Introduction: Shariʿa in Revolution? A Comparative Overview of Pre- and Post-Revolutionary Developments in Shariʿa-Based Family Law Legislation in Egypt, Indonesia, Iran, and Tunisia

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ABSTRACT   *In 2011, the world witnessed how massive civil resistance by men and women alike led to the forced departure of long-serving authoritarian leaders in the Arab world. In the present transitional period in which constitutions have been suspended and new definitions of citizenship are being debated, women's rights and family law have nevertheless emerged as contentious areas in the Arab World. These have been portrayed as symbols of the old regime and as deviating from the principles of shariʿa. Calls to amend women's rights abound. By comparing both pre- and post-revolutionary family law developments in four Muslim-majority countries, this special series of articles explores the implications of these controversies on the rights of men and women in the political transition processes of Egypt, Indonesia, Iran, and Tunisia.*

Family Law as Indicative of the Role of *Shariʿa* in the 'Liberated' Nation

On 17 December 2010, Muhammad Bouʿazizi, a young Tunisian from a small provincial town in the center of the country, set himself on fire after a police official had confiscated his produce cart and humiliated him. His act led to an outpouring of anger across the country, culminating in huge demonstrations during which the people of Tunisia demanded the resignation of Ben Ali, the ruler of twenty-three years. The anger expressed by large parts of the Tunisian populace persisted after Ben Ali's forced departure to Saudi Arabia on 14 January 2011. This reverberated throughout the region and has thus far resulted in the forced departure of Egyptian president Hosni Mubarak on 11 February 2011, the ongoing Syrian uprising which began in March 2011, the bloody end of Libyan ruler Muammar al-Khadafi's forty-two-year reign on 20 October 2011, and the official resignation of Yemen's President Ali Abdullah Saleh on 27 February 2012. Known widely as the Arab Spring, the consequences of these events are difficult if not impossible to predict. The ongoing armed conflict in Syria and the mass demonstrations against Egypt's first post-revolutionary president Muhammad Morsi (which led to his forced departure on 3 July 2013) reflect this unpredictability.

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The popular uprisings against authoritarian rulers and the demonstrators' cry for freedom, dignity, and social justice notwithstanding, events in the Arab world have been met with caution both inside and outside the region. While many Western leaders have acknowledged that they viewed these authoritarian rulers as a line of defense against Islamist extremism for too long, their fear that the Arab Spring could turn into an 'Islamist Winter' remains palpable. In particular, Western leaders feared that Egypt and Tunisia would follow in the footsteps of Iran, whose 1979 uprisings unfolded into an Islamic revolution. Iranian leaders, for their part, have repeatedly stated that the struggle in the Arab World is indeed inspired by 'their' Islamic revolution.[1] Other observers see parallels between the Arab Spring and developments in Turkey where the rise of Islamic politics has ostensibly led to a new model of democracy and Islam.[2] Finally, and to a lesser extent, a number of observers and analysts draw similarities between the democratic transitions in the Arab World and the successful transition to democracy in Indonesia (the world's largest Muslim country) as it unfolded from 1998 onwards.[3] Following the popular unrest and mass demonstrations that caused riots in Jakarta, President Soeharto was forced from office on 21 May 1998. After instability and sectarian conflict characterized the early years of the post-Soeharto '*Reformasi*,' Indonesia is now on a more stable course. It has transformed itself into a country that is generally considered to be the most democratic in South East Asia and has made progress towards greater accountability and rule of law.

None of the authors in this special series of articles in *New Middle Eastern Studies* will try to directly answer whether the Arab Spring will turn into an 'Islamist Winter' or an 'Indonesian Summer.' Instead, the authors will focus on the role of *shari'a* and the way *shari'a* may be interpreted in political and legal systems in post-revolutionary polities. It is particularly revealing to compare the newcomers to the revolutionary scene (Egypt and Tunisia) with Iran and Indonesia in one respect, namely, the field of personal status law or family law.[4] Scholars working on family law in the Muslim world have found that domestic

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[1] See, for example, Walter Posh, "The Arab Spring and the Islamic Republic of Iran: Islamist Vision Meets Political Reality," in *Protest, Revolt and Regime Change in the Arab World: Actors, Challenges, Implications and Policy Options*, ed. Muriel Asseburg (2012). http://www.swp-berlin.org/fileadmin/contents/products/research_papers/2012_RP06_ass.pdf, accessed 3 August 2013; http://www.irdiplomacy.ir/en/page/13012/Tehran+Arab+Spring+is+Islamic+revolution+coming+into+bloom.html, accessed 6 August 2013. See also Arzoo Osanloo in this series.

