Female Lawyers and Reforms in Patriarchal State Laws

The 2011 Arab uprisings mobilized women in Morocco, Lebanon, and Kuwait. Female lawyers allied themselves with women’s organizations and pressured the government to protect women against violence in criminal law, equalize parental rights within family law, and endorse a mother’s right to confer citizenship on her children in nationality law. By 2015, reforms have been manifest in criminal law, incremental in family law, and absent in nationality law.¹

Female lawyers and legal mobilization 2011 – 2015

In the past two decades, female lawyers have come to constitute roughly a third of the total number of practicing lawyers in (percentages in brackets) Kuwait (30), Lebanon (29), and Morocco (22). Similar figures were achieved over a period of around a hundred years in Norway (31), Denmark (28), Sweden (22), and Germany (32).²

Rising numbers of female lawyers is not necessarily correlated with reforms that strengthen women’s civil rights. Yet the main argument here is that the marked increase in the number of professional women who are directly involved in women’s legal issues, has given leverage to demands for strengthening women’s rights in Morocco, Lebanon, and Kuwait during, and in the aftermath of, the 2011 uprisings. Female lawyers have addressed male privileges in state laws, by engaging in legal mobilization whereby activists and lawyers have been involved in social struggles, court litigation, and political processes with the purpose of “naming, blaming, and claiming” changes in the status quo.³ In Morocco, Lebanon, and Kuwait, female lawyers named specific segments in the penal code and in nationality law as ripe for change; blamed patriarchal readings of social norms and religious tenets in family law for disadvantaging women; and claimed legal reforms that equalize men’s and women’s civil rights in state laws.

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Interviews with ten female lawyers (a total of thirty) in each state during 2015 substantiate five observations: i) roughly half (fourteen) engage in voluntary associations that address women’s or children’s rights; ii) two-thirds (twenty) question male prerogatives in state laws; iii) thirteen mentioned that legislation or amendments that protect women and children are needed in criminal or penal codes; iv) in Kuwait and Lebanon, female lawyers are less prone to address patriarchal nationality laws, and more likely to object to social security and welfare laws that premise males as heads of households after 2011; and v) laws that affect women’s and children’s rights are connected in ways that merit more attention. In all three states, female lawyers pointed out that family law and nationality law overlap in cases related to child registration and access to nationality or public services, and that criminal law and family law are entangled in cases of divorce, housing, and child custody.

**Rereading principles of male guardianship in family law after 2011**

Family law, known as personal status law, regulates marriage, divorce, parenthood, custody of children, adoption, and inheritance in ways whereby male kin are custodians over female kin: adult women may not marry or divorce without the consent of fathers or brothers, and they do not share equal parental custody over children. All the female lawyers interviewed have addressed matters related to family law. Five said they no longer take such cases because of “too much headache, and little money”, as one put it.

A decade after the 2004 family law reform equalized many parental rights in Morocco, six out ten lawyers point out challenges in implementing the law when it comes to documenting marriage, registering children, high rates of underage marriage, and divorced women’s capability to extract financial rights. Three lawyers question rollbacks following rulings after 2011 by judges who deny women maintenance (nafaqa) because they initiated divorce. “Is this a masculine reading of religious doctrine?,” asked Latifa El-Hassani, adding: “My reading [of the religious text] supports another understanding ... I do not fight for the woman. I fight for her rights.”

Synergy effects between female lawyers and a supportive media is noticeable in Lebanon and Kuwait. In addition to litigating in court, nine female lawyers – Morocco one, Lebanon three, and Kuwait five – engaged in TV programs on legal issues, whereof five had their “debut” after 2011. Some run weekly shows where legal matters, including women’s civil rights, are regularly discussed.

