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# Women's Rights in Tunisia and the Democratic Renegotiation of an Authoritarian Legacy

MAAIKE VOORHOEVE\*

**Abstract** *Since the 2011 revolution, Tunisia has been negotiating what it is to become, a process of rebirth in which women's rights is key. The ongoing debates reflect a confrontation between the feminist policies of Habib Bourguiba (the first president of the Tunisian republic) and alternative notions of women's rights. In this article, I examine the debates that are currently taking place in Tunisia. I argue that the topic of women's rights is crucial in the power struggle between the political elites within Tunisia. It is symbolic of the much wider battle over the future of the country. Moreover, the legislative outcomes of the debates are indicative for the post-revolutionary political dynamics, showing the strength of so-called secularists.*

## Introduction

It was only fifteen days after Tunisian president Zine El Abidine Ben Ali's ouster on 14 January 2011 that the Tunisian women's rights organization *Association Tunisienne des Femmes Démocrates* (ATFD) organized a "March for citizenship and equality".<sup>1</sup> The demonstration attracted many people who feared that the revolution would result in a deterioration of women's rights. The protesters held banners saying "Don't touch my Personal Status Code," "All united for our achievements," and "A constitution that guarantees the rights of Tunisian women." It was certainly no coincidence that this demonstration took place on the eve of Islamist leader Rached Ghannouchi's return from exile. As such, this demonstration is indicative of the fear that democratization would mean a roll-back of women's rights.

Since the revolution in January 2011, Tunisia has been going through a phase of negotiation over the future of the new state in which the subject of women's rights is crucial. The debates reflect a confrontation between the feminist policies of Habib Bourguiba (the first president of the Tunisian republic) and alternative notions of women's rights.<sup>2</sup> These debates are characterized by, on the one hand, an attempt to change the authoritarian *status quo* and, on the other, a fear for such change. As such, women's rights are a crucial issue in the power struggle between the political elites of Tunisia. However, if we study the legislative outcome of these debates, we can conclude that there has been no rupture with the *status quo* thus far. In fact, the only outcomes pertaining to women's rights at the time this article was written satisfy the longstanding wishes of the secularist women's rights elite.

This article examines the debates on women's rights that are currently taking place in Tunisia. In order to understand why women's rights are important in present day Tunisia, the

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<sup>1</sup> 29 January 2011.

<sup>2</sup> Kmar Bendana, "Transition dans le féminisme?" *La Presse*, 6 August 2012.

first section of the article situates the debates in the Tunisian political historical background. The second and third sections describe the debates that have taken place after the revolution, differentiating between those topics where the government was unable to change legislation (the Personal Status Code, women's employment and the protection of single mothers) and where the government was successful in bringing about a change (the constitution and the status of the UN Convention on the Elimination of all Discrimination Against Women, CEDAW). The article argues that the debates show a schism in Tunisian society between those who wish to hold on to the status quo in the field of women's rights and those who wish to move away from it. The power dynamics between these two factions are characterized by a fear and strong vigilance of the first vis-à-vis the intentions of the second, which, as this article argues, is not only about women but also about identity. The factual outcomes on the legislative level show that the faction that wishes to hold on to the status quo has so far been successful both in halting legislative changes that it does not agree with and bringing about changes that move away from the status quo in a way that is in line with their conception of feminism.

### *Chronology*

Upon independence from France (1956), Tunisia was governed by two subsequent authoritarian regimes, under Presidents Bourguiba (1956-1987) and Ben Ali (1987-2011). After the revolution of 2011, an interim government ruled the country, which was composed of individuals who were close to the former regime or who belonged to the secularist opposition to Ben Ali. The political scene was opened up, and the formerly forbidden Islamist movement Ennahda as well as a Salafist political party<sup>3</sup> and an NGO in support of respecting religious morals<sup>4</sup> were legalized. Also, the transnational organizations *ḥizb al-tahrīr* and *anṣār al-sharī'a* gained visibility, although they remained forbidden. On 23 October 2011, the people elected a Constituent Assembly, the task of which was to draft a new constitution. The winning parties—Ennahda, Ettakatol, and the Conseil Pour la République (CPR)—formed a new government. Ennahda obtained 40 percent of the votes in the elections and held the cabinet's key positions (prime minister, ministry of justice, human rights and transitional justice, interior, religious affairs, and education; the ministry of women and the family was granted to Ettakatol). In 2013, protestors backed by civil society groups forced the replacement of the democratic government with a government of 'technocrats' while the Constitutional Assembly remained in place. Tunisia organized its second elections (presidential and parliamentary) in October and November 2014. In these elections, Nida' Tunis, the party of Béji Caïd Essebsi who was a minister under Bourguiba and Ben Ali, obtained the majority of the vote.

### *Conceptualization of Key Terms*

In an article about law and women's rights, there is a risk of presuming a consensus about which laws protect women's rights and are in the best interest of women. Whether a certain law indeed translates the interests of women is in most cases debatable, as 'women' are problematic as a category: their interests vary and depend on factors such as class, ethnicity, age, education, and location. They also vary according to the domain, e.g. at the workplace, in politics, in the family, or the financial realm. Moreover, understandings of what is in the best interest of women change

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<sup>3</sup> Front of Reform, *ḥizb jabha al-iṣlāḥ al-islāmiya*.

<sup>4</sup> L'association centriste de sensibilisation et de réforme, *al-jam'iya al-waṣṭīya li-l-taw'iya wa-l-iṣlāḥ*.

along with prevailing political and discursive influences.<sup>5</sup> For example, in the 1980s, Tunisian feminists criticized the legislature's decision to reinforce the right of married women to financial support from their husbands because such emphasis would enforce gender roles within the family where the husband remains the main breadwinner.<sup>6</sup> This shows that while some understand reinforcing the woman's right to financial support from her husband as enhancing women's rights, others might have the opposite opinion. The aim of this article is not to determine what is in women's best interest and what their rights should be. This article discusses the contestation within the current Tunisian context of women's rights and interests, without any pre-conceived notion of what the protection of women's rights requires.

The terms "Islamists" and "secularists" also require further clarification. When analyzing political debates in the MENA region, authors tend to categorize actors along these lines.<sup>7</sup> When the debate concerns women's rights, authors often replace the term "secularists" with "feminists."<sup>8</sup> This binary is at least partly a legacy of the authoritarian regimes; it is a pillar of anti-Islamist state propaganda which divided society along the lines of good ('progressive' feminists/secularists) and evil ('backwards' Islamists).<sup>9</sup> This tendency to divide Tunisian society into Islamists and secularists is reductive and does not reflect reality, often imposing political views upon actors with which they do not identify. It is important to understand that secularists are not necessarily feminists, and feminists can be Islamists, namely individuals who lobby for the protection of women's rights within an Islamic framework.<sup>10</sup>

At the same time, however, it cannot be denied that the women's rights debates in present-day Tunisia are divisive, and to discuss the debates in a comprehensive way we need labels for the factions that are opposing each other. For this reason, this article uses the terms 'Islamists' and 'secularists', while realizing that these categories fluctuate. In this article, the term 'Islamists' denotes those individuals and groups who are opposed to the authoritarian women's rights politics, and who supported the first democratic government of 2011. These include the Islamist movement Ennahda, Islamist women's rights organizations such as *Nisā'*, and Ennahda's electorate, and individuals who uphold a conservative, religious discourse without supporting Ennahda. However, it should not be forgotten that individuals within Ennahda may uphold a discourse on women's rights that is closer to the 'secularists'. In using the term 'secularists', this article refers to individuals and groups who supported the authoritarian

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<sup>5</sup> Maxine Molyneux, "Mobilization without emancipation? Women's interests, State and revolution," in *Transition and Development. Problems of Third World Socialism*, ed. R.R. Fagen et al. (New York: Monthly Review Press, 1986).

