from within or homegrown. This understanding has given way to assertions by some feminist Muslims that with Islamic feminism an indigenous feminism has finally been created. Interestingly, a feminism that is not anchored in local terrain but that coalesced in global space and that is defined in solely religious terms becomes the definition of "indigenous."

Binnaz Toprak looks at Turkey, the singular case of a secular Muslim-majority country, where secularism involves a complete separation of religion and state. In her paper, "Recent Amendments in the Turkish Civil and Criminal Codes and the Role of Feminist NGOs," she speaks to a tangle of issues involving women and the family. In 1926, the state enacted the Civil Code, drawing on the Swiss model. Abolishing polygamy and granting women an array of equal rights in the family, it was touted as the model of progressive family law. "For the new Republic, women," she reminds her audience, "were symbols of a resolve to substitute Western for Ottoman/Islamic civilization." This reaffirmed the belief (especially widespread in countries colonized by Western powers) that gender equality and secularism were Western and un-Islamic. Such thinking has thwarted the cause of gender equality in Muslim societies and especially in the family, which in most Muslim-majority countries has been regulated by religiously-backed law. The Western-based Turkish Civil Code, although granting many equal rights to women, was not the paragon of gender equality it seemed to be. Second-wave feminists in 1980s Turkey exposed the patriarchal construction of the family expressed in the legalization of male headship. The change they fought for came in the 2001 revision where an egalitarian model of the family was instituted, enshrining husband and wife as equal heads.

The potential of a religiously-backed family law was realized with the transformation of the Moroccan family law, the *Mudawwana*, in 2004 making it the first of its kind and a model for other Muslim-majority countries. Souad Eddouada, in "Women and the Politics of Reform in Morocco," relates how the revision resulted from complex politics involving persistent feminist activism employing secular

and religious arguments. Ultimately, egalitarian revision of the family law came about as the result of the commitment of the King who exercised his authority as Commander of the Faithful, the highest religious authority in the land, in the face of Islamists intent upon defining Islam and defending a patriarchal model of the family. While women reaped a victory with the promulgation of the new law, Eddouada indicates that secular feminists typically remain uneasy over the use of religious justification for gender equality, preferring instead to frame gender equality within the universal human rights discourse.

In "Beyond Islamic Feminism: Women and Representation in Iran's Democracy Movement," Nayereh Tohidi provides a historical survey of how the fortunes of women's rights fluctuate with the shifting political fortunes of secular and religious power centers and regimes. Throughout, women have persisted in pressing for their rights in both secular and religiously-led states which alike have made women and gender central and symbolic of their rule. In detailing some of the complexities of the enmeshment of the secular and the religious and their various constructions, Tohidi relates how the Family Protection Laws of 1967 and 1975 promulgated under the rule of Mohamad Reza Shah (1941-1979) were suspended following the establishment of the Islamic Republic under Ayotallah Khomeini who, however, found it necessary to rely on various provisions of the Family Protection Law in the absence of alternative legislation. In the see-saw between different impositions upon women by secular and religious regimes, activists became adept at wielding both secular and religious arguments to achieve and protect their rights. This is vividly evident today in the midst of the fierce battles for democracy and the rule of law without which women's

rights will remain endangered. Reflecting on the Iranian experience and looking to the future, Tohidi finds at this historical juncture that it is necessary to move into a new zone beyond, but not away from, Islamic feminism.

Lilia Labidi, in "The Personal Status Code and Women's Celibacy in Tunisia," turns her attention to the growing social phenomenon of celibate women whom she defines as women who remain unmarried despite their wishes—and, therefore, implicitly sexually abstemious—and how they deal with this reality through their own religious response. They choose to take up the *hijab* and fashion alternative lives for themselves as celibates that include rituals that help repress sexual desire. Labidi calls these women new mystics who, unlike the mystics of old, did not choose the celibate condition, nor are they recluses like earlier mystics but are active in society. Labidi argues that these new mystics defend modernity as expressed in the state-enacted Personal Status Code while they don the veil as a mark of their own self-made modernity in a country where, like so many others, modernity was equated with unveiling. In her detailed presentation, Labidi does not claim that the new mysticism is a form of Islamic feminism but ponders its liberating potential. Her work demonstrates complex enmeshments of sociological realities and religious re/construction.

In "Analyzing Reform Successes and Failures: The Personal Status Regime in the Arab World," Amaney Jamal opens her lens wide. She locates the long struggle for reform of family law in the context of the perennial lack of democracy in

the region. She points in particular to the low participation of women in parliamentary life as explaining, in part, the lack of serious headway in the reform of family laws. Contests between reactionary forces of both secular and religious stripes and liberals keep reform of family laws held hostage. Jamal, like others, reiterates the necessity to demonstrate the compatibility of gender equality with Islam in order to achieve a fundamental overhaul of existing family laws. This is precisely the task that feminists, starting in the Arab world early in the twentieth century, have taken upon themselves and persist to this day with intensified efforts. Activist women have been re-enforced in their struggles by the compelling arguments of Islamic feminism. Yet, as Jamal underscores, traditional interpretive communities continue to exert their influence to the detriment of reform efforts. The overall lack of democracy in the Arab world and absence of political will on high (of the kind exhibited in Morocco) smothers reform of religiously-backed family laws and, in so doing, re-enforces a patriarchal interpretation of Islam in the service of secular and religious political elites bent upon acquiring or sustaining their power.

Together, the conference papers attest to the need for reformists to continue to mobilize the discourse of Islamic feminism along with continuing to uphold the gender equality which is a *sine qua non* of the equality of citizens that secular constitutions in Muslim-majority countries proclaim. The papers indicate the need to go beyond, but not away from, Islamic feminism and hint at a new secular feminism in the making.

Feminist Activism for Change in Family Laws and Practices: Lessons from the Egyptian Past for the Global Present

Margot Badran
Senior Scholar, Woodrow Wilson Center; Senior Fellow, Prince Alwaleed bin Talal Center for Muslim Christian Understanding, Georgetown University

Citizens in secular Muslim-majority states have for the most part achieved legal and practical equality in the secular public sphere of state and society while gender inequality reigns in the private sphere of the family, which is regulated by patriarchal laws. The two exceptions are the 2001 revision of the secular Civil Code of Turkey and the 2004 revision of the religiously-backed Moroccan Family Law, which now incorporate egalitarian constructions of the family. The inequality of citizens in the domain of the family legitimized in the name of religion is in direct contradiction to the constitutions of secular Muslim-majority states, such as Egypt and the Arab countries of the east Mediterranean, which declare the equality of all citizens irrespective of race, gender, class, and creed. The current feminist effort, therefore, centers on replacing laws upholding a patriarchal construction of the family with an egalitarian model.

Secular feminists (usually just called feminists) have long and arduously fought campaigns to achieve equal rights in their various Muslim-majority countries. That is not to say that nation-based feminists have not sought regional and international or transnational support but that their movements have been locally initiated, anchored, and driven. Egypt, for example, was a pioneering site of feminism where Muslim and Christian women as citizens struggled side by side to gain their rights in society and where Christians supported Muslims in their fight to reform the Muslim Personal Status

Code. These secular feminist citizens shared a common territorial nation while belonging to different religious communities. They framed their feminism in their own gender-sensitive deployments of nationalist, Islamic modernist, and humanistic discourses, employing multiple arguments simultaneously.

Egyptian feminists founded organizations, the earliest and longest lived of their explicitly feminist associations being the Egyptian Feminist Union. Women announced their vision, set a comprehensive agenda, and established their priorities. Conscious of local politics, and of religious and cultural stumbling blocks, they made strategic alliances. Their homegrown movement was solidly rooted in local soil. Secular feminism in Egypt has been pragmatic and political. It has been "social movement feminism" and goal-driven. Feminist argumentation is deployed in the service of activist struggle, but secular feminism in Egypt, as elsewhere, has not been a primarily theoretical and discursive project.

By the middle of the twentieth century, feminists in Egypt had achieved significant advances. They had effectively demonstrated that their gains were the nation's gains. While they understood male power and felt its effects, they sought allies among men where they could. Some men supported women's equal rights in the state and society, but men were also sensitive to patriarchal politics and displayed unease over the erosion of male privilege.

While gender equality was gaining ground in the public sphere, the family remained a stubborn bulwark of patriarchy that was shored up by conservative Islamic thinking, which, interestingly, "liberal" secular men allowed, if often simply by expedient inertia. The equality of citizens mandated by the Constitution could be trumped by an interpretation of Islam that asserted that the patriarchal family, and with it gender inequality, was ordained by religion which was in collaboration with "nature." Egyptian women's path-breaking feminism, which was influential beyond its borders for much of the twentieth century, experienced its major disappointment in its inability to win significant reform of family law. Long-term political conditions and the Emergency Laws connected with the specter of an Islamist threat, real or imagined, that have been in effect in Egypt for some three decades have stifled activist organizing, except around "safe" causes or causes "too threatening to ignore" which do not include serious transformation of the Muslim Personal Status Code.

Turning from the Egyptian past to the global present, one finds two major global networks on the scene concerned with the eradication of gender inequality and injustices in Muslim family laws. One is a secular network of Muslims and non-Muslims and the other is a network, calling itself a movement, composed of Muslims only. The first is the transnational network called Women Living under Muslim Laws (WLUML), which secular feminists created in the mid-1980s to combat patriarchal family laws created and perpetuated in the name of Islam. The secular feminists initiated a network of women *living under Muslim laws* which included all women concerned, not simply Muslim women. WLUML directed a major effort at knowledge-collecting and over a ten-year period assembled data on family laws

in some twenty Muslim-majority countries. Its research showed the diversity of Muslim-backed laws and thus the divergent interpretations of Islamic jurisprudence, or *fiqh*. When the new Islamic feminist discourse was developed several years after its founding, WLUML added this to its discursive repertoire. WLUML, upholding and celebrating inclusivity, built itself organically and incrementally and today remains a powerful network.

