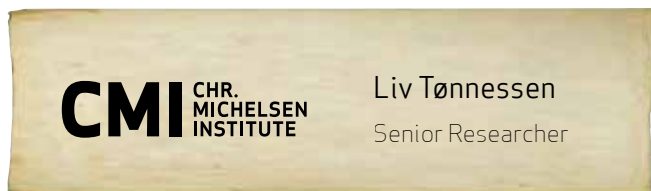


Prospects for gender equality after the Arab Spring

Hopes were high that the uprisings that began in 2011 across the Middle East and Northern Africa (MENA) that have come to be known as “the Arab Spring” would bring not just democratization, but greater gender equality. Rather than safeguarding women’s equal rights, these revolutions have so far reinforced patriarchy in many states rocked by the uprisings. But Arab women are fighting back.



THE BETRAYAL OF REVOLUTIONS: ARAB WOMEN FIGHTING BACK

During national revolutions in the region, Arab women participated extensively in anti-colonial struggles as they are now partaking in the Arab uprisings. In Iran, women took to the streets during the constitutional crisis in 1906–1; Palestinian women demonstrated against British policies in the wake of the Wailing Wall disturbances in 1929; and; in Egypt, women demonstrated and organized in support of the 1919 Wafdist revolution. Arab women taking to the streets to oust governments are hardly something “new”. Indeed, the region has a rich and long history of women’s activism, whether protesting in the streets, participating in political and religious movements, charity networks or NGOs.

But as a Tunisian woman parliamentarian says to the New York Times; “*there are two steps in a revolution: You break it and then you build something new. That’s the hardest.*” When the revolutionary dust cleared and constitutions were decided upon after independence from colonial rulers, women were by and large side-lined. Mounira Charrad (2011: 424) puts it bluntly: “*Nationalism relegated women’s issues to the back burner*”. Rather than safeguarding women’s entry into public life and decision-making, the new nation states in MENA codified discrimination based on unequal citizenship. Women’s participation and sacrifice in a revolution certainly does not guarantee gender equality. Both Islamist and secular national ideologies throughout the region by and large agreed on giving women unequal citizenship rights.

At the crux of women’s unequal citizenship in the MENA, is family law which regulates marriage, divorce, custody

and inheritance. Although women are regarded as equal to men in most new and old constitutions of Arab states, constitutional rights are rendered obsolete when women’s rights under family laws are discriminatory. In Sudan, to give one example, a woman has the right to become President according to the 2005 constitution, but according to the family law of 1991 she needs her husband’s permission to work outside the home. A woman needs the permission of a male guardian to contract her in marriage and she must be obedient to her husband. The husband, on the other hand, is obliged to be the financial caretaker for his wives and children. Legally and financially these laws empowered men more than women.

There is a striking similarity across Arab states as regards the system of family law anchored in religious law. It is a system which was supported by Western colonial rulers and later reinforced by the Mubaraks in MENA. However, there are differences in women’s rights in the family laws across religion, across countries and across time. For example, whereas Muslim women have access to divorce through the courts, most Christian women do not. Whereas in the overwhelming majority of Arab states a man can take four wives, polygamy was prohibited in Tunisia in 1956 after the independence from France. Later, and as the only country in the MENA region, women gained the right to abortion in 1965.

In 2004, women activists in Morocco actually managed to push for a family law reform. The reform was called *Mudawana*. Although it did not bring complete equality in rights between genders, it secured important rights for women, including women’s right to contract herself in marriage without a male guardian (*wali*) and to revoke

a man's unilateral right to divorce simply by stating "I divorce you". It also placed new restrictions on the practice of polygamy, and raised the legal age of marriage for girls from 15 to 18 (Julie Pruzan Jørgensen 2012). In 2007, the Nationality Code was reformed to grant women the right to transmit their nationality to their children. During the Arab uprisings in 2011, the Feminist Spring for Equality and Democracy, called for constitutional reform and for the withdrawal of the government's reservations to the Convention for the Elimination of Discrimination against Women (specifically article 16 speaking about equality in marriage and divorce, article 2 and article 15) and their demands were met (FIDH 2012).

Today, women activists throughout the region advocate family law reform, often using Islamic arguments. Family law, according to Suad Joseph (2000: 20), has become "a benchmark of feminist struggle" in the Arab world. Transnationally, one of the most important campaigns, *Musawah*, which translates into equality, is advocating a feminist reading of Islamic scripture arguing that equality in the family laws in the Muslim world is both necessary and possible without stepping outside the boundaries of religion. Such equality, *Musawah* asserts, was the original intent of Islam before it became subverted by patriarchal interpretations of the Quran.

REVOLUTIONS IN THE MAKING IN EGYPT AND TUNISIA: TWO CONTRADICTIONARY EXAMPLES?