<sup>6</sup> Kalthoum Méziou, "Féminisme et islam dans la réforme du code du statut personnel du 18 février 1981," *Revue tunisienne de droit* (1984), 254-282.

<sup>7</sup> Sarah Ben Nefissa criticizes this tendency in "Mobilisations et révolutions dans les pays de la Méditerranée arabe à l'heure de 'l'hybridation' du politique," in *Protestations sociales, révolutions civiles*, ed. Sarah Ben Nefissa and Blandine Destremau (Paris: Armand Colin, 2011), 5-28.

<sup>8</sup> A work that addresses this phenomenon is Doris Gray, *Beyond Feminism and Islamism. Gender and Equality in North Africa* (London/New York: I.B. Tauris, 2012).

<sup>9</sup> Malika Zeghal, "Competing ways of life: Islamism, secularism, and public order in the Tunisian transition," *Constellations* 20/2 (2013), 254-274.

<sup>10</sup> See for example Stéphanie Latte Abdallah, "Le féminisme islamique, vingt ans après: économie d'un débat et nouveaux chantiers de recherche," *Critique internationale*, 46 (2010), 9-23; Margot Badran, "Où en est le féminisme islamique?" *Critique internationale*, 46 (2010), 25-44; Azadeh Kian-Thiébaud, "Le féminisme islamique en Iran: nouvelle forme d'assujettissement ou émergence de sujets agissants?" *Critique internationale*, 46 (2010), 45-66; Amélie le Renard, "'Droits de la femme' et développement personnel: les appropriations du religieux par les femmes en Arabie Saoudite," *Critique internationale*, 46 (2010), 67-68; Souad Eddouada and Renata Pepicelli, "Maroc: vers un 'féminisme islamique d'état'," *Critique internationale*, 46 (2010), 87-100.

women's rights politics or wanted them to become more egalitarian. These include political parties such as the coalition of leftist parties *Le Pôle*, secularist women's rights movements such as the ATFD and the *Association des Femmes Tunisiennes pour la Recherche et la Documentation* (AFTURD) and individuals who supported the politics in the field of women's rights of the previous regimes, especially Bourguiba.

### Women's Rights in Tunisia: A Crucial Issue in the Post-Revolutionary Context

Public debates in present-day Tunisia show that women's rights are a "site of contestation", as Gill Seidel calls topics that are controversial.<sup>11</sup> Many Tunisian media outlets (television shows, movies, newspapers, online sources, and social media) attacked the first democratic government on women's rights issues, and everyday discussions between individuals who were opposed to that government revealed a fear for the future of women's rights.

That women's rights were going to become a crucial issue in the post-revolutionary Tunisian context was not clear at the revolution's beginning. In fact, the uprisings in December 2010 and January 2011 were not about women's rights: the protests were not directed against state feminism. Instead, the protests rallied against corruption and patronage and for political freedom.<sup>12</sup> This is why some authors have understandably questioned the importance that foreign observers and academics attach to the issue of women's rights in the contemporary Tunisian context.<sup>13</sup> However, these authors did not take into consideration that it is in Tunisia itself that women's rights are considered crucial.

The question arises as to why women's rights are considered important in present-day Tunisia. In fact, Tunisia is not unique in this respect: literature on different geographical areas shows that women's rights are a crucial topic of contestation in many contexts of regime change and revolution because the economic, political, and ideological changes accompanying political transition necessarily touch upon the question of a woman's place in society.<sup>14</sup> For instance, Moghadam argues that as a result of abrupt regime change, "domestic stratification systems (class, gender, ethnicity) ... are in flux and likely to be radically altered."<sup>15</sup> This may take on various forms. For instance, in the Nicaraguan socialist revolution, the new Sandinista regime recognized that "[f]emale suppression needed to be overcome in the new state."<sup>16</sup>

In Tunisia, the situation is different in that the country already had an important women's rights record. Thus, it was not a call to finally address women's rights that caused controversy in post-revolutionary Tunisia. Instead, it was a call to change Bourguiba's state feminist *status quo* that proved divisive. This is connected to factors that are typical for the Tunisian context,

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<sup>11</sup> Gill Seidel, "Political discourse analysis," T.A. van Dijk (ed) *Handbook of Discourse Analysis, Vol. 4, Discourse Analysis in Society* (London: Academic Press, 1985).

<sup>12</sup> There is wide consensus on this especially among francophone specialists of the country. See, for example, Amin Allal and Vincent Geisser, "Tunisie: 'Révolution du Jasmin' ou Intifadah?" *Mouvements* 2/66 (2011), 64.

<sup>13</sup> Mona Eltahawy, "Pourquoi ils nous haïssent," *Courrier international*, 25 October 2012. <http://www.courrierinternational.com/article/2012/10/25/pourquoi-ils-nous-haïssent> (29 October 2012); Neila Jrad, in *al-tariq al-jadid*, no. 216, 29 January 2011; Maya Mikdashi, "The uprisings will be gendered," *Jadaliyya*, 28 February 2012. <http://www.jadaliyya.com/pages/index/4506/the-uprisings-will-be-gendered> (20 May 2015).

<sup>14</sup> Valentine M. Moghadam, "Gender and restructuring: Perestroika, the 1989 revolutions, and women," *Wider Working Paper Series*, WP 89 (November 1990), 3.

<sup>15</sup> Moghadam, "Gender and restructuring," 3.

<sup>16</sup> Molyneux, "Mobilization without emancipation?" 288.

namely: (1) the laws pertaining to women's rights were imposed from above in a non-democratic way instead of answering to demands from society, a phenomenon that is termed 'state feminism'; and (2) the contestation of these laws was repressed.

### *State Feminism in Tunisia*

The Tunisian *status quo* in the field of women's rights is the result of the state feminism of Bourguiba and Ben Ali. The Tunisian feminist Sana Ben Achour defines state feminism as "the state's will to accelerate the process of equality between the sexes. [It] is employed ... to distinguish between feminism as a social movement, driven by women's collective claim for equality and social change, and feminism as a doctrine and policy issued [solely] by the state."<sup>17</sup>

The state's will to accelerate the process of equality between the sexes was expressed directly after Tunisia's independence in 1956. In this year, Bourguiba issued the Personal Status Code (PSC), which remains in force.<sup>18</sup> This code gained fame within the Muslim world and beyond for its unique abolition (or re-interpretation) of classical Islamic precepts. In fact, Tunisia is still the only Arab Muslim-majority country that prohibits polygamy and that has equal divorce rights for men and women, to mention just two reforms brought about by the PSC.<sup>19</sup> A number of other laws followed that formed part of the discourse of enhancing women's rights in Tunisia. Bourguiba issued laws in the field of inheritance,<sup>20</sup> family planning,<sup>21</sup> and female political participation.<sup>22</sup> He founded a women's organization (*Union Nationale des Femmes Tunisiennes*, UNFT) the aim of which was to voice the interests of women.<sup>23</sup> Bourguiba's government also issued the Labor Code that guaranteed women's "equality in opportunities and treatment in matters of work and profession."<sup>24</sup> This equality extended to the right to education.<sup>25</sup>

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<sup>17</sup> Sana Ben Achour, "Féminisme d'État: Féminisme ou défiguration du féminisme?" *Manifeste des libertés*, [http://www.manifeste.org/article.php?id\\_article=129](http://www.manifeste.org/article.php?id_article=129) (20 May 2015).