Musawah (equality)—the Movement for Equality and Justice in the Muslim Family that was launched in Kuala Lumpur in 2009—is a network and/or a "movement" in the making. This exclusively Muslim network/movement forefronts Islamic feminist discourse (which indeed some of its leaders have produced), while not neglecting to invoke constitutional and human rights arguments, in the global movement it seeks to build in order to transform local Muslim family laws. Islamic feminism's compelling articulation of a discourse of gender equality based on re-readings of the Qur'an and other religious sources has had wide resonance among Muslims as well as non-Muslims from the time it surfaced on the global scene some two decades ago. Indeed, there are non-Muslims who promote and invoke Islamic feminism in their activism who call themselves Islamic feminists. Musawah's communalism— evidenced in choosing to confine its movement to Muslims—renders Islamic feminism exclusivist by linking it with Muslim identity.

In endeavoring to develop itself as a social movement, Musawah must transit from the global to the local. Musawah seeks to ignite or to bolster social movements in Muslim-majority countries that have religiously-backed family laws. A communal global movement thus goes local into secular states where feminist activism has not organized around religion or religious identity. (There have been women's

organizations and activist projects that have coalesced around religion, but they did not call themselves feminist). Feminist attempts to change Muslim Personal Status Codes or Family Laws historically have included Muslims and non-Muslims, as the Egyptian case reveals. Why is there now an externally driven movement of Muslims-only intervening at the local level, especially one calling itself Musawah? Is it a case of equality—gender equality—only among Muslims but not across communal lines that is of concern? (It may be asked parenthetically why in the anglophone global scene is the Arabic used for Equality)? As the Muslim world is highly diverse, as are Muslim family laws, it can be problematic when global feminists parachute in to jump-start local campaigns. Local feminists possess the necessary local knowledge. They know their own terrain and the specifics of their laws and how they function, or don't, and local understandings and practices of Islam better than outsiders. They know how families in their own countries are constituted—and today in Muslim-majority countries many families are religiously mixed. So why a Muslim-only movement to change Muslim family laws—which govern families composed of Muslims only and those composed of Muslim husbands with non-Muslim wives? Social movements and communal activism that identify and single out citizens along religious lines are dangerously divisive and do not reflect contemporary realities. Today, people of different religions live together in societies and in families and should be able and indeed need to strategize together and determine their own goals. The global Musawah "movement" could learn from secular Muslim-majority societies such as Egypt how to engage in religiously inclusive activism.

I would now like to turn to the conference theme, "Islamic feminism and beyond—the new frontier" and then proceed to reflect on the lessons from the Egyptian feminist past for the global present. Muslims, as already noted, have generated two models of feminism: secular feminism early in the twentieth century and Islamic feminism toward the end of the century. As a historian of earlier secular feminist movements in Egypt and elsewhere, when I observed the rise of Islamic feminism in the 1990s it seemed to me that, in time, it would give way to a new secular feminism. I saw Islamic feminism as taking the Islamic modernist strand of secular feminism and developing it further. Highly trained women scholars were creating a stunning theology of gender equality in Islam. This discourse, I believed, could only strengthen and extend the depth and reach of secular feminism. Today there is a continuing need for the flourishing of multiple feminist discourses that are in conversation with each other and mutually supportive if activists in Muslim-majority countries are to build stronger and more viable societies and families.

Islamic feminism is now at a crossroad. One path leads to the "communalization" of Islamic feminism as an exclusivist project that divides societies and families that are religiously complex. Signs of this are seen in Musawah. Another path or trajectory leads to what is seen as a *new secular feminism* enhanced by Islamic feminism. The time has come to go beyond Islamic feminism, and, ironically, tendencies to communalize Islamic feminism are catalyzing such a move. Going beyond Islamic feminism does not mean that Islamic feminism will not remain an important discourse and continue to evolve, as is happening in very intriguing ways at the moment. But I see a new feminism emerging that I call the new secular feminism which includes Islamic feminist thinking in its bundle of discourses. The new secular feminism reaffirms inclusivity as it brings with it a new vitality.

This takes us to the question: what lessons does the Egyptian past hold for the global present? Against the foregoing discussion I enumerate them. The Egyptian secular feminist experience speaks to the importance of: (1) locally driven activist campaigns, (2) understanding local realities, (3) feminist activism across religious lines, and (4) a balance between ideology and activism or (feminist) theory/theology and politics.

Egypt was a pioneering site of women's independent secular feminism. Egyptian feminists from the early twentieth century into the early twenty-first century have been able to sustain an inclusive model of feminism that recognizes religious differences—both intra- and inter-religious differences—a model of feminism that meshes the secular and religious. That the successes of Egyptian feminism in the secular sphere of society have not been matched in the sphere of the family can be laid at the door of "larger" politics. The state has not found it in its interest to transform Muslim family law. Indeed, Muslim family law has been held prisoner to the fierce contest between the present regime and the Islamist opposition. What is needed in Egypt is not more (liberation) theory and theology but more politics. This requires the consolidated efforts of all feminists on the ground and a robust new secular feminism.

Recent Amendments in the Turkish Civil and Criminal Codes and the Role of Feminist NGOs

Binnaz Toprak,
Professor, Political Science, Department of Political Science and
International Relations, Bahçeşehir University, Istanbul

Turkey's original civil and criminal codes date back to the early years of the Turkish Republic. Both were enacted in 1926 three years after the establishment of the Republic following the collapse of the Ottoman Empire. The Civil Code was modeled on the Swiss Civil Code and the Criminal Code on the Italian. Although both were revolutionary for their time as they replaced the *shar'iah*, they fell short of mandating complete equality of the sexes and contained articles that later became unacceptable to women.

The Civil Code of 1926 was especially groundbreaking for a Muslim-majority country. It gave equal rights to men and women in marriage, divorce, child custody, and inheritance. Marriage now carried legal weight only if it was conducted and registered by secular legal authorities, although couples who wished to do so could later have a religious marriage. One had to go to court to get a divorce, and it would be the judge who would award child custody. The new code banned polygamy and allowed Muslim women to marry non-Muslim men. In the early 1930s, women got the right to vote and run for office.

For the new Republic, women were symbols of a resolve to substitute Western for Ottoman/Islamic civilization. Accordingly, legal changes were reinforced by governmental attention to women's education and participation in the work force. Beginning in the late 1920s, large numbers of women served in highly prestigious positions as judges, lawyers, doctors, and academics. Although these reforms did not reach all women in Turkey, over the years, more and more women benefitted from them as educational opportunities expanded. Today, for example, Turkey has the highest ratio of women academics (35 percent) in Europe.

Recent surveys show that these changes have been widely accepted by the majority of the Turkish population. For example, a number of surveys in the late 1990s revealed that the percentage of people who wanted to be ruled by the *shar'iah* was around 20 percent. A colleague and I conducted a nationwide survey in 1999[1] to probe further into this figure. We thought that 20 percent support for the *shar'iah* was much too high and speculated that devout Muslims might be responding positively to a question that asked whether they would want to be ruled by divine law without, however, knowing its contents.

When we asked the same question that previous surveys had asked, the percentage was the same. Our questionnaire, however, contained additional questions. The first noted that according to the *shar'iah*, a man could marry up to four women whereas the Civil Code restricts this to one wife. Would they want the Civil Code to change in favor of the *shar'iah*? A second question explained that according to Islamic law, women inherit less than men whereas the Civil Code accepts equal inheritance rights. Would they want to change

that? We asked similar questions about divorce, child custody, and punishment for adultery. Only 1.2 percent wanted to punish adultery offenders with *recm*, or stoning to death. The majority said that adultery should only be a reason for divorce. In answers to the other questions concerning marriage, divorce, child custody and inheritance, only around 8 percent of the population indicated a preference to return to the *shar'iah*. As would be expected, the percentages among women were even lower. Hence, we concluded that the 20 percent figure was overblown and that the great majority of the Turkish people were content with the secular republican regime on family law.

Until the 1960s, women's groups felt that early republican reforms had given Turkish women all of their rights. Hence, their efforts were confined primarily to philanthropic activities. In the 1960s and the 1970s, the most active women's groups were appendages of left-wing politics and viewed the gender question as one that would be automatically resolved with the establishment of a socialist regime. It was not until the 1980s that a new wave of feminism, influenced by Western feminist writing, began to politicize the problem areas confronting all women in Turkish society—rural and urban, educated and uneducated, upper class and lower class. It focused on issues such as women's sexuality, sexual harassment, domestic violence, and honor killings.

Through consciousness-raising groups and publications, women's NGOs were able to recruit an army of young women willing to spend their time and energy on publicizing their cause and acting as lobbying and pressure groups. While the number of women's NGOs in 1973 was only 10, the figure was 64 in 1992 and 350 by 2004. Among these were women's groups in bar associations, neighborhood organizations, gay and lesbian groups, and organizations of Islamist or Kurdish women.