[2] See, for example, Omer Tashpinar: http://www.brookings.edu/research/papers/2012/04/24-turkey-new-model-taspinar. It should be noted that the Gezi protests in June 2013 have led many commentators to wonder whether the Arab Spring has now in fact reached Turkey.

[3] In a speech in Jakarta in April 2012, British Prime Minister, David Cameron, praised Indonesia as a model of democracy and Islam. See, "Cameron: Indonesia adalah Model dari Demokrasi dan Islam," (12 April 2012). Khabar Asia Tenggara: http://khabarsoutheastasia.com/id/articles/apwi/articles/ features/2012/04/12/feature-02, accessed 2 September 2012. In "'Look Over There' Indonesian Responses to the Arab Spring," Greg Fealy examines why the Arab nations have had little interest in the Indonesian experience, much to the disappointment of many Indonesians (in *Democracy and Reform in the Middle East and Asia: Social Protest and Authoritarian Rule After the Arab Spring*, ed. Amin Saikal and Amitav Acharya (London: I.B. Taurus 2014), 233-247). For a discussion on whether the Indonesian 1998 transition is a model for the Arab Spring, see the different contributions in *Foreign Policy*: John T. Sidel, "Separated at Birth," (15 February 2012). http://www.foreignpolicy.com/articles/2012/02/15/ separated_at_birth, accessed 2 September 2014; Tom Pepinsky, "There is No Indonesia Model for the Arab Spring," (27 February 2013). http://www.foreignpolicy.com/articles/2013/02/27/there_is_no_indonesia_model_for_the_arab_spring, accessed 2 September 2014. See also Mark Assen in an interview with Nadia Sonneveld, "Wie Cairo Wil Begrijpen Moet naar Jakarta Kijken," (10 February 2011). *De Pers*: http://www.depers.nl/UserFiles/File/De_Pers_donderdag_10_februari_2011.pdf.

[4] Personal status law and family law are used somewhat synonymously here and are defined as laws that regulate the relationships between husbands, wives, parents, and children.

actors (such as legal professionals and religious authorities) generally perceive family law to be the only field of law in which the principles of the *shariʿa* still apply.[5] To them (and to many academic scholars themselves) family law has come to symbolize the last bastion of a "dismantled Islamic legal system."[6] For this reason, rulers have always been careful to present the reform of family law as consistent with the principles of the *shariʿa*, a process that Welchman has dubbed the "*shariʿa* postulate."[7] Even Tunisian leader Habib Bourguiba (r. 1957-1987), who was responsible for the introduction of what is arguably the most progressive family law system in the Muslim world today, "…publicly denied a break with Sharia when he stressed that all developments were accomplished 'in accordance with the teachings of the Holy Book.'"[8] Iranian Shah Mohammad Reza Pahlavi, who was responsible for the introduction of a progressive law on personal status in 1967, was also careful not to break away from Shiʿi law completely, as Arzoo Osanloo remarks in her contribution to this volume.

Because of the intimate connection between family law and *shariʿa*, this series of articles in *New Middle Eastern Studies* compares the personal status law reforms in both the pre- and post-revolutionary periods of four Muslim-majority countries: Egypt (Nadia Sonneveld and Monika Lindbekk), Indonesia (Mark Cammack, Adriaan Bedner, and Stijn van Huis), Iran (Arzoo Osanloo), and Tunisia (Maaike Voorhoeve). We will have much to say about the development of Islam and Islamic law in a context in which the transformation and (partial) disintegration of the old system has paved the way for new actors (such as liberals, men's and women's rights organizations, Islamists and the *ʿulamāʾ* [religious scholars]) to claim their place as authoritative interpreters of religion and law.

