

Reforming the Family Code in Tunisia and Morocco – The struggle between religion, globalisation and democracy

There is no doubt that one of the most contentious terrains of contestation in the supposed clash of values between Islamism and Western values is the role of women in society. Thus, the issue of women's rights has become the litmus test for Arab societies with respect to the current zeitgeist of human rights in the age of democracy and liberalism. There is today a stereotypical view of debates surrounding women's rights in the Arab world where two distinct camps are in conflict with each other. On the one hand there are 'globalised' liberal and secular actors that strive for women's rights and therefore democracy, while on the other are obscurantist movements that are anchored in religious tradition, resist globalisation and are therefore autocratic by assumption. This article challenges this view and through an empirical study of the changes to the Code of Personal Status in Tunisia and Morocco it demonstrates that the issue of women's rights is far more complex and, in particular, it finds that there is a very significant decoupling between women's rights and democracy in the region despite a progressive liberal shift in the gender equality agenda.

INTRODUCTION

The rise of Political Islam¹ across the Muslim world has been one of the most important political developments of the last four decades, affecting Middle East and North African (MENA) as well as international politics. This is for three reasons. First of all, despite its varied nature, Political Islam has generally been perceived and dealt with as a threat to the domestic stability of MENA states and to international security. In this respect, the events of September 11th 2001 simply accelerated the pre-existing trend of perceiving Islamist movements as a danger to the predominant values of democracy and liberalism.² Second, the rise of Political Islam posed a significant puzzle to scholars and policy-makers alike because religion as a tool for political mobilisation seemed surprisingly strong at a time when it was believed that the world was becoming increasingly secular. This was occurring at a time when the acceleration of what can be termed liberal globalisation, particularly after the end of

the Cold War, was promoting values, forms of government and economic organisation based on the experience of established liberal democracies. Finally, the rise of Political Islam seemed to indicate a regression towards religion-based governance and policy-making that contrasted sharply with the presumed requirements of secular modernity.

In this context, there is no doubt that one of the most contentious terrains of contestation in this supposed clash of values between Islamism and Western modernity is the role of women in society. The issue of women's rights was for instance particularly prominent in the lead up to and aftermath of the invasion of Afghanistan, with much emphasis placed on the necessity to liberate women from the *burqa*. The debate about Muslim women and their role in society is not new however and it partly harkens back to colonial times. In the early stages of colonisation, European occupying powers refrained from heavily interfering in the gender relations of the vanquished populations and the representation of Muslim women was a rather stereotypical binary one.³ On the one hand, the Muslim Woman was portrayed as being a powerless victim in a highly patriarchal society and therefore not a political nor social subject in her own right. On the other hand, the Muslim Woman was portrayed as a depraved sexual temptress. While colonial authorities were only very marginally interested in the idea of the 'liberation' of women for a long period of time, their interest in the gender question increased when the local nationalist movements began to grow and seriously challenge the colonial powers.⁴ At the time, the question of women's role in society emerged as contentious, with colonial authorities attempting to utilise 'women's rights' to weaken nationalist demands. Conversely, nationalist movements emphasised the role of women in the liberation struggle as they became the 'mothers of the country' that would be born out of the

liberation and anti-colonial struggle. This trend was most evident in Algeria where French occupation lasted for over a century, where the war of liberation was prolonged and where women in the Algerian liberation movement had a prominent role. According to Kandiyoti by virtue of her biological role as creator of life the ‘Woman’, in nationalist discourse, reproduces ethnic boundaries and passes down culture to the progeny.⁵ The Woman is therefore the representative of national differences, but her full citizenship is not guaranteed. There are obviously national differences in the Muslim and Arab world relating to the emergence of the gender question during colonial times, but there is nevertheless a similar trajectory in so far as the Woman, in its social and political role, seems to become the point of contestation for different sets of values.

Along similar lines, the issue of gender has taken again centre stage more recently. The previous ‘essentialisation’ of women by the colonial West and the indigenous nationalist movements is again played out today in the context of liberal globalisation. Thus, the issue of women’s rights has become the litmus test of the supposed homogeneity of the current *zeitgeist* of human rights in the new economic liberal context. This dominant discourse of liberal and democratic globalisation goes hand in hand with the separation of Church and State, which is believed to be a necessary component of modern governance.⁶ It follows that countries across the globe are encouraged to replicate the Western model of social and political development because it is the only avenue that can lead to the establishment of an effective liberal-democratic state with all the perceived positive benefits this has. The relegation of religion to the private sphere is conceived of as a *condicio sine qua non* for democracy and the emergence of political-religious actors is perceived as a threat to such modernisation because they promote illiberal policies, which fundamentally

undermine the perceived unbreakable bond between democracy and liberal rights. In the Muslim world today, the strength of Islamist movements and their defence of traditions are often considered an obstacle to democracy because, on the whole, Islamists reject many of the values of liberal globalisation. This creates a stereotypical view of debates surrounding women's rights⁷ in the Arab world where two distinct camps are in conflict with each other. On the one hand there are 'globalised' liberal and secular actors that strive for women's rights and therefore democracy, while on the other are *obscurantiste* religious movements that are anchored in tradition, resist globalisation and are therefore autocratic by assumption.⁸

