



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT

WOMEN'S RIGHTS DURING DEMOCRATIC TRANSITIONS

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DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

**ENHANCING EU ACTION TO SUPPORT UNIVERSAL
STANDARDS FOR WOMEN'S RIGHTS DURING
DEMOCRATIC TRANSITIONS**

- The case of democratic transition in the MENA region -

Abstract

This study is devoted to providing an analysis of the policy initiatives and recent research while also assessing the possibilities for entry points relevant to the enhancement of EU action to support universal standards for promoting women's rights in the context of democratic transitions. The authors share the view that women's rights will be the litmus test of a successful democratic transition. They explore and analyse the gender dimension in the context of democratic transition processes, with a special focus on current socio-political changes taking place in the MENA region. This is done with special attention to women's political participation to show the importance of gender-responsive legislation, constitutions and accountability systems. In this regard transitional violence against women is treated as a cross cutting issue affecting women in the region and preventing them from enjoying their rights in all areas of public life and from influencing the political agendas. This study explores the initiatives taken so far on women's rights by international organisations and the authors attempt to map EU instruments and entry points for further action. Finally, the study provides a list of pragmatic recommendations to the EU as an external promoter of democracy and gender equality.

This study was requested by the European Parliament's Subcommittee on Human Rights.

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DEDICATION

This study is dedicated to the extraordinary courage, tireless commitment and full dedication of women in the Arab World, who contributed courageously, in some cases with self-denial in a societal effort to bring about much desired change in their countries towards freedom, democracy and human rights.

QUOTATIONS

'Women's rights will be the litmus test of a successful transition'

Catherine Ashton

High Representative of the Union on Foreign Affairs and Security Policy

"If women are to have any say in the lives they lead they must enter politics."

Fernanda Nissen

Norwegian feminist and politician (1862–1920)

« Lorsque le peuple un jour veut la vie

Force est au destin de répondre

Aux ténèbres de se dissiper

Aux chaînes de se briser... »

Abou Kassem Chebbi

poète tunisien (1933)

FOREWORD

Women's rights and more broadly the role of women in society during democratic transitions have been much discussed following the beginning of the great transformations brought about by the Arab Spring in 2011. It is clear that more information is required to bring gender to the policy focus in the European Union's approach to transition countries—linking experiences and lessons learned from past transitions to the current challenges. The Subcommittee on Human Rights has decided to use part of the funds allocated for external studies in 2011 to commission a study on "Enhancing EU action to support universal standards for women's rights during democratic transitions". The aim of the study is to inform the Subcommittee in its deliberations through research analysis and recommendations.

EXECUTIVE SUMMARY

Empirical evidence suggests that even though women, as much as men, play a significant role as active agents in revolutions, both the transitional and the post-revolution period are characterised by a tendency towards their systematic marginalisation and an absence of consideration of their needs and concerns from the transitional agendas, resulting in them not being able to enjoy their rights. The Arab Spring further confirms this trend. Although many women are involved in grassroots efforts for democratisation and the re-building of the new economic, political, social and cultural picture of their societies, backlashes and setbacks to their status threaten the real promotion of gender equality, including the multi-layered marginalisation and exclusion of women in transitional bodies and decision-making processes. Their exclusion from the new elite formation has far-reaching implications. The study constitutes a survey on this issue by providing current international standards and recent research relevant to promoting women's rights in the context of democratic transitions. This study has its theoretical foundations in the theory of democratic transitions.

In Chapter I – From Aspiring Democracy To Transition To Democracy: A Difficult Journey, the authors analyse the demise of the old regimes as the first step in an extensive and difficult journey, attempting to understand and contextualise the social and political processes of this scale, their dynamics, and the prospects of the strong wind of societal pressure for regime change across the region, affecting many countries in close proximity to the European Union. New regimes are about to be set up and new elites are about to be formed. Empirical evidence suggests that once established, each national elite type strongly tends to persist. Thus, it is important to take into account the gender dimension at this early stage in the setting up of the new regime and formation of the elite in the MENA region. In this respect, one needs to analyse both the role played by women in the process of transition and the impact of democratisation on gender relations. That is why this is a particularly appropriate time for enhancing EU actions with informed policy options in support of universal standards for women's rights and the role of women in society during democratic transitions by bringing gender to the focus in the European Union's approach to transition countries. The EU action needs to take into account the fact that women's presence and participation in public life, especially in politics and decision making-positions, may move from marginalisation during repressive regimes to rejection with Islamist regimes, and adapt its policy accordingly.

In Chapter II – Arab Spring: Understanding the Transition in Progress and its Gender Dimension, the authors share the view that gender equality and the protection of women's rights will indeed be the litmus test of a successful transition in the MENA region. Through case studies they provide the study with a fair representation of the situation of women in transition periods towards democracy. The general description of the status of women in the MENA region will present the common background and main issues troubling women in the region and also the most important challenges the transitional regimes have to deal with in order to ensure the *de facto* and *de jure* equality of women and men.¹ The authors also discuss the presumption that only secularism fits with democracy, which is predominant in western debates. In fact, in enhancing democracy for men, women in Arab countries in transition must accept the premise that religion is a major force in Arab politics and will remain as such after the transition period. In the countries of the Arab Spring and other Arab countries, religion will in the coming years not be dissociated, neither excluded from the public sphere. Since citizens in all these countries seek an end to authoritarian regimes and fought for revolution, it will be a challenge for the new regimes to balance between the requisites of international laws and those of Islam. It is a choice that the EU and its

¹ Statistical indicators concerning the overall status of women in the MENA region can be found in Annexes I and II.

institutions must make: boycott these democratically elected regimes or support the civil society in those countries to engage in debates with the whole range of views in these societies.

In *Chapter III – Cross Cutting Issue: Transitional Violence Against Women*, the authors analyse the issue of violence against women as a widespread human rights violation with devastating consequences on women, their children, families and communities, which is considered to be one of the most important cross cutting issues in assessing women's rights in democratic transitions. Women across the MENA region have been subjected to high levels of gender-based violence committed by militia, soldiers and police (even demonstrators), specifically sexual violence and rape during the Arab Spring uprisings and revolutions. Transitional justice can address violence against women, giving the message through criminal justice that such violence is no longer normalised or acceptable, through commissions and reparations embracing victims' accounts, examining patterns of violations and recommending institutional reforms to empower women, and in post-transition ensuring strategic minimisation of their vulnerability. Special transitional systems, such as special tribunals, can better deal with the legacy of the systematic gender based violence. Ultimately, institutional reform is essential to prevent future violations, gender mainstreaming being essential in reconstructing abusive security systems, in providing effective and accountable security to women, and especially in maintaining their rights and retaining any transitional gains.

Next in *Chapter IV – The Arab Spring, Women's Rights and International Organizations*, the authors provide a brief overview of key international actors in enhancing women's rights in the region, such as the United Nations, the Council of Europe, the OSCE and the African Union. The focus is placed on the importance of the Arab Spring as a contemporary revolutionary movement that has spilled over state borders, affecting not only neighbouring countries, but also impacting international relations. Three major aspects are highlighted: (a) the end of the myth of the Arab exception to the acceptance of democracy and human rights as universal values; (b) offering a powerful paradigm shift on how new technologies and social networking can undermine authoritarian and/or corrupted regimes; and (c) the creation of an unprecedented effort by international actors to identify feasible reform strategies for bridging the transition between authoritarian regimes and democratic governance.

In *Chapter V – EU Mapping Instruments and Entry Points*, the authors discuss that the decrease of women's rights and gender equality in some Arab countries is not only a result of Islamist empowerment, but part of patriarchal traditions that transcend these societies. Moving from the European perception of Islam that creates the so-called "Muslim exceptionalism", prejudices rooted in narratives deriving from the history of Europe-Arab relations need to be taken into consideration. The EU is called to open up to the various segments of Arab civil society, to follow their gender-discourses and to enter into a critical dialogue with them, including the engagement of the young generation with its new forms of organisation and communication. Among other entry points, a 'more for more' approach should be applied by the EU to the renewed neighbourhood policy to pressure Arab regimes to adopt the basics of 'good governance'; that is to follow the rule of law, to guarantee civil and especially women's rights, and by doing so to actively support the development of a vivid and hopefully gender-sensitive civil society.

The authors conclude this study moving a step further with *Chapter VI – Recommendations*, aimed at enhancing EU action to support women's rights during democratic transitions following the Arab Spring in the MENA region. Specific sets of recommendations have been identified and developed, on which measures should be designed to ensure that existing policies and instruments of the EU and international organisations function towards the amiable direction of a more-for-more approach. Such measures include benchmarking processes and observations, and coherent policy making concerning: Obligations under International Human Rights Treaties; Gender Equality Benchmarks and Monitoring Actions; Relations with Political Islam; Measures to Enhance Policy Consistency in EU-Arab Relations;

Encourage Women's Movements in the Region; Take into Account Religious Minorities Rights; Prevention, Training and Education; Gender Based Violence and Violence against Women; EU Cooperation with Local and European Civil Society Organisations, as well as other EU specific Entry Points that should be considered. The EU's role should ensure, among others, awareness training, treaty implementation, legislative reforms, economic and political support, encouragement of studies and research, and other special actions based on the various entry points already in existence.

The study also includes a bibliography and four annexes. The bibliography covers both old and recent research on this topic. The four annexes include both qualitative and quantitative data and aim to sharpen our understanding of the dynamics affecting women's status and prospects in the Arab world. More precisely, Annexe I pertains to the MENA region and the CEDAW, Annexe II to the status of women in the MENA region, Annexe III to the concluding remarks of the CEDAW Committee and Annexe IV to the history and developments in four MENA regions (Morocco, Libya, Tunisia and Egypt).

SUMMARY OF RECOMMENDATIONS

For the European Union to be a credible actor in external relations, it must act consistently in accordance with the Treaty obligations, and avoid double standards both between internal and external policies and between its human rights policy and other external policies. It must also make full and coordinated use of its relevant instruments in the conduct of its relations with third countries. This study formulates a number of recommendations in key areas and suggests methods for EU policies and instruments to function effectively and efficiently towards democratic transition and consolidation.

The key areas included in the recommendations pertain mainly to: compliance to relevant International Treaties, Gender Equality Benchmarks and Monitoring Actions, Measures to Enhance Policy Consistency in EU-Arab Relations, Relations with Political Islam, Encourage Women's Movements in the Region, Taking into Account Religious Minorities Rights, Prevention, Training and Education, Media, Gender Based Violence and Violence against Women, EU Cooperation with Local and European Civil Society Organisations and Other EU specific Entry Points. As a matter of fact, the list cannot be exhaustive when it comes to living processes; that is why research and policy studies should remain an on-going process that should accompany the policy process, shed light on specific issues and lead to informed decisions, sustainable options and inclusive forward-looking strategies.

This study also recommends a variety of methods for effective and efficient policy outcomes. It takes the view that, while the content of policies and instruments in key areas is of paramount importance, process and context are equally important elements for each and every successful policy process and outcome.

Key areas and key policy directions for EU policy and instruments can be summarised as follow:

1. Compliance to relevant International Treaties

- Agree on the importance of the implementation of universal standards on human rights, including women's rights. Adopt a performance-based 'more for more' approach for compliance with international Treaties.
- Research/studies on international and regional Human Rights Treaties and Conventions as a means and as a basis for human rights discourse in countries in transition – including e.g. Women CEDAW, Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, United National Security Council 1325 Resolution "Women, Peace and Security" (2000).

2. Gender Equality Benchmarks and Monitoring Actions

- Agree and promote a benchmarking process concerning the implementation of universal human rights standards, including women's rights. This benchmarking process should identify quantitative and qualitative indicators for the 'more for more' approach, over a period of time (systematic) providing a short and a long-term strategy towards the implementation of universal standards. Inclusive monitoring processes (local and regional NGOs) e.g. through conducting shadow reports.
- Support to the democratic process in transition countries and in particular political and parliamentary participation. The EU and other international bodies should aim to adapt their policies to the real needs of women in order to enhance their capacities for political participation.

3. Measures to Enhance Policy Coherence and Consistency in EU-Arab Relations

- Map and coordinate the significant number of projects launched by several EU institutions and different EU member states in support of the democratisation process in countries in transition, in order to ensure consistency and make full use of their valuable results and therefore enhance their impact.
- Statements of the EU should concentrate on the respect of international standards irrespective of the political groups (democratically) in power. Avoid general approaches and double standards appealing or answering to a wide range of special needs concerning women's rights. The credibility and the influence of the EU depend on a coherent and consistent policy when dealing with its own democratic principles.

4. Relations with Political Islam

- Understanding political Islam is fundamental if the EU is to play a significant role in supporting women's rights in the region. Political Islam reflects also the conservative and religious ethos of many people in the region. Ignoring their popularity would violate democratic principles. The international community should focus on encouraging and, if needed, pressuring them to respect fundamental human rights just as the Christian-labelled parties and governments of Europe are expected to do.
- When negotiating high politics (e.g. security, energy, economy, migration) with the new regimes in the region, EU representatives and technocrats must ensure that the gender aspect of such issues must be further and constantly investigated, and last but not least that gender equality is not at all a compromise issue.

5. Encourage Women's Movements in the Region

- Strengthen dialogue between the EU and gender human rights activists (NGOs), and promote and empower women's peer-to-peer exchange projects/programs, and build coalitions in order to ensure participation in the political process. Ensure and promote cross-national solidarity among women and men in the region. Encourage exchange projects that will enable women's organisations and female scholars from different countries to meet. Empowering women through exchange projects constitutes a good practice in sharing experiences and lessons learnt, enabling them to come up with their own national agendas and action plans (according to their own context).
- Concerning the MENA region, besides exchange on social and political issues, it is crucial to support the creation/enhancement of women's national councils by strengthening their institutional frameworks and administrative capacities, and to offer a podium for women known for their feminist interpretations of Islam. Several Maghrebine women deserve to be better heard and encouraged in the West and in different countries of the region.

6. Taking into Account Religious Minorities Rights

- Take into consideration the extreme variety in the social situation of women within the borders of one country and among the different supported countries. Factors such as urbanism, ethnicity, educational level and age must all be taken into account in order for any program to work efficiently. Respect for diversity of gender discourses in MENA countries.
- Adopt an inclusive approach concerning double discrimination against women in minorities (e.g. religious groups). Enhance projects and actions in the MENA countries that support history, cultural education and legal status in an Islamic environment for religious minorities in transition countries.

7. Prevention, Training and Education

- Enhancing democracy means to increase the level of women and youth education (girls and boys). Promote adequate professional development training on human and gender rights targeted to different stakeholders (legal professionals, government officers, police etc.) in order to improve awareness amongst them. Support and sustain research on various relevant aspects and encourage discourse on these issues. Empower women in highlighting their presence in major or minor events and issues of their countries (e.g. history, economy, science, culture, etc.).
- Provide training opportunities for girls and boys aimed at universal human rights standards awareness; Provide training and coaching for women from all different backgrounds and societal groups concerning their electoral rights, election campaigning and participation in the local, regional or national elections of their countries. This can be done in cooperation with the European Inter University Centre for Human Rights and Democratisation and International IDEA.

8. Media

- The media constitutes a powerful tool in raising awareness and in shaping opinions about human rights. Specifically, social media is at the top of most organisations' communications agenda, and NGOs are no exception. Women NGOs and civil society organisations in general rely on the engagement and mobilisation of stakeholders and citizens, and social media is all about mobilisation and engagement. There is a great need to support women NGOs in actively engaging in this field as a means of reaching out to the younger generation of girls and boys.
- Support actions aimed at raising awareness among women NGOs and providing training on key issues such as the need to understand the communities of interest in order to engage effectively, the need to start small and with a coordinated approach, as well as the need to develop a clear and overarching strategy with editorial planning and content management across all social platforms.

9. Gender Based Violence and Violence against Women

- Ensure inter-agency cooperation among all actors in the justice system (police, prosecutors, social services, judges, lawyers, child protection authorities), through adequate training. Promote comprehensive public education and other prevention measures aimed at changing the public discourse on violence against women and gender-based violence. Promote research to support women experiencing violence, and at the same time to lobby for legal and policy reform.
- The EU to encourage and monitor national actions on victim support and treatment, and provide sufficient and regular funding for pragmatic implementation on a 'more for more' approach. (Putting in place adequate shelters, medical and psychological support services for women victims of violence; ensure women full access to justice, including provision of free legal services and establishing appropriate complaint mechanisms; fight impunity of perpetrators of violence against women; ensure that victims are provided with full reparation, including compensation and guarantees of non-repetition for the harm suffered; encourage the establishment of gender-sensitive truth commissions and support the adoption of gender-sensitive reparation programs).

10. EU Cooperation with Local and European Civil Society Organisations

- Establish programs and funding opportunities for women to meet and map their own civil society, and to create their own national networks based on their needs. Promote consultations with local civil society organisations before and during the discussions and meetings concerning EU external policy in the region. Open up to the various segments of Arab civil society to follow their gender-discourses,

and to enter into a critical dialogue with them, including the young generation which is to be addressed with its new forms of organisation and communication.

- Establish a structured and systematic collaboration between EU delegations who reach out in the region and new NGOs and partners (inclusive approach, e.g. rural areas, minorities, poor people etc.). Avoid supporting specific NGOs but rather projects and programs that promote women, women's rights and gender equality (as is already done within the ENP), oriented by the field needs of women in each country. Consult NGOs and civil society regional networks and coalitions in the design of the above projects.

11. Ensure the coherence and synergies within EU institutions and between the EU and other international organisations

- Ensure that EU delegations in countries in transition are gender inclusive and have prior training and gender sensitivity. At the political level, ensure that the issue of universal standards for women rights is raised at meetings at the highest level, that a monitoring mechanism is in place and that both the EU and the relevant third country agree to keep the issue at the top of the agenda.
- Ensure synergies with other international organisations for collaborative and coherent action; these organisations may include the Council of Europe (through PACE, the Committee of Ministers, the action of the Secretary General, the Venice Commission and the North South Centre), UN Women (CEDAW and educational programmes for professionals), Organisation for Security and Cooperation in Europe, the International Labour Organisation, the International Organisation for Migration, UNESCO, and other international organisations and NGOs. Support and contribute to the activities of the Council of Europe (explore and enforce initiative "Partner for Democracy" status with the Parliamentary Assembly, increase financial support to the new neighbourhood policy of the Council of Europe and ensure that Arab countries ratify the European Convention on preventing violence against women and domestic violence (CETS No. 210).
- The European Commission is already involved in projects launched in 2007 by the Club de Madrid aimed at strengthening dialogue on freedom of association across the Middle East and the North Africa region. The European Commission is involved via the EIDHR, in collaboration with the United Nations Democracy Fund. It is important that the EU augments and continues its involvement in already existing projects such as the above, focusing more on gender issues. It is also important that debates take place on how to adapt the projects to the new situation that have evolved after the revolutions in the MENA countries, and the emergence of Islamist majorities in most of these countries.
- Enhance Euro-Mediterranean Parliamentary Assembly dialogue on gender equality issues. Furthermore, explore the opportunity of using and enforcing existing infrastructures of cooperation and dialogue with the MENA region in order to promote the EU's democratic principles; promote an inter-institutional approach and consultation on these issues.

12. Research and policy studies

- Encourage a dual track EU-third countries research strategy: a) EU-third countries joint research projects on women and b) ensure that the gender dimension is always taken into account in each and every project. Support systematic academic discourse and policy studies on an on-going basis, mainly through the work of women's rights observatories and academic networks in consultation with women civil society networks and organisations etc.

INTRODUCTION AND METHODOLOGY

This study provides a survey on the issue at hand by providing current international standards and recent research relevant to promoting women's rights in the context of democratic transitions. It has its theoretical foundations in the theory of democratic transitions. One can find in the literature both common and idiosyncratic features across democratisation waves. Identified as the 'least free geographic region in the world', according to Freedom House, which regularly attempts to measure and compare the elements of political and civil liberty in societies around the world, the MENA region, with the exception of Israel, includes countries classified either as 'not free' or 'partly free'. The challenges resulting from these developments are high, both for the population in the Arab countries and for the European Union, which has developed strong connections with the MENA region during the past decades. Therefore, it is necessary to critically approach the political and societal processes taking place in the MENA region in the early 2010s, in order to implement democratic values and procedures with respect to the characteristics of the population (history, cultural capital, religion and so on). As a matter of fact the experience of oppression is diverse and contingent to the different characteristics of each country. Differences to be considered should concern not only the status of women in different countries, but also within a country.

The study also aims to provide an analysis of the policy initiatives and actions taken so far on the EU level and internationally by NGOs and international organisations, namely the United Nations Organisation, the Council of Europe and the OSCE, as well as regional organisations, such as the African Union. Special focus will be given to key issues such as women's political participation and representation, the importance of gender-responsive constitutions and legislation, the development of women's civil society organisations and the challenge of creating gender-responsive accountability systems during democratic transition periods, especially in the justice sector.

The above-mentioned parts of the study attempt to provide useful insights and help identify possible entry points for the EU to flexibly integrate women's rights concerns with its external policies towards countries undergoing democratic transition processes. While underlining the importance of EU financial instruments, the study will offer fresh thought on a number of key areas for enhancing the impact of these instruments.

Benchmarking has proven to be a useful tool in policy analysis. Hence, this study will assess the possibilities of linking EU policy-making to a set of benchmarks regarding the position of women during transition processes, by using international standards for women's rights as a valid guideline. Such indicators must be used (a) for measuring the progress made internally and externally, (b) the starting point of a dialogue with a new regime, (c) the gradual process of a dialogue, and (d) the suspension of the dialogue.²

Last but not least the study aims to provide the European Union (EU) and the European Parliament (EP) in particular with recommendations on possible courses of action in order to move this agenda in a positive direction. To do this successfully the authors will consult relevant EU institutions, in order to ensure the highest possible level of accuracy and feasibility of the recommendations. As mentioned above the need for human rights benchmarks is essential, as it is important for the EU to gain points of reference against which it can measure regular, timely and systematic applications of human rights indicators through the implementation of human and women's rights policies.³

² See: Guillet, S., *Dialogues Droits de l'Homme, Dialogue Politique: Elements de Synthèse*, PE 381.398, European Parliament, 2007.

³ See: Mihr, A., *Human rights benchmarks for EU's external policy*, 2011, available at: <http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=67511>

The interest of the study, both from the point of view of a theoretical and an empirical analysis, is in its approach: primarily, in mapping the situation of women's rights in the most recent democratic transition that took place in the MENA region (e.g. compliance with human rights international treaties, obstacles to their implementation, etc.); secondly, in presenting a critical analysis of the relevant framework upon which the EU develops its relations with neighbouring countries in the Mediterranean region, and recommendations on the basis of a forward looking strategy. Simply stated, the study should approach critically the place of women's rights/human rights in the EU's policies and actions, and the EU's instrumental role in securing universal standards for women's rights in transition processes.

In preparation of this study and to better coordinate its activities, the team held two meetings, one at the initial phase of the study and another one during its final phase. The aim of the initial meeting was to take stock of the latest developments and discuss/finalise questions of coordination, methodology and the assignment of tasks performed by the experts for their respective studies. The comparative aspect of the study should certainly be preserved. The results of the expert studies were discussed at the expert meeting held in April 2012. Enriched by the discussions during these meetings, the study was finalised and submitted according to the terms of reference. The study draws and builds highly on the European Inter University Centre's (EIUC) valuable experience and expertise in the field, as well as on its large network of experts and alumni. EIUC has already organised a number of successful seminars and conferences on women's rights and good governance, including several which concern the Middle East and North Africa (MENA) region. The participation of eminent experts from international organisations and women NGOs has always enriched the debates.

The study attempts to present a representative picture of women's rights in the region. This will include a small and brief account on the level and the international context of the protection of human rights and enforcement of women's rights, and an account of the current development and human rights enforcement in the MENA countries, especially in Morocco, Tunisia, Libya and Egypt as specific case studies of transitions.

After presenting the universal standards of women's human rights, mapping the situation in the MENA region and analysing EU and international NGOs' policy initiatives and actions so far, the study proceeds with identifying policy entry points and appropriate ways of linking EU policy to a set of benchmarks. The authors formulate their recommendations on the basis of the research findings and seek to ensure the highest possible level of accuracy and feasibility of their recommendations.

1. CHAPTER I - FROM ASPIRING DEMOCRACY TO TRANSITION TO DEMOCRACY: A LONG AND DIFFICULT JOURNEY

Empirical evidence suggests that authoritarian collapse hardly guarantees democracy. The demise of the old regimes is, in fact, only the first step in a long and difficult journey towards democracy, which represents aspiration for dignity and freedom. Democratic transition and consolidation are by definition long, difficult and delicate processes. Attempting to understand and contextualise the social and political processes of this scale, their dynamics, and the prospects of the strong wind of societal pressure for regime change across the region affecting many countries in close proximity to the European Union is therefore an important step in the EU policy process. New regimes are about to be set up, and new elites are about to be formed. It is indeed well documented in the literature that once established, each national elite type strongly tends to persist.⁴ As cultural change is path dependent, it is important to take into account the gender dimension at this early stage of the setting up of the new regime, and elite-formation in the case of the MENA region. Women's empowerment is an essential component of building any democracy; in this respect, one needs to analyse both the role played by women in the process of transition, and the impact of democratisation on gender relations. That is why this is a particularly appropriate time for enhancing EU actions with informed policy options in support of universal standards for women's rights and the role of women in society during democratic transitions by bringing gender to the focus in the European Union's approach to transition countries. Furthermore, EU action needs to take into account the fact that women's presence and participation in public life, especially in politics and decision making-positions, may move from marginalisation during repressive regimes to rejection with Islamist regimes, and adapt its policy accordingly.

1.1 ARAB SPRING: THE BEGINNING OF A LONG AND DIFFICULT JOURNEY

In the case of a significant event, political, social or economic watershed, how does either sex represent and redefine itself and its relationship to the other? Analysing the causes and effects of some of these historical watersheds or ruptures should lead to a better understanding of how women, and the difference between the sexes, can be understood in their historical context. Since December 2010 and the pro-democracy uprisings across the MENA region, several countries, under the pressure of popular discontent, have made steps forward in engaging in the process of transition and regime change. Of course, the societal and popular unrest existed in the region long before the popular outbreak, which was triggered after the Tunisian Mohamed Bouazizi's self-immolation during a protest against police corruption and ill treatment by the regime in his country. Violence, violation of human rights, economic impoverishment and underdevelopment in the region were among other reasons leading to the "Arab Awakening".

More than a year later, the intensive transitional period is still in progress. Whether these transition processes will lead to democracy or not is difficult to estimate as it requires both empirically and theoretically informed answers. In fact, there is no end game in democracy, which means that democracy building processes take time, and also there is no single path towards democratisation – this is already clear from the unique path each country in the MENA region has taken after the Arab Spring.

⁴ Higley, J. and Burton, M. 'The Elite Variable in Democratic Transitions and Breakdowns', *American Sociological Review*, Vol.54, No.1., 2/1989, pp. 17_32.

Ingelhart, R. and Baker, W., 'Modernization, Cultural Change and the Persistence of Traditional Values', *American Sociological Review*, 2/2000, Vol. 65, pp. 19-51.

New issues have arisen since the beginning of the Arab Spring in the region as new problems have aggravated the situation. The demise of the old regime, which existed in the region for decades, seems but the first step on a long and difficult journey towards freedom and the better life that people aspire to. Identified by the Freedom House as the 'least free geographic region in the world', the on-going situation right now poses extremely big challenges both for the population in the Arab countries and for the EU which has developed strong connections with the region in the past few decades.

1.2 THE GENDER DIMENSION OF THE ARAB SPRING AND THE TRANSITIONS IN PROGRESS

'Emphasis should be put on guarding women's dignity and their comparative rights with men'

New regimes are being established in the region and new elites are about to be formed. Egypt, a key Arab country, is no exception, and we can observe the gradual switching of political roles, with the old oppositional non-governing Islamists taking the lead and establishing themselves in government. It is common during the transition period between an authoritarian political regime and the new democratic regime planned, that political elites take charge after the mass mobilisation. If the new governing elite does not transform itself (including engaging women) and does not present a consensual and united program based on the reasons why the revolt took place in the first instance, the expectations from the new regime cannot be high.

One important aspect of the Arab Spring that must be examined and will, in the end, determine the overall success or failure of the movement, is the gender dimension of the transition process. Since gender equality is vital for the development of democracy, and since in many cases what is defined as elite is composed by men, it is important to take into account the gender dimension of the transition process. In this respect, one needs to analyse both the status of women in the region, and the role played by women in the process of transition.

Women indeed played a significant role in the whole democratic transition process; they emerged as key players in the Arab Spring, organising and sustaining with their strengths and voices the protests that lasted several months. Being at the vanguard of the uprising, their role during the political and social revolts in the region for justice, freedom, democracy and equality was extremely important. The case of the Sakharov Prize 2011 co-recipient Asmaa Mahfouz, an activist from Egypt, and the case of the 2011 Nobel Peace Prize co-recipient Tawakul Karman, a young Yemeni journalist, founder of the "Women Journalists without Chains" provide an excellent illustration of the international recognition of women's prominent and instrumental role.

Admittedly, their role has been largely overlooked in the transition process and this will have far-reaching repercussions on the quality of democracy and women's status in these countries. Furthermore, a number of crosscutting issues, such as the one of violence, are strongly impacting women's lives and role in promoting change in society. The wider context in which women are operating, whether in the public or private sphere, has always had an important impact on them and their empowerment, on their role in society and understanding of their rights, on their role in the decision-making process and impact on the policy outcomes.

Understanding women's rights, in the context and in the aftermath of the latest developments in the region, means to do away with stereotypes of Arab women as either silent shadows or helpless victims of suppressive customs and traditions, and depict them as actors. Literature reveals both the wide variety of

ways in which women get organised and the similar difficulties they face in many countries to set an agenda that will enable them to further women's aims.⁵

It also means to take a critical approach to the legacy of democracy in the Arab world, which may not necessarily correspond to the liberal understanding of popular sovereignty, collective self-government and checks on power. One needs to contextualise and take into account the fact that for a long time, elections have been a tool of authoritarian leaders to claim legitimacy, and not a symbol of democracy. Understanding democratic transitions in the Arab world also means understanding the dialectical relationship between Sharia and international Human Rights standards. It also means challenging our own perceptions on the role of Arab women.

The true challenge is whether the Arab Spring will enhance, enforce and sustain women's rights in the region. For women much is at stake; empirical data suggests that so far, women have largely been excluded from the policy-making process for the democratic transitions, and many feel increasingly marginalised by the post-revolution status quo. The reasons are certainly manifold and are worth exploring. Cultural aspects also deserve special scholarly and political attention. However, due to the importance of gender equality for democracy, the timing now is particularly appropriate for enhancing EU actions with informed policy options in support of universal standards for women's rights and the role of women in society during democratic transitions, by bringing gender to the focus in the EU's approach to transition countries.

One needs to strike the right balance between preserving the feeling of the Arab people that democratising the Arab world is the responsibility of the Arab world, and should not be enforced or imposed from outside. Any weakness to recognise this important aspect in the policy process, from the conceptualisation, formulation and implementation of EU relevant policies and actions, could jeopardise the whole process. Informed policy options, entry points and timing also constitute key success factors.

1.3 EU: ENFORCING UNIVERSAL STANDARDS AND PROTECTING HUMAN RIGHTS

Arab Spring: striking the right balance between stability and human rights

Here lies the role of the EU and its institutions to confirm in practice "their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law", as provided in the Preamble of the Treaty for the European Union. Here lies also the challenge for the European Parliament and its Sub-Committee on Human Rights, and for the newly established European External Action Service as well.

Without doubt, the Arab Spring was welcomed, though with surprise by the EU. During the past decades, the EU has developed multilevel relations with the countries in the broader Mediterranean region, as part of its foreign development and trade policies. The Association Agreements signed with the countries of the region, the Mediterranean Policy and its global approach, the Euro-Mediterranean Partnership (EMP), the European Initiative for Democracy and Human Rights (EIDHR), the European Neighbourhood Policy (ENP) and more recently the Union for the Mediterranean (UfM), illustrate the complex canvas of the intertwined destinies of Europe and the Mediterranean, and the aim of the EU to foster democratic reform and promote cooperation, human rights, democratisation and governance in the region. However, two months after the outbreak of the Arab Spring, Commissioner for Enlargement, Stefan Füle, admitted that Europe was not vocal enough in defending human rights and local democratic forces in

⁵ Chatty, D. and Annika, R., 'Organizing Women: Formal and Informal Women's Groups in the Middle East', Oxford University and New York: Berg, 1997.

the region. "Too many of us fell prey to the assumption that authoritarian regimes were a guarantee of stability in the region".⁶ In this way, the EU has acknowledged that the goals of its reform agenda were in dire need of revision. Such revision implied not only putting democracy back on its policy agenda, but also revisiting its instruments, methods and reform-related goals.

Since then the issue of democratic transitions and support of democracy promotion were pushed, and provided the timely debate of the EP's Sub-Committee on Human Rights to review EU policies and actions promoting democracy in 2011 and 2012, with new perspectives. It gave a new meaning to the need to reinforce and make its programs more coherent and have actions aimed at enhancing universal standards of human rights.⁷ Human rights clauses in international treaties should no longer remain dead words; the policy entry points still need to be identified and discussed. While supporting in every possible manner the transitional procedures in these countries, the EU should bring gender forward in the policy focus and find sustainable ways to encourage change agents working for the enhancement of universal standards for women rights in the different countries of the MENA region. The EP and the EU High Representative Lady Ashton highlighted the importance of enhancing universal standards of women's rights on many occasions.

Human rights have been in the picture, but have not always received the necessary attention as other items of the agenda were prioritised. The EU supports the democratisation process in the Arab world, but member states also see the security challenge of the events. The EU must therefore find the balance between democratic transition and stability. This period of global economic distress and massive social turbulence presents both challenges and opportunities. It presents indeed a major opportunity for the EU to enhance universal standards and become an example of human rights protection worldwide.⁸

As Barbara Lochbihler, Chair of European Parliament's Subcommittee on Human Rights, stated on the occasion of the award the 2011 Sakharov Prize for Freedom of Thought to five representatives of the Arab Spring:

'For decades, European member states and - through its silence - the European Union have repeatedly put economic and geostrategic interests before human rights vis-à-vis several countries of the Arab Spring. Thanks to our five laureates and the thousands of people standing behind them, we now have the opportunity to learn our lessons, and to see to it that human rights uncompromisingly become the founding principle of international politics, including on the European level.'

⁶ Füle, S., *Speech on the Recent Events in North Africa* (Speech/11/130), 29 February 2011, available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/130>

⁷ For a compilation of international human rights treaties and other documents relevant to human rights standards, see the University for Peace's publication *Human Rights Instruments*.

⁸ Many are the studies conducted on the request of the EP concerning the EU's role and the impact of EU actions in promoting Human Right and democratic clauses. See for example, Lorand Bartels, *Human Rights and Democracy Clauses in the EU's International Agreement*, PE 363.284, European Parliament, 2005.

2. CHAPTER II - ARAB SPRING : UNDERSTANDING THE TRANSITION IN PROGRESS AND ITS GENDER DIMENSION

'Women's rights will be the litmus test of a successful transition'

Catherine Ashton

The aim of this chapter is to provide the study with a fair representation of the situation of women in transition periods towards democracy. This general description of the status of women in the MENA region will present the common background and main issues troubling women in that region, and also the most important challenges the transitional regimes have to deal with in order to ensure the de facto and de jure equality of women and men.⁹ Gender equality and the protection of women's rights will indeed be the litmus test of a successful transition. It also discusses the presumption that only secularism fits with democracy, which is predominant in western debates. In fact, in enhancing democracy for men, women in Arab countries in transition must accept the premise that religion is a major force in Arab politics and will remain as such after the transition period. In the countries of the Arab Spring and other Arab countries, religion will in the coming years not be dissociated neither excluded from the public sphere. Since citizens in all these countries seek an end to authoritarian regimes and fought for revolution, it will be a challenge for the new regimes to balance between the requisites of international laws and those of Islam. It is a choice that the EU and its institutions must make; boycott these democratically elected regimes or support the civil society in those counties to engage in debates with the whole range of views in these societies.

2.1 INTERNATIONAL STANDARDS FOR WOMEN'S RIGHTS AND BARRIERS FACED BY WOMEN IN THE REGION

The conditions of women in the MENA region countries have changed a lot in the last decades. There have been many changes and improvements – minor and major – concerning women's rights, working conditions, education etc. What is important to note is the similar historical background and structural and legal frameworks among the MENA countries, and the similarities concerning the status of women, despite the cultural, economic, societal and political differences.

An indication of the status of women in the region can be traced by their participation in the Convention for the Elimination of Discrimination against Women (CEDAW), of which the majority are members that have either acceded or ratified. A constant characteristic concerning their participation in CEDAW is the similarities in the declarations or reservations that these countries have inserted on CEDAW articles upon ratification/accession.

These articles are:

- Article 2 – policy measures against discrimination
- Article 9 – nationality law
- Article 15 – equality before the law
- Article 16 – marriage and family life/relations
- Article 29 – disputes with other countries

As Table 3 from Annex I depicts, there is a general conformity among the MENA region countries on their reservations and declarations made upon ratification of the Convention. These reservations are entered

⁹ Statistical indicators concerning the overall status of women in the MENA region can be found in Annexes I and II

so that CEDAW provisions do not contradict the national legislation and the Islamic Sharia provisions; which are still implemented in many Arab countries, as shown in Table 4.

More specifically, Algeria placed reservations on articles that contradict the Algerian Family Code and the Algerian Nationality Code. Egypt and Libya entered their reservations on articles that contradict the customary law and the Islamic Sharia provisions, particularly on Article 16, which concerns the Family Law. Morocco placed reservations that again contradict the Moroccan Code of Personal Status, the Law of Moroccan Nationality, the constitutional requirements regarding rules of succession to the kingdom's throne and the Islamic Sharia provisions. Finally, Tunisia placed reservations on articles that could contradict the Tunisian Constitution, the Tunisia Nationality Code and the Personal Status Code. It is clear from Table 4 that, even being Islamic countries, there is no consistent approach among the States of MENA referring to Sharia Law, as not all States have entered reservations to the same provisions with reference to the Sharia. For example, the Kingdom of Saudi Arabia, while not introducing reservations on specific articles of the Convention (except Article 2), has declared from the beginning that in case of any contradiction between any term of CEDAW and the Islamic Sharia, no obligation exists for the Kingdom to observe the Convention.

In the states where Sharia provisions concerning Family Law (Article 16) are in force, –Egypt, Libya, Morocco and Syria –the equality described in the Convention is considered incompatible with the Islamic Sharia, which obliges the husband to pay bridal money (nuptial gift) upon marriage, whereas the wife is not required to spend anything during the marriage.

All the above mentioned MENA states – except Libyan Arab Jamahiriya, Jordan, Lebanon and Yemen, declared that they do not feel bound to Article 29 concerning the settlement of a dispute between CEDAW parties, and that arbitration could be reached only with the consent of all the parties to the dispute.

What is more striking is that Yemen never entered any reservation on the Convention, and thus was never objected to by another State member of the Convention (see Table 5). However, as we can see from the levels of equality and freedom, women's situations in Yemen are extremely degraded.

The major challenges faced by women in these countries are addressed by the periodical reports the Convention's Committee, published over the years based on the reports of the countries. These include, among others, prejudice based on stereotypical sex and gender roles, trafficking and prostitution, under-representation in the public and political life, multi-layered discrimination in different areas such as education, employment, health, economic and social benefits, legislation, marriage and family relations, violence against women, female genital mutilation and HIV/AIDS.

The issues raised by the Committee as presented in Table 7 depict the overall situation in each country in relation to the implementation of the Convention. Many of these issues derive from the several reservations these countries entered upon the ratification of the Convention, especially those on Articles 2, 9 and 16. The table presents a summary of the concluding comments of the Committee, presented after the many consideration sessions, as presented in Table 6. As the submission of the reports and their consideration is a continuous process, some of the issues raised in previous sessions were left to be tackled during the following session.¹⁰

¹⁰ For an overall depiction of the Committee's concluding remarks see Annex III.

2.2 THE STATE OF WOMEN IN THE REGION

From the beginning of 2011, women of all social backgrounds and classes have been an integral part of the movements that are redefining the political situation in the MENA region. They contributed to the organisation of the Arab Spring as Internet activists and online organisers, joining demonstrations alongside men, staging women-only marches, and suffering sexual assaults and the violence of anti-protester riots. This was the only way for women in the area to alter their position, by altering the authoritative regimes that ruled their countries for so many years. However, the present condition, the aftermath of the Arab Spring, seems ominous for the situation of women. As proclaimed by the Committee of CEDAW in its concluding observations for each of the countries, the factors are mainly the deep-rooted, stereotypical, patriarchal attitudes that suppress women's potentialities in education, the labour market and public and political participation, leading thus to a general degradation of the country's development. The status of women can be traced in several of the statistical indicators that the United Nations system provides.

Firstly, it is important to understand that the state of women in the area is inextricably linked with the overall human development. Table 8 and Chart 1 depict the Human Development Index in the specific countries during the past five years, and also the overall trends since 1980. The Human Development Index is an indicator developed by the United Nations Development Programme (UNDP)¹¹, as part of the Human Development Reports, and is a summary measure of human development, expressing the average achievements in a country in three basic dimensions of human development; health (life expectancy at birth), education (mean years and expected years of schooling), and income (GNI per capita as a depict of a decent standard of living). What is visible from these statistical indicators is that generally a medium to high human development is observed in the MENA region.

This data, and the general condition of women, can be understood in combination with the Gender Inequality Index [GII]¹², which is by definition a negative statistical index, as it presents not the level of equality but the level of inequality between genders, and we can see an important diversification from HDI. Despite the important level of development in a certain country, the achievements are not equally distributed between women and men in health, education and the labour market. GII measures women's disadvantage in three dimensions; reproductive health (maternal mortality ratio and the adolescent fertility rate), empowerment (the share of parliamentary seats held by each sex and by secondary and higher education attainment levels), and the labour dimension (women's participation in the work force).

What is evident from Table 9 is that in the Arab States, despite the high or medium level of development, big gender inequalities are still widespread. These scores reflect the general recommendations and observations made by the Committee of CEDAW on each country's case. As an overall comparison, the world average score on the GII is 49.2%, while on average the Arab States suffer the largest due to gender inequality, as the score reaches 56.3%. According to UNDP, regional patterns reveal that reproductive health is the largest contributor to gender inequality around the world (62.5% in the Arab States), while the MENA region is also characterised by weak female empowerment (political participation and education).

However, the situation of women in the MENA region becomes clearer when indicators concerning literacy rates and education, economic activity and unemployment, and also data on the participation of

¹¹ <http://hdr.undp.org/en/countries/>

¹² <http://hdr.undp.org/en/statistics/gii/>

women in legislation, management and the political life of a country are equally taken into consideration.¹³

What is made clear is that, first of all, the level of education among women in the MENA region cannot be considered satisfactory. Even though in some cases the literacy percentage among women is high, the number of women in tertiary education (university level) is dauntingly low. On the contrary, a feminisation of primary and secondary teaching staff is observed. Secondly, women are disenfranchised economically, with a low participation in the labour force and a significant percentage of unemployment. Equally, women do not even consist what could be called a strong minority regarding their participation in the legislation, management and parliament, as their representation in policy-making areas has never exceeded the 10% barrier. This is common internationally. For example, concerning women's participation in politics, according to Inter-Parliamentary Union¹⁴, the world average of women in both lower and higher houses is 19.5%, whilst the same average in the Arab States is 10.7%. What one can see is that the issue of under-representation of women in the lower and higher houses assemblies is global, though it is important to note that in the MENA region this is a result, among others, of the further educational and economical disenfranchisement of women.

The Freedom House association presented in 2010 another indication on the overall impression of women's rights in the region, as can be found in Table 17 in the annex. Based on 44 questions grouped into 5 distinct subcategories on women's rights (namely non-discrimination and access to justice, autonomy security and freedom of the person, economic rights and equal opportunities, political rights and civic voice, and social and cultural rights), this index¹⁵ presents an average, which ranges between 1 (no rights) and 5 (most rights). It is important to note that the ranges for the MENA region have never exceeded 3, and in some cases women are considered to not have any rights.

From this endless list of issues and problems affecting women's lives, their development and prosperity in the MENA region, it becomes obvious why women participated so passionately in the Arab Spring. The challenge for every newly established regime and for the EU to enhance the role of universal human rights standards provider in preserving and promoting women's rights still remains difficult.

2.3 SALIENT ISSUES AFFECTING THE TRANSITION PROCESS

This part of the study intends to give a brief overview and give examples of some important issues that are affecting, or can easily affect, the transition process concerning the improvement of women's positions in MENA region. These challenges concern the following:

- Constitution and legislation amendments;
- The freedom of association;
- The status of women before the revolution and first changes in the transitional period.

The focal concerns of this part are the following:

- Family law;
- Nationality law;
- Penal law;
- Current developments reached or on-going in the 'new era'.

These issues can give a more detailed understanding of the situation of women in some of the aspects of their lives, which lead them to eventually take a leading role during the revolutions in their countries, and

¹³ For these indicators see Tables 10-16 in Annex II.

¹⁴ <http://www.ipu.org/wmn-e/world.htm>

¹⁵ <http://www.freedomhouse.org/report-types/womens-rights-middle-east-and-north-africa>

also the deep-rooted problems that the new regimes are facing. For these reasons, four countries have been selected as case studies, namely Morocco, Libya, Tunisia and Egypt.¹⁶

2.4 CORRUPTION

'The fight against corruption is central to the struggle for human rights. Corruption has always greased the wheels of the exploitation and injustice which characterise our world. From violent ethnic cleansing to institutionalised racism, political actors have abused their entrusted powers to focus on gains for the few at great cost to the many'.¹⁷ We could add that this particularly applies to women.

This is one of the major problems affecting the whole society for the past several decades in the MENA region. One could argue that this was the root cause for every other political, economic and societal issue. As a commonality, this phenomenon appears in the most vital institutions of a country (judiciary, police, administration, etc.) and is deeply related to the longevity of the authoritarian regimes in the region, as for example the autocratic kingdom in Morocco, and other regimes established after an interstate conflict like Qaddafi's regime in Libya, Mubarak's in Egypt and Ben-Ali's in Tunisia. The corrupted structures in the MENA countries are deeply established and this is a major challenge for the new regimes, as they have to fight against corrupted persons of the former regimes still playing an important role in society and the political scene. The scale of corruption can lead us to consider the phenomenon as a political institution.

Corruption impacts men and women differently and tends to reinforce and perpetuate existing gender inequalities in almost all walks of life:

'Women's lack of access to political and economic power excludes them from networks that permit access to decision-making bodies. Where institutions are controlled by men, women do not have enough power to challenge corruption or clientelism. Corruption in the legislative and executive branches can allow discriminatory laws to stand, while corruption in the judicial branch can discriminate against women who do not have the means to pay bribes to gain access to the justice system. In some societies, women have traditionally been perceived as non-active participants in court processes (where they may be represented by their male relatives). Many non-formal or parallel decision-making processes, moreover, have no checks on corruption.

Women's access to justice is compromised in other ways. Trafficking, for example, often involves the corruption of border officials, police and members of the judiciary. As illegal immigrants, often without proof of identification and subject to (sexual) violence, trafficked women are obviously hindered in seeking protection from courts.

Many women also have fewer opportunities than men to achieve an education, or obtain land, credit and other productive assets. When they have access to work, they are often paid lower salaries. They tend to assume the domestic responsibilities of taking care of children and older adults, which means they are financially dependent, cannot work or are poorer. For all these reasons – but essentially because women are over-represented in the poorest social segments of society and under-represented in decision-making bodies – corruption and clientelism affect them in particular ways, often disproportionately. For example, corruption that diverts public resources from essential services or anti-poverty programmes will particularly harm the welfare of women and their dependents who rely

¹⁶ Further discussion on the legacy of the old regimes and more analysis concerning these issues, see the complete case studies for Morocco, Libya, Tunisia and Egypt see Annex IV.

¹⁷ *Corruption and Human Rights: Making the Connection*, 2009. International Council on Human Rights Policy. Versoix, Switzerland, p. V.

heavily on such services. In the same way, bribery that adds to the cost of public services will also disproportionately affect women, because they are on average less able to afford bribes, depend more on public services, and sometimes (for example during pregnancy) require services that men do not.¹⁸

2.5 RELIGION: ISLAM¹⁹

One of the main challenges and obstacles concerning the full implementation and protection of women's rights in the region is the interpretation that Muslim scholars give to Islam. As stated previously, the reservations entered on several articles of the CEDAW by the different MENA countries were justified with a reference to the Islamic Sharia. Even though there are some differences – for example Islam is not considered the reference for legislation in Morocco as has been the case in Libya – the supremacy of Islam and the Sharia imposed many negative measures against women, family and nationality laws and in some countries in penal legislation. Further discussion on the EU's response towards the rise of political Islam in the region during the transitions can be found in Chapter IV.

FAMILY LAW

Family laws and relevant legislation in most Arab countries is still based on the interpretation of the Islamic Sharia by one of the different schools of Islam. For example, in Morocco, in which the constitution clearly declares that Islam is the religion of the state and that the national legislation must not contradict the national 'ordre public' based on the Sharia family law is based on the Maliki *fiqh*. What is important to note in the case of Morocco as well as in most Muslim countries, religious belonging of a person determines the applicable family law. The *Mudawwana* (Moroccan family law) does not apply to Jews, who have a different personal status, while it is only partly applicable to Moroccan Christians. The same pluralism exists in Libya and in Egypt.

a) Marital capacity and the marriage of minors

In all countries of the MENA region, a difference existed between men and women concerning marriage capacity. Family laws were in this sense unfavourable for women who were allowed to marry at a younger age than men. However, in several countries in the region recent reforms introduced equality between men and women concerning marriage capacity. This is the case of the Tunisian family code, which has been reformed in 2007, as well as the Moroccan code since 2004. However in most of these countries the marriage of minors is allowed after the judge's consent. However, the Moroccan and the Libyan family codes do not bind the judge's consent to a minimum age.

b) Guardianship

One of the main challenges in family laws in the mentioned countries is the competence given to the guardian of women and girls in the field of marriage. The right of the guardian, usually the father, to consent to the marriage of the girl was in the past combined with the right of compulsion. With the new reformed family law of 2004 in Morocco, women were finally granted full capacity to marry without the consent of a guardian. This legal change did not happen in Libya where the guardianship – provided as an obligation based on Sharia – is still required. In general, in traditional societies where the family bond is dominant, the elimination of the concept and practice of a male guardian is extremely difficult, even after the reform of the law.

¹⁸ Ibid, p.7 and 8.

¹⁹ The EP have commanded a research many years ago concerning this issue, see Genevieve Delaunoy, *Women and Islam: The situation of muslim women in the Mediterranean countries and the Near and Middle East and the Magreb*, 1996. It is important right now that new research is conducted, given the new dynamics developed in the region with the raise of political Islam.

c) Polygamy

Polygamy is allowed by all schools of Islam and is part of the present family legislation of most Muslim countries. This also holds for Morocco, Libya and Egypt. The main restriction on polygamy, which has been introduced by law is the authorisation of the judge before the husband enters into a polygamous marriage. In a completely opposite direction, Tunisian family law prohibited polygamy since the codification of its family law after independence and considered it a criminal offence.