Shariʿa and Family Law in the Pre-Revolutionary Period

In the last quarter of the twentieth century, the general decline of secular nationalism, the rapid growth of Islamist movements starting in the 1970s, and an increasing (largely economic) openness to the outside world all impacted upon family law reform in the Muslim world. The authoritarian secular governments of Egypt (Sadat, Mubarak), Indonesia (Soeharto), Iran (Muhammad Reza Shah), and Tunisia (Bourguiba, Ben Ali) were domestically and internationally regarded as bulwarks against communism and/or Islamic theocracy, yet all of these leaders (except Iran) began to co-opt Islamist segments in their countries in the 1970s and 1980s. Sadat, for example, released many of the Islamists imprisoned under Nasser. Faced with dwindling support from the army as well as declining economic growth rates, Soeharto began to court Muslim interests as part of a new political

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[5] This is described in Lynn Welchman, *Women and Muslim Family Law in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam: Amsterdam University Press, 2007), 11. Indeed, during my fieldwork in Egypt and Morocco, legal professionals frequently claimed that family law was the only field of law that was still *shariʿa* based.

[6] Lama Abu-Odeh, "Modernizing Muslim Family Law: The Case of Egypt," in Vand. J. Transnat'l L. 37 (2004), 1043-1146, esp. 1046. http://scholarship.law.georgetown.edu/facpub/38, accessed 24 November 2011. The idea of family law being "a last bastion" has been criticized by Baudouin Dupret, "The Practice of Judging: the Egyptian judiciary at Work in a Personal Status Case," in *Dispensing Justice in Islam. Qadis and Their Judgments*, ed. Khalid Masud, Rudolph Peters, and David Powers (Leiden: Brill, 2006), 143-168.

[7] Lynn Welchman, *Women and Muslim Family Law in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam: Amsterdam University Press, 2007), 16.

[8] Maaike Voorhoeve, "Judicial Discretion in Tunisian Personal Status Law," in *Family Law in Islam: Divorce, Marriage and Women in the Muslim World*, ed. Maaike Voorhoeve (London: I.B. Taurus, 2012), 199-229, esp. 206. The Tunisian family code gives men and women equal divorce rights and it forbids polygamy.

strategy in the late 1980s. In Tunisia, the Bourguiba government responded to the Islamic resurgence of the 1980s by developing a less secular discourse on family law and women's rights. In attempts to bolster their legitimacy at home, these secular regimes were in fact instrumental in promoting the 'Islamization' process. The only exception is Iran, where Islamists were increasingly marginalized under the Shah.

The 1970s were also a period in which the authoritarian leaders of Egypt, Indonesia, and Tunisia started looking to the West for opportunities to open their domestic economies to the free market and as a source of support in the form of international donor money. Iran was an exception in that foreign (read: United States) influence in the country pre-dated the 1970s. Notably, the Pahlavi monarchy owed its 1953 reinstatement to the United States which, over the decades, retained considerable influence over Iranian domestic policies. This was a key reason underlying the popular unrest that led to the ouster of the Shah in 1979.[9] Nevertheless, the 'opening-up' of the Egyptian, Indonesian, and Tunisian economies to the outside world, including the acceptance of international financial support, had a social cost and increased foreign influence on domestic policies. This has been most notable in the field of human rights and women's rights in particular. Together with the adoption of the international Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979 and the greater attention given to women's emancipation and equality worldwide, the creation of greater social equality required authoritarian governments to attend to the legal and social status of women. This exposure to the West also forced these governments to foster a culture of promoting and protecting the freedom of speech and the freedom of the press. From the late 1970s onwards, a sense of liberation from these forms of oppression began to permeate the domestic public debate. The greater public prominence of Islamists, increasing foreign influence on domestic policies, and a more liberal public sphere impacted upon the way in which family law reforms were debated. According to Moors, "if the main public actors [in debates on family law reform in the Muslim world] previously had been men of religion, the 1990s saw the greater participation of secularist reformers and women's groups or NGOs that employed notions of gender equality and were often supported by international organizations. Simultaneously, the more liberal political climate also allowed Islamists of various signatures to claim a greater public presence."[10]

Perhaps the most important consequence of these changes in the public debate about family law was that the state and the *ʿulamāʾ* affiliated to it no longer monopolized the right to answer key questions such as "what does *shariʿa* mean?" and "how should it be implemented in practice?" By simultaneously trying to curry favor with the international (donor) community and bolstering domestic legitimacy at home, authoritarian governments were in a difficult situation. The field of personal status law or family law clearly reflected these often opposing domestic and international demands.