<sup>18</sup> Decree of 13 August 1956 promulgating the PSC, first published in *Journal officiel tunisien* no. 104 of 28 December 1956.

<sup>19</sup> Article 18 of the PSC punishes polygamy with one year in prison. Article 31 of the PSC states that husband and wife can divorce in three ways: by mutual consent, without grounds, or on the grounds of harm.

<sup>20</sup> Whereas the personal status code did not bring about a substantive break with the classical Sunni succession laws (granting female heirs half of the amount of their male counterparts), Bourguiba made minor amendments by allowing a woman to inherit via her predeceased father, and a widow to inherit the full inheritance in the absence of children (Law no 59-77 of 19 June 1959). He also abolished the *waqf* (pious endowment, Decree of 18 July 1957 abolishing the regime of *habus*, modified and completed by Laws 57-53 of 2 November 1957, 57-83 of 31 December 1957, 58-55 of 12 May 1958, 60-25 of 30 November 1960, and 92-44 of 4 May 1992) with the argument that it was used to disinherit daughters (Zakia Daoud, "Les femmes tunisiennes. Gains juridiques et statut économique et social," *Maghreb Machrek*, 145 (July-September 1994)). Possibly, Bourguiba abolished the *waqf* to eliminate the power and the independence of religious scholars, who depended on religious endowments.

<sup>21</sup> Bourguiba legalized abortion and the importation of condoms (Article 214, Penal Code. Decree law 73-2 of 26 September 1973, and Law 61-7 of 9 January 1961).

<sup>22</sup> The government granted women active and passive voting rights (Election Code of 1957). On the consequence with regard to women's political participation, see Susan E. Waltz, "Universal Human Rights: the contribution of Muslim States," *Human Rights Quarterly*, 26/4 (2002), 799-844.

<sup>23</sup> Established in 1959.

<sup>24</sup> Alia Gana, "Processus de libéralisation et dynamiques de l'emploi des femmes en Tunisie," *Autrepart*, 3/43 (2007), 57-72. Since July 1993, Article 234 of the Tunisian Penal Code sanctions violation of the non-discrimination principle in labor relations; see Saida Chaouachi, "Le statut juridique de la femme en Tunisie," in *Droits et citoyenneté des femmes au Maghreb*, ed. A. Belarbi et al. (Casablanca: Editions le Fennec, 1997), 199. On the participation of women in the Tunisian labor market, see Salma Zouari-Bouattour, "Femme et employ en Tunisie," in *Femmes, culture et société au Maghreb II: Femmes, pouvoir politique et développement*, ed. R. Bourqia, M. Charrad and N. Gallagher (2nd ed., Casablanca: Afrique Orient, 2000), 161-181.

The article in the Penal Code (issued during French occupation) that penalized female adultery only was extended to both sexes.<sup>26</sup> In 1985, Tunisia ratified CEDAW.<sup>27</sup>

Ben Ali pursued Bourguiba's feminist politics. For instance, the government abolished the wife's duty to obey her husband in the Personal Status Code, a legal maxim that had continued to prevail in the legal definition of marriage.<sup>28</sup> A number of other laws followed that were intended to enhance the financial position of divorced women<sup>29</sup> and single mothers,<sup>30</sup> and that were meant to reinforce the protection of the equality principle in the fields of marriage,<sup>31</sup> nationality<sup>32</sup> and labor.<sup>33</sup> Ben Ali's government penalized sexual harassment,<sup>34</sup> founded a governmental research center that specifically focused on women's affairs (CREDIF),<sup>35</sup> and created a special Secretary of State who was to deal with women and the family (later transformed into a ministry).<sup>36</sup> The government repealed the reservations that Tunisia had made to the UN Convention on the Rights of the Child (CRC)<sup>37</sup> and it ratified the optional protocol to CEDAW pertaining to the competence of the CEDAW Committee to receive cases brought by individuals or groups.<sup>38</sup>

These laws and policies were not the result of democratic deliberation but were imposed from above—hence the term state feminism. Until 2011, the country was in the grip of a one party system that granted almost unlimited powers to the president. In the cases of both Bourguiba and Ben Ali, this led to the imposition of an identity of feminism, modernity, and secularism on Tunisia. Logically, not everyone agreed: for some factions of society the *féminisme d'état* went too far, while for others it was far from sufficient.<sup>39</sup> In the 1970s, a political feminism emerged in

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<sup>25</sup> Decree 80-954 of 19 July 1980, cited by Chaouachi in "Le statut juridique de la femme en Tunisie," 197.

<sup>26</sup> Law 68-1 of 8 March 1968.

<sup>27</sup> Signed 24 July 1980, Ratified 20 September 1985.

<sup>28</sup> Law 93-74 of 12 July 1993.

<sup>29</sup> Law no 1993-0065 of 5 July 1993 created a state fund that was to secure payment of maintenance to mothers and children after divorce if the ex-husband did not pay. Article 11 CSP and Law 98-91 of 9 November 1998 facilitated the choice to marry in community of goods by a law regulating an optional type of marriage contract in which the marital home and the husband's income become common property. Law no 2008-20 of 4 March 2008 granted mothers the right to stay in the former marital home after divorce instead of forcing them to leave as the home was usually the ex-husband's property.

<sup>30</sup> Law 98-75 of 28 October 1998.

<sup>31</sup> Law no 2007-33 of 14 May 2007 set the minimum marriage age to eighteen for both boys and girls as opposed to the previous unequal treatment of 15 for women and 20 for men.

<sup>32</sup> Law of 23 July 1993, amending Article 12 of the Nationality Code, allowed Tunisian women to pass their nationality on to their children. On the situation before 1993, see Mohamed Charfi, "l'Égalité entre l'homme et la femme dans le droit de la nationalité tunisienne," *Revue tunisienne de droit* (1975), 73-83; and on the situation after see Mounira Charrad, "Becoming a citizen. Lineage versus individual in Tunisia and Morocco," in *Gender and Citizenship in the Middle East*, ed. Suad Joseph (Syracuse, NY: Syracuse University Press, 2000), 70-87. In 2010, the law was again amended, providing that the child of a Tunisian mother obtains automatically the Tunisian nationality (Law 2010-55 of 10 December 2010).

<sup>33</sup> Article 831 COC, abrogated by Law 2000-17 of 7 February 2000 abrogated a woman's obligation to obtain her husband's consent to sign a labor contract.

<sup>34</sup> Law 20 2004-74 of 2 August 2004.