Worth mentioning is that Islamic sharia and family laws of all Muslim countries allow women to stipulate in the marriage contract a monogamous regime which forbids the husband to marry simultaneously with another woman.

d) Marriage prohibitions based on religion

As in all other family laws based on religion, the religious affiliation of the spouses is relevant in Islamic family laws dealing with marriage. In most Muslim countries however, this prohibition is applied differently on men and women since men are allowed to marry a Christian or a Jewish woman while Muslim women can only marry a man of their faith. Impediments on marriage based on disparity of religion between the spouses are discriminatory and an evident violation of human rights.

e) Registration of marriages

The registration of marriages is in favour of women, children and the society in general. Therefore it is required by international conventions like the CEDAW (article 16). However, since this requirement belongs to modern times, it is not considered as a prerequisite for the validity of marriages in most MENA countries. 'Urffi' or marriages which come into being without control of any authority and are not documented nor registered are therefore still widely common in these countries. This issue gets an extra dimension since scholars in the different schools of Islam refer to Sharia and argue that a document proving the existence of a marital relationship and more importantly its registration are not required by Sharia. This assumption makes it difficult for legislators in the MENA region to completely eradicate the phenomenon of 'urffi' marriages. On the one hand the authorities are concerned by the protection of the rights of women and children involved in such marriages and therefore cannot consider them null and void. On the other hand they try to influence this practice by all kind of measures and regulations. Tunisia is an exception since the validity of a marriage also requires its registration.

f) Dissolution of marriages

The *fiqh* does not give men and women the possibility to end the marriage by using similar procedures. This has resulted in a legal imbalance in nearly all Muslim countries where the husband has an unlimited power to end a marriage while the woman, depends on her husband's consent or on a court decision. For several reasons, which are explained below, the dissolution of the marriage is very complex in nearly all Muslim family laws especially when women are concerned. Tunisia has been an exception in this field since the introduction of the Tunisian family law in 1956.

It is worth mentioning that Morocco reduced the imbalance enormously between men and women in this field of law since the introduction of the new Moroccan family code in 2004.

g) Matrimonial relationships

Based on the Islamic Sharia and the interpretation given by all Islamic schools of law, the family follows a patriarchal pattern where the man plays a dominant role both as husband and as father. However, In Morocco, with the legislative reforms of 2004, the gender based rights and duties of the couple were dismantled in favour of women; both the husband and the wife have borne, since then, an equal and joint responsibility within the family, and equality in terms of rights and obligations within the

household. However, the husband is still primarily responsible for the maintenance of the wife and the children and he still bears the financial responsibilities of the household, even when the wife generates her own income. Equally, in Libya, with the amendments made to the Family Law in 1993, all the rules concerning the disobedience of women to their husband were revoked. Nonetheless, the patriarchal and stereotypical traditional sex roles still prevail in many cases for example in the regulation of parental responsibility. In Tunisia, the amendments in the Family Law introduced the obligation of cooperation between the spouses in all matters relating to the management of the family affairs and the upbringing of the children, with women having the obligation to contribute to the family expenses if they have property. Furthermore, the two spouses are free to choose the number and the spacing of their children.

NATIONALITY LAW

An important challenge existing in the MENA countries, which is indeed mentioned in the concluding remarks of the Committee of CEDAW, is the discrimination imposed on women concerning the inequality between the father and the mother in passing their nationality to their children and in acquiring the nationality of their foreign spouses. This changed during the legislative reform in Morocco, for example, where both Moroccan mothers and fathers were given the right to transfer their nationality to their children at birth. However, special administrative directives clearly state that women can only pass their nationality to their children after providing in a well-described procedure that they are Moroccans, while Moroccan men are not subject to the same procedure, as their children are by birth registered automatically as Moroccan citizens. In the case of transmitting the Moroccan nationality to foreign spouses, this still favours foreign wives who are allowed to obtain Moroccan nationality after a declaration procedure, while foreign husbands are subject to a more demanding procedure of naturalisation.

The amendments of 1980 in the Libyan law, allowed Libyan women married to non-Libyans to retain their own nationality, but did not grant Libyan nationality to children of Libyan women married to a foreigner. As a mark of the inequality based on this discrimination, in 2007 the government issued a decree ruling that children born to Libyan mothers and foreign fathers were required to pay in order for their children to attend public schools. The situation started to change during the 2010 amendments on Nationality Law, which now provides more equality between Libyan fathers and mothers, and abolishes some ethno-religious discrimination in the Nationality Law, and Libyan nationality is extended to children born to Libyan mothers and foreign fathers. However, in many cases the discrimination still persists.

In Tunisia, after several amendments to the Tunisian Nationality Law in 2010, a child born to a Tunisian father or mother acquires the Tunisian nationality by birth on equal terms. However, the Tunisian law still includes a distinction between attributing the Tunisian nationality to the foreign husband, and wife married to a Tunisian citizen. The foreign husband acquires the nationality if he meets the conditions set out by the law for naturalisation (resident of Tunisia for five years and knowledge of the Arabic language). A foreign woman married to a Tunisian man acquires the Tunisian nationality by declaration only after two years of residence in Tunisia and without requiring any knowledge of the Arab language.

PENAL CODE

a) Laws referring to Islam

In most MENA countries, Quranic offences considered by Islam as crimes against God and therefore penalised by severe physical punishments of *hudud* (crucifixion, stoning to death, amputation of hand

and feet and flagellation) were considered in most Islamic countries as an anachronism and were never introduced into law.

The penal codes in most countries are based on western laws.

However, an explicit use of Sharia rules in the penal code is to be found in the Libyan penal code introduced in the beginning of the Qaddafi era. It is not clear whether this code will be reformed after the revolution.

b) Honour crimes

Crimes of honour involve a practice "whereby male members kill a female relative who is perceived as having damaged family honour" and where the death of the woman is seen as restoring the honour of the family.²⁰ Honour crimes primarily affect women and are explicit in the penal codes of many countries. For example, the Moroccan penal code includes a whole range of crimes of honour, which carry sentences of imprisonment and not Quranic physical punishments. For most of these crimes, sanctions are similar whether the perpetrator is male or female. Both spouses are sentenced to imprisonment for adultery. What is important to note is that assault or homicide committed by one of the spouses against the other, or against an accomplice, exempts them from penal liability when the act results from discovering the spouse during the act of adultery. Similar penal rules exist in many Arab countries, like in the neighbouring Tunisia and Algeria. Regulations in criminal laws on the issue of rape make it clear that the honour of the family in most MENA countries is considered much more important than the interest and protection of women. For example, under Moroccan law, rape is punishable by five to 10 years in prison, or between 10 and 20 years if the victim is a minor, which also entails a fine. In any case, if the rapist marries his victim he cannot be pursued legally unless the woman manages to obtain a divorce. It is clear that the families of rape victims who are under 18 often agree to such a marriage because the loss of the woman's virginity outside marriage is considered a dishonour to her family. The Libyan penal code likewise allows impunity for the perpetrators of rape who marry their victim.

Another important challenge existing in the MENA region is the legislation concerning fornication (*zina*), which describes the crime as the "unlawful" intercourse between a man and a woman who are not bound to each other by marriage, despite the consensual aspect of their relation. In Libya, for example, perpetrators are punished by flogging of one hundred lashes or with imprisonment for a maximum of five years, at the discretion of the court. Human Rights Watch reported in 2011 that the Libyan government continued, until its fall, to detain women and young girls indefinitely and without due process in "social rehabilitation" facilities for suspected transgression of moral codes. In Tunisia, fornication (*zina*) can result in imprisonment for five years for both men and women and the payment of a fine, depending on the situation.

c) Homosexuality

Homosexual intercourse is considered in most Islamic schools illegal, much as unlawful heterosexual intercourse. Some schools share the opinion that the penalty must be death by stoning, others by killing or throwing the culprit from a high wall, or by burning. Homosexuality is considered an action against nature, and in Morocco for example, is penalised by incarceration for a maximum of three years and a fine. In any case, the aforementioned Sharia punishments of stoning or burning are not applicable. In Libya homosexuality is punishable by imprisonment for up to five years, since the entry into force of the Libyan penal code in 1973. Accordingly, even though homosexual relations are not mentioned as such in

²⁰ For an overall exploration of this phenomenon, see: Hailé, J., *Honour Killing: Its causes & consequences – Suggested strategies for the European Parliament*, 2007, European Parliament.

the Tunisian penal code, Article 230 of the penal code declares that “sodomy” is punishable by imprisonment for three years.

2.6 FREEDOM OF ASSOCIATION AND EXPRESSION: NGOS, POLITICAL PARTIES AND MEDIA

Over the decades, the authoritarian nature of the regimes in the MENA region and the corruption, deeply rooted in polity and society, were established by the lack of some fundamental freedoms provided by international standards, that is the freedom of association and the freedom of expression. This has led to the silencing of all the oppositional voices and therefore negated the democratic legitimisation of the regimes. The violation of these two freedoms comprises, in general, the suppression of NGOs, oppositional political parties and oppositional-to-the-regime media. Currently, after the Arab Spring and the establishment of the new regimes, many NGOs and political parties have come into existence, while the role of the media is being re-evaluated. Therefore, democratisation of the freedom of association and the freedom of expression poses a great challenge.

A common phenomenon is where the freedom of association is legally or constitutionally protected, but in practice it encounters difficulties in its implementation. As is the case in Tunisia and elsewhere in the Arab region, the participation of women’s organisations and other NGOs is obstructed in several ways, which do not ensure the formal laws on association, but derive from informal rules. Of course this is undermined based on several factors. For example, in Morocco, any association linked with the Islamist Justice and Charity organization, which does not recognise the religious and political authority of the King and calls for an Islamic Republic, is not equally recognised. Non-Islamist groups which are most targeted because of their political ideas are the Amazigh and the Sahraoui. Apart from reasons based on religious radicalism, other impediments that exist in the country against the full exercise of this freedom are; (a) the administration structures, (b) the liaison of the public services with political channels, (c) corruption, and (d) the far reaching violation of human rights after the adoption of the Anti-terrorist Act in 2003. Likewise, political parties, since the modification of the law in 2005, are nearly impossible to be founded based on religious, racial, regional or linguistic characteristics.

The same situation existed in Libya. Since the beginning of Qaddafi’s regime, most of the pre-revolutionary interest groups were abolished and new associations were created, lacking, however, the autonomy which would help them play a significant political role. Strikes were prohibited and all the established organisations for professionals were government-sponsored and completely under the control of the regime, with a clear obligation to mobilise support for Qaddafi’s regime and its policies. Even in the case of women’s rights associations, Qaddafi’s regime created from the beginning a women’s organisation, the “Jamahiriyya Women’s Federation” which was allowed – just like in all cases – to be active under the control of the regime. The same authoritarian control existed under Qaddafi and in the case of political parties. Due to the general disapproval of Qaddafi towards representative and parliamentary democracy, all political parties were banned from 1972. Recently there has been an outcry concerning the freedom of the press, with the regime trying to control the private “independent” press, and also persecuting and exiling Libyans because of writing in oppositional websites against the regime.

The Tunisian constitution, based on Western prototypes, guaranteed from the beginning the freedom of association and assembly, while the founding of associations and the conditions enabling them to carry out their activities were clearly codified in the law. However, associations have been, in general, subject to restrictions during the whole duration of Ben Ali’s rule, hindering their registration on arbitrary grounds. It has been reported that groups who were not in line with the ideas of the regime were refused registration, as well as a document of the decision of the authorities enabling them to fight the decision in court. At the moment of the revolution during the Arab Spring, more than 9

thousand associations were legally registered in Tunisia, however they had many problems; any NGO working in the field of human rights and civil liberties was considered political and was therefore illegal, while all NGOs were barely known by the population in Tunisia. The largest civil society group during Ben Ali's rule was the National Union of Tunisian Women (UNFT), which has advocated women's access to education. Several other women's associations are actively engaged in researching, publicising and lobbying women's rights, and should be provided with safe forums to voice their concerns and needs.

2.7 BRIDGING THE GAPS: RECENT DEVELOPMENTS IN THE REGION

Since the outbreak of the Arab Spring in the region, many reforms and changes were introduced, especially in countries where there has been a violent demise of the old regime and an establishment of a new regime (e.g. Libya, Egypt and Tunisia). In order to clarify the steps that can be made towards the full completion of the democratic transition in the region and to enhance the EU's role concerning the promotion of women's rights in transitions, it is important to briefly map the recent developments.

➤ Libya

After the overthrow and the death of Qaddafi, the National Transitional Council (NTC), which was established in March 2011, set a timeframe for the transitional process, which was to lead to a draft of a new constitution and the holding of legislative and presidential elections. Furthermore, the Libyan committee on Human Rights had its first meeting on March 2012. One of the decisions was to install a directory on human rights in each court in the country and in each police service where Libyans can complain upon violation of their human rights. Initiatives have been taken to establish mechanisms for complaints and for contact with international human rights organisations.²¹ Such newly established mechanisms must be monitored and evaluated.

Concerning the Libyan case, experts in constitution making processes have concluded that the following challenges exist concerning Libyan transition:

- The road map provided for drafting the constitution is too short, as it does not allow public consultation, national dialogue and reconciliation among political forces and other groups. This is essential in democratic transitions.
- The type of governance of the future Libya (unitary or federalist system) is important and should be considered in the draft constitution before the referendum for a definitive constitution.
- National public debate must be conducted concerning the place of the Islamic Sharia in the future Libyan constitution. Islam is an essential element of the Libyan identity and it is mentioned in the draft constitution as the religion of the State. With the rise of political Islam in the region, and declarations of the interim leader of Libya on the abolition of all Libyan laws, which are contrary to Islam, public discussion is essential on Islam's role in the new Libyan legislation.
- The status of international conventions in relation to national law was never settled under the previous legislation of Libya. It is also unclear whether the lack of clarity on the issue derives from the place given to Islam and Sharia in the constitution.
- The fundamental rights guaranteed in the constitution must explicitly mention equality and the prohibition of violation of any human right on the basis of sex, leaving no place for traditions and customs (*urf*) which played an important role under the Qaddafi regime.
- The draft constitution contains provisions that protect some elements of the right to freedom of expression. According to the Centre Article 19, more comprehensive and robust protections are

²¹ See: the site of the Libyan ministry of justice: <http://www.aladel.gov.ly>, in Arabic.

required to address the culture of secrecy and human rights violations that were so prevalent under Qaddafi's regime. This is also vital to ensure full participation of Libyan women NGOs, beginning with the upcoming elections and drafting of a new constitution.

➤ **Tunisia**

Soon after the downfall of Ben Ali's regime in Tunisia, the first elections for the members of the National Constituent Assembly (NCA) took place on October 2011 and were observed by an observation mission from the EU.²² One of the issues observed by the mission was the participation of women before the elections and their presence during the election process. In summary the observation mission concluded that:

- Women represented 46% of the total voluntarily registered voters, while for those in the 21 to 30 age category this proportion reached 53%
- Due to an amendment of the electoral law, around 5000 women were candidates in the elections
- Women represented only 7% of the candidates who were placed at the top of the electoral lists
- The total turnout in the elections was 52%
- Female candidates took 59 of the 217 seats of the NCA [27%]. 40 of those elected were with Ennahda Movement – moderate Islamists.

Ennahda Movement won 40% of the vote and became the main political force in the country under the leadership of Rachid Ghannouchi, who returned to Tunisia after more than 20 years in exile, following the ousting of former president Ben Ali. Ennahda Movement later formed a coalition with the Congress for the Republic (CPR) and Attakatol parties, and a provisional Constitution was adopted in December of the same year. At the end of February 2012, the NCA began drafting the new Tunisian Constitution which is expected to finish in 2013, a time frame which coincides with the presidential elections. Some challenges that will have to be settled:

- The position that Sharia must have in the new Constitution is under discussion. A consensus seems to exist that the Sharia is a "source of values" for the future Tunisia as well as 'les hautes valeurs humanistes'.
- One of the important issues posed during the transitional process is the need for a consensus on the identity of Tunisians.
- Modernists emphasise that the constitution must honour the country's Arab and Muslim roots, along with international principles of modernity 'embodied in documents such as the UN Declaration on Human Rights'. Others, more secular in their views, advocate a separation of religion and politics. The issue of political Islam and the EU is discussed in Chapter IV of the present study.
- Promises are made by the Islamists to respect the gains of women under the secularism that for decades set post-independent Tunisia apart from most Arab and Muslim countries. The ruling Islamist majority declared that it will not corrode the positive status of women in family laws and other legislation, but strengthen it.
- The Tunisian transitional authorities adopted in April 2011 a gender parity law requiring equal numbers of women and men as candidates in the Constituent Assembly election. The new electoral law is the first document passed within the framework of political reforms undertaken in this period of democratic transition towards the NCA.
- It is reported that in the new Tunisian context, which is more conducive to freedoms of association, a true explosion of women's associations are finding their place with many new initiatives both in the

²² See <http://www.euom.eu/tunisie2011/accueil/mission-d-observation-lectorale-de-l-union-europ-enne-tunisie-2011?LANG=fr>

capital and in the regions.²³ However, concerns remain as to whether modernist women NGOs will be able to uphold the progress attained under the former regime, or get the opportunity to improve a situation which is still far from perfect.

- In 2011 the interim government prepared several decrees, among them a Press Code to replace restrictive laws introduced by the old regime and to allow the country's democratic transition. Some of these laws have already been published in the official Tunisian Gazette, as is the case of the Press Code, which protects media against all forms of corruption, abuse and censorship.
- Women's rights saw some improvement in the post-Ben Ali period, as the interim government withdrew a number of reservations to CEDAW in August. However, the Tunisian authorities have yet to reform the national legislation according to the international law and standards in order to fully implement the Convention and eliminate discrimination against women, both in the law and in practice.

Even though several positive measures took place, a lot remains to be done towards the full elimination of discrimination against women. The removal of all discriminatory legislative provisions is one of the most important barriers hampering the advancement of women's lives.

➤ Egypt

Women's representation in Egyptian political life has always been marginal. During the November 2011-January 2012 elections, after the overthrowing of Mubarak's regime for the 498 seats of the Egyptian People's Assembly, women's performance was very poor. Only eight women (1.6 %) were elected; two more were among the 10 members of the parliament appointed by the Supreme Council of the Military Forces (SCAF), taking women's overall share to 1.9%.²⁴ The outcomes of the Shura Council elections held in January-March 2012 were similar to those of the Lower House: women won five out of a total 180 seats (2.8%).²⁵

In compliance with Article 60 of the Constitutional Declaration²⁶, on 24th March 2012 in a joint meeting, the two Parliament chambers elected the 100-member Constituent Assembly. Previously, the MPs had determined the criteria for the makeup and the selection process of the Constituent Assembly, deciding that half the panel would have come from the Parliament itself. The election results were bitterly criticised for a number of reasons, not least for the poor representation of women who make up only 6% of the Assembly charged with the drafting of the new constitution.²⁷

The poor electoral performance of women in Egypt reflects their negligible weight in the life of political parties, as their structures are strongly patriarchal. According to a recent survey carried out by Amnesty International, only two political parties out of fifteen accept to commit to equal rights for women and to ending discrimination; the Egyptian Social Democratic Party (ESDP) and the Popular Socialist Alliance Party (PSAP). The ESDP includes the respect for women's rights in the list of its principles and is committed to a 30% representation of women in leadership positions. As for the Freedom and Justice Party, which won the majority of seats in both Houses of Parliament, it did not respond to AI's survey. Nevertheless, no woman sits in either of the two directive bodies, the Guidance Bureau and the Shura

²³ More on the site of the Association for Women's Rights in Development (AWID) : <http://awid.org/News-Analysis/Friday-Files/Tunisia-New-Electoral-Law-Prescribes-Gender-Parity-in-Upcoming-Constituent-Assembly-Elections>, 21/07/2011.

²⁴ The two women appointed by the SCAF are Coptic: their appointment is meant to be a partial remedy for the severe underrepresentation of both women and Copts.

²⁵ The SCAF has not exercised its power to appoint one third of Shura's members yet, in order not to interfere in the election of the Constitutional Assembly.

²⁶ Issued in March 2011.

²⁷ At the moment, the activity of the Constitutional Assembly is suspended, following a ruling of the Supreme Administrative Court (10 April 2010), which referred the issue to the State Council.

Council. Purportedly, under the past regime, women's exclusion was out of concern for their possible arrest. As a matter of fact women don't enjoy full membership within the organisation; they do not pay membership fees and do not vote in internal elections.²⁸

No woman was appointed to the bodies when the transition was initially negotiated; the committee created by the SCAF in February 2011 for the drafting of the constitutional amendments, and the committee for the discussion of electoral laws. No woman was appointed as governor. Women were not included in the protest movements' delegations to attend meetings held with the Prime Minister and the SCAF.

These factors constitute tremendous obstacles that hamper women's equal participation in the political and public life, hence their specific concerns and needs are absent from the transitional political agendas.

Except from the participation in the transitional political life, there are issues that women still have to deal with in Egypt:

- On 9th March 2011, the day after the rally to celebrate International Women's Day, the army broke up a sit-in, clearing Tahrir Square of protesters. Several women were arrested, and reportedly tortured and subjected to virginity tests. In December 2011, the State Council Administrative Court issued a ruling banning the practice of conducting virginity tests inside military facilities. The whole situation though, poses a great challenge for the transitional regime and women in general.
- Discrimination and gender-based violence still persists even though the Constitutional Declaration emphatically denounced such violations. For example, on 15th October 2011, following the deadly Maspero attack against thousands of demonstrators, most of them Coptic Christians, the SCAF amended the penal code by criminalising all forms of discrimination based on "gender, origin, language, religion or belief". Up to now no conviction for these offences have been reported.

It is worth mentioning the *Egyptian Women's Charter: Partners in the Revolution & in Building Democratic Egypt*, issued in June 2011, by the Alliance for Arab Women²⁹ and the Egyptian Women's Coalition.³⁰ The Charter states that women have been active in the 25th January Revolution, side by side with men, and that they want the revolution to open new opportunities for them. The Charter demands political representation and social and economic rights for women, and the government's commitment to all human rights conventions, namely to the CEDAW, and consequently the reform of all discriminatory laws.

²⁸ Noha El-Hennawi, "Sisters aspire to equality within Egypt's Muslim Brotherhood", in *Almasri Alyoum*, 15 March 2011, (<http://www.egyptindependent.com/news/sisters-aspire-equality-within-egypts-muslim-brotherhood>). A once active sister, Intissar Abd al-Moneim, gives an unflattering picture of the group in her recent book *Hikāyatī maca al-ihwān*, Cairo, General Egyptian Book Organisation, 2011. The book is reviewed by Mahlout al-Wardani on *ahramonline* (<http://english.ahram.org.eg/NewsContentPrint/18/0/35432/Books/0/Book-review-Memoire-of-an-ExSister.aspx>).

²⁹ The AAW is an NGO working as an umbrella for a network of 350 Egyptian NGOs.

³⁰ Among the sixteen members of the Egyptian Women's Coalition there are the New Woman Foundation (<http://nwrcegypt.org/en/>); the Egyptian Initiative for Personal Rights (<http://eiipr.org/en/>); Nazra for Feminist Studies (<http://nazra.org/en/>); the Center for Egyptian Women's Legal Assistance (<http://www.cewla.org/>), that presented one of the shadow reports to CEDAW committee as an NGO with a special consultative status with the Eco-Soc Council of the UN; and the Women and Memory Forum (<http://www.wmf.org.eg/>), which carries out scholarly research on women's history and disseminates its outcomes. The WMF initiated in May 2011 the "Women and Constitution Working Group": its suggestions can be read (in Arabic only) at <http://www.wmf.org.eg/en/node/921>

2.8 CONCLUSION

The examples presented above describe the overall situation of women in the region, bearing in mind the latest socio-political developments. The policy orientation of the EU is of great importance for the intervention and promotion of universal standards for women's rights in different transition processes like the current on-going situation in the MENA region. Remarks made in this chapter, analysed in combination with existing literature on the issue, were used to develop recommendations to the EU in chapter VI of the present study.

A comprehensive comparison between the participation of civil societies in Libya, Tunisia, Morocco and Egypt demonstrates the problem of low literacy rates in a society, especially the literacy levels among women, and the gravity of dictatorships, which do not allow a civil society to develop as in the case of Libya. Despite the participation of Libyan women in the transition period, they still suffer the consequences of the Qaddafi regime. Overall there is much pessimism in the ability of the countries, which were under dictatorial regimes for such a long time, to cope with democratic institutions.

In the case of Egypt, President Mubarak's regime, on "compliance for gender conditionality [...] represented a relatively soft option [...] in comparison to moving towards more genuine democratic participation"³¹, shows that political forces consider women's rights at best as the natural and automatic outcome of democratic reforms, overshadowing the issue of gender inequality in order to tackle "much more urgent" questions first. Additionally, the political mainstream discourse focuses on the role of the woman as part of and dependent on the family, rather than as an individual entitled to equal rights. This shows the differing perceptions among the evolving political forces in the region concerning women's rights, and the general discourse of state feminism.

The women's rights discourse is commonly perceived as associated with Western colonial domination, state feminism, and the "democracy promotion" agenda of the international donors. All the political parties, almost without exception, exclude any mention of it from their electoral programmes; they consider that women's issues do not resonate with the voters³² and with their conservatism. Conservatism is widespread among secularists and Islamists alike. Arguably, it is not founded on a religious basis, but rather nourished and favoured by the political reference to Islam.

On the other hand, the presumption that only secularism fits with democracy is predominant in Western debates. In fact, in enhancing democracy for men, women in Arab countries in transition must accept the premise that religion is a major force in Arab politics, and will remain as such after the transition period. The electoral results of 2011 in Morocco, Tunisia and Egypt confirm that free elections in Arab countries inevitably lead to governments, which strongly support political Islam. In the last decades all governments in the Arab countries tried to eradicate Islamist political parties with the support of Western countries, giving them an alibi to introduce repressive laws which were directed against all opponents of the dictatorial ruling regimes including the Islamists (moderate and extremist). The efforts to eradicate Islamists, not only failed, but victimised these parties, augmented their prestige for being the only real opponents of hated regimes, and increased their influence.

³¹ D. Kandioty, *Promise and peril: women and the "Arab spring"*, published on *openDemocracy* (<http://www.opendemocracy.net/5050/deniz-kandiyoti/promise-and-peril-women-and-%E2%80%98arab-spring%E2%80%99>).

³² The ONG Egyptian Centre for Women's Rights, that monitored the elections, contends that political parties base their conclusions on an "erroneous reading of the reality", underestimating "voters' education". It emphasizes the unprecedented high number of women taking part in the elections, both as candidates and voters (<http://www.ecwronline.org/english/press%20releases/2011/Summary%20Report-%20In%202012%20Parliament%20...%20What%20Women%20Lost%20and%20What%20Egypt%20Lost.pdf>).

In the countries of the Arab Spring and other Arab countries, religion will in the coming years not be dissociated neither excluded from the public sphere. Since citizens in all these countries seek an end to authoritarian regimes and fought for revolution, it will be a challenge for the new regimes to balance between the requisites of international laws and those of Islam. It is a choice that the EU and its institutions must make; boycott these democratically elected regimes as they have done with the Hamas regime in the Occupied Palestinian territories and close their eyes to brutal repression as was the case in Algeria, or support the civil society by engaging in debates with all the different views in these societies. Several scholars who are well informed about the Arab world and about the different Islamic movements share the opinion that '...A strong role for religion does not necessarily impede the consolidation of a democratic order' and that a 'Genuine democratisation does not unavoidably mean the triumph of secularism'.

It is of great importance that the EU finds ways to reach women and women's rights organisations and NGOs in the region. The empowerment of women who are active agents in bringing social change is essential in efforts to empower and enhance the role of civil society. Individuals who are committed to the fate of women in their society should get the financial and technical support enabling them to play a role in the process of democratisation in their country. This also means they should get the opportunity to meet women especially from other Arab countries who encounter the same challenges in the transition period, to discuss their needs and to develop their specific plans of action.

Furthermore, choosing a certain electoral system in countries under democratic transition is significant. The work and expertise developed by the Institute for Democracy and Electoral Assistance (IDEA) in this field is indeed extraordinary and should be further supported.³³ IDEA has shown in many publications how the choice for a certain electoral system is 'one of the most important institutional decisions for any democracy' and how these systems can 'engineer specific outcomes, such as to encourage cooperation and accommodation in a divided society'. Special attention has been given in these studies to gender equality as an integral part of democracy building. The situation of the electoral systems in several MENA countries such as Morocco, Egypt, Jordan and Yemen has been analysed. It is important to ensure the organisation of training for women, women's organisations and NGOs in countries undergoing democratic transition, on the effects of the electoral system on women's status and position, and explore ways of intervening and influencing the political systems. Considering the already well-developed expertise by IDEA and the European Inter University Centre for Human Rights and Democratisation (EIUC), cooperation between the EU and these particular institutions is of extreme importance, in order to properly address the challenges faced by women in the region and to promote democracy through the development of women and the development of their rights.

³³ <http://www.idea.int>

3. CHAPTER III - CROSS CUTTING ISSUE: TRANSITIONAL VIOLENCE AGAINST WOMEN

"If transition does not address violence against women, the violence against them increases and reinforces their marginalization [...] when you hear 'Liberation first, equality after!' you can rest assured that equality will never come."

Jasmin Sooka,

Former commissioner of South Africa's Truth and Reconciliation Commission.³⁴

In assessing women's rights in democratic transitions, probably the most important cross cutting issue that should be taken into account is violence against women as a widespread human rights violation with devastating consequences on women, their children, families and communities. Nonetheless, various other cross cutting issues should be analysed too, for example education and youth issues. However, due to the limited length of this study, and the importance of these two issues in the long term, we have decided to only investigate in the present study the issue of violence against women, which we understand has the biggest negative impact upon women's lives in the region and must be confronted immediately in the short term. Likewise we want to highlight the need for a specific study concerning issues of education and youth.

Even though women, as much as men, played a significant role as active agents in the revolutions, the transitional period following the Arab uprisings is characterised by a tendency towards their systematic marginalisation and deprivation from enjoying their rights, and an absence of interest in their concerns and needs from the transitional agendas.³⁵ Although many are involved in grassroots efforts for democratisation and the re-building of the new economic, political, social and cultural picture of their societies, backlashes and setbacks on their status threaten the real promotion of gender equality, including the multi-layered marginalisation and exclusion of women in transitional bodies and decision-making processes.³⁶ Women across the region have also been subjected to high levels of gender-based violence committed by militia, soldiers and police; specifically sexual violence and rape during in the Arab Spring uprisings and revolutions. There have also been reports of violence against women committed by demonstrators.

Acts of gender-based violence "results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, occurring in private or public life" and includes "acts of physical, sexual, psychological violence in the family, community or perpetrated or condoned by the state, including sexual abuse, rape, sexual harassment".³⁷ General Recommendation No. 19 of the Committee of CEDAW recognises that "Gender-based violence against women is violence that is directed against a woman because she is a woman or that affects women disproportionately." The 1995 Beijing Platform for Action, which has been endorsed by all EU Member States, expands this definition with the inclusion of systematic rape, sexual slavery and forced pregnancy, coercion to contraceptives, female infanticide and women's human rights violations during conflict. It further addressed the root causes of violence against women which "is a manifestation of the historically unequal power relations between men and women, which have led to domination over and

³⁴ International Centre for Transitional Justice, 2011, *Reparations and Gender Justice: is Egypt Ready for Transitional Justice?*

³⁵ Sigsworth, R., *Gender Based Violence in Transition: Concept Paper Violence and Transition*, Project Roundtable, Centre for the study of Violence and Reconciliation, 2008, p.4.

³⁶ Euro-Mediterranean Human Rights Network, *Transitional Governments Should Ensure Women Get Their Full Rights*, Press release March 7, 2012.

³⁷ United Nations *Declaration on the Elimination of Violence against Women* 1993 48/104, (A/RES/48/104), Art.1 and Art. 2.

discrimination against women by men and to the prevention of women's full advancement".³⁸ Hence, violence against women is rooted in a system of practices and laws which sanctions men's rights and actively attempts to maintain dominance and control over women and to regard them as their property.³⁹

Already within an environment of gender-based violence and gender discrimination, together with extreme economic vulnerability and very often re-victimisation on an institutional level, such acts are exacerbated during and after conflict and transition. Women are specifically targeted in conflict and repression and these crimes often stay unknown, with long-term physical and psychological consequences of sexual violence and community exclusion. Singsworth (2008) explains that the motivations that make women a target for such violence are multiple, complex and include; violence as a "punishment, to reward soldiers, for the destructive impact of sexual violence on the wider community; to demonstrate the weakness of male relatives/community members; to convey the message of threat, and because women are often viewed as the bearers of cultural identity". Gender-based violence, including rape, sexual harassment, torture and detention, forced impregnation, forced abortion, forced marriage, sexual slavery, and the intentional spread of sexually transmitted diseases (including HIV/AIDS), have been used as weapons, and have been the defining characteristics of conflict, repression and transition.⁴⁰

As mentioned above, the root causes of gender-based violence are those multiple inequalities that reinforce women's subordination in society within "hierarchies of oppression".⁴¹ The Beijing Platform of Action states that "while entire communities suffer the consequences of armed conflict and political instability, women and girls are particularly affected because of their status in society and their sex".⁴² Dealing with the consequences of violence against women is very complex, due to the lack of accessible resources for victims as well as the social stigma associated with sexual violence in the region. Furthermore, during transition women are more likely to be left in poverty with little political or social capital. Their socio-economic condition renders them vulnerable to violence and leaves them powerless to exit violent relationships/marriages, trapped in a "victim blaming" environment.⁴³

The shocking examples of Egypt, Libya, and Syria, which will be discussed further below, demonstrate the levels of brutality and organised and consistent abuse against women in the region. However, these examples do not make these countries distinct from other countries in the region. It should be noted that many countries are still undergoing transition and NGOs and human rights networks are deeply concerned about the violence against women involved in demonstrations and political movements. Women's continuing subjugation to physical and sexual violence, harassment, assault, threats, detention and torture deprive them from the full enjoyment of their rights and perpetuates their subordination in society. The categorisation of the human rights abuses experienced by women becomes very challenging, as forms of violence and abuse often overlap with the majority of cases involving a combination of psychological, physical, and sexual violence, as well as deprivation of freedom and torture.

³⁸ United Nations. *The Beijing Declaration and the Platform of Action: Fourth World Conference on Women: Beijing, China: 4-15 September 1995*.

³⁹ Maynard, M. and Winn, J., 'Women, Violence and Male Power' in Robinson, Victoria and Richardson, Diane (eds.), 'Introducing Women's Studies', 1997, p.180.

⁴⁰ Singsworth, R., 2008, p.4.

⁴¹ Groves, G. E. C., Resurrection, B. P., and Doneys, P., 'Keeping the Peace is not Enough: Human Security and Gender-based Violence during the Transitional Period of Timor-Leste', *Sojourn: Journal of Social Issues in Southern Asia*, Vol. 24, No.2, 2009, pp. 192.

⁴² United Nations. *The Beijing Declaration and the Platform of Action: Fourth World Conference on Women: Beijing, China: 4-15 September 1995*.

⁴³ Singsworth, R., 2008, p.4.7.

Mediterranean Institute of Gender Studies, *Poverty and Social Exclusion of Women Victims of Domestic Violence*, Nicosia, 2010.

3.1 SEXUAL VIOLENCE, HARASSMENT AND ASSAULT

The brutality used by the Egyptian military and police against women demonstrators provoked widespread outrage, especially after a video on the internet showing the horrifying images of military police dragging two women in the street along the ground and stamping on them, beating one, whose clothes had been torn off, senseless.⁴⁴ One of the women in the video, Azza Hilal, reported, that "soldiers beat her when she tried to help the veiled woman protester beaten by soldiers, not moving, and with her body exposed. Azza Hilal was repeatedly beaten with sticks on the head, arms, and back, causing her to bleed heavily and lose consciousness".⁴⁵ This resulted in the initiation of a march led by several hundred women called a "million woman" march to expose the military's sexual violence against female demonstrators, holding up pictures of women, elderly people and teenagers who had been victims of the cruelty of the police, and demanding regime change.

Marcus (2011) draws attention to the fact that dramatic political changes occur in a social context where violence against women, namely sexual violence against women, is used/employed for political repression.⁴⁶ Sexual violence is determined by various interacting factors, such as cultural practices, societal breakdown, competition over resources, the normalisation of violence within interpersonal relationships, and poverty. Sexual violence affects women at all stages of their lives with devastating effects, not only on themselves but also on their families due to the "communal reaction" and the social stigma attached to it.⁴⁷

Human rights violations against women activists by the military forces in Egypt are on-going. Local activists have reported being assaulted, stripped, sexually baited and threatened with charges of prostitution and "compulsory" medical virginity tests. There appears to be a policy aimed at intimidating women out of the public and political sphere through the use of gender based violence.⁴⁸ In March 2011, at least 18 women were taken by Egyptian army officers into military detention for four days. According to Amnesty International, during that time male soldiers beat them, gave them electric shocks and subjected them to strip searches. Women were forced to undergo "virginity tests", and threatened with prostitution charges if they were found not to be virgins. Such threats to women's privacy and dignity remain common.⁴⁹

On-going violence between the military and civilian populations in Egypt triggered women in Cairo to mobilise due to the aggression targeted against them. In December 2011, Samira Ibrahim, who was forced by the army to undergo a "virginity test", filed a lawsuit against the military and the court ruled that "virginity tests" are unlawful.⁵⁰ However, local activists reported that little has been done to bring perpetrators to justice, or to provide women with reparations. More specifically, Human Rights Watch stated that the military has failed to investigate and punish the military officers charged in the "virginity tests" trial, as well as other credible claims of other forms of violence against women, including beating and torture of women demonstrators between March and December 2011.⁵¹ These forms of torture and ill-treatment exploit the stigmas linked to sexual and gender-based violence, and are used to stereotype

⁴⁴ Ibid, p.7.

⁴⁵ Amnesty International, *Egypt: A year after 'virginity tests', women victims of army violence still seek justice*, March 9, 2012

⁴⁶ Marcus, E., *Rape and the Arab Spring; The Dark Side of the Popular Uprisings in the Middle East*, Centre for American Progress, December 2011p. 2-3.

⁴⁷ Sigsworth, R., 2008, pp.11-12.

⁴⁸ Human Rights First, *Women Continue to Struggle During Post-Arab Spring Transitions*, **Washington, DC, November 2, 2011.**

⁴⁹ Amnesty International, *Egypt: A Year after 'virginity tests', Women Victims of Army Violence still Seek Justice*, Press Release, March 9, 2012.

⁵⁰ International Federation for Human Rights (FIDH), 2011, *Women and the Arab Spring: Taking their place?*

⁵¹ Human Rights Watch, *Egypt: Military Impunity for Violence Against Women; Whitewash in Virginity Tests Trial*, April 7, 2012.

and marginalise female protesters, aiming to discourage women and girls from participating in public life.⁵²

Marcus (2011) draws attention to the statement made by a senior general: “the girls that were detained were not like your daughter or mine. these girls who had camped out with male protesters in Tahrir square”. She explains that the public discourse produces and maintains the perception that women fighting for their rights have no place in the public sphere or in a patriarchal religious society. At the same time, female sexuality is “policed” with the use of false allegations determined to damage their reputation.⁵³ The widespread sexual violence against women in transitions is silenced with the excuse that courts and police stations are not places for respectable women.

In all patriarchal societies there is a significant difference between being physically abused and being sexually abused within a “victim blaming environment”, whilst women may have little or no access to justice. Sexual violence is strongly linked to the notion of “honour”. As will be discussed below, unlike physical violence, rape and other forms of sexual violence result in everlasting damage of a woman’s reputation and status within her community. In the current context of demanding reform, democratisations and combatting authoritarian regimes, acts of sexual violence against women constitute a form of male dominance and patriarchy, as a political instrument to methodically silence opposition.⁵⁴ Women who fight back and resist against the patriarchal regimes are marginalised, with the authorities delegitimising female voices in a socio-political context that seriously disadvantages women’s capacity to access the public-justice system. In democratic transitions women need to be assured that they can enter the public sphere without fear of harassment and violence.

3.2 RAPE

As seen above, sexual violence is used as a tool by state and non-state actors (like other forms of violence against women) in democratic transition to punish or intimidate women for advocating political change. Rape constitutes the most severe form of sexual violence, which has been historically used as a weapon by authoritarian regimes to suppress women’s struggles for social change. The use of rape as a tool of repression in Libya and Syria is a fact that should be further analysed when addressing the issue of transitional violence.

Women in Syria have been abducted by pro-regime forces to spread fear within the population, whilst there are many reports of rape.⁵⁵ In Libya, the systematic widespread rapes have resulted in such stigmatisation of victims that they have been condemned to silence. In Libya (as in Syria) it remains extremely difficult to document these crimes.⁵⁶ Women in Libya stress that “under Gaddafi’s regime sexual harassment was part and parcel of any promotion in the political system”.⁵⁷ Through his fight to remain in power his regime “ordered soldiers to go into villages and rape the female adults and children (some as young as 8 years old) in front of family members. Condoms and Viagra were found in pockets of dead Gaddafi soldiers, whilst Benghazi journalists reported seeing the ground littered in Viagra after troops had been through”.⁵⁸ Souad Wahabi, an activist in Libya, has documented 54 cases of rape

⁵² Amnesty International, *Egypt: A Year after ‘virginity tests’, Women Victims of Army Violence still Seek Justice*, Press Release, March 9, 2012.

⁵³ Marcus, E., 2011, p.p.2-3.

⁵⁴ Ibid, p.p.2-3.

⁵⁵ International Federation for Human Rights (FIDH), 2011, *Women and the Arab Spring: Taking their place?* Country Report, Syria [Available at: <http://arabwomenspring.fidh.net/index.php?title=Syria>]

⁵⁶ Ibid, *Country Report, Libya*.

⁵⁷ Omar, M., ‘Women in Libya and the Arab Spring’, *Huff Post World Newspaper*, April 11, 2011.

⁵⁸ Marcus, E., 2011, p.3.

committed by Qaddafi's forces. Some of the victims became pregnant as a result, and all of them were raped by several men. Souad has also documented several cases of men who had been raped.⁵⁹

The case of Iman Al-Obeidi, a lawyer from Benghazi, "who told journalists gathered in a hotel in Tripoli in March 2011 that she had been gang-raped by Qaddafi's troops, is a dramatic illustration of the stigmatisation of victims of rape" brought into the international spotlight.⁶⁰ As a result she was publicly accused by government representatives for being a drunk, a prostitute or mentally ill, and was arrested, detained and threatened with defamation proceedings. The International Federation for Human Rights (FIDH) reported that women and girl victims of rape are facing a double risk of being killed by male family members to "wash away" family dishonour. They also brought to light cases of husbands of rape victims committing suicide, or even cases of men intending to kill their wives or daughters before going to fight in order to avoid the risk of them being raped.⁶¹

It is evident that women victims of rape are socially stigmatised, as they have to face the profoundly ingrained cultural taboo associated with being a victim of sexual violence, and are no longer considered being "appropriate" for marriage (which is the primary social norm). They also face a culture of "victim blaming" and a social environment in which they are accused of provoking such violence by "trespassing conservative social and sexual norms".⁶² The physical and emotional scars and shame experienced by survivors of rape are often combined with the burden of a child as a result. Apart from the social stigma, under the Libyan criminal law for instance, women who proceed to abortion are at risk of a minimum of 6 months imprisonment (art. 391-392), whilst if the abortion aims to "preserve the honour" of the man it is reduced by half (art. 394).⁶³

In this context, the discourse related to women and rape (and sexual violence in general) is strongly linked to "honour", which is the justification for much of the violence taking place in patriarchal societies. As rape not only causes severe damage to the woman herself but also to her family and community as well, during the uprisings women were deprived of having their own voice of opposition to the regimes and, later, to the transitional agendas.

Apart from discriminatory laws in place, the FIDH reports that there is a complete absence of victim support mechanisms or instruments to hold the perpetrators accountable for such crimes. Additionally, the victim's fear of being identified precludes them from access to support and rehabilitation services. In January 2012, lawyers and human rights organisations in Libya reported to FIDH that they are increasingly "reserved to document crimes of sexual violence as there is immediate danger of reprisal on victims" who remain in silence out of fear.⁶⁴ In November 2011, a silent march in Tripoli was organized by Libyan women to demand support for tougher sentences for the perpetrators, and the much-needed financial support for NGOs who provide support. According to FIDH such measures have not been taken so far.⁶⁵

3.3 THREATS, DETENTION AND TORTURE

In Syria, women human rights defenders have been forced into hiding whilst some have even fled the country. Arbitrary arrest, detention and torture of activists, journalists and bloggers have been reported by local activists. A clear example is the case of the human rights activist and blogger Razan Ghazzawi,

⁵⁹ Ibid, p.3.

⁶⁰ International Federation for Human Rights (FIDH), 2011, *Women and the Arab Spring: Taking their place?* Country Report, Libya [Available at: <http://arabwomenspring.fidh.net/index.php?title=Libya>]

⁶¹ Ibid, *Country Report Libya*.

⁶² Marcus, E., 2011, p.2.

⁶³ International Federation for Human Rights (FIDH), 2011, *Women and the Arab Spring: Taking their place?* Country Report, Libya.

⁶⁴ International Federation for Human Rights (FIDH), *Preliminary Note on Libya Mission*, February 2, 2012.

⁶⁵ Ibid.

advocating freedom of expression, arrested by Syrian security forces, along with rights activist Mazen Darwish, provoking local and regional NGOs' deep concerns about the ill treatment of detainees, especially women and girls.⁶⁶ Even if released, they are under constant threat of re-arrest.⁶⁷ Digital female activists covering the protests were and are also subject to an online campaign to discredit them for drinking alcohol or being immoral. Thousands have been arrested, with many held isolated for long periods at unknown locations where torture and other ill-treatment are reported to be common. Amnesty International has expressed that these violations amount to crimes against humanity.⁶⁸

In small private discussions, Tunisian women activists revealed that they have been victims of campaigns to damage their reputation through the distribution of fake pictures of them nude at their children's schools. Another incident of sexual assault that took place in Egypt involved the American journalist Mona Eltahawy, who was arrested by the Egyptian security forces in November 2011 while protesting in Tahrir Square against the military. While her prominence as an American journalist secured her release, she was severely beaten and sexually assaulted. This case demonstrates the abuse faced by Egyptian women activists, showing a prevailing attitude among the police and judges that rape, sexual assault and other forms of gender based violence are not a matter of public justice.⁶⁹ Amnesty International has called for action to address the social stigma and risks faced by survivors of sexual violence and torture, so that they do not face secondary victimisation and complex violations of their rights.⁷⁰

3.4 RECOMMENDATIONS TOWARDS JUSTICE

Crimes of gender-based violence are compounded by weak criminal justice systems, inextricably linked to societal attitudes that create barriers for women and men to report such incidents of violence. As has been seen above, such barriers include the feelings of fear, shame, self-blame, community taboos around sexual violence, social stigma and discrimination against victims, threats against a family member or intimate partner, discriminatory police attitudes, and re-victimisation experienced within the criminal justice system. Sigsworth (2008) further explains that these barriers contribute to the culture of impunity, which perpetuates the cycle of violence due to the inability of justice mechanisms to take action.⁷¹ In many transitional societies, the criminal justice system fails to address crimes of sexual violence, due to antiquated legislation and conservative attitudes.

Feminist experts suggest that the systematic nature of violence against women needs to be addressed through transformative justice mechanisms including a range of approaches to properly address widespread human rights violations, and to move towards democracy and respect for individual and collective rights. Accountability for crimes against women should go beyond punishing perpetrators. As Sigsworth states, gender justice should involve "establishing the rule of law in restoring public trust and ensuring women's full access to criminal justice, constitutional, legislative and judicial processes".⁷²

For example, in transitional justice, truth-commissions with a "victim centred" approach are considered to help in investigating the extent and nature of the abuses, serving as the forum for encouraging survivors' histories through national and international commissions/mechanisms. However, transitional justice observers have noted that truth commissions have sometimes failed to pay attention to the gendered nature of violence in transition⁷³, and in many cases failed to investigate the broader realities

⁶⁶ Euro-Mediterranean Human Rights Network, *Syria-Freedom of Expression Activist at risk of Torture*, Press release, December 7, 2012.

⁶⁷ Human Rights First, *Women Continue to Struggle During Post-Arab Spring Transitions*, **Washington, DC, November 2, 2011**.

⁶⁸ Amnesty International, *Urge Syria's First Lady to Use her Influence for Women's Rights*, Press Release, March 7, 2012.

⁶⁹ Marcus, E., 2011, p.4.

⁷⁰ AMNESTY INTERNATIONAL, *SYRIA: 'I WANTED TO DIE': SYRIA'S TORTURE SURVIVORS SPEAK OUT*, REPORT, UNITED KINGDOM, MARCH 2012, pp.37-39.

⁷¹ Sigsworth, R., 2008, pp.14-16.

⁷² *Ibid*, p.15.

⁷³ *Ibid*, pp.16-17.

faced by women and their specific needs, focusing only on the sexual harm experienced by the survivors.⁷⁴

In promoting and securing long-term peace and stability in the countries under transition (and in the region more broadly), Theidon (2007) provides a significant framework of the complex nature of gender-sensitive transitional justice mechanisms. To effectively mainstream gender concerns in truth commissions, their reports should include the following elements; gendered patterns of human rights violations; differentiations in the gender impact of rights violations and the broader conflict; national and international law addressing crimes against women; conditions for women's vulnerability to human rights violations; ideologies of femininity and masculinity that pervade the overall situation of violence; role of women activists, both individuals and women's organisations; gender dimensions of psychosocial trauma in the affected community; emerging issues from individual and thematic public hearings; recommendations for reparations and reform that address women's specific needs and goals.⁷⁵ Substantial sensitivity to women's local needs in each social context is essential in considerations for developing public truth telling forums. Transitional justice mechanisms are continuously transforming, especially in relation to women's needs. In that sense it is essential to re-evaluate these mechanisms, focusing on their impact on women's ability to access justice, as well as to develop new strategies for more broadly assessing women's socio-economic needs.

In relation to reparation measures (compensatory, rehabilitative, symbolic, individual or collective), aimed at acknowledging the harm done to individuals and communities during repression, Sigsworth (2008) and Theidon (2007) state that reparations for women's human rights abuses involve several risks, depending on the way in which they are distributed and whether they take the form of monetary or non-monetary reparations. However, according to the International Centre for Transitional Justice, material and/or symbolic reparations (responding to the victim's needs) are essential where violations are imputable to the state and where the parties are not held accountable. Theidon continues to say that symbolic reparations could also include public education programs raising awareness about gender-based violence and massive sexual violence during transitions.⁷⁶ According to the UN Basic Principles and Guidelines on Reparations, adequate, effective and prompt reparations are significant and should consist of multiple components including restitution, compensation, rehabilitation, satisfaction, and guarantees for non-reception.⁷⁷ According to Ruben Carranza, ICTJ's Director of Reparations program "victims must have adequate access to the information about the reparations they are entitled to".⁷⁸ Courts have a role to play in demanding compensation for victims, but this has limitations including the cost of the proceedings, the capacity of judiciary and the scale of violations. Based on this, some countries established administrative agencies to implement reparations programs so that they are flexible and fair.⁷⁹

Gender-sensitive reparation programs, ensuring confidentiality, can serve in pragmatically acknowledging the seriousness of violence against women morally and politically. Both material and symbolic reparations can substantially change women's lives as long as they are systematic, committed and sustainable with concrete timeframes and budget lines, and address the structural causes of

⁷⁴ Theidon, K. 'Gender in Transition: Common Sense, Women and War', *Journal of Human Rights*, No.6:453-478, 2007, p.474.

⁷⁵ Vasuki, N. et al., *Truth Commissions and Gender: Principles, Policies, and Procedures*, International Centre for Transitional Justice, New York, July 2006, p.33

⁷⁶ Theidon, K., 2007, p.475.

⁷⁷ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, IX principle 18

⁷⁸ International Centre for Transitional Justice, 2011, *Reparations and Gender Justice: is Egypt Ready for Transitional Justice?*

⁷⁹ Ibid.

women's rights violations.⁸⁰ Theidon's notion of redistributive justice, the need to redistribute the shame unjustly apportioned to women to the perpetrators, can be applied through the redistribution of resources and services seeking to provide redress for the familial and economic burdens that women bear during political instabilities and transition.⁸¹

Transitional justice can address violence against women, giving the message through the criminal justice system that such violence is no longer normalised or acceptable. To achieve this, commissions and reparations can embrace female victims of violence's accounts, examine patterns of violations and recommend institutional reforms to empower women during and post-transition to ensure strategic minimisation of their vulnerability.⁸² Attempts to meet victims' needs through reparations often ignore their great efforts for changing a strictly patriarchal regime, which could constitute another form of compensation. Special transitional systems such as special tribunals can better deal with the legacy of systematic gender based violence.⁸³ Ultimately, institutional reform is essential to prevent future violations. Gender mainstreaming is essential in the reconstruction of abusive security systems, in providing effective and accountable security to women, and last but not least in maintaining their rights and retaining any transitional gains.