Building on Svensson, who argued 'that the problem is often presented as primarily an ideological one, a conflict between a local tradition, Islam, and the global demands for human rights',⁹ this article challenges the dichotomy that is prevalent in studies surrounding the issue of women's rights in the Arab world in the context of globalisation and democratisation. In order to do so, it will demonstrate that, first of all, there exist alternatives to the mainstream discourse of liberal globalisation and that other 'types' of globalisation can be just as valid and politically effective, namely a type of Islamic globalisation based on extensive transnational links.¹⁰ Second, there is very little empirical evidence of the linkage between secular political actors operating in favour of liberal women's rights and their attachment to meaningful political change. If anything, there is currently an inverse relationship between the two as the introduction of progressive and liberal reforms in the realm of women's rights strengthens the regime, at least in the short run.¹¹ This means that, paradoxically, secular actors might be working against the introduction of democracy. Third, the supposedly anti-women *ethos* of Islamist movements needs to be disputed for two reasons. Firstly, their opposition to modifications in the traditional legislation

of personal status issues is derived from political considerations rather than from an ideological position related to the role of women in society. Secondly, for some movements this issue is not as relevant as others might be, such as genuine access to the political system. This is due to the fact that not all Islamist movements share the same ideological tenets or the same policies and that they operate in different national contexts.

By focusing on the cases of Morocco and Tunisia, where women's rights are prominent in the public debate between different political actors, both religious and secular, the article will illustrate how these actors operate within the constraints and opportunities that globalisation provides. The picture that emerges is a much more complex one than the simple dichotomy highlighted above.

THEORETICAL FRAMEWORK

While there are a significant number of different definitions and interpretations of globalisation¹² it can be convincingly argued that, from a purely political point of view, there exist core elements to it coinciding with the experience and institutions of established liberal democracies. There is very little doubt that the most significant core element of globalisation is the global integration of previously 'closed' national economies and the profound transformations that this passage to one world economy entails. This process has been driven since the late 1970s by the shifting paradigm of economic organisation, especially in the United States and the United Kingdom. Subsequently, the Single European Act of 1987 signalled that continental Europe was ready to embrace neo-liberal economics and the collapse of the Soviet block accelerated the export of neo-liberalism to all corners of the globe. The opening up of national economies in order to reap the benefits of integration

would also lead, according to this mainstream interpretation of globalisation, to social and political benefits as well.

According to this view, the creation of a neo-liberal economy where transnational linkages are of the utmost importance in both trade and finance requires the establishment of the rule of law.¹³ In turn, once the rule of law is established, democracy and human rights will most likely follow. There is therefore a very intimate and almost natural connection to the idea that globalisation contributes to the expansion of democracy and human rights. Griswold states that ‘the connection between trade, development, and political reform is not just a throwaway line. In theory and in practice, economic and political freedoms reinforce one another.’¹⁴ It follows that democratisation fuels even more globalisation and development in a mutually reinforcing process.¹⁵ Policy makers in the western world subscribe quite fully to this idea, which is also rhetorically embraced in a number of developing countries where current authoritarian rulers, forced to open up the country’s economy, feel the need to continue to justify and legitimise their rule by making references to democratic discourse and practices even though they might not uphold them in reality.¹⁶ This interpretation of what we term liberal globalisation is disputed in many quarters, but it is undeniable that it is dominant in policy-making circles. Thus, the architecture of international structures of governance comprises not only formal and informal organisations and networks managing global trade, but also institutions of a political nature with the objective of sustaining economic integration with political and social reforms. Thus, there exist countless programmes, treaties, binding declarations and conventions emphasising the need to extend liberal rights and democracy world-wide.

