

EUROMED

Role of Women in Economic Life

Women's Economic Rights in the South Mediterranean Region

A Comparative Analysis of Law, Regulations, and Practice

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Discussant's Commentary

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In their report, Dr. El Solh and Dr. Hijab identify seven areas of policy which are centrally linked to women's economic rights in the South Mediterranean region, namely, education, labor, marriage and family, social security, nationality, freedom of movement, and legal personality. The authors highlight a number of key issues: 1) notwithstanding the differences among the ten researched countries, economic activity of women in the region remains low, 2) the educational gains that women have made do not necessarily translate into economic activity, 3) discriminatory articles in national constitutions, gaps in labor and social security laws, and biased family and nationality laws hinder women's enjoyment of economic rights, and 4) and in some countries implementation of legislation protecting women's right to work and claim to work-related benefits is impaired by questionable hiring practices in the private sector. A more serious obstacle that the authors emphasize is the failure of many of the countries to adopt a comprehensive approach towards policy making, an approach that would be based on a sound understanding of the links between different codes and the need for aligning interconnected laws so that they would collectively ensure the realization of women's economic rights. In particular, personal status laws and the model of marriage which they impose are argued to be the essence of women's deprivation of a full and active membership in their societies.

Since my own research interest lies in personal status laws and their reform trajectories and processes in the Middle East (with a focus on Egypt), I would like to raise three points about the link between family laws and women's economic rights. They are: 1) the gap between the legally constructed marital roles of men and women on the one hand and their 'lived' roles on the other hand, as well as their experiences of discrepancy between the two, 2) the gendered notion of male provider and the female dependent which links personal status and other codes in a two-way process, and 3) the role of law both as a social force and as a tool of transformation. In what follows, I will elaborate on each point.

First, there seems to be a growing gap between the marital roles constructed and upheld by family laws of many of the Middle Eastern countries and the realities of married men and women. This leads to contradictions and tensions that often work against women, and also disadvantage men in some cases.. As Dr. El Solh and Dr. Hijab point out that the family laws in many of the south-Mediterranean countries (with the exception of two to three) are premised on a model of marriage in which the husband is obligated to provide for his wife and children. The wife and children are not only expected to be economically dependent on him, but also are under his protection and authority. The main legal ramification of a husband's economic support of his wife is that she is expected to be 'obedient' to him. The legal definition of wifely 'obedience' is complex and varied in different family codes, but it often entails the wife's physical presence in the conjugal home. A court judgment that finds a wife 'disobedient' results in her loss of the husband's economic support. Thus, on the basis of husband's role as an economic provider, family codes restrict a married woman's physical and legal autonomy. Yet, the realities of a considerable number of marriages in the region show a situation in which the wife contributes either through waged or informal labor to the conjugal household. But her economic contribution is not legally acknowledged (with the exception of Tunisia and Morocco) and her economic activity could be threatened through 'obedience ordinance' cases.

What I would like to highlight here is *not* that wives are hindered from working or continuing to work after marriage because their husband through the force of law can call upon them to be 'obedient' and to stay in the conjugal home. For one, thing the forceful return of a disobedient wife to the conjugal home has been abolished in almost all the codes. Moreover, in practice, 'obedience ordinance' court cases are often not so much about a husband's desire to keep his wife in the house or forbid her from working, but rather it is a legal tactic that male disputants resort to in order to counter a wife's legal claim for maintenance, while the latter is in some cases her tactic for claiming divorce eventually. Rather, my point is that the silence in family laws on the question of women's economic contribution to their nuclear families leads to a situation in which these women, because of their lack of legal rights accrued from their economic role, feel ambivalent about their work. Yet they may be in dire need to work because the husband is unemployed, underemployed, or unwilling to support the family. Moreover, their economic role becomes for some of them a resented (albeit necessary) burden especially when they are engaged in work that is either irregular, underpaid, or offers them no protection and benefits.

Very briefly, I would like to share with you an ethnographic example from my research on family courts in Egypt that illustrate some of these issues. During the course of my field research, I met with a twenty-six year old married woman with a sixteen-month old daughter. This young mother had filed for prejudicial divorce and maintenance case. She claimed that she was suffering from physical and emotional abuse inflicted by her husband and her in-laws,