4. CHAPTER IV - THE ARAB SPRING, WOMEN'S RIGHT AND INTERNATIONAL ORGANISATIONS

The decrease of women's rights and gender equality in some Arab countries is not only a result of Islamist empowerment, but part of patriarchal traditions that transcend these societies. Moving from the European perception of Islam that creates the so-called "Muslim exceptionalism", prejudices rooted in narratives deriving from the history of Europe-Arab relations need to be taken into consideration. The EU is called upon to open up to the various segments of Arab civil society, to follow their gender-discourses and to enter into a critical dialogue with them, including the engagement of the young generation with its new forms of organisation and communication. Among other entry points, a 'more for more' approach should be applied by the EU to the renewed neighbourhood policy to pressure Arab regimes to adopt the basics of 'good governance'; that is to follow the rule of law, to guarantee civil and especially women rights, and by doing so to actively support the development of a vivid and hopefully gender-sensitive civil society.

For the European Union, the importance of the Arab Spring as a contemporary revolutionary process that has spilled over state borders is comparable to the collapse of the Communist regimes in Eastern Europe some twenty years ago. As a major international event, it affected not only neighbouring countries but it also significantly impacted international relations. For the most part it highlights three major aspects. First, it has ended the myth of the Arab exception to the acceptance of democracy and human rights as universal values. Second, it has offered a powerful paradigm shift on how new technologies and social networking can undermine authoritarian and/or corrupted regimes. Third, it has created an unprecedented effort by international actors on how to work out feasible reform strategies for bridging the transition between authoritarian regimes and democratic governance.

⁸⁰ Duggan, C. 'Reparations for Sexual and Reproductive Violence; Prospects for Achieving Gender Justice in Guatemala and Peru', *International Journal of Transitional Justice*, 2001, pp.17-19.

⁸¹ Theidon, K., 2007, p.475.

⁸² Mudell, K., in International Centre for Transitional Justice, 2011, *Reparations and Gender Justice: is Egypt Ready for Transitional Justice?*

⁸³ Ibid, Mozn Hassan, Director of Nazra for Feminist Studies.

This chapter offers a brief overview of some key international actors such as the United Nations, the Council of Europe, the OSCE and the African Union. The EU by creating synergies may significantly increase the impact of its efforts in enhancing universal standards for women's rights.

4.1 UNITED NATIONS

One has to admit that prediction of the revolutionary events has been weak in the UN, at least at the political level. The UN Development programme did in fact produce a series of reports in the early and mid-2000s analysing the economic, social and demographic strains in the Middle East/North Africa region. They accurately predicted that unless economic and social reform was accelerated, there would be political, possibly violent, upheaval. It is clear that these prescient reports did not lead to political action. The debates surrounding Israel and Palestine overshadowed the fundamental issues raised by the lack of political and economic reform in the Arab world.

The UN's response to the Arab Spring has been rather impressive; the Secretary-General, Ban Ki-moon, took a firm stand and called on the Egyptian Government to respond positively to the demands of those demonstrating in Tahrir Square. Politically, it sent a clear message. Since then, the UN Secretary General has made a series of statements on Libya, Syria, Yemen and Bahrain. The wider UN system also reacted positively. The Human Rights Council suspended Libya, established a commission of inquiry and effectively rejected Syria's candidature for HRC membership. The General Assembly switched accreditation to the Libyan opposition and adopted its first ever Human Rights Resolution on Syria in December. The NATO/Coalition military action to implement SCR 1973 proved a divisive issue in the UN Security Council. Russia and China in particular argue that the coalition air attacks went beyond the Security Council mandate, with the objective of regime change rather than the protection of civilians.

But the Libya backlash has not paralysed action entirely in the Security Council; on Libya itself, the Council has mandated a UN support mission, which will help the new Libyan government with security, rule of law and preparation for elections.

4.1.1 UN Women

UN Women, in full accordance with the Charter of the UN, the Beijing Declaration and Platform for Action, aims at empowering women and girls, and promoting gender equality in collaboration with other parts of the UN system such as UNICEF, UNDP and UNFPA.

As a body, it has the entitlement to support inter-governmental bodies in the formulation of policies, global standards and norms, to help states with the implementation of such gender equality standards by providing technical and financial support, and to monitor the progress made in each country concerning its commitments to gender equality.

Among others, UN Women's work is dedicated to the elimination of discrimination against women and girls, in full concordance with CEDAW provisions and the UN Charter, aimed at the empowerment of women in the politics, economy and society of a country and tries to achieve equality between women and men in benefiting from development, human rights, humanitarian action, peace and security.

In April 2012, a new partnership between the EU and UN Women was signed in order to strengthen the cooperation between the two organisations. The new Memorandum of Understanding reaffirms this partnership which, among others, comprises of sharing information, expertise and analysis. This cooperation can be seen as a considerable enforcement of the EU's politics in supporting universal equality standards in the region.

Cooperation will primarily focus on ensuring women's representation in decision-making in the fields of economics, politics and justice worldwide, as well as better access for women to work and social

opportunities. In fact the European Community participated in the UN's Conference on Women (Beijing 1995), and enforced its objectives concerning the twelve areas identified. Therefore, based on the above, the EU in general could find several entry points for enforcing and collaborating UN Women's action in MENA countries.

Following the Arab Spring, various actions were initiated by UN Women in the region:

- Visits to the Middle East and North Africa;
- Observation of the constitutional redrafting taking place in MENA countries;
- Analysis of women's political participation in the new governmental schemes in the region;
- In early 2011, UN Women contributed to the development of a National Egyptian Women's Charter, articulating women's expectations from the democratic transition process;
- UN Women was involved in the launch of the Egyptian Women's Union, which mobilised Egyptian women voters for the elections and also aims to connect women throughout the region;
- Contributed in the creation of a Coalition for Civic Education and Women's Participation in Egypt, responsible for monitoring women's political participation during the transition;
- Training sessions and workshops held in Egypt for raising political awareness among women.

Many other actions such as supporting NGOs, establishing monitoring committees and training on women's rights in the region concerning issues of political and economic participation, legislation reform, AIDS/HIV, family planning and education were initiated.

4.1.2 UN Activities in the region

The UN System in general has been active in the region too:

- UNDP has been assisting Egyptian and Tunisian authorities with elections and constitution writing;
- The Secretary-General helped to broker the peace deal in Yemen in November, on the back of an initiative from the Gulf Co-operation Council. President Saleh stepped down, and new Presidential elections were held;
- The Secretary General has continued to speak out on developments in Bahrain and Iraq.

4.2 COUNCIL OF EUROPE

4.2.1 Council of Europe System

One of the key concerns of the Council of Europe has always been to ensure that gender equality and the enhancement of the status of women are high priorities. For the Council of Europe there can be no democracy without respect for women's rights. With the Arab Spring this concern became a major one. The President of the Parliamentary Assembly launched in 2012 a message of support and encouragement to all women living in the new democracies emerging from the Arab Spring. "Women, who were on the front line of the uprisings against authoritarian regimes, must also be on the front line when it comes to the running of public institutions, political decision-making, being able to vote and stand for elections". "Their participation in nascent political projects will be decisive in enabling the Arab Spring to grow into a new era of freedom and justice," he continued. "Gender equality should be enshrined in the new constitutional and legal frameworks, including in family law. No culture, religion or tradition can be used to justify inequality between human beings. Although pluralism and human rights are the current buzzwords, it is going to take more than just words to achieve the true equality that protesters fought and died for," he said.

The effects of the Arab Spring were a major theme of the spring session of the Parliamentary Assembly of the Council of Europe (PACE) in April 2012 and a debate on "Equality between women and men: a

condition for the success of the Arab Spring” attended by Morocco’s minister responsible for women’s issues took place. In a resolution adopted on 24th April 2012, PACE invites countries in the southern Mediterranean that have recently moved towards democracy to introduce reforms “to enhance the status of women and eradicate all forms of discrimination against them” and to promote women’s representation in elected public bodies. According to the Assembly such countries should also bring legislation in the area of family and personal status law in line with international human rights standards, and introduce a legal framework to prevent and prosecute all forms of violence against women. Moreover, the Assembly welcomes the initiatives taken by the Secretary-General and a number of Council of Europe bodies to establish closer dialogue with the countries of the region, especially Morocco and Tunisia (recommendation 1966 (2012) Assembly parliamentary, Equality between women and men: a condition for the success of the Arab spring. (See also resolution 1873 (2012)).

4.2.2 Venice Commission

More specifically the Venice Commission, also known as the European Commission for Democracy through Law, is based on a partial agreement of the Council of Europe and is playing a key role in helping countries from the Arab world to draft a new constitution or to adapt it, and offers advice to the new government on matters related to constitutional guarantees of human rights – including gender rights – and judiciary power and the ERU should actively support its action and activities. One must remember that the Commission allows non-European States to be full members of the Commission, and that some of the Mediterranean countries recently joined the Commission and regularly attend its meetings. Morocco and Algeria joined in 2007, Israel in 2008 and Tunisia in 2010. The Palestinian National Authority has a special co-operation status similar to that of the observers. The European Commission and OSCE/ODIHR participate in the plenary sessions of the Commission. The Venice Commission signed a cooperation agreement with the Union of Arab Constitutional courts and councils in order to facilitate contact with other similar courts, and to reinforce the role of the constitutional courts in the Arab countries.

4.2.3 North-South Centre

Created in November 1989, the European Centre for Global Interdependence and Solidarity (more commonly known as the "North-South Centre") is also a key player in promoting gender equality in the Arab countries. It was set up in Lisbon and is also based on a partial agreement of the Council of Europe. It aims to promote human rights, democracy and the rule of law through intercultural dialogue and education, providing a framework for European co-operation, for the purpose of increasing public awareness of global interdependence and solidarity issues and promoting policies of solidarity in conformity with the aims and principles of the Council of Europe, by fostering dialogue and co-operation between Europe and non-European countries in neighbouring regions. It follows closely the developments of the Arab Spring in the Southern Mediterranean region.

Among many conferences on the Arab Spring, the North-South Centre organised in November 2011, in partnership with PACE and the Italian government, a conference called “Women as Actors of Change in the Euro-Mediterranean Region” which brought together not only representatives of government, international organisations, parliamentarians, civil society and journalists, but also experts on these issues to discuss not only the role of women as agents of political, economic and private changes, but also the role of media as instruments for the promotion of the role of women. The conclusions laid the foundations for a set of comprehensive activities for the period 2012/2014 labelled as “The North-South Women’s Empowerment process”. It was agreed that it would be useful to establish this network of women for democratic governance and a cycle of conferences in Mediterranean countries, as well as initiate Leadership Training and Capacity Building seminars for young women in targeted countries. The

EU is involved in the project as it participates in its funding through the EU-Council of Europe Agreement “Strengthening Democratic Reform in the Southern Neighbourhood”.

The Centre also provides contributions to the bilateral cooperation programmes between the Council of Europe and targeted countries in the region (Morocco, Tunisia) in the framework of the new neighbourhood policy of the Council of Europe (see below). It is doubtless an important asset in the elaboration and evaluation of action plans with Morocco and Tunisia, as well as in the establishment of cooperation with other countries in the region. The EU should continue to support the activities of the centre, which aims to further develop the network of the North-South women’s empowerment process and in strengthening relations with civil society and non-governmental organisations and contributing to capacity building.

4.2.4 Recommendations

The EU could support a number of initiatives, such as:

- a) Increase its political and financial support to the new neighbourhood policy of the Council of Europe as defined in 2011

While the mandate of the Council of Europe will still be focused on Europe, the organisation also decided to extend cooperation beyond the borders of its immediate neighbourhood in the Mediterranean region and the Middle East. As stated in April 2011 by the Secretary-General of the Council of Europe, Mr. Jagland, “The recent events and the on-going situation in countries around the Southern rim of the Mediterranean offer a unique historic opportunity for the people of the region to transform their current political systems into genuine democracies. These developments are reinforcing the need for a review of our existing relations and policies with our neighbours and for the definition of clear strategic priorities about the way these relations should develop in the future”. Moreover, much of the experience in the post 1989 democratic transition in Europe is relevant and can be offered as examples, in the form of assistance, of what should or should not be done.

This new policy is based on the definition of clear strategic priorities and should aim to facilitate democratic political transition (constitutional process, electoral legislation, organisation and observation of elections) and promote good governance in the countries in the Council of Europe neighbourhood, on the basis of the relevant Council of Europe standards, mechanisms and instruments (independence and functioning of the judiciary, fight against corruption, money laundering etc.), as well as reinforcing and enlarging the Council of Europe’s regional action in combatting trans-border and global threats, such as human trafficking, cybercrime, organised crime, terrorism, etc. Tools to be used to achieve this new policy are the neighbourhood Co-operation Dialogue, which is a framework for political dialogue between the country concerned and the Council of Europe, identifying the main priority areas and modalities for Co-operation, and the neighbourhood Cooperation Action Plan, which is an agreement on specific co-operation activities over a two-year period, concluded between the country concerned and the Council of Europe, in consultation with other possible international partners and financial contributors, especially the EU.

The action plan sets out priorities to be achieved, upon which the Council of Europe and concerned country have agreed on. In this framework for example, Secretary-General Thorbjørn Jagland and Moroccan Foreign Minister Saad Dine El Otmani, on 24th April 2012, signed an action plan of neighbourhood cooperation priorities 2012/2014, to take forward democracy, human rights and the rule of law in the country. A number of projects have been identified where the Council of Europe and the Moroccan authorities can work together, in areas such as electoral assistance, reform of justice, combatting corruption etc.; the action plan attaches a particular importance to the protection of the rights of women and two priorities have been determined; to promote women’s rights and their

participation in public and political life, particularly in decision-making fields, and to combat violence against women. The cooperation priorities will be partially implemented as part of the joint European Union/Council of Europe programme "Strengthening democratic reform in the southern Neighbourhood".

In fact, the EU is funding part of the activities in view of its longstanding relationships with this region. A brand new partnership with the European Union was announced in January 2012 to strengthen democratic reform in the Southern Mediterranean Region (especially Morocco, Tunisia and possibly Jordan). Agreed in January 2012, this €4.8m, 3-year project – to last until the end of 2014 – will focus on four specific objectives:

- To enhance independence and efficiency of the judiciary by improving Courts' performance and by facilitating judicial reform, using as a reference relevant Council of Europe standards.
- To promote good governance through increased prevention of corruption and money laundering on the basis of the relevant Council of Europe standards, mechanisms and instruments, and to improve the basic framework for regional co-operation.
- To strengthen and protect human rights, in particular through the prevention and control of trafficking in human beings in line with the provisions of the Council of Europe Convention on Action Against Trafficking in Human Beings and other international standards.
- To promote democratic values in the region, building on the Council of Europe's existing networks such as those developed by the North-South Centre, the Youth Directorate, the Pompidou Group, the Venice Commission and Schools of Political Studies.

The programme's implementation has started in Morocco and Tunisia; some initiatives will be implemented over three years throughout the region.

b) Strongly support the status of Partnership for democracy

In adopting Resolution 1680 (2009) on the establishment of a "Partner for Democracy" status with the Parliamentary Assembly, the Assembly decided to establish a new status for institutional co-operation with parliaments of non-member states in neighbouring regions wishing to benefit from the Assembly's experience in democracy building, and to participate in the political debate on common challenges which transcend European boundaries.

The Moroccan Parliament is the first parliament to be awarded this new status (June 2011, Resolution 1818 (2011)). Endorsing the conclusions of the rapporteur on this question, Luca Volontè (Italy, EPP/CD), PACE considered that "the request by the Parliament of Morocco meets the formal criteria set forth in its Rules of Procedure". It said that the Speakers of both Chambers of the Moroccan parliament had undertaken to pursue their efforts "to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of [...] the death penalty" and to continue "to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions of the death penalty since 1993." They had also committed themselves to promoting "the balanced participation of women and men in public life and politics", to ensuring that "favourable conditions can be established for the holding of free, fair and transparent elections", and encouraging "the authorities concerned to accede to relevant Council of Europe conventions and partial agreements that can be signed and ratified by non-member states".

The Assembly welcomes Morocco's commitment to deep constitutional, institutional, political and legal reforms, and encourages the state authorities to make full use of the Council of Europe's expertise, and draw inspiration from Council of Europe standards in carrying out such reforms. It further welcomes a new draft Constitution as an important step towards consolidating the principles of democracy, respect

for human rights and the rule of law. It notes with satisfaction, in this context, that co-operation between Morocco and the Council of Europe has increased significantly in recent times, following Morocco's accession to the North-South Centre in July 2009. It considers that the Partner for Democracy status provides an appropriate framework for a stronger involvement of the Parliament of Morocco in the process of reforms.

Against this background, the Assembly lists the following specific issues, which are of key importance for strengthening democracy, the rule of law and the respect of human rights and fundamental freedoms in Morocco. Among them, ensuring equal opportunities for women and men in political and public life is considered as one priority. PACE encourages the Council of Europe and Morocco to incorporate these priorities in their current discussions on a bilateral programme of co-operation. The fact that Morocco is a member of several Council of Europe partial agreements, such as the Venice Commission, the North-South Centre and the Pompidou Group, is clearly, in this respect, an added advantage.

In October 2011, the Palestinian Council became the second parliament to be granted the new status. Among the priorities fixed by the Council of Europe are “actively promoting equal opportunities for women and men in political and public life; fighting all forms of discrimination (in law and in practice) based on gender; ensuring effective equality between women and men, including as regards marriage, divorce, polygamy and inheritance law and, where necessary, initiating a process of legislative revision; fighting all forms of gender-based violence”. The Speaker of the Palestinian National Council Salim Al-Za’noon hailed the decision as “historic” and said it could contribute to establishing peace in the region.

Both examples of the Moroccan Parliament and the Palestinian Council should be followed by other Arab countries, especially Tunisia, in order to benefit from the experience of the Council of Europe and the expertise of the Venice Commission and the North/South Centre. The EU should incite Arab countries to apply for the status of Partnership for democracy.

- c) Encourage Arab countries to sign and ratify the European Convention on preventing violence against women and domestic violence ([CETS No. 210](#))

The prevention of violence against women should be a priority. According to different national surveys on the prevalence of violence against women realised in different Arab states, a large number of women appear to have been victims of violence in one form or another. Some countries have made visible progress towards combatting domestic violence, in particular through recent legislative changes. In view of its expertise, the CoE and the EU could assist the country in this area. The Council of Europe Convention on preventing violence against women and domestic violence (CETS No. 210) sets, for the first time in Europe, legally-binding standards to prevent violence against women and domestic violence, protect its victims and punish the perpetrators. It fills a significant gap in human rights protection for women, and encourages Parties to extend their protection to all victims of domestic violence. It nonetheless highlights the need to eradicate violence against women in order to achieve substantive equality between women and men, and thus significantly furthers recognition of violence against women as a form of discrimination. The convention is open to non-member states of the Council of Europe, as stated by article 76 of the convention: “After consulting the Parties and obtaining their unanimous consent, the Committee of Ministers may invite any state not a Council of Europe member which did not participate in drawing up the Convention to accede to it. This decision requires the two-thirds majority provided for in Article 20.d of the Statute of the Council of Europe and the unanimous vote of the Parties to this Convention”.

4.3 OSCE

The Organisation for Security and Cooperation in Europe is the world's largest intergovernmental organisation with a mandate of three dimensions, the politico-military cooperation for security, the economic and environmental activities, and the human dimension which is comprised of enforcing democratisation, human rights, election standards, education, gender equality, minority rights etc.

From the beginning, the European Community and later the EU have played a vital role in the work of the Organisation, with the scope of cooperation between the two organisations being both broadened and deepened following the development of the EU Common Foreign and Security Policy. The relations between the OSCE and the EU are mainly maintained through joint consultations, addresses and invitations to meetings, while the European Commission is today a major source of extra-budgetary funding for the Organisation's activities.

The OSCE also maintains an important relation with the Council of Europe, aimed at a common goal, which is the promotion of stability on the basis of democracy, rule of law and the respect of human rights. This is important as it creates a broader space of synergies between the three organisations in different aspects, levels and frameworks.

An important aspect of the OSCE is the special relations which the Organisation maintains with six Mediterranean countries in what is called Mediterranean Partners for Cooperation; four of them are MENA countries (namely Algeria, Egypt, Morocco and Tunisia). This relationship is based on confidence-building in the region as the OSCE serves as a platform for dialogue, and fosters the norms of security behaviour in the region.

After the Arab Spring events, the OSCE is responsible for providing assistance to several countries in the region and – particularly in Tunisia, Egypt and Morocco – in building democratic institutions. What was maintained is that the OSCE has the tools and know-how to provide this help and the expertise and programs in election management, democratic institutions, training policy and media freedom. Even though the Arab Spring countries have not yet requested the OSCE to provide help, it is important to evaluate and analyse the possibilities of synergies between the OSCE, the EU, and the CoE towards that aim.

4.4 AFRICAN UNION

The African Union consists of 54 African states, including the MENA region countries except Morocco, and was established to accelerate the political and socio-economic integration of the continent, and also to promote peace, security, democratic principles and institutions, popular participation and good governance, and to protect human rights.

Part of the African Union system is the Women, Gender and Development Directorate, which aims at promoting gender equality in the continent by advancing the principle of gender and gender mainstreaming. Its actions are twofold; the first approach involves women's empowerment programmes and the second approach involves activities to ensure that gender is taken into consideration in the work of the Union. All actions are informed by and draw from the African and Beijing Platforms for Action.

The African Union has, over the years, developed an important partnership with the EU on a range of important issues, comprising amongst others peace and security issues, democratic governance and human rights. This strategic partnership is based on the interdependence of Europe and Africa; the EU delegation to the African Union help coordinate EU policy and actions relating to the AU, advises and supports the AU upon request, and monitors all relevant development. It is therefore important to further examine the open spaces for EU actions in the region.

5. CHAPTER V - EU MAPPING INSTRUMENTS AND ENTRY POINTS

It is too early to predict whether or when the Arab Spring will put an end to “Arab Autocracy”. Some of the regimes may survive for quite some time and those that started a process of transition like Tunisia, Egypt and Libya may need years to complete it. Nevertheless, henceforward all of them will have to take the needs and requirements of their people into consideration, since the Arab people have overcome their fears.⁸⁴ It is the courage to revolt against autocratic regimes that had been in power for decades that has enforced this change and justifies already calling the Arab Spring a historical event. Women were extremely active during the revolts and upheavals of the Arab Spring, joining the call for “dignity, bread and freedom” that spread throughout the region.⁸⁵ By doing so, they challenged not only the authoritarian structure of the regimes, but all power relations on the political and societal level in their respective countries; a fact that has not yet received the appropriate attention.

The re-negotiation of power structures with its high impact on gender-relations is the focus of this analysis, opposing the widespread perception that other priorities have to be met first. Gender equality is not a luxury that can be dealt with when all other problems are solved. Experience from the Spanish Civil War, the Algerian Liberation War or the end of Apartheid in South Africa tells us that the active involvement of women in the fight of resistance does not automatically result in an increase in gender equality thereafter. Gender relations need to be taken into account right at the beginning of the transformation process if women’s empowerment is to be sustained. In all the Arab countries, new regimes and new elites are to now be formed, and women must make sure that they do not miss this window of opportunity to transform their outstanding political role during the uprisings into lasting political and societal influence.

Women’s rights NGOs throughout the region work hard to influence the codification of gender-equality in the newly evolving constitutions, electoral and family laws to make them consistent with international law, notably the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly. A positive example in this regard is the successful lobbying of the Libyan Women’s Platform for Peace, which resulted in a new electoral law that guarantees women at least 40 seats on the 200-member Constituent Assembly.⁸⁶ Rather novel from a European perspective is the fact that Islamist women also lobby for their empowerment within political parties and movements, for example in Egypt, within the Freedom and Justice Party, El Wasat Party and El Noor Party.⁸⁷ Young Islamist women in particular challenge traditional gender relations by (re-)interpreting both Islamic and customary law. The emergence of new female power groups into the participatory sphere include poorly educated women from rural or suburban areas that are supported by professional women’s rights NGOs, like the Association Démocratique des Femmes du Maroc (ADFM).⁸⁸ Against the background of these manifold activities from within the respective societies, the question

⁸⁴ See Asseburg, Muriel: *Der Arabische Frühling. Herausforderung und Chance für eine europäische Politik*. German Institute for International and Security Affairs, Berlin 2011.

⁸⁵ See: Regan, Colm: *Women, Citizenship and Change: The Role of the Women’s Movement in the Arab World*, in: Calleya, Stephen/ Wohlfeld, Monika (Hrsg.) 2012: *Change and Opportunities in the Emerging Mediterranean*. Malta: Mediterranean Academy of Diplomatic Studies.

⁸⁶ From 0 to 40: (LWPP) *Advocacy Effort Secures Major Representation for Women in New Libyan Assembly*. <http://www.ejuomedrights.org/gender-news.org> (download 9.02.2012).

⁸⁷ See El-Hawary, Haia/ Emam, Fatima/ Gemeinardt-Buschhardt, Konstanze: *Women of the Tahrir Square – Secular and Religious Motivated Activists and the Constitution of a Democratic Society*. Conference paper. International Conference on : *Realigning Power Geometries in the Arab World*, Leipzig February 24th – 26th 2012. For details check Gemeinhardt-Buschhardt, Konstanze: *Da’wa – Weiblicher Aktivismus und die neue muslimische Frauenbewegung in Ägypten*, Erfurt 2012.

⁸⁸ For socio-political transformations from below see Berriane, Yasmine: *“Le Maroc au temps des femmes ? La féminisation des associations locales en question”*, *Année du Maghreb VII*, 2011, CNRS Editions, pp. 332-342.

needs to be answered; what is the EU doing to support women at the vanguard of the Arab Spring in their quest for co-ownership in the newly evolving political and societal orders?

5.1 THE EU AS AN EXTERNAL PROMOTER OF DEMOCRACY AND HUMAN RIGHTS

According to its Treaty basis, the EU is a community of values attached to the principles of liberty, democracy and respect for human rights, whereby the latter includes, by definition, women's rights. The external promotion of democracy and human rights is a self-imposed duty of the civilian power of Europe, codified in the EU-treaty in all the articles dealing with EU external relations.⁸⁹ The normative bias of EU foreign policy, however, is all too often challenged or bypassed by overriding policy goals and/or diverging interests of specific EU-member states. All too often words are not followed by action; this is especially true with regard to the MENA region.⁹⁰

For the EU, which has extremely dense yet almost exclusively intergovernmental relations with its southern neighbours, the Arab Spring was an embarrassment, because it revealed the credibility gap between the EU's normative rhetoric on democracy promotion and its "Realpolitik" of unconditioned cooperation with the autocratic regimes. Against that background it is understandable that the EU's first reactions to the Arab Spring were extremely hesitant. Apart from the European Parliament, which showed empathy for the aspirations of the protesters⁹¹, official reactions from Lady Ashton⁹² can be tagged as "too little, too late". The conclusion that can be drawn, and thus the lesson to be learned, is clear; favouring security and stability at the expenses of democracy and development is by no means a sustainable policy option. France, which is a leading power in Euro-Med relations, might have been the most extreme case, having offered Tunisia's President Ben Ali support in clamping down the protestors at a time, when he had already decided to leave the country.⁹³ Foreign Minister Michèle Alliot-Marie had to quit her job due to this scandal, although she was by far not the only European politician with close relations to political elites in the Arab world. It is clear that when regime changes became a reality in the MENA region, the EU, having neglected civil society and antagonised political Islam for years, was left with little or no established channels of communication with the new political actors in the Southern neighbourhood; a policy deficit that the EU urgently needs to address.

Facing the need for a substantial policy change after the Arab Spring, it is important to know that within the EU, the EP is a strong defender of the civilian power concept, reiterating the importance of human rights and democracy promotion. Already in 1988 the EP had inaugurated the Sakharov Prize for Freedom of Thought, which in 2011 was awarded to Asmaa Mahfouz, an Egyptian activist during the Arab Spring. The Initiative for Democracy and Human Rights (1994), one of the EU's key instruments for external democracy promotion, also goes back to an initiative of the EP, as does MEDA-Democracy, a program that was launched in the context of the Euro-Mediterranean Partnership (EMP), which started in 1995. Within the EP's activities to promote human rights and democracy, women's rights and gender equality have always been key issues. However, with regard to foreign policy, the EP's power and

⁸⁹ See Art.2, Art.24 Lisbon Treaty for CFSP; Art. 208 ff TFEU for development cooperation.

⁹⁰ For a critical assessment of the first ten years of the Barcelona Process with a special focus on the promotion of democracy and human rights see: EMHRN: Position Paper on Barcelona + 10 and Human Rights, Brussels 2005.

⁹¹ European Parliament: "Resolution on the situation in Tunisia", 3. Februar 2011; European Parliament "Resolution on the situation in Egypt", 17. Februar 2011.

⁹² EU High Representative 2011a: "Statement by the EU High Representative Catherine Ashton on the events in Egypt", 27. Januar 2011; EU High Representative 2011b: "Remarks by the EU High Representative Catherine Ashton on the situation in Egypt ahead of the Foreign Affairs Council", 31. Januar 2011.

⁹³ French Foreign Secretary resigns 'over her close friendship with deposed Tunisian dictator'. Mail online, 28.2.2011, (<http://www.dailymail.co.uk/news/article-1361210/French-Foreign-Secretary-Michele-Alliot-Marie-quits-friendship-Ben-Ali.html#ixzz1wTQBxQ00>, download 30.05.2012).

influence is regrettably limited. This could also be seen with regard to EU-Mediterranean policies, where the normative dimension, which had shaped its beginnings in the mid 1990s, soon got lost.

5.2 CONFLICTING POLICY GOALS AND NEGATIVE STEREOTYPES

EU democracy promotion is not driven by normative considerations alone, but serves also - and perhaps even foremost - as a strategy of EU-security policy. Inspired by the theorem of democratic peace, the European Security Strategy (2003) clearly mentions the EU's interest to be surrounded by a 'ring of democratic friends'. Democracies are believed to be more reliable and predictable than other regimes, using peaceful means of conflict solving, at least among each other. With regard to its Southern neighbours, however, the EU felt confronted with a dilemma; being convinced that Arab autocracy is insuperable and misperceiving the aspirations and capabilities of modern Arab society, the EU opted for the autocratic regimes. They seemed to be the only reliable and predictable partners with regard to core interests of the community; keeping down political Islam, fighting international terrorism, holding back migrants, and serving Europe's growing energy-demands. Hosni Mubarak from Egypt as well as Ben Ali from Tunisia could easily play this card.⁹⁴ They successfully convinced the EU that Europeans have to support their regimes if they do not want to pave the way for Islamist take-over.⁹⁵

The fact that most Arab regimes completely oppressed their Islamist opposition, thereby violating basic standards of human rights, did not disrupt their close relations to the EU. After 9/11, democracy promotion once again became a big issue on the declaratory level, but in reality it was perceived as too risky and therefore lost momentum, and with it the support of civil society. Following the genesis of EU Mediterranean policies from the EMP (1995) to the European Neighbourhood Policy (ENP 2004) to the Union for the Mediterranean (UfM 2008), one can see that the EU has ceased step by step its bottom up approach of democratisation.⁹⁶

With the inauguration of the strictly intergovernmental UfM in 2008, the result of a French initiative, the EU seems to have given up the political goal of democracy promotion, offering the autocratic regimes in its southern neighbourhood co-ownership and unconditioned cooperation in de-politicised functional projects.⁹⁷ Civil society, which had always played a marginal role in interregional relations, became almost absent in the institutional frameworks of Euro-Mediterranean cooperation. Today we know that this policy was a failure, since it produced neither democracy nor stability, but instead a huge credibility gap. Lacking credibility and lacking contacts to the new political actors resulted in a loss of EU influence, which had obviously been weak before anyway. It is important to keep this in mind, because the promotion of gender-equality has to be analysed in the context of foreign policy priorities and preferences. On the agenda of EU foreign policy, gender issues rank rather low compared to so-called high-policy issues in the realm of security and economy.⁹⁸

⁹⁴ Grünert, Angela: Loss of Guiding Values and Support: September 11 and the Isolation of Human Rights *Organizations in Egypt*, in: Jünemann, Annette (Ed.) *Euro-Mediterranean Relations after September 11*. International, Regional and Domestic Dynamics (London, Portland: Frank Cass, 2003), pp.133-152.

⁹⁵ Annette Jünemann, 'Security Building in the Mediterranean after September 11', in *ibid.* (ed.), *Euro-Mediterranean Relations after September 11*. International, Regional and Domestic Dynamics (London, Portland: Frank Cass, 2003), pp. 1-20. Also published as Special Issue of *Mediterranean Politics* 8 (2003), pp.1-20.

⁹⁶ For the role of EU-democracy promotion within the ENP see: Asseburg, Muriel: Demokratieförderung in der ArabischenWelt – hat der partnerschaftliche Ansatz der Europäer versagt? In: C. Harders et al. (eds): *10 Jahre Euro-Mediterrane Partnerschaft – Bilanz und Perspektiven*. Orient Sonderheft, 46/3, 2005, pp 272-290.

⁹⁷ For an extensive overview see Bicchì, Federica/ Gillespie, Richard: *The Union for the Mediterranean*, Taylor and Francis, Routledge 2011. For a critical analyses of the UfM in the context of democracy promotion see: Jünemann, Annette/ Maggi, Eva: The End of External Democracy Promotion? The logics of action in building the Union for the Mediterranean. In: *L'Europe en formation* n° 356 été 2010, S. 109-124.

⁹⁸ It's important to note that within the community, EU impact on the positive development of gender-democracy within EU member states is rather high. Nevertheless, many problems still wait to be resolved in Europe too. For an extensive overview see: Uta Klein:

5.3 THE EXTERNAL PROMOTION OF WOMEN'S RIGHTS AND GENDER EQUALITY

The decisive political framework for the promotion of women's rights is the so-called Istanbul-Process. It goes back to a Euro-Mediterranean Ministerial Conference on 'Strengthening the Role of Women in Society' in November 2006 in Istanbul.⁹⁹ The main focuses of this conference were three issues: 1) Women's rights as a guarantee of human rights and deepening democracy; 2) Women's access to education and employment; 3) The role of culture and the media as key instruments for changing perceptions of gender. An "Istanbul Plan of Action (IPA)" was put up to implement the political goals that emanated from this agenda in all partner countries. The follow up of the IPA, however, did not meet expectations, but instead revealed the huge gap between words and deeds that were already mentioned. The manifold instruments at hand have hardly ever been put into practice. The poor implementation of the IPA is a case in point, as a shadow report of the Euro-Mediterranean Human Rights Network (EMHRN) revealed;

"The Shadow Report reveals a wide lack of knowledge about the IPA both among governmental and non-governmental actors in the countries concerned, as well as the absence of policies and laws aimed at enhancing gender equality and women's rights which refer explicitly to the IPA. The 'Progress report', which governments were to submit one year after the adoption of the IPA, failed to raise awareness about IPA neither encouraged public debate about progress of gender equality. In most cases it was not even published – nor were meetings or consultations held with women's rights organisations. The report argues that, while the IPA could indeed constitute a regional tool for the promotion of gender equality and the protection of women's rights, since it is unique in that it has been negotiated by all participating countries, it remains mainly declaratory and its present and potential effectiveness is seriously hampered by the lack of any concrete provisions and binding measures."¹⁰⁰

Obviously, gender-equality needs to be high in the EU's policy agenda. When it comes to enhancing international standards for human rights and, women rights in particular, it is highly important, both in substantial and symbolic terms, to ensure a policy which is internally and externally consistent. Avoiding the trap of double standards could increase the EU's credibility. The analysis of the accession process of Middle- and Eastern European Countries to the EU was a good example to verify this assumption; although the accession candidates had to acquire EU standards of gender equality and women's rights according to the Copenhagen criteria, the implementation proved to be extremely difficult during the lengthy preparations for accession and thereafter. The situation very much resembles the non-implementation of the IPA as described by the EMHRN-shadow report cited above. Lack of political will and knowledge on both sides explains most of the deficits¹⁰¹, but there is another element that is often overlooked and needs to be added; the insufficient communication with and between the people concerned. During the EU-accession process of the Middle- and Eastern European countries, problems emerged due to diverging and partly incompatible concepts of 'feminism' that had not been taken into consideration. As a consequence, many women's rights groups in the East felt disregarded and to some

Geschlechterverhältnisse und Gleichstellungspolitik in der Europäischen Union. Akteure - Themen - Ergebnisse. Wiesbaden: VS-Verlag für Sozialwissenschaften, 2006.

⁹⁹ EU-Commission: EuroMed Partnership: Strengthening the role of women in Society, Multi-Annual Report 2006-2009. Available at: http://www.eeas.europa.eu/euromed/women/docs/multi_annual_report_2006-2009_en.pdf (download 18.02.2012).

¹⁰⁰ Euro-Mediterranean Human Rights Network: Gender Equality in the Euro-Mediterranean Region: From Plan to Action? Shadow Report on the Implementation of the Istanbul Plan of Action, Copenhagen, October 2009, S 16-17.

¹⁰¹ According to Peter Pavlik's case study on the Czech Republic, the implementation of EU-programs was hampered most of all by lack of knowledge e.g. concerning the complicated details of gender-mainstreaming. Another factor is the lack of gender-sensitivity, not only on the side of Czech officials, but also among EU officials who were supposed to monitor the implementation process. Pavlik, Peter: Equality without Gender: Implementation of the EU Initiative EQUAL in the Czech Republic. In: Jünemann, Annette/ Klement, Carmen: The Policy of Gender Equality in the European Union, Nomos 2005, pp 146-156.

extent patronised not only by EU officials, but also by Western women's rights groups who claimed to support them.¹⁰²

The phenomenon of lacking communication and understanding is very likely to re-emerge with much harsher consequences in the case of Euro-Mediterranean context, where contacts on a societal level are rare. Due to the securitisation of Islam, the EU and its member states had for many years avoided all contact with groups or individuals belonging to political Islam. Civil society was equated with secularism, so that activists deriving from the very heterogeneous spectrum of Islamism were never involved in EU programs and projects in support of civil society. It therefore does not come as a surprise that within the EU there is little awareness of Islamist women's rights, activities and the complexity of gender discourses in the MENA region. This counts not only at the governmental level of the EU and its member states, but also at the European civil society level. European perceptions on gender relations in a Muslim context have been rather restrictive, limited and biased. There is a great need to establish channels of communication at all levels, including scientific ones. Relevant joint research projects could provide a good and fundamental policy option.

5.4 THE ARAB SPRING: LEARNING TO COPE WITH POLITICAL ISLAM

From May 2011 onwards, the EU started to adapt its neighbourhood-policy to the new Mediterranean context. The most important is a joint communication by Lady Ashton and the European Commission 'A New Response to a Changing Neighbourhood'. Although many analysts rightly criticise that the renewed neighbourhood-policy is to a large extent old wine in new skins, there are modest signs of a policy change with regard to the role of civil society. Civil society ranks highly, at least in the rhetoric of the document, which highlights the support of 'deep democracy' and announces a 'partnership with society'. Significant is the plan to launch a 'European Endowment for Democracy', complemented by a 'Civil Society Facility'. However, it is not yet clear whether words will be followed by action. Misperceptions of the 'Muslim' still prevail and so do key interests of the community in the region, mainly the preservation of stability. What has changed, however, is the political context, and this highly impacts the issue of women's rights and gender democracy.

One of the lessons the EU has to learn is to accept that political Islam will henceforth have to be respected as a legitimate political power, whether Europeans like it or not. As could be expected, elections in Tunisia and Egypt have resulted in the empowerment of Islamist parties that had been heavily oppressed under the previous authoritarian regimes. It is more than likely that in other countries such as Algeria and Morocco, political Islam will also play a major role. Regimes with an Islamist bias that emanate from free and democratic elections will become partners in the political and legal frameworks of Euro-Mediterranean relations. After all, the aforementioned credibility loss of the EU in the region goes back to 2006, when Hamas won the first free and democratic elections in Gaza, and the EU refused to accept this victory.¹⁰³ The Arab Spring has forced the EU to redefine its stand towards political Islam. A first step in this direction is the recognition of Arab people's rights to negotiate among themselves what kind of political and societal order they want to have.

Within the liberal spectrum of Arab civil society, however, especially among secular women's rights groups, there is a growing fear that women's rights might become a compromise item when the EU has to come to terms with newly emerging Islamist regimes. They insist on secularism as a necessary

¹⁰² See Siklova, Jirina: Welcher Feminismus existiert im Postkommunismus? Ein deutsch-tschechischer Vergleich. . In: Jünemann, Annette/ Klement, Carmen: The Policy of Gender Equality in the European Union, Nomos 2005, pp 165-172.

¹⁰³ This was done despite the fact that the EU itself had co-financed and monitored these elections. Although the EU perceives free elections as an indispensable element of democratization, HAMAS was accused to be an anti-Israeli, Islamist terror group, to be excluded from all political frameworks of Euro-Mediterranean cooperation.

precondition for achieving equality and women's rights.¹⁰⁴ Typical of their perspective is the following statement that was released after an EU-sponsored workshop on Equality First: Promoting a Common Agenda for Equality between Women and Men through the Istanbul Process; "religious fundamentalisms are a major threat to women's rights and freedoms. As long as religions interference is the political and public sphere, the word 'moderate' to describe them is deprived of meaning."¹⁰⁵

Many secular women's rights groups gained support from the EU for their projects in the past. Although they rightfully criticise the limits of this support, they expect the EU to now back their political demands in the on-going process of political transformation. As said before, the EU's record as an external promoter of democracy and respect for human rights has been rather weak in the MENA region, since the EU was careful not to disrupt its good relations with the authoritarian regimes. As Barbara Lochbieler, Chair of European Parliament's Subcommittee on Human Rights stated, 'For decades, European member states and - through its silence - the European Union, have repeatedly put economic and geostrategic interests before human rights, vis-à-vis several countries of the Arab Spring. The support of women's rights NGOs, however, was an exception. Women's rights was one of the few niches where even Tunisia accepted European involvement, since the respective NGOs were secular and thus strictly anti-Islamist in their outlook. Most Arab autocracies followed a strategy that can be labelled as state-feminism, exploiting the woman question in support of government politics.¹⁰⁶ The support of secular women's rights groups in the last decades was coherent with a security agenda based on a securitisation of Islam, and therefore met the governmental interests on both sides of the Mediterranean.

For the EU it is important to be aware that gender-democracy promotion is poisoned ground if people have the impression that reforms serve a Western agenda rather than the interest of the nation. This negative impression was reinforced by the fact that the EU did not recognise the emergence of Islamist women activities. Having avoided any contact with representatives of the heterogeneous spectrum of Islamist groupings, the EU missed the opportunity to get in touch with Islamist women too. The EU needs to be in a position to reach all parts of the societies in third countries.

The lessons learned from the Arab Spring with regard to political Islam confront the EU with a new dilemma; how to deal with Islamism as a new and legitimate political power in the region, without denying the EU's previous commitment to gender equality and women's rights, which was embedded in a secular and strictly anti-Islamist context. A revised and more inclusive policy needs to be adopted and more diversified entry points, e.g. other international actors, are needed.

5.5 NO MUSLIM EXCEPTIONALISM

In its first reactions to the Arab Spring the EU tried to avoid the sensitive issue of gender-relations, although gender is obviously a key issue in the on-going power struggles. In Egypt, to give one example, gender equality, non-discrimination and positive action are systematically excluded from the agenda of the current transitional government.¹⁰⁷ Similar is the situation in Jordan, which is perceived by the EU as a reformist country, although the amendments to the Jordanian constitution do not even mention gender equality.¹⁰⁸ In Morocco the situation is different since the new constitution, put to a referendum in July

¹⁰⁴ See for example the joint statement of Najdeh, RDFL, and IFE released in a workshop "Equality First: Promoting a Common Agenda for Equality between Women and Men through the Istanbul Process", held on 17th – 18th December 2011 in Beirut, Lebanon.

¹⁰⁵ Conclusion. Joint statement of Assoziation Najdeh, RDFL, and IFE-EFI released in a workshop "Equality First: Promoting a Common Agenda for Equality between Women and Men through the Istanbul Process", held on 17th – 18th december 2011 in Beirut, Lebanon.

¹⁰⁶ Vgl. El-Hawary, Haia/ Emam, Fatima/ Gemeinardt-Buschhardt, Konstanze: Women of the Tahrir Square – Secular and Religious Motivated Activists and the Constitution of a Democratic Society. Conference paper. International Conference on : Realigning Power Geometries in the Arab World, Leipzig February 24th – 26th 2012.

¹⁰⁷ See EMHRN 08/12/2011

¹⁰⁸ See EMHRN 08/12/2011

2011, enshrines equality between women and men in terms of civil, political, economic, social and cultural rights. Here the problem appears at the level of implementation, since “the family code, penal code, and work code all continue to constitute a discriminatory approach with regards to women’s rights and their full and entire participation to public life.”¹⁰⁹ A more detailed analysis will follow later on in this study in the framework of specific country reports. The current power struggle also has a violent dimension, as everyone could see, when pictures of a female activist were put on the internet, showing her being dragged through the streets by Egyptian military-police half-naked. Her veil and jumper were pulled over her head. For some, it became a symbol of her lack of honour, for others a symbol of her heroism as an activist and the brutality of the regime. Also in Egypt, female journalists in support of the Arab Spring were captured by the military and forced to undergo so-called “virginity tests”, a method short of rape to deprive them from their dignity and to silence them. Despite all this obvious proof of a gender dimension in the on-going power struggle, the EU only reacted when pushed by human rights NGOs. Only then did the EU declare women’s rights to be an essential element of “deep democracy”, a key term in the renewed neighbourhood policy, and made them a benchmark for the EU performance-based ‘more for more’ approach. However, this agenda still needs to be implemented.

5.6 BUILDING STRONG PARTNERSHIPS, MAKING THE BEST OUT OF EXISTING FINANCIAL INSTRUMENTS FOR ENHANCING WOMEN RIGHTS

The Lisbon Treaty has paved the way for a more coherent foreign policy formulation for the EU. The adoption of the Strategic Framework on Human Rights and Democracy on 25 June 2012 constitutes both a concrete result and a salient illustration of the collective effort to address deficiencies and bring about change by bridging existing gaps and making the best out of existing instruments. The Framework sets out principles, objectives and priorities, all intended to improve the effectiveness and consistency of EU policy. They provide an agreed basis for a collective effort involving EU member states as well as EU institutions. The fact that the framework for the new EU human-rights strategy has been positively received by human-rights organisations such as Human Rights Watch and Amnesty International is a guarantee that this is an important step in the right direction. Human Rights Watch referred to the “very full” package as “cause for celebration”, while Amnesty International praised the “formidable effort and political will to get this package ready”. They both stressed, though, that implementation would be the true measure of the package. The European Parliament and its Sub-committee on Human Rights can play an instrumental role in keeping issues of human rights and democratisation in general, and enhancing women rights in particular, high on the political agenda and funding priorities.

5.6.1 BUILDING STRONG PARTNERSHIPS

To face old and new challenges in a more complex and multipolar world, the EU should build strong partnerships with, and support the activities of, international organisations that strive for empowerment of women and gender equality during democratic transitions. The EU should especially support the action of key international organisations such as the United Nations, the Council of Europe or the Organisation for Security and Cooperation in Europe.

United Nations/ UN Women

As far as the UN is concerned, UN women and the EU, reaffirmed in the memorandum of understanding for Gender Equality and the Empowerment of Women (UN women), signed on 16 April 2012, their strong commitment to work jointly towards gender equality and the empowerment of women. The MOU enhances EU – UN Women co-operation on policies and programmes to advance gender equality

¹⁰⁹ See EMHRN 08/12/2011

worldwide, and focuses on areas of mutual concern in the EU internal and external policies on gender equality, and in the context of the mandate and strategic plan of UN Women such a women's rights, gender justice, women's leadership and political participation; women's access to economic empowerment and opportunities, combatting sexual and gender based violence, and responsiveness of plans and budgets to gender equality. As far as the funding aspects are concerned, the MOU states that financial assistance from the EU in activities undertaken jointly with UN women will be in accordance with the Financial and administrative Framework Agreement between the European Commission and the United Nations, signed on 29 April 2003; the specific elements of financial cooperation will be discussed between the Commission and UN Women on a regular basis. "The parties will consider possibilities of financial cooperation in areas agreed under the Partnership" (point 14). The European Parliament should play a key role in ensuring the follow up of the MOU and providing political impetus.

Council of Europe

The European Union and the Council of Europe have developed joint programmes since 1993, in pursuit of common aims with regard to the protection of democracy, respect for human rights and fundamental freedoms and the rule of law. This cooperation was strengthened in 2001 (Joint Declaration Cooperation and Partnership), 2005 (country-specific programmes and co-funding by the European Commission) and in the aftermath of the Arab Spring (practical cooperation of the Parliamentary Assembly and the Venice Commission). The EU and the Council of Europe provide joint funding for these programmes, and the Council of Europe is responsible for its implementation. A large number of joint programmes have been concluded with the European Instruments for Democracy and Human Rights. For geographical assistance programmes, the Council of Europe has benefited from funding under the Instrument for Pre-Accession Assistance (IPA) and the European Neighbourhood Policy Instrument (ENPI). The gender dimension needs to be further developed and strengthened.

Organisation for Security and Cooperation in Europe (OSCE)

The EU cooperates closely with the OSCE reaching out to 56 countries, spanning "from Vancouver to Vladivostok". Some OSCE programmes are jointly funded and run with the European Community. For instance, the European Community provides assistance to the Office for Democratic Institutions and Human Rights (ODIHR) in monitoring free elections and developing national electoral and human rights institutions in new democracies. Enhancing women's rights in times of transition is a dimension that is taken care of; it needs though to be strengthened and further developed.

5.6.2 EU FINANCIAL TOOLS

The European Union has developed a broad range of policy instruments to put its commitments to human rights and democracy into practice. It has adopted regional and country-based approaches through geographic programmes, as well as programmes with a specific thematic focus. The gender dimension needs to be enhanced and further developed in all of these.

The **European Instrument for Democracy and Human Rights (EIDHR)** constitutes the most salient examples of the programmes with a thematic focus, namely democracy promotion. This programme has a budget of € 1.104 billion for 2007-2013. Its key objectives are to enhance respect for human rights and fundamental freedoms in countries and regions of the world where they are most at risk, and to strengthen the role of civil society in promoting human rights and democracy. EIDHR is implemented on the basis of thematic strategy papers and annual action programmes. The European Instrument for Democratisation and Human Rights could and should also be used in order to promote gender equality by supporting Non-state actors within civil society in defending the women's rights. The EIDHR is designed to help civil society and is specially focused on cooperating directly with local civil society organisations, which need to preserve their independence from public authorities.

Other financial tools are at the disposal of the Commission to finance actions concerning women's empowerment and gender equality during democratic transitions. For example the **European Commission thematic programme "Investing in People"** has an important theme of promoting gender equality, which includes women empowerment. It provides for allocation to support capacity building of Non-state actors engaged in promoting women's civil and political rights and economical and social empowerment, and in countering gender stereotypes in the Mediterranean countries covered by the European Neighbourhood and Partnership Instrument. A number of other instruments are designed to and can be mobilised for enhancing women rights in the framework of human rights and democratisation.

Instrument for Stability (IfS) has a budget of € 2.062 billion for 2007-2013 for addressing a number of security and development challenges. It finances actions that re-establish stability in emergency situations, where human rights are particularly at risk. Enhancing the gender dimension of the programme would be a very positive step forward.

European Neighbourhood and Partnership Instrument (ENPI) has a budget of € 12 billion for 2007-2013. The ENP aims to strengthen the prosperity, stability and security of Europe's neighbourhood. Support of democratic transitions and promoting human rights is one of its three strategic objectives. Enhancing women rights during democratic transitions is still a major challenge.

Development Cooperation Instrument - which covers *inter alia* the thematic programme "Investing in People" - has a budget of € 16.9 billion for 2007-2013. It includes a thematic programme "Non-state actors and local authorities in development".

European Development Fund (EDF) has a budget of € 22.682 billion for 2008-2013. It covers several priorities, including policies for support of human rights and democracy and gender issues for providing development in the African, Caribbean and Pacific regions (ACP).