The most important of these were the Women's Library, which collected works written by or about women; the Purple Roof, which fought against violence towards women, established women's shelters, gave legal aid to battered women, and started a "Purple Needle Campaign" that distributed needles with a purple ribbon to stick into men who harassed women in public spaces; KAMER in southeastern Kurdish provinces, which fought against honor killings; KADER, which encouraged women to run in municipal and national elections; Flying Broom, which organized women's consciousness-raising groups, symposia, and a yearly film festival of women directors; and Women for Women's Human Rights-New Ways, a women's umbrella communications network that organized campaigns, protests, and lobbying activities. In addition, universities opened women's studies centers and academic programs.

It was thanks to their efforts that Turkey signed the Convention to Eliminate All Forms of Discrimination against Women (CEDAW) in 1985. A year later, various feminist groups organized a petition campaign to force the government to implement CEDAW. A Turkish woman academic, Feride Acar, was elected to the Expert Members Committee of CEDAW, and another, Selma Acuner, was elected to the Executive Committee of the European Women's Lobby. Women's NGOs in Turkey began to communicate through the Internet with similar organizations in Europe, obtain their support in campaigns, and receive funds from abroad.

Following the signing of CEDAW by Turkey, the focus of women's NGOs shifted to amending the Civil and Criminal Codes of 1926. Even before the amendment of these codes, the NGOs were able to force the government to make changes in both.

The article in the 1926 Civil Code which required the husband's consent for the wife's employment was annulled, for example; and an article in the 1926 Criminal Code that allowed a one-third sentence reduction if the woman victimized by rape was a sex worker was similarly annulled. A new law gave victims of domestic violence the right to file for a "protection order" from the public prosecutor. The order prohibited the offender from approaching the woman's vicinity, and, if he failed to comply, the offender could be tried in court and imprisoned. In addition, abortion was legalized.

Hence, by 2001, women's NGOs had become the best organized, politically active, and most vocal civil society associations in the country. They now had access to funds and communication networks of European institutions and related NGOs. They could initiate letter and fax campaigns that involved the participation of women's NGOs around the world; communicate through the Internet to take immediate action whenever necessary; lobby members of parliament; demonstrate; debate on TV; write articles in daily newspapers; and publish a variety of journals, books, etc. The result was the 2001 and 2004 amendments of the Civil and Criminal Codes, respectively, changing both the language and philosophy of the codes to reflect a feminist perspective.

Amendments of the 1926 Civil and Criminal Codes

The new Civil Code of 2001 simplified the old code's complicated legal language so as to make it accessible to all women. The terms "husband" and "wife" were replaced by the term "spouse." The husband was no longer considered the "head of the family," and

spouses were given equal decision-making powers over family affairs. Spouses now had equal rights in deciding where they would live. The old code had given this decision to the husband with the result, for example, that a professional or a working woman who refused to follow her husband to a different city or country would be considered the guilty partner if he filed for divorce.

A married woman could now keep her surname, although it was affixed to her husband's, and she no longer needed her husband's permission to travel. It should be noted here that the old code's requirement of the husband's permission to work and to travel had not been enforced unless the husband made an issue of it. Nevertheless, it is important that both these articles were deleted from the new code even if they only had symbolic significance.

The new code also provided for a joint property regime, i.e., equal rights over property acquired during marriage, unless couples agreed on a separate property regime before marriage. In a country with a low percentage of working women with independent financial means, the provision of the old code, which recognized separate property, meant that in the case of a divorce the wife would get no share except alimony since most husbands registered family property in their own names.

The new code also gave women who were forced into marriage the right to file an annulment petition, even if they had agreed to the marriage during a civil ceremony in the presence of witnesses. The minimum age for marriage would henceforth be 18 for both sexes, whereas it was 17 for men and 15 for women under the old code.[2] It became a criminal offense for an imam to conduct a religious marriage

without first requiring documentary proof of a civil marriage. Although the 1926 code had recognized only civil marriage, it did not require proof that the couple had previously registered the marriage with civil authorities. This meant that large numbers of women, especially in rural areas, were married only by imams with the consequence that they could be divorced at will without court proceedings. The children born into such marriages were deemed illegitimate, leaving the woman and children without recourse to financial support if the man deserted them.

The concept of "illegitimate children" was also abolished, and the code provided for the mother's custody of children born outside of marriage. The provision in the old code that gave decisions about children to the father in case of disagreement between spouses was removed,[3] and in case of divorce the noncustodial spouse now had to share the financial costs of the children. The new code also gave women the right to apply for a legal separation of up to three years, which later could become the grounds for a divorce suit.

Finally, the new code made adultery grounds for divorce. The 1926 code had made adultery punishable by imprisonment, although this provision had been annulled in the 1990s. In 2005, the AKP (the ruling Justice and Development Party) government wanted to reintroduce prison sentences but gave up the idea after protests by women's NGOs, as well as by European Union authorities at a time when the EU was about to start accession negotiations for Turkey's entry.

The Penal Code of 2004 was enacted while the AKP controlled the government. Considering that the leadership of the party has roots in the Islamist movement and that its members of parliament, as well as its voters, are socially conservative, that is a groundbreaking

achievement for women's NGOs. The code's provisions concerning women are extraordinarily liberal, especially for a Muslim-majority country. As feminist organizations put it, it "legally acknowledges women's ownership of their bodies and sexuality."[4]

As with the Civil Code, the language of the new Penal Code became feminist-friendly, eliminating patriarchal concepts such as "chastity," "honor," "public morality," "public customs," "shame," and "decency." At the same time, the language of classification for sexual offenses changed radically. The old code, for example, placed sexual offenses under the section entitled "Crimes against Society." Such offenses were now labeled "Crimes against Individuals." While the sub-clause for such offenses had read "Crimes against Public Morality and Family," it was now entitled "Crimes against Inviolability of Sexual Integrity." The code also limited "indecent behavior" to intercourse in public and exhibitionism.

The new code expanded the definition of rape to include oral or anal penetration, as well as insertion of an object or an organ into the body. It criminalized psychological coercion and sexual harassment in the workplace. It listed instances when sexual assaults would be considered "aggravated offenses" punishable by higher prison sentences: if the assault was committed when the victim was under custody, or by security forces, public officials, employers, relatives, and in-laws. It also declared marital rape to be a crime.

The old criminal code allowed differential sentencing in rape and abduction cases, depending on the status of the woman. The worst offense was rape or abduction of a virgin. The next most serious involved a married woman since such an offense was considered to have damaged the honor of the husband as well. Offenders who raped or abducted non-virgins or

unmarried women were given lighter sentences. The new code annulled these distinctions and removed the differentiation between "girls" and "women," referring now to both as "women." The provision in the old code that the rapist would get no prison sentence if he married the victim was also annulled.

The old criminal code had allowed honor killings to be considered under extenuating circumstances, thus reducing punishments. The new code allows no reductions in sentence and treats honor killings as "aggravated homicide" with heavy sentences. In recent years, the courts have been giving prison sentences to family members and relatives who make the decision to carry out an honor killing and force the young men in the family to commit the crime. The sexual abuse of children is heavily punished under the new code whereas the old code had held such abuse excusable if it had the child's "consent." It also makes people

such as parents, relatives, guardians, teachers, and healthcare providers liable for "aggravated offense" sentences in cases of sexual abuse of children. Finally, the new code annulled the provision that had permitted a reduction in sentence for the killing of a newborn out of wedlock to save "family honor."

Taken together, the two codes represent revolutionary changes. Although legislation alone obviously cannot solve problems, liberal law is an important step forward in making a real difference in the lives of many women. Discrimination against women and social conservatism are difficult to eliminate and take time. Unlike the earlier women's organizations that were content with the reforms of gender equality brought about by the Republic, feminist organizations today are well aware that much remains to be done to put these legal changes into effect so that not just some women, but all women, benefit from the legislation.[5]

Endnotes

[1]Ali Çarkoğlu and Binnaz Toprak, *Türkiye'de Din, Toplum ve Siyaset* (Religion, Society and Politics in Turkey), TESEV Yayınları, Istanbul, 2000.

[2]The ruling AKP (Justice and Development Party) government later changed the age for women to 17 and apparently wants to lower it to 15 again.

[3]This did not mean, however, that on the basis of the old code the father would have automatic custody in case of divorce. It was up to the judge to decide, and judges generally gave the custody of small children to the mother and, in the case of older children, the girls to the mother and the boys to the father, on the grounds that they needed role models. The provision in the old code primarily affected decisions over children within the marriage, not in divorce cases.
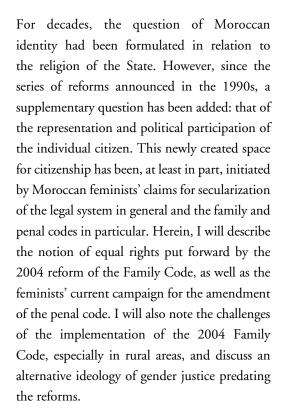
[4]Quoted from the website of Women for Women's Human Rights- New Ways (WWHR).

[5]This paper is based on the reports published by Women for Women's Human Rights- New Ways (WWHR) as 'Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of Two Nation-wide Campaigns' and 'Women's Human Rights in Turkey.' For the complete reports, see the WWHR website. Also see Yeşim Arat, 'Women's Rights and Islam in Turkish Politics: The Civil Code Amendment,' *Middle East Journal*, Vol. 64, No.2, Spring 2010, 235-251, and 'Contestation and Collaboration: Women's Struggles for Empowerment in Turkey,' in Reşat Kasaba, ed., *The Cambridge History of Turkey: Turkey in the Modern World*, Vol. 4, Cambridge University Press, 2008, 388- 418.