Indonesia witnessed the promulgation of a Marriage Act in 1974, which was its first attempt to codify those parts of the *shariʿa* that relate to marriage and divorce. In contrast to Tunisia's and Iran's top-down approach,[11] Indonesia's marriage act was a compromise between the people, including Soeharto himself, who wanted a secular law of marriage and divorce that would apply to all Indonesians, and the Islamic opposition, which vehemently

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[9] Ziba Mir-Hosseini, "Sharia and National Law in Iran," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden: Leiden University Press, 2010), 319-371, esp. 331.

[10] Annelies Moors, "Introduction: Public Debates on Family Law Reform. Participants, Positions, and Styles of Argumentation in the 1990s," *Islamic Law and Society*, 10: 1 (2003), 1-11, esp. 4-5.

[11] Bourguiba issued the Tunisian Personal Status Code in 1956, immediately after independence and before the formation of a parliament; Muhammad Reza Shah Pahlavi issued the Iranian Family Protection Law in 1967.

opposed such an initiative.[12] As Cammack, Bedner and van Huis argue in this volume, the 1974 Marriage Act was clearly presented as being consistent with *shariʿa*-based rules on marriage and divorce, while it simultaneously gave women more rights to end an unhappy marriage and placed limits on a husband's right to marry a second wife. As in Iran and Tunisia, the Marriage Act required husbands wishing to divorce their wives to appear in court and, in contrast to Iran, show cause. While the Marriage Act served to reinforce the legitimacy of Soeharto's New Order (1965-1998) by reinforcing the position of Islam and Islamic institutions, it also promoted a relatively liberal interpretation of Islamic law that reinforced women's rights in marriage and divorce. The same applies, as Cammack, Bedner and van Huis argue, to the promulgation of the 1989 Act on Religious Courts, which gave the Islamic Courts a stronger legal standing, expanded their jurisdiction, and gave them the ability to implement the 1974 reforms on a greater scale.

Along these lines, the Egyptian government took measures to appease the Islamist opposition while simultaneously introducing reforms that enhanced the social and legal status of women. The Sadat government tried to mollify the Islamic opposition by including a provision in the 1971 Constitution that provided *shariʿa* with a new role in Egyptian political life. This constitutional provision stated that the principles of the *shariʿa* were *a* main source of legislation. Following an amendment in 1980, "the principles of the *shariʿa*" became *the* main source of legislation. Simultaneously, however, Sadat introduced changes in the field of family law in 1979 that gave a woman the right to end a marriage if her husband took a second wife, without the need to provide a reason. The law also extended the maternal custody period and allowed mothers and their children to stay in the marital home after divorce. Although the law was repealed by the High Constitutional Court in 1985 on procedural grounds – Sadat had issued the law without consulting parliament – women's rights organizations maintained that its contents were consistent with *shariʿa*. In the 1990s, these organizations were instrumental in preparing a series of family law reforms, which, they argued, were consistent with *shariʿa*, but that would nevertheless rock the nation in the 2000s. Women were given the right to divorce unilaterally and to travel without the consent of their husbands in 2000. The maternal custody age was raised from nine for boys and twelve for girls to fifteen for both – with the possibility of extending it to eighteen years for boys and entering marriage for girls – in 2005. In 2008, educational guardianship was transferred from the father to the custody holder (most often the mother) in cases of divorce.

In the 1980s, the Tunisian government under Bourguiba sought to strike a balance between often contradictory demands from different groups in society, such as the Islamists and the women's rights organizations. Similarly, under Ben Ali women's rights were enhanced (in part to compensate for severe violations of political and civil rights), yet Ben Ali also responded to Islamist pressure by doing little to enforce the ban on university students wearing the veil, for example.

While it can be said that in Egypt, Indonesia, and, to a lesser extent, Tunisia, pre-revolutionary secular governments tried to appease Islamic opposition by articulating family law reforms in the language of religion, they nevertheless enhanced the legal position of women considerably. Iran was different. The Pahlavi government did not aim to completely overhaul Islamic law and created a consultative body of *ʿulamāʾ* who (presumably) agreed to the family law reform proposals. Other Shiʿi *ʿulamāʾ* opposed these reforms vehemently, including Khomeini who voiced his objections from exile in Iraq. Unsurprisingly, when the CEDAW treaty was introduced in 1979 and signed by Egypt, Indonesia, and Tunisia in 1980,

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[12] In 1973, Soeharto tried to bypass the Ministry of Religion and other representatives of *santri* (pious Muslim) interests and to force through a uniform national law. This plan, however, backfired and required Soeharto to seek a compromise: the 1974 Marriage Act.