Common Foreign and Security Policy (CFSP) The budget for the CFSP for the period 2007-2013 is € 1.740 billion. It covers a range of activities, including strengthening the rule of law. The EU currently has ten civilian missions around the world. All these financial tools offer the EU a sound framework to work out its objectives and priorities for enhancing women's rights. The EU has a range of practical ways for supporting human rights and democracy; Human Rights clauses in EU agreements, Policy Guidelines, Human Rights Dialogues and Consultations, Declarations and Demarches, CSDP missions and operations, election observation missions, election expert missions, electoral assistance, EU Annual Report on Human Rights and Democracy in the World and European Endowment for Democracy¹¹⁰. Empirical evidence suggests that women constitute a key change agent. If the EU strategy on human rights and democracy is to be successfully measured against achieving deep democracy, the gender dimension of its policies and instruments need to be strengthened and further developed by receiving strong political support and adequate funding.

5.7 CONCLUDING REMARKS

It is important to note that the decrease of women's rights and gender equality in some Arab countries is not only a result of Islamist empowerment, but part of patriarchal traditions and gender inequalities that transcend these societies as well as many European countries. After all, the military and the police represent the secular state, be it in the old Mubarak regime or the current military interim regime. Feminist theory tells us more about the many parameters fostering patriarchal structures within society,

¹¹⁰ The European Endowment for Democracy is to be established in the near future and it will not be a European Instrument. Its purpose is to facilitate funding for pro-democracy activists.

transcending religion, ethnicity and even political systems. It is not by chance that there is growing interest in this kind of comparative study among female Arab academics.¹¹¹ It is rather the European perception of Islam that creates the so-called "Muslim exceptionalism". To grasp this dimension of the problem, stereotypes and prejudices that are deeply rooted in narratives deriving from the history of Europe-Arab relations are decisive and have to be taken into consideration. In other words, the EU has to be very careful not to equate Islamism with conservatism, and secularism with progress. After all, it is well noted that conservatism is the overall trend in Arab societies after the Arab Spring, regardless of the general positive or negative sentiment.

In this context the new instruments are of special interest, which the EU announced in the renewed neighbourhood policy, especially the 'European Endowment for Democracy (EED)'. The EED is the subject of a highly controversial debate, which also impacts this study. Among the initiators and mentors of the EED is Toomas Hendrik Ilves, a former dissident who, after the end of the Cold War, made a career as a diplomat. Before becoming Estonia's president in 2006, he was an MEP for two years. It was then when he, together with other MEPs, first circulated concepts of an EED, which at that time addressed Belarus and Ukraine rather than the southern Mediterranean.¹¹² Critics of the initiative complained that the concept of the EED too closely resembled the American National Endowment for Democracy (NED), an organisation which supported anti-Communist groups during the Cold War, not only in Eastern Europe but particularly in Latin America and Asia. The NED's record is highly controversial for several reasons; the groups that were supported by the NED were anti-Communist but not necessarily democratic, to put it mildly. Furthermore, being a political instrument in the struggle of the Cold War, the NED cooperated closely with the CIA, and lacked any democratic control. The Cold War is history, but the question of democratic control remains and has not yet been answered sufficiently by the advocates of an EED. Another unsolved problem is the contested method of support the NED was known for, and this may become the model for the EED; that is, to pick out single NGOs and support them with huge amounts of money to back their political impact on politics and society. If this is the strategy the EU wishes to adopt in its Southern neighbourhood, it is a slippery road. Which groups would be worthy of such one-sided support? What would be the criteria to select them? And wouldn't this be an undue – and undemocratic – interference into the transformation process of societies that have just freed themselves and long for self-determination? On the other hand, abstaining from such decisive support of women's rights groups could leave women in the lurch, women who had been on the vanguard of the Arab Spring but risk losing momentum in the power-struggle in the newly emerging political and societal orders.

There are a number of policy options that the EU could choose. Joint research projects and projects aimed at sharing experiences in a number of key areas, such as the promotion of constitutional changes, institutional engineering for gender equality and the combat against deeply rooted beliefs and stereotypes could be a good starting point. Furthermore, the economic and financial crisis has highlighted how easy it is to overlook the *acquis* of women rights in times of severe economic distress. This is indeed a common challenge that can be discussed both at governmental and at societal level. In addition, it is of paramount importance that the EU opens up to the various segments of Arab civil society, follow their gender-discourses, and to enter into a critical dialogue with all of them. In this context, it is extremely important to also address the young generation with its new forms of organisation and communication. Here the new EU-delegations could play a very decisive and important role. Cooperation should be reserved to those individuals and groupings that are non-violent, tolerant, and actively involved in the political and social development of their country. Furthermore, the EU can

¹¹¹ The VW-Foundation organized a German-Arab conference to identify relevant themes for research in the follow up of the Arab Spring. The interest of Arab academics in horizontal as well as vertical comparative studies was outstanding. International Conference on: Realigning Power Geometries in the Arab World, Leipzig February 24th – 26th 2012.

¹¹² Annette Jünemann: Interview with Toomas Hendrik Ilves and Edward McMillan-Scott, both MEP, 26th April 2006 in Brussels.

use the 'more for more' approach of the renewed neighbourhood policy to pressure Arab regimes to adopt the basics of 'good governance'; that is, to follow the rule of law, to guarantee civil and especially women rights, and by doing so, to actively support the development of a vivid and hopefully gender-sensitive civil society.

6. CHAPTER VI - RECOMMENDATIONS

For the European Union to be a credible actor in external relations, it must act consistently, in accordance with the Treaty obligations, and avoid double standards both between internal and external policies and between its human rights policy and other external policies. It must also make full and coordinated use of its relevant instruments in the conduct of its relations with third countries. This study formulates a number of recommendations in key areas and suggests methods for EU policies and instruments to function effectively and efficiently towards democratic transition and consolidation.

The recommendations presented in the following chapter aim to enhance EU action to support women's rights during democratic transitions. Based on the following recommendations, measures should be designed to ensure that existing policies and instruments of the EU and international organisations function in an amiable direction. Such measures to be applied should include benchmarking processes and observations, coherent policy making concerning issues of the political Islam and gender issues of minorities and other groups, education, anti-violence etc. The EU's role should ensure, among others, awareness training, treaty implementation, legislative reforms, economic and political support, encouragement of studies and research, and other special actions based on the various entry points already existing. These recommendations can demonstrate the overall policy orientation the EU should develop towards transitional regimes in general and the Arab World in particular.

Obligations under International Human Rights Treaties

- Develop benchmarks based on the obligations of the MENA countries under Universal Human Rights standards, concerning their conformity with these Treaties. Increased support to MENA countries will be provided on a performance-based 'more for more' approach. More specifically the EU should encourage:
 - a) Adoption of the CEDAW definition of gender based discrimination in constitutional and national legislation;
 - b) National governments to lift reservations to CEDAW and ratification of its optional protocol;
 - c) Abolition of all discriminatory articles in national legislations (e.g. penal code, social security, personal status);
 - d) Adoption of laws prohibiting all forms of violence against women, including domestic and sexual violence and harassment;
 - e) Signing and ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;
 - f) Calling national governments (in the whole Euro-Med region) to comply with United National Security Council 1325 Resolution "Women, Peace and Security" (2000);
- The EU and institutions working with Arab and African countries should encourage research/studies on international and regional conventions and analyse the possibility of using them in the human rights discourse in these countries.

Gender Equality Benchmarks and Monitoring Actions

- Agree and promote a benchmarking process concerning the implementation of universal human rights standards including women's rights. This benchmarking process should identify quantitative and qualitative indicators for the 'more for
- more' approach, over a period of time (systematic) providing a short and a long term strategy towards the implementation of universal standards. The benchmarking methodology provided in the DG for External Policies¹¹³ could be implemented in this respect. The indicators defined must be precise, realistic and measurable and based on the recommendations of the international mechanisms for the protection of human rights (e.g. CEDAW general recommendations).
- Benchmarks over a period of time should recommend the establishment of specific observatory units and data bank aimed at the collection of specific information about women's rights performance in third countries, to which the EU applies its external policy programs.
- Initiatives that have been taken to establish mechanisms in MENA countries for the promotion of human rights, such as human rights directories created in each court (Libya). The EU should create specific monitoring bodies to follow up these mechanisms and monitor women's access to them. Furthermore, in such monitoring processes local and regional NGOs should be engaged, more specifically through conducting shadow reports.
- N.B. Monitor and support the democratic process in transition countries even if in some cases the legal framework is often in conformity with the expected democratisation. In fact, women's rights issues have been manipulated under the old regimes to impress foreign governments and international organisations. For instance, legislation on gender quotas in several countries has been adopted after heavy debates. However, the political and parliamentary participation of women in the region is still extremely low. Programs funded by the EU and other international bodies should be adapted to the real needs of women to enhance their capacity for political participation.

Relations with Political Islam

Islamist parties are for several reasons genuinely popular in much of the Arab world, in part because many Arabs have come to see political Islam as the antithesis of autocratic rule, in part because Islamist parties generally did a good job in distinguishing themselves through social service programs, fought against corruption, and organised themselves much better than their secular counterparts. Political Islam reflects also the conservative and religious ethos of many people in the region. Ignoring their popularity would violate democratic principles. The international community should focus on encouraging and, if needed, pressuring them to respect fundamental human rights just as the Christian-labelled parties and governments of Europe are expected to do.

- To be able to play a significant role in the MENA region in general and to support women in this region, it is essential for the EU to gain a better understanding of political Islam, and to familiarise itself with Islamist movements through critical dialogue, with parties/organisations such as the Muslim Brotherhood (Egypt), the oldest and most influential Islamist movement in the MENA region.
- When negotiating high politics (e.g. security, energy, economy, migration) with the new regimes in the region, EU representatives and technocrats must ensure that gender equality is not a compromise issue. The gender aspect of such issues must be further and constantly investigated.

¹¹³ See Mihr, 2011.

Measures to Enhance Policy Consistency in EU-Arab Relations

- Avoid general approaches and double standards appealing or answering to a wide range of special needs in the region concerning women's rights; at the same time, a coherent approach must be introduced when dealing with specific gender issues in different countries in the region. The credibility and the influence of the EU depends on a coherent and consistent policy when dealing with its own democratic principles.
- Statements of the EU should concentrate on the respect of international standards, irrespective of the political groups (democratically) in power.
- An important number of projects are launched not only by international and several EU institutions in support of the democratisation process in countries in transition, but also by different EU member states. These projects should be mapped and coordinated in order to make full use of their valuable results and therefore enhance their impact.

Encourage Women's Movements in the Region

- Strengthen dialogue between the EU and gender human rights activists (NGOs), promote and empower women's peer to peer exchange projects/programs and build coalitions based on their field needs, in order to ensure participation in the political process. Ensure and promote cross-national solidarity among women and men in the region.
- The EU must encourage and allow, through all means, exchange projects that will enable women's organisations and female scholars from different countries to meet. Empowering women through exchange projects constitutes a good practice in sharing experiences and lessons learnt, enabling them to come up with their own national agendas and action plans (according to their own context).
- Besides exchange on social and political issues, it is crucial to support the creation/enhancement of women national councils by strengthening their institutional frameworks and administrative capacities, and to offer a podium for women known for their feminist interpretations of Islam. Several Maghrebine women deserve to be better heard and encouraged in the West and in the different countries of the region.

Taking into Account Religious Minorities Rights

- The EU institutions and technocrats must take into consideration the extreme variety in the social situation of women within the borders of one country and among the different supported countries. Factors such as urbanism, ethnicity, educational level and age must all be taken into account in order for any programme to work efficiently.
- Respect for diversity of gender discourses in MENA countries.
- Adopt an inclusive approach concerning double discrimination against women in minorities (e.g. religious groups) Enhance projects and actions in the MENA countries that support history, culture education, and legal status in an Islamic environment for religious minorities in transition countries.

Prevention, Training and Education

- Promote adequate professional development training on human and gender rights targeted at different stakeholders (legal professionals, government officers, police etc.), in order to improve awareness among them. It is important to involve scholars in this process from Arab countries and not only from European or Western countries.
- Promote programmes for awareness raising activities for different sectors of society:

- a) Provide training and coaching for women from all different backgrounds and societal groups, concerning their electoral rights, election campaigning and participation in the local, regional or national elections of their countries. This can be done in cooperation with International IDEA;
 - b) Provide training opportunities for girls and boys aimed at universal human rights standards awareness;
 - c) Provide and promote awareness campaigns within the EU, in collaboration with European NGOs, targeting European youth groups concerning gender issues, multiculturalism and Islam. An example of such an NGO is the Anna Lindh Euro-Mediterranean Foundation for the Dialogue between Cultures.
- Enhancing democracy means to increase the level of education of women and encourage them to participate in all fields of education, especially male dominated areas.
 - Support youth education and training programmes. Specific study should be carried out concerning the needs in the region, and projects should be implemented in increasing the level of awareness and literacy among the youth.
 - Support and sustain research on various aspects of the MENA region countries; this would help to better understand the current realities and needs and empower women in highlighting their presence in major or minor events and issues of their countries (e.g. history, economy, science, culture, etc.).

Media

- The media constitutes a powerful tool in raising awareness and in shaping opinions about human rights. Specifically, social media is at the top of most organisations' communications agenda, and United Nations organisations, the EU organisations and NGOs are no exception. They recognize its importance in reaching key audiences, driving issues and campaigns, and ultimately advancing the organisation's mandate. Today, approximately 2 billion people are online, including over 500 million who use Facebook. In fact 51% of Facebook users "like" and support causes and social campaigns (DDB Opinion Way study 2010). Some of the key points to have in mind include¹¹⁴:
 - a) NGOs and civil society organisations rely on the engagement and mobilisation of stakeholders and citizens, and social media is all about mobilisation and engagement.
 - b) Starting small and with a coordinated approach (organisations need to be on the same page and focus on what is meant by digital/social) is often the best way to go; a rush to embrace social media does not equate to social success.
 - c) Organisations must deeply understand communities of interest in order to engage effectively. It is important to map out and monitor key influencers that drive conversations and advance the organisation's mission or support its campaigns.
 - d) Social media engagement requires a concerted effort and defined responsibilities within the team to share content, participate in conversations and support community interests. To achieve this, it is essential to have a clear and over-arching strategy with editorial planning and content management across all social platforms.

¹¹⁴ Nicole Anwer, International Organisations and Social Media: The way forward?, Weber Shandwick Social Impact <http://impact.webershandwick.com/?q=international-organizations-and-social-media-way-forward>.

Gender Based Violence and Violence against Women

- Promote comprehensive public education and other prevention measures, including information and education campaigns in schools and communities, aimed at changing the public discourse on violence against women and gender based violence.
- Promote research to support women experiencing violence, and at the same time to lobby for legal and policy reform.
- Ensure inter-agency cooperation among all actors in the justice system (police, prosecutors, social services, judges, lawyers, child protection authorities) through adequate training on the implementation of the laws protecting women from violence and the treatment of victims of such crimes.
- The EU should encourage and monitor national actions on victim support and treatment, which could comprise:
 - a) Putting in place adequate shelters, medical and psychological support services for women victims of violence;
 - b) Ensuring that women have full access to justice, including the provision of free legal services and establishing appropriate complaint mechanisms;
 - c) Fighting impunity of all perpetrators of violence against women by ensuring accountability, effective/impartial/independent investigations, prosecution and punishment of these crimes;
 - d) Ensuring that the victims are provided with full reparation, including compensation and guarantees of non-repetition for the harm suffered;
 - e) Encouraging the establishment of gender-sensitive truth commissions and supporting the adoption of gender-sensitive reparation programs (compensatory, and/or symbolic).
- Provide sufficient and regular funding for pragmatic implementation of the above measures on a 'more for more' approach.

EU Cooperation with Local and European Civil Society Organisations

- Establish programmes and funding opportunities for women to meet and map their own (recently reformed) civil society and to create their own national networks, based on their needs.
- Promote consultations with local civil society organisations before and during the discussions and meetings, concerning EU external policy in the region.
- Open up to the various segments of Arab civil society to follow their gender-discourses and to enter into a critical dialogue with all of them. In this context it is extremely important to also address the young generation with its new forms of organisation and communication.
- Establish a structured and systematic collaboration between EU delegations who reach out in the region and new NGOs and partners (inclusive approach, e.g. rural areas, minorities, poor people etc.).
- Avoid supporting specific NGOs, but rather projects and programmes that promote women, women's rights and gender equality (as is already done within the ENP), driven by the field needs of women in each country. Consult NGOs and civil society regional networks and coalitions in the design of the above projects.

EU Cooperation with the Council of Europe and other international organisations

- Ensure synergies with other international organisations for collaborative and coherent action; these organisations may include the Council of Europe and the Venice Commission, UN Women, Organisation for Security and Cooperation in Europe, International Labour **Organisation, the International Organisation for Migration, UNESCO, and other international** organisations and NGOs.

- Support and contribute to the activities of the Council of Europe:
 - Explore and enforce the Council of Europe's initiative "Partner for Democracy" status with the Parliamentary Assembly;
 - Increase financial support to the new neighbourhood policy of the Council of Europe;
 - Encourage Arab countries to sign and ratify the European Convention on preventing violence against women and domestic violence (CETS No. 210).

Other EU specific Entry Points:

- Based on the recommendation of the CEDAW Committee which 'recommends that educational programmes on the CEDAW Convention, including its Optional Protocol and its jurisprudence, and programmes on women's rights be introduced for all legal professionals, including judges, lawyers, prosecutors and law enforcement personnel, as well as the public at large'¹¹⁵, the funding of these educational programs by the EU is of extreme importance.
- The European Commission is already involved in projects launched in 2007 by the Club de Madrid, aimed at strengthening dialogue on freedom of association across the Middle East and the North Africa region. The European Commission is involved via the (EIDHR), in collaboration with the United Nations Democracy Fund. It is important that the EU augments and continues its involvement in existing projects such as the above, focusing more on gender issues. It is also important that debates take place on how to adapt the projects to the new situation that has evolved after the revolutions in the MENA countries, and the emergence of Islamist majorities in most of these countries.
- Ensure that EU delegations to MENA countries are gender-inclusive and have prior training and gender sensitivity; it is important to investigate also those unofficial voices in a society that are not heard. Also, ensure that aid is provided based on regional and local field needs.
- Enhance Euro-Mediterranean Parliamentary Assembly dialogue on gender equality issues. Furthermore, explore the opportunity of using and enforcing existing infrastructures of cooperation and dialogue with the MENA region, in order to promote EU's democratic principles; promote an inter-institutional approach and consultation on these issues.

Research and policy studies

- Democratic transition and consolidation are by definition long and country specific processes, and as such they need to be accompanied by both theoretically and empirically informed policies. The EU needs to develop a dual track EU-third countries research strategy: a) encourage EU-third countries joint research projects on women, and b) ensure that the gender dimension is always taken into account in each and every project. Furthermore, it needs to support systematic academic discourse and policy studies on an on-going basis, mainly through the work of women's rights observatories and academic networks in consultation with women's civil society networks, organisations etc.

¹¹⁵ Committee on the Elimination of Discrimination against Women, 43d session, 2009.

BIBLIOGRAPHY

1. European Union

- European Commission, *Wider Europe – Neighbourhood: A new Framework for Relations with our Eastern and Southern Neighbours*, Communication from the Commission to the Council and the European Parliament, COM(2003) 104, Brussels, 2003.
- European Commission, *European Neighbourhood Policy – Country Report: Morocco*, Commission Staff Working Paper, SEC(2004) 569, Brussels, 2004.
- European Commission, *European Neighbourhood Policy – Strategy Paper*. Communication from the Commission, COM(2004) 373, Brussels, 2004.
- European Commission, *European Neighbourhood Policy – Country Report: Tunisia*, Commission Staff Working Paper, COM(2004) 570, Brussels, 2004.
- European Commission, *EQUAL Guide on Gender Mainstreaming*, Directorate-General for Employment, Social Affairs and Equal Opportunities, Luxembourg, 2004.
- European Commission, Annex to ‘*European Neighbourhood Policy*’ – *Country Report: Egypt*, Commission Staff Working Paper, COM(2005) 72, Brussels, 2005.
- European Commission, *On Strengthening the European Neighbourhood*, Policy Communication from the Commission to the Council and the European Parliament, COM(2006)726, Brussels, 2006.
- European Commission, *Furthering Human Rights and Democracy across the Globe*, Office for Official Publications of the European Communities, Luxembourg, 2007.
- European Commission, *A Strong European Neighbourhood Policy*, Communication from the Commission, COM(2007) 774, Brussels, 2007.
- European Commission, *Manual for Gender Mainstreaming – Employment, Social Inclusion and Social Protection Policies*, Directorate-General for Employment, Social Affairs and Equal Opportunities Unit G1, Luxembourg, 2008.
- European Commission, *European Instrument for Democracy and Human Rights (EIDHR): Strategy Paper 2011 – 2013*, External Relations, C(2010)2432, 2010.
- European Commission, *Taking stock of the European Neighbourhood Policy – Implementation of the European Neighbourhood Policy in 2009: Progress Report Egypt*, Commission Staff Working Document accompanying the Communication from the Commission to the European Parliament and the Council, COM(2010) 207, Brussels, 2010.
- European Commission, *A new response to a changing Neighbourhood: A review of European Neighbourhood Policy*, Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2011) 303, Brussels, 2011.
- European Commission, *Implementation of the European Neighbourhood Policy in 2010 – Progress Country Report: Egypt*, Joint Staff Working Paper, SEC(2011) 647, Brussels, 2011.
- European Commission, *Arab Springs and Transitions in the Southern Mediterranean: The EU and Civil Societies One Year On* (eds. Ioannides, I. and Missiroli, A.), Berlaymont Paper, Issue 1, 2012.
- European Neighbourhood Policy, *National Situation Analysis Report: Women’s Human Rights and Gender Equality: Algeria*, ENPI Information and Communication Support Project, available at: <http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-algeria> , 2010.
- European Neighbourhood Policy, *National Situation Analysis Report: Women’s Human Rights and Gender Equality: Jordan*, ENPI Information and Communication Support Project, available at:

<http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-jordan>, 2010.

- European Neighbourhood Policy, *National Situation Analysis Report: Women's Human Rights and Gender Equality: Lebanon*, ENPI Information and Communication Support Project, available at: <http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-lebanon>, 2010.
- European Neighbourhood Policy, *National Situation Analysis Report: Women's Human Rights and Gender Equality: Morocco*, ENPI Information and Communication Support Project, available at: <http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-morocco>, 2010.
- European Neighbourhood Policy, *National Situation Analysis Report: Women's Human Rights and Gender Equality: Syria*, ENPI Information and Communication Support Project, available at: <http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-syria>, 2010.
- European Neighbourhood Policy, *National Situation Analysis Report: Women's Human Rights and Gender Equality: Tunisia*, ENPI Information and Communication Support Project, available at: <http://www.enpi-info.eu/library/content/national-situation-analysis-report-women%E2%80%99s-human-rights-and-gender-equality-tunisia>, 2010.
- European Parliament, *Motion for a Resolution to wind up the debate on the statements by the Council and the Commission pursuant to Rule 110(2) of the Rules of Procedure on the situation in Tunisia*, B7-0081/2011, 2011.
- European Parliament, *Statement of the President of the European Parliament, Jerzy Buzek, on situation in Libya*, Press Release, REF. 20110822IPR25194, 2011.
- European Parliament, *Joint Motion for a Resolution pursuant to Rule 122(5) of the Rules of Procedure on Egypt, in particular the case of blogger Alaa Abd El-Fattah*, 2011.
- European Parliament, *Joint Motion for a Resolution pursuant to Rule 122(5) of the Rules of Procedure on the situation in Tunisia*, 2011.
- European Parliament, *Joint Motion for a Resolution pursuant to Rule 110(4) of the Rules of Procedure on the Southern Neighbourhood, and Libya in particular*, 2011.
- European Parliament, *The State of Play on the Implementation of the Convention on the Elimination of all forms of Discrimination Against Women in North Africa and the Middle East*, Directorate-General for Internal Policies, PE 453.190, 2011.
- European Parliament, *How could the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) be implemented in the EU legal framework?*, Directorate-General for Internal Policies, PE 453.193, 2011.
- European Union, *Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part*, Brussels, 1995.
- European Union, *Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part*, Brussels, 1996.
- European Union, *Charter of Fundamental Rights of the European Union*, 2000/C 364/01, Nice, 2000.
- European Union, *Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part*, Luxembourg, 2001.

- European Union, *Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part*, Valencia, 2002.
- Institute for Security Studies, *EU-Washington Forum Online Debate Summary*, European Union, available at: www.iss.europa.eu/regions/united-states/washington-forum-debate, European Union, Paris, 2011.
- Fischer, S. and Lannon, E., *The ENP Strategic Review: The EU and its Neighbourhood at a Crossroads*, Institute for Security Studies, European Union, Paris, 2011, in http://www.iss.europa.eu/uploads/media/ENP_Strategic_Review.pdf.
- Vasconcelos, A., *Listening to Unfamiliar Voices: The Arab Democratic Wave*, Institute for Security Studies, European Union, Paris, 2012.

2. EP publications and studies

- Bartels, L., *Human Rights and Democracy Clauses in the EU's International Agreement*, European Union, PE 363.284, Brussels, 2005.
- Cameron, I., *Respecting Human Rights and Fundamental Freedoms and EU/UN Sanctions: State of Play*, European Parliament, PE 385.542, Brussels, 2008.
- Delaunoy, G., *Women and Islam: The Situation of Muslim Women in the Mediterranean Countries of the Near and Middle East and the Maghreb*, European Parliament, PE 165.358, Brussels, 1995.
- EIUC, *The impact of the resolutions and other activities of the European Parliament in the field of human rights outside the EU*, European Parliament, PE 381.370, Brussels, 2006.
- Guillet, S., *Droits de l'Homme – Dialogue Politique : Éléments de Synthèse*, European Parliament, PE381.398, Brussels, 2007.
- Hailé, J., *Honour Killing: Its causes & Consequences – Suggested Strategies for the European Parliament*, European Parliament, PE 385.527, Brussels, 2007.
- Mihr, A., *Human Rights Benchmarks for EU's External Policy*, European Parliament, PE 457.059, Brussels, 2011.
- Raventos, C. M., et al., *The Role of Regional Human Rights Mechanisms*, European Union, PEPE 410.206, Brussels, 2010.
- Robert, C., and Jurine, M., *Les Indicateurs : Droits de l'Homme et Démocratie – Définition et Implication*, European Parliament, PE 371.055, Brussels, 2006.
- Taramundi, D. M., *Development of Theories on Women's Rights and Feminism in Europe*, European Parliament, PE 168.201, Luxembourg, 2000.
- Wouter, J., et al., *The Role of the European Union in the Human Rights Council*, European Parliament, PE 385.555, Brussels, 2008.

3. United Nations

- CEDAW, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Initial reports of States parties – Libyan Arab Jamahiriya*, Committee on the Elimination of Discrimination against Women, CEDAW/C/LIB/1, 1991 and CEDAW/C/LIB/1/Add. 1, 1993.
- CEDAW, *Consideration of reports submitted by States parties under article 18 of the Convention: Initial reports of States parties – Morocco*, Committee on the Elimination of Discrimination against Women, CEDAW/C/MOR/1, 1994.

- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Third periodic report of States parties – Egypt, Committee on the Elimination of Discrimination against Women, CEDAW/C/EGY/3, 1996.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined second periodic reports of States parties – Libyan Arab Jamahiriya, Committee on the Elimination of Discrimination against Women, CEDAW/C/LBY/2, 1999.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Initial reports of State parties – Algeria, Committee on the Elimination of Discrimination against Women, CEDAW/C/DZA/1, 1998.
- CEDAW, Report of the Committee on the Elimination of Discrimination against Women, Twentieth Session, A/54/38 (Part I), 1999.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fourth and fifth periodic reports of States parties – Egypt, Committee on the Elimination of Discrimination against Women, CEDAW/C/EGY/4-5, 2000.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Second periodic report of States parties – Morocco, Committee on the Elimination of Discrimination against Women, CEDAW/C/MOR/2, 2000.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined third and fourth periodic reports of States parties – Tunisia, Committee on the Elimination of Discrimination against Women, CEDAW/C/TUN/3-4, 2000.
- CEDAW, Report of the Committee on the Elimination of Discrimination against Women, Sixteenth and seventeenth Sessions, A/52/38/Rev.1, 2001.
- CEDAW, Report of the Committee on the Elimination of Discrimination against Women, Twenty-fourth Session, A/56/38, 2001.
- CEDAW, Report of the Committee on the Elimination of Discrimination against Women, Twenty-seventh Session, A/57/38 (Part II), 2002.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Second periodic reports of States parties – Algeria, Committee on the Elimination of Discrimination against Women, CEDAW/C/DZA/2, 2003.
- CEDAW, Report of the Committee on the Elimination of Discrimination against Women, Twenty-eight and twenty-ninth Sessions, A/58/38, 2003.
- CEDAW, Concluding comments: Algeria, Committee on the Elimination of Discrimination against Women, CEDAW/C/DZA/CC/2, 2005.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined third and fourth periodic report of States parties – Morocco, Committee on the Elimination of Discrimination against Women, CEDAW/C/MAR/4, 2006.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined sixth and seventh periodic reports of States parties – Egypt, Committee on the Elimination of Discrimination against Women, CEDAW/C/EGY/6-7, 2008.

- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined second, third, fourth and fifth periodic reports of States parties – Libyan Arab Jamahiriya, Committee on the Elimination of Discrimination against Women, CEDAW/C/LBY/5, 2008.
- CEDAW, Concluding comments of the Committee on the Elimination of Discrimination against Women: Morocco, Committee on the Elimination of Discrimination against Women, CEDAW/C/MAR/CO/4, 2008.
- CEDAW, Concluding observations of the Committee on the Elimination of Discrimination against Women: Libyan Arab Jamahiriya, Committee on the Elimination of Discrimination against Women, CEDAW/C/LBY/CO/5, 2009.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic reports of States parties – Tunisia, Committee on the Elimination of Discrimination against Women, CEDAW/C/TUN/6, 2009.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined third and fourth periodic reports of States parties – Algeria, Committee on the Elimination of Discrimination against Women, CEDAW/C/DZA/3-4, 2010.
- CEDAW, Concluding observations of the Committee on the Elimination of Discrimination against Women: Egypt, Committee on the Elimination of Discrimination against Women, CEDAW/C/EGY/CO/7, 2010.
- CEDAW, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Concluding observations of the Committee on the Elimination of Discrimination against Women – Tunisia, Committee on the Elimination of Discrimination against Women, CEDAW/C/TUN/CO/6, 2010.
- Committee on Women and Development, A Conceptual and Analytical Framework for Gender Mainstreaming in National Accounts and National Budget, United Nations, Johannesburg, 2002.
- Economic and Social Commission for Western Asia, Women's Control over Economic Resources and Access to Financial Resources, Arab Women and Development Series, No. 36, United Nations, New York, 2009.
- OHCHR, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, in <http://www2.ohchr.org/english/issues/remedy/principles.htm>, 2005.
- United Nations, Convention on the Elimination of All Forms of Discrimination against Women, Division for the Advancement of Women, 1979.
- United Nations, Declaration on the Elimination of Violence against Women (A/RES/48/104), 1993.
- United Nations, The Beijing Declaration and the Platform of Action: Fourth World Conference on Women, Beijing, 1995.
- United Nations, 5 Years after Beijing: What Efforts in favour of African Women? Assessing Political Empowerment of Women, Economic Commission for Africa, Ethiopia, 2001.
- United Nations, The World's Women 2010 – Trends and Statistics, Department of Economic and Social Affairs, 2010.
- United Nations Development Programme, Gender Mainstreaming in Practice: A Toolkit, Bratislava, 2007.

- United Nations Development Programme, Arab Human Development 2002: Creating Opportunities for Future Generations, Arab Fund for Economic Development, available at: <http://www.arab-hdr.org/publications/other/ahdr/ahdr2002e.pdf>
- United Nations Development Programme, Arab Human Development Report 2003, Building a Knowledge Society, Arab Fund for Economic Development, available at:
- <http://www.arab-hdr.org/publications/other/ahdr/ahdr2003e.pdf>
- United Nations Development Programme, Challenges to Human Security in the Arab Countries, Arab Human Development Report, 2009, available at:
- <http://hdr.undp.org/en/reports/regional/featuredregionalreport/ahdr2009e.pdf>
- United Nations Development Programme, Human Development Report 2010 - The Real Wealth of Nations: Pathways to Human Development, 2010.
- United Nations Development Programme, Human Development Report 2011 Sustainability and Equity: A Better Future for All, 2011.

4. Non-governmental organisations

- Advocates For Human Rights and Global Rights, Challenges with addressing domestic violence in compliance with the Convention Against Torture 47th Session of the Committee Against Torture, Joint Written Statement submitted pursuant to ECOSOC Res. 1996/31, Morocco, 2011.
- Amnesty International, Amnesty International Report 2011: The State of the World's Human Rights, London, 2011.
- Amnesty International, Reservations to the Convention on the Elimination of All Forms of Discrimination against Women: Weakening the protection of women from violence in the Middle East and North Africa Region, 2004.
- Amnesty International, Amnesty International Report 2011: State of Human Rights in the Middle East and North Africa January to mid – April 2011, London, 2011.
- Amnesty International, Year of Rebellion: The State of Human Rights in the Middle East and North Africa, London, 2012.
- Amnesty International, Egypt Must End Attacks on Civil Society, Press Release, 1 March 2012, in <http://www.amnesty.org/en/news/egypt-must-end-attacks-civil-society-2012-03-01>.
- Amnesty International, Egypt: A year after 'virginity tests', women victims of army violence still seek justice, 9 March 2012, available at: <http://www.amnesty.org/en/news/egypt-year-after-virginity-tests-women-victims-army-violence-still-seek-justice-2012-03-09>.
- Amnesty International, Syria: 'I wanted to die': Syria's Torture Survivors Speak Out, Report, United Kingdom, March 2012, p. 37-39.
- Amnesty International, Urge Syria's First Lady to Use her Influence for Women's Rights, Press Release, 7 March 2012, in <http://www.amnesty.org/en/appeals-for-action/Urge-Syria-First-Lady-to-use-influence-for-womens-rights>.
- Colombo S., Caridi, P., and Kinninmont, J., New Socio-Political Actors in North Africa, The German Marshall Fund, Mediterranean Paper Series, Washington DC, 2012,
- EuroMeSCo Secretariat, Annual Report 2006: Women as Full Participants in the Euro-Mediterranean Community of Democratic States, Lisbon, 2006.
- Euro-Mediterranean Human Rights Network, The EMHRN urges the European Union to fully integrate gender equality in the "renewed ENP policy" with its Southern Neighbours, Press Release,

2011, available at: <http://www.euomedrights.org/gender/gender-news/emhrn-gender-press-releases/10786.html>.

- Euro-Mediterranean Human Rights Network, Transitional Governments Should Ensure Women Get Their Full Rights, Press Release, 2012, available at: <http://www.euomedrights.org/gender/gender-news/emhrn-gender-press-releases/11394.html>.
- Euro-Mediterranean Human Rights Network, Syria-Freedom of Expression Activist at risk of Torture, Press Release, 2012.
- Freedom House, Women's Rights in the Middle East and North Africa 2010, New Jersey, 2010.
- Huber, D., "Mixed Signals" Still? The EU's Democracy and Human Rights Policy since the Outbreak of the Arab Spring, Istituto Affari Internazionali Working Papers 12/13, 2012.
- Human Rights First, Women Continue to Struggle during Post-Arab Spring Transitions Washington, DC, 2011, available at: <http://www.humanrightsfirst.org/2011/11/02/women-continue-to-struggle-during-post-arab-spring-transitions>.
- Human Rights Watch, Egypt: Military Impunity for Violence Against Women; Whitewash in Virginity Tests Trial, 2012, available at: <http://www.hrw.org/news/2012/04/07/egypt-military-impunity-violence-against-women>.
- Human Rights Watch, Egypt: Military Impunity for Violence Against Women; Whitewash in Virginity Tests Trial, 2012, available at: <http://www.hrw.org/news/2012/04/07/egypt-military-impunity-violence-against-women>.
- International Centre for Transitional Justice, 2011, Reparations and Gender Justice: is Egypt Ready for Transitional Justice?, 2011, available at: <http://tjcairo.ictj.org/en/reparations-and-gender-justice-egypt-ready-transitional-justice>.
- International Committee of the Red Cross, Women Facing War: ICRC Study on the Impact of Armed Conflict on Women: Executive Summary, Geneva, 2001.
- International Federation for Human Rights, Women and the Arab Spring: Taking their place?, 2011, available at: <http://arabwomenspring.fidh.net>.
- International Federation for Human Rights, Preliminary Note on Libya Mission, 2012, available at: <http://www.fidh.org/Preliminary-note-on-Libya-Mission>.
- Mediterranean Institute of Gender Studies, Poverty and Social Exclusion of Women Victims of Domestic Violence, Nicosia, 2010.
- Merlini, C., The World We Live In: Megatrends in Global Security, Economy and Governance, Istituto Affari Internazionali, Working Papers 12/11, 2012.
- Paciello M.C., Ayeb, H., Gillot, G., and Moisseron, J., Reversing the Vicious Circle in North Africa's Political Economy, The German Marshall Fund, Mediterranean Paper Series, Washington DC, 2009.
- Sabbagh, A., 'The Arab States: Enhancing Women's Political Participation', IDEA, Women in Parliament: Beyond Numbers, Stockholm, 2005. pp. 52-71.

5. Academia

- Abidi, H., Transitions dans le monde arabe: la fin du paradigme sécuritaire ? in Ioannides, I., and Missiroli, A. Arab Springs and Transitions in Southern Mediterranean. The EU and Civil Societies One Year On, European Commission, Berlaymont Paper, Issue 1, 1/2012, pp. 12-14.
- Abou Zeid, G., The Role of the European Union in Democracy Building: the Impact on Women's Political Participation in the Arab World, Institute for Democracy and Electoral Assistance, 2010

- Abu-Lughod, L., *Remaking Women: Feminism and Modernity in the Middle East*, Princeton University Press, Princeton 1998.
- Acemoglu, D. and Robinson, J.A., 'A Theory of Political Transitions', *The American Economic Review*, Vol. 91 (No. 4), 2001, pp. 938-963.
- Afkhami, M., *Faith and freedom: Women's Human Rights in the Muslim world*, I.B. Tauris, London, 1995.
- Afshar, H., "Islam and Feminism: An Analysis of Political Strategies," in: Mai
- Yamani, (ed), *Feminism and Islam: Legal and Literary Perspectives*, New York University Press, New York, 1996.
- Ahmed, L., *A Quiet Revolution. The Veil's Resurgence from the Middle East to America*, Yale University Press, New Haven, CT, 2011.
- Ahmed, L., *Women and Gender in Islam*, Yale University Press, New Haven, CT, 1992.
- Al-Ali, N., *Secularism, Gender and the State in the Middle East: The Egyptian Women's Movement*, Cambridge University Press, Cambridge, 2000.
- Al-Ali, N., *What Kind of Liberation? Women and the occupation of Iraq*, University of California Press, Berkley, 2009.
- Al-Ali, N. and Pratt, N. (eds.), *Women and War in the Middle East*, London and New York, Zed Books, 2009.
- Al Aswany, A., *On the state of Egypt: What made the revolution inevitable*, Vintage, New York, 2011, p. 208.
- Alexander, J.C. and Thompson, K., *A Contemporary Introduction to Sociology: Culture and Society in Transition*, Paradigm Publishers, Boulder, 2008.
- Ali, S. S., *Gender and Human Rights in Islam and International Law. Equal Before Allah, Unequal Before Man? The Hage/ London/ Boston: Kluwer Law International, 2000.*
- Andersen, S. S., 'The Mosaic of Europeanization: An Organizational Perspective on National Re-contextualization', *Working Papers, ARENA, Centre for European Studies, University of Oslo*, 2004.
- Anderson, L., 'Demystifying the Arab Spring: Parsing the Differences Between Tunisia, Egypt, and Libya', *Foreign Affairs*, Vol. 90, No 3, 2011, pp. 2-7.
- Ask, K. and Tjomsland, M. (eds.), *Women and Islamization: Contemporary dimensions of discourse on gender relations*, Berg, Oxford, 1998.
- van Banning, T., Sepúlveda, M., Godmundsdóttir, G. and Chamoun, C., *Human Rights Instruments*, University for Peace, Costa Rica, 2004.
- Barany Z. 'Comparing the Arab Revolts. The Role of the Military', *Journal of Democracy*, Vol. 22, N. 4, 10/2011, pp. 24-35.
- Barazangi, N.H., *Woman's identity and the Quran: A new reading*, University Press of Florida, Gainesville, 2004, p. 172.
- Barolsky, V., *Transitioning Out of Violence: Snapshots from Kathorus*, Centre for the Study of Violence and Reconciliation, Violence and Transition Series, 2005.
- Bayat, A., 'Un-civil Society: The Politics of Informal People', *Third World Quarterly*, Vol. 18, No. 1, 1997, pp. 53-72.
- Bayat, A., *Making Islam Democratic: Social Movements and the Post-Islamist Turn*, Stanford University Press, Stanford, 2007.

- Bayoumi, M., *How Does it Feel to Be a Problem? Being Young and Arab in America*, New York, Penguin, 2008.
- Ben Lamien, M., L'interprétation de l'article 1er de la Constitution Tunisienne au regard de la liberté de conscience : quels risques?, Université de Tunis, in <http://cerclechercheurmoyenorient.files.wordpress.com/2010/10/linterpretation-de-larticle-1er-de-la-constitution-tunisienne.pdf>.
- Ben Mahmoud, F., *Taaliq ala majallat al ahwal a chaksiya [Comment on the Tunisian family law]*, Tunis, 2008.
- Benradi, M. (et al.), *Le code de la famille. Perceptions et pratiques judiciaires*, Friedrich Ebert Stiftung, 2007.
- Berjaoui, K., *Ishkaliyat alasala wal mouasara fi taqnin...*, [Problems of identity and modernism in the making of the family law], Dar Elkalam, 2003.
- Bier, L., *Revolutionary Womanhood: Feminisms, Modernity and the State in Nasser's Egypt*, Stanford University Press, Stanford, 2011.
- Blydes, L. and Linzer, D.A., 'The Political Economy of Women's Support for Fundamentalist Islam', *World Politics*, Vol. 60, No. 4, 2008, pp. 576-609.
- Bottomore, T., *Elites and Society*, Routledge, London, 1993.
- Boubakri, A., *The impact of the European Union's Policies on the Role of the State in Democracy Building in the Arab World*, International Democracy and Electoral Assistance, 2010.
- Bradley, J. R., *After the Arab Spring: How the Islamists Hijacked the Middle East Revolts*, Palgrave Macmillan, New York, 2012, p. 256.
- Brody, A., *Gender and Governance: Overview Report*, BRIDGE development-gender, Sussex, 2009, p. 82.
- Bronwen, M., *Citizenship law in Africa. A comparative study*, Open Society Foundation, 2010, <http://www.citizenshiprightsinafrica.org>.
- Calleya, S. and Wohlfeld, M. (eds.), *Change and Opportunities in the Emerging Mediterranean*, Mediterranean Academy of Diplomatic Studies, Malta, 2012.
- Campbell, K., 'The Gender of Transitional Justice: Law, Sexual Violence and the International Criminal Tribunal for the Former Yugoslavia', *The International Journal of Transitional Justice*, Vol.1, 2007, pp.411-432.
- Carey M. J. and Reynolds A. 'Comparing the Arab Revolts. The Impact of Election Systems', *Journal of Democracy*, Vol. 22, N. 4, 2011, pp. 36-47.
- Chacón, M., 'A Theory of Competitive Authoritarian Institutions and Democratic Transition', The Leitner Program, Working Papers, Yale University, 2009.
- Chamari, A.C., *La femme et la loi en Tunisie*, Le Fennec, Casablanca, 1991.
- Charai, A., *The Moroccan exception to unrest in the Middle East*, Fox News, 5 February 2011.
- Chatty, D. and Annika, R., 'Organizing Women: Formal and Informal Women's Groups in the Middle East', Oxford University and New York: Berg, 1997
- Collective, *The New Arab Revolt: What happened, what it means, and what comes next*, Council on Foreign Relations/ Foreign Affairs, New York, 2011.
- Committee on Foreign Relations, United States Senate, *Women and the Arab Spring*, Washington, 2011.

- Cook, R., Reservations to the Convention of All Forms of Discrimination Against Women, 30 Virginia Journal of International Law, 1990, pp. 673-678.
- Cook, S. A., The struggle for Egypt: From Nasser to Tahrir Square, Oxford University Press, North California, 2012.
- Dabashi, H., The Arab Spring: Delayed Defiance and the End of Postcolonialism, Zed Books, London, 2012.
- Davis, M.L., Women in politics and government, T.S. Denison, Minneapolis, 1976.
- Darwish, N., The Devil we don't know: The dark side of revolutions in the Middle East, Wiley, New Jersey, 2012.
- Diamond, L., 'A Fourth Wave or False Start? Democracy After the Arab Spring', Foreign Affairs, 22 May 2011.
- Duggan, C. 'Reparations for Sexual and Reproductive Violence; Prospects for Achieving Gender Justice in Guatemala and Peru', International Journal of Transitional Justice, 2001, pp.17-19.
- Elharras, M. and Serhane, F., Tatbiq qanoun alousra [Application of the family code], UNIFEM, 2006.
- Elharras, M. and Sarhane, F., Tatbiq qanoun alousra [The application of family law], United Nations Development Programme, 2006.
- Elshtain, J.B., Public man, private woman: Women in social and political thought, Princeton University Press, Princeton, 1993.
- Eltahawy, M., 'Why Do they Hate Us?', Foreign Policy, May/June 2012, Issue 193, pp. 1-9.
- Epstein, D.L., Bates, R., Goldstone, J., Kristensen, I. and O'Halloran, S., 'Democratic Transitions', Center for International Development Working Paper, No 101, Harvard University.
- Escribano, C., 'Europeanisation without Europe? The Mediterranean and the Neighbourhood Policy', EUI Working Papers, RSCA No. 2006/19, Robert Schuman Centre for Advanced Studies, Florence, 2006.
- Fasafi, S., 'Civil Societies and Democracy in Japan, Iran, Iraq and Beyond', Vanderbilt Journal of Transitional Law, Vol. 43, 2010.
- Fassin, D., 'The Trace: Violence, Truth, and the Politics of the Body', Social Research, Vol.78, No.2, 2011, pp.281-298.
- Feiler, B., Generation Freedom: The Middle East uprisings and the remaking of the modern world, Harper Collins, New York, 2011.
- Freudenstein, R., 'The Arab Spring: what's in it for us?', European View, No 10, Centre of European Studies, Brussels 2011, pp. 67-72.
- Gadir Abdel, A., The Political Economy of Inequality in the Arab Region and Relevant Development Policies, API/WPS 0904, Kuwait, 2009, in <http://www.arab-api.org/jodep/products/delivery/wps0904.pdf>.
- Gemeinhardt-Buschardt, K., Da'wa – Weiblicher Aktivismus und die neue muslimische Frauenbewegung in Ägypten, Dissertation, Universität Erfurt, 2012.
- Göçek, F. M. and Shiva, B., (eds), Reconstructing Gender in the Middle East: Tradition, Identity and Power, New York: Columbia University Press, 1994.
- Groves, G.E.C., Resurrection, B.P., and Doneys, P., 'Keeping the Peace is not Enough: Human Security and Gender-based Violence during the Transitional Period of Temor-Leste', Sojourn: Journal of Social Issues in Southern Asia, Vol. 24, No.2, 2009, pp. 192.

- Guo, S., 'Democratic Transition: A Critical Overview', *Issues & Studies* 35, No. 4, 1999, pp. 133-148.
- Haggard, S. and Kaufman, R. R., 'The Political Economy of Democratic Transitions', *Comparative Politics*, Vol. 29, No. 3, 1997, pp. 263-83.
- Hafez, S., 'The Terms of Empowerment – Islamic Women Activists in Egypt', *Cairo Papers in Social Science*, Vol. 24, No. 4, 2003.
- Harders, C. and Hussein, H.A., 'Arabische Frauen zwischen Partizipation und Exklusion. Der Frauentag auf dem Tahrir-Platz', *Zeitschrift für Feminismus und Arbeit*, Vol. 29, No. 139, 2011, pp. 3-7.
- Harris, B., 'As for Violent Crime that's our Daily Bread: Vigilante Violence during South Africa's Period of Transition', *Violence and Transition Series*, Vol. 1, 2001, in <http://www.csvr.org.za/wits/papers/papvtp1.htm>
- Harris, B. 'Between a Rock and a Hard Place: Violence, transition and democratisation: A consolidated review of the Violence and Transition Project', *Violence and Transition Series*, 2005, in <http://www.csvr.org.za/wits/papers/papvtp15.htm>
- Harris, L.C., *Libya. Qadhafi's Revolution and the Modern State*, Westview Press, 1986.
- Hassan, H., *Religion, Identity and Democracy. The Arab Spring: Transition to Democracy at a Crossroads*, International Democracy and Electoral Assistance, 2011.
- Hements, D. and Ould Hamdy, O., *Constitution-Making process in the Case of Libya*, January 2012, The Libyan Centre for Studies and Research (LCSR), <http://lcsr-libya.org/ar>.
- Higley, J. and Burton, M.G., 'The Elite Variable in Democratic Transitions and Breakdowns', *American Sociological Review*, Vol. 54, No. 1, Feb., 1989, p. 17-32.
- Hossain, A., 'Women of the Arab Spring Fight Back', *The Express Tribune*, 2012, in <http://tribune.com.pk/story/320030/women-of-the-arab-spring-fight-back>.
- Howell, K.E., 'Developing Conceptualisations of Europeanization: Synthesising Methodological Approaches', *Queen's Papers on Europeanization*, No. 3, 2004.
- Huber, D., "Mixed Signals" Still? The EU's Democracy and Human Rights Policy Since the Outbreak of the Arab Spring?, *IAI Working Papers*, 12/13 May 2012.
- Hughes, M. M., 'Armed Conflict, International Linkages, and Women's Parliamentary Representation in Developing Nations', *Social Problems*, Vol. 56, No. 1, 2009, pp. 174-204.
- Ingelhart, R. and Baker, W., 'Modernization, Cultural Change and the Persistence of Traditional Values', *American Sociological Review*, 2/2000, Vol. 65, pp. 19-51.
- International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection*, Versoix, Switzerland: 2009.
- Ioannides, I., 'EU Response to Transitions in the Southern Mediterranean', in Ioannides, I., and Missiroli, A. *Arab Springs and Transitions in Southern Mediterranean. The EU and Civil Societies One Year On*, European Commission, Berlaymont Paper, Issue 1, 1/2012, pp. 6-11.
- Jordens-Cotran, L., *Het Marokkaanse familierecht en de Nederlandse rechtspraak*, Forum, 2000.
- Jordens-Cotran, L., 'Muslims in the Dutch Legal Order: Subjects to Local Civil Laws and to Muslim family law', *Family, Law and Religion*, Wien, 2009.
- Jordens-Cotran, L., 'Enkele belangrijke aspecten van de nieuwe Marokkaanse wet op de nationaliteit (Important aspects of the new Moroccan law on nationality)', *Burgerzaken en recht*, 2009, p. 384-389.

