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Arab Countries in Transition: Gender Rights and Constitutional Reforms
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Report on an International Conference, by V. M. Moghadam

Arab Countries in Transition: Gender Rights and Constitutional Reforms

Organized by The Institute for Women’s Studies in the Arab World (IWSAW) of the Lebanese American University (LAU), in collaboration with the Women and Memory Forum – Egypt; Konrad Adenauer Stiftung, Rule of Law Program MENA Region; and the Danish Center for Information on Gender, Equality, and Diversity (KVINFO) – Denmark; Beirut, 23-25 June 2014.

How have women and their rights fared in the various countries affected by the Arab Spring? What role have they played in the design of new constitutions and in political leadership? How are pressing issues such as violence against women, conflict, and refugees being addressed? What are the prospects for women-friendly democratic transitions?

These were among the questions discussed at the three-day conference organized by IWSAW, which saw the participation of academics from the Arab region and elsewhere, activists and advocates for women’s participation and rights, and staff members of several donor agencies.

A brief recap of the varied trajectories of the Arab Spring is instructive. In early 2011, mass social protests spread from Tunisia to the rest of the Arab region, where people took to the streets to call for political change. Outcomes, however, have varied, with some countries undergoing democratic transition, others descending in civil conflict, and yet others reverting to authoritarianism. Tunisia, Egypt, Libya, and Yemen experienced political revolutions and regime changes; Morocco’s 20 February protest movement was quickly followed by promised reforms, constitutional amendments, and a referendum; Bahrain’s protest movement was suppressed with the cooperation of the Saudi military; and Libya, Syria, and Yemen descended into varying degrees of violent civil conflict. Egypt’s youthful 6 April movement was largely the mastermind of the Tahrir Square protests, and there was much exhilaration in the days after the downfall of Mubarak, but the first elections brought to power a combination of the Muslim Brotherhood and the Salafist Nour Party. In 2011-12, only Egypt, Morocco and Tunisia appeared to be undergoing a democratic transition, but by 2013 Egypt’s process had hit a wall. The first democratically-elected president and his government proved to be both unpopular and ineffective; when anti-government protests calling for Mohammed Morsi’s resignation were ignored, Egypt’s powerful military stepped in. The result has been a halt to the democratic transition and possible reversion to a military-led authoritarianism. In addition, Egypt has been rocked by numerous incidents of violence against women in Tahrir Square and other public spaces – those very urban spaces that were meant to represent the people’s self-empowerment.

Egypt’s Second Constitutional Commission

Egypt and its contradictions were in fact the subject of several presentations at the IWSAW conference. Dr. Hoda Elsadda, co-founder and chairperson of the Board of Trustees of the Women and Memory Forum, discussed the constitutional process in Egypt, the problems leading to the downfall of the Morsi
government and the establishment of the second Constitutional Commission (CC), of which she was a member. She explained that the CC included five women members, three of whom were feminists – herself, former diplomat Mervat Tellawy, and lawyer Mona Zulficar. The 50-member CC was broadly representative of various sectors of society: professions, occupations, the National Women’s Council, the Christian Coptic Church, youth, and about 10 political parties. The Muslim Brotherhood was not represented in the second CC, but there was one member from of the Nour party. Special committees charged with specific themes were set up, and Dr. Elsadda noted that “there was quite a struggle” to include women’s rights as a theme. “Ours is a patriarchal society”, she stated, by way of explaining the refusal of the CC to consider a parliamentary quota for women. On the other hand, there was progress on the serious matter of violence against women, and an achievement was to include its prohibition in the new constitution. On another matter, too, there was a victory. Unlike Algeria, Morocco, and Tunisia, which have large numbers of women judges, there has always been resistance in Egypt to the appointment of women judges. Thanks to the efforts of the women’s rights advocates in the CC, the new constitution now includes a reference to women’s right of access to judicial positions.

The Construction of a Social Problem: Violence against Women

A highlight of the conference was a session entitled “Public Space for Women? Sexual Violence in Egypt, the Construction of a Social Problem, Feminist Responses, and the Dynamics of Resistance in Egypt.” The panel consisted of young Egyptian activists associated with the newly-formed al-Nazra Center, as well as Maissan Hassan of the Women and Memory Forum. Panelists explained how the exhilaration felt at Tahrir Square was then marred by news of the violence visited upon women, once it became more widely known. Maissan and a team began to record interviews with the participants who may have observed or became aware of the many incidents. The team knew about domestic and family violence and of at least two highly-publicized incidents of violence in a public space during the Mubarak era. But knowledge of the extent of the violence that took place at Tahrir Square came as a shock, given also the intense social stigma attached to rape and loss of virginity. One panelist noted that initially, the word used to describe what had occurred in Tahrir Square and afterwards was “sexual harassment”, but in fact there were rapes, some rather vicious. A panelist explained that although some people felt that discussion of the sexual violence would besmirch the revolution, “eventually we decided, enough is enough – no more excuses; the issue has to be discussed openly. After all these incidents we had to be more open about the problem.” The team interviewed about 70 women who were subjected to direct collective sexual assault. They began to discuss their findings with the media as well as government officials, and to locate the perpetrators of the crimes.