Women and the Politics of Reform in Morocco

Souad Eddouada
Assistant Professor, Department of English, Ibn Tofail University, Kenitra, Morocco

For decades, the question of Moroccan identity had been formulated in relation to the religion of the State. However, since the series of reforms announced in the 1990s, a supplementary question has been added: that of the representation and political participation of the individual citizen. This newly created space for citizenship has been, at least in part, initiated by Moroccan feminists' claims for secularization of the legal system in general and the family and penal codes in particular. Herein, I will describe the notion of equal rights put forward by the 2004 reform of the Family Code, as well as the feminists' current campaign for the amendment of the penal code. I will also note the challenges of the implementation of the 2004 Family Code, especially in rural areas, and discuss an alternative ideology of gender justice predating the reforms.

The Moroccan Family Code, now the only *shar'iah*-based legal text in the country, can be identified as the foremost site in which a "Moroccan Muslim identity" is articulated. As a legal text in which gender policy is founded on "religious evidence" and labeled in terms of the "Muslim identity" of the State, the Moroccan Family Code inextricably links the legal status of women and men to the religious foundations of political power. This interdependence of the political and the religious, together with the socially mobilizing, religiously conservative discourses, has made it difficult for Moroccan liberal feminists to ground their claims on local cultural and social footholds of gender equality. Relying exclusively on universal values of gender

equality to claim rights for women has, however, proved limiting since such reliance does not address the specific religious and political terms in which women's status is defined.

In announcing the amendment of the Family Code text at the opening of parliament in fall 2003, King Mohammed VI stated, "It is necessary to be mindful of the tolerant aim of Islam which advocates human dignity, equality and harmonious relations, and also to rely on the cohesiveness of the Malikite rite and on *ijtihad*."[1] Based on the egalitarian spirit of the Qur'an and *Sunna*, the king used his royal prerogative to break with some of the male's legal privileges such as male guardianship over women (*wilaya*), repudiation, and the male's unilateral right for divorce, laying the ground for a shift in the state's definition of the family. While the 1957 Family Code text defined the family as a union for procreation under the leadership of the husband—with gender roles defined in terms of the authoritative purveyor-husband and the obedient domestic worker–wife—the amended text defines the family in term of a partnership between two equal, modern Muslim citizens.

This reform would have probably never taken place without the liberal feminists' enduring and effective activism for legal gender equality. Moroccan feminists' advocacy for women's rights, including the current feminist campaign for the amendment of the penal code, is premised on universal human rights as the exclusive referential framework within which "women's issues" need to be addressed. The feminists'

advocacy of the secularization of the penal code and the codification of women's individual freedom, including the legalization of abortion, is challenged by the Islamists' *fatwas* calling for boycotting male gynecologists because, according to them, it is more appropriate for Muslim women to see a female than a male gynecologist. Feminist advocacy for the removal of "women's issues" from the realm of the religious to that of the temporal is countered by Islamist resistance for the preservation of the last bastions of Moroccan Muslim identity, which are women and the family. The radicalization of the Islamist-feminist dichotomy is evident in efforts to determine what should constitute the framework for legislation and policymaking – universal human rights or Islamic ideals. In this debate's shift from a direct confrontation to an indirect discussion, the consequences remain to be seen.

This dichotomous debate in Morocco mirrors French debates on issues such as the veil, secularism and Islam, and female emancipation versus oppression and has constructed gender equality as a synonym for abandoning local Muslim cultures and espousing an inherently egalitarian Western culture. The promotion of a universal, singular/secular model for gender equality by feminist groups, as well as their rejection of any serious engagement with *shar'iah*, has furthered the alienation of feminist values and contributed to the rise of assumptions that feminism and Islam are mutually exclusive.

In a 2005 Sisters in Islam publication, Amina Lamrini, one of the founding members of a leading feminist organization, Democratic Association of Moroccan Women, identified "the official, conservative, and political Islam" as the main antagonist of any feminist project in the country. This assessment does not, however, lead her to rethink her position. Instead she keeps on upholding "universal values" and

what she calls the sociological perspective over the religious one: "the *collectif* succeeded in transferring the debate in the public arena from the religious point of view to a social one, insisting particularly on the daily problems that women face, such as divorce, polygamy and violence" (Lamrini 157).[2]

While Lamrini rightly points out the feminists' success in integrating the sociological perspective into the legal construction of gender, the exclusion of religion from the debate on gender issues is not tenable. In his 2003 announcement of the Family Code amendment, King Mohammed VI stated that *shar'iah* and human rights are the framework within which the amendments of the Family Code are to be placed. The official discourse's attempt to reconcile Islam with feminism is, in fact, countered by the intensified polarity between Islamists and feminists. While the Islamists are stage-managing controversy on gender in order to fulfill particular political ambitions, the feminists' essentialist and rigidly secular meaning of the rights of Moroccan women is, in fact, freezing the debate on gender equality in secular/religious polarities. In this sense and in the name of gender equality, feminists are endorsing the same homogenizing thesis that originated in the 1957 Family Code text, which suppressed existing local meanings of equity such as *kad wa siaya*, referring to the practice of equitable reward for hard labor regardless of gender. This was a *shar'iah*-based notion of gender justice developed by Moroccan *fiqh*, or jurisprudence, in the southern region especially.

The post-independent nationalization policy and the advent of the first 1957 Family Code led to the abolishment of *kad wa siaya* as a local *shar'iah*-based right for women, which valued women's labor in the field and at home and granted to housewives and rural women working in agriculture the right to half of the

property accumulated during a marriage. This is, in fact, a right denied to women by article 49 of the 2004 amended Family Code largely based on the assumption of a woman as a modern contract, making her an autonomous citizen with a salary in a formal economy. This understanding of a single meaning of equality is premised on nonexistent conditions such as individualism, autonomy, access to education, state institutions, and the formal economy reduces the importance of the egalitarian intention of the 2004 Family Code.

A recent ethnographic study in the Gharb region, one of the major rural areas in the country, showed that women filing cases of divorce or alimony rarely see a lawyer either because they do not see the point of doing so or because it is too expensive and not worth the small alimony payment that does not exceed 30 dollars per month for every child. Article 49 allows an option for the man and the woman to agree on a prenuptial contract regarding property in a separate document from the marriage contract, subject to civil law. This is, however, not possible for most couples since the majority of rural marriages are arranged by

the couple's families. So, out of 400 concluded marriages in the same region, none of them used the contract in question. Furthermore, the same research shows that women working for the informal economy have no way to take part in this contract because of lack of legal evidence in the form of paperwork. The other significant piece of information provided by this research is that none of the interviewed women knew about the new family code.

Without dismissing the importance of either the achievement of feminist activism or the positive symbolic and substantial change of the reform for middle class, urban-educated women, the limitations of the reforms for rural women as noted above raise some important questions: how can we best create effective interventions on behalf of women's rights? And how can the debate on women's rights be more respectful of alternative notions and practices of gender justice embraced by different segments of the population, rather than simply reflecting identity blocs such as Maliki Islam or secular universal feminism on which the rules of legislation or policymaking are currently based?

Endnotes

[1]The text of the King's speech can be retrieved from: www.map.ma

[2]Lamrini. Amina. "The Women's Movement in Morocco and the Project of Reforming the Code for Personal Status Law (Moudawana-Islamic Law)." in Muslim Women and the Challenge of Islamic Extremism. Norani Othman (ed). Kuala Lumpur, 2005. 157-178.

Beyond Islamic Feminism: Women and Representation in Iran's Democracy Movement

Nayereh Tohidi,
Professor, Gender and Women's Studies, California State University, Northridge and Research Associate, Center for Near Eastern Studies, UCLA

In my presentation, I will focus on only one main issue concerning women's citizenship and representation in the case of Iran: women's right to vote. I argue that the line of demarcation for a feminist agenda—of which the right to vote is a vital part—is not drawn on a simplistic binary between secular versus religious space. Events during the twentieth century history of Iran's suffrage movement provide evidence for my claim. Before I address the evidence, however, I will provide a general framework for my argument using a few theoretical suppositions that I have reached through my scholarship and activism.

In modern Iran, as in many other countries, the trajectory of gender politics and the quest for women's rights has been negotiated within a complex patriarchal power game mediated by the Islamic tradition and other structural socioeconomic factors. Any organized religion, including Islam, is as much about politics and power as it is about faith. Islam, like other world religions, has been used as much, if not more, for the purposes of community-building, identity politics, and control over individuals and regulation of society as for the sake of spirituality and the quest for meaning. Sexuality, including the male-female relationship, has been among the domains most intimately regulated and monitored by organized religions in almost all traditional societies.

Women's quest for suffrage and equal rights has been among the byproducts of modernity and democracy. Thanks to the emergence of feminist discourse and the women's movements, the initially male-centered conceptions of modernity, democracy, and citizenship gradually gained a more egalitarian orientation encompassing also the female half and other social groups considered minorities. This process has followed a rather similar trajectory in all societies influenced by Semitic religions, that is, Judaism, Christianity, and Islam.

The present deficit in many Muslim-majority countries regarding human rights in general and women's rights in particular, is, therefore, connected to the democracy deficit, that is, the lag in political, socioeconomic, and cultural development, including the lag in religious reformation. Women's rights advocates cannot reduce the barriers against women's rights to cultural factors, nor can they explain away the problem by notions such as "Islamic exceptionalism" or "Islamic determinism." Nevertheless, on a daily basis, they are confronted with persistent patrimonial and patriarchal gender relations, male-biased sexual mores and attitudes, and old laws that are sanctioned or sanctified by the conservative religious authorities. This has become exacerbated in more recent years by increasingly violent Islamic fundamentalism (Islamism).