- Joseph, S. (ed.), *Gender and Citizenship in the Middle East*, Syracuse University Press, New York, 2000.
- El-Issawi, F., 'The Arab Spring and the Challenge of Minority Rights: Will the Arab Revolutions Overcome the Legacy of the Past?', *European View*, No 10, Centre of European Studies, Brussels, 2011, pp.249-258.
- Jaggar, A., *Feminist politics and human nature*, Rowman and Littlefield, Lanham, 1983.
- Jaggar, A.M. and Rothenberg, P.S., *Feminist frameworks: Alternative theoretical accounts of the relations between women and men*, McGraw-Hill, New York, 1993.
- Jaquette, J.S. (ed.), *Women in politics*, Wiley, New York, 1974.
- Jayawardena, K., *Feminism and nationalism in the Third World*, Zed Books, London, 1986.
- Jordens-Cotran, L., *Nieuw Marokkaans familierecht en Nederlands IPR*, SDU, 2007.
- Jünemann, A. (ed.), 'Euro-Mediterranean Relations after September 11', *Mediterranean Politics*, Vol. 8, No 2/3, 2003.
- Jünemann, A. and Klement, C. (eds.), *The Policy of Gender Equality in the European Union*, Nomos Verlag, Baden-Baden, 2005.
- Jünemann, A. and Knodt, M. (eds.), *The EU as an External Democracy Promoter*, Nomos Verlag, Baden-Baden, 2007.
- Kandiyoti, D. (ed.), *Gendering the Middle East: Emerging perspectives*, Syracuse University Press, New York, 1996.
- Kausch, K., *Morocco: Negotiating Change with the Makhzen*, FRIDE, 2008.
- Kausch, K., *Tunisia: The Life of Others*, FRIDE, 2009.
- Kaushik, S. (eds.), *Women's participation in politics*, Vikas Pub. Jouse, New Dehli, 1993.
- Kleinberg, S.J. (ed.), *Retrieving women's history: changing perceptions of the role of women in politics and society*, Berg Publishers: UNESCO, Oxford, 1988.
- Kooij, C., 'Islam in Qadhafi's Libya. Religion and Politics in a Developing Country', *Papers on European and Mediterranean Societies*, No. 13, University of Amsterdam, 1980.
- Kynsilehto, A. and Melasuo, T., 'Gender Equality: A Truly Euro-Mediterranean Concern?', *Quaderns de la Mediterrània*, 7/2006, 2006, pp 209-215.
- Labidi, L., 'From Sexual Submission to Voluntary Commitment: The Transformation of Family Ties in Contemporary Tunisia', in Yount, K.M. and Rashad, H., *Family in the Middle East: Ideational Change in Egypt, Iran and Tunisia*, Routledge, London, 2008.
- Lacroix S. 'Comparing the Arab Revolts. Is Saudi Arabia Immune?' *Journal of Democracy*, Vol. 22, N. 4, 10/2011, pp. 48-59.
- Lenczowski, G., *Political Elites in the Middle East*, American Enterprise Institute for Public Policy Research, Washington D.C., 1975.
- Lijnzaad, L., *Reservations to Human Rights Treaties: Ratify and Ruin?* Dordrecht: Martinus Nijhoff, 1995.
- Littman, D., 'Universal Human Rights and Human Rights in Islam', Midstream, New York, 1999, in www.dhimmi.org/Islam.html
- Lombardo, E. and Meier, P., 'Gender Mainstreaming in the EU', *European Journal of Women's Studies*, SAGE Publications, Vol. 13:2, 2006, pp. 151-166.

- Mahmood, S., *The Politics of Piety – The Islamic Revival and the Feminist Subject*, Princeton University Press, Princeton, 2005.
- Marcus, E., 'Rape and the Arab Spring; The Dark Side of the Popular Uprisings in the Middle East', Centre for American Progress, 2011, pp. 2-3.
- Mariscotti, C., *Gender and Class in the Egyptian Women's Movement 1929-1935 – Changing Perspectives*, Syracuse University Press, New York, 2008.
- Mashhour, A., 'Islamic Law and Gender Equality – Could There Be a Common Ground? A Study of Divorce and Polygamy in Sharia Law and Contemporary Legislation in Tunisia and Egypt', *Human Rights Quarterly*, Vol. 27, No. 2, 2005, pp. 562-596.
- Nasir, J.J., *The Islamic Law of Personal Status*, Kluwer Law International, 2002.
- Mayer, A.E., 'Libyan Legislation in Defense of Arabo-Islamic Sexual Mores', *The American Journal of Comparative Law*, Vol. 28, No. 2, 1980, pp. 287-313.
- Mayer, A.F., *Religious Reservations to the Convention on the Elimination of all Forms of Discrimination Against Women: What do they Really Mean?* In Howland, C. W. (ed.), *Religious Fundamentalisms and the Human Rights of Women*, New York: Palgrave, 2001, pp. 105-116.
- Maynard, M. and Winn, J., 'Women, Violence and Male Power', in Robinson, V. and Richardson, D. (eds.), *Introducing Women's Studies*, 1997.
- McDonagh, E., 'Political Citizenship and Democratization: The Gender Paradox', *The American Political Science Review*, Vol. 96, No 3, 2002, pp. 535-552.
- McFaul, M., Magen, A. and Stoner-Weiss, K., 'Evaluating International Influences on Democratic Transitions: Concept Paper', Centre of Democracy, Development and the Rule of Law, Stanford University.
- Mernissi, F., *The veil and the male elite: A feminist interpretation of women's rights in Islam*, Addison-Wesley Publications, Reading, 1991.
- Mernissi, F., *Islam and democracy: Fear of the modern world*, Addison-Wesley Publishing, Reading, 1992.
- Mernissi, F., *Women's rebellion and Islamic memory*, Zed Books, London, 1996.
- Mernissi, F., *Beyond the Veil: Male-Female Dynamics in Modern Muslim Society*, New York: Schenkman, 1975.
- Meyer, S.J., 'Transitional Human Rights: Hope for Egypt and the Region', *Middle East Studies Online Journal*, Vol. 3, No 6, 2011, pp. 345-360.
- Mikail, B., *Religion and politics in Arab Transition*, FRIDE, 2012.
- Al-Minawi, K.M., *Woman's rights in Islam*, Ammar Press, Riyadh, 1993.
- Missiroli, A. *Arab Springs: Transition, Democratisation and Civil Society – Lost and Found*, in Ioannides, I., and Missiroli, A. *Arab Springs and Transitions in Southern Mediterranean. The EU and Civil Societies One Year On*, European Commission, Berlaymont Paper, Issue 1, 1/2012, pp. 15-19.
- Moffett, Sh. and Freund, B., *Elite Formation and Elite Bonding: Social Structure and Development in Durban*, University of Natal, Durban.
- Moghadam, V., 'Women's Economic Participation in the Middle East. What Difference Has the Neoliberal Policy Turn Made?', *Journal of Middle East Women's Studies*, Vol. 1, No. 1, 2005, pp.110-146.
- Moghadam, V., *From Patriarchy to Empowerment: Women's Participation, Movements and Rights in the Middle East, North Africa and South Asia*, Syracuse University Press, New York, 2007.

- Mohanty, C.T., 'Under Western Eyes: Feminist Scholarship and Colonial Discourses', *Feminist Review*, No. 30, 1988, pp. 61-88.
- Moulay, R.A., *Le femme et la loi au Maroc*, Le Fennec, Casablanca, 1991.
- Moysner, G. and Wagstaffe, M., *Research Methods for Elite Studies*, Allen & Unwin, London, 1987.
- Munck, G.L., 'Democratic Transitions in Comparative Perspective', *Comparative Politics*, Vol. 26, No. 3, 1994, pp. 355-375.
- Munck, G.L. and Skalnik, C.L., 'Modes of Transition and Democratization: South America and Eastern Europe in Comparative Perspective', *Comparative Politics*, Vol. 29, No. 3, Apr. 1997, p. 343-62.
- Munck, G.L., 'Democratic Transitions', in Smelser, N.J. and Bates, P.B. (eds.), *International Encyclopedia of the Social and Behavioral Sciences*, Vol. 5, Elsevier Science, New York, 2001, pp. 3425-3428.
- Najat, Al-Saied, 'No Arab Spring Without Women', *Al Arabiya News*, 25 January 2012, in <http://english.alarabiya.net/views/2012/01/25/190506.html>.
- Noueihed, L. and Narren, A., *The battle for the Arab Spring: Revolution, counter-revolution and the making of a new era*, Yale University Press, New Haven, 2012.
- Noufal A. and Lynken, G. (eds.), *Regenerating the state in the Arab World: The Role of the European Union in Democracy Building*, International IDEA, Stockholm, 2010.
- Nzomo, M., *Women in politics and public decision making*, Association of African Women for Research and Development, Nairobi.
- Obydenkova, A., 'Democratization, Europeanization and Regionalization beyond the European Union: Search for Empirical Evidence', *European Integration online Papers (EIoP)*, Vol. 10, No 1, 2006.
- Olsen, J.P., 'The Many Faces of Europeanization', *ARENA Working Papers*, Oslo, 2002.
- Omar, M., 'Women in Libya and the Arab Spring', *Huff Post World Newspaper*, 11 April 2011, available at: http://www.huffingtonpost.com/manal-omar/arab-spring-libya-women_b_1076873.html
- Ottaway, M., 'Women's Rights and Democracy in the Arab World', *Democracy and Rule of Law Project*, No. 42, Carnegie Papers - Middle East Series, Washington, 2004.
- Otto, J.-M., *Sharia incorporated: a comparative overview of the legal systems of twelve Muslim countries in past and present*, Amsterdam University Press, Amsterdam, 2010.
- Pandey, S., *Women in politics*, Rawat Publications, Jaipur, 1990.
- Papaioannou E. and Siourounis, G., 'Democratisation and Growth', *The Economic Journal*, No 118, Royal Economic Society, 2008, pp. 1520-1551.
- Perthes, V., *Arab Elites: Negotiating the Politics of Change*, Lynne Rienner Publishers, Boulder, 2004.
- Peters, R., *Crime and Punishment in Islamic law. Theory and Practice from the Sixteenth to the Twenty-first Century*, Cambridge University Press, Cambridge, 2005.
- Phillips, A., *Engendering democracy*, Polity Press, Cambridge, 1991.
- Plantter F. M. 'Comparing the Arab Revolts. The Global Context', *Journal of Democracy*, Vol. 22, N. 4, 10/2011, pp. 5-12.
- Pollack, M.A. and Halfner-Burton, E., 'Mainstreaming Gender in the European Union', *Journal of European Policy*, Vol. 7:3, 2000, pp. 432-456.
- Prashad, V., *Arab Spring, Libyan Winter*, AK Press, Oakland, 2012.

- Randall, V., *Women and politics: An international perspective*, Macmillan, Houndmills, 1987.
- Ray, R. and Korteweg, A.C., 'Women's Movements in the Third World: Identity, Mobilization, and Autonomy', *Annual Review of Sociology*, Vol. 25, 1999, pp. 47-71.
- Rizzo, H.M., *Islam, democracy, and the status of women: The case of Kuwait*, Routledge, New York, 2005.
- Roded, R., (ed.) *Women in Islam and the Middle East. A Reader*, I.B. Tauris, London, New York, 1999.
- Rodrik, D. and Wacziarg, R., 'Do Democratic Transitions Produce Bad Economic Outcomes?', 2004.
- Roudi-Fahimi, F. and Moghadam, V.M., *Empowering Women, Developing Society: Female Education in the Middle East and North Africa*, Population Reference Bureau, Washington, 2003.
- El Saadawi, N., *The Nawal El Saadawi reader*, Zed Books, London, 1997.
- Saadi, N., *La femme et la loi en Algerie*, Le Fennec, Casablanca, 1991.
- Sabbagh, A., 'The Arab States: Enhancing Women's Political Participation', *Women in Parliament: Beyond Numbers – Case Study: The Arab States*, pp. 52-71.
- Sanbonmatsu, K., 'Gender-Related Political Knowledge and the Descriptive Representation of Women', *Political Behavior*, Vol. 25, No 4, 2003, pp. 367-388.
- Sattler, C.L., *Talking about a revolution: The politics and practice of feminist teaching*, Hampton Press, 1997.
- Schimmelfennig, F., 'Europeanization beyond Europe', *Living Reviews in European Governance*, Vol. 4, No. 3, 2009.
- Schmitz, H. P., 'Domestic and Transnational Perspectives on Democratization', *International Studies Review*, Vol. 6, No 3, 2004, pp. 403-426.
- Sigsworth, R., *Gender Based Violence in Transition: Concept Paper Violence and Transition*, Project Roundtable, Centre for the study of Violence and Reconciliation, 2008.
- Simonetti, D. E., 'The Arab Spring with a Female Focus: Challenging European Public Opinion on the Middle East?', 2011.
- al-Shalabi, N., Obeidat, M. and Neimneh, S., 'The Reception of American Culture in the Middle East after "The Arab Spring"', *Canadian Social Science*, Vol. 7, No 5, 2011, pp. 156-161.
- Theidon, K. 'Gender in Transition: Common Sense, Women and War', *Journal of Human Rights*, 2007, No.6:453-478.
- Tilly, C., 'Processes and Mechanisms of Democratization', *Sociological Theory*, Vol. 18, No 1, 2000, pp. 1-16.
- Timuş, N., 'The Influence of European Integration Process outside EU borders', Working Draft, Central European University, Department of Political Science, Budapest.
- Tocci, N., *One Year On: A Balance Sheet of the EU's Response to the Arab Spring*, IAI, GMF, May 2012.
- Tucker, J. E., (ed.) *Arab Women: Old Boundaries, New Frontiers*, Bloomington: Indiana University Press, 1993.
- Utas, B., *Women in Islamic societies: Social attitudes and historical perspectives*, Humanities, Press, Curzon, 1983.
- Vasuki, N. et al., *Truth Commissions and Gender: Principles, Policies, and Procedures*, International Centre for Transitional Justice, New York, 2006.

- Vink, M., 'What is Europeanization? and Other Questions on a New Research Agenda', Paper for the Second YEN Research Meeting on Europeanization, Essex University, 2002.
- Ward, A., Gregory, J. and Yuval-Davis, N. (eds.), *Women and citizenship in Europe: Borders, rights and duties – Women's differing identities in a Europe of contested boundaries*, Trentham Books, 1992.
- Way L., 'Comparing the Arab Revolts. The Lessons of 1989', *Journal of Democracy*, Vol. 22, N. 4, 2011, pp. 13-23.
- Waylen, G., 'Women and Democratization: Conceptualizing Gender Relations in Transition Politics', *World Politics*, Vol. 46, No 3, 1994, pp. 327-354.
- Waylen, G., *Gender in Third World politics*, Open University Press, Buckingham, 1996.
- Waylen, G., *Engendering Transitions: Women's Mobilization, Institutions and Gender Outcomes*, Oxford University Press, Oxford, 2007.
- Weddady, N. and Ahmari, S., *Arab Spring dreams: The Next Generation Speaks out for Freedom and Justice from North Africa to Iran*, Palgrave Macmillan, New York, 2012.
- Welchman, L., *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy*, ISIM Papers series, Amsterdam University Press, 2007.
- Welsh, H.A., 'Political Transition Processes in Central and Eastern Europe', *Comparative Politics*, Vol. 26, No. 4, July 1994, p.379-94.
- Whitney, S. and Raynor, T., *Women in politics*, F. Watts, New York, 1986.
- Wiering S. (ed.), *Subversive women: Women's movements in Africa, Asia, Latin America, and the Caribbean*, Zed Books, London, 1995.
- Yamani, A.Z., *Woman in Islam*, Al-Furqan Islamic Heritage Foundation, 2005.
- Yotopoulos-Marangopoulos, A., *Women's rights: Human rights*, Estia, Athens, 1994.
- Zaatari, Z., 'The Culture of Motherhood: An Avenue for Women's Civil Participation in South Lebanon', *Journal of Middle East Women's Studies*, Vol. 2, No. 1, 2006, pp. 33-36.
- Zogby, J., *Arab Voices: What they are saying to us, and why it matters*, Palgrave Macmillan, New York, 2012.
- Zorob, A., Hussein, H.A. and Schmidt, E., 'Unternehmerinnen im Spiegel der arabischen Presse', *Mediterranes*, 1/1012, 2012.

ANNEX I - MENA REGION AND THE CEDAW

TABLE 1 – STATUS OF CEDAW

Convention on the Elimination of All Forms of Discrimination against Women (January 2012)	
Place	New York
Signed	18 December 1979
Entry into force	3 September 1981
Signatories	99 countries
Parties	187 countries

TABLE 2 – MENA AND CEDAW

Middle East and North Africa Countries and CEDAW		
State	Signature	Ratification (a), Accession (b), Declarations or Reservations (c)
Algeria		22 May 1996 (a), (b), (c)
Bahrain		18 June 2002 (a), (b), (c)
Egypt	16 July 1980	18 September 1981 (a), (c)
Jordan	3 December 1980	1 July 1992 (a), (c)
Lebanon		16 April 1997 (a), (b), (c)
Libya		16 May 1989 (a), (b), (c)
Morocco		21 June 1993 (a), (b), (c)
Saudi Arabia	7 September 2000	7 September 2000 (a)
Syria		28 March 2003 (a), (b), (c)
Tunisia	24 July 1980	20 September 1985 (a), (c)
Yemen		30 May 1984 (a), (b), (c)

TABLE 3 – DECLARATIONS OR RESERVATION ON CEDAW

Declarations or Reservations of MENA countries on CEDAW upon ratification					
State	Article 2	Article 9	Article 15	Article 16	Article 29
Algeria	X	X ¹	X	X	X
Bahrain	X	X	X	X	X
Egypt	X	X ²		X	X
Jordan		X	X ³	X	
Lebanon	X	X		X	
Libya	X			X	
Morocco	X	X ⁴	X	X ⁴	X
Saudi Arabia	X				
Syria	X ⁵	X	X ⁵	X ⁶	X
Tunisia ⁷		X	X	X	X
Yemen					

¹ Withdraw of reservation on 14/07/2009

² Withdraw of reservation on 04/01/2008

³ Withdraw of reservation on 05/05/2009

⁴ Withdraw of reservation on 08/04/2011

⁵ Decision to remove reservation (CEDAW/C/SYR/CO/1, para.11)

⁶ Decision to remove reservations on article 16 (1) (g) and (2) but remaining reservations of 16 (1), (c), (d) and (f) (CEDAW/C/SYR/CO/1, para.11)

⁷ Draft decree for the withdraw of all specific reservations to CEDAW on 16/08/2011

TABLE 4 – REASONING BEHIND RESERVATIONS

Reasons of entering reservations on CEDAW articles					
State	Article 2	Article 9	Article 15	Article 16	Article 29
Algeria	(a)	(a)	(a)	(a)	X
Bahrain	(b)	N/A	N/A	(b)	X
Egypt	(b)	(b)	-	(b)	X
Jordan	-	N/A	N/A	N/A	-
Lebanon	N/A	N/A	-	N/A	-
Libya	(b)	-	-	(b)	-
Morocco	(a)	(a)	(a)	-	X
Saudi Arabia	N/A	-	-	-	-
Syria	N/A	N/A	N/A	(b)	X
Tunisia	-	(a)	(a)	(a)	X
Yemen	-	-	-	-	X

(a) The States would implement the relevant provision in the Convention if did not conflict their national legislation

(b) The States have entered reservations to Articles in the Convention that contradict Islamic Sharia

N/A were no clear reason is given upon reservation

TABLE 5 – OBJECTIONS ON MENA RESERVATIONS ^W

Objections placed on the reservations of MENA countries											
Objecting States	Algeria	Bahrain	Egypt	Jordan	Lebanon	Libya	Morocco	Saudi Arabia	Syria	Tunisia	Yemen
Austria		X			X			X	X		
Denmark	X	X			X	X		X	X		
Estonia									X		
Finland		X				X		X	X		
France		X						X	X		
Germany	X	X	X			X		X	X	X	
Greece		X							X		
Italy									X		
Ireland								X			
Mexico			X			X					
Netherlands	X	X	X		X	X	X	X	X	X	
Norway	X					X		X	X		
Portugal	X							X			
Romania									X		
Spain								X	X		
Sweden	X	X	X	X	X	X		X	X	X	
United Kingdom		X						X	X		

TABLE 6 – SUBMISSIONS AND CONSIDERATION OF REPORTS

Status of submission and consideration of reports submitted by States parties as for 2012			
State	Report	Date of submission	Considered by Committee
Algeria	Initial	1 September 1998 (CEDAW/C/DZA/1)	20 th Session (1999)
	Second Periodic	5 February 2005 (CEDAW/C/DZA/2)	32 nd Session (2005)
	Third and Fourth Combined	24 March 2010 (CEDAW/C/DZA/3-4)	51 st Session (2012)
Bahrain	Initial and Second Combined	12 November 2007 (CEDAW/C/BHR/2)	42 nd Session (2008)
	Third Periodic	21 December 2011 CEDAW/C/BHR/3	55 th Session (2013) <i>forthcoming</i>
Egypt	Initial	2 February 1983 (CEDAW/C/5/Add.10)	3 rd Session (1984)
	Second Periodic	19 December 1986 (CEDAW/C/13/Add.2)	9 th Session (1990)
	Third Periodic	25 July 1996 (CEDAW/C/EGY/3)	24 th Session (2001)
	Fourth and Fifth Combined	30 March 2000 (CEDAW/C/EGY/4-5)	24 th Session (2001)
	Sixth and Seventh Combined	5 September 2008 (CEDAW/C/EGY/6-7)	45 th Session (2010)
Jordan	Initial	10 November 1997 (CEDAW/C/JOR/1)	22 nd Session (2000)
	Second Periodic	26 October 1999 (CEDAW/C/JOR/2)	22 nd Session (2000)
	Third and Fourth Combined	10 March 2006 (CEDAW/C/JOR/3-4)	39 th Session (2007)
	Fifth Periodic	24 September 2010 (CEDAW/C/JOR/5)	51 st Session (2012)
Lebanon	Initial	2 September 2004 (CEDAW/C/LBN/1)	33 rd Session (2005)
	Second Periodic	11 February 2005 (CEDAW/C/LBN/2)	33 rd Session (2006)
	Third Periodic	7 July 2006 (CEDAW/C/LBN/3)	40 th Session (2008)
Libya	Initial	18 February 1991 (CEDAW/C/LIB/1) 4 October 1993 (CEDAW/C/LIB/1/Add.1)	13 th Session (1994)
	Second Periodic	15 March 1999 (CEDAW/C/LBY/2)	
	Second and Third – Fifth Combined	4 December 2008 (CEDAW/C/LBY/5)	43 rd Session (2009)

Morocco	Initial	3 November 1994 (CEDAW/C/MOR/1)	16 th Session (1997)
	Second Periodic	29 February 2000 (CEDAW/C/MOR/2)	29 th Session (2003)
	Third and Fourth Combined	18 September 2009 (CEDAW/C/MAR/4)	40 th Session (2008)
Saudi Arabia	Initial and Second Combined	29 March 2007 (CEDAW/C/SAW/2)	40 th Session (2008)
Syria	Initial	29 August 2005 (CEDAW/C/SYR/1)	38 th Session (2007)
Tunisia	Initial and Second Periodic	17 September 1993 (CEDAW/C/TUN/1-2)	14 th Session (1995)
	Third and Fourth Combined	2 August 2000 (CEDAW/C/TUN/3-4)	27 th Session (2002)
	Fifth and Sixth Combined	20 May 2009 (CEDAW/C/TUN/6)	47 th (2010)
Yemen	Fourth Periodic	15 March 2000 (CEDAW/C/YEM/4)	Exceptional Session (2002)
	Fifth Periodic	15 February 2002 (CEDAW/C/YEM/5)	Exceptional Session (2002)
	Sixth Periodic	13 March 2007 (CEDAW/C/YEM/6)	41 st Session (2008)

TABLE 7 – GENERAL CONCLUDING COMMENTS OF COMMITTEE

GENERAL ISSUES RAISED BY CEDAW COMMITTEE [BASED ON THE ARTICLES OF THE CONVENTION]											
Issues	Algeria	Bahrain	Egypt	Jordan	Lebanon	Libya	Morocco	Saudi Arabia	Syria	Tunisia	Yemen
Definition of Discrimination (Article 1)	X	X		X		X		X		X	X
Policy Measures (Article 2)	X		X			X	X			X	X
Special Measures (Article 4)	X	X		X	X	X					
Sex Role Stereotyping and Prejudice (Article 5)	X	X	X	X	X	X	X	X	X	X	X
Trafficking and Prostitution (Article 6)	X	X	X	X	X	X	X	X	X	X	X
Public and Political Life (Articles 7) Representation (Article 8)	X	X	X	X	X	X	X	X	X	X	X
Nationality and Citizenship law (Article 9)	X	X	X	X	X			X	X	X	X
Education (Article 10)	X	X	X	X	X	X	X	X		X	X
Employment (Article 11)	X	X	X	X	X	X	X	X	X	X	X
Health (Article 12)	X	X	X	X	X	X	X	X	X	X	X
Economic and Social Benefits (Article 13)	X				X		X			X	
Rural Women (Article 14)	X		X	X	X	X	X			X	X
Law (Article 15)	X				X		X		X		
Marriage and family relations (Article 16)	X	X	X	X		X	X	X		X	X
Convention's implementation (Article 24)	X	X		X		X	X			X	X
Reservations (Article 28)	X	X	X	X	X	X	X	X	X	X	
Violence against Women	X	X	X	X	X	X	X	X	X	X	X
Female Genital Mutilation			X								
Vulnerable Groups of Women	X		X	X	X	X	X			x	
Female Domestic Workers			X	X	X		X			X	
Visibility of the Convention	X	X	X	X	X	X	X			X	X
Data Collection and Analysis	X		X	X	X	X	X	X	X		
National Machinery and Mechanisms	X	X	X	X	X	X	X	X		X	
HIV/AIDS			X		X		X				

ANNEX II – THE STATUS OF WOMEN IN THE MENA REGION

TABLE 8 – HUMAN DEVELOPMENT INDEX 2007-2011 © UNDP

Country	2007	2008	2009	2010	2011
Algeria	68%	68.6%	69.1%	69.6%	69.8%
Bahrain	80.4%	80.6%	80.5%	80.5%	80.6%
Egypt	62.6%	63.3%	63.8%	64.4%	64.4%
Jordan	68.5%	69.2%	69.4%	69.7%	69.8%
Lebanon	72.1%	72.6%	73.3%	73.7%	73.9%
Libya	75.5%	75.9%	76.3%	77%	76%
Morocco	56.5%	57%	57.5%	57.9%	58.2%
Saudi Arabia	75.5%	76%	76.3%	76.7%	77%
Syria	62.8%	62.9%	63%	63.1%	63.2%
Tunisia	68.1%	68.8%	69.2%	69.8%	69.8%
Yemen	43.8%	44.4%	45.2%	46%	46.2%

CHART 1 – HUMAN DEVELOPMENT INDEX - OVERALL TRENDS 1980-2011 © UNDP

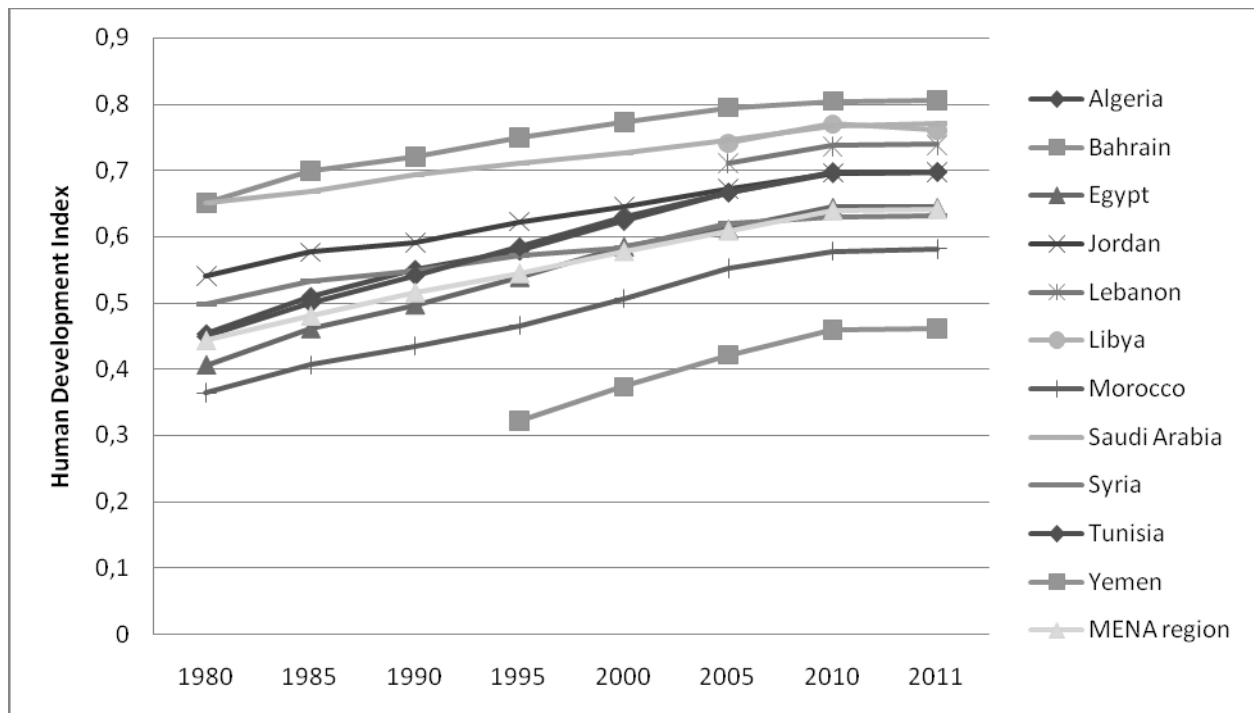


TABLE 9 – GENDER INEQUALITY INDEX, TRENDS 1995 - 2011 © UNDP

Country	1995	2000	2005	2008	2011
Algeria	46.1%	52%	45.6%	42.8%	41.2%
Bahrain	N/A	N/A	34.8%	30.6%	28.8%
Egypt	66.8%	64.9%	59.9%	57.7%	N/A
Jordan	63.7%	59.9%	51.2%	47.6%	45.5%
Lebanon	N/A	N/A	N/A	N/A	44%
Libya	67.3%	N/A	37.4%	32.8%	31.4%
Morocco	70.6%	68.7%	54.3%	53.1%	51%
Saudi Arabia	N/A	N/A	68.1%	68.6%	64.5%
Syria	53.7%	N/A	49.6%	50.5%	47.4%
Tunisia	42.3%	N/A	33.5%	32.6%	29.3%
Yemen	88%	82.3%	79.1%	77.3%	77%

TABLE 10 – NATIONAL LITERACY RATES FOR YOUTHS AND ADULTS, © UNESCO INSTITUTE OF STATISTICS

Country	Year	Adults (15+)		Youth (15-24)	
		Men	Women	Men	Women
Algeria	2006	81%	64%	94%	89%
Bahrain	2009*	92%	90%	100%	100%
Egypt	2006	75%	58%	88%	82%
Jordan	2007	95%	89%	99%	99%
Lebanon	2007	93%	86%	98%	99%
Libya	2009*	95%	82%	100%	100%
Morocco	2009	69%	44%	87%	72%
Saudi Arabia	2009*	90%	81%	99%	97%
Syria	2009*	90%	78%	96%	93%
Tunisia	2008	86%	71%	98%	96%
Yemen	2009*	80%	45%	96%	72%

* UNESCO Institute of Statistics estimation

TABLE 11 – TERTIARY EDUCATION, © UNESCO INSTITUTE OF STATISTICS

Country	Tertiary gross enrolment ratio			Women's share of tertiary enrolment	
	Year	Men	Women	Year	Percentage
Algeria	2010	37%	25%	2010	58%
Bahrain	1999	28% ^a	16% ^a	2010	46%
Egypt	2004	26% ^a	33% ^a	2004	43% ^a
Jordan	2009	44%	39%	2009	51%
Lebanon	2010	59%	49%	2010	54%
Libya	2003	57% ^a	52% ^a	2003	51% ^a
Morocco	2009	12%	14%	2009	47%
Saudi Arabia	2010	39%	35%	2010	52%
Syria	N/A	N/A	N/A	N/A	N/A
Tunisia	2009	41%	28%	2009	60%
Yemen	2007	6%	14%	2007	29%

^a UNESCO Institute of Statistics estimation

TABLE 12 – FEMALE TEACHING STAFF, © UNDP CALCULATED BASED ON UIS DATA

Country	Primary education		Secondary education		Tertiary education	
	Year	Percentage	Year	Percentage	Women	Percentage
Algeria	2010	53%	2004	49% ^a	2010	38%
Bahrain	2002	76% ^a	2002	54% ^a	2010	33%
Egypt	2009	52%	2009	44%	N/A	N/A
Jordan	2003	64% ^a	2003	58% ^a	2008	24%
Lebanon	2010	86%	2010	57%	2010	41%
Libya	N/A	N/A	N/A	N/A	2002	13% ^a
Morocco	2011	51%	2004	33% ^a	2009	17%
Saudi Arabia	2010	50%	2010	50% ^a	2010	37%
Syria	N/A	N/A	N/A	N/A	N/A	N/A
Tunisia	2009	55%	2005	45%	2009	42% ^a
Yemen	2010	25%	2003	21% ^a	2007	17%

^a UNESCO Institute of Statistics estimation

TABLE 13 – ECONOMIC ACTIVITY, © ILO – UNDP

Country	Year	Adult (15+) economic activity rate		Percentage of women in adult labour force
		Women	Men%	Percentage
Algeria	2010	15%	72%	17%
Bahrain	2010	39%	87%	19%
Egypt	2010	24%	74%	24%
Jordan	2010	15%	65%	18%
Lebanon	2010	23%	71%	26%
Libya	2010	30%	77%	28%
Morocco	2010	26%	75%	27%
Saudi Arabia	2010	17%	74%	15%
Syria	2010	13%	72%	15%
Tunisia	2010	25%	70%	27%
Yemen	2010	25%	72%	26%

TABLE 14 – UNEMPLOYMENT RATE, © ILO (NO DATA FOR SYRIA, TUNISIA AND YEMEN)

Country	Year	Adult (15+) unemployment rate		
		Men	Women	Source
Algeria	2010	10%	20%	LFS
Bahrain	2004	5.6%	20%	LFS
Egypt	2009 ^{a, d}	5.2%	22.9%	HS
Jordan	2009	10.3%	24.1%	LFS
Lebanon	2007	8.6%	10.1%	HS
Morocco	2009	9.8%	10.5%	LFS
Saudi Arabia	2009	3.5%	15.9%	LFS

^a refers to age group 15-64
^d refers to civilian labour force

LFS – Labour Force Service
HS – Household or Labour Force Service

TABLE 15 – WOMEN LEGISLATORS AND MANAGERS, © UNDP (NO DATA FOR SYRIA, LIBYA AND TUNISIA)

Country	Women's share of legislators, senior officials and managers		
	Year	Percentage	Source
Algeria	2004	5%	LFS
Bahrain	2001	12%	PC
Egypt	2007*	11%	LFS
Lebanon	2007	8%	HS
Morocco	2008	13%	LFS
Saudi Arabia	2008	7%	LFS
Yemen	2005	2%	HIES
*Persons aged 15-64.			
LFS – Labour Force Survey			
PC – Population Census			
HS – Household Survey			
HIES – Household Income/Expenditure service			

TABLE 16 – WOMEN IN PARLIAMENT, © IPU

Country	Percentage of parliamentary seats in Single or Lower chamber occupied by women						
	2000	2005	2007	2008	2009	2010	2011
Algeria	3%	6%	7%	8%	8%	8%	8%
Bahrain	N/A	0%	3%	3%	3%	3%	10%
Egypt	2%	3%	2%	2%	2%	2%	N/A
Jordan	0%	6%	6%	6%	6%	11%	11%
Lebanon	2%	5%	5%	5%	3%	3%	3%
Libya	N/A	5%	8%	8%	8%	8%	N/A
Morocco	1%	11%	11%	11%	11%	11%	17%
Saudi Arabia	N/A	0%	0%	0%	0%	0%	0%
Syria	10%	12%	12%	12%	12%	12%	12%
Tunisia	12%	23%	23%	23%	28%	28%	26%
Yemen	1%	0%	0%	0%	0%	0%	0%

TABLE 17 – WOMEN'S RIGHTS IN THE MENA REGION, © FREEDOM HOUSE 2010

Countries	Non-discrimination and Access to Justice	Autonomy, Security and Freedom of the Person	Economic Rights and Equal Opportunity	Political Rights and Civic Voice	Social and Cultural Rights
Algeria	3.1	3.0	3.0	3.0	3.0
Bahrain	2.2	2.6	3.1	2.3	2.9
Egypt	3.0	2.9	2.9	2.7	2.6
Jordan	2.7	2.7	2.9	2.9	2.8
Lebanon	2.9	3.0	3.0	2.9	3.1
Libya	2.4	2.6	2.8	1.8	2.5
Morocco	3.1	3.2	2.8	3.1	2.9
Saudi Arabia	1.4	1.3	1.7	1.2	1.6
Syria	2.7	2.3	2.9	2.2	2.5
Tunisia	3.6	3.4	3.2	3.1	3.3
Yemen	1.9	1.9	1.9	2.0	2.0

ANNEX III - CONCLUDING REMARKS OF CEDAW'S COMMITTEE

1. ALGERIA

The Committee starts with the concluding comments in the reports of the 20th Session (A/54/38 (Part 1)), the 32nd Session (CEDAW/C/DZA/CC/2) and 51st Session (CEDAW/C/DZA/CO/3-4) by noting all those steps taken towards the complete implementation of the provisions of the Convention and also several inefficiencies. Particularly during the last Session, the Committee saluted Algeria's commitment to 'further improve its legislation and policies [...] which requires, inter alia, that the 1984 Family Code is reviewed and amended [...] and that the State party withdraw its reservations to articles 2, 15, paragraph 4, and 16 of the Convention' (CEDAW/C/DZA/CO/3-4, para.5). Moreover, in the 51st Session's concluding observations, the Committee welcomes the ratification and accession of Algeria to several international human rights treaties (CEDAW/C/DZA/CO/3-4, para.6) and also the adoption of several anti-discrimination legislation measures and policies (CEDAW/C/DZA/CO/3-4, para.7-9).

Next the Committee presents its concern over several issues. The main observation concerns the continuation of the reservations entered by Algeria, which are seen as contrary to the object and purpose of the Convention (A/54/38, para.69 and CEDAW/C/DZA/CC/2, para.23) and thus must be lifted as they serve no valid purpose (CEDAW/C/DZA/CO/3-4, para.13).

The Committee expresses furthermore its concern on the 'constant citing of religious principles and cultural specificities' as a justification of the current status of women in the country (A/54/38, para.71) and also on 'the persistence of cultural stereotypes and patriarchal values' (A/54/38, para.75), and the discriminatory and stereotypical attitudes about the sex roles and responsibilities in the family and the society (CEDAW/C/DZA/CC/2, para.35), which violate women's rights and impede the full implementation of the Convention.

Despite Algeria's efforts to eliminate gender stereotyping in education and employment, the Committee notes that 'patriarchal values and strong stereotypical attitudes persist in the State party with respect to the roles and responsibilities of women and men in society and in the family, overemphasizing the roles of women as wives and mothers' while it is important to identify the role played by the media, religious and community leaders and NGOs in combating negative stereotyping and societal attitudes towards women and girls (CEDAW/C/DZA/CO/3-4, para.27).

The Committee is also concerned about 'the large number of women murdered, raped, abducted and subjected to serious physical abuse by terrorist groups in recent years' (A/54/38, para.77), about 'the absence of legal texts that specifically protect women who are victims of domestic and sexual violence' (A/54/38, para.79), about the inadequate steps taken by Algeria concerning these incidences of terrorist violence (CEDAW/C/DZA/CC/2, para.19), and 'high incidence of violence against women, including domestic violence' (CEDAW/C/DZA/CC/2, para.31). Additionally the Committee is concerned about the lack of a law on the incidences of violence against women despite its recommendations (CEDAW/C/DZA/CO/3-4, para.29).

Deriving from Algeria's reservation on Article 9 which concerned the nationality and citizenship law, the Committee expressed during the two previous Sessions its concern about the fact that 'mothers cannot transmit their nationality to their children in the same way that fathers can' (A/54/38, para.83) and by the lack of progress in revising [...] the Code of Algerian Nationality [...] and of the 1984 Family Code [...] thus allowing for the persistence of discriminatory provisions that deny women equal rights with men concerning the transmission of nationality' (CEDAW/C/DZA/CC/2, para.25). The reservation in question was withdrawn in 2009, following the amendment of the Nationality Code in 2005, thus giving the right to an Algerian mother to transfer her nationality to her children born to a foreign father (CEDAW/C/DZA/CO/3-4, para.7).

Another big issue, again deriving from Algeria's reservation on Article 16 which concerns marriage and family relations, is the discriminatory provisions contained in the Family Code which 'deny Algerian women their basic rights, such as free consent to marriage, equal rights to divorce, sharing of family and child-rearing responsibilities, shared child custody rights with fathers, the right to dignity and self-respect and, above all, the elimination of polygamy' (A/54/38, para.91). The amendments proposed until the 32nd session of the Committee to the Family Code do not include, as the Committee notes, 'the abolition of polygamy and of women's legal guardianship' (CEDAW/C/DZA/CC/2, para.25). The discriminatory provisions contained in Algeria's Family Code still exist until the present, which include: (a) the use of matrimonial guardian as a condition to enter marriage for adult women, (b) the permissibility of polygamy, (c) the limited grounds for divorce, (d) the limited possibility for a woman to replace the father as legal guardian in emergency situations and (e) the inheritance rights (CEDAW/C/DZA/CO/3-4, para.46).

The other issues concerning the Committee include:

- a) The social constraints that exist within Algerian society which keep women in a lower status than men (A/54/38, para.73).
- b) The situation of the wives of disappeared persons who can neither prove their husbands death, nor can they enjoy their status as married women, a discrimination which results in human and material injuries to these women and their children' (A/54/38, para.81, see also paragraph 46 (d) in CEDAW/C/DZA/CO/3-4 for husband absence).
- c) The incomplete reform of the Algerian educational system and the provisions in regard to women's education and the enrolment of girls in schools in rural and urban areas, even though significant progress has been made (A/54/38, para.85). While the Committee notes an increased number of girls and women enrolments in higher education, especially in the fields of medicine and engineering', information about Algeria's initiatives to reduce the high drop-out rates is still absent (CEDAW/C/DZA/CO/3-4, para.35).
- d) The low rate of participation of women in the workplace, who constitute only 14.18% of the total employed population (CEDAW/C/DZA/CC/2, para.39), which poses 'a major problem for women's economic independence' (A/54/38, para.87). The Committee is very concerned about the absence of information on the steps taken for equal remuneration (CEDAW/C/DZA/CO/3-4, para.37) and also about the lack of prohibition of sexual harassment at work place and the 'lack of access of women and girls to more diversified vocational training opportunities, including those leading to traditionally male occupations, so as to afford them greater opportunities to enter the labour market' (CEDAW/C/DZA/CO/3-4, para.38).
- e) The insufficient information provided on the situation of rural women (A/54/38, para.89 and CEDAW/C/DZA/CC/2, para.41) who 'are particularly affected by poverty, limited access to education, health care services, information technologies and new technologies as well as by early marriage' (CEDAW/C/DZA/CO/3-4, para.42).
- f) The discriminatory legislation of the country which 'does not contain a definition of discrimination in accordance with article 1 of the Convention, nor provisions on equal rights of women in line with article 2 (a) of the Convention' (CEDAW/C/DZA/CC/2, para.21), despite the 'provisions of articles 29 and 31 of the Constitution, stipulating equality before the law without discrimination including on the basis of sex' (CEDAW/C/DZA/CO/3-4, para.17).
- g) The difficulties that women face in exercising their right of access to justice and of bringing cases of discrimination before the courts (CEDAW/C/DZA/CC/2, para.27).
- h) The insufficient progress being made in achieving de facto equality between women and men in all sectors (CEDAW/C/DZA/CC/2, para.33) and the low number or insufficiency of temporary special measures adopted by the State party to deal with gender equality issues. For example, 'while quota have been established for a minimum representation of women on electoral lists for elections to the

People's National Assembly and regional and municipal assemblies [...] no fixed representation or quota exist with regard to representation of women in those elected bodies or concerning employment of women in the private sector and at the higher level positions of the administration' (CEDAW/C/DZA/CO/3-4, para.25).

- i) The low political participation and representation of women in decision-making positions at all levels of the administration and the Foreign Service (CEDAW/C/DZA/CC/2, para.37), even though Algerian women played an active role in the struggle for independence (A/54/38, para.45). Despite the amendment to Article 31 of the Constitution in favour of greater political representation of women, women are significantly under-represented in the People's National Assembly and the Council of the Nation, as well as in the Government until the present. Furthermore the Committee notes the low number of (temporary) specific measures promoting women's representation in public and political life, and in directorship and leadership positions in public enterprises (CEDAW/C/DZA/CO/3-4, para.33).
- j) The lack of information on the coordination of national agencies to combat trafficking in persons, the provision of protection and assistance to victims and the systematic identification of the trafficking victims, despite the amendments to the Criminal Code in 2009 to criminalise trafficking in persons (CEDAW/C/DZA/CO/3-4, para.31).
- k) The lack of cooperation on the part of the authorities with NGOs in the implementation of the Convention and the follow-up to the Committee's concluding remarks (CEDAW/C/DZA/CC/2, para.43) and especially the work of the national machinery for the advancement of women (CEDAW/C/DZA/CO/3-4, para.23).

2. BAHRAIN

The Committee after examining the initial and second report of Bahrain starts its concluding observations by welcoming with satisfaction the different measures made by the State party towards the implementation of the Convention (CEDAW/C/BHR/CO/2, para.5-9). However, further down the Committee mentions several inefficiencies, for example, the 'absence of a specific definition of discrimination against women in accordance with article 1 of the Convention, in domestic legislation' which constitutes an impediment to the full application of the Convention in the State party' (CEDAW/C/BHR/CO/2, para.12). Also the Committee is concerned that both the Convention and the general recommendations of the Committee are not widely visible in the country and also that they are not often applied before the courts (CEDAW/C/BHR/CO/2, para.14). Likewise, the Committee is concerned with the negative impact Bahrain's reservations pose on the situation of women and the implementation of the Convention (CEDAW/C/BHR/CO/2, para.16).

Next, the Committee notes the insufficient understanding and implementation of temporary special measures which can further help gender equality in Bahrain (CEDAW/C/BHR/CO/2, para.20) and also the persistence of 'entrenched, traditional stereotypes regarding the role and responsibilities of women and men in the family and in society at large, which are reflected, in part, in women's educational choices, their situation in the labour market and their low participation in political and public life' (CEDAW/C/BHR/CO/2, para.22). As a matter of fact, the Committee is concerned at their underrepresentation in the Council of Representatives and Municipal Councils (CEDAW/C/BHR/CO/2, para.28), the current availability of certain areas of education, such as industrial and vocational training, mainly to boys (CEDAW/C/BHR/CO/2, para.32), and at the poor working conditions especially of female migrant domestic workers who are unaware of their rights, who in practice cannot easily file complaints and seek redress in cases of abuses, and who are not covered by the current Labour Code (CEDAW/C/BHR/CO/2, para.34).

Two important issues raised by the Committee concern (a) 'the lack of specific legislation criminalizing violence against women, including domestic violence' and also the existence of several discriminatory legal provisions, for example, "article 535 of the Penal Code exempts perpetrators of rape from prosecution and

punishment if they marry their victims” (CEDAW/C/BHR/CO/2, para.24), and (b) the ‘existence of trafficking in women and girls into the State party for the purposes of sexual exploitation’ even though Bahrain enacted the Law No. 1 of 2008 on human trafficking (CEDAW/C/BHR/CO/2, para.26)

Other issues raised are:

- a) The issue of citizenship and that the draft Nationality Law which would transfer Bahraini citizenship ‘to the children of Bahraini women and non-citizen fathers on the same basis as children of Bahraini fathers and non-citizen women has not yet been passed’ (CEDAW/C/BHR/CO/2, para.30).
- b) The requirement of ‘husband’s consent before a Caesarean-section delivery is performed on his wife’. Also “the very low number of women who undergo breast and cervical examination directed at the early detection of breast and cervical cancer’ (CEDAW/C/BHR/CO/2, para.36).
- c) The differences on the laws applicable to family matters resulting from the legal differences between Sunni and Shia. Also the lack of ‘a codified family law containing clear and non-discriminatory provisions on marriage, divorce, inheritance and child custody in compliance with the Convention’ and the minimum age of marriage which is set at 15 for girls and 18 for boys (CEDAW/C/BHR/CO/2, para.38).
- d) The possible negative economic consequences of divorce on women, due to the high rate of divorce in Bahrain (CEDAW/C/BHR/CO/2, para.40).

3. EGYPT

After noting all the steps completed towards the full implementation of the Convention’s provisions, the Committee concludes the reports of the 24th Session (A/56/38) and the 45th Session (CEDAW/C/EGY/CO/7) with several observations on the periodical reports submitted by Egypt.

Again, one of the main issues raised by the Committee is the continuation of the reservations entered by Egypt upon ratification, despite the efforts of the National Council for Women (A/56/38, para.326). For example, the reservation on Article 9 of the Convention and the Egyptian nationality law, prevented ‘an Egyptian woman from passing on her nationality to her children if her husband is not Egyptian’, in contrast to the right of men (A/56/38, para.330). However, despite the reservation’s withdrawal in 2008 and the previous amendment of the nationality law which grants gender equality regarding the transfer of the nationality to the children of the man or woman who marries a foreigner, the Committee notes that there still are several obstacles left for the full enjoyment of this right for women (CEDAW/C/EGY/CO/7, para.37).

In the same spirit, based on the reservation that Egypt has entered on Article 16 of the Convention and the prevalence of Sharia law on marriage and family life, women who seek divorce by unilateral termination of their marriage ‘forego their rights to financial provision, including the dower’ (A/56/38, para.328 and CEDAW/C/EGY/CO/7, para.49). Moreover, the number of early marriages of girls, especially in rural areas, is high (A/56/38, para.352), while polygamy is legally authorised (A/56/38, para.354), despite the amendments to the taxation law and the minimum age of marriage. Furthermore, ‘legal provisions relating to personal status, in particular concerning marriage, divorce, the custody of children and inheritance, do not provide equal rights for women and men’, while the situation of Christian women married to Muslim men with regard to divorce, custody and inheritance, is precarious (CEDAW/C/EGY/CO/7, para.47). The Committee also expressed its concern about the ‘tourist marriages’ or the ‘temporary marriages’ of young Egyptian girls to wealthy men from neighbouring countries, which could be seen as a new type of trafficking (CEDAW/C/EGY/CO/7, para.27).

The Committee is also concerned about the persistence of cultural stereotypes and patriarchal attitudes which impede the full implementation of the Convention. The woman’s primary role as mother and homemaker is reaffirmed in the Constitution (A/56/38, para.332), while ‘the continuing stereotypical portrayal of women in the media [...] encourages discrimination and undermines equality between men and

women' (A/56/38, para.334). This stereotyping of sex roles reflects, as the Committee notes, upon 'the low level of representation of women in decision-making at all levels and in all areas' (A/56/38, para.340), which include 'education, public life, decision-making, marriage and family relations, and the persistence of harmful traditional practices and violence against women' (CEDAW/C/EGY/CO/7, para.21).

Another great concern of the Committee is on the inadequate efforts made for the prevention and elimination of violence against women, 'including domestic violence, marital rape, violence against women in detention centres and crimes committed in the name of honour or the punishment of perpetrators' (A/56/38, para.344). Between the two Sessions, the Committee noted that 'violence against women in all its forms has increased, both in the private and public spheres', while a holistic approach to the prevention and elimination of such incidents is still absent. Furthermore, 'some provisions in the Penal Code, including articles 17 and 60, condone acts of violence against women by exempting perpetrators from punishment or reducing the sentences imposed'. What is lacking is data and information on such violent incidences, as well as studies and surveys on the extent of violence and its root causes (CEDAW/C/EGY/CO/7, para.23).