the post-revolutionary government of Iran did not sign the agreement and suspended the pre-revolutionary Family Protection Law (FPL)[13] in February 1979 when Khomeini returned from exile. As Osanloo argues in her contribution to this series, the suspension of the Iranian Family Law Code by Khomeini immediately after the ouster of Muhammad Reza Shah Pahlavi was a direct reflection of "the deep connection between Islamic jurisprudence and personal and familial status" and a way to restore the authority of the ʿulamāʾ, which had suffered a great blow under the Pahlavis. Even in Iran, however, where religious scholars had won back their position of religious authority, the post-revolutionary government's focus on women as protectors of the family and of the new nation opened up space for women's organizations to foster the social and legal status of women.

The Family: The Fundamental Unit of Society

In addition to the deep connection between *shariʿa* and family law, there is another reason for our strong focus on family law in this special issue. This is the important role that is often assigned to women as upholders of the family and, by extension, of the new and liberated nation because the family is generally regarded as the fundamental unit of Muslim society. In the fight for independence, rulers and reformers often concluded that if the (Muslim) family were to be a strong and stable institution, the nation as a whole would be more stable and less prone to fall under foreign domination again.[14] This is clear in the Egyptian case where, as Sonneveld and Lindbekk illustrate, in the early twentieth century the liberation of the nation was closely related to the liberation of women (*taḥrir al-marʾa*). Educating women and protecting them against large numbers of male-instigated divorce would benefit both the family and the nation. In Egypt's first *shariʿa*-based codification of family law regulations (1920), a husband's right to divorce was somewhat curtailed and a wife's grounds for divorce expanded. In post-independence Tunisia, women also occupied a central position in the nation-building process. As Voorhoeve shows, Bourguiba believed that social reform was closely related to the emancipation of women. For the sake of progress and sovereignty of the Tunisian people, the emancipation of women became the lever of Tunisian modernist politics. One result of this was the granting of equal divorce rights to men and women. In Indonesia's New Order, women were assigned an important role in securing stability inside the family unit, which was regarded as a foundation of the larger "state family."[15] Especially during the early years of the Soeharto regime, the doctrine of *ibuism* (motherhood) defined women as housewives and mothers.[16] During this same period, the Marriage Act of 1974 gave women more rights in divorce proceedings, as previously discussed. As with male-initiated divorce, polygamy was seen as a threat to the stability of the family; in Tunisia, it

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[13] Iran revised the Family Protection Law of 1967 in 1975. Henceforth men could no longer marry a second wife without the consent of the first, and the minimum age for marriage was raised to eighteen for women and twenty for men. Already in 1967, the FPL had given women additional grounds for divorce and required men who wished to divorce to appear in court (see Osanloo in this volume).

[14] Margot Badran, *Feminists, Islam and Nation: Gender and the Making of Modern Egypt* (Cairo: American University in Cairo Press, 1996); Beth Baron, *Egypt as a Woman: Nationalism, Gender, and Politics* (Cairo: American University in Cairo Press, 2005); Palmira Brummett, "New Woman and Old Nag: Images of Women in the Ottoman Cartoon Space," in *Political Cartoons in the Middle East,* ed. Fatma Müge Göçek (Princeton, N.J.: Markus Wiener Publishers, 1998), 1-57.

[15] Susan Blackburn, *Women and the State in Modern Indonesia* (Cambridge: Cambridge University Press, 2004), 26.

[16] Blackburn, *Women and the State in Modern Indonesia*, 25.

was abolished completely in 1956 whilst in the other countries polygamy was procedurally restricted to greater (Indonesia and Iran) or lesser (Egypt) extents.

Broadly speaking, family law was a critical site in the nation-building process throughout the twentieth century. Various groups fighting for political influence, such as feminists, religious scholars, Islamists, and liberals, proposed different visions of the legal rights men and women should have within marriage. In the present transitional period in which constitutions have been suspended and new definitions of citizenship are being debated, women's rights and family law have again emerged as contentious areas in Egypt and Tunisia. Family law and women's rights are portrayed as symbols of the old regime and as deviating from the principles of *shariʿa* in these countries, and various parties have sought changes to these laws. Moreover, because women occupy a central position in both family law and post-independence discourses on national identity, it is not surprising that discussions of women's rights often encompass other issues, such as national identity. As Voorhoeve argues, in present-day Tunisia debates framed in terms of women's rights are often about other issues, some ideological (e.g. pertaining to the role of Islam in the new Tunisian society), others practical. Hence, given that the political liberalization of the 1980s and 1990s allowed for greater inclusion of participants in debates on family law reform, how does one assess the post-revolutionary era when these groups (the Islamists in particular) occupy government positions and are held responsible for developing and administering a policy on national identity and development?