which she contributed to their living and financial arrangements. She was living in the same apartment building as her in-laws and sharing meals with them, while the husband worked most of the year in Kuwait. Her husband refused to send her money separate from the check he sent his extended family every month. Since she turned sixteen, this female disputant, a graduate of post-secondary vocational education, had been working in a variety of service jobs in order to save for the costs of her marriage and to help with the living expenses of her parents. A year before she finished her vocational education, she got a job in upscale women's lingerie boutique and was able to earn 500 pounds a month, in addition to sales commissions. Compared to her previous jobs, the pay was very good but she had to work 12 hours a day and had no benefits. She saved enough money to buy some of the furniture, kitchen utensils, and electric appliances for her future conjugal home. When she got married, she decided not to work because she wanted to avoid what she saw as the vulnerable situation of a number of her married friends. The husbands of her friends expected them to contribute to the household, but did not help with housework and child care and were often resentful of and threatened by their wives' economic role. In addition, she felt that it was not tenable for her to keep a 12 hour job without benefits and security and embark on motherhood. I would argue that the experiences of this female litigant and her other married friends illustrate a number of things: That women in the Middle East are often positioned in social and legal structures in which they are assumed to be economically dependent on their husbands and their marital roles are narrowly defined within the realm of sexual, reproductive, and care labor. Yet, the reality of their daily lives is one in which they not only contribute to their furnishing of the conjugal home, but they also take part in the economic maintenance of their nuclear families. But they and their spouses feel either ambivalent or resentful about the incongruence between their real roles and the ones that the state through its social/legal institutions expects of them. But is the solution a new legal model of marriage in which the husband is not the sole provider but both spouses share economic responsibilities? I think that would be a well-intentioned but misguided solution. What is needed is not simply institutional recognition and support of women's economic role in the family, but redefinition of the roles of both spouses. In other words, perhaps a new model of marriage that would facilitate women's enjoyment of economic rights is one in which husbands and wives' roles combine a variety of responsibilities which are all related to the well-being of the couple and their children (e.g. economic provision, child care, housework, emotional support, companionship etc).

Secondly, Dr. Solh and Dr. Hijab's work shows that some aspects of labor and social security laws in the researched countries are premised on the gendered notion of the male as the provider and female as the dependent. For instance, labor laws in almost all the countries do not allow paternity leave. In addition, social security laws in many of the countries deprive husbands from their wives' pension. The authors' argument is that this notion is traceable to the gendered model of marriage that is found in family laws. While this is true, I would like to

highlight that the interconnectedness of these different bodies of laws is a two-way process. In other words, it is not only the case that gendered notions of men and women's roles in family laws contribute to labor or social security laws that may discriminate against women and their spouses. It is also the case that labor or social security laws that discriminate against women destabilize their marriages and may hinder their claim of their legal rights within marriage and family. For example, widowed women in Egypt are sometimes forced to enter into unregistered marriages (*urfi*), in which they can make no legal claims to financial support or inheritance from their second husbands, in order to be able to keep the pensions of their deceased partners. Also, in the course of my research, I have come across married women in their sixties whose husbands did not support their families because either they earned very little and intermittently from informal labor or they were often absent partners who repeatedly abandoned and returned to the conjugal home. The wives engaged in a variety of informal labor to make ends meet and were at a stage of their lives in which they could no longer sustain work because of their poor health. A number of these women were in the process of divorcing their husbands through '*khul*' (i.e. no-fault divorce) not because they wanted to end their marriages, but because they wanted to be eligible for state social security, which was only given to single and widowed women in need.

Lastly, I would like to pose the following question: Can laws function as a social force that validates patriarchal and discriminatory norms as well as a tool of social transformation? And what are the challenges and ramifications of either role? The literature in feminist legal anthropology has deconstructed the myth of law as rational positivist body that exists separate from social structures and processes. From a critical feminist perspective, the de-centering of law as an objective autonomous body of knowledge and rules does not mean discarding it as a tool of regulating relations and duties between citizens and protecting their rights. But it does mean being cognizant of the social structures through which laws are constructed, interpreted, performed, and appropriated. The 'fixity' and the presumed 'naturalness' of some of the gendered notions that are embedded in the laws of our region about men and women's roles in marriage, family, work, and other spheres may be partly attributed to religious texts or to be more accurate interpretations of sacred texts. But more so, these laws and the process of drafting and implementing them reflect a constant struggle in which different social actors are engaged in order to assert, contest, or transform norms and values that are the grids through which the cultural subjectivities of women and men are construed. This means that law making, law performance, and law acceptance are always social, dynamic, with intended and unintended consequences. Thus, in 1979 when the late President Sadat decreed a new personal status law that allowed Egyptian married women to automatically file for divorce on the grounds of their husbands' taking another wife and protected working women from the charge of 'disobedience' and loss of spousal financial support, some of the loudest dissenting voices were those of judges who felt that a new legislation that went against their social and

legal understandings of the institution of marriage was imposed on them. The law was revoked by the Higher Supreme Court few years later on technical grounds. What this example illustrates is the limitations of a top-down reform approach that fails to recognize the social embeddedness of law and does not link law making process to simultaneous and interconnected engagement with different forces in the society with the aim of creating spaces in which new and just gender roles and relations can be collectively imagined and realized. In this aspect, while I agree with the authors that the role of media (as well as other institutions) is crucial to the reform process, I would like to highlight the importance and relevance of the kind of education that is offered to future generations. What kind of role models and narratives about women and men and their relations are children being taught in school textbooks? And what kind of historiographies of national identities are they internalizing through their schooling?

To conclude, for women in our region to have viable and fulfilling economic lives, we need more than just laws, sound economic policies, and effective enforcement mechanisms. We (policy makers and citizens) need to partake in a long term process of critical engagement with dominant patriarchal subjectivities, and to enable the development of alternative subjectivities and sensibilities which do not simply espouse the principles of international human rights but more importantly embody the foundational values of the sacred texts, namely '*al adl wa il ihsaan*,' i.e. justice and doing 'the good and beautiful'