Other issues that concern the Committee in its reports include:

- a) The existence of discriminatory laws and provisions that still exist in Egypt. For example, provisions of the Penal Code (A/56/38, para.346) and the personal status law (CEDAW/C/EGY/CO/7, para.15), discriminate against women, by denying them equal rights with men.
- b) The prevalence of human trafficking in Egypt and the inadequate information and data on the prevalence of trafficking and prostitution, the draft law on human trafficking and the existence and implementation of regional and bilateral memorandums or agreements with other countries on trafficking (CEDAW/C/EGY/CO/7, para.25).
- c) The inadequate amendment of the election law which established a quota in the lower house but not the upper house [Shura Council]. The Committee furthermore, expresses its concern on 'reports of violence, including gender-based violence, against female candidates during the electoral process, which poses a serious challenge to their political participation' and also on the 'continuing underrepresentation of women in public, political and professional life and in decision-making positions, including in municipal, town and village councils, and in senior management in general' (CEDAW/C/EGY/CO/7, para.29).
- d) The high level of illiteracy among women and the rate at which girls and women drop out of their education, despite the efforts of the government (A/56/38, para.338).
- e) The lack of information on the participation and conditions of women in the labour market and the exact impact of the privatisation measures on women's employment (A/56/38, para.342). Moreover, the Committee is concerned about 'the persistence of discrimination against women in the labour market, [...] the high rate of unemployment affecting women, a wide gender gap, and occupational segregation and discriminatory recruitment practices [...] [and] the absence of specific legal provisions and concrete measures to address sexual harassment in the workplace' (CEDAW/C/EGY/CO/7, para.33).
- f) The absence of any statistics or data on maternal morbidity, the limited access to reproductive and sexual health services, especially in rural areas, the lack of information on women's mental health status and the lack of emergency contraception are issues that concern the Committee, despite the efforts made by the government of Egypt to improve the healthcare infrastructure (CEDAW/C/EGY/CO/7, para.39).
- g) The practice of the female gender mutilation which is still highly prevalent in Egypt, despite the Minister of Health's Decree of 1996 (A/56/38, para.348), the criminalisation of this practice and the measures taken to counter it. Furthermore, the Committee is concerned about the 'loophole in the current law which allows doctors to perform female genital mutilation if there is a medical necessity' (CEDAW/C/EGY/CO/7, para.41).

- h) The increasing number of migrant domestic workers, including females, and the absence of legal protection afforded to them (CEDAW/C/EGY/CO/7, para.35).
- i) The lack of information on rural women (A/56/38, para.350), a high number of which still 'lack personal identity cards, which prevents them from fully enjoying their rights as citizens, including registering as voters and obtaining work and State services' (CEDAW/C/EGY/CO/7, para.43).
- j) The very limited information and statistics provided 'about vulnerable groups of women and girls, including older women, women with disabilities, refugee women and girls living in the street' who 'often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, protection from violence and access to justice' (CEDAW/C/EGY/CO/7, para.45).

Finally, the Committee makes several observations concerning the situation of women, especially of those in rural and remote areas, who are not aware of their rights under the Convention and therefore lack the capacity to claim them (CEDAW/C/EGY/CO/7, para.17), the ineffective legal complaints system provided for women (CEDAW/C/EGY/CO/7, para.19), and the insufficient statistical data provided in the periodical reports of Egypt (CEDAW/C/EGY/CO/7, para.51).

4. JORDAN

Once again the Committee raises the issue of implementing the recommendations made and also the continuing reservations articles on which, according to the Committee, there are no political and cultural constraints preventing their lifting (CEDAW/C/JOR/CO/5, para.9). Furthermore, the Committee is concerned at the persistence of 'strong stereotypical attitudes concerning the roles and responsibilities of women and men' (A/55/38, para.165), that affect all spheres of life (A/55/38, para.166). Even with the gradual revision of school textbooks for the elimination of gender stereotypes and also the work being done and the emphasis given to women's rights in Islam, these patriarchal attitudes still exist, presenting thus 'a significant impediment to the implementation of the Convention and are a root cause of the disadvantaged position of women in a number of areas, including in the labour market and in political and public life, and are also a root cause of violence against women' (CEDAW/C/JOR/CO/4, para.19).

This stereotypical perception of women is shown in the discriminatory legislation still existent in Jordan. For example, although article 6 of the Jordanian Constitution contained the principle of equality of all Jordanians before the law, it did not contain any provision for equality on the ground of sex (A/55/38, para.168). As a matter of fact, this article was amended but referenced to women only in the context of motherhood protection (CEDAW/C/JOR/CO/5, para.23). Furthermore, the State party is presented willing to proceed with the law reforms only 'gradually and in a piecemeal manner' due to political reasons (CEDAW/C/JOR/CO/4, para.17). Discriminatory provisions still exist in the Penal Code, Personal Status Act, Labour Code and Nationality Act (CEDAW/C/JOR/CO/5, para.15).

The Committee is also concerned at the reduced visibility of the Convention in legal practice (see A/55/38, para.170, CEDAW/C/JOR/CO/4, para.5 and CEDAW/C/JOR/CO/5, para.11) and the absence of the prohibition and definition of gender discrimination in national legislation in accordance with article 1 of the Convention (CEDAW/C/JOR/CO/5, para.13).

Another major issue raised by the Committee is violence against women. For example the Committee previously expressed its concern that 'several provisions of the Penal Code continue to discriminate against women' and in particular, the article 340 of the Penal Code, which excuses a man who kills or injures his wife or his female kin caught in the act of adultery (A/55/38, para.178). The Committee also expressed its concern at the prohibition of abortion in cases where pregnancy is due to rape or incest (A/55/38, para.180). Connecting this discussion with a previous point made, the Committee is concerned 'that social attitudes and, in particular, attitudes of law enforcement officials and the judiciary may deter women from reporting

cases of violence against them' (CEDAW/C/JOR/CO/4, para.21). Even though article 340 of the Penal Code has been revised so that it no longer exonerates 'perpetrators of crimes committed in the name of honour', such perpetrators get lenient sentences for murders viewed as "honour crimes", murders committed in a fit of fury, and when the perpetrator is excused by the victim's family. Moreover rapists may be exempt from punishment by marrying their victims and women are still forced to virginity tests, which are carried out without the full and free consent of women and the results of such tests may be used against them (CEDAW/C/JOR/CO/4 para.23). Despite the establishment of the Family Reconciliation Centre as a refuge for women leaving abusive situations, 'the practice of placing abused women and women at risk in protective custody and depriving them of their liberty continues' (CEDAW/C/JOR/CO/4, para.25). While in 2008 the Domestic Violence Protection Act was enacted, the Committee is still concerned at 'the absence of specific legislation to eliminate violence against women in all settings, including a definition of violence, and at the prevalent recourse in the context of the new Act to reconciliation in cases of domestic violence, which can lead to re-victimization of women who have suffered from violence' (CEDAW/C/JOR/CO/5, para.25) and also the remaining discriminatory provisions in the Penal Code (CEDAW/C/JOR/CO/5, para.27).

Among the other issues raised by the Committee are:

- a) The illegal status of abortion in cases of rape and incest, the limited access to sexual and reproductive health and rights education for young, unmarried, and rural women and the insufficient health and rehabilitation services to women victims of sexual abuse and at the State party's overreliance on civil society actors in that respect (CEDAW/C/JOR/CO/5, para.39).
- b) The preservation of the anachronistic Jordanian Nationality law which 'prevents a Jordanian woman from passing on her nationality to her children if her husband is not Jordanian' and the persistence of the reservations entered by the State party which relate to these matters (A/55/38, para.172). Furthermore, a woman's right to choose a family name, a profession or an occupation and the right upon divorce and responsibilities as a parent are not recognised in the Personal Status Code (A/55/38, para.174). The Committee is concerned about the State's assertion that it cannot amend its Nationality Law due to political reasons.
- c) The Committee is concerned about the State party's reluctance to withdraw its reservations to articles 9, paragraph 2; 15, paragraph 4; and 16, paragraph 1 (c), (d) and (g). It is particularly concerned that the State party is unwilling to withdraw its reservation to article 15, paragraph 4, despite its assertion that this reservation has become redundant owing to an amendment to the Passport Act removing the requirement of male consent to the issuance of a passport to a Jordanian woman. The Committee is concerned about the State party's assertion that it cannot, for political reasons (CEDAW/C/JOR/CO/4, para.11) and the impact of this discrimination on Jordanian women's foreign spouses and their children (CEDAW/C/JOR/CO/5, para.33).
- d) The limited access of married young women to school education and 'the segregation of fields of study at the post-secondary level, with women and girls concentrated in traditionally feminine areas, as well as at their underrepresentation in technical-vocational education and its consequences on their representation in the paid labour force'. Also the reiteration of girls and women's traditional roles and responsibilities in school books and curricula (CEDAW/C/JOR/CO/5, para.35).
- e) The inadequate definition of human trafficking in the Human Trafficking Act of 2009 and the 'continuing prevalence of trafficking in women and girls in the State party, [...] the low reporting rate and the lack of data on the magnitude of human trafficking, [...] [and] the lack of shelters and counselling assistance for victims of trafficking and prostitution' (CEDAW/C/JOR/CO/5, para.29).
- f) The continuation of marriages of girls under 15 after the deliberation of a judge, 'despite an amendment to the Personal Status Act that increases the minimum age for both boys and girls to 18 years', with all the negative impact this may have on their future lives (CEDAW/C/JOR/CO/4, para.35) and also "the permissibility of polygamy, the requirement of *walis* for women (guardians) for the

marriage notwithstanding the woman's consent, and the restrictions on women's right to work and to divorce" (CEDAW/C/JOR/CO/5, para.49).

- g) The very low representation of women in elected and appointed office, despite the fact that for the first time in Jordan a woman held the post of Deputy Prime Minister (A/55/38, para.182) and despite the adoption of a 20 per cent quota for women in municipal councils (CEDAW/C/JOR/CO/4, para.27). Until the present, "the small number of women in the Parliament, cabinet, and political parties as well as at decision-making positions" (CEDAW/C/JOR/CO/5, para.31) is still apparent in Jordanian politics.
- h) The low participation of women in the paid labour force and the difference in entitlement to maternity leave in the public and private sectors (A/55/38, para.184), the lack of prohibition of discrimination against women or sexual harassment and also the limited availability of day-care facilities (CEDAW/C/JOR/CO/4, para.31). The Committee also expresses its concern about the high rate of unemployed women and the persistent gender wage gap (CEDAW/C/JOR/CO/5, para.37).
- i) The 'disadvantaged position of women in rural and remote areas who are characterized by poverty, difficulties in accessing health and social services and a lack of participation in decision-making processes at the community level' (CEDAW/C/JOR/CO/5, para.41).

5. LEBANON

Again the Committee expresses concern at the continuation of Lebanon's reservations to articles of the Convention, which it considers to be contrary to the object and purpose of CEDAW (CEDAW/C/LBN/CO/2, para.17). The Committee is particularly concerned about the reluctance of the government to amend its nationality law based on its reservation to article 9 (2) of the Convention due to political reasons (CEDAW/C/LBN/CO/3, para.42). Furthermore the Committee raises the issue that the Convention and Committees general recommendations are not widely known in the country and are less used in changing discriminatory laws and practices (CEDAW/C/LBN/CO/3, para.14). This leads to the preservation of governmental legislation that does not contain provisions guaranteeing equality on the basis of sex (CEDAW/C/LBN/CO/2, para.19). The State's efforts to reform discriminatory legislation have been proceeding on an ad hoc basis with no real focus (CEDAW/C/LBN/CO/2, para.21) and despite the adoption of a National Plan of Action for Human Rights for the reform of Lebanese laws and policies, no real progress has been made due to the political situation (CEDAW/C/LBN/CO/3, para.16).

One example of such discriminatory legislations is the Personal Status Law which exists in the country in a non unified version pertaining to each Lebanese citizen's religious community (CEDAW/C/LBN/CO/2, para.123). This has a particular impact on women's equality (CEDAW/C/LBN/CO/3, para.18).

Another point raised is the persistence of violence against women and girls, which includes domestic violence, rape and crimes committed in the name of honour. "The Committee is especially concerned about article 562 of the Lebanese penal code, which allows mitigation of the penalty for crimes committed in the name of honour (CEDAW/C/LBN/CO/2, para.27), the article 503 which tolerates marital rape and the article 522 of the Penal Code which allows for charges to be dropped in cases of rape (CEDAW/C/LBN/CO/3, para.26).

The Committee also highlights the obstacles deriving from the "pervasiveness of patriarchal attitudes and deep-rooted traditional and cultural stereotypes regarding the roles and responsibilities of women and men in the family, in the workplace and in society" (CEDAW/C/LBN/CO/2, para.29). These attitudes and stereotypes 'are reflected in women's educational choices, their situation in the labour market and their low level of participation in political and public life' and 'in school textbooks and curricula' (CEDAW/C/LBN/CO/3, para.24).

Other issues mentioned in the concluding observations for Lebanon were:

- a) The very low level of representation of women in decision-making positions, 'particularly in elected and appointed bodies at all levels, and their representation in the administration and foreign service' (CEDAW/C/LBN/CO/2, para.31) and the small number of women in leadership positions connected with the transition post-war process (CEDAW/C/LBN/CO/3, para.12).
- b) The disadvantage women have in the labour market 'which is characterized by strong occupational segregation, and the persistence of a gender wage gap' (CEDAW/C/LBN/CO/2, para.33).
- c) The lack of access to health services in the rural areas, the number of deaths from clandestine abortions (CEDAW/C/LBN/CO/2, para.35) and the access to health care from women and girls from poor areas, as well as disabled women (CEDAW/C/LBN/CO/3, para.34). Furthermore the Committee notes the high incidence of HIV/AIDS among women (CEDAW/C/LBN/CO/2, para.37).
- d) The insufficient legislative protection of the status of rural women concerning the high illiteracy rate (CEDAW/C/LBN/CO/2, para.41).
- e) The lack of legislation on trafficking in women and girls which is growing in Lebanon for the purpose of sexual exploitation and forced domestic labour (CEDAW/C/LBN/CO/3, para.28).

6. LIBYA

Again the Committee starts in the concluding observations both in the report of the 13th Session (A/49/38) and the 43rd Session (CEDAW/C/LBY/CO/5) by noting all the progressive steps taken towards the full implementation of the Convention in Libya. Further down, the Committee presents its observations and concerns over several issues. The main issue raised by the Committee is the general reservation entered by Libya on ratifying the Convention, which the Committee considers to be incompatible with the Convention's purpose and objective (A/49/38, para.179). Despite the withdrawal of this general reservation to the Convention in 1995, the state continues to hold reservations to Article 2 and Article 16, which concern the right to inheritance and the family law (CEDAW/C/LBY/CO/5, para.13).

Furthermore, the Committee is concerned by the general contradiction presented in the state's report which on the one hand introduces revolutionary measures for the emancipation of women and on the other hand emphasises the stereotypical role of women as mothers and housewives (A/49/38, para.180). Moreover, the Committee is concerned at the absence of a national strategy to promote the human rights of Libyan women and eliminate traditional stereotypes about gender roles and responsibilities, which is reflected in women's educational choices, employment status and their low participation in political and public life (CEDAW/C/LBY/CO/5, para.21). The Committee also states the lack of information and statistics on women's participation in all spheres, on incidences of violence and on social and cultural prejudices, especially in rural areas (A/49/38, para.184).

Another major issue raised by the Committee is the lack of comprehensive legislation that can protect women against violence, especially domestic violence, and also ensure the protection of women and girls who are victims of gender-based violence and domestic violence. The Committee is also concerned 'at the widespread practice whereby marriage between perpetrators of rape and women victims of rape is encouraged to protect the victims from social stigma and marginalization and ensure clarity of lineage if the victim is pregnant, which results in impunity for the perpetrator' and also that the marriage between perpetrators of rape and the victim can lead to re-victimisation of the victim (CEDAW/C/LBY/CO/5, para.23).

Other issues raised by the Committee concern the overall lack of information regarding various discriminations against women:

- a) The lack of information regarding the extent of trafficking in women and girls and the absence of a law that would prevent and eliminate these incidents, despite the criminalisation of all forms of trafficking in the Penal Code. Moreover the Committee is concerned about the lack of information regarding

prostitution and the inadequate protection and rehabilitation strategy for the victims of prostitution (CEDAW/C/LBY/CO/5, para.27).

- b) The participation of women in politics and in public life. In fact, despite the notable rise of women's participation in the General People's Congress [32%], women 'continue to be underrepresented in political and public life, particularly in decision-making bodies, including the executive branch of Government, and the diplomatic and public service' (CEDAW/C/LBY/CO/5, para.29).
- c) The insufficient information provided in the reports of Libya in relation to the access of women to education, both in rural and urban areas and all areas mention in Article 10 of the Convention (CEDAW/C/LBY/CO/5, para.31).
- d) The lack of information in Libya's reports with respect to the situation of Libyan women in employment (CEDAW/C/LBY/CO/5, para.33).
- e) The lack of sufficient and detailed information on the access of women to healthcare services which, as the state mentioned in its reports are provided free of charge (CEDAW/C/LBY/CO/5, para.35).
- f) Based on Libya's reservation on Article 16 of the Convention on the marriages and family relations and the implementation of Sharia law on these matters, the Convention is concerned that 'the concept of male guardianship over women seems to be widely accepted and limits women's exercise of their rights' (CEDAW/C/LBY/CO/5, para.37).
- g) The existence of discriminatory provisions in Libya's legislation, for example, the nationality and citizenship law – even though Libya had not entered a reservation on Article 9 of the Convention. The Committee 'remains concerned that Libyan women married to non-Libyan nationals are not granted equal rights with men with respect to the nationality of their children' and also that 'at the legislation governing child custody [...] women are not permitted to travel abroad with their children without the consent of the children's father'. Moreover, the Committee notes the discriminatory legal provisions relating to marriage, divorce and inheritance rights (CEDAW/C/LBY/CO/5, para.17).
- h) The alleged ill-treatment of undocumented migrants, including women and children and the lack of information on the situation of migrant women in Libya (CEDAW/C/LBY/CO/5, para.25).
- i) The absence of a prohibition of discrimination against women, as proclaimed in Article 1 and 2 of the Convention (CEDAW/C/LBY/CO/5, para.9) and the general invisibility of the Convention and Committee's general recommendations which are not widely known in Libya and that the provisions of CEDAW are not invoked in national courts (CEDAW/C/LBY/CO/5, para.11).
- j) The absence – until the time of the 43rd Session of the Committee – of a national machinery for the advancement of women that would monitor the Convention's implementation and promote women's human rights and also the absence of programmes and plans of action based on the Beijing Platform of Action (CEDAW/C/LBY/CO/5, para.15).
- k) The lack and unsystematic application of temporary special measures, which are necessary to accelerate the achievement of de facto equality between men and women (CEDAW/C/LBY/CO/5, para.19).
- l) The insufficient level of cooperation and involvement of NGOs in the preparation of Libya's reports (CEDAW/C/LBY/CO/5, para.41).

7. MOROCCO

The Committee considered the periodic reports of Morocco in three sessions, as shown in Table 6: the 16th Session (A/52/38/Rev.1), the 29th Session (A/58/38) and the 40th Session (CEDAW/C/MAR/CO/4). In its concluding observations, the Committee raised several issues concerning the progress of implementation of the Convention in the Kingdom of Morocco. Once again, the Committee expressed its deep concern at the number of the reservations made by Morocco, and 'particularly the reservation to article 2, one of the Convention's central articles' (A/52/38/Rev.1, para.59). Despite the environment created for the withdrawal

of the declarations and reservations made to several articles of the Convention, the Committee reiterates its concern that those reservations will continue to be retained (A/58/38, para.158).

The Committee also expressed its concerns about the status of the Convention per se in Morocco: firstly, while Morocco's Constitution guarantees equality before the law, there is no explicit mention of the definition of discrimination (CEDAW/C/MAR/CO/4, para.10) contained in Article 1 of the Convention in Morocco's legislation. Furthermore, unlike other international treaties, the Convention was not mentioned after its ratification in the Official Gazette (A/52/38/Rev.1, para.61). And despite the fact that it was published in the Official Gazette after the Convention's observation, 'the Committee remains concerned that the status of international instruments, including the Convention, vis-à-vis national law is not clear' (CEDAW/C/MAR/CO/4, para.12).

One of the discriminatory issues also present in Morocco is the stereotypically defined sex roles and expectations. As the Committee emphasised, traditional discriminatory practices and strong stereotypical attitudes persist, thus undermining the principle of the universality of human rights and negatively affecting women's enjoyment of their rights and impeding the full implementation of the Convention (A/58/38, para.166), as considerable discrimination still exists 'in the areas of marriage, conjugal relations, divorce and the custody of children' and in the laws 'regarding the punishment of adultery and the ability to pass on nationality [which] continue to benefit the husband to the detriment of the wife' (A/52/38/Rev.1, para.64). The Committee is in addition concerned about the role played by the media in perpetuating such stereotypes (CEDAW/C/MAR/CO/4, para.18)

These stereotypical understandings of women and men, combined with the reservation to Article 16 of the Convention and the use of Sharia law, deeply affects women in relation to marriage and family life, as it sets different standards for women and men (A/58/38, para.162). Although the personal status of women improved in Morocco over the years, as now 'every child born to a Moroccan mother, whether in Morocco or abroad, is entitled to acquire his or her mother's nationality', the Committee is still concerned about several other occasions 'such as the non-acquisition of the Moroccan nationality by the foreign husband of a Moroccan wife in circumstances where a non-Moroccan wife of a Moroccan husband would acquire Moroccan nationality, and the loss of the Moroccan nationality of a Moroccan wife who acquires her husband's foreign nationality' (CEDAW/C/MAR/CO/4, para.40). Moreover, the Family Code which came into force in February 2004 has established the minimum age of marriage for women and men at 18 years, however an authorisation allowing a marriage before the minimum age could still be granted by a judge (CEDAW/C/MAR/CO/4, para.34), while the institution of polygamy is retained – even if this is again subject to the authorisation of a judge under certain conditions (CEDAW/C/MAR/CO/4, para.36), and other discriminatory provisions of this Code still affect women's rights on 'property acquired during marriage, divorce, custody and legal guardianship of children and inheritance' (CEDAW/C/MAR/CO/4, para.38).

The discriminations are not limited though to the private sphere but also affect the public sphere, especially the inequalities observed in women's recruitment, wages and leave entitlements (A/52/38/Rev.1, para.65), the limited opportunities that women have on the labour market, their concentration in low skilled jobs with low pay and poor working conditions, the occupational segregation and persistence of a wage gap in both the public and private sector, the high number of women working in the informal sector where they have no access to social benefits and the poor implementation of the Labour Code (CEDAW/C/MAR/CO/4, para.28). The Committee is also concerned about the 'absence of information on the situation of women in the informal sector' and also about the discrimination that exists in 'their access to loans and other forms of financial support as well as in the enjoyment of their right to property' (A/58/38, para.174).

Furthermore, the Committee is concerned about several other issues, as for example:

- a) The minimal representation of women at the policy and decision-making level, despite all the efforts made (A/52/38/Rev.1, para.63), and particularly in 'the public and private sectors, the judiciary, the foreign service and academia' (A/58/38, para.164 and CEDAW/C/MAR/CO/4, para.24).
- b) The lack of legislation that would protect women against all forms of violence and prostitution (A/52/38/Rev.1, para.66), including domestic violence, and violence against domestic workers (A/58/38, para.168). Even though a national strategy was established in 2002 for the elimination of violence against women, in partnership with UNFPA, UNDP and UNIFEM, and a national 'green number' for battered women and girls has been introduced, 'the Committee remains deeply concerned that there is no specific legislation on violence against women and girls' (CEDAW/C/MAR/CO/4, para.20).
- c) The high rate of female illiteracy which affects girls and rural women in particular (A/52/38/Rev.1, para.67), despite the efforts to set a national strategy on education (A/58/38, para.170). In fact, apart from the progress made in this field, the Committee is concerned about the high dropout rate of girls from schools and the difficulty faced by girls who are domestic workers to attend school (CEDAW/C/MAR/CO/4, para.26).
- d) The high rate of maternal mortality in Morocco, the high number of unattended births, the unavailability of safe abortion and the need to develop further reproductive and sexual health services, including family planning (A/52/38/Rev.1, para.68). Although progress has been made over the years to reduce maternal and infant mortality rates and in family planning, the Committee is still concerned about the insufficient number of health-care facilities, particularly about the situation of rural women who have little or no access to health-care services and health-care professionals (A/58/38, para.172) and also about the incidence of clandestine abortions, which put women's health at risk (CEDAW/C/MAR/CO/4, para.30).
- e) The continuous marginalisation of rural women and girls on their access to governmental services (A/58/38, paragraph 176), their lack of participation in decision-making processes and their difficulty in accessing health care, public services, education, justice, clean water and electricity, which seriously impairs the enjoyment of their social, economic and cultural rights (CEDAW/C/MAR/CO/4, para.32).
- f) The lack of information on trafficking and sexual exploitation of women and girls provided by Morocco, especially of women and girls, as well as on the concrete measures adopted to prevent such phenomena (CEDAW/C/MAR/CO/4, para.22).
- g) The marginalised status of vulnerable groups, women heads of households, abandoned women and disabled women (A/52/38/Rev.1, para.75) and the situation of migrants, refugees and asylum-seekers (CEDAW/C/MAR/CO/4, para.44).

8. SAUDI ARABIA

Until the present, Saudi Arabia was examined only once in 2008 concerning the implementation of the Convention. Once again the concluding observations of the Committee are more or less the same as for the other MENA countries:

- a) The Committee expressed its concern about the general reservation made upon ratification concerning the contradiction between Islamic Sharia and the provisions of the Convention, which is 'contrary to the object and purpose of the Convention' (CEDAW/C/SAU/CO/2, para.9). Despite the general reservation, Saudi Arabia's delegation assured that there is no contradiction in substance between the Convention and Sharia (CEDAW/C/SAU/CO/2, para.10).
- b) Although articles 8 and 26 of Saudi Arabia's Basic Law 'guarantee the principle of equality, neither the Constitution nor other legislation embodies the principle of equality between women and men', thus

clearly defining both direct and indirect discrimination in both public and private spheres (CEDAW/C/SAU/CO/2, para.13).

- c) The concept of male guardianship over women (mehrem), although not legally prescribed, is according to the Committee widely accepted in Saudi Arabia, even though it severely limits women's exercise of their rights under the Convention, that is their legal capacity and issues of personal status, including marriage, divorce, child custody, inheritance, property ownership and decision-making in the family, and the choice of residency, education and employment. As the Committee notes, 'the concept of male guardianship contributes to the prevalence of a patriarchal ideology with stereotypes and the persistence of deep-rooted cultural norms, customs and traditions that discriminate against women and constitute serious obstacles to their enjoyment of their human rights'. Other practices which contribute to the maintenance of such stereotypes are for example "the de facto ban of women from driving" (CEDAW/C/SAU/CO/2, para.15).
- d) There is no legally prescribed minimum age of marriage for girls and boys and legal provisions relating to personal status do not provide for equal rights for women and men (CEDAW/C/SAU/CO/2, para.35).
- e) The Committee expresses furthermore the concern 'about the incidents of violence against women, the absence of specific laws relating to violence against women, and the lack of prosecution and punishment of perpetrators of violence against women, including domestic violence'. (CEDAW/C/SAU/CO/2, para.21)
- f) The persistence of trafficking and the economic and sexual exploitation and ill-treatment of young migrant girls employed as domestic servants, a status not yet covered by the current labour code (CEDAW/C/SAU/CO/2, para.23)
- g) The very low level of representation of women in public and political life at all levels and particularly in decision-making positions such as the country's Consultative Council [Shura] (CEDAW/C/SAU/CO/2, para.25).
- h) The discrimination against Saudi Arabian women married to non-Saudi nationals who do not have the right to pass their nationality to their children, a right enjoyed by Saudi men (CEDAW/C/SAU/CO/2, para.27).
- i) The high rate of illiteracy among women and the discrimination against them in relation to their access to certain fields of studies. Furthermore the Committee is concerned about the low number of women in higher studies and also the levels of education and access to education by women and girls from rural areas and non-Saudi nationals (CEDAW/C/SAU/CO/2, para.29).
- j) The low participation of women in the workforce and also the lack of childcare facilities and maternity leave in the private sector and the de facto workplace segregation of women and men (CEDAW/C/SAU/CO/2, para.31).
- k) The Committee also raised the issue that women may require the permission of their male guardian to access health facilities (CEDAW/C/SAU/CO/2, para.33).

9. SYRIA

The Syrian Arab Republic is one of the newest State parties of the Convention and its initial report was examined in 2007. Here again the Committee expresses several concerns about:

- a) The reservations of the State party (CEDAW/C/SYR/CO/1, para.11).
- b) The discriminatory laws in Syria. More specifically the Committee raised the issue that 'the right to equality between women and men and the prohibition of both direct and indirect discrimination against women has not been reflected in the Constitution or any other law' (CEDAW/C/SYR/CO/1, para.15). Furthermore, the Committee highlights the delay in the law reform process concerning the Personal Status Act, Penal Code and the Nationality Act (CEDAW/C/SYR/CO/1, para.17).

- c) The lack of any legal provision for the criminalisation of violence against women, including domestic violence. As the Committee notes, “several provisions in the Penal Code condone acts of violence against women by exempting perpetrators from punishment’. In particular, the definition of rape in article 489 of the Penal Code excludes marital rape, article 508 of the Penal Code exempts rapists from punishment if they marry their victims, and article 548 of the Penal Code exonerates perpetrators of ‘honour crimes’ (CEDAW/C/SYR/CO/1, para.19). Furthermore the Committee is concerned about the lack of shelters and services for victims of such violence (CEDAW/C/SYR/CO/1, para.21).
- d) The victims of trafficking and exploitation are being treated as criminals and punished for prostitution (CEDAW/C/SYR/CO/1, para.23).
- e) The low levels of representation of women in public and political life and in decision-making positions, despite Syria’s goal of a 30% quota (CEDAW/C/SYR/CO/1, para.25).
- f) The persistence of patriarchal stereotypical attitudes concerning the roles and responsibilities of women and men in the family and society which present an obstacle to the participation of women in the labour market and in political and public life (CEDAW/C/SYR/CO/1, para.27).
- g) The fact that ‘women in certain parts of the country and belonging to certain social classes require, in practice, the permission of their husbands to access health facilities’ (CEDAW/C/SYR/CO/1, para.29).
- h) The occupational segregation between women and men in the labour market and the persistent pay gap. Also the Committee is concerned about the lack of adequate child care facilities. Moreover, the Employment Act does not prohibit sexual harassment (CEDAW/C/SYR/CO/1, para.31).
- i) The unequal rights of women and men to marriage, divorce, custody and inheritance under the existing laws and the existence of polygamy and child marriages (CEDAW/C/SYR/CO/1, para.33).

10. TUNISIA

The Committee considered the submitted reports of Tunisia in the 14th Session (A/50/38), the 27th Session (A/57/38(Part II)) and the 47th Session (CEDAW/C/TUN/CO/6). Again, after noting the positive aspects of each report, the Committee raises several issues that it finds to be discriminatory against women. Again in the case of Tunisia, the Committee expresses its concern about the general declaration and reservations made to the Convention at ratification (A/50/38, para.266), and the lack of will to withdraw these reservations, despite ‘the progress made towards creating an environment for withdrawal of the reservations [...] through legal reforms’ (A/57/38(Part II), para.188) and the withdrawal of similar reservations made by Tunisia to the Convention on the Rights of the Child in 2008 (CEDAW/C/TUN/CO/6, para.12).

The Committee is also concerned about the lack of a specific definition in the Constitution of Tunisia that prohibits discrimination against women and also the lack of such a definition in accordance with Article 1 of the Convention (A/57/38(Part II), para.192 and CEDAW/C/TUN/CO/6, para.14). Furthermore, the Committee is concerned about the discriminatory provisions remaining despite the legislative reforms made (A/57/38(Part II), para.190); especially in the Nationality Code, the Penal Code and the Code of Personal Status which deny women equal rights with men (CEDAW/C/TUN/CO/6, para.16).

Another issue raised by the Committee is the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men and the ‘resurgence of adverse cultural norms, practices and traditions’ in Tunisia which ‘perpetuate discrimination against women and girls as reflected in their disadvantageous and unequal status in many areas, including in employment, decision-making, marriage and family relations, and the persistence of violence against women’ (CEDAW/C/TUN/CO/6, para.24).

The Committee further down notes the lack of information on violence against women in the family (A/50/38, para.269) and on incidences of ‘violence against women in detention centres and prisons, and sexual harassment in the workplace and in other institutions’ and also the lack of specific legislation ‘to

combat domestic violence and sexual harassment' (A/57/38(Part II), para.194). In surveys conducted in 2004, 20-40% of women had suffered sexual assault from their spouses, more than 50% faced verbal aggression and 45% of girls had experienced various forms of violence in public places. The Committee is especially concerned 'by the impunity which is too often enjoyed by the perpetrators of these acts as demonstrated by the very high number of complaints withdrawn' (CEDAW/C/TUN/CO/6, para.26). The Committee is also concerned at the lack of sustained funding of shelters and non-residential counselling centres for women victims of violence (CEDAW/C/TUN/CO/6, para.28) and the allegations of harassment against women wearing the hijab (veil) in public (CEDAW/C/TUN/CO/6, para.30).

In addition, the Committee is concerned 'at the limited information on trafficking in women and girls and exploitation of prostitution' (A/57/38(Part II), para.196) and at the 'lack of information provided on the prosecution and punishment of trafficking and on measures of protection for women at risk of trafficking' (CEDAW/C/TUN/CO/6, para.32). On this issue, the Committee notes 'the weekly medical check-ups and continuous police control provided by the State party to women engaged in legal prostitution'; however it is concerned about the social stigmatization of these women and the state's unwillingness to 'adopt appropriate measures to effectively address legal and illegal prostitution, including rehabilitation and economic empowerment programmes for women who wish to leave prostitution' (CEDAW/C/TUN/CO/6, para.34).

In relation to the participation of women in political and public life, the Committee noted the many measures taken to increase it and also expressed its concern about 'low representation of women in high-level decision-making positions, including as members of the Chamber of Deputies, in government positions, in the central council and executive committee of the Tunisian Union for Agriculture and Fisheries, as high-ranking diplomats and as full professors in the universities' (A/57/38(Part II), para.198). It also notes the rise in women candidates for the 2009 legislative election to 18% and the increase of women's representation in the parliament to 26.17%, despite the continuation of low women's representation in trade unions, as well as in managerial and decision-making positions and on boards of directors in the private economic sector (CEDAW/C/TUN/CO/6, para.36).

One important issue of concern from the 14th Session was the high rate of illiteracy among women in Tunisia and the number of female school drop-outs (A/50/38, para.267). Furthermore the Committee noted that 'in higher education women were concentrated in specific areas of studies and therefore in professions which had low return or less job opportunities' (A/50/38, para.268) and not in the fields of sciences. This segregation of fields of study results in the underrepresentation of women in the paid labour force (CEDAW/C/TUN/CO/6, para.38).

Despite the measures introduced in the employment strategy for the promotion of gender equality in the labour market, the Committee is still concerned about the high rate of unemployment that affects women, the horizontal and vertical occupational segregation and the concentration of women in low-skilled jobs with low pay and poor working conditions, such as in textiles and clothing and in the informal sector, the big pay gap between women and men, the low representation of women in top management positions and on boards of private companies, the inadequate provision for maternity leave and the lack of information about the effective implementation of the labour legislation and collective agreements and their enforcement by the Labour Inspectorate (CEDAW/C/TUN/CO/6, para.42). In addition, the Committee is concerned that the scarcity of 'childcare services and the progressive withdrawal of the public sector as a service provider may contribute to the exclusion of poor families and those living in rural areas from these services' and thus impede 'women's participation in the labour market' as the domestic and family responsibilities are still primarily borne by women (CEDAW/C/TUN/CO/6, para.44).

Several other issues concerning the Committee include:

- a) The inequality between men and women in acquiring and transmitting their Tunisian nationality, based on the reservation entered by Tunisia on Article 9 of the Convention. In particular, 'the Committee is concerned that children born in Tunisia automatically acquire Tunisian nationality through male ascendants, but not through female ascendants [...] that Tunisian women cannot pass their nationality on to their foreign husbands [...] and that the children of Tunisian women married to foreigners are still encountering obstacles in acquiring Tunisian nationality' (CEDAW/C/TUN/CO/6, para.58).
- b) The fact that mothers do not share parental responsibility on an equal basis and that they do not enjoy full guardianship rights (CEDAW/C/TUN/CO/6, para.60).
- c) The inadequate Act on sexual harassment which was adopted in 2004 but lacks a definition of sexual harassment in line with the Committee's general recommendation No. 19, which can explain 'the negligible number of cases reaching the courts' despite the prevalence of the phenomenon in Tunisia (CEDAW/C/TUN/CO/6, para.46).
- d) The findings of a survey conducted by a women's association in 2008 which showed that 94.7% of domestic workers did not have social security, 17.5% were between 12 and 17 years old and about 16% had been victims of sexual violence (CEDAW/C/TUN/CO/6, para.48).
- e) The regional disparities with regard to maternal mortality rates, assisted childbirth, and prenatal healthcare coverage and the discrimination against single women with regard to access to abortion services (CEDAW/C/TUN/CO/6, para.50).
- f) The high illiteracy rate of rural women and older women (A/57/38(Part II), para.202), and also their access to health-care services and income-generating activities (CEDAW/C/TUN/CO/6, para.52).
- g) The social stigmatisation and discrimination that the single women with children born out of wedlock face and their precarious situation (A/57/38(Part II), para.204 and CEDAW/C/TUN/CO/6, para.54).
- h) The limited information and statistics provided on 'disadvantaged groups of women and girls, including minority women, migrant women, refugee women and girls living on the streets' who suffer 'multiple forms of discrimination, especially with regard to access to education, employment and health care, protection from violence and access to justice' (CEDAW/C/TUN/CO/6, para.56).

11. YEMEN

Yemen is one of the early State parties to the Convention as it ratified and acceded in 1984. Since then Yemen submitted 6 periodic reports and the last one was examined in 2008. What is more interesting about Yemen is that it only entered a reservation to article 29 of the convention. However the Committee still has major concerns about the implementation of the Convention and women's current status. One of them is the lack of an explicit definition of the principle of equality between the genders or of discrimination on the basis of sex in all spheres (CEDAW/C/YEM/CO/6, para.359) and also the existence of many discriminatory legal provisions that contradict the Convention(A/57/38, para.384). Such provisions are for example articles 273 and 275 of the Penal Code, which identify and criminalise 'acts violating "public decency", under which women are systematically prosecuted', as well as article 232 which provides that any man who kills his wife, or a female member of the family suspected of adultery, is not prosecuted with murder (CEDAW/C/YEM/CO/6, para.367).

This is a root-cause and derives from another issue raised by the Committee, that of the persistence of patriarchal stereotypes and discriminatory traditional cultural and social norms relating to the role and responsibilities of women which impede and negatively affect women's enjoyment of their rights (A/57/38, para.388 and CEDAW/C/YEM/CO/6, para.363). Due to these negative stereotypes and the discriminatory provisions of the Penal Code, violence against women tends to be repetitive and explicit. The Committee is concerned about all forms of violence against women, including domestic and sexual violence and female

genital mutilation (A/57/38, para.398). What is more, women have many difficulties in filing complaints and seeking redress with regard to violence against them (CEDAW/C/YEM/CO/6, para.365).

Another issue that causes the Committee concern is the continuance of discriminatory provisions in the Law of Personal Status "which permits polygamy and sets differential standards for women and men in marriage and family life" and also denies women the right to equality in marriage and divorce (A/57/38, para.392). Concerning family relations, the Committee notes the high rate of early marriages, which creates a serious health risk for girls and prevents them from completing their education (A/57/38, para.394). Early marriages of girl children below 15 years old were legalised as an amendment to Personal Status Law by Law No. 24 of 1999, while some girls as young as eight years of age enter a marriage with the consent of their male guardian (CEDAW/C/YEM/CO/6, para.379). Furthermore, the Personal Status Law of 1992 allows polygamy and prohibits the marriage of women without any guardianship (CEDAW/C/YEM/CO/6, para.387), while a constant phenomenon is the so-called 'tourist marriages' or 'temporary marriages' of young Yemeni girls, usually from poor families, to non-Yemenis, usually rich men from neighbouring countries (CEDAW/C/YEM/CO/6, para.381).

- a) The Committee is also concerned amongst other things about:
- b) The high levels of illiteracy among women and girls, particularly in rural areas, and the high rate at which girls drop out of school (A/57/38, para.386 and CEDAW/C/YEM/CO/6, para.373), despite Yemen's strategy plans on education.
- c) The very low number of women employed and 'the limited opportunities they have in the private and public labour market, their concentration in the agricultural sector where they are not paid and the strong occupational segregation in the public sector' (CEDAW/C/YEM/CO/6, para.375).
- d) The persistence of discriminatory provisions in the Personal Status Law of 1992 and in the Citizenship Law of 1990 which affect 'women's equal rights in matters relating to marriage, divorce, testimony, property, nationality, child custody and inheritance' (CEDAW/C/YEM/CO/6, para.387).
- e) The high maternal mortality rates (A/57/38, para.396) as well as the high rate of infant and child mortality 'and the limited access to health-care services and family planning, especially in rural areas' (CEDAW/C/YEM/CO/6, para.377).
- f) The lack of concrete measures to prevent phenomena such as trafficking and smuggling (CEDAW/C/YEM/CO/6, para.369).
- g) The persistence of female genital mutilation and Yemen's reluctance to adopt measures in order to eradicate this practice. Although banned by decree, FGM remains legal especially in the coastal and rural areas, with some cases leading to death, and the perpetrators remaining intact (CEDAW/C/YEM/CO/6, para.383).
- h) The disadvantaged status of rural women due to the traditional division of labour in agricultural production as they 'do not control the means of production and face difficulties in obtaining loans', and also due to the little or no access to health-care services and the high number of incidents of domestic violence, sexual violence and female genital mutilation (A/57/38, para.400). Their situation 'impairs seriously the enjoyment of their social, economic and cultural rights' (CEDAW/C/YEM/CO/6, para.385).
- i) The low rate of registration of women as voters and their low representation on electoral lists (A/57/38, para.402) as well as in Parliament, the Government, the judiciary, in the public administration, the foreign service and academia (CEDAW/C/YEM/CO/6, para.371).

ANNEX IV – CASE STUDIES: HISTORY AND DEVELOPMENTS IN FOUR MENA COUNTRIES – MOROCCO, LIBYA, TUNISIA AND EGYPT

1. MOROCCO

1.1 Introduction

Morocco reached independence and became a Kingdom in 1956, after more than forty years of being a French protectorate. For decades after its independence, Morocco knew the so-called 'Years of Lead' which refer to the authoritarian regime of King Hassan II - father of the present king - whose power and the power of his entourage have always been at the core of the grievances of Moroccan citizens. In the 1996 constitution the King personalised the highest political and religious authority and therefore enjoyed impunity. The King's powers result from political practice, not from any constitutional precepts. He therefore has an extended power apparatus (Makhzan), presides over the Council of Ministers and appoints the government, high officials in several ministries, and royal counsellors. The King and his entourage are in fact the real decision makers in the ministries, and have the right to veto governmental and parliamentary decisions. This means that the parliament needs the King's approval in order to be able to exercise its legislative power. The judiciary is also strongly influenced by the King as in the 1996 Constitution the judiciary was not even mentioned as a separate power. Decisions in sensitive matters were mostly taken by the ministry and not independently (UNDP 2009, p. 6).

According to Transparency International, corruption is a major problem in Morocco. It is a phenomenon, which is common in the most vital institutions of the country, such as the judiciary, the police, the administration and also its medical services. Hence, there is no separation of powers in Morocco, with the three powers being ruled by the same persons, all linked to the king or to his inner circle.

At the same time, millions of Moroccans face stark poverty, and the country's social deficit in terms of housing, hospital beds and basic infrastructure is significant. Widespread corruption, and the flourishing of illicit industries such as illegal immigration to Europe and massive drug trafficking, stokes popular concerns about the ability of the government to address the country's needs.

Since the 1980s, one of the Kingdom's principal challenges has been the rise of political Islam. Charai points out that the Islamists have adopted a pragmatic and strategic approach. Instead of promising an immediate instauration of the Sharia, the majority of the Islamists integrated the themes of democracy and reform into their discourse; freedom, justice and development. Their vision is however unchanged regarding the status of women and the fields of law that have the most influence on their lives; family law and integration in society. They therefore mobilised massively to block government plans aimed at reforming and improving the situation for the country's female population (Charai, 2011). King Mohamed VI succeeded in introducing changes in different fields concerning women ignoring the Islamists. Taking advantage of his role as 'Commander of the faithful', the King has tried to reform religious life, promoting a tolerant form of Islam and fighting extremism, expressed mainly by Wahhabism which has its roots in Saudi Arabia and has gained more and more influence in Morocco since the eighties. He also appointed female religious advisors in many mosques, a task which is usually performed by men only.

1.2 Morocco and the "Arab Awakening"

In the wake of the Tunisian and Egyptian revolutions, young Moroccans called for a protest in the streets of big Moroccan cities on 20 February 2011 on Facebook. However, despite the grievances of Moroccans against the regime, the call did not result in the expected general protest with millions of participants. Many wondered about the Moroccan exception to unrest in the Middle East.

The major factor for the relatively stable situation in the country is generally accorded to the fact that the Moroccan 'awakening', its so-called 'Revolution tranquille' had already started in the early nineties, allowing a slow but firm, political and social evolution, since the end of the reign of King Hassan II, which continued firmly under his son, the present King of Morocco.

Civil society began to be openly active from the early nineties. Human rights organisations, and especially women's associations, were vibrant and succeeded in accelerating many reforms like the reform of the Moroccan family code (also called *Mudawwana*), first in 1993 and then in 2007, making this law the most radical among Arab countries since the adoption by Bourguiba of the Tunisian family code (*Majallah*) in 1957. The King ensured this reform despite years of opposition by Islamists and large parts of Moroccan society. This reform has been followed by a reform of the Moroccan law on citizenship, which brought in more equality between men and women in passing on Moroccan nationality to their children. Legislative reforms also took place in the fields of association law and law on political parties.

Within four years of his reign, King Mohamed VI established the Commission for Truth and Reconciliation (*Instance équité et réconciliation*, IER), which is considered a milestone in the Arab world. The Commission allowed overt discussion on the violations of human rights under the former regime, and thus the wider society was confronted with the suffering of those who lost their loved ones. Many victims and their families were compensated by the present government for their suffering.

For the first time in Moroccan history, the King invited the political left to join the parliament and held parliamentary elections. In addition, one of the accomplishments of King Mohamed VI was the recognition in 2003 of the ethnic diversity of Morocco and the founding of the Royal Institution for the Amazigh culture. Moreover Morocco created an Advisory Council on Human Rights (*Conseil consultatif des droits de l'homme*) to provide a link between the government and NGOs and to stimulate the promotion of human rights. It has the authority to present proposals for legal reforms and can be involved in drafting legal texts where human rights are concerned. The internet site of the Council lays out the large scale of its past and actual activities (<http://www.ccdh.org.ma>).

Contrary to the Paris Principles adopted by the UN General Assembly in 1993, this Council is not independent but directly supervised by the king who appoints its members instead of choosing between nominees agreed upon by civil society representatives (Kausch 2008, p. 21)

Despite all positive achievements and the promise to 'turn the page' on the abuses of the past, activists and journalists are still regularly arrested and convicted of 'threatening state security' or stepping over one or another 'red line'. The most important of these offences deal with questioning the integrity of the monarchy, with Islam or with the 'national territory', a reference to Western Sahara, annexed by Morocco.

Police regularly crack down on demonstrations by Islamists, supporters of the Amazigh culture, human rights activists and those without food, jobs and housing. The country still faces corruption in virtually all sectors, including the country's political life. In February and March 2011, thousands of Moroccans took to the streets of Moroccan cities demanding an end to corruption, reforms to fight the unemployment in the country, better civil rights, and also a reduction in the power of the incumbent King Mohammed VI. As mentioned above, the number of demonstrators is smaller than in neighbouring countries but reflects similar protests to other Arab states.

In 2011, the Justice and Development Party (PJD) related to political Islam won the elections which led to an Islamist Prime minister in Morocco for the first time. The PJD describes itself as having a moderate Islamic orientation and affirms to have no plans to replace Morocco's civil laws by conservative laws based on Islamic Sharia. One of its main campaign promises is to fight corruption and to create a truly independent judiciary.

1.3 Morocco's Constitutions

1.3.1 Before the New Constitution of 2011

Both the first and the subsequent constitutions of Morocco try to lay the foundations for a democratic regime. However, they allow an autocracy and the concentration of power in the King's hands, who is firstly seen as the religious leader, the 'commander of the faithful', and secondly as a political institution. The former king, King Hassan II, used his powers to transform the leadership of the country into an authoritarian regime, controlling the elections of the members of parliament, eliminating his opponents and gravely violating human rights. A system of patronage allowed him to operate with little hindrance. Islam was mentioned in the constitution as the State's religion without further references to the relation between the Sharia and the legislation of Morocco.

From the beginning of the 1980s onwards, a significant part of Moroccan citizens embraced different currents of political Islam as a way to protest against the authoritarian powers of the King. This resulted in even more persecution and interference in the religious affairs of the Kingdom. However, in the last years of his rule, Hassan II began, under severe pressure from Moroccan civil society and because of sharp criticism of the violation of human rights in the country, to bring some reforms in the political, economic and social system. Alongside changes in the economic sphere, the King allowed more freedom of expression and finally gave, in 1993, the green light for the foundation of the Advisory Council for Human Rights (Conseil consultatif des droits de l'homme). The creation of NGOs was allowed under certain controls but nevertheless with much more freedom from the beginning of the nineties. Civil society has since then been extremely involved in improving the status of Moroccan women and children.

From 1990 onwards, strong debates between the modernists and radical Muslims concentrated heavily on the reforms of the Moroccan family code. King Hassan II, and after him, his son, used their constitutional religious privileges and claimed that they had the authority to interpret religious texts and adopt a reform of the family law in favour of women and children. The reform of 1993 was nevertheless mainly limited to procedural improvements, but it was a welcome beginning. The reforms which took place in 2004 under King Mohammed VI were characterised by open debates in Moroccan society, demonstrations by supporters and detractors, and by discussions in parliament. They were tangible proof of democratisation in the country and of the limitation of the powers of Muslim clerics in a field of law which is traditionally considered to be their domain.

1.3.2 The constitution of July 2011

The first constitution entered into force in 1962. Since then ten referenda have been held and resulted in small, mostly insignificant changes.

Mainly as a result of the protests of 20th February 2011, a referendum was held on the first of July 2011 on the draft for a new constitution. The draft was approved by 98.5% of the voters. The success of the referendum is, however, contested due to the low participation of the electorate and owing to several incidents, which have been reported during the process. Detractors also pointed out that the commission charged with drafting the new constitution has been unilaterally chosen by the King who completely ignored all social forces of Moroccan society. This was considered absolutely contradictory to the intended 'démarche démocratique' of the regime.

The most contested provision of the former constitution was section 19, which ensured the monarchy's control over religion, security and a vague general rubric referring to the policy of the country. Detractors of the new constitution of 2011 protest that section 19 remains enshrined in article 41, 42 and 47 of the new constitution. Despite section 25 of the new constitution, which guarantees freedom of opinions, speech and expression, the King retains his inviolable power and some taboo topics can be dangerously labelled as 'attack against the King's person'. This could hold true for the right to discuss

the royal family's vast economic investments and the astronomical costs of maintaining the ruling's family lifestyle. Another topic, which remains inviolable under the new constitution of 2011 is the status of Western Sahara which Morocco considers an integral part of the Moroccan territory. The King's power and authority are also evident in provision 64, ruling that a member of parliament's immunity can be lifted and persecution can follow when the member in question expresses an opinion which 'met en cause la forme monarchique de l'Etat, la religion musulmane ou constitue une atteinte au respect du Roi'.

Nevertheless, and despite all demonstrations opposing the 2011 constitution, some modifications in the new constitution are important marks of progress and are more in conformity with an open, democratic and liberal state than the previous one. Without going into a detailed analysis or a point for point mention of all these changes, the following is worth bringing up; the new constitution defines Morocco as a constitutional, democratic and social monarchy with democratic rights founded on principles of participation, pluralism and good governance. Islam was, and is still, the religion of the State and as the constitution's preamble affirms, this Islam is moderate, open and tolerant. The new constitution further refers to Islam as 'la religion de l'Etat, qui garantit à tous le libre exercice des cultes'. Islam is not considered in this document as a reference for legislation in Morocco, as is the case in the draft constitution of Libya. Part II of the constitution, entitled 'Liberties and Fundamental Rights', mentions explicitly and for the first time a whole range of human rights. The first in the list is the equality of men and women in all fields, enunciated by the constitution and guaranteed by human rights treaties ratified by the Kingdom. Section 19 of the law reassures that 'L'homme et la femme jouissent, à égalité, des droits et libertés à caractère civil, politique, économique, social, culturel et environnemental, énoncés dans le présent titre et dans les autres dispositions de la Constitution, ainsi que dans les conventions et pactes internationaux dûment ratifiés par le Royaume'. A reservation can, however, be read in the same section which seems to restrict the primacy of ratified international conventions to their 'respect des dispositions de la Constitution, des constantes du Royaume et de ses lois'. These 'constantes du Royaume' could at all times be used by powerful opponents as a political tool to restrict freedoms guaranteed by human rights conventions.