It has been continuously proposed by scholars, activists and policy makers that authoritarian regimes have limited the prospects for legal reform. It follows that a political opening and democratization is conducive to women's movements growth and success, including family law reform (Moghadam et. al 2010). The high hopes that the Arab uprisings would bring not just democratization, but also expand women's rights is based within this line of thinking; "If the uprisings across the region yield more democratic, just, and transparent governments, women's rights will certainly benefit. Dictatorships are not good for anyone's rights".

But it is important to remember that although democratization opens up space for the mobilization of women's movements, it can equally be conducive for the growth of movements and actors opposed to gender equality (Htun et.al 2011). Idealistic hopes quickly have been replaced by pessimism in the states rocked by the uprisings as religious actors such as Islamists and Salafists have gained power through the ballot box in countries like Egypt and Tunisia. But what does the electoral victory of Islamists and Salafists entail for women's rights in Egypt and Tunisia?

EGYPT

Although Egyptian women were massively involved in the uprisings, there was not a single woman appointed to the consultation and constitutional committees, popularly referred to as the "council of wise men". They were not only excluded from the political transition

processes, but the 12% women's quota in parliament was abolished. In the parliamentary elections in 2011, the political wing of the Muslim Brotherhood, Freedom and Justice Party, (FJP), won 46% and the Salafi al-Nour Party 24%. Only 2% of the parliamentarians were women despite the fact that women are active participants in political and religious parties and movements, including the Muslim Brotherhood.

Although there are different perspectives on women's rights within the Muslim Brotherhood ranging from views coming close to those postulated by Islamic feminist to more conservative moral politics (Karam 1998), thus far, the parliamentary debates revolved among other things around limiting women's divorce rights. *Khula* divorce is a divorce initiated by the wife and to which the husband must consent. The Egyptian definition differs from the classical one in that the reform from 2000 allows a woman to initiate divorce in court without the consent of the husband. If she returns the marriage gift (*mahr*), proclaims in court that she hates marital life with him, and that she fears that she will fail to abide by Islam if she stays with her husband, then there is nothing the husband can do to stop her from obtaining a divorce, at least in theory (Sonneveld 2011). This legal reform from 2000 was widely debated and to some extent considered controversial. Some deemed it outright un-Islamic. Members of the new parliament are thus contemplating ways to restore the proper understanding of the *khula* divorce, thereby reinstating the consent of the husband as a compulsory condition for the divorce to be legally valid.

The fact that it has been debated does not mean that the law reform on *khula* from 2000 has or will be amended. The 'new' state does not in any way act like a uniform whole and is deeply entrenched by the 'old' state with the military and security branches playing an important role. The legislators will most definitely meet resistance from women activists if they decide to do so. When family law was codified after independence, the process took place from above without the presence of organized women's movements. Today women activists have come a long way since they were sidelined from the political processes after the national revolutions. In Egypt, one prominent organization is the Women and Memory Forum which was established in 1995 which hosted an international conference on Islamic feminism last year where family law reform was high on the agenda, including the *khula* divorce in Egypt.

One of its founders, Omaima Abou-Bakr, seeks to deconstruct and critique the gender bias of classical Islamic jurists in the development of Islamic law. Abou-Bakr writes that the Islamic feminist project is to "offer alternative new perspectives towards justice and equality within the religious discourse itself". In her analysis of the achievements of Islamic feminism thus far, she goes on to say that "it has proven the possibility of undoing the doings of patriarchy"(Abou-Bakr 2011: 1). She acknowledges the inequalities facing Muslim women

under the codified family law in Egypt today, but she does not advocate the abolition of Islamic law; rather she argue that the solution to women's empowerment is to be found through an feminist interpretation. The field of interpretation of Islamic law is no longer monopolized by male scholars. Women in Egypt and elsewhere actively participate in such endeavors even if they are often labeled anti-Islam.

The current political environment is perhaps not the most conducive for a radical reform of the family law as envisioned by Abou-Bakr and others. The parliament seems to be completely sidelined and additionally occupied by more conservative Islamic perspectives. But Abu-Bakr and other activists, including some male Islamic scholars at al-Azhar, will certainly not silently accept if the parliament or the president decides to retract the *khula* reform. The fact that they took to the streets to protest the new constitution testify to this. The revolution in Egypt is still in the making.

TUNISIA

In the transitional period, Tunisia adopted a law establishing parity on electoral lists which required equal numbers of women and men as candidates on every political party's electoral list in the parliamentary elections in October 2011. The reservations to articles 9, 15 and 16 of the CEDAW convention were also withdrawn (FIDL 2012).

Al Nahda, the Islamist party, won around 40% of the popular vote in the parliamentary elections; more than the next eight parties combined. Women have a 27% representation, almost all of which are from al-Nahda. As of March 2012, there are also 3 women in the 41-membered government (Ibid).