Women's rights advocates, therefore, are compelled to address the patriarchal barriers they face in the name and cover of Islam. To strategize their fight for full citizenship, democracy, and equal rights, they need to find effective tactics and workable methods in dealing with religion. Religion is too influential and powerful to dismiss. Thus, many women's rights advocates have felt compelled to engage with religious discourses and challenge the religious authorities and *shar'iah* law by reinterpreting and reconstructing Islamic texts and rituals from a woman-friendly and egalitarian perspective, hence "Islamic feminism." Somewhat similar to Christian and Jewish feminisms, Islamic feminism has emerged as a strategy used by some women's rights advocates to negotiate modernity and secularity at this time and in this context. Many Muslim feminists see a progressive Islamic reformation as requisite for the process of modernity, secularization, and democratization in the context of their transitional societies.

Beyond Islamic Feminism

Women's agency and activism toward equal rights have not been limited to Islamic feminism, nor can Islamic feminism work in isolation from other strategies and broader changes in the larger society. As the title of today's (June 15) conference suggests, we are to move beyond (and not away from) Islamic feminism for the following reasons. Historical and sociological studies on women's rights show that feminist theology or feminist exegesis attempting to improve women's rights through reforming religion and religious institutions can become effective only when they take place along with or in addition to broader societal changes outside of the religious framework. One such necessary vehicle for bringing about equal rights is civil rights movements, especially grassroots women's movements that push for democracy and elimination of gender-based discrimination.

Though important, Islamic feminism can work only as a component of a larger social movement for equality. As the current struggles of women in the context of the Green Movement in Iran indicate, coordination between various forms of feminist interventions (secular as well as religious) and coalition-building among different women's groups is necessary for success in a diverse society such as Iran. Furthermore, forging associative links between the women's movement and other civil rights movements (labor, teachers, students, environmentalists, ethnic and religious minorities, and the like) is crucial for an effective strategy. Moreover, using secular or religious frameworks, the women's rights advocates also need to forge an alliance with the reform-oriented and supportive members of the elites within the ruling circles and religious authorities, as well as within the opposition groups that seek democracy.

Now, to illustrate such theoretical suppositions, let me briefly review how women in the case of Iran have fought for the right to vote in terms of basic civil rights. Iranian people's collective quest for democracy has a history of over one hundred years going back to the Constitutional Revolution of 1905-1911 that aimed to end despotism and colonial interventions by establishing the rule of law, parliamentary elections, modern political culture, and secular public education. The seeds for the women's movement were planted during those revolutionary years when small yet influential groups of Iranian women began to enter into politics and articulate gender-specific demands.

Despite their participation in that revolution, however, women were not granted any new rights in the years immediately following the Revolution. In 1906, for the first time, a group of women assembled in front of the first *Majles* (parliament) and demanded the Supplementary Fundamental Law that included women's suffrage. Another event sparked uproar when

a deputy inside the all male *Majles* raised the issue of suffrage for women and their right to form women's associations. Though fiercely led by conservative anti-constitutionalist clerics, the opposition to women's emancipation came from social conservatives on all sides—religious, secular, pro- and anti-constitution. Moderate clerics did not dismiss the concept of women's emancipation, but they only agreed with women's access to literacy programs and education, not the right to vote.

Realizing that they had a long way to go, women activists focused on a vigorous campaign for women's literacy and education. Once again, in 1911, women's enfranchisement became the subject of debate in the second *Majles* when a deputy tried to argue that "women, too, have souls and should be granted civil rights," while a clergy member made a passionate counterargument stating, "In our religion, Islam, they [women] are under supervision, and men are in charge of women…they will have absolutely no right to elect, others [men] should protect the rights of women."[1]

The era of new nation-state building under Reza Shah (1925-1941) also did not result in women's suffrage. In 1941, Reza Shah was forced to abdicate his throne in favor of his son, Mohamad Reza. This was followed by a 12-year period of parliamentary democracy in Iran during which political and party activism, including new independent women's organizations, flourished. Several women's groups emerged under the leadership of prominent women activists. In their magazine, for example, Women of Iran (*Zanan-e Iran*), the Women's Party (*Hezb-e Zanan*) emphasized the demand for women's suffrage, among other issues.

Prime Minister Ahmad Qavam (1946-1948) founded a moderate Democratic Party in 1943 that had included women's suffrage in its reform program, but his premiership was cut short because the clerics and the Shah opposed him due to his support for women's suffrage and his willingness to ally himself with the left.

Another attempt toward women's suffrage was led by the Tudeh Party (Communist Party) in 1944 when its faction in the *Majles* introduced a bill to extend the right to vote to women, but this bill was also rejected without having a chance for a full debate after being attacked by a deputy as "anti-Islam and anti-Qur'an."

Mohamad Mossadegh (1951-1953) established the National Front, a coalition consisting of a diverse spectrum of secular liberal, socialist, conservative secular, and religious nationalists to lead a movement toward electoral reform and nationalization of the oil industry in Iran in defiance of the Anglo-Iranian Oil Company (a part of today's British Petroleum). In 1949, he attempted to draft an electoral bill and proposed to include women's enfranchisement. Women's associations such as the Women's Party continued their push for suffrage and lobbied sympathetic deputies in the *Majles*. But the religious section of the National Front objected to the bill by claiming again that Islam did not allow women to vote. Several clerics wrote critical articles and organized demonstrations against the bill. In Qom, at least one person was killed and several injured when seminary students demonstrated against women's enfranchisement.

Opposition by the clergy was not the only culprit behind the failure of Mossadegh's attempt. Many secular nationalists also opposed women's suffrage on the grounds of biological and psychological inferiority of the female sex.

Despite his popularity and strong legitimacy as a reform leader, Mossadegh decided to sacrifice women's suffrage. Women could wait for their rights, he must have reasoned, as the priority for him was his nationalist agenda concerning "nationalization of oil" that required national unity behind him. As a political reality, women's disappointment was not a big political loss for Mossadegh since women in those days could not produce a strong constituency.

Ironically, it was finally under Mohamad Reza Shah that women were granted the right to vote in 1963. Granting the right to vote was mainly due to the persistence of women's groups who kept pushing for suffrage both during the years prior to the downfall of Mossadegh and after. In addition to international pressures on the Shah for reform, the increasing trend of urbanization and the formation of a growing educated and professional modern middle class, including women with their visible presence in the public arena, had provided the material ground for women's political constituency and, hence, a more influential push toward their enfranchisement.

During a relative political liberalization under the premiership of Ali Amini (1960-1963), a pro-American secular moderate, women's right to vote once again became a point of contention between the state and the opposition. Women's groups, such as the Federation of Iranian Women's Organizations (FOIWO), a coalition made of 14 women NGOs, were pushing forward the demands for women's rights, family law reform, and the right to vote, in particular. In 1961, the existing women's organizations were brought under the control of a single organization called The High Council of Women's Organizations of Iran under the presidency of the Shah's twin sister, Ashraf Pahlavi. In 1963, after the Shah removed Prime Minister Amini and also consolidated his control over the women's constituency, he decided to take up the leadership of the reform that seemed inevitable by then. Under the rubric of the White Revolution, the Shah launched a six-point program of reforms that included extension of the vote to women.

Once again, the clergy opposed granting the right to vote. Several clerics under the leadership of Ayatollah Khomeini opposed the Shah's reforms and called women's participation in elections and politics contrary to Islam. First in his private letters to the Shah and telegrams to the Prime Minister Asadollah Alam and later in March 1963 in a joint open statement issued with eight other prominent clerics, Khomeini declared, "granting women the right to intervene in elections or other rights…brings about nothing other than misery, corruption and prostitution."[2] During his Noruz (New Year) sermon of that year, he called for "national mourning" instead of celebration to show outrage against the state's "affront to the sacred Qur'an."

But when Ayatollah Khomeini took power and established an Islamic state in 1979, he not only did not abrogate women's right to vote but encouraged women to be actively involved in politics and social affairs of the country. However, Khomeini's change in policy toward women did not reflect a change in heart or understanding of Islam. The change came as the reality of a strong female constituency manifested itself in the number and the strength of women's presence in the 1978-79 Revolution, compelling Khomeini to shift his political approach and submit to at least part of the already accomplished emancipation of women.

The irony was that Khomeini submitted to at least part of the very rights that women had gained under the Pahlavi era's process of development and modernization. This did not prevent him from calling for a suspension of the progressive Family Protection Law of 1967/75. However, his government found it almost inevitable to gradually go back and rely on that

same or similar family law in the absence of anything else acceptable to women.

These examples illustrate that "Islam" or "*shar'iah*" are far from being monolithic or static rules set in stone. They can be used and actually have been used instrumentally as tools for power games. At one point during his tenure (1979-1989), Khomeini even declared that all the Islamic injunctions (*ahkam*) can be temporarily revoked for the sake of the "system's expediency" in order to preserve the Islamic state.

The line of demarcation for a feminist agenda, therefore, is not drawn on a simplistic binary between secular versus religious. Feminists have a great stake in realizing what

kind of interventions and what factors can press the religious authorities to concede to women's demands for reform and equal rights. Feminist exegesis and Islamic feminism are only one component of the ingredients needed for an effective recipe for social change and equal rights in the Muslim-majority countries. Women's empowerment through education, employment, and reproductive health—in other words, a holistic, gender-sensitive strategy for socioeconomic development along with strong civil-society organizations, especially a grassroots women's movement—are crucial for democratization and secularization of the society in general and attainment of equal rights in particular.