<sup>35</sup> *Centre de Recherche, de Documentation et d'Information sur les Femmes*, founded in 1991.

<sup>36</sup> *Secrétariat d'Etat à la femme et à la famille* (August 1992), transformed into the *Ministère des affaires de la femme, de la famille, des enfants et des personnes âgées* (August 1993). In 1997, a *Secrétariat de l'état auprès du premier ministre chargé de la femme et de la famille* was installed as well (decree of 7 December 1997).

<sup>37</sup> 1 March 2002 and 23 September 2008.

<sup>38</sup> 23 September 2008.

<sup>39</sup> Zakia Daoud, *Féminisme et politique au Maghreb. Soixante ans de lutte* (Casablanca: Edition Eddif, ACCT, 1993), 103.

Tunisia which produced the two women's rights organizations (referred to as ATFD and AFTURD). Together with the Tunisian League for Human Rights, these organizations lobbied for legislative changes in the field of women's rights.<sup>40</sup> In that same period, political Islam became organized in Tunisia, with movements such as MTI and *hizb al-tahrir* gaining prominence.<sup>41</sup> These groups began public discussions about the role of women in the family and in society,<sup>42</sup> and promoted the limitation of contact between the sexes and a revival of traditional dress codes.<sup>43</sup> Despite their contrasting visions of women's rights, the relationship between these two factions was not always hostile. At times, they have joined forces against the authoritarian regime, calling for the respect of democratic values.<sup>44</sup>

### *An Authoritarian Legacy*

Although the laws passed under Bourguiba and Ben Ali were controversial, the authoritarian context made open contestation very difficult. Only state appointed institutions had the right to openly address the issue of women's rights,<sup>45</sup> reproducing the state discourse throughout society. The reason for this lack of freedom was that the women's rights discourse was key in the functioning of Tunisian authoritarianism. Under Bourguiba, the women's rights discourse formed part of the undisputable authoritarian project to make the Tunisian people progress.<sup>46</sup> Similarly, under Ben Ali the protection of women's rights became an essential legitimization tool at the national and international levels in a context of blatant violations of civil and political rights.<sup>47</sup>

The repression of contestation took on various forms. For instance, while Ben Ali granted the ATFD and AFTURD a legal status,<sup>48</sup> they were censored, the police consistently harassed their members, and financial authorities blocked their funds. The Islamist movements on the other hand were officially banned<sup>49</sup> and their members ended up in prison or lived in exile, like Ennahda's leader Rached Ghannouchi. It is against this background that we should understand that as Tunisia democratized, women's rights became a crucial issue of negotiation.

### **Renegotiation Without Political Decisions**

The women's question became politicized right after the regime change had taken place. The debate on women's rights exploded mainly because, in post-Ben Ali Tunisia, people could freely express their opinion. The following sections explore five issues that stirred heated debates. This section examines debates that have not yet reached an outcome in the form of legislation. These concern (1) the Personal Status Code; (2) women's employment and (3) single motherhood. The

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<sup>40</sup> Ben Achour, "Féminisme d'État."

<sup>41</sup> Marion Boulby, "The Islamic challenge. Tunisia since independence," *Third World Quarterly*, 10/2 (1988), 602.

<sup>42</sup> Boulby, "The Islamic challenge," 599.

<sup>43</sup> Kenneth J. Perkins, *A History of Modern Tunisia* (Cambridge: Cambridge University Press, 2004), 172.

<sup>44</sup> For example the *Mouvement du 25 Octobre 2005*.

<sup>45</sup> E.g. the Ministry for Women and the Family, the *Commission Nationale Femme et Développement*, the *Conseil National de la Femme et de la Famille*, and the *Union Nationale de la Femme Tunisienne*.

<sup>46</sup> Sana Ben Achour, "Féminisme d'État."

<sup>47</sup> Vincent Geisser and Eric Gobe, "La question de l'authenticité tunisienne: Valeur refuge d'un régime à bout de souffle?" *L'Année du Maghreb*, 3 (2007), 371-408.

<sup>48</sup> The ATFD and AFTURD were legalized in 1989.

<sup>49</sup> Except for a short-lived authorization in the name of political pluralism after Ben Ali had come to power (1989).

following section explores the debates on the two only issues that have reached an outcome on the legislative level: (4) the revocation of the reservations to the CEDAW and (5) the place of women's rights in the constitution. This selection does not suggest that the other topics mentioned are less important in the debates, but the focus on these topics demonstrates how women's rights intersect with other societal debates. These debates show that the Tunisian political sphere is characterized by a fear that the *status quo* on women's rights will change in the post-revolutionary context, on the one hand, and a challenge to the *status quo* on the other. In those instances where the debates have reached an outcome, however, the *status quo* has been retained or even 'improved' in the words of the secularist opposition. This outcome is indicative of the power dynamics in present-day Tunisia.

### *The Personal Status Code*

As codified in the PSC of 1956 (and in subsequent legislation), Tunisia is the only country in the region that has prohibited polygamy, legalized strong adoption, and granted equal access to divorce to men and women. That Tunisia is unique in this respect suggests that these legal maxims are problematic in Muslim-majority countries. That these topics are also delicate within Tunisia itself is confirmed by the fact that MTI (Ennahda's predecessor) called several times for the reform of the PSC, arguing that this code and its lenient attitude towards divorce threatened the stability of the Tunisian nuclear family.<sup>50</sup> In 1985, MTI called for a referendum on the PSC and the reintroduction of polygamy, arguing that the PSC had led to huge problems within Tunisian families and to divorce rates climbing.<sup>51</sup>

By 2011, Ennahda's official position on the Personal Status Code was totally different. In a radio interview three days after the elections of 23 October 2011, Ennahda's leader Rached Ghannouchi stressed that the PSC is in accordance with shari'a. He went on by saying that unlike the PSC, shari'a allows polygamy and forbids adoption. He concluded that adoption should be forbidden, which, he added, has nothing to do with the rights of women. On polygamy he said that although the shari'a allows it, it is not obligatory for a country to allow it.<sup>52</sup>

The statements on polygamy and adoption caused contentious discussions. Numerous opinion pieces in the newspapers<sup>53</sup> and national television addressed the issue.<sup>54</sup> But it was specifically the remark on polygamy that caused debates after a widely disseminated edited version of this interview titled 'Ghannouchi wants to reinstate polygamy' only included the portion of the interview where Ghannouchi stated that the PSC was not in line with shari'a on the issue of polygamy, insinuating that he wanted it reinstated.<sup>55</sup> When an old video started

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<sup>50</sup> Daoud, "Les femmes tunisiennes," 30 and 93.

<sup>51</sup> Daoud, "Les femmes tunisiennes," 93.

<sup>52</sup> Interview by Wassim Belarbi with Rached Ghannouchi on Tunisian radio station *ExpressFM*, 26 October 2011. The interview can be watched in 4 parts on Youtube. [https://www.youtube.com/watch?v=a-xz12K\\_Rn0](https://www.youtube.com/watch?v=a-xz12K_Rn0) (20 May 2015).

<sup>53</sup> For instance in *La Presse*: D. Ben Salem, "Adoption-kafala: le bras de fer improvisé," 2 July 2012 and "Kafala ou la solution matérielle de l'orphélinat," 19 March 2012; Samira Hamrouni, "'Le refuge' des enfants abandonnés," 21 February 2012.