**Rebellion against violence on women 2011 - 2015**

Before 2011, penal codes covered mainly violence in the public sphere. None of the three states defined what domestic violence is, nor was it perceived as a criminal act. The 2011 uprisings resulted in concerted collective efforts at articulating and re-defining violence as a woman-centred political and legal issue. Two specific incidents led to popular turmoil: In Morocco, following the suicide of 16-year-old Amina Filali in 2012 – the rapist married her, evading prosecution...
according to Article 475 of the penal code; and in Lebanon, after 31-year-old Roula Yaacoub’s husband was suspected but found judicially not guilty of beating her to death in July 2013. Rebellion against laws that did not address gendered violence reinforced pressures for change. By January 2014, Article 475 of the Moroccan penal code was revoked. In Lebanon, a new “Protection law” (Law 293) passed through parliament in April 2014 after intensive lobbying spearheaded by Kafa, an association established in 2005 that addresses all forms of violence against women. Half of the ten Lebanese lawyers interviewed said the law was ground-breaking because judges have been quick in implementing it.

**Resistance against change in nationality laws 2011 - 2015**

Women in Lebanon and Kuwait mobilized in March 2011, demanding reforms in patriarchal nationality laws formed in 1925 and 1959 respectively. However, legal mobilization generated a third trend: resistance against change in nationality laws.

Nationality law and pressures to reform it were contested before 2011 in both states. Women’s mobilization for reform after 2011 played therefore into a deeply disputed issue. Protests grew violent in Kuwait, and included citizens and stateless Bidun who account for roughly between five to ten per cent of the population, of which a significant number is affiliated to Kuwaiti citizens through tribal alliances and inter-marriage.

In Lebanon, protests were peaceful, but forceful enough to pressure the government to establish in March 2012 a nationality committee for addressing women’s demands. However, the patriarchal character of sectarianism among Lebanon’s eighteen religious groups was demonstrated in January 2013 when six out of seven ministers in the all-male cross-religious governmental committee rejected equality between Lebanese women and men in nationality rights. Two years later in November 2015, parliament bolstered the right to nationality only to the male offspring of emigrants whose Lebanese ancestors migrated between 1880 and 1920.

There is a significant political difference between litigating cases of nationality law and other legal issues: a litigant has to raise a case against a powerful opponent, the state. Few of the female lawyers interviewed had experience with nationality law cases. “I tell clients that it is throwing your money out of the window,” said Lebanese lawyer Iqbal Dougan. Lawyers agree that reforming the nationality law is difficult. “The nationality law is a sovereign law. It is related to sovereignty according to what the leader of the state sees fit. ... I do not believe it will be changed at all,” said Kuwaiti lawyer Soad al-Shamaly.

Backlashes are intrinsic aspects of legal mobilization. They reflect the rallying of forces that oppose change when attempts are made “to challenge hierarchical social power and authoritarian state rule.”

Opposition against patriarchal state laws is contingent on policy area. In light of the sizeable refugee population which constitutes roughly twenty per cent of the population
in Lebanon, and a sixty per cent noncitizen majority in Kuwait, pressures to reform nationality laws are not likely to change in the near future. Notably, women’s mobilization has grown markedly stronger in both states in the past decade.

**Conclusion**

Legal mobilization with the purpose of reforming patriarchal state laws does not in itself empower or disempower women. Yet women’s engagement with law generates pressure that would otherwise not have existed. Female lawyers participated in legal mobilization in three ways between 2011 and 2015: through litigation of issues related to women in court; by allying with women’s groups in strategically targeting reform of specific segments of law; and in raising awareness about how law that is harmful to women works. In sum, walls that guard nationality laws have been raised higher following women’s strengthened pressures for reform, while windows of change have opened in other legal arenas such as family law and criminal law.

- Female lawyers constitute potential agents of reform in patriarchal state laws. Their number is increasing and so is their influence on pressures for change.
- Family law has low professional status. It is high politics for women and children in MENA. Support of academic education and research at the domestic level is promising.
- Violence-against-women projects create powerful synergy effects of associations, discussion groups, art, and popular culture, which contribute to awareness-raising.

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4. Ibid., 32.