While Islamists were declared the electoral champions both in Egypt and Tunisia, they vary widely on their position on a range of political, economic and social issues, including the "woman question". The al-Nahda party has stressed its commitment to maintaining the rights of Tunisian women. The party is renowned for being the most progressive in the region on many controversial areas of women's rights. The leader of al-Nahda, Rashid al-Ghannouchi has assured that his party will not undo the country's family law which gives women far reaching rights compared to all other family laws in the region. In his opinion, the prohibition against polygamy has an Islamic basis (Roald 2001).

Egypt and Tunisia have very different starting points when it comes to women's rights. Not only was the transitional period after the uprisings and before the first elections more favorable for Tunisian women; Tunisia starts from poll position regarding the legal and socioeconomic status of women. For example, in addition to prohibiting polygamy, the family law of 1956 abolished the man's unilateral right of repudiation by establishing the principle of equal divorce rights and obligations for men and women and secured

other important rights for women. It is imperative to emphasize that this family law is an exception to the rule in the region. It was promulgated from above by a highly authoritarian state under President Bourguiba. During the 1990s more reforms were initiated. This time as a response to women activist demands. In 1993, a legal reform granted women the right to transmit their nationality to their children (Charrad 2000). However, there are still challenges voiced by activists. For example, if Tunisian women remarry after divorce, they are likely to lose custody of their children. Inheritance rights remain unequal in the 1956 family law and protection against domestic violence is insufficiently addressed in the current legislation (Charrad 2012).

The lifting of reservations against CEDAW, particularly article 16, provides a legal framework that paves the way for further reforms in Tunisia. However, article 28 in the draft constitution guarantees the protection of women's rights, but goes on to say that women and men should be complementary in the family. Complementarity is a concept often employed by Islamists to say that women and men have different rights and obligations within the family. It is placed within a paradigm of gender equity (*insaf*) whereby women's public rights in politics, education and work is promoted on an equal footing to men, but where complementarity rather than equality is presented as the model for the Muslim family (Tønnessen 2011). This has evoked emotions and fierce debates in Tunisia. If "complementarity" in the family is accepted in the final draft of the constitution, then it may hamper arguments for further family law reforms in the country.

The post-revolution debates have revealed internal divisions within the al-Nahda party on "the woman question" and other issues; A political party which has been banned and in exile for most parts of the authoritarian rule of Ben Ali. They are currently wrestling to appease both the liberal left with whom they are in a government coalition, and an emerging Salafi movement from which it found a substantial part of its electoral support base. In contrast to Egypt, the Tunisian Salafists, who advocate a conservative position on women in the form of gender segregation, did not participate in the elections. One of the notable features of post-revolution Tunisia is the increased wearing of the hijab and the niqab (the face veil). For many Muslim women, this is viewed as a long-awaited 'freedom' after decades of religious oppression. In 1981, President Bourguiba banned women from wearing the hijab in state offices. Ben Ali's government in the 1980s and 1990s announced hijab a sign of extremism and banned it altogether. Al-Nahda has found itself between a rock and a hard place defending a woman's personal choice to wear both hijabs and bikinis. However, critics have accused the party of not doing enough to prevent and punish Salafists who continuously intimidate (often violently) activists, university professors, and political opponents for not wearing proper Islamic attire.

CONCLUSION: THE NEW ARAB CONSCIOUSNESS

Women activism is not new. It has a long and rich history in the MENA region. But when discriminatory family laws were codified after independence, the feminist voices were scattered and not organized. Today, the landscape of women's activism is both more diverse and more organized. During decades of autocratic rule, women have been active in a range of social and religious organizations, associations, charities, political parties and NGOs both nationally and transnationally. In the words of Azza Karam; *"Anyone who has studied Arab societies in the last thirty years will attest to how socially active, politically informed, and economically engaged women have been"*. Women were not in any ways dormant or passive before the uprisings.

Not matter what the post-revolution periods in Egypt and Tunisia and beyond have in store for them; they are prepared to fight for their rights. Karam suggests that there is an emerging new consciousness in the region where the Arab people have crossed "the Rubicon of fear" to reclaim their dignity. In her opinion, there is no way that the uprisings will bring women backward rather than forward; it is irreversible *"given the enormity of what has transpired in the consciousness, not only of Egyptians, but of all Arab people"*.

Such consciousness, however, take various form that often demonstrate their capacity for action in ways that at times confound the emancipatory vision of feminist politics rooted in liberal notions of the self. We have to take into consideration that Arab women is not a homogenous group. They are divided (the same way men are) along political, class and religious dimensions. Additionally, there is an array of gender ideologies at play, some fiercely calling for equality between the sexes, others advocating equity and complementarity between men and women and some take it even further and demand gender segregation. Arab women and men protesting during the uprisings shared the goal to end dictatorships, but they fundamentally disagree on the visions for the future political setup of these countries and women's roles and rights within the new polity. The debate about family law reform illustrates the competing visions at play.

What is perfectly clear is that Arab women from diverse backgrounds are more than capable of activism and of expressing their own needs, interests, hopes and fears in the unprecedented transformations taking place before our eyes.

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