<sup>54</sup> A number of informants told me about this television show broadcasting a married couple who turned out to be brother and sister as one of them had been adopted. The show thus produced a non-religious argument to abolish adoption. The show was broadcast on Tunisian television in spring 2013, but I was unable to retrace it.

<sup>55</sup> Publication by 'tnfreaky' of a portion of the interview with Ghannouchi on Tunisian radio station *ExpressFM* on 26 October 2011 under the title "Polygamie... Pourquoi pas?" (Polygamy... why not?). [http://www.youtube.com/watch?v=rhoDVJo\\_dQE](http://www.youtube.com/watch?v=rhoDVJo_dQE) (21 February 2012).

circulating where Ghannouchi's daughter talked positively about polygamy in an interview, this added fuel to the fire.<sup>56</sup> A fierce debate on the desirability of reinstating polygamy ensued, yet no political party had actually proposed to do so. The debates show that even if Ennahda did not want to reinstate polygamy, other individuals in Tunisia did.

Individuals in favor of a reintroduction of polygamy invoked social and moral arguments. One such argument was that many married men have mistresses, and that the government should institutionalize this relationship through a second marriage to give the mistress the same rights as the wife. Another argument was that polygamy is a solution for a supposed glut of single women, (though official statistics suggest that such a glut does not exist).<sup>57</sup> Other individuals argued that polygamy will end prostitution, as the demand for prostitutes would drop if men could have several wives, and that as a result, women would no longer be forced into prostitution.<sup>58</sup> Opponents argued that legalizing polygamy suggests that women are merely sexual objects, that women will suffer when being forced to share their husband, and that polygamy is 'not Tunisian'.<sup>59</sup>

This debate reveals a number of interesting phenomena that are characteristic of present-day Tunisia. First, both parties, including the supporters of polygamy, frame their arguments in a women's rights discourse: both invoke the protection of women's interests, except that the parties have different conceptions of what is in 'the best interest of women'. As such, the debates show that the democratization opened the doors to alternative understandings of women's rights. A second feature of the debate is the absence of religious arguments for or against reinstating polygamy. This shows that the opponents of polygamy do not feel the necessity to frame their statements in Islamic arguments in order to be taken seriously. It is also an indication that Bourguiba's argument, that the Quran forbids polygamy because it requires equal treatment,<sup>60</sup> has come to form part of the national consciousness that most individuals do not contradict, thus the supporters do not generally argue that Islam requires a country to allow polygamy. A third striking feature of the debates is the recurrence of the terms "Tunisian Islam" or "Tunisian culture", which are invoked by those who wish to hold on to the *status quo*. As such, the debates are not only about what is in the interest of women and what is not, but also about what is Tunisian and what is not. The statement that polygamy is 'not Tunisian' reproduces the authoritarian narrative. The state propaganda since the 1950s has been focusing on historical arguments in support of the ban to convince the people that polygamy was not Tunisian. The official discourse was that the *shuyūkh* (religious leaders) in Kairouan had already prohibited

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<sup>56</sup> Interview with Ghannouchi's daughter from 1984 uploaded by the group Pro Laïques anti Hypocrites Jeunes Tunisiens on 5 July 2011. <https://www.youtube.com/watch?v=DZ63rfcgtss> (27 February 2015).

<sup>57</sup> In 2012, Tunisia counted 0,99 men per woman. [http://www.indexmundi.com/fr/tunisie/population\\_profil.html](http://www.indexmundi.com/fr/tunisie/population_profil.html) (27 February 2015).

<sup>58</sup> See the comments on tnfreaky's publication "Polygamie... pourquoi pas?" 26 October 2011 (interview with Ghannouchi on 26 October 2011). [http://www.youtube.com/watch?v=rhoDVJo\\_dQE](http://www.youtube.com/watch?v=rhoDVJo_dQE) (27 February 2015). See also the comments on the video published under the title "Mme Ghannouchi est POUR la polygamie et CONTRE l'émancipation de la femme" (Mrs Ghannouchi is PRO polygamy and AGAINST women's emancipation) published by Pro Laïque Tunisie on 5 July 2011. <https://www.youtube.com/watch?v=DZ63rfcgtss> (27 February 2015).

<sup>59</sup> See for instance the reactions on Facebook under the video of Ghannouchi's wife: <https://www.facebook.com/video.php?v=199508776768130> (27 February 2015).

<sup>60</sup> Bourguiba was most probably inspired by the reformist thinker Muhammad 'Abduh. See Maurice Borrmans, "À propos de l'article 31 du code du statut personnel. Divorce et abus du droit en Tunisie," *Revue IBLA* 117/1 (1967), 55-6.

polygamy as early as in the fourteenth century,<sup>61</sup> and that the Islamic scholar Tahar Haddad had called for a ban on polygamy in 1930.<sup>62</sup> The discussion about polygamy is thus not only about women's rights but also about Tunisian identity, and it is important to note that this renegotiation of Tunisian identity is occurring after decades of state-imposed identity.

### Employment

The call for employment was one of the principal slogans in the Tunisian uprisings. Both men and women took to the streets to demand an increase in jobs, using slogans such as “work, freedom and dignity”. After the revolution, the position of women in the labor market became one of the topics of debate. The ATFD started a project to help unemployed and homeless women and articles appeared in the national press on the “feminization of poverty”.<sup>63</sup> But female employment was also negotiated from a different viewpoint, namely in terms of improving women's conditions by allowing or even encouraging them *not* to work. In a debate organized in *Espace El Hamra*, Rached Ghannouchi brought up the introduction of a pension for women in return for becoming housewives or working part-time.<sup>64</sup>

Ghannouchi's proposal initiated a heated debate. Opponents argued that it would harm women's emancipation, pushing women back into their homes and into their role of wives and mothers, thus bringing Tunisian gender roles back to the traditional patriarchal relationship.<sup>65</sup> Defenders of the proposal, however, argued that women have been burdened with too many obligations in modern Tunisian society, having to take care of their families and their jobs at the same time.<sup>66</sup> On Tunisian Internet forums, individuals have argued that while working is pleasant when one has an interesting job, the majority of women work merely to take care of their families, and they generally have physically demanding and simple jobs in which they earn much less than their male colleagues. Some commenters on these forums consider these conditions “humiliating” and “heartbreaking.” “Is this how we want to treat our mothers?” one of the users asked.<sup>67</sup>

The debate about the pension for stay-at-home women reveals two interesting features of the general women's rights debates in present-day Tunisia. First, the two factions viewed this proposal through different lenses. The opponents presented the proposal as an incentive for

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<sup>61</sup> Women, in this era, were given the ability to stipulate in their marriage contracts that their husband would not marry a second woman. Dalenda Larguèche, *Monogamie en islam: l'exception kairouanaise* (Tunis: Centre de Publication Universitaire, 2011).

<sup>62</sup> Tahar Haddad, *imra'atunā fī-l-sharī'a wa-l-mujtama'* (1930). The book was translated into English: Ronak Husni and Daniel L. Newman, *Muslim Women in Law and Society. Annotated Translation of al-Tāhir al-Haddād's Imra tunā fī 'l-sharī'a wa 'l-mujtama'* (New York: Routledge, 2007).