Endnotes

[1]Paidar, Parvin. *Women and the Political Process in Twentieth-Century Iran*, Cambridge: Cambridge University Press, 1995, p 66.
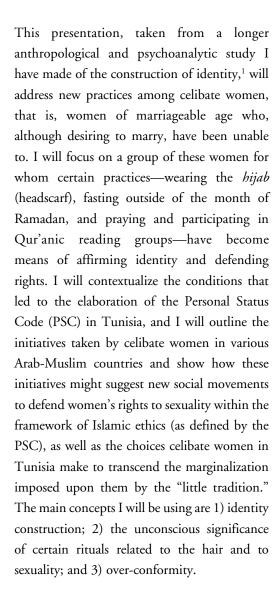
[2]Ganji, Akbar. "Halal kardan-e haramha va haram kardan-e halalha, 2" [Making the forbidden permissible and the

permissible forbidden, part 2] cited from the Sahifeh-ye Imam (Khomeini's Collection), Volume I, accessed in June 2010 at: http://www.mihan.net/news1/index.php?option=com_content&view=article&id=2861:2010-07-08-16-00-13&catid=8:announcementt:

The Personal Status Code and Women's Celibacy in Tunisia

Lilia Labidi
Professor, Anthropology and Psychology, University of Tunis

This presentation, taken from a longer anthropological and psychoanalytic study I have made of the construction of identity,[1] will address new practices among celibate women, that is, women of marriageable age who, although desiring to marry, have been unable to. I will focus on a group of these women for whom certain practices—wearing the *hijab* (headscarf), fasting outside of the month of Ramadan, and praying and participating in Qur'anic reading groups—have become means of affirming identity and defending rights. I will contextualize the conditions that led to the elaboration of the Personal Status Code (PSC) in Tunisia, and I will outline the initiatives taken by celibate women in various Arab-Muslim countries and show how these initiatives might suggest new social movements to defend women's rights to sexuality within the framework of Islamic ethics (as defined by the PSC), as well as the choices celibate women in Tunisia make to transcend the marginalization imposed upon them by the "little tradition." The main concepts I will be using are 1) identity construction; 2) the unconscious significance of certain rituals related to the hair and to sexuality; and 3) over-conformity.

The Personal Status Code, a product of social struggles

Do celibate women carrying out these new religious practices wish to return to the condition of women before the PSC? Are they opposed to the rights affirmed in the PSC? The PSC was elaborated in the context of a series of social,

political, and cultural struggles. The situation of women and their rights was at the center of reformist thinking in Tunisia starting in 1876 when the official government publication provided news on feminism in England and on the women's movement. Manoubia Ouertani and Habiba Menchari, who in 1924 and 1929, respectively, took off their veils (called the *safsari* in Tunisia, *niqab* elsewhere in the Arab world) in public in meetings organized by French socialists (Tunisia was a French Protectorate starting in 1881), became targets of sharp polemics in the local press, evidence that the way in which colonial power was exercised complicated the debate over women's condition. Among the intellectuals who participated in this discussion, Hédi Labidi, in articles appearing in 1928 in several Tunisian newspapers, was the first to call upon women to organize themselves in associations to promote their own needs. Habib Bourguiba, journalist, lawyer and militant activist for independence, took a public position on this in 1929 by publishing an article in which he opposed taking off the veil since he considered it an integral part of Arab-Muslim identity.[2] As a political figure, was he aware of the treatment of women in some other Islamic countries like Azerbaijan where, in response to the unveiling campaign by the Communist Party, women who took off the veil were punished, harassed, and, in certain cases, murdered by their families?

Starting in the 1930s, some women, echoing the concerns voiced in a book by Tahar Haddad devoted to the situation of women,[3] organized

meetings on the occasion of religious holidays to discuss the role of women in society; others, mainly from the bourgeoisie, initiated actions to express solidarity with disfavored sections of the population. The 1940s witnessed the formation of three other organizations tied to the Islamic, Communist, and Nationalist movements. The movement spread across cities and then into the countryside and built schools, organized demonstrations, aided militants, etc.[4] The movement expanded with independence and the promulgation of a new Personal Status Code in 1956, which gave women many basic rights such as the abolition of polygyny,[5] divorce allowed only through judicial procedures and not through repudiation, equal pay for equal work and the rights to vote, to be elected to public office, and to attend co-educational schools. Also, the age at which girls could marry was raised, and punishments were instituted for adulterous men as well as for adulterous women. Habib Bourguiba, who had in 1929 argued against taking off the *safsari*, changed his position in the 1950s, calling upon women to take the *safsari* off.

Among the later reforms introduced by the second Tunisian Republic in the 1990s were awarding Tunisian nationality to children of a Tunisian mother and a foreign father, outlawing the *ijbar* (practice of forced marriages), and criminalizing honor crimes in the same way as any other form of murder. Other laws were adopted in response to pressure from men, such as those obliging women with the economic means to do so to share in financial support of the family, even while unequal inheritance rights were maintained. Feminists increasingly called for suspending this inheritance practice in the present context where such practices had become discriminatory. At the same time, a portion of today's intelligentsia and secular feminists, both in the Maghreb and in Europe,

tie the *hijab* to women's submission and see women who wear it as "fronts" for the men who oppress them. The origins of such perceptions go back to the beginning of the 20th century when, in colonial discourse, the veil was related to sequestration of women in the home, and when, among reformists, women were seen as having the status of minors. Today the *hijab* (as yesterday the *niqab*), is subject to the play of these forces, making it difficult to argue that the "new women mystics" may claim to be the legitimate descendents of the women militants of the 1930s.

Celibacy: a new kind of social movement

Research studies over recent years have emphasized the obstacles to marriage, among them, the cost of the wedding, unemployment, and the price of housing. Macro-economically, we see that whereas in Morocco in 1995, credits for consumer goods were 4.81 billion dirhams, this amount increased to 37.52 billion for the first six months of 2009.[6] In Tunisia, whereas some 50,000 households were living on credit in 2003, this figure rose to 800,000 in 2008. Total household debt in Tunisia in 2008 reached 8.2 billion dinars (approximately $6.3 billion), from 5.9 billion dinars in 2007, an increase of almost 40 percent in one year.[7] Experts looking at these figures show alarm – some see household indebtedness as surpassing Western norms; for others it has reached a crisis level. The salaries of heads of private companies in 2010 rose to more than 100,000 dinars per year whereas local employees in delocalized firms reached only approximately 3,000 dinars per year, a disparity aided by the rising unemployment rates that reached 30 percent among university graduates. Other striking phenomena include the feminization of agriculture in regions experiencing high

male emigration; the movement of young rural women to factory work on the coasts; and immigration, both clandestine[8] and legal, into Europe (more than one million Tunisians live abroad, with more than one-tenth of Tunisian women abroad in professional capacities such as researchers, architects, and doctors) – all of these seriously affecting the family, which has become a site of crisis, with significant increases in the number of divorces, single-parent families, and in celibacy.

Since the 1990s, we are witnessing changes in the structure of the region's population. In 2005, 32 percent of the entire population in the Arab world was between the ages of 15 and 29, representing over 100 million people, the highest ratio of youth to adults in the region's history. Also, the region confronts an increase in youth celibacy in a context where an Islamic ethics of sexuality remains in force at the level of the social imagination. M. Baraket[9] and C. Tarifa,[10] among other demographers, attributed two-thirds of the reduced number of births in Tunisia to imbalances in marriage patterns that work to the detriment of women. R. Beaujot explains that in 1980, half of divorced men remarried whereas this was true for only one of six women. Additionally, many Tunisian men working abroad chose their Tunisian brides among much younger women or married a non-Muslim abroad, whereas women were unable to choose a spouse from outside their cultural community.[11] P. Fargues points to a similar phenomenon in Egypt where in the 1990s, 21.3 percent of women born in 1970 would never marry.[12]

In these circumstances, certain Arab states have chosen to set up funds to support and celebrate collective marriage. Iran raised the issue of temporary marriage as a solution to the psychological problems of youth and as a solution for poor people. The Tunisian

Ministry for Women, the Family, Childhood, and the Aged, has been distributing brochures encouraging marriage for the past few years. This has taken place in a context where the percentage of unmarried individuals has been rising: from 2001 to 2006, the proportion of celibacy among Tunisian women between the ages of 30 and 34 rose from 17.7 percent to 37.5 percent; for men, 50 percent between the ages of 30 and 34 are unmarried. We also see a marked increase in age at first marriage, with men's average age rising from 29.15 to 32 and women's from 23.96 to 27.10 over the period from 1991 to 2007. In 2009, the Tunisian press echoed the social malaise related to these phenomena,[13] sometimes calling for *orfi* marriage as a way to protect the family—surprising in a country where the state is known for having championed women's rights in the Personal Status Code.

What initiatives are the region's youth taking in order to deal with these phenomena? In Morocco, the Internet facilitated marriages between Moroccan women and men from close to 20 countries, and such marriages rose from about 1,000 in 1997 to about 6,000 in 2007. In Egypt, a number of unmarried women writing blogs experienced such success among web-users that publishers have proposed publishing these blogs. In 2008, Al-Chourouq published the chronicle, *Ayza atgawes (I want to get married)* from a blog written by Ghada Abdel-Al (turned into a television serial that appeared during Ramadan 2010), and *Orz bi-laban li chakhsein (Rice with milk for two)* by Rehab Bassam among others, both of whom had been writing their blogs since 2004. Finally, the announcement of Egyptian Prime Minister Ahmed Nazif's second marriage in January 2010, at the age of 57, led to much public criticism, with unmarried adults denouncing the disparity in the social system and creating a Facebook page entitled, "Why

Nazif gets married while we can't." This protest movement quickly gained 4,000 participants for a strike that took place in March 2010, having as its aim to push families to reduce the cost of marriage for young people.