Shariʿa and Family Law in the Post-Revolutionary Period

In 1979, an authoritarian secular regime in Iran was replaced by an authoritarian theocratic regime of the *Velayat-e faqih* (rule by the guardianship of the jurist). Previously suppressed, religious scholars were now given prominent positions in the government and the so-called Council of Guardians. With the suspension of the Family Protection Law (FPL), the authority of religious scholars in the field of family law, traditionally their most important *locus* of influence, was restored. During this period, the Prophet's daughter and Ali's wife – Fatimeh – emerged as the ideal figure for the revolutionary state. Following Fatimeh's example, Iranian women were urged to take seriously their duties as mothers and housewives and, in the process, they were told the nation would prosper. Conservatives saw the FPL as one of the factors that had led to increases in individualism among women. This, they believed, would remove women from their duties in the family and endanger the institution of the family. For this reason, a woman's right to divorce had to be curtailed and the previous limitations on a husband's right to repudiation rescinded.

In both Egypt and Tunisia, the extant personal status law provisions also formed a place of contestation in the period following the departures of former Presidents Mubarak and Ben Ali. In Egypt, many opponents sarcastically referred to the family law reforms that were issued in the 2000s as the "Suzanne Mubarak Laws" and advocates of the "Suzanne Mubarak Laws" in Egypt and "Bourguiba's state feminism" in Tunisia (often suppressed under the former authoritarian regime) have sometimes been labeled as counter-revolutionaries. In contrast to Egypt, Iran, and Tunisia, Islamic law played a minimal role in the post-1998 Indonesian debates about constitutional and family law. While a number of family law reform proposals were submitted, Cammack, Bedner and van Huis clearly show why none of them were enacted and the legal position of men and women in marriage remains by and large the same as it was during the New Order period (1965-1998).

This difference between Egypt, Iran, and Tunisia, on the one hand, and Indonesia, on the other, may perhaps be attributed to the lack of an Islamist presence in governance. In Egypt and Tunisia, the Islamists won the most seats in the initial post-revolution elections. In Indonesia, the Islamists were never able to secure more than twenty-five percent of the votes (contrary to observers' fears that the *Reformasi* process would lead to great electoral victory of Islamist elements in Indonesia). While this may suggest that it is the lack of Islamist influence that explains the difference in post-revolutionary family law trajectories, it should be noted that in Egypt the most fervent opposition to "Suzanne's laws" has been voiced not only by Islamists but also by actors with a personal and direct interest in changing the existing family law provisions: the divorced fathers of Egypt, a phenomenon explored in more detail by Sonneveld and Lindbekk.

While it is certainly true that divorced fathers in Egypt wish to see women's unilateral divorce rights curtailed, their main objective is to amend the provisions on child custody[17] and *ruʾya* (visitation rights). They object to being defined solely as financial providers. By changing personal status law and making it more consistent with the principles and teachings of the *shariʿa*, they hope to see their children on a more regular basis and, hence, share in childrearing and caretaking activities on an equal footing with their children's mother. As Sonneveld and Lindbekk show, these divorced fathers do not easily fit the category of either "Islamists" or "(secular) feminists" and the same applies to the divorced mothers who have organized themselves to oppose them (and who argue that fathers should be providers and that mothers have a *shariʿa*-based right to child custody). Similarly, in Tunisia the issue of single motherhood, whether forced or out of choice, has led to fierce debates in which even those not wishing to be identified with the Islamist cause argue against new conceptions of family life, such as the living arrangements in which women live alone with their children and without a husband. Meanwhile, Ennahda has stressed (at least officially) that the Personal Status Code, including the prohibition of polygamy, is in line with the Tunisian way of performing *ijtihad*.[18] In Tunisia, Voorhoeve argues, it is therefore not easy to distinguish between Islamists, feminists and secularists in the context of family law.[19]