<sup>63</sup> Alain Fitoussi and Eve Baron, “Tunisie: ‘La lutte contre l'exploitation des femmes peut être un moteur de changement social global.’ Entretien avec Ahlem Belhadj, présidente de l'Association tunisienne des femmes démocrates,” January 2012, *Afrique21*, <http://www.europe-solidaire.org/spip.php?article24731> (6 May 2015).

<sup>64</sup> Debate between Leila Silini and Rached Ghannouchi, *Espace el Hamra*, Tunis, 16 April 2011.

<sup>65</sup> For instance, Fairouz Boudali, “Tunisie: quand Ennahda inspirera-t-elle confiance?” *Nawaat*, 31 October 2011. <http://nawaat.org/portail/2011/10/31/tunisie-quand-ennahda-inspirera-t-elle-confiance/> (20 May 2015), and a post on Facebook by Raja Ben Slama, “Femmes! Nos droits commencent à être attaqués sur la chaîne nationale!” 24 July 2011. In the same vein, Faïza Zouaoui Skandarani in an interview on Radio e-Joussour, 9 August 2011.

<sup>66</sup> For instance, see the comments under the article “Tunisie: la société civile dénonce l'article 28 de la constitution comme une régression des acquis de la femme” on the Tunisian news site *Babnet.net*, 13 August 2012. <http://www.babnet.net/cadredetail-53060.asp> (7 May 2015).

<sup>67</sup> Comments under the article reporting on the debate at El Hamra, *Businessnews*, 16 April 2011. [businessnews.com.tn](http://businessnews.com.tn) (6 October 2012. No longer online).

women not to work, which was interpreted as a means of diminishing women's rights by denying them the right to work.<sup>68</sup> For the supporters of the proposal, however, the pension is in the interest of women as they will have the option not to work. A second interesting feature is related to social class: while opponents are talking about the right for women to work outside of the home as an aspect of women's emancipation, supporters invoke the lived reality of many working women for whom employment outside of the home is not a matter of emancipation but of necessity. This difference shows how the understanding of what women's rights should entail depends on which women are being addressed, and that the two factions are often not talking about the same women.

### *Single Mothers*

The social acceptance of single motherhood is another topic that has been opened up for negotiation after the revolution. In November 2011, Constitutional Assembly member Souad Abderrahim was interviewed on the radio about women's rights. Abderrahim, the only female member of Ennahda in the Constituent Assembly who is not veiled, is supposed to symbolize Ennahda's modernist side. But instead of easing the fear that Ennahda would roll back women's rights, Abderrahim unleashed a fierce polemic against single mothers, arguing that they were "women of easy virtue" who represented "a dishonor for an Arabo-Islamic society". She proposed that all governmental support for these women should be abolished except in cases of rape.<sup>69</sup>

NGOs such as *Association Amal* condemned the interview for stigmatizing single mothers.<sup>70</sup> The journalist Sana Sboui went even further when she challenged the discourse that single mothers are to be pitied. She instead portrayed women who consciously took the decision to have a child on their own as emancipated, confronting society with the existence of a very small minority of empowered women who clearly belong to the urban elite.<sup>71</sup> But Abderrahim's statement also met with support. On social media, individuals endorsed her stand on this issue, referring to single motherhood as a "corruption of the Tunisian identity". Supporters further stated that "such" women should migrate to Europe instead of importing habits to Tunisia that were "contrary to Tunisian Arabo-Islamic traditions" and disrespectful to "our daughters and sisters."<sup>72</sup>

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<sup>68</sup> For instance, Boudali, "Tunisie: quand Ennahda inspirera-t-elle confiance?"

<sup>69</sup> Interview with Souad Abderrahim on *Radio Montecarlo Doualya*, 9 November 2011.

<sup>70</sup> See Alain Barluet, "Tunisie: les déçus de l'an I," *Le Figaro*, 13 January 2012. <http://www.lefigaro.fr/international/2012/01/13/01003-20120113ARTFIG00605-tunisie-les-decus-de-l-an-i.php> (20 May 2015).

<sup>71</sup> Sana Sboui, "Etre mère célibataire en Tunisie," *Nawaat*, 6 April 2012. <http://nawaat.org/portail/2012/04/06/enquete-etre-mere-celibataire-en-tunisie/> (4 October 2012) and "Mères célibataires trentenaires en Tunisie: L'émergence de nouvelles mœurs?" *Nawaat*, 12 May 2012. <http://nawaat.org/portail/2012/05/09/meres-celibataires-trentenaires-en-tunisie-lemergence-de-nouvelles-moeurs/> (8 November 2012).

<sup>72</sup> See the comments under the video of the interview, posted on Youtube by the Tunisian news site *Businessnews* with the title "Souad Abderrahim veut sanctionner les mères célibataires" (*SA wants to penalize single mothers*). See <http://www.youtube.com/watch?v=AHBr1wRb54I>, <http://www.youtube.com/watch?v=qQmOi2YlNnk> (both 20 May 2015). See also the comments posted under the article "Souad Abderrahim: Les mères célibataires sont une infamie pour la société tunisienne," *Tuniscope* 9 November 2011, [http://www.tuniscope.com/index.php/article/10155/actualites/tunisie/souad-184612#.UIID51IZ\\_jM](http://www.tuniscope.com/index.php/article/10155/actualites/tunisie/souad-184612#.UIID51IZ_jM) (25 October 2012).

These debates reveal that single motherhood has connotations with grander issues of Tunisian identity. The reactions in support of Abderrahim demonstrate how, for many Tunisians, the revolution is about ending all vestiges of authoritarianism. Both authoritarian regimes had taken measures reflecting support for single mothers and their children, who in principle do not have a family name when born out of wedlock. Bourguiba gave these children his own family name, and Ben Ali issued a law in 1998 which granted children born out of wedlock the family name of their biological father.<sup>73</sup> Also, it was Ben Ali's wife, Leila Trabelsi, who founded the association to care for single mothers, called *Association Amal*. These measures, as well as the organizations that supported them (the 1998 law was issued in response to a lobby of the ATFD), thus seem to be suffering from their relationship with the authoritarian regimes. A second interesting feature is the invocation of single motherhood as a sign of 'Western immorality', suggesting that the revolution has connotations with breaking away from the vestiges of French/Western colonization. In this sense, the Tunisian revolution resembles the Iranian one, which was a revolution "against the excesses of the Western societies."<sup>74</sup> In both post-revolutionary contexts, one can witness the hope to re-install some "indigenous values" which appeals to broad cross-sections of the population and not just religious groups.<sup>75</sup> And finally, it is interesting to underline the invocation of diversity in Tunisian society in the article by Sboui. The authoritarian regimes had imposed a narrative of Tunisian homogeneity which sought to obscure the enormous class and financial differences in the country.<sup>76</sup> The legacy of this narrative makes it difficult for the people of Tunisia to see Tunisia as a heterogeneous society where people with varying values must coexist.<sup>77</sup>

#### *Outcomes of the Debates on the PSC, Employment, and Single Mothers*

The issues of the PSC, employment, and single mothers have not yet faced a political decision in the form of legislation, and the debates continue. One of the reasons for this is that the legislative powers of the Constituent Assembly were, in principle, limited to laws that are intimately connected with the political transition to democracy, namely a constitution that instates the rule of law, an electoral law, and a law on press freedom.<sup>78</sup> A more important reason is that the political powers wishing to change the *status quo* in the field of women's rights did not have sufficient power to do so. In Tunisia's first free elections (2011), Ennahda received a plurality (40 per cent) and not a majority of the vote. Moreover, it is likely that many people did not vote for Ennahda for ideological reasons, many people also supported it because it had been greatly oppressed by the pre-revolutionary regimes. In this political climate, the secularist opposition managed to prevent the government from taking important steps that would lead to a break with the *status quo*. On the contrary, in the face of heavy criticism, the Ennahda government retracted many of its more controversial statements. For example, in an interview with the press agency

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<sup>73</sup> Law 98-75 of 28 October 1998, amended by Law 2003-51 of 7 July 2003.