"New women mystics" in Tunisia

Confronting a growing number of marriages between Tunisian women and foreign men – 3,445 conversions took place between 2000 and 2008 – the law was changed to adapt to this new societal trend. Ministerial decrees in 1993 and in 2001 no longer required that conversion to Islam take place before the Mufti of the Republic, as had been the case with decrees in 1973. Other women, usually well-educated, instituted practices that recalled the ascetic life-style and certain practices of women mystics in the early period of Islam (*zuhd*), with women celibates wearing the *hijab* and engaging in fasting and prayers. But whereas we might call these women "new mystics," they are also different from the earlier mystics: they are not reclusive, and their celibacy is not a result of their deliberate choice.

In addition, we see that some of their practices are related to private rituals, such as *al-Oqssa* (covering the hair with a ribbon, to repress the instincts) and *al-Tasfih* (a ritual in two stages with the first involving sacrifice, where the young girl is taught, according to the "little tradition," to be modest and abstain from sexual relations before marriage, and the second stage reversing the first and preparing the girl for marriage). Women cover their hair in many different societies and, in an Islamic context, they wear the *hijab* as a sign of proper modesty, something that an anthropological and psychoanalytic approach may help us to understand.[14] E. Leach sees a relation between public expression and private motivation in

the phallic character of hair.[15] For C. Berg, the practices relating to hair represent an intrapsychic struggle between instinct drives (genital and pre-genital) and the efforts of the repressive forces, and that the whole conflict is displaced upwards to the socially visible hair of the head and face.[16]

The concept of "over-conformity" as it relates to this group of women who remain in an unmarried state, draws from traditions, the great and the little, a new meaning. Interviews I have carried out, between 2008 and 2010, with educated women of different social milieu aged between 26 and 34, show us that the new religious practices of celibate women differ in content from those of women in the 1970s and reflect, in a context where religious discourse is controlled, a privatized Islam. Their over-conformity indicates, as Krips has argued with regard to the veil[17] and in referring to a study by L. Hessini that shows, for Moroccan women, that the veil is a protection against nakedness, impurity, and isolation, and asserts the sexual ethics required of their gender in the Muslim order. Also, the *hijab* increases a woman's mobility, provides physical and emotional security, and serves a paradoxical purpose: it simultaneously challenges and underscores the notion of the unchanging, eternal female and her associated traditional roles, serving to subvert these conventions.[18] M. Nasser suggests, in addition, that women wear the *hijab* because they need to find solutions to new pressures placed upon them globally, including conflicting cultural messages and contradictory cultural expectations. It also provides signs of women's pursuit of self-definition, development and power negotiations, within the progressive differentiation of society undergoing change.[19]

The "new women mystics" say that these new practices give them self-control and allow them both to avoid isolation and to take part in the life of their community. As Saba

Mahmood has shown,[20] these new practices give women a new autonomy in a situation where, traditionally, women had no social status without passing through marriage, childbirth, the birth of a boy, and his circumcision.[21] With this group of "new women mystics," we are in the presence of, in Foucauldian terms, women who make their bodies a vehicle of power and a means of dissent. And, against all expectations,

these women present themselves as defenders of the modernity contained in the Personal Status Code and, as a corollary, in their revolt against corruption, domination, and the importance awarded to material life over spiritual life, they invent a new emancipatory gender which rejoins the feminist principle that the personal is both private and political.

Endnotes

[1]"The Construction of Identity and the Reformulation of *Hudud.*" Prepared for the Center for Middle East Studies, MacMillan Center, Yale University, and presented at its Middle East Studies Seminar, directed by Prof. Ellen Lust, March 2010, and at the conference on "Decolonization, Modernization and Development in the Middle East and North Africa and Beyond: New Studies in the Household and the Market," organized in April 2010 by Chantal Thomas and Janet Halley at Cornell University.

[2]Bourguiba, Habib. "Le voile." in *Articles de presse, 1929-1934.* Tunis, CDN, 1974 (2nd edition): 1-6.

[3]Haddad, Tahar. *Notre femme, la législation islamique et la société* (Our Woman, Islamic Legislation, and Society (1930). Tunis: MTE, 1978.

[4]Labidi. Lilia. *Joudhour al-harakat al-nisa'iyya: riwayaat li-shakhsiyyaat tarikhiyyaat* (Origins of feminist movements in Tunisia: personal history narratives). Tunis: Imprimerie Tunis Carthage, 2009. (3rd edition). Labidi, Lilia. *Qamus as-siyar li-lmunadhilaat at-tunisiyaat, 1881-1956* (Biographical Dictionary of Tunisian Women Militants). Tunis: Imprimerie Tunis Carthage, 2009.

[5]Blili, Leila. *Histoire de familles. Mariages, repudiations et vie quotidienne à Tunis, 1875 – 1930.* Tunis: Script, 1999. At the end of the 19th century, only 12 families of 135 studied were in such a status, and only four of these involved "unjustified" polygamy.

[6]More than three of four Moroccans have one or two debts to lending institutions, one of five has more than two, and one of three, after paying his/her debts, has only 30% of salary remaining. (www.Le Matin.ma. "Surendettement des ménages. Sommes-nous épargnés?", 9 May 2010).

[7]A study carried out in May 2009 by the Organisation de Défense du Consommateur among 700 Tunisians throughout the country, shows that a majority of families devotes a major portion of their budgets to the payment of debts. More than 85% have been indebted at least once in their lives, 40 % have had recourse to borrowing more than three times, 45 % have debts with more than two lending institutions, and 55 % have experienced problems in settling their debts. (Ben Henda, Badreddine. "Pour vivre heureux, vivons endettés." Le Temps, 13 May 2010.)

[8]Pandolfo, Stefania. ""The Burning": Finitude and the politico-theological imagination of illegal migration." Anthropology Theory. Sept. 2007. Vol. 7. Issue 3 : 329-363

[9]Baraket, Mohamad. "L'évolution récente de la nuptialité et de la fécondité en Tunisie, 1966-1975." Actes du Colloque de Démographie d'Abidjan, January 1979.

[10]Tarifa, Chedli. "Quelques aspects sur la situation démographique de la Tunisie et de son évolution au cours des dernières années." Document présenté lors de la Conférence sur la fécondité et le développement économique. Tunis, November 1982.

[11]Beaujot, Roderic. "Libération de la femme et marché matrimonial en Tunisie." Population, N 4-5, 1986 : 853-859.

[12]Fargues, Philippe. *Génération Arabes. L'alchimie du nombre.* Paris: Fayard, 2000.

[13]Debat dans les journaux tunisiens (Le Temps, décembre 2009; La Presse, January 2010).

[14]Delaney, Carol "Untangling the Meaning of Hair in Turkish Society", Anthropological. Quarterly, 1994, vol. 67, no. 4: 159–173.

[15]Leach, Edmund. "Magical Hair." Journal of the Royal Anthropological Society, 1958, 88: 147-164.

[16]Berg, Charles. *The Unconscious Significance of Hair.* London: George Allen & Unwin, 1951.

[17]Krips, Henry. "The Hijab, the Veil, and Sexuation." *Psychoanalysis, Culture & Society,* 2008, 13: 35–47.

[18]Hessini, L. "Wearing the Hijab in Contemporary Morocco: Choice and Identity" in Göçek, F. M. & Balaghi, S., *Reconstructing Gender in the Middle East: Tradition, Identity & Power,* New York, Columbia University Press, 1994.

[19]Nasser, Mervat. "The New Veiling Phenomenon - Is It an Anorexic Equivalent? A Polemic." Journal of Community and Applied Social Psychology. 1999(9): 407-412.

[20]Mahmood, Saba. *Politics of Piety: The Islamic Revival and the Feminist Subject.* Princeton: Princeton UP, 2005.

[21]Labidi, Lilia. *Çabra Hachma. Sexualité et Tradition.* Tunis : Dar Ennawras, 1989.

Analyzing Reform Successes and Failures: The Personal Status Regime in the Arab World

Amaney Jamal
Professor, Department of Politics, Princeton University

In this discussion of the personal status regime in the Arab world, I shall look at women's representation, reform, and possibilities of reform, in addition to analyzing the factors that may or continue to inhibit the advancement of women. To begin with, I will give a broad overview of the status of women in the Arab region. When we look at the status of women in the Arab world, there are serious problems and also some advancement. First I shall highlight the current problems in the region and then look at the advancements.

Women in the Arab world today enjoy the smallest share of parliamentary seats worldwide. They occupy only 9.5 percent of all parliamentary seats as compared to 18.8 percent in Sub-Saharan Africa and 18.5 percent in Asia. Women occupy four of 128 seats in Lebanon, seven of 110 seats of the lower house in Jordan, eight of 454 seats in the lower house in Egypt, and 30 of the 389 seats of the lower house in Algeria. In addition, women occupy 34 of the 325 seats in the Moroccan parliament and 31 of the 250 seats in the Syrian parliament. Although women are underrepresented in elected or appointed positions, their employment in key government offices is on the rise. Women, for instance, occupy prominent positions in the United Arab Emirates' Ministry of Education. The UAE Ministry of Planning reported in 2001 that female employees exceeded male employees in more than 25 federal institutions. In total, there were 16,223 workers who were women and only 9,518 employees who were men.