Women, mothers, children, disabled and the elderly are considered by the constitution as categories of persons who deserve special protection. The chapter on human rights states that the rights guaranteed by the constitution cannot be undermined by future revisions of the constitution, nor be suspended by the declaration by the King of a state of emergency (article 59). The constitution guarantees in Part III the independence of the judiciary and guarantees the rights to fair trial. However, the King still controls the appointment of judges. A section on good governance establishes a national council on human rights and provides for a national ombudsman to advise on the complaints of citizens regarding public administration.

1.4 Freedom of Association

Morocco already guaranteed the freedom of association in article 9 of its first constitution in 1962 and ratified without reservations the International Pact on Civil and Political rights in 1979 and other conventions relevant to the freedom of association. The association law was last modified in 2009, whereby the procedure for founding associations has been facilitated.¹¹⁶

Despite reforms and the liberality of the law, associative life still encounters difficulties since the mechanisms to implement them remain deficient. As is the case in Tunisia and elsewhere in the Arab region the participation of women and other NGOs is obstructed in several ways, which do not ensure the formal laws on association but derive from informal rules. According to Kausch, "the lack of correct

¹¹⁶ La loi n° 07-09 modifiant et complétant l'article 5 du dahir du 15 novembre 1958 réglementant le droit d'association, publiée au Bulletin officiel n° 5714 du 5 mars 2009.

implementation of the law by the responsible local officials' leads to an often arbitrary registration process and the practical exclusion of certain groups from obtaining a licence to fulfil their work" (Kausch 2008, p. 9). These findings are extensively supported by the analysis of a project launched in 2007 by the Club de Madrid, aimed at strengthening dialogue on freedom of association across the Middle East and the North Africa region.¹¹⁷

This is of course the case for associations linked to the Islamist Justice and Charity organisation, which does not recognise the religious or the political authority of the King and calls openly for replacing the monarchy with an Islamic Republic. It has also been reported that recommendations for introducing secularism in the Moroccan political system constitutes a reason for preventing an organisation from having the chance to perform its activities for years.

Other barriers experienced by associations are the administration, the liaison of the public services with political channels, corruption and, last but not least, the far reaching violation of human rights after the adoption of the Anti-Terrorist Act in 2003, which was adopted after the terrorist bombings in Casablanca in 2003. Since then the groups which are the most targeted are the Islamists, represented mainly by the radical Justice and Charity party, the Amazigh and the Sahraoui. The difficulties in the registration of associations force them to work illegally, which is again a reason for the authorities to intimidate and harass them.

Political parties are regulated differently from ordinary associations and are therefore subjected to different rules. In 2005 the law on political parties was modified, making it nearly impossible to found a political party based on religious, racial, regional or linguistic characteristics. One of the main objectives of the law is to ban radical Islamist parties (Kausch 2008, p. 6).

Being aware of the importance of associative life in a society, and of the problems encountered in this field in Arab countries, the Club of Madrid launched a programme for 'Strengthening dialogue and democratic discourse through freedom of association in the Mediterranean and the Middle East region'. The findings and recommendations were published in 2009, and also focus on the necessary steps the Moroccan government should take in order to strengthen the democratic discourse in the country.¹¹⁸

1.5 Morocco and Human Rights Treaties

The most important human rights treaties which have been ratified by Morocco are the following:

- International Covenant on Civil and Political Rights (1966) which entered into force on 3 August 1979 in Morocco. No reservations have been made on any provision of the Covenant;
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD 1965), ratified by Morocco on 18 December 1970. Morocco entered a reservation on article 22, which allows disputes to be referred to the International Court of Justice, after the consent of all involved parties. This reservation has not yet been lifted;
- Convention on the Rights of the Child (1989). It entered into force in Morocco on 15 April 1993. The instrument of ratification contains a reservation on article 14 of the convention, which guarantees freedom of religion to children. The argument of Morocco for the reservation is that Islam is the State religion and cannot accept this freedom guaranteed to children under the convention;
- Convention on the elimination of All Forms of Discrimination against Women (1979). It was ratified by Morocco on 21 June 1993.

Concerning CEDAW, Morocco entered, upon ratification, reservations on several articles of the CEDAW, namely articles 2, 9.2, 15.4, 16, and 29. With regard to article 2, Morocco expressed its readiness to

¹¹⁷ See: <http://www.clubmadrid.org/en/publicacion/>

¹¹⁸ These recommendations can be found on: <http://www.scribd.com/doc/24802154/Final-FAME-Publication-English>

apply the provisions of this article where States 'agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women' on the condition that the rights guaranteed in the convention 'do not conflict with the provisions of the Islamic Sharia'. According to the government the Sharia strives, among its other objectives, to strike a balance between the spouses, in order to preserve the coherence of family life. Morocco entered, for the same reason, namely incompatibility with the Sharia, reservations on article 16 where State parties are urged to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage, its dissolution and family relations. Morocco pointed out that 'Equality of this kind is considered incompatible with the Islamic Sharia, which guarantees to each of the spouses rights and responsibilities within a framework of equilibrium and complementary in order to preserve the sacred bond of matrimony'. The radical reforms of the Moroccan family law in 2004, however, make clear that the interpretation of the Sharia is more flexible than is meant in the reservations and that a far reaching equality of men and women at the conclusion of the marriage, its dissolution and in the matrimonial relationship between the spouses, is in conformity with the Sharia.

1.6 Moroccan Family Law

Although the Moroccan constitution declares Islam as the religion of the state, the legislation of Morocco is secular, based mainly on western laws. The *Fiqh*, or Islamic jurisprudence, is only starkly present in family law, as is the case in most Arab and Muslim countries. This restriction of Islamic legislation to a field of law where women can be easily confronted with conservative interpretations of Islam is an argument for modernists who are seeking reforms of family law and who are opposed by Islamists, who want the Sharia to remain as the basis of this law.

Family laws in Arab countries are based on interpretations of the Sharia by one of the schools of law; in Morocco it is based on the Maliki School, one of the four recognised schools of Sunni Islam.

As aforementioned, civil societies played a preponderant role in the reform of the family code which resulted in one of the most liberal family codes in Arab countries. The reform made it clear that the family law was no longer a monopoly of Moroccan religious clerics as was always the case due to the religious basis of this law, but it is a law like any other one; open to the influence of society and possible to discuss in the parliament.

Although the new family code is still not compliant with many of the demands of modernist Moroccan women and human rights NGOs, the new text of 2004 could not have been more satisfactory, due to the intense opposition of the Islamists in Moroccan society. Islamists consider the reform as a breach of the teachings of Islam.

Many stipulations of the code are still contrary to international standards of equality. Worth mentioning is the ability of the husband under the new code to conclude polygamous marriages, the different ways to dissolve the marriage including the *talaq*-repudiation, in conformity with traditional Islamic laws, the supremacy of the father in the whole field of guardianship and the upheld inequalities in inheritance laws.

However, research on the application of the new family code makes clear that the most important deficiency does not derive from the code itself but from the conservative interpretation Moroccan courts give to the different stipulations of the code, including the modernised ones.

1.6.1 Pluralistic Family Law

Like in most Muslim countries, Morocco has a pluralistic family law based on the religious belonging of Moroccan citizens. The Muslim family law based on the Sharia (*Mudawwana*) does not apply to Christian or Jewish Moroccan citizens. After the reform of the family law in 2004, article 2 of this law declares that the family code based on Islamic Sharia is applicable to Moroccans, wherever they reside, and in all

situations where one of the spouses is Moroccan Muslim. This stipulation is an indication of the supremacy of Islam in the country despite provisions in the constitution, which guarantee equality between and respect of all religions. Article 2 of the code excludes Moroccan Jews from the applicability of the code of 2004. The family law of Jewish citizens is the Hebraic-Moroccan personal status, which is not yet codified. A reference to Christian Moroccans is no more on-hand, and therefore it is unclear whether Islamic family law is applicable to this community. According to the Moroccan media, Morocco does not admit the existence of a Moroccan Christian community, converted to Christianity by zealous evangelical missionaries 'who take advantage of the poverty of the population...' (Jordens-Cotran, pp. 59-63).

1.6.2 On Marriage

a. Marriage Capacity

In 1958 family law combined Islamic Sharia regulations, determining marriage capacity at the puberty of the spouses-to-be and specified at the same time a different age of marriage capacity for men and women; 15 for women and 18 for men (article 8 and 9 Moroccan family law 1957). It is only in 2004 that the legal age of marriage and the civil capacity became equal, namely 18 years for both spouses. Equality of men and women on this point was finally reached.

Marriage of minors is allowed after the consent of both the court and the guardian.

A concern of women NGOs is the silence of the law on a minimum age, which must be respected by the courts in order to consent to a marriage of minors. This concern is not superfluous; courts seem to consent easily to marriages of minors, especially in rural and poor areas. The Moroccan Ministry of Justice estimates the number of minor marriages at around 35,000 a year. At the time of writing, violent actions all over Morocco are taking place against the law allowing such marriages and for a reform of penal law on the marriage of rapists with their victims (see below).

b. Guardianship in Marriage

The guardianship in marriage included, in the Moroccan family code of 1958, the right of the guardian to consent to the marriage of the girl even when she has reached the marriage capacity and also the right of compulsion. The compulsion ability was only erased after the reforms of 1993, but women remained subject to the consent of their guardian, usually their father or other well-specified agnates, until the reform of 2004. It is only with the new code of 2004 that Moroccan women were finally granted full capacity to marry without a guardian's consent.

However, the traditional laws concerning guardianship did not completely disappear under the 2004 reform. Although the parties' consent is the only one needed to conduct a valid marriage, women can still ask their guardian to contract the marriage on their behalf. The legislator considers this possibility open to women only out of respect for old traditions in the country. Women NGOs point out that giving a role to the guardian in the law will inhibit the emancipation of women on this issue, since they will feel compelled to follow the traditions and marry only in presence of their guardian, especially in traditional areas.

c. Polygamy

Since the independence of Morocco and the codification of the family laws in 1957-1958, polygamy was accepted and barely limited by legislation. The only two obstacles that the family law sets for this institution are the number of simultaneous marriages, which may not exceed four marriages, and the unlawful conjunction of certain categories of women, for example, two sisters.

With a stipulation (chart zawaj) in the marriage contract a woman could make clear she will not later accept a polygamous marriage by her husband. She could even add a stipulation allowing her to repudiate herself in case her husband does not abide to this stipulation in the marriage contract. This

ability of women to influence their status during marriage was (and is still) hardly used by Moroccan women, since it has been dependent on the consent of the future husband and on the approval of both families. Hence, the anti-polygamy stipulation in the marriage contract did not have the expected result, since stipulations in the Maliki School were not binding.

The reform of the family code in 2004 by the current King Mohamed VI on this issue did not satisfy the demands of modernists since polygamy was not prohibited, only extensively restricted. Firstly, the monogamy-stipulation in the marriage contract became considerably more binding for the husband than in the old law. The judge is not able to put the stipulation away on request of the husband, on the ground of changing circumstances. Secondly, the permission to conclude a polygamous marriage must be given by the family court who can only allow it if the husband is able to care for both families and after they are convinced that the husband has pressing reasons for a polygamous marriage. In addition, the court can decide to dissolve the first marriage when the first wife disagrees with the permission by the court.

Despite the improvements of the regulations, the family code of 2004 is on this point still in violation of article 16 CEDAW.

d. Difference of Religion

Under the Sharia and most family laws of Muslim countries, the marriage of a Muslim woman to a non-Muslim man is null and void even when it is validly conducted according to the laws of another country. For such a marriage to be valid the man must have converted to Islam at the time of the contract. On the other hand, Muslim men are allowed in all these laws to marry a woman, who is Jewish or Christian, both religions being accepted in the Quran. These rules constitute a violation of human rights treaties, which do not allow discrimination on grounds of religion or sex.

Efforts undertaken by several Moroccan NGOs¹¹⁹ to abolish this impediment to religiously mixed marriages did not succeed. Article 39.4 of the code of 2004 stipulates clearly that men can conduct a valid marriage with a woman belonging to the Jewish and Christian faith while the marriage of Muslim women is only valid when the husband-to-be is Muslim. Consequently the conversion of a Moroccan Muslim woman to another religion renders her marriage void when the husband is Muslim, whilst the Moroccan inheritance law does not allow inheritance by a non-Muslim of a Muslim's assets and vice versa (article 332 Moroccan family law 2004).

e. Registration of Marriages

Strict rules of Islamic law do not require a marriage contract to be written down in a formal or informal document. The lack of a written contract results in the impossibility to register the marriage, a requirement of modern legislations as well as international conventions such as article 16.2 of CEDAW.

The disadvantages, mainly for women and children, of a non-registered marriage have been fully recognised at the codification of the Moroccan family law in 1958. However, the inconveniences for Moroccan society when making written proof of the marriage compulsory resulted in an acceptance of traditional marriages, until the reform of the law in 2004. A transition period for the first five years was recently prolonged by another five years after the entry into force of the reform.

1.6.3 The Dissolution of the Marriage

One of the assertions in Sharia texts is that women must not be given the possibility to end the marriage too easily in light of their 'emotional' nature, which can be detrimental to the family and subsequently to the whole of society. This has resulted in all Muslim countries in a legal imbalance, created by the husband's unlimited power to end the marriage while women depend on the husband's

¹¹⁹ This was one of the 100 recommendations to amend the Moroccan family law by the Groupe Maghreb in 95 pour l'égalité.

consent or on a court decision. This inequality in the divorce system is one of the reasons for the reservations of article 16 CEDAW, which imposes on state parties 'to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage' and its dissolution. The reservation has been justified by the Moroccan authorities with reference to incompatibility with the Sharia and the equilibrium it seeks in the family. Allowing women to dissolve the marriage in the same way as the husband would be, according to the Moroccan authorities, unfair due to the husband's financial responsibilities upon marriage and at its dissolution, while the wife is not required by law to support the family. It is interesting that women never asked for such a legal obligation for the husband in the law.

The system of dissolution of the marriage in Moroccan law is complex due to the different procedures the spouses can use during their lifetime to end the marriage, and the different results ensuring these procedures. According to the Moroccan family code of 1958, there exist three ways to dissolve the marriage. The most common was the talaq-repudiation, which is considered as a God-given right of the husband to dissolve the marriage without grounds and without intervention by any authority. The second most-used way of dissolving a marriage is by mutual agreement of the spouses (khul) where the husband pronounces the talaq-repudiation as part of an agreement where the wife renounces her remaining financial rights in exchange for the divorce. The third way to dissolve the marriage (tatliq) requires specific grounds and a court decision. The tatliq-divorce is a complicated procedure mainly used by the wife when the husband refuses to initiate a talaq-repudiation and refuses to divorce by khul-agreement.

Women NGOs in Morocco strived for simplification and unity in the divorce system allowing both spouses to make use of the same procedures to put an end to the marriage, with a court decision in all cases.

The reform of the family law by the late king Hassan II in 1993 introduced only procedural improvements to the talaq-repudiation, without corroding the prerogatives of the husband to the talaq and without granting women a similar procedure to dissolve the marriage. Although the complexity of the divorce system remained intact in 2004, the legislator again improved the procedures and added new grounds for allowing women to dissolve the marriage as easily as husbands can. For many, the inequality of men and women in this field of the law is hardly existent anymore, since it allows both, in similar procedures, to put an end to the marriage. However, the most important factor for the success of mentioned changes is their interpretation and application by the different Moroccan courts.

1.6.4 On Matrimonial Relationships

The interpretation of the Sharia by all Islamic schools of law resulted in a patriarchal system where the husband is considered the head of the family. Before the reform of 2004, the marital relationship in Moroccan family law was formulated on the basis of gender related rights and duties. The only field of the marital relationship, which escaped the husband's control was everything that had to do with the wife's property and the revenue acquired from such property.

With the reforms of 2004, the gender based rights and duties of husband and wife were dismantled in favour of women. The stipulation on the obedience of the wife, her right to visit her family only after her husband's consent, and her duty to respect her in-laws disappeared under the new Moroccan family law. Since then, both husband and wife bear equal and joint responsibility within the family, and equality in terms of rights and obligations within the household. The reform of 2004 was remarkable since it removed the link, which had always existed between the financial obligations of the husband toward his family on the one hand and his rights within the family on the other. Although the wife's obedience has been removed from the Moroccan code, the husband is still primarily responsible for the

maintenance of the wife and the children and he still bears the financial responsibilities of the household even when the wife generates her own income.

1.6.5 The Moroccan spring and family laws

It is not to be expected that the changes of 2011 in Morocco will be detrimental on Moroccan family law as was stipulated in the code of 2004. Moroccan women NGOs still have lots to do to bring the code in accordance with international standards including the CEDAW, and the Islamists will not be able to thwart this movement.

Change in the mentality of the Moroccan courts is more burdensome. Despite the efforts of the government to improve the understanding of the modified family code, the law has not yet had all the expected positive results. The equilibrium between an independent judiciary, which is often influenced by traditions and a patriarchal system, and the struggle of modernists for equality has yet to be found. At this moment, Moroccan family courts consent too easily to marriages of minors and polygamous marriages, make it difficult for women to put an end to the marriage, and allow some provisions of the law in favour of the husband. Legislation alone cannot change the course of societies.

1.7 Moroccan Nationality Law and Women

A few years after the independence of Morocco, a Moroccan nationality code, modelled on the French nationality code, sustained the inequality between father and mother in passing Moroccan nationality to their children and in acquiring this nationality by foreign spouses.

After the reform of the Moroccan family code in 2004, King Mohammed VI declared that equality in the nationality code follows on from the equality of men and women achieved in the family law. This was in conformity with the demands of Moroccan women's organisations that endeavoured for equal treatment in the acquisition of Moroccan nationality by birth of a Moroccan father and mother, and for equal treatment of foreign spouses.

In 2007, amendments to the Moroccan nationality law were introduced. Article 6 of this law brings equality between Moroccan mothers and fathers who are both able to transmit their nationality to their children at birth. The law seems to seek reparation for the years of discrimination of Moroccan women in the nationality law, and gives article 6 a retroactive effect; irrespective of their age, all persons born before the entry into force of the changes in 2007 are considered by law Moroccan citizens when born to a Moroccan mother, inside or outside of Morocco.

However, the Moroccan government published an administrative directive immediately after the entry into force of the modified law on nationality, re-introducing inequality in this issue; women can only pass their nationality to their children after proving in a well-described procedure that they are Moroccans. Moroccan men are not subject to the same procedure; their children are at birth registered automatically as Moroccan citizens.

Nonetheless, the amendments in 2007 introduced newer discriminatory regulations. The attribution of Moroccan nationality to foreign spouses still favours foreign wives who are allowed by law to obtain Moroccan nationality after a declaration procedure, while foreign husbands are subject to the more demanding procedure of naturalisation.

1.8 Moroccan Penal Law

Although the religion of the State is Islam, Morocco's Penal law, which entered into force in 1962, is based on French legislation. As a result, the Quranic physical punishments (hudud) are not included in the Moroccan penal law.

Only a few articles of the penal law refer directly to Islam; other articles, which seem anachronistic to western eyes, are not necessarily based on Islam but survived the French penal law on which it is based and are also to be found in several, non-Islamic penal laws.

1.8.1 Laws Referring to Islam

Attempts to undermine the faith of a Muslim or to convert him to another religion, taking advantage of his weakness, poverty and using tools like education and care centres for orphans, can be punished with detention or payment of a fine. In other words, activities of missionaries are forbidden and liable to punishment (article 220 Moroccan penal law). Muslims who publicly break the rules of fasting during the Ramadan are also liable to a fine and detention.

1.8.2 Honour Crimes

The Moroccan penal code includes a whole range of crimes of honour, which are sentenced by imprisonment and not by the Quranic physical punishments. Equality between men and women in the so-called crimes of honour was introduced in the law in 2003 (law n° 24-03). In most of these crimes, sanctions are similar whether the perpetrator is male or female. Both spouses are sentenced to imprisonment for adultery.

Assault or homicide committed by one of the spouses against the other, or against an accomplice, is exempted from penal liability when the act is a result of discovering the other spouse 'à l'instant où il les surprend en flagrant délit d'adultère' (article 418 Penal law).

Castration escapes penal liability when it is a direct result of 'un attentat à la pudeur commis avec violences' (article 419 Penal law). Article 420 of the law still gives prerogatives to the 'head of the family', a figure which does not exist anymore in the family code; assault, even when resulting in death, is condoned if the offender acted when faced with illegitimate sexual behaviour in his household.

Under Moroccan law, rape is punishable by five to 10 years in prison - or between 10 and 20 years if the victim is a minor, which also entails a fine of hundreds of dirhams. If the rapist marries his victim he cannot be pursued legally, unless the woman manages to obtain a divorce (article 475). Families of rape victims who are under 18 often agree to such a union because the loss of a woman's virginity outside of marriage is considered a dishonour to her family. Since the reform of the Moroccan family law in 2004, such marriages cannot be concluded without the consent of the court.

After the suicide of a young girl of 16 in March 2012 who disagreed with the marriage imposed on her after her rape, the authorities promised to review article 475 of the Penal Code.

Similar legislation is in effect in many Arab countries, for example, in neighbouring Tunisia and Algeria. They are all based on the same idea; saving the honour of the family, regardless of the feelings of the raped girl.

1.8.3 Homosexual Intercourse

Homosexual intercourse is considered in most Islamic schools as illegal as unlawful heterosexual intercourse. Some schools share the opinion that the penalty must be death by stoning, others by killing or by throwing the culprit from a high wall or by burning. Practicing homosexuality is considered as 'acte impudique ou contre nature' and is sentenced by incarceration with a maximum of three years and a fine. The aforementioned Sharia punishments are not applicable (article 489 Penal law). In 2003 a new section II was added to the penal code, rendering discrimination on several grounds including sex, ethnic belonging and religion liable to a penalty (article 431). No studies on this important section or on its application by Moroccan authorities are available. It is evident that research on these issues is of extreme importance.

1.9 Some conclusions

The developments in Morocco before the so-called Arab Spring show that, despite a very authoritarian regime, women NGOs and human rights NGOs, in general, were able to develop and to reach some of their objectives in the fields of family law and nationality. Despite the negative aspects and the required improvements for women in both fields of law, the Moroccan reforms under the patronage of the king, the 'Commander of the believers' (*amir almouminin*) can be used as an example in the call for reforms in other Muslim countries in transition, such as Libya. Morocco which is an authoritative source of one of the four Sunni schools of laws (the Maleki), made it clear that modern interpretations of controversial issues of family law are possible in a Muslim country; they are in other words not just imitations of the 'decadent west'.

As has been mentioned in this study, improvements in the legal position of women in both fields of law are still needed. They are also needed in fields of law, which have not been treated in this study, like the custody of children where the inferior position of women is maintained. This means that support to women and human rights NGOs must continue in order to enable these groups to pursue their goal.

The authors share the opinion that the EU should encourage and support research on the negative effects of these laws on women, children and Moroccan families in general.

As has also been mentioned in the study, the conservative interpretation given by many Moroccan judges to improved provisions in the family law deprive women of the positive changes intended by the Moroccan legislator. This is the case, for instance, in the implementation of the impediments on marriages of minors and on polygamous marriages; the arguments used by these judges to allow the marriages remain hidden however and therefore need to be known by the civil society. The authors urge the EU to set up a project allowing an extensive publication of Moroccan jurisprudence of the family sector.¹²⁰ Plans for more transparency concerning the court decisions have not yet succeeded. Moreover, publications are completed very partially and a long time after the decisions have been taken.¹²¹

2. LIBYA

2.1 Libya under the Qaddafi regime

Libya declared its independence on 24 December 1951, with Idris as-Senussi being offered the crown. It was at that time that a federal government with representatives of Cyrenaica, Tripolitania and Fezzan had autonomy, and each with its own capital. Libya was therefore called the United Kingdom of Libya.

The monarchy came to an end on 1st September 1969 when a group of military officers led by Muammar Qaddafi staged a coup d'état against King Idris. Following the overthrowing of the monarchy, the country was first renamed as the Libyan Arab Republic and in 1977 Qaddafi renamed the state Jamahiriya, a neologism which can be translated as "State of the masses". Qaddafi styled himself "Leader and Guide of the Revolution of Libya".

2.2 Before the Revolution of February 2011

Qaddafi instituted in 1971 a one-party system of the Arab Socialist Union and a political system he called "State of the masses". Consequently a law was adopted which prohibits the formation of political parties (Law 71), and relevant articles of the Penal Code criminalised activities amounting merely to the peaceful exercise of the rights to freedom of expression and association. All citizens over the age of 18 were meant to contribute directly to decision-making processes in the country through their

¹²⁰ An example for such a project is the Dutch: www.rechtspraak.nl

¹²¹ Organisations which already supported many projects in the mentioned fields are the center for International Legal cooperation settled in the Hague and the Friedrich Ebert Stiftung which have sections in several MENA countries.

participation at a local level in Basic People's Congresses. This system operated in a context in which freedom of opinion and speech was met by repression of those who expressed dissent at the policies of the Libyan authorities.

Colonel Qaddafi published in 1975 his Green Book and announced 'The Third International Theory' where he declared a political ideology rejecting both capitalism and communism; a third way built on Islam and Arab nationalism, the two pillars of Qaddafi's ideology. He elaborated a five-point programme for governing and made clear that opposition to his ideas would not be tolerated. In its first point the programme announced the repeal of all existing laws to leave the Sharia as the only operative law in the country. Hence, Islam had to play an essential law in legislation; criminal law and family law had to be harmonised with the Sharia.

The other points state the purging of the country of all 'sick and reactionary elements' which included all opposition groups, the removal of 'all imported ideas', bureaucracy and to arm the people in order to be able to carry out 'the Popular revolution'. Alongside these points, Qaddafi wanted to harmonise Islam and socialism. He abrogated usury, encouraged the zakat, an individual offer for the poor, and aimed at establishing social justice with nationalisations (Kooij 1980, p. 7). The only true and impartial universal constitution was formed by customary law (*urf*) and religion, and by religion he meant Islam.

During an extraordinary session of the General People's Congress in 1988, the 'Great Green Charter of Human Rights' of the Jamahiriya Era was adopted. This document restricted the scope of applicability of the death penalty; outlawed degrading punishment and ill-treatment of prisoners and proclaimed the right to a fair trial. A brief period of positive developments followed, but the human rights record in Libya deteriorated again and international scrutiny was almost mission impossible, even for independent human rights experts of the UN and international human rights organisations, such as Amnesty International. The subsequent years were characterised by repression and widespread human rights violations including mass arbitrary arrest and detention, "disappearances", torture and the death penalty. Student demonstrations were violently put down; extrajudicial executions of political opponents, termed "stray dogs" were introduced. The policy, known as "physical liquidation", seemed to have been endorsed at the highest levels and could be implemented both at home and abroad. Repression further escalated in the mid-1990s at a time of clashes between the authorities and armed political groups, mainly Islamists.

2.3 Libyan Constitution under Qaddafi

As aforementioned, Qaddafi rejected the very idea of having a formal constitution. Nevertheless, a constitution existed in Libya, which was propagated by the 'free officers' immediately after the onset of the monarchy in 1969. Provisions with constitutional value were also to be found in many documents, laws and declarations. All these documents helped establish an authoritarian regime where the Revolutionary Command Council (RCC) exercised both executive and legislative powers.

Islam was declared in the constitution of 1969 'the religion of the State' and provided that "the Holy Quran is the Constitution of the Socialist People's Libyan Arab Jamahiriya" (article 2). This provision resulted in the primacy of the Sharia over existing laws and practices. Non-Muslims were not ruled by the Sharia but subject to their own laws and religious courts. Qaddafi and other RCC members believed that the separation of state and religion, and thus of secular and religious law, was artificial, for it violated the Quran and relegated Sharia to a secondary status. Therefore, post-revolutionary bodies composed of Libyan legal experts were created in 1971 to make existing laws conform to the Sharia. Besides, Islamic moral and spiritual values had to be made viable in contemporary Libyan society.

In March 1977 the constitution was amended without abolishing or replacing the 1969 constitution. All political parties were then banned, including the Arab Socialist Union created earlier by Qaddafi himself.

In August 2007 Saif al-Islam Qaddafi, son of Qaddafi stressed the need for a new constitution that might be called the "Jamahiriyan Pact." However, his father's leadership and the influence of Islamic Sharia law would not be subject to any discussion. However, it was not clear whether this constitution was meant to be a "social charter" aimed at defending human rights. Whatever the name, at the end of February 2009, the draft constitution was scheduled by Saif al-Islam to be presented to the People's Congress. At the time of writing this report, the content of this constitution was not clear. No information could be found on whether it was presented or discussed by the People's Congress.

2.4 The Judiciary

The 1969 constitution did not interfere in the existing dual system of secular and religious courts. Equality before the law and presumption of innocence were stipulated, as well as equality and respect for the freedom of expression. These rights were however soon abolished after Qaddafi proclaimed the Cultural Revolution in April 1973.

Gradually, the judiciary became exclusively dependent and responsive to the executive. Court officials became government appointees, and laws were supposed to be interpreted in accordance with the accepted policies and ideology of the regime.

Corruption of the judiciary was a serious problem but tolerated to a certain degree as long as the most corrupt people – the members of the revolutionary committee movement – were the regime's biggest supporters. Anti-corruption laws which duly existed were not enforced.

2.5 Civil rights

Civil liberties existed in Libya only formally. The freedoms of religion, association, assembly, press and speech were strongly restricted. Independent human rights organisations were prohibited despite the declaration of the Great Green Human Rights Charter on 12 June 1988. In practice this declaration did nothing to prevent numerous and serious abuses, including poor prison conditions, arbitrary arrests and detentions, and prisoners being held for years incommunicado without charge or trial.

As a member of the Arab League, Libya ratified the Arab Charter on Human Rights, which in its revised article 32 protects freedom of expression. This is also the case with article 9 of the African Charter on Human and Peoples' Rights. The freedom of expression and opinion are also guaranteed by many international conventions ratified by Libya. Nevertheless, the political will to accord this freedom to Libyans was lacking for the whole duration of Qaddafi's reign.

The government refused to allow independent journalists' and lawyers' organisations. The only organisation able to criticise human rights violations publicly was the Human Rights Society of the Qaddafi Foundation, which was chaired by Saif al-Islam Qaddafi.

2.6 Freedom of Association

Before the Revolution of 1969, organised labour played a significant role in opposing the monarchy, yet the union movement was too young to be established firmly and it had no connection with the military group that overthrew the king.

After the revolution, most pre-revolutionary interest groups were abolished and new ones were created under the Association Act of 1971. The new NGOs lacked autonomy and played an insignificant political role. Strikes have been prohibited since 1972. Several sources agree that there were well-established organisations for professionals such as teachers, engineers, physicians, lawyers, for high school and college students and for women, including numerous local women's organisations that are members of the National Women's Union. However, these organisations were government-sponsored and completely under the control of the regime. Their responsibilities included contributing to the Cultural

Revolution, raising the revolutionary consciousness of their members, and mobilising support for national leaders and their policies.¹²²

As they were required to conform to the goals of the revolution, the number of NGOs in Libya was small, compared with neighbouring countries.

2.7 Political Parties

Representative democracy in parliamentary systems was a sham, argued Qaddafi. Moreover, they were inherently corrupt bodies that bred social divisions and therefore had to be banned. Political parties were indeed banned by Law No. 71 of 1972. In their place, Qaddafi instituted a system of direct democracy that included a network consisting of Popular Committees, the General People's Congresses, and the General People's Committee. These various institutions ensured that power remained diffused, and that Qaddafi's hold on the security apparatus stood strong.

2.8 Media

It is clear that in the above described system the government controlled the state-run and the semi-autonomous media. An article, critical of current policies, was intentionally placed by the revolutionary leadership itself, often as a means of initiating reforms.

In April 2007, for the first time since the Qaddafi revolution in 1969, Libyan journalists, writers and university professors launched an appeal for press freedom. The government responded by creating in the same year two new "private" magazines and the Libyan television channel *Al-Libiyah*. All these instruments belonged to Saif al-Islam, Qaddafi's son, who had repeatedly insisted on the need for the emergence of an independent press. Starting in January 2009, Libyan secret service hackers broke into six Libyan opposition websites. Exiled Libyans writing for Libyan opposition websites were subject to police questioning and imprisonment.

2.9 Qaddafi's Regime and Women

The Libyan Constitution prohibits discrimination based on race, sex, religion, disability, language and social status. Qaddafi considered women equal to men, at least in theory. Although championing the cause of women's equality, he revealed in his public statements traditional views of Libyan society. Women were allowed to study but their real job remained the home and the family, according to Qaddafi. Societies which grant equal rights to women were deemed to be inhuman by the Libyan leader. The liberation of women had to be carried out by teaching them moral values. With the advent of oil wealth in the 1970s, the opportunity for women to make notable social progress increased.

The authorities created one women's organisation in 1977 to address the problems of Libyan women; the 'Jamahiriyya Women's Federation'. This federation, as well as other smaller women NGOs, was only allowed to be active in fields open to them by the regime. The CEDAW Committee complained in 2009 that not one Libyan NGO sent an independent or alternative report to the Committee, which was considered as a manifest sign of the limited role of women in Libyan society.

Like in other fields of society, data on participation of women are not available. According to some sources, women's participation seemed to have risen in 2009 to 32 per cent in the General People's Congress but women were still underrepresented in political and public life, particularly in decision making bodies, despite the number of qualified Libyan women who had attended higher education institutions in Libya and abroad after Qaddafi's rise to power.

¹²² See: <http://countrystudies.us/libya/>

2.9.1 Women and Education

At independence, the overall literacy rate among Libyans over the age of ten did not exceed 20 per cent. From its inception the revolutionary regime placed great emphasis on education and therefore continued and expanded programmes, which began under the monarchy. In the early 1980s only estimates of literacy were available, about 70 per cent for men and nearly 35 per cent for women.

Libya formerly paid entirely for students, including female students, to attend foreign universities and, by 1978, some 3,000 Libyans were studying in the US. This policy changed in 1985 when Libya cut back on fellowships for foreign study, forcing many Libyan students to continue their education locally. Those who studied abroad were subject to regular political examination in Libya. University students were among the few groups to openly express dissatisfaction with the control of the regime and the politicisation of education at every level. University students mounted violent protests in 1976 over compulsory military training, and years later over the closing of departments of French and English and the destruction of their libraries following the orders of Qaddafi, who wanted to replace these languages with a Russian curriculum. In 1977, four students who complained and demonstrated against the regime, were hanged by the government. For years students have been hanged on charges of subversion; April 7 was celebrated as the day of 'cleansing of the universities'. Some of the executions have been public as were the televised killings in early 1984 of students by their fellows, with obvious official approval.

A major source of disruption was the issue of compulsory military training for both male and female students. Socially unpopular measures were introduced to encourage girls to attend female military academies. This was a reason for more resistance by rural people to education and for the non-attendance of women in general.

Data on the access of women to education, both in rural and urban areas, were not available at the moment of writing this report. However, NGOs report that there is high level of illiteracy among women in Libya. Data is also lacking on including women and girls in vocational training, and in studies on the different levels.

2.10 Human Rights Treaties

Libya ratified several international as well as regional human rights treaties under the Qaddafi regime.

a. *International instruments*

- International Convention on the Elimination of All Forms of Racial Discrimination, New York, 16 December 1966. Libya ratified the convention on 3 Jul 1968, making only one reservation against the recognition of Israel or the entry into dealings with Israel as regulated by the Convention,
- International Covenant on Economic, Social and Cultural Rights of New York, 16 December 1966, ratified by Libya on 15 May 1970 with a declaration that ratification of this covenant shall in no way signify recognition of Israel or be conducive to entry by Libya into dealings with Israel, as regulated by the Covenant,
- International Covenant on Civil and Political Rights, New York, 16 December 1966, ratified by Libya on 15 May 1970. Libya declared that ratification can in no way signify a recognition or dealing with Israel,
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979. Libya accessed the CEDAW on 16 May 1989 under the Qaddafi regime when its official name was the Libyan Arab Jamahiriya. On accession, Libya formulated a reservation to the convention which was withdrawn in 1995 and replaced by a new formulation of the reservation as follows:

- [Accession] is subject to the general reservation that such accession cannot conflict with the laws on personal status derived from the Islamic Sharia’;
 - Libya did indeed place a general reservation on article 2 of the CEDAW which states the basic objective of the convention, namely that State Parties condemn discrimination against women in all its forms, and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women. The Qaddafi government also introduced reservations on article 16 of the CEDAW dealing with family law. The latter reservation has not been withdrawn.
- Convention on the Rights of the Child, New York, 1989, entered into force on 2 September 1990, accessed by Libya on 15 April 1993,
 - Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000); Libya adhered to the protocol on 18 June 2004,
 - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified on 29 October 2004 with only a declaration on the age of military involvement in Libya (18 years),
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990, ratified on 18 June 2004.

b. Regional instruments

- Arab Charter on Human Rights adopted by the Arab League on 22 May 2004. The charter entered into force on 15 March 2008,
- African Charter on Human rights adopted on 27 June 1981 and entered into force on 21 October 1986, after ratification by 25 states. Libya ratified the Charter on 19 August 1986,
- Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, adopted in Maputo on 11 July 2003. Entry into force on 25 November 2005. The Protocol entered into force in Libya on 1 December 2009. Since the Libyan Arab Jamahiriya is a member of the African Union, its citizens and NGOs may file complaints to the African Commission on Human and Peoples’ Rights,
- The African Charter on the Rights and Welfare of the Child. Adopted in 1990. Entry into force on 29 November 2005. Ratified by Libya on 1 December 2009.

It is not clear whether reservations have been entered on the aforementioned regional instruments.

Neither international nor regional treaties had primacy in the domestic Libyan legal order. Furthermore, the political system was not favourable to their implementation and therefore their influence was negligible. This was especially the case since the constitution and other laws affirm that Islamic laws are the basis of legislation in the country, as mentioned above. The statement by the Libyan delegation in a report to the CEDAW Committee in 2009, that predominance of treaties exists, was rightfully declared unconvincing since the provisions of the Convention had never been invoked in any national Libyan court.

2.11 Family Law

Contrary to other countries of the Maghreb there is little recent information on Libyan family law and even less on court practices, as well as on social significance of provisions of this law.

In 1972 a family law predominantly based on the Maliki school of Sunni Islam was introduced in Libya, and was followed by several small reforms between 1984 and 1994. The first law as well as the reforms refer only to the Sharia as a source in cases where the family law does not give a solution to a conflict. Hereafter issues concerning marriage and divorce will be briefly highlighted.

2.11.1 On Marriage

a. Marriage Capacity

Article 1 of the Libyan family law stipulated in 1972 that the capacity for marriage of girls is sixteen years while men were allowed to marry at eighteen years. This law was not in line with the Maliki School where no age but puberty is required for the capacity of marriage of both men and women. In an attempt to reduce the estimated great number of divorces in Libyan society and with regard to the health of young women, an amendment on the law was introduced in 1984, raising the age of marriage capacity for men and women to 20 years, with the possibility of marriage at a younger age with court consent. The law does not set a minimum age for a spouse to obtain consent to the marriage, therefore allowing the possibility of marriages of very young girls to be concluded especially in rural areas.

b. Guardianship in Marriage

The guardian in Maliki School has not only the capacity for consent but also for coercion into the marriage. In Libyan family law the coercion capacity was abolished in 1984 by Law no.10, nine years earlier than in the Moroccan family law.

A characteristic of the capacity of the guardian in Libyan family law is that it is required for both men and women. The guardian cannot obstruct the conclusion of the marriage indefinitely; the court may replace his consent when the marriage is suitable for the party to the marriage and for the family (article 6 Libyan family law). The possibility for the spouses to implicate the court to replace the guardian's consent seems at first glance a solution, which gives more freedom of choice to the future spouses. In fact it is not a realistic option in traditional societies where the family bond is largely dominant. The elimination of the concept of male guardianship, both *de jure* and *de facto*, is the only way to give the spouses and especially women their freedom of choice in marriage and all family matters.

c. Polygamy

The term 'polygyny' is more adequate in Islamic family law since the possibility to have four simultaneous marriages is only allowed for Muslim men and not for Muslim women. Nevertheless, the more common term 'polygamy' will be used hereafter.

Polygamy has been at all times allowed in the different schools of Islam; this is also the case in the Maliki school which is the basis of Libyan family law. In the first law promulgated in 1973, only one restriction was admitted to polygamy in the sense that the Libyan man who marries a foreigner is not allowed to simultaneously marry a Libyan woman. The objective of this rule is unclear. It is most probably not meant as an obstacle to polygamy, but to marriages of Libyan men with foreign women, even when they are Arabs. It is only in 1984 that a court's permission was requested for the conclusion of a polygamous marriage. The permission could only be accorded if the husband is 'financially and physically capable' to fulfil his duties towards his wives (article 13 Libyan family law). In 1994 polygamy became subject to additional requirements, to wit, the consent of the first wife and on the condition that the husband has a legitimate interest in marrying another woman.

Recent data on the number of polygamous marriages in Libya are not available. According to different sources the percentage varies between 3 and 10 of all the marriages concluded in the 1980s and the 1990s. However, in smaller private discussions with Libyan NGOs it seems that women report being under coercion, threats and violence by their husbands in order to consent to polygamy.

d. Difference of Religion

One of the impediments for marriage in all Muslim countries, including Libya, is the mixed religious marriage. This impediment covers the marriage of a Muslim woman with a non-Muslim man while a Muslim man is only allowed to marry with a woman belonging to the 'people of the Scripture', that is to say a Christian or a Jewish woman. Nevertheless, article 12 Law 10 of 1984 is ambiguous since it prohibits a marriage between a Muslim man and a 'polytheist'. Since Christians are considered polytheist by many schools of Islam, a marriage between a Libyan Muslim man and a Christian

woman would be also proscribed. Nevertheless, many provisions in the Libyan family law seem to accept a Christian wife and mother, which allows the conclusion that Christians in Libya are not considered polytheist. A marriage of a Muslim Libyan man with a Christian woman can be therefore considered valid.

The marriage impediment based on religious belonging is an evident violation of several human rights; the freedom to choose a partner, the prohibition of discrimination on religious grounds and equality of men and women.

e. Registration of Marriages

In the different schools of Islam, including the Maliki School, the registration of a marriage is not required for its validity. Therefore customary (urfi) marriages are valid and bear all the consequences of a valid marriage, on the condition that both spouses admit the existence of a marital relationship between them. These regulations are also included in articles 4 and 5 of Libyan Family law.

The non-registration of the marriage is harmful for women, as long as the husband denies the relationship to avoid his marital responsibilities and the wife fails to submit a proof of its existence to the court. In that case she loses most of her rights incumbent to a valid marriage. In an attempt to satisfy on the one hand the rules of the Maliki School and the traditions in Libyan society, and to limit on the other hand the harmful consequences of traditional marriages on women, the Libyan authorities raised the age of marriage capacity for men and women to 20 years. One of the thoughts behind this new regulation is as follows; women are traditionally assumed, in Libyan society, to marry at a younger age than 20, and to therefore need the consent of the court. All the marriages with the court's consent are registered as a result of the interference of the authorities.

2.11.2 On Divorce

Similar to other family laws based on Islam, the Libyan divorce laws encompass the talaq-repudiation by the husband; divorce by mutual agreement (khul) and the divorce by court decision (tatliq).

The following characteristics of Libyan divorce laws are worth mentioning:

- The Libyan government increased the number of grounds allowing women to apply for a tatliq-divorce and set up more obstacles to the talaq-repudiation. Nevertheless, men and women have no equal access to the different modes of divorce. Only men are able to use the talaq-repudiation, which is considered as elsewhere in Muslim countries as a right reserved by God to men;
- Talaq-repudiation is no longer a unilateral competence of the husband who could traditionally put an end to the marriage by pronouncing the talaq-formula. A court intervention is therefore needed. Nevertheless, the talaq-repudiation remains a simple way for ending the marriage which has no equivalent allowing women to divorce as easily;
- The Libyan divorce laws are modernised in such a way that husband and wife are entitled to apply to the court for divorce on the ground of discord. Nevertheless, the talaq-repudiation remains the most favourable for men;
- Regardless the mode of divorce, the court must undertake serious attempts to reconcile the spouses before allowing one of them to put an end to the marriage. This attempt is a Quranic requirement, which is applied in most Islamic family laws and belongs to the public order of these countries.

2.11.3 On Matrimonial Relationships

According to most Islamic Schools of law the role of the spouses differs during marriage. Women ought to take care of their husband, the children and the marital home; men are liable for the maintenance of their wife and children. Women's responsibility for the maintenance of the children, provided that the husband is unable thereto, can be considered as a modernisation of the law. These rules prevail also in Libyan family law (article 37 of the family law). However, it is ambiguous whether

the wife has the right to restitution of the expenses she made once the husband is solvent again, as is the case in other family laws in the Maghreb.

The amendments of the Libyan family law in 1993 revoked all rulings based on the disobedience (nushuz) of women, breaking in this way the traditional relation set out by Islamic law between the obligation of maintenance of the wife and her obedience to her husband.

2.12 Libyan Nationality Law and Women

The first Libyan nationality law was promulgated in 1954 (law no 17) and was followed in 1979 by law no 3. Both laws held several provisions which discriminated women.

Libya ratified the International Covenant on Civil and Political Rights (ICCPR) in 1970 with no reservations relevant to nationality or gender. According to this covenant, women and men have equal capacity to transmit the parent's nationality to their children. Libya is also bound by the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, which affirms in article 2 equal rights for men and women with regard to the nationality of their children.

The beginnings of improvements regarding equality of men and women in these issues found its way in the amendments of 1980 in law no. 18, which allowed Libyan women married to non-Libyans to retain their own nationality but did not grant the Libyan nationality to children of Libyan women married to a foreigner. Families in this situation faced several inconveniences, such as the denial of the official documentation they needed to obtain some state services, such as medical care and subsidised food. These families were also ineligible for payments that the state granted to families following the birth of a child. In 2007 the government issued a decree ruling that children born to Libyan mothers and foreign fathers were required to pay 800 Libyan dinars per year for their children to attend public schools. The fees could be waived for families that could not afford them.

In January 2010, the General People's Committee responsible for issuing new laws adopted Law no. 24 on Libyan nationality, which includes more equality between Libyan fathers and mothers, and abolishes some ethno-religious discrimination in the nationality law. Article 11 of law no. 24 extends Libyan nationality to children born to Libyan mothers and foreign fathers, but leaves the interpretation of the provision to implementing regulations that the committee has not yet issued.

As is the case in many other Arab countries, the law still does not allow passing the Libyan nationality by Libyan women to their foreign husbands on the same grounds, and in a similar procedure, allowing foreign woman to acquire the Libyan nationality of their husband. There is no information available on the regulation concerning the application of the law.

Ethno-religious equality. The amendments of the law in 2010 brought important reforms to remove some aspects of ethno-religious discrimination, which favours the granting of Libyan nationality to Arabs and Muslims. No further information is available on this issue.

2.13 Libyan Penal Law

One of the most prominent features of the Qaddafi regime was the incorporation of Sharia rules into the legislation of the country, not only for religious reasons but also as an expression of 'cultural nationalism'. Besides Sharia sources, he considered traditions (urf) a source of the law. Both Sharia and urf were incorporated into the penal law, three years after Qaddafi seized power in 1969. Quranic offences considered by Islam as crimes against God and his laws, and therefore penalised by severe physical punishments of hudud (crucifixion, stoning to death, amputation of hands and feet, and flagellation), were considered by most Islamic countries as an anachronism and have therefore never been introduced into the law. Islamic penal regulations were therefore replaced by a western system of sanctions including imprisonment and fines and in some countries the death penalty.

Libya introduced two laws on fornication (zina) and on defamatory imputations of fornication (qathf) in Law no. 70 of 2 October 1973 and law no. 52 of 16 September 1974 respectively. Fornication is a crime defined by the new law as unlawful intercourse between a man and a woman who are not

bound to each other by marriage, despite the consensual aspect of their relation. Perpetrators are punished with flogging by one hundred lashes or by imprisonment for a maximum of five years, at the discretion of the court. The imposition of these punishments, as well as those against theft (severance of a hand) and other Quranic crimes, brought about debates on their proper contemporary meaning. The most literal interpretations were adopted but their actual imposition as legal punishment was very much restricted by exemptions and qualifications, also based on Islamic tenets. This is probably one of the reasons why, these sanctions have not been applied for years by Libyan courts. Data on the application of Quranic punishments on perpetrators of fornication are not available. However, Human Rights Watch reported in 2011 that the Libyan government continued until its fall to detain women and young girls indefinitely and without due process in "social rehabilitation" facilities for suspected transgression of moral codes. Many of them were detained in these facilities without committing any crime. Some were there only because they were raped, and were ostracised for staining their family's 'honour' (HRW, Libya 2011).

The Libyan penal code allows impunity for the perpetrators of rape who marry their victim, as in other Arab countries (i.e. Algeria, Morocco and Tunisia). These marriages are encouraged to protect the victims from social stigma and marginalisation and to ensure clarity of lineage if the victim is pregnant. This practice seems to be widespread in Libya (CEDAW report on Libya, 2012, p. 11).

Homosexuality is punishable with imprisonment for up to five years since the entry into force of the Libyan penal code in 1973. The law also includes floggings for those transgressing the fast of Ramadan, and lashes for any Muslim who drink or serve alcohol, while non-Muslims can receive fines or be imprisoned for alcohol-related offences.

Political crimes. The penal law mandates the death penalty for any person associated with a group opposed to the principles of the Libyan revolution, as well as for other acts such as treason and attempting to change the form of government by violence.

Several acts could lead to execution, such as membership to a political party opposing the regime. The penal law hampered efforts to improve the status of women in Libya since it is illegal to establish women's rights groups that are independent of the state, and individuals (both women and men) are subject to abuse and torture if they are suspected of sympathising with government opposition groups. The penal code imposes the death penalty on those who call "for the establishment of any grouping, organisation or association proscribed by law", and on those who belong to or support such an organisation (article 206). The death penalty has been used in several cases, for instance on students; data on the number of death sentences and executions has not filtered through.¹²³

2.14 Hope for the Future?

The internet site of the Transitional Libyan authorities publishes extensively on the reforms of the Libyan judiciary. The Libyan committee on human rights had its first meeting on 7 March 2012. One of the decisions was to install a directory on human rights in each court in the country, and in each police service where Libyans can complain about violations of their human rights. Initiatives have been taken to establish mechanisms for complaints and for contact with international human rights organisations.¹²⁴

2.14.1 The Post- Period

In February 2011, anti-government mass protests began against Qaddafi in many Libyan cities. With the help of a six-nation alliance led by Saudi Arabia, the Arab League, the European Union and the Gulf Cooperation Council, the revolution resulted, after 8 months of war, in the overthrow of the Qaddafi regime and the assassination of Qaddafi after 42 years of reign.

¹²³ See: <http://www.handsoffcain.info>

¹²⁴ See the site of the Libyan ministry of justice: <http://www.aladel.gov.ly>, in Arabic

The National Transitional Council (NTC), which was established from March 2011, issued, in October 2011, a Constitutional Declaration and set out a plan for a transitional process which must lead to the drafting of a new constitution and the holding of legislative and presidential elections. Before the Libyan revolution reached its climax, the draft constitution was edited and widely circulated. The approval of the permanent constitution will take place by referendum.