Psychologist Kholoud Barakat described how very difficult it was for some of the victims/survivors to face their aggressors afterwards; not all were able to continue doing so. The media, she said, largely played a negative role by either ignoring the sexual assaults or raising questions about the victims. Some media, however, did present the victims as heroes, and paid tribute to them. And now, for the first time in Egypt, there is more open and public discussion and awareness of the problem of sexual violence against women; and there is more prosecution of the aggressors.
A New Feminist Mobilization?

The feminist mobilization in Egypt appears to be gaining momentum. The panel on Women’s Equality in Constitutions: Challenges and Political Compromises revealed how a working group on women’s rights was formed in advance of the first constitutional commission. As described by Salma Elnaqqash, “We reviewed various constitutions, including those of the Arab world, and we drafted a set of demands on a range of issues pertaining to women, from reproductive health and rights to social security.” Islamists told the group that “our demands were not representative of Egyptian women. This made me frustrated.” After Morsi’s downfall and in advance of the second CC in 2013, the group decided to resubmit the proposals, which now also included a list of 16 women qualified to sit on the CC. Eventually five were appointed, and although many of the proposals were not adopted, one achievement was agreement on the creation of an ombudsman to oversee the prohibition of discrimination.

Amr Muhammed, appointed to the CC as a representative of youth, and a member of the Revolutionary Youth Coalition and of the Democratic Front Party, was one of the few male CC members allied with the women’s rights members. As he explained, “We wanted to ensure women’s full social, economic, civil and political rights. The two main forms of discrimination in Egypt relate to Copts [Egypt’s Christians] and women. So we succeeded in enshrining the state’s duty to combat discrimination. Article 6 on citizenship covers anyone whose mother or father is Egyptian.”

The IWSAW conference was well-organized and substantively rich. Issues discussed included constitutional guarantees for women’s rights and the deficits (with presentations on Egypt, Morocco, Tunisia, Iraq, Yemen); women’s political participation during and after the Arab uprisings; ensuring women-friendly outcomes of the democratic transitions; the role of Islamic law, including the place of Sharia in constitutions and family law; the problems of women refugees from Syria in Lebanon; sexual violence in Egypt during and after the uprising and mobilizing to combat it; honor crimes, impunity, and prosecution in Jordan; and sectarian divisions and multiple family laws in Lebanon.

Policy Implications

In policy terms, the many issues discussed could be distilled into two key matters of paramount concern to the women of the region and to the region’s future: ongoing democratizations and the region’s conflicts.

1. The democratic transitions can only be consolidated through recognition of women’s societal roles and constitutional guarantees of women’s full citizenship rights. Such recognition, guarantees, and other stated aspirations must have materiality, including parliamentary/political party quotas; women in cabinet positions; resources for women’s rights groups and policy agencies; measures to promote and ease maternal employment; criminalization of all forms of violence against women. Examples of good practices come from Algeria, Morocco, and Tunisia, which have seen impressive growth in women’s political leadership. Still, gaps in family laws and constitutions in those countries as well as in Egypt and Yemen need to be addressed.
2. Conflicts in the region have adverse effects on men, women, and children; they heighten women’s vulnerability and make them susceptible to men’s violence as well as other outcomes such as trafficking and forced marriages. In addition, the conflicts create refugee waves that are a burden on the host countries and that serve to create or exacerbate political divisions within the host countries. Conflicts within a country should not be aggravated by external intervention; international law must be adhered to, and arms and other means of support should not be provided to militant opponents; this only prolongs conflicts and the misery of citizens, and generates the refugee waves mentioned above. Examples are the NATO intervention in Libya and Libyan refugees in Tunisia; external support for the armed opposition in Syria and the many Syrian and Palestinian refugees in Lebanon. The international community does, however, have the responsibility to find political solutions to the conflicts in Syria and Iraq, as well as in Israel and Palestine, and to create a trust fund for the refugees as well as assist the host countries.

The theme of the 2015 meeting of the UN’s Commission on the Status of Women is the 20-year review of the Fourth World Conference on Women, which took place in Beijing in Sept. 1995. It is worth noting that in quite a number of Arab countries, the situation for women’s rights and wellbeing has become worse rather than better – largely the result of the civil conflicts and the internationalized wars in the region. At the same time, the positive development of democratization should be noted, though the point I would stress is that democracy in the region will only succeed with women’s participation, equality, and rights.

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