These advancements are noteworthy but noticeable deficiencies still loom large. The limited presence of women in parliament has raised concerns among observers and policymakers alike. Egypt's Amr Moussa, the Secretary-General of the Arab League, for example, has suggested that women's status in the Arab world will improve only when they hold prominent decision-making positions. In Morocco, women's parliamentary participation hastened the adoption of the Family Code of 2004, the *Mudawwana*. A recent examination of the last four Egyptian parliaments, in contrast, seems to imply that female presence has had no direct effect on the status of women or the advancement of women's rights in the region.

Throughout the region, Arab women active in political life are not content with the status quo. However, most women do not see the formal legislative process as a viable vehicle to improve their condition. Sixty-eight percent of women members of parliament are dissatisfied with the current level of women's political participation, and 80 percent of women active in public life claim that they could accomplish their goals without having to participate in the formal political process.

Several political, material, and cultural conditions continue to stifle women's rights in the region. For instance, political parties remain weak and ineffectual, thereby reducing their impact on policy. The rule of law, too, remains weak in the Arab world, and though some laws guaranteeing women's participation in the public sphere exist, they need to be enforced to be effective. The lack of legislation promoting women's presence in parliament also explains their continued marginalization.

Only one in every two women in the Arab world is literate. As a result, their overall political awareness is quite low. Moreover, reactionary forces seek to exclude women from the public and political spheres, and many current political regimes promote these conservative elements. Prior to unification, a large number of judges in South Yemen were women, but since the unification conservative forces, primarily from the North, have reappointed these women to clerical positions. The patriarchal political environment is not favorably inclined toward equal participation in the public sphere. This was demonstrated in Kuwait in 2006, where although women were able to vote for the first time in the elections, not a single woman won a parliamentary seat. In the more recent elections of 2009, however, four women advanced to the Kuwaiti parliament.

The dismal state of Arab economies also structures women's access to the public sphere. As standards of living continue to decline across the region and unemployment rates are on the rise, women are becoming unable to afford the education necessary to enhance their social and human capital. Since 2005, the U.S. State Department's Middle East Partnership Initiative (MEPI) has allocated several millions of dollars aimed at increasing awareness among women in the region, especially in countries like Morocco with a population that has close to 70 percent illiteracy rate. Raising awareness among Moroccan women was, and still remains, a considerable challenge. The impediments to meaningful gender representation are dislocated not only in the political realities of the region but also in the economic, cultural, and religious dogmas.

I would now like to review the successes as the region has also witnessed some significant gains. The reform of the *Mudawwana* in Morocco is one of the efforts we highlight and applaud as a considerable victory. What we can learn or take away from the Moroccan case is a better understanding of how those reforms were enacted. In this instance, one must look at the role of international pressure, a committed monarchy, the bringing on board of the religious establishment, and also active women's participation in advocating and promoting and demanding reforms in the *Mudawwana*. Before the passage of substantial reforms, women's access to public life was affected by the practice of guardianship. Women needed the approval of their male legal guardians before they could legally work, travel, or attend university. The *Mudawwana* laws also supported the institution of polygamy, and women had very few rights to initiate divorce. The oral divorce remained common and a major threat to women's advancement.

In 2003-2004, however, Moroccan women were granted one of the most generous reform packages in the Arab world. Wives' duty to obey their husbands was abolished, and both spouses were made responsible for their households and families. Second, women no longer required the permission of a male legal guardian to marry. The minimum marriage age was raised to 18, and polygamy was substantially restricted. And, third, divorce was made easier for women, while men could no longer divorce through the pronunciation of *talaq*, the Islamic term for divorce by repudiation, strictly a male prerogative. These gains for women have been extraordinarily valuable and are seen as some of the most liberal reforms for women in the region and as a model to emulate elsewhere.

However, Morocco also serves as a clear example of a country that lacks the necessary levels of democracy, rule of law, institutionalization, and human development to effectively implement these reforms. For

example, it is true that even with the new revision of the *Mudawwana*, women will have few legal channels to exercise their new rights since the rule of law in Morocco is weak and the legal system rather dysfunctional. With more than two-thirds of Morocco's women illiterate, knowledge of the *Mudawwana* changes is not widespread. The excruciating poverty of Moroccan men and women may well limit the benefit of this new law. The revised *Mudawwana* is the most progressive *fiqh*-backed family law in the region and indeed in the Muslim world.

The reforms to the *Mudawwana* were possible because of three interrelated factors: women's civil society activism, international influence, and the commitment of the monarchy to work with the religious establishment or at least coerce the religious establishment to adopt the reforms. Women's groups emerged in the 1970s and 1980s to demand their rights and call for reform of existing *Mudawwana* laws, which culminated in the 1990s million signatures campaign against the existing *Mudawwana*. Some advances were made under King Hassan II, who in 1992 signed an earlier version of the 2003 reforms that improved women's status but fell short of women's expectations. The push for reform continued, and in 1995 the King eliminated the requirement that women have their guardian's signature to obtain a passport. In 1999, women again mobilized to demand additional reforms. King Muhammad VI, who, in fact, supported the reforms, had to withdraw legal deliberation at the time due to popular opposition to Islamist movements. As political liberalization in the kingdom allowed for proponents of women's reform continued space to advance their agenda, so too, did it allow for increasing Islamic activism against the reforms.

The religious establishment, which had for the most part grown more active in political and social life during liberalization, openly campaigned against the proposed changes in the *Mudawwana*. The Moroccan League of Ulama, an official state body, declared that the plan would undermine Islamic jurisprudence, loosen morals in the kingdom, destroy the sanctity of marriage, and make it more difficult for men to marry, a position supported by the Ministry of Islamic Affairs. Both Islamist groups in Morocco, the Justice and Development Party (PJD) and the Justice and Charity Party, attacked the reform package as an American imperialist conspiracy designed to destroy Islamic culture.

Nevertheless, the King pressed the reforms. He had signaled his sympathy for improving women's position in 1999 in a speech when he asked, "How can we expect to achieve progress and prosperity when women, which constitute half of society, have their interests taken away when our rights with which our holy religion has endowed make them equal to men are being ignored?" On October 10, 2003, the King presented the Moroccan parliament with his plan to initiate the new Modern Family Law anchoring his rationale for the plan in Islam that advocated human dignity, equality, and harmonious relations as well as cohesiveness of the exercise of *ijtihad*. The King grounded his explanations in the teachings of Islam and interpretations of *fiqh*.

Further, the King wanted support from the leadership of such Islamic groups like the PJD and even the Justice and Charity Party, which was the more conservative movement who had rejected the reforms earlier. Eventually even Nadiya Yassine, daughter of Sheikh Yassine, the leader of the Justice and Charity Party, supported some of the initiatives of the reform package. She indicated her willingness to endorse the reforms, claiming that the old *Mudawwana* was not sacred text and advocated its replacement

with a more Islamically correct law. Thus, Morocco is an important case to analyze in terms of interpreting how democratic openings allowed for these societal deliberations and to understand how the religious establishment was "dragged on board" the reform project.

Personal status laws are by far the biggest challenge to women's advancement in the region. The problem is two-fold. On the one hand, the religiously-backed personal status codes or family law personal status system undercuts supplement secular laws that treat women as subjects of their male relatives. This promotes patriarchal structures that women have become reliant on and hence uphold the very institutions that continue to deny them equal footing. Some improvements, including those to the rule of law, good governance, and the expansion of democracy might lead to a better situation for women. Within the context of the Arab world, promoting good government, better rule of law, and better expansion of democracy might enable a better implementation of the existing the religiously-backed personal status regime, or what I call the "*shar'iah* regime."

The personal status laws themselves need to be reformulated in ways that allow for the compatibility of Islam with the principles of equality between men and women. The donor community in the West is at an overwhelming disadvantage in dealing with these matters. These issues are considered to be Islamic, domestic, indigenous, and therefore protected from foreign intervention. As such, personal status laws need to be dealt with on the level of the logic that drives their legitimacy within societies. Because existing conservative Islamic interpretations inspire the existing personal status laws, the basis of reformation should also be located in Islamic practice, jurisprudence, and rationale. The continued relegation of

Islamic interpretation to conservative sectors of Arab and Muslim societies has and continues to seriously disadvantage women.

Without a constructive and meaningful way to address the issue of Islam and jurisprudence, the status of Arab women will continue to lag behind the rights of women elsewhere in the world. The existing situation in Arab societies, in which Islamic jurisprudence reinforces the inferiority of women, is in direct opposition to the ethos of the Qur'an, which recognizes the equality of the genders in several verses. Interpretations that form the foundation of personal status laws continue to rely on the most conservative and disputed accounts of female treatment in the tradition of hadith, or the prophetic sayings. Moreover, Islamic jurists tend to gravitate towards the Islamically prized ethos of social cohesion and harmony and continue to reinforce the subjugation of women and reaffirm patriarchy as a means to maintaining harmony, however disadvantageous it might be to women.

Existing personal status laws claim to protect women, and although there are indeed many protections for women in the personal status laws, there also remain discriminatory policies that continue to deny women their basic human rights. These disempowering personal status formulations are specially located in laws that guide marriage, divorce, and child custody. It is important to note that the personal status laws are not monolithic across states because there is indeed variation across Muslim states and Arab states. In some countries, women have made significant advancements when they were able to convince those who held discriminatory personal status laws that the Islamic basis or rationale behind such legislation was faulty. Taking on the Islamic interpretations that form personal status laws has proven successful to women.

MIDDLE EAST PROGRAM **OCCASIONAL PAPER SERIES** FALL 2010

Middle East Program
Woodrow Wilson International Center for Scholars
One Woodrow Wilson Plaza
1300 Pennsylvania Avenue, NW
Washington, DC 20004-3027
(202) 691-4000
www.wilsoncenter.org/middleeast