<sup>74</sup> Arzoo Osanloo, "What a focus on 'family' means in the Islamic Republic of Iran," *Family Law in Islam. Divorce, Marriage and Women in the Muslim World*, ed. M. Voorhoeve (London: I.B. Tauris, 2012), 55.

<sup>75</sup> Osanloo, "What a focus on 'family' means," 55.

<sup>76</sup> Stéphanie Pouessel, "Les marges renaissantes: Amazigh, Juif, Noir. Ce que la révolution a changé dans ce 'petit pays homogène par excellence' qu'est la Tunisie," *L'Année du Maghreb* 8 (2012), 143-160.

<sup>77</sup> See Mohamed Arbi Nsiri, "Le multiculturalisme: Un problème d'herméneutique dans le contexte postrévolutionnaire en Tunisie," *Nawaat*, 31 October 2012. <http://nawaat.org/portail/2012/10/31/le-multiculturalisme-un-probleme-dhermeneutique-dans-le-contexte-postrevolutionnaire-en-tunisie/> (31 October 2012).

<sup>78</sup> These limitations have not been adhered to, as the Assembly and the various ministers have issued various decrees on matters outside of this narrow mandate.

TAP, Ennahda's second in command Hamadi Jebali stated that "Bringing the woman back into the home, as is argued by our enemies of our movement, is not what we advocate."<sup>79</sup>

## **Political Decisions**

Unlike the three issues discussed in the previous section, the Ennahda-led government took decisive steps on the issue of women's rights in the new Tunisian constitution and the reservations to CEDAW. These decisions were made at a time when anti-government feelings had become increasingly widespread, even among those who had voted for one of the governing parties.<sup>80</sup> After the murder of the second leftist politician in July 2013 (followed by a sit-in at the Constitutional Assembly) a group of civil society actors, including the Labor Union (UGTT), decided to push for the replacement of the democratically elected government by a government of technocrats which would lead Tunisia until the next elections. It was in this heated context that action was undertaken in the field of women's rights.

### *The Constitution*

Shortly after the revolution, the interim government abolished the constitution of 1959 and the Constituent Assembly was commissioned to draft a new one.<sup>81</sup> Before the elections of 2011, there were rumors that the interim government wished to radically amend the constitution. Many people hoped for a constitution that would take the protection of women's rights further than the equality principle of the constitution of 1959. However, when the outcome of the elections of 2011 had been made public, these hopes were no longer considered realistic. This was especially true when the working group on rights and liberties within the assembly proposed to insert the following article into the constitution: "The state assures the rights of the woman and her accomplishments, under the principle of complementarity with the man within the family and as a partner of the man in the development of the fatherland. The state assures equal opportunities for men and women in the assumption of the various responsibilities. The state assures the condemnation of all forms of violence against women."<sup>82</sup>

The ATFD and other opponents of the Ennahda-led government vehemently criticized this proposal because, in their eyes, it suggested that women were less important than men and that their role was confined to "the family and the fatherland."<sup>83</sup> They called for the abolition of the working group, as "They do not represent us!" and they were unpleasantly surprised that a working group that had consisted mainly of women would come up with such a proposal.<sup>84</sup> This reaction reflects the presumption that women will decide in the best interest of all women, a presumption that was the point of departure for the ATFD's lobby for a quota of 50 per cent

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<sup>79</sup> Interview with Hamadi Jebali, "Hamadi Jebali parle des coalitions, des femmes, de la liberté et de l'économie," *Businessnews*, 26 October 2011. <http://www.businessnews.com.tn/imprimee.php?t=520&a=27329&temp=1&lang=&w=> (28 February 2015).

<sup>80</sup> See for instance Leila Dakhli, "A betrayed revolution? On the Tunisian uprising and the political transition," *Jadaliyya*, 5 May 2013. [http://www.jadaliyya.com/pages/index/10463/a-betrayed-revolution\\_on-the-tunisian-uprising-and](http://www.jadaliyya.com/pages/index/10463/a-betrayed-revolution_on-the-tunisian-uprising-and) (20 May 2015).

<sup>81</sup> The Constituent Assembly was in place between the end of 2011 and the end of 2014.

<sup>82</sup> Translation by the author.

<sup>83</sup> For instance Kmar Bendana, "Retour sur la 'complémentarité'," *La Presse*, 18 August 2012.

<sup>84</sup> Interview, Hamam Lif, July 2013.

women in the Assembly.<sup>85</sup> The only political party who reached this quota was Ennahda. Supporters of the proposal stated that complementarity meant more than equality, as “complementarity involves exchange, partnership.”<sup>86</sup> In an article in the Ennahda weekly *el-Fajr*, a journalist emphasized the democratic character of the proposal since it was made by members of the democratically elected assembly as opposed to the non-democratic governments of Bourguiba and Ben Ali.<sup>87</sup>

The moment that the constitution was issued (26 January 2014), the crisis of legitimacy of the government and the Constitutional Assembly was at its peak. In this context, the assembly voted against the complementarity article. In fact, the constitution that the assembly approved goes even further in the protection of women’s rights than the one that was drafted by Bourguiba in 1959, with Article 46 stating that “The State engages in protecting the achievements in the field of women’s rights *and in reinforcing them*” (emphasis is mine). Moreover, this article explicitly obliges the state to undertake actions against domestic violence.

As there is no clear-cut definition of what the protection of women’s rights entails, the engagement to enhance such rights is also devoid of inherent meaning. As we have seen above, many consider the state pension for stay-at-home mothers and polygamy as an improvement of women’s rights. Nevertheless, as the new constitution protects the equality principle and explicitly condemns domestic violence, thus responding to a demand from the ATFD, the new constitution is clearly a victory for those opposing Ennahda and its allies.

#### *The Convention on the Elimination of All Forms of Discrimination against Women*

At a demonstration on National Women’s Day (13 August 2011), protestors called for the abolition of the reservations to CEDAW.<sup>88</sup> The ATFD had been unsuccessfully petitioning the pre-revolutionary regimes for this change for years, yet this time their demands were immediately met: the interim government (dominated by secularists and members of the former regime) repealed all reservations that were made when Tunisia ratified the convention except the one stating that CEDAW applies in as far as it is not incompatible with Article 1 of the Tunisian Constitution (‘Islam is Tunisia’s religion’).<sup>89</sup> It did not, however, take the formal steps required by the convention for the repeal, making it devoid of any meaning.