Experts in constitution-making processes worldwide have already undertaken profound researching on the Libyan case. *Some of their conclusions can be summarised as follows:*

- The short road map provided for drafting the constitution, its following approval by the National Public Conference (NPC) and its ratification by national referendum is far too short. It does not allow public consultation, national dialogue and reconciliation among political forces and other groups, and this is strongly needed in a transition period to democracy;
- The type of governance of the future Libya (unitary or federalist system) is important, and should be considered in the draft constitution before the referendum for a definitive constitution. The importance of the issue seems clear after protests on 12 March 2012, where thousands of Libyans took to the streets opposing the demands of Benghazi and the west of Libya for a federal system. Fears for marginalisation and favouritism of this region are opposed to those supporting a unitary system, and refusing therefore the disintegration of the country;
- Of great importance for women and other groups in Libyan society is the promulgation of a law on the election of the General National Congress. The elected Congress will exercise interim legislative and executive powers, draft a definitive constitution, organise a popular referendum on the constitution as well as legislative and presidential elections;
- The draft electoral law deals with several important issues like the exclusion of dual citizenship from the assembly and the banning of many categories of people from participation. The draft electoral law initially reserved a quota of 10% of the 200 assembly seats for women.

Influence of Libyan women NGOs in the electoral field. The Libyan Women's Platform for Peace (LWPP), a women's NGO born after the beginning of the revolution, as well as other civil society groups rejected the quota in the draft electoral law. In the final version of the law the quota of 10% was dropped and replaced by a guarantee for women representation alternating male and female candidates on the lists of political parties. Because 80 seats of the 200-member assembly are allocated to party lists, 40 women will be guaranteed seats in the assembly. This is considered as the first success for Libyan women NGOs in the electoral field.

- A national debate must find its way on the place of the Sharia in the future Libyan constitution. Islam is an essential element of the Libyan identity and is mentioned in the draft constitution as the religion of the State. It is to be expected that this will not change in the definitive text of the constitution. The discussion should, however, focus on the role of Islam in the Libyan legislation. In article 1 of the 'Draft Constitutional Charter for the Transitional Stage', Islam is considered the religion of the State 'and the Sharia is the principal source of legislation'. With the rise of political Islam in the region and declarations of the interim leader of Libya on the abolition of all Libyan laws, which are contrary to Islam, a debate on this issue is urgent;
- The status of international conventions in relation to national law was never settled under the previous legislation of Libya. It is also unclear whether the lack of clarity on the issue derives from the place, which is given to Islam and Sharia in the constitution. It is of great importance for Libyan women NGOs to start a large debate on this matter and benefit from the experience of Arab women in other Arab countries faced with the same questions, like Morocco, Egypt

- and Tunisia. The importance of this issue is clear if we take into account that reservations, which were taken by Libya on the CEDAW, are all grounded on incompatibility with the Sharia;
- The fundamental rights guaranteed in the constitution must explicitly mention equality and the prohibition of violation of any human right on basis of sex, leaving no place for traditions and customs (urf) which played an important role under the Qaddafi regime. Article 6 of the draft constitution states that ‘Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without discrimination due to religion, belief, race, language, wealth, kinship or political opinions or social status’.

Of concern to women and other activists is that gender and age are excluded in this provision. It is unclear whether section 2 of article 6 of the draft constitution captures these grounds with the declaration that ‘The State shall guarantee for women all opportunities which will allow her to participate entirely and actively in political, economic and social spheres’.

- In the draft constitution, the Arab language is mentioned as the official language of Libya ‘while preserving the linguistic and cultural rights of all components of the Libyan society’. The fundamental rights must also explicitly mention equality on ethnic grounds in all aspects of life. This must lead to the abolition of all aspects of violation of the rights of the Amazigh community to speak the Amazigh language and use Amazigh names. Women belonging to this community must be given the same rights as Arab women to participate fully in all aspects of social, cultural and political life;
- The draft constitution contains provisions that protect some elements of the right to freedom of expression. According to the Centre Article 19, more comprehensive and robust protections are required to address the culture of secrecy and human rights violations that were so prevalent under Qaddafi’s regime. This is also vital to ensure full participation of Libyan women NGOs, to begin with in the upcoming elections and the drafting of a new constitution.

2.15 Some conclusions

The gravity of the Qaddafi dictatorship, which lasted more than four decades, did not allow a civil society to develop. Despite the participation of Libyan women in the transition period, they still suffer the consequences of the Qaddafi regime. There is much pessimism on the ability of countries like Libya, which encountered such a dictatorship for such a long time, to cope with democratic institutions. Falsafi is of the opinion that the singular focus on elections and on establishing democratic institutions in a society exposed for a long time to a dictatorial regime, and that have not experimented in the past in civic activism, may prove ineffective (Falsafi, p. 434). Falsafi even shares the pessimistic view that the absence of civic activism in the past, and of a participating civil society able to function in a post liberation period as an effective platform for democratic reform may dramatically curtail the chances of reaching political reforms successfully. It would therefore be an illusion to expect that the creation of a range of democratic institutions, and the promulgation of a liberal constitution and laws in countries like Libya, will lead in the near future to democracy. This also means that a huge effort is needed to enable Libyan women NGOs to have real influence on democracy-building in Libya.

It is of great importance that the EU finds ways to reach Libyan women, individuals and NGOs. Individuals who are committed to the fate of women in their society should get the financial and technical support that enables them to play a role in the process of democratisation in their country. This also means they should get the opportunity to meet women, especially from other Arab countries, who encounter the same challenges in the transition period. The authors insist on the importance of involving in such meetings migrant Libyan women who had the opportunity to experience the

meaning of democracy in western countries. Hearing the experience and achievements of women in third world countries who are further in their path to democracy is highly recommended.

3. TUNISIA

3.1 Introduction

Tunisia was a French protectorate from 1881 and gained its independence in 1956. The country was then ruled for more than 30 years by President Habib Bourguiba, a secular nationalist who favoured economic and social modernisation along Western lines, but severely limited political liberties. Bourguiba succeeded in advancing women's rights and economic development, and his government maintained strong relations with the West and Arab states.

In 1987, Bourguiba tried, like so many 'democratic' rulers in Arab countries, to change the constitution in order to stay in power for another term. He did not succeed in his attempt and was ousted by Zine el-Abidine Ben Ali, who seized the presidency in a bloodless coup. Ben Ali's rise to power had little effect on state policy. The new government continued to push market-based economic development and women's rights, but he also repressed political opponents. The government's repressive measures continued through to 2010. In June of that year the parliament passed a law that criminalised opposition activities declared to be fomented by agents of foreign powers.

The Tunisian uprising began with the self-immolation of Mohamed Bouazizi in December 2010 and led to the overthrow of President Ben Ali and his government in January 2011. The protests were triggered by high unemployment, poor living conditions, corruption and a lack of freedom of speech and other political freedoms. In 2011 free elections took place for the first time in decades and saw the victory of the Islamist Annahda party, who entered a coalition with two centre left parties, Attakatol and the Congress for the Republic.

3.2 Tunisia's Two Faces

Reference is often made to the 'Tunisian paradox'. In the twenty years it was ruled by Ben Ali and by the Democratic Constitutional Rally, Tunisia showed an outstanding socio-economic development, especially when compared with other countries in the region. Achievements in the fields of health, education and women's rights have been widely celebrated and praised. Besides, it is known for a very liberal Constitution and family laws where the equality of men and women is the most far reaching in the Arab countries. This positive façade was also upheld by a democratic discourse of government representatives allowing a liberal image abroad and undisturbed tourism, highly needed in a country with limited natural resources (Kausch, 2009). Concerning women, Tunisia had also developed in 1999 a number of government bodies working to advance women's rights. These include the Ministry of Women and Family Affairs, the National Women and Development Commission, and the National Council of Women and the Family.

Nevertheless, Tunisia also a negative side, and was known for a conspicuous political repression throughout Ben Ali's rule. Behind the liberal façade the country was a dictatorship, developed around the persona of a despotic president and maintained by a repressive police force. Even the façade of economic achievements was in fact questionable, since youth unemployment was enormous and the government failed in finding solutions to it. Social and economic inequalities were also typical characteristics of Tunisian society. The president and his family, as well as the ruling party, controlled the business sector and had a strong influence over public institutions and funds. An uprising was therefore expected by all who were aware of this state of affairs in the country.

3.3 Aspects of the Positive Face of Tunisia

3.3.1 Tunisia and Human Rights Treaties

Tunisia was party to the following human rights treaties:

- International Convention on the Elimination of All Forms of Racial Discrimination, New York, 7 March 1966. The convention was ratified by Tunisia on 13 January 1967.
- International Covenant on Economic, Social and Cultural Rights, New York, 16 December 1966. The convention was ratified by Tunisia on 18 March 1969, without reservations.
- International Covenant on Civil and Political Rights, New York, 16 December 1966. The convention entered into force on 23 March 1976 and was ratified by Tunisia on 18 March 1969, without reservations.
- Convention on the Elimination of All Forms of Discrimination Against Women, New York 18 December 1979, ratified by Tunisia on September 20, 1985.

Upon ratification, Tunisia made a general declaration that it was not bound by the requirements of the CEDAW Convention, which conflict with the provisions of chapter I of the Tunisian Constitution. Chapter one declares in article 1 that Islam is the religion of the state.

In addition, reservations were entered on article 9.2 CEDAW requiring equality of men and women in passing nationality to their children; on article 15.4 of the convention which gives women the right to choose their residence; on article 16 paragraphs (g) and (h) concerning the family names of children and the acquisition of property through inheritance. Finally, a reservation was entered on article 29.1 of the Convention.

Lifting reservations on the CEDAW?

In August 2011, the interim Tunisian government announced the lifting of key reservations on the CEDAW, except the aforementioned general declaration concerning conflicting requirements of the convention with Islam, the state religion:

- Optional Protocol to the CEDAW, New York, 6 October 1999, ratified by Tunisia on 23 September 2008. Tunisia adopted the Optional Protocol, which entitles individuals as well as groups of individuals to submit complaints on women's rights violations to the CEDAW Committee.
- Convention on the Rights of the Child, New York, 20 November 1989 which was ratified by Tunisia on 30 January 1992.

On 1 March 2002, the Government of Tunisia withdrew the declaration on this convention where it mentioned that 'its undertaking to implement the provisions of this Convention shall be limited by the means at its disposal.' It also withdrew the reservation on article 40, paragraph 2 (b) of the convention. In September 2008, Tunisia withdrew the reservations on article 2 and 6 of the convention dealing respectively with its national legislation concerning personal status, particularly in relation to marriage and inheritance rights and nationality:

- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict, New York, 25 May 2000. Tunisia adhered to the protocol on 2 January 2003. Tunisia entered no reservations but made a general declaration enclosing information on the military service in Tunisia.
- International Convention for the Protection of All Persons from Enforced Disappearance, New York, 20 December 2006, ratified by Tunisia on 29 June 2011.
- Convention on the Rights of Persons with Disabilities, New York, 13 December 2006 was ratified by Tunisia on 2 Apr 2008, without reservations.

- *Maputo Protocol*. Tunisia as well as Egypt has refused to sign and ratify the Maputo Protocol to the African Charter on Human and People's Rights dealing with the Rights of Women in Africa.¹²⁵ Tunisia made reservations to some of the Charter's clauses related to marriage.

(a) The Interim Government and Human Rights Treaties

The interim Tunisian government declared its willingness to adhere to several conventions and promised to withdraw reservations entered on some ratified ones. Adhesion is being considered to the Protocol on the Covenant on Civil and Political Rights and to the Protocol on the Convention against torture. It is also considering the adhesion of Tunisia to the International penal court.

(b) Priority of Treaties Law over Domestic Law?

The Tunisian constitution is one of the few constitutions in Arab countries, which clearly states the priority of international law on national legislation. Article 32 of the Constitution, as it was amended in October 1997 and June 2002, states that duly ratified treaties had a superior authority to that of national laws: 'Les traités ratifiés par le Président de la République et approuvés par la Chambre des députés ont une autorité supérieure à celle des lois'. More research should be performed on the decisions of the different Tunisian courts to analyse the role played by international treaties in the deliberations of these courts.

3.3.2 Tunisian Family Law

After independence from the French protectorate in 1956 a Tunisian family code was promulgated, based on the Hanafi and Maliki schools of Sunni Islam. An exceptional characteristic of the code is its unification and its application to all Tunisian citizens, regardless of their religion. The application of rabbinical and Christian family law has since ended.

Another important feature of Tunisian family law is its reliance on its own interpretation of the Sharia without reference to interpretations by one of the Sunni schools of law. However, a discussion persists in legal literature and court decisions on whether reliance on the Sharia is inherent to article 1 of the Tunisian constitution, which declares Islam as the state religion. Furthermore, different provisions of the code are strongly influenced by Islamic family law, for example the obligation of the husband to pay a dower and the consequences of failing to do so; some impediments to the marriage like breast-feeding kinship and impediments on grounds of affinity, and following three divorces and the regulation of the custody after divorce. Inheritance laws are also based on Islamic inheritance laws and create a strong inequality between men and women in this field, as in all Arab Muslim countries.

On Marriage

Marriage Capacity

In 2007 the Tunisian family code unified the minimum age of marriage, setting it at 18 years for both sexes (article 5), this also being the age of civil majority.

The law stipulates furthermore that '[B]elow this age, contracting marriage shall be contingent upon a special permission from the court; this permission shall only be granted for pressing reasons and for the obvious benefit of both future spouses'. The consent of *both* parents is required for the marriage of the minor and not only of the guardian, usually the father as is the case in traditional Islamic family law (article 6 Tunisian code).

¹²⁵ The protocol was adopted by the "Assembly of the African Union" in Maputo, Mozambique on July 11, 2003. It entered into force in November 2005. The protocol combats female genital mutilation in Africa and legalizes abortion. Egypt and Morocco did not sign the protocol. Libya signed it and became State party of the Protocol. 45 of the 53 African nations had signed it and 28 had formally ratified it, among them, Libya. More on this subject: <http://www.achpr.org>

Marriage under the legal age of 18 confers majority to the minor spouse.

As is the case in the Moroccan and Libyan family code, Tunisian law does not fix a minimum age for the court to consent to a marriage. In countries where traditions play an important role in family matters, such a minimum should be mentioned in the law.

According to the most recent data available on the period of 1987-2006, UNICEF estimates that the proportion of women aged 20-24 that were married by the age of 18 in Tunisia was 10 per cent, a rather high percentage compared to 2 per cent in Algeria.

a) Polygamy

Post-independence, the new Tunisian government adopted a restrictive interpretation of the Quran concerning the admissibility of polygamy in the family code. Modern religious reformers like Mohammed Abdou, who died in 1905, considered polygamy, years earlier than the codification of the Tunisian family law (Majalla), as an injustice for women. Other Muslim reformers, basing the prohibition of polygamy on the Quran, interpreted it as a warning that men are unable to deal with all their wives justly and with fairness. The Tunisian government adopted this interpretation and prohibited polygamy in the Tunisian family law. Men who marry before their previous marriage has been dissolved commit a criminal offence and are liable to a penalty of one year imprisonment or a fine. The second wife in a polygamous marriage is also liable and incurs the same penalty as the husband (article 18 Tunisian family code).

b) Difference of Religion

In contrast to the family law of most Arab countries, the Tunisian Majalla does not explicitly prohibit a marriage where the spouses belong to different religions. Nevertheless, for a long time it was unclear whether the silence of the law on this issue meant that discrimination on basis of religious belief and on basis of sex did not exist in the Tunisian family law. Ben Lamien points out that a difference in the Arabic and the French version of article 5 of the family law dealing with the impediments to a marriage resulted in confusion in the courts. The Arabic version uses for the impediment the word '*shari*', basing the impediment on the Sharia, while the French version uses the words 'impediments by law'. In practice, there is a consensus that a Tunisian Muslim woman is not allowed to marry a non-Muslim. This opinion has been established in a number of administrative directives issued by the Tunisian government which admittedly validate the interpretation of the Tunisian Supreme court and prohibit a marriage between a Muslim Tunisian woman with a non-Muslim, rendering such marriage void (Ben Mahmoud 2008, p. 84-87).

c) Registration of the Marriage

Informal marriages are not valid in Tunisian law, unless they are concluded before the independence of the country in 1957 and unless they are recognised by court decision (article 4 Tunisian family code). Registration of the marriage is regulated in the Tunisian code on personal status (Code de l'état civil).

On Divorce

Tunisian law provides for statutory equal access to divorce for men and women. It is a strictly judicial matter; extra-judicial divorces common in traditional Islamic laws are not valid (article 30 Tunisian family law). The different ways of putting an end to the marriage under Islamic law are banned from the Tunisian family code. The court can pronounce the divorce in case of mutual consent between the spouses, at the request of either spouse on the ground of injury, or on the request of either spouse, without mentioning a special ground (article 31 Tunisian family law).

The court does not pronounce the divorce before an attempt of reconciliation by two arbiters, appointed by the judge (article 25 Tunisian family law).

On Matrimonial Relationships

The Tunisian family Code introduced in article 23, as amended in 1993, the obligation of cooperation between the spouses in all matters relating to the management of the family affairs and the upbringing of the children. However, it leaves possibilities open for fulfilling conjugal duties 'in conformity with usage and custom', which could be harmful for women in traditional environments. An important development compared to traditional Islamic family law where the wife is entitled to maintenance by her husband no matter what her revenues, is that Tunisian women have the obligation under their family code to 'contribute to the family expenses if they own properties' (article 23 as amended in 1993).

The two spouses are free to choose the number and spacing of their children. These advances have been reinforced by Law No. 2001-93 in August 2001 on reproductive medicine, which gives both spouses the right to resort to new methods of medically assisted procreation, based on respect for the physical integrity and dignity of the individual. This new legislative measure will allow a woman to overcome sterility and to enjoy her right to maternity.

3.3.3 Tunisian Nationality Law and Women

The first Tunisian Nationality law entered into force shortly after independence in 1956 and has been amended several times since. Nationality by filiation (*jus sanguinis*) of a Tunisian father has always been part of the law. It is only with the modifications of 1993 that the maternal *jus sanguinis* allowed children born abroad of a Tunisian mother to acquire the Tunisian nationality by law when reaching majority or upon joint request of the parents.

On 1st December 2010, the stipulations concerning the attribution of the nationality by law have been amended. Since then a child born of a Tunisian father or mother acquires the Tunisian nationality by birth on equal terms.

The Tunisian law still includes a distinction between attributing the Tunisian nationality to the foreign husband and wife married to a Tunisian citizen. The foreign husband acquires the nationality if he meets the conditions put by the law for naturalisation. One of the requirements is residing in Tunisia for five years before the application and enough knowledge of the Arabic language (article 21 and 23.2 Tunisian nationality law). A foreign woman married to a Tunisian man acquires the Tunisian nationality by declaration, an easier procedure allowing acquisition of the Tunisian nationality after two years of residence in Tunisia and without requiring any knowledge of the Arab language.

3.3.4 Tunisian Penal Law

The Tunisian penal code ignores Quranic crimes and their penalties and is based mainly on the French penal code.

The death penalty is still one of the sentences for the most serious crimes; one of them is rape committed with violence (article 227.1). The last of the 130 executions - including 4 women - which took place in Tunisia after independence goes back to October 1991. Death sentences pronounced since have not been carried out. The Tunisian interim government expressed its willingness to eliminate the reservations on the Second Optional protocol of the convention on civil and political rights (New York, December 1989).

Homosexual relations are not mentioned as such in the Tunisian penal code, but article 230 declares 'sodomie' (i.e. homosexuality) punishable with an imprisonment of three years.

Fornication (*zina*) can result in men and women equally being imprisoned for five years and the payment of a fine, depending on the situation. Crimes of honour belong more to traditions but are less

and less committed on the whole in Tunisia now (2,6 percent of the total number of crimes between 1986 -1996). According to Labidi, Tunisian families favour more and more the criminalisation of rape instead of punishing the girl and compelling her to marry her rapist (Labidi , p. 240). Nevertheless, several NGOs are fighting against Tunisian law, which provides the male assailant involved in “statutory rape” against a female minor with the opportunity to escape legal proceedings, if he marries his victim. A similar law exists in other Arab countries like Morocco. Tunisia seems to make an (ambiguous) distinction between statutory rape and forcible rape based on the absence of force or threat. Statutory rape is considered an intimidation as minors are considered legally lacking the capacity of giving consent to the act.¹²⁶

After 9/11 and like many Middle Eastern countries, Tunisia adopted strict anti-terror laws which entered into force in 2003. Hundreds of Tunisians have been detained accused of terrorism. In January 2012 general amnesty was granted to most of them in honour of the first anniversary of the Tunisian Revolution. 122 of those granted amnesty were prisoners sentenced to death, who had their sentences commuted to life imprisonment. UN and other human rights experts are pressing the actual interim regime to replace the 2003 Anti-terrorism Act through an agreed legislative framework.

3.4 Aspects of the Negative Face of Tunisia

3.4.1 Freedom of Association

(a) Under the Old Constitution

Article 8 of the Tunisian constitution of June 1959 guarantees freedom of association and assembly, while the founding of associations and the conditions enabling them to carry out their activities are codified in the organic law of November 1959, last amended in 1992. In practice, associations were subject to restrictions throughout Ben Ali’s rule, hindering their registration on arbitrary grounds. It was reported that groups who were not in line with the ideas of the regime were refused registration, as well as a document of the decision of the authorities enabling them to fight the decision in court. Associations were not able to receive funding from international donors (such as the EU) since the Tunisian government had substantially tightened its control over financial movements.

Important to mention in this framework is that the freedom of association in Tunisia, like elsewhere in the MENA countries, has been extremely endangered since these countries have been expected to participate in the ‘war on terror’ started by the US and the EU after 9/11. (UNDP 2009, p. 6; Kausch 2009, p. 5).

(b) Associations in a Repressive Tunisia

Despite the repressive policy of Ben Ali, more than 9,000 associations were legally registered in Tunisia at the moment of the revolution. These organisations received important funds from the government as long as they were not working on a political level. Many objectives in the field of human rights and civil liberties were considered ‘political’, denied legal registrations and forced to work illegally. Those groupings which were allowed by the regime are for a great part ‘governmental non-governmental organisations’ or GONGOs. They were hardly known by the Tunisian people and mistrusted since they were set up to give a positive image of the government and to spread its propaganda, especially in international networks.

Few associations were legally registered and worked independently, for instance the Tunisian League of Human Rights and several women’s organisations working to advance women’s rights in Tunisia. The largest civil society group is the National Union of Tunisian Women (UNFT), which has advocated for women’s access to education. Other groups, such as the Centre for Studies, Research, Documentation

¹²⁶ See: <http://www.tunisia-live.net>, on 13 April 2012

and Information on Women (CREDIF) as well as the Association Tunisienne des Femmes Democrates, are active in researching and publicising women's issues. The degree of independence of these organisations is not clear. Abu Zeid's conclusion on NGOs in authoritarian countries is that 'the assumed connection between civil society and democracy (...) is not necessarily accurate' (Abou Zeid, p. 8). The more authoritarian and centralised a state functions, the more chance civil society organisations will compromise their integrity and autonomy in order to survive. That is to say that the number of NGOs in Tunisia is not a determining gauge for participation of civil society, due to the repression and informal conditions put by the regime for the very existence of these organisations.

Furthermore, the number of NGOs allowed by the regime, even when dealing with human rights, does not tell enough on the participation of women in these organisations. The Arab Human Development Report highlighted in 2005 that women's participation in these organisations are often stunningly low; of the 25 members of the facilitating committee of the Tunisian Alliance for Protecting Human Rights, only three women were appointed.

(c) Project by the Club de Madrid, the European Commission and the UN

The Club de Madrid launched in 2007 a project aimed at strengthening dialogue on the freedom of association across the Middle East and the North Africa region. The project is supported by the European Commission's Initiative for Democracy and Human Rights (EIDHR) and the United Nations Democracy Fund. The programme supported dialogue between authorities and civil society in Arab countries like Morocco, Jordan, Bahrain and Tunisia. Through a process of dialogue and consultation between different governments of the region and members of civil society, a range of steps were agreed upon to ensure freedom of association.

The results state the fact that the organisations engaged in political work encounter the most obstructions and risk being banned or censored. Institutions engaged in such work face cumbersome registration processes, restrictions on receiving international funding, limitations on activities, harassment by security forces, and censorship in the local press.

The findings and recommendations of the Club de Madrid concerning freedom of association and the responsibilities of the Tunisian government were published in June 2009. After expressing understanding and approval for the strides of Tunisia since independence towards social modernity and economic prosperity, it brings to light several obstacles to equality, opportunity and freedom within the public sphere; in other words it confirms that repression is part of the policy of the Tunisian regime towards civil society.¹²⁷

Unfortunately, the information published on this project does not dwell on participation of women, individuals or NGOs to the project, nor does it go into the influence of repression in these countries on women's work. This is a missed opportunity to enlighten the consequences of violation of the right of association and expression on the activities of women. Does the project allow the conclusion that the non-involvement of women NGOs in political activism spared them from repression? Which position did the regimes take in these countries towards the activities of women aimed at the improvement of their status in family laws and elsewhere? Or does the silence of the project on women's issues corroborate the opinion of a lack of women activism in at least some of these societies?

3.4.2 Tunisia's New Era

The moderate Islamist Annahda party won 40 percent of the vote in 2011 and became the main political force in the country under the leadership of Rachid Ghannouchi, who returned to Tunisia after more than 20 years in exile following the ousting of former president Ben Ali. Annahda formed a coalition

¹²⁷ See: <http://www.clubmadrid.org/en/publicacion/>

with the Congress for the Republic (CPR) and Attakatol parties. On 23 October 2011, elections were held for the Constituent Tunisian Assembly who adopted a provisional Constitution in December of the same year. This Constitution regulates the election of an interim government who is competent to rule until a new definitive Constitution is drafted and ratified.

At the end of February 2012, Tunisia's newly-elected Constituent Assembly began drafting the new Constitution and is expected to finish its task within 18 months; a time frame which coincides with presidential elections.

(a) *Tunisian National Identity*

A special Committee on rights and freedoms is participating in the elaboration of the new Tunisian constitution. At the time of writing this report the preamble of the constitution is still being discussed, the main issue being the place of the Sharia in the new constitution. A consensus seems to exist on the Sharia as a 'source of values' for the future Tunisia, as well as 'les hautes valeurs humanistes'.

The main question during the transitional process involves reaching a consensus on the identity of Tunisians.

Article one of Tunisia's Constitution, promulgated in 1959, states that 'Tunisia is a free, independent and sovereign state. Its religion is Islam, its language is Arabic and its type of government is the Republic'. The role and place of the Sharia in the new constitution is a persistent source of contention among assembly members; the Islamists want the new Constitution to go further than the old text and to explicitly assert the importance of the Sharia, making it a principal point of reference in the constitution, Modernists emphasise that the constitution must honour the country's Arab and Muslim roots along with international principles of modernity 'embodied in documents such as the U.N. Declaration on Human Rights'. Others, more secular, advocate the separation of religion and politics without any reference to any religion. They share the opinion that too much consideration is afforded to the place of the Sharia in the new constitution while Tunisians are awaiting more employment, especially for the youth, better education and health services. A better economic situation was, according to the modernists, at the basis of the revolution and not the confusion of Tunisians on their identity.

In March 2012 the Ennahda party finally accepted to respect his electoral program where it promised not to give more place to Islam in the constitution. It adopted therefore, and after heavy debates, the old text of article 1 of the old constitution (1959) where Islam is simply declared the religion of the State. This article stipulates: 'La Tunisie est un Etat libre, indépendant et souverain: sa religion est l'Islam, sa langue l'arabe et son régime la république'. Attempts by Islamists to grant primacy to Islamic law above national legislation, as is the case in the draft Libyan constitution, did not succeed.

The definitive text of the constitution is expected to be achieved in December 2012. Parliamentary elections as well as the election of a new president will be held three months later.

(b) *Islamist Parties and Women*

The future of women in a Tunisia ruled by political Islam is at the core of debates that have been going on in Tunisia since the elections of 2011. Promises have been made by the Islamists to respect the gains of women under the secularism that for decades set post-independent Tunisia apart from most Arab and Muslim countries. The ruling Islamist majority declared it will not corrode the positive status of women in family laws and other legislation, but strengthen it. It informed the public on many occasions that it will draw inspiration and will emulate Turkey's governing Justice and Development Party (A.K.P.) which has cracked down on corruption, involved women as equal political partners, and delivered stunning economic growth rates.

As proof of liberalism and to ease serious concern on gender equality, the Tunisian transitional authorities adopted in April 2011 a gender parity law requiring equal numbers of women and men as candidates in the upcoming Constituent Assembly election. Under the previous government women represented already 27.6% (59 of 214) of the members of Parliament, the highest percentage in the Middle East and North Africa region. The new electoral law passed by the transitional authorities goes even further and institutes total parity, providing that all candidate lists must include alternating male and female candidates for the Constituent Assembly election held on October 23, 2011. The elections were observed by a mission of the EU and did indeed bring a great number of female representatives from the winning Islamist group (40 of the 59 of the elected women candidates). The new electoral law is the first document passed within the framework of political reforms undertaken in this period of democratic transition towards a National Constituent Assembly. It is a first for an Arab country and marks a regional breakthrough and progress for women's rights in Tunisia. It grants them the opportunity to participate in writing its new constitution, ensuring that women's rights and gender equality are well reflected in the new constitution.

It is reported that in the new Tunisian context, which is more conducive to freedoms of association, a true explosion of women's associations are finding their place with many new initiatives, both in the capital and in the regions.¹²⁸ However, concerns remain on whether modernist women NGOs would have to spend their energy to uphold the progress attained under the former regime, or get the opportunity to improve a situation which is still far from perfect. In the actual state of democracy in Tunisia, open ideological debates on the place and influence of religion are possible and will continue. Differences in opinion on these issues are to be expected; the ability to express them is inherent to democracy.

3.4.3 Other Legislative Activities

In 2011 the interim government prepared several decrees, among them a Press Code to replace restrictive laws introduced by the old regime and to allow the country's democratic transition. Some of these laws have already been published in the official Tunisian Gazette, as is the case of the Press Code which protects media against all forms of corruption, abuse and censorship.

The Tunisian media reports, however, some worrisome events demonstrating that the interim government is starting to turn its back on the process to democracy. For instance, it revealed that in early 2012 it will review the new laws including the new Press Code. This has been corroborated by bringing to trial in October 2011 a TV station, which aired the animated film *Persepolis*, which depicts a girl's conversation with God which is prohibited by some interpretations of the Quran. The charge against the TV station - based on an old law effective under the old regime instead of the new decrees - is the 'violation of sacred values' and 'disturbance of public order'. Other worrying signs are the opposition of the Minister for Human Rights to the publication of a Tunisian magazine for homosexuals, and the arrest of a young Tunisian rapper for singing a song entitled 'Nothing has changed'. Recently, two French weeklies were kept off the newsstands, one because it contained a representation of the Prophet Muhammed, and the other because of a front-page headline, "Questions and Answers on the Existence of God."

Some Tunisian media accuse the officials of double standards by prohibiting rappers but allowing, in the name of free expression, an Egyptian cleric to tour the country defending female genital mutilation, stating that this practice is encouraged by Islamic scholars for "medical reasons" and compared it to "cosmetic surgery."

¹²⁸ More on the site of the Association for Women's Rights in Development (AWID) : <http://awid.org/News-Analysis/Friday-Files/Tunisia-New-Electoral-Law-Prescribes-Gender-Parity-in-Upcoming-Constituent-Assembly-Elections>, 21/07/2011

4. EGYPT

4.1 Women's Participation in Political Decision Making

Women's representation in Egyptian political life has always been marginal. In order to enhance women's political participation, a quota system was first introduced in 1979; 30 seats out of 360 were reserved to women in the National Assembly, as well as 15 to 20 per cent of seats in local and municipal councils. In 1986 the quota system was abolished.¹²⁹ As a result, during the following two decades the percentage of elected women in Parliament steadily declined.

In 2007, article 62 of the constitution was amended to the effect that "the law may stipulate a minimum representation of women" in both houses of Parliament, the Egyptian People's Assembly and the Shura Council, as well as in the local councils. Following this new constitutional basis, in 2009 a statute¹³⁰ reinstated the quota system for the Egyptian People's Assembly. It appears that the quota system was deemed unnecessary for the Upper House, where the President of the Republic, who appoints one third of the seats of that chamber, may increase the number of MP women.

In the Lower House, the total number of seats was increased by the addition of 64 new seats to be contested by women candidates only. The new quota system, guaranteeing at least 12% of seats to women, was to be applied temporarily, for two legislative terms (2010 and 2015). The legislature elected in November 2010 in discredited elections was dissolved soon after Hosni Mubarak's removal.

The present electoral law¹³¹ abandoned the quota system without abolishing the additional seats previously reserved to women.¹³² The only measure taken in women's favour was simply to impose to every party list the inclusion of at least, one woman candidate. This requirement is perfectly met by inserting the female candidate's name at the very bottom of the list.

Predictably, in the Nov 2011-Jan 2012 elections for the 498 seats of the Egyptian People's Assembly, women's performance was very poor. Only eight women (1.6 %) were elected; two more were among the 10 MPs appointed by the Supreme Council of the Military Forces (SCAF), taking women's overall share to 1.9 %.¹³³

The outcomes of the Shura Council elections held in January-March 2012 were similar to those of the Lower House; women won five out of a total 180 seats (2.8 percent).¹³⁴

In compliance with article 60 of the Constitutional Declaration,¹³⁵ on 24 March 2012 in a joint meeting the two Parliament chambers elected the 100-member Constituent Assembly. Previously, the MPs had determined the criteria for the makeup and the selection process of the Constituent Assembly, deciding that half the panel would have come from the Parliament itself. The election results were bitterly criticised for a number of reasons, not least for the poor representation of women, who make up only 6% of the assembly charged with the drafting of the new constitution.¹³⁶

Presidential elections were scheduled for 23-24 May 2012. The theoretical possibility that a woman could be elected president was at risk of being altogether excluded by the Constitutional Amendments

¹²⁹ Law No. 188, 31/12/1986

¹³⁰ Law No. 38 of on the Egyptian People's Assembly (as Amended to 2009) Article 1(1,3), 2, 3

¹³¹ The law was approved on the 27th of September by the Council of Ministers

¹³² It is noteworthy that these shifting policies on women's quotas do not depend on some general theoretical reservation on the quota system: a 50% quota for workers and peasants was present in the Egyptian electoral system since 1964.

¹³³ The two women appointed by the SCAF are Coptic: their appointment is meant to be a partial remedy for the severe underrepresentation of both women and Copts.

¹³⁴ The SCAF has not exercised its power to appoint one third of Shura's members yet, in order not to interfere in the election of the Constitutional Assembly.

¹³⁵ Issued in March 2011.

¹³⁶ At the moment, the activity of the Constitutional Assembly is suspended, following a ruling of the Supreme Administrative Court (10 April 2010), which referred the issue to the State Council.

of 2011. The amended text of article 75, as originally proposed, stated that the presidential nominee "must not be married to a non-Egyptian woman". The proposal provoked a public outcry. Consequently, the wording was modified, and the text, as approved by referendum, states that the president "must not be married to a non-Egyptian". Nevertheless, no woman hopeful could meet the legal requirements to qualify as a presidential candidate for the coming elections; either to be supported by one of the political parties represented in parliament, or to collect the signatures of 30 parliamentarians or 30,000 eligible voters from at least 15 governorates (Constitutional Declaration, art. 27).

The poor electoral performance of women reflects their negligible weight in the life of political parties. According to a recent survey carried out by Amnesty International, only two political parties out of fifteen accept to commit to equal rights for women and to ending discrimination; the Egyptian Social Democratic Party and the Popular Socialist Alliance Party. The ESDP includes the respect for women's rights in the list of its principles and is committed to a 30% representation of women in leadership positions. As for the Freedom and Justice Party, which won the majority of seats in both Houses of Parliament, it did not respond to AI's survey. According to Muhammed Mursi, head of the FJP, the party "establishes non-discrimination between citizens in rights and duties on grounds of religion, ethnicity, or colour, and it also gives women all their rights in a way that establishes balance between their rights and duties".¹³⁷ The FJP is the political wing of the Muslim Brotherhood organisation, which boasts about the important contribution given by women to its activities. Nevertheless, no woman sits in either of the two directive bodies, the Guidance Bureau or the Shura Council. Purportedly under the past regime, women's exclusion was out of concern for their possible arrest. As a matter of fact, women don't enjoy full membership within the organisation; they do not pay membership fees and do not vote in internal elections.¹³⁸

Women's presence is very scarce in political non-elective bodies, too. Obviously, no woman sits on the SCAF, since the service in the Egyptian Armed Forces is reserved for men. As for the first two interim cabinets, led by Ahmad Zaki (31 Jan 2011 – 7 Mar 2011) and Essam Sharaf (7 Mar 2011 – 7 Dec 2011) respectively, Fayza Abul-Naga was the only woman serving as minister. In the present Kamal al-Ganzouri cabinet, she was appointed with two other women, Nadia Eskandar Zkhary and Nagwa Hussein Ahmed Khalel.

No woman was appointed to the bodies where the transition was initially negotiated; the committee created by the SCAF in February 2011 for the drafting of the constitutional amendments and the committee for the discussion of electoral laws. No woman was appointed as governor. Women were not included in the protest movement's delegations to attend meetings held with the Prime Minister and the SCAF.

On 18 April 2012, a very heated debate was sparked by the recent appointment of the 30 members of the National Council for Women, most of whom are women. The Council was established in 2000¹³⁹ by President Hosni Mubarak, with the aim of empowering Egyptian women, reinforcing their position in the country and monitoring gender equality. The NCW is commonly associated with the activity of Suzanne Mubarak, the president's wife, and with a number of laws passed in the last decade, the so-called Suzanne's laws. A lawsuit was filed with Cairo Administrative Court demanding its dissolution. In response, and in a move of partial continuity with the past regime, in February 2012 the SCAF re-

¹³⁷ Mohammed Mursi, "Egypt's Freedom and Justice Party: our vision for the future", in *Asharq Alawsat*, 8 Jan 2012 (<http://www.asharq-e.com/print.asp?artid=id28013>)

¹³⁸ Noha El-Hennawi, "Sisters aspire to equality within Egypt's Muslim Brotherhood", in *Almasri Alyoum*, 15 March 2011, (<http://www.egyptindependent.com/news/sisters-aspire-equality-within-egypts-muslim-brotherhood>). A once active sister, Intissar Abd al-Moneim, gives an unflattering picture of the group in her recent book *Hikāyatī maca al-ihwān*, Cairo, General Egyptian Book Organisation, 2011. The book is reviewed by Mahlud al-Wardani on *ahramonline* (<http://english.ahram.org.eg/NewsContentPrint/18/0/35432/Books/0/Book-review-Memoire-of-an-ExSister.aspx>)

¹³⁹ Presidential decree n. 90 of 2000

structured the National Council for Women, renewing its membership. The retention of the NCW was much criticised. In the women's rights activist camp, some question the legitimacy and the outcomes of the appointment process; others believe that the NCW can play some role in defending women's rights currently under threat. On the Islamist front, the Freedom and Justice Party (FJP) contends that the Council was originally created to serve the western agenda and that its reformation is not in the interest of the nation. The FJP proposes to replace it with the creation of a National Council for Families.

4.2 Legal Developments

4.2.1 Courts' Decisions: The Virginité Tests Cases

On 9th March 2011, the day after the rally to celebrate International Women's Day, the army broke up a sit-in, clearing Tahrir Square from protesters. Several women were arrested, and reportedly tortured and subjected to virginity tests. One of those women, Samira Ibrahim, filed three lawsuits against Army officials.

In December, the State Council Administrative Court issued a ruling banning the practice of conducting virginity tests inside military facilities. In March 2012, a year after the arrests, a Military Court acquitted a former military doctor of carrying out those tests. A third case, to be settled by the Administrative Court, was brought by Samira Ibrahim against her referral to a military court.

Samira Ibrahim has become an icon in Egypt; in the eyes of many people, she did not just challenge in court an episodic act of violence on the part of the Army, but rather the oppressive attitude and common practice of State authorities towards its citizens.¹⁴⁰

The Army officials' statements on the issue were contradictory. The head of the Egyptian military judiciary said that the virginity tests had never been part of the military prison code; therefore, the ruling banning them was not in fact applicable. Other officials reportedly admitted the practice, explaining that it was intended to preclude accusations that soldiers violated the women in their custody. This argument suggests that the rape of a virgin is considered as essentially different from other rapes.¹⁴¹ Nevertheless, as will be discussed further, little has been done to bring perpetrators to justice, or to provide women with reparations. More specifically, Human Rights Watch denounced the fact that the military has failed to investigate and punish the military officers charged in the "virginity tests" trial, as well as other credible claims of other forms of violence against women, during March and December 2011.¹⁴²

4.2.2 Enacted Laws

The amendments of the constitution adopted by the referendum of 19 March 2011 did not modify in any point the legal condition of women, whose proposed exclusion from presidency was eventually dropped.

¹⁴⁰ Khaled Fahmi, an Egyptian historian, describes virginity tests as one of those "systematic abuses of the patriarchal authority that has dominated not only during the Mubarak era but since the military takeover of 1952, if not the founding of the modern Egyptian state in the early nineteenth century. [...] In 1832, a "School of Midwives" was established in the Azbakeya district to teach a select number of girls the basics of medical science. Graduates of that school were appointed as paramedics in police stations [...]. In addition to identifying causes of deaths, they also conducted virginity tests on girls whose male relatives had brought them to the police stations to ascertain their virginity. [...] the "School of Midwives" was primarily founded to conduct medical examinations of prostitutes who were believed to be responsible for spreading venereal disease in the army. [...] the modern educational institutions founded in the nineteenth century were not aimed at the dissemination of knowledge, let alone at the empowerment of women, as much as they were intended to tighten the grip of the modern state on the bodies of its citizens and their fortunes". (<http://www.egyptindependent.com/node/592711> ; by the same author, read also <http://www.egyptindependent.com/node/728346>)

¹⁴¹ The same idea is reflected in a famous *fatwà* issued by the late Shaykh of al-Azhar Mohamed Sayed Tantawi. That *fatwà* legalized the abortion for the raped woman at any time during pregnancy, on the condition of their "chastity". To exemplify what "chastity" means, the Shaykh described "a girl walking in the street on her way to university". If someone rapes her, then "she has the right to go to the doctor and have an abortion to save her honour" (<http://www.alarabiya.net/articles/2009/05/05/72087.html>).

¹⁴² Human Rights Watch, *Egypt: Military Impunity for Violence Against Women; Whitewash in Virginity Tests Trial*, April 7, 2012.

A few days after the referendum, the SCAF decreed a Constitutional Declaration, including the amendments. Some of its articles mention gender-related questions. Article 4 states that “No political activity shall be exercised nor political parties established [...] on discrimination on grounds of gender (*ġins*) or origin”. Discrimination is prohibited in more general terms by article 6: “Law applies equally to all citizens [...] who] may not be discriminated against due to gender, origin, language, religion or creed”. The Constitutional declaration allows the electoral laws to “stipulate a minimum representation of women” (article 38) in Parliament, but not in local councils, contrary to the constitution of 1971, as amended in 2007. Nevertheless, as mentioned before, the electoral law approved in September 2011 by the Council of Ministers did not take the opportunity provided by the constitutional declaration, and abandoned the quota system previously in force.

On 15 October, following the Maspero deadly attack against thousands of demonstrators, most of them Coptic Christians, the SCAF amended the penal code by criminalising all forms of discrimination based on “gender, origin, language, religion or belief”. Up until now no conviction for this offence has been reported by the media.

4.2.3 Prospective Legal Changes

The troublesome path leading to the drafting of the new constitution was laid out by the constitutional amendments of March 2011. The referendum definitively buried the idea of a Bill of Rights to be written immediately after the revolution, to preserve its spirit and the hopes of those who went through it. An alternative solution was then suggested; a document, containing the basic principles of the future constitution, to be drafted before the parliamentary elections, and signed by the political forces as a binding commitment. The efforts to agree on a set of “supra-constitutional principles” eventually failed. Nevertheless, they resulted in a number of documents by which different groups and stakeholders expressed their positions, concerns and expectations.

It is worth mentioning the *Egyptian Women's Charter: Partners in the Revolution & in Building Democratic Egypt*, issued in June 2011 by the Alliance for Arab Women¹⁴³ and the Egyptian Women's Coalition.¹⁴⁴ The Charter states that women were active in the 25 January Revolution, side by side with men, and that they want the revolution to open new opportunities for them. The Charter demands political representation and social and economic rights for women, the government's commitment to all human rights conventions, namely to the CEDAW, and consequently the reform of all discriminatory laws.

Al-Azhar, the oldest religious institution of the Sunni Muslim world, issued a Charter in August; the Charter, as a mere advisory and non-binding document, was agreed upon by most political parties and personalities, Islamists and secularists alike. This large consensus was reached by the avoidance of the most contentious expressions (such as civil state...). As for gender issues, the Charter proclaims “full respect for human rights” and separately “for women's and children's rights”. It reaffirms “the commitment to international covenants and resolutions [...] which are compatible with the traditions of the tolerant Arab and Islamic culture”.

The last document was issued by the SCAF, on November 1. The *Declaration of the Fundamental Principles for the New Egyptian State* met with unanimous rejection for its attempts to reserve numerous privileges to the Armed Forces under the new constitution. On women's issues, it simply reproduces articles 4 and 6 of the Constitutional Declaration adopted in March.

¹⁴³ The AAW is an NGO working as an umbrella for a network of 350 Egyptian NGOs.

¹⁴⁴ Among the sixteen members of the Egyptian Women's Coalition there are the New Woman Foundation (<http://nwrcegypt.org/en/>); the Egyptian Initiative for Personal Rights (<http://eipr.org/en/>); Nazra for Feminist Studies (<http://nazra.org/en/>); the Center for Egyptian Women's Legal Assistance (<http://www.cewla.org/>), that presented one of the shadow reports to CEDAW committee as an NGO with a special consultative status with the Eco-Soc Council of the UN; and the Women and Memory Forum (<http://www.wmf.org.eg/>), which carries out scholarly research on women's history and disseminates its outcomes. The WMF initiated in May 2011 the “Women and Constitution Working Group”: its suggestions can be read (in Arabic only) at <http://www.wmf.org.eg/en/node/921>.

Parliament has not yet exercised its authority to legislate. It has been engaged in the appointment of the Constitutional Assembly, charged with the drafting of the Constitution and in activities for overseeing the executive branch. It is not clear as yet what its legislative agenda will be, but it is likely that it will take into consideration the vocal campaign, spearheaded by conservative forces, both from the Islamist and the liberal fronts, for the abrogation of the so-called Suzanne's laws. These laws allow the wife to obtain divorce against her husband's will, returning the dowry (*mahr*) received at the time of the marriage (*khu^l* divorce, regulated by law n. 1 of 2000), and the children of divorced parents the possibility to remain in their mother's custody until the age of 15, and to have a say in the matter.

It is questionable that these reforms were adopted on the whim of the former first Lady Suzanne Mubarak, and as a result of the activity of the National Council for Women chaired by her. As a matter of fact, they were campaigned by women's organisations and prepared thanks to their long-lasting endeavours. Moreover, they correspond to a general supranational trend, as similar forms of divorce were introduced in the same period in Morocco and Algeria.

Other important reforms of the last decade were the judicial dissolution of unregistered marriages, (*zawāğ ʿurfi*), the establishment of a fund to ensure access to alimony and child maintenance, and the possibility for women to transmit their Egyptian nationality to their children. It is not clear as yet if these reforms will become the target of some future campaigns of denigration. Another major attainment was, in 2007, the appointment of 31 women as judges. It should come as no surprise if the novelty, which met the fierce resistance of the judiciary itself,¹⁴⁵ comes under attack as soon as the reshaping of the executive branch is completed.¹⁴⁶

4.3 Electoral systems and countries in transition

The authors insist on the importance of the choice for a certain electoral system for countries in transition and wish to call attention to the tremendous work and expertise developed by the Institute for Democracy and Electoral Assistance (IDEA) in this field.¹⁴⁷ IDEA has shown in many publications how the choice for a certain electoral system is 'one of the most important institutional decisions for any democracy' and how these systems can 'engineer specific outcomes, such as to encourage cooperation and accommodation in a divided society'. Special attention has been given in these studies to gender equality as an integral part of democracy building. The situation of the electoral systems in several MENA countries like Morocco, Egypt, Jordan and Yemen was analysed.

It is important to organise training for women and NGOs in transitional countries on the effects of the electoral system on their position, and give them information on how to influence these systems. Considering the already developed expertise by IDEA, cooperation between the EU and this institute is useful.

4.4 Conclusion

While for President Mubarak's regime, "compliance for gender conditionality [...] represented a relatively soft option [...] in comparison to moving towards more genuine democratic participation"¹⁴⁸, presently it seems that political forces consider women's rights at best as the natural and automatic

¹⁴⁵ In February 2010, the general Assembly of the State Council voted by an overwhelming majority against the appointment of women as judges in the Council. A month later, the Supreme Constitutional Court ruled that the General Assembly vote was not valid (<http://jurist.org/paperchase/2010/03/egypt-constitutional-court-allows-women-judges-in-state-court-system> and <http://english.aljazeera.net/news/middleeast/2010/02/201021810571229586.html>).

¹⁴⁶ Possible unfavourable developments are foreshadowed by a recent decision of the Council of State (Sept. 2011) announcing the recruitment of assistant representatives from "graduates from law and shari'a faculties", and not, as in previous decisions on the same issue, from "male and female graduates from law and shari'a faculties" (<http://nwrcegypt.org/en/?p=5611>).

¹⁴⁷ <http://www.idea.int>

¹⁴⁸ D. Kandioty, *Promise and peril: women and the "Arab spring"*, published on *open Democracy* (<http://www.opendemocracy.net/5050/deniz-kandiyoti/promise-and-peril-women-and-arab-spring>).

outcome of democratic reforms, which have to tackle much more urgent questions first. In any case, this is a minority position. The political mainstream stresses the role of the woman as part of, and dependent on, a family rather than her entitlement to individual rights.

The women's rights discourse is commonly perceived as associated with Western colonial domination, state feminism, and the "democracy promotion" agenda of international donors. All the political parties, almost without exception, exclude any mention of it from their electoral programmes: they consider that women's issues do not resonate with the voters¹⁴⁹ and with their conservatism. Conservatism is widespread among secularists and Islamists alike. Arguably, it is not founded on a religious basis, but rather nourished and favoured by the political reference to Islam.

5. CONCLUDING REMARKS ON THE CASE STUDIES

The presumption that only secularism fits with democracy is predominant in western debates. In fact enhancing democracy for men, women in Arab countries in transition must accept the premise that religion is a major force in Arab politics, and will remain as such after the transition period. The electoral results of 2011 in Morocco, Tunisia and Egypt confirm that free elections in Arab countries lead inevitably to governments, which strongly support political Islam. This was the case in many countries, including Libya after the June 2012 elections. In the last decades, all governments in Arab countries have tried to eradicate Islamist political parties, with support of western countries, giving them an alibi to introduce repressive laws which have been directed against all opponents of the dictatorial ruling regimes including the Islamists (moderate and extremist). The efforts to eradicate Islamist movements not only failed, but, victimised these parties, augmented their prestige as the only real opponents of hated regimes and increased their influence. It is a choice that the EU and its institutions must make; boycott these democratically elected regimes, as was the case with the Hamas regime in the Occupied Palestinian territories, close the eyes to those who brutally repress their societies, as was the case in Algeria, or, as better would be, to support civil societies to engage in debates with all the points of view held in these societies. Several scholars who specialise in studies of Arab countries, particularly about the different Islamic movements in those countries share the opinion that '...A strong role for religion does not necessarily impede the consolidation of a democratic order' and that a 'Genuine democratisation does not unavoidably mean the triumph of secularism'. Theories that consider Islam as - by nature - incompatible with progress, pluralism and democracy are in these same views mistaken, while Western style secularism is not a realistic option in these countries' (Mikail 2012, p. 3, 5). In the countries of the Arab spring and other Arab countries, religion will neither be dissociated nor excluded from the public sphere in the coming years. Since citizens in all these countries sought an end to authoritarian regimes and fought for revolution, it will be a challenge for the new regimes to balance between the requisites of international laws and those of Islam.

¹⁴⁹ The ONG Egyptian Centre for Women's Rights, that monitored the elections, contends that political parties base their conclusions on an "erroneous reading of the reality", underestimating "voters' education". It emphasizes the unprecedented high number of women taking part in the elections, both as candidates and voters:

(<http://www.ecwronline.org/english/press%20reless/2011/Summary%20Report-%20In%202012%20Parliament%20...%20What%20Women%20Lost%20and%20What%20Egypt%20Lost.pdf>)

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