This indeterminacy is likely the result of changes occurring in the post-revolutionary public sphere in Egypt, Indonesia, and Tunisia, where a larger and more diverse field of actors – including those with a direct and personal interest in the (non)reform of existing family laws – have been included in debates over the "proper" role of Islam, *shariʿa* and the "proper" conduct of men and women in a Muslim society. In the post-revolutionary public sphere, a larger number of people have acquired a voice in trying to put forward an authoritative meaning of what *shariʿa* is and how the "right" behavior of men and women in society should translate into family law legislation.[20] In Indonesia, as Cammack, Bedner, and van Huis remark, the public sphere changed considerably after the ouster of Soeharto. Having come to include many more citizens with different views on Islam and Islamic law, this expansion of the public sphere led to "profound uncertainties not only over the meaning of

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[17] As said, in case of divorce, both boys and girls continue to live with their mother until the age of fifteen, after which they can choose whether or not to remain living with her until the age of eighteen (boys) or marriage (girls).

[18] Cf. Al-Jazeera. 9 November 2011. "A Tunisian Politician Wants Polygamy [in Arabic]," *Al-Jazeera*, online: < http://www.aljazeera.net/ (accessed 16 September 2014); Ismaʿil ʿAzam. 7 January 2014. "Tunisian Women Force Out Prohibition on Polygamy and Wait for Equality in Inheritance [in Arabic]," *Hespress*, online:< http://www.hespress.com/international/104161.html> (accessed 16 September 2014).

[19] In *Beyond Feminism and Islamism: Gender and Equality in North Africa* Doris H. Gray discusses this issue in depth (London: I.B. Tauris, 2013).

[20] Sonneveld and Lindbekk also show how in Egypt women's rights organizations take a more cautious approach than before the 2011 revolution.

Islam and religiosity but also over the meaning of family and of cultural, ethnic and gendered identities." As a result, they tentatively argue that the *Reformasi* released powerful forces of freedom of opinion that had a direct influence on women and the way they perceived their role inside the family and marriage. Perhaps it is fair to say that after decades of state-imposed *ibuism*, the *Reformasi* opened up spaces for different interpretations of what it means to be a mother and a wife. Although this did not translate into heated debates about the "just" direction in which Islamic family law should develop, it did lead increasing numbers of women to approach the court for divorce, resulting in the divorce rate increasing significantly after half a century of decline.

Talking about Family: Which "Family"?

Whereas in Indonesia the rapidly increasing divorce rate has not yet resulted in widespread calls to reform family law and to make divorce more difficult, in Iran the Ahmadinejad government (2005-2013) felt compelled to curtail the rising divorce rate in an effort to prevent widespread family breakdown. Previously, during the 1990s, President Khatami had reinstated many of the provisions of the suspended Family Protection Law (FPL). These reforms were threatened in 2005 when new President Mahmoud Ahmadinejad emphasized the role of women as part of the family and aimed to rein in women's increased use of legal resources. Arguing that the rise in divorce and the increase in single women would encourage immoral behavior, he wanted to reduce divorce and encourage marriage. At the same time, as Osanloo shows, the government introduced a family law provision that gives a single woman the right to a part of her father's pension, thereby indirectly acknowledging that in some cases male relatives do not shoulder the socio-religious obligation to provide for their female relatives. The provision also alluded to the existence of female-headed households. While the Khatami government unsuccessfully tried to create a legal category for female heads of households, it remains to be seen whether the seemingly moderate new Rouhani government (2013-) will reintroduce the issue.

It should also be mentioned that Egypt's first post-revolutionary constitution of December 2012 (replaced by the January 2014 constitution) included a similar provision. Under the conservative government of Morsi, and for the first time in history, the existence of female-headed households was officially, even constitutionally, recognized. In post-revolutionary Egypt, Iran, Tunisia, and, to a lesser extent, Indonesia, the reality behind the myth of the 'providing husband' (or male relative) has been increasingly exposed. Importantly, this is acknowledged both on a political and legal level, and also by men on a day-to-day basis.