When Tunisia ratified CEDAW in 1985, it made reservations to the convention’s articles pertaining to nationality (9), to freedom of movement and freedom to choose one’s residence (15), and to equal rights and duties in marriage and divorce and with regard to the children (16), stating that these did not apply in so far as they are incompatible with Tunisian national law. With these reservations, Bourguiba avoided the need to further reform national law to make it compatible with CEDAW, such as guaranteeing gender equality in the nationality law and the inheritance law. As Ben Ali implemented a number of measures such as a reform in the nationality law, some reservations, although not all, had become superfluous. Nevertheless, in his search for stability in the context of rising Islamism, Ben Ali did not revoke them.<sup>90</sup>

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<sup>85</sup> ATFD president Jrad in *al-tariq al-jadid*.

<sup>86</sup> Labidi-Maïza, MP of Ennahda. See Charlotte Boitiaux, “‘Complémentarité’ contre ‘égalité’ des sexes, la polémique enfle en Tunisie,” *France24*, 10 August 2012. <http://www.france24.com/fr/20120808-tunisie-droits-femmes-feminisme-complementarite-contre-egalite-sexes-projet-loi-polemique-constitution> (23 October 2012).

<sup>87</sup> *El-Fajr*, 10 August 2012, 4.

<sup>88</sup> 13 August is the anniversary of the PSC.

<sup>89</sup> Decree-law 103 of 24 October 2011.

<sup>90</sup> Geisser and Gobe, “La question de ‘l’authenticité tunisienne’.”

The interim government's decision to repeal the reservations was controversial. Opponents pointed at the lack of democratic legitimacy of the interim government and argued that it had no right to repeal the reservations. Opponents also argued that a decree-law (revoking the reservations) could not repeal a law (pertaining to the ratification of the convention in 1985).<sup>91</sup> Others went even further and stated that Tunisia should stop being a member of CEDAW altogether: the Minister of Religious Affairs in the Ennahda government stated that CEDAW violated Arabic and Islamic identity, that its contents were not adapted to the principles of state sovereignty, the constitution, and Tunisian legislation.<sup>92</sup> Jamel Boujaja, a member of the Constituent Assembly, argued that "a number of its provisions are dangerous for the Tunisian family because it is incompatible with Islamic teachings."<sup>93</sup> Supporters of the decision to revoke the reservations considered Ennahda's reactions as "a step back"<sup>94</sup> and "a battle against gender equality."<sup>95</sup>

In the end, the Ennahda government did not take the step to repeal the decree-law revoking the reservations. Again, it was paralyzed by the reactions from the opposition. As soon as the second democratic government, led by Nida' Tunis, had come to power, Tunisia finalized the procedure of revocation, while maintaining the reservation pertaining to Article 1 of the constitution.<sup>96</sup> It is unclear what this entails, since this article is itself vague. If Article 1 means that Tunisian national law should be compatible with Islam or Islamic law, then CEDAW only applies in as far as it is compatible with the latter. Nevertheless, that all reservations to specific articles were repealed is clearly a victory for the pro-*status quo* camp.

## **Women's Rights in a New Tunisia**

The question of women's rights has been very politicized in Tunisia for decades, especially because the laws issued by Bourguiba and Ben Ali were imposed in a non-democratic manner. Where contestations were repressed under the authoritarian regimes, the space created after the revolution was for a large part taken up by a contestation of the *status quo* in the field of women's rights. Such contestations met with fierce reactions as those who wish to maintain the *status quo* show their power in their function as custodians of a portion of the authoritarian legacy, even if many of them, such as the ATFD, were themselves part of the opposition to the authoritarian regime.

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<sup>91</sup> See for example the comments under the article "Manoeuvres d'Ennahda pour enterrer l'adhésion de la Tunisie à la Cedaw," *Kapitalis* (s.d., 2013). <http://www.kapitalis.com/politique/15229-manoeuvres-d-ennahdha-pour-enterrer-l-adhesion-de-la-tunisie-a-la-cedaw.html> (27 February 2015).

<sup>92</sup> Statement of the Minister of Religious Affairs, the Ennahda member Nouredine Khademi, 9 March 2013, in response to the question of a journalist during a press conference that was held after a debate organized around the theme "the Tunisian woman and the CEDAW controversy."

<sup>93</sup> Jamel Boujaja forms part of a group of 11 members of Ennahda in the Constituent Assembly who planned to revoke the decree-law revoking the reservations.

<sup>94</sup> Ex-ATFD president Ahlem Belhaj. See "Tunisie: Des députés d'Ennahdha veulent l'annulation du décret-loi 103 relatif à la CEDAW," *huffingtonpostmaghreb*, 21 February 2014. [http://www.huffpostmaghreb.com/2014/02/21/ennahdha-cedaw\\_n\\_4830430.html](http://www.huffpostmaghreb.com/2014/02/21/ennahdha-cedaw_n_4830430.html) (20 May 2015).

<sup>95</sup> Monia Ben Jemia, professor of international private law at the Faculté des Sciences Juridiques, Politiques et Sociales à Ariana. See Sana Sbaoui, "Journée de la femme: La charge du parti Ennahda contre la Cedaw," *Nawaat*, 12 March 2013. <http://nawaat.org/portail/2013/03/12/journee-de-la-femme-la-charge-du-parti-ennahdha-contre-la-cedaw/> (27 February 2015).

<sup>96</sup> Declaration made by the Tunisian government to the United Nations on 17 April 2014.

Although many of those who wish to change the *status quo* identify with the Islamist government, their arguments are often not framed in terms of what is Islamic, but of what is in the interest of women, bringing alternative understandings of women's rights to the fore. These alternative notions show that the two factions are often not talking about the same women, as what improves the position of some women may not improve the situation of others. But apart from alternative understandings of women's rights, the debates also reveal alternative understandings of what is 'Tunisian,' and thus the debates are also closely intertwined with the construction of an identity for the new Tunisia. Where for some, 'Tunisian' means moderate and modern, for others it means upholding Arabo-Islamic values, ridding the country of its authoritarian legacy, and of Western hegemony.

When looking at the outcome of the debates, this article observed that the governmental actions of the Ennahda government have remained very limited. Every time a rumor spread on possible changes of the *status quo*, the opposition reacted immediately and vehemently, leaving the government paralyzed. This situation shows that the secular opposition, while seemingly in a subordinate position, has indeed shown themselves to have much political clout, while Ennahda was not as strong as they seemed, having only received 40% of the vote. In those areas where decisions were taken, the demands of the secularist opposition were taken very seriously.

Thus, while the myriad of problems facing Tunisia (such as mass unemployment, inflation, corruption, and establishing the rule of law) may make the issue of women's rights seem minor, women's rights are an integral part of the debate about national identity in the wake of Tunisia's momentous revolution of 2011. The sides in this debate realize that decisions made in the formative years of the new era will shape the role of women in the country, and hence the country's identity as a whole, far into the future. The secularists appear to have the advantage in this struggle thus far and appear willing to fight to keep the secular feminist portion of their national identity despite the fact that this was forged during Tunisia's authoritarian years. Whether or not this political advantage will hold remains to be seen.