In 2010 and 2011, one of the prominent aims of the demonstrators in the Arab world was the return of *karāma* (dignity). "Dignity" can refer to many things, including a restoration of respect between the ruler and the ruled (Muhammad Bou'azizi felt powerless under the assaults and humiliation he had to endure from local officials during his years as a street vendor). Yet, in light of the marital crisis facing Arab youth and the fact that marriage is still viewed as the main way to achieve social status and acquire an identity, "dignity" also refers to the wish of many young men (such as Muhammad Bou'azizi) to accumulate the economic resources needed in order to marry and establish marital life.[21] The relationship

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[21] Cf. Sherine Hafez, "No Longer a Bargain: Women, Masculinity, and the Egyptian Uprising," *American Ethnologist*, 39: 1 (2012), 37-42. See also, *Masculinities in Egypt and the Arab World: Historical, Literary, and Social Science Perspectives*, ed. Helen Rizzo (American University in Cairo Press: Cairo, 2014).

between rampant male unemployment and the emasculation of men is clear in Tunisia where the Ennahda government has introduced a proposal to make those women who remain at home in order to take care of the children and the household eligible for a pension. This initiative, as Voorhoeve argues, should not be seen solely as a means to encourage women once again to accept a position of financial dependence on men. Instead, the move manifests genuine concern for the fact that, due to the high level of unemployment, many (young) men cannot contemplate marriage. The frustration of unemployed men is linked to the concept of "emasculation," which Sonneveld and Lindbekk explore in more detail in their article on Egypt. As is shown, in the face of rampant male unemployment, new conceptions of mother- and fatherhood have started to occupy an important place in the public debate on family law. In their search for an identity, the divorced fathers, for example, do not claim that men should be providers and women housewives and caretakers. Instead they promote the ideal of husband and wife sharing equally in childcare activities. It may be argued that as the husband's role as sole breadwinner deteriorates, he will look for alternative ways to define his place in the family and his relationship to his wife and children.

Conclusion

In this series of articles, we compare developments in family law reform in four Muslim-majority countries – Egypt, Indonesia, Iran, and Tunisia – in a context where the removal of authoritarian rulers has paved the way for new actors to assume the power to interpret religion and law in an authoritative manner.

Comparing these developments over time reveals a number of notable features. First, after the revolutions the *ʿulamāʾ* in Iran and the Islamists in Egypt and Tunisia were able to assume political power. Indonesia forms a notable exception. Indonesian Islamists were unable to achieve electoral success and hence were unable to enact their favored Islamist policies. Even so, their voice has not been silenced. To the contrary, the far-reaching process of political and social liberalization has given Indonesian Islamists important positions in public debates on Islam and Islamic law. The process of allowing an increasing number of people to express their interests in the public sphere was not unique to Indonesia. In Egypt's transitional period, new actors played important roles in civil society debates pertaining to Islamic family law, although it is not clear to what extent their demands would have translated into real legal changes/preservations in the field of family law because the Islamist Morsi government simply did not stay in power long enough. In Tunisia, however, the Ennahda government left the personal status laws intact, despite the fact that they contain many provisions, such as the abolition of polygamy, that have often been criticized for departing from the principles of Islamic *shariʿa*. Once embodying the opposition to the former regime, secular feminists have become the custodian of an authoritarian legacy, a legacy which is given religious legitimacy by Ennahda. Even in the Islamic Republic of Iran, where opposition in general has been harshly suppressed (especially in the first decade following the departure of the Shah) organizations for the rights of women were still able to exert some influence in the field of family law reform.

Second, while enhancing the rights of women was certainly not a main goal of the demonstrators in the four countries under study, in the period following the forced departures of their authoritarian leaders Muslim family law and the place of women in the family and new society became the subject of more (Egypt, Iran, Tunisia) or less (Indonesia) public controversy. This phenomenon is intrinsically linked to the fact that Muslim family law is a symbol of religious and national identity. As such, the strong emphasis of the post-1979

Iranian leadership on the important role of women as mothers and housewives in the construction of the new nation gave Iranian activists a strong platform from which to address women's issues.

Finally, family law regulates the relationship between husbands and wives, and between parents and children. Grounded in religious law, *shariʿa*-based regulations play an important role in determining the proper place of men and women in the family and the larger society. These regulations unambiguously require husbands to be financial providers and wives to be obedient to their husbands. Nowadays, however, many (young) men are not able to live up to these obligations and unable to even contemplate marriage. While the enhancement of women's rights was not a primary goal of the protestors, the return of "dignity" (*karāma*) certainly was. In a context in which male unemployment is widespread and many men feel low self-esteem, "dignity" also refers to the restoration of manhood. Perhaps it is not surprising that all four revolutions were predated by a severe economic crisis. When a government is unable to create the conditions necessary for making marriage and family life possible, family law and the place of men and women within the family and within society will remain contentious issues.