A central tenet of the policies of democratisation implemented by Western countries building on the belief in liberal globalisation is the transformation in the Arab world of the perceived submissive role of women. In January 2002, the Freedom House President Adrian Karatnycky enumerated the reasons at the root of the democratic deficit of the Muslim world and placed the legal discrimination against women in second place of importance.¹⁷ Thus the rights of Muslim women began to surf the ‘democratic wave’ that submerged Afghanistan and Iraq. Coleman also highlights how gender equality has ‘become a much more prominent issue’¹⁸ for the USA in the Arab world and is met with a corresponding growth of domestic pressure from certain sectors of society to increase women’s participation in the political, economic and social life of the country. This was, for example, the case in the Gulf Peninsula in the late 1990s, when a number of regimes did indeed broaden women’s participation under both internal and international pressures.¹⁹ Thus, the legal and political architecture of liberal globalisation provides different opportunities and constraints for political actors in the Arab world by virtue of its normative values because such values might not be perceived to be universal by significant sectors of many societies across the globe.

Thus, the contestation of liberal globalisation, in the Arab world as elsewhere, has generated a ‘global’ reaction in the name of traditionalism and defence of indigenous values. While not entirely de-linked from demands for a fairer redistribution of resources in the context of a profound unjust neo-liberal economy that characterise alter-globalisation movements in the West as well, such contestation has found an equally fertile terrain on cultural issues, to which ordinary citizens seem to be very sensitive. In the Maghreb, as elsewhere in the Arab world, the political debate is for instance rarely as intense when discussing personal status legislation and

by implication women's rights. This debate is often framed around a dichotomy whose constitutive variables are on the one hand democracy-modernity and on the other Arab-Muslim identity. The flag-bearers of the defence of traditionalism are Islamist movements and their discourse is particularly successful partly because of the difficulties of Arab nation states to withstand post-colonial cultural penetration from global models of behaviour and social arrangements. Paradoxically, this defence of traditionalism is often couched the language of human rights and democracy²⁰ and is carried out through technological and ideological processes that characterise liberal globalisation because the 'shrinking' of the world has allowed trans-nationalism outside the liberal mainstream also to flourish. In the Muslim world, parallel to governmental adaptations to the requirements of liberal globalisation, we also see counter-hegemonic processes at play that involve state, sub-state and supra-state entities with agendas, values and political objectives that differ significantly from the mainstream. Thus, what we term 'Islamic globalisation' also influences local political actors, providing an alternative set of constraints and opportunities. Also paradoxically, one of the central issues of Islamic globalisation, bound up with the wider project of defending Arab-Muslim identity, is the role for women in society, their portrayal, their rights and their duties. Islamic globalisation also offers a number of alternative social models for Muslim women and families and this has important repercussions in the different Arab states where the 'Woman' has become, as mentioned above, a symbolic terrain of political struggles.

This discussion of different types of globalisation leads to the second aspect of conventional wisdom that we attempt to challenge, namely that the secular sectors of MENA societies are inherently pro-democracy and the religious ones inherently autocratic. The problem here is the conflation of secularism with democracy and the

conflation of liberalism with democratic procedures. While this reflects the European experience of dividing Church and State and the combining of liberal rights with democratic procedures, the reality on the ground in the MENA is different. First of all empirical studies indicate that the degree of religiosity of ordinary citizens does not influence their preference for democracy, which is considered to be a desirable form of government by the majority of MENA citizens.²¹ Second, in the aggregate, it is quite impossible to determine the nature of a political movement in isolation and it is therefore specious to argue that Islamist movements are naturally authoritarian and the secular ones naturally democratic. The need for context is paramount and when this institutional context is taken into account, the simplistic distinction between authoritarian Islamists and democratic seculars is no longer convincing.²² In fact, when one analyses the relationships between political actors in the MENA, it emerges that quite often avowedly secular parties and associations side with authoritarian ruling elites, perceived to be defending some sort of state's *laïcité* against Islamist aggression.²³ The best example of this type of behaviour is in Algeria where almost all secular parties and personalities called for the military to carry out a military coup in order to stop the Islamist FIS from taking legitimate power through the ballot box in 1992.²⁴ Conversely, Islamist movements are increasingly calling for democratic practices and procedures to be implemented while, at the same time, adapting their discourse to one more attuned towards global, and by implication liberal, human rights. This is most evident in the Turkish case,²⁵ but it is increasingly so across the Arab world. This does not mean that the Islamist rhetoric on democracy should be 'politically' believed, but it simply indicates that the dichotomy pro-democratic secularism versus authoritarian Islamism is problematic. In spite both of this and of studies confirming the democratic potential of Islamist movements,²⁶ Western

institutions, both state and non-state, deal almost exclusively with secular associations and ruling regimes, because they are perceived as truly democratic or potentially so. This practice contributes to reinforce the divide between different sectors of society in the MENA, particularly within the opposition, while allowing ruling elites to divide and conquer 'genuine' opposition movements.²⁷

The simplistic and politically motivated manner in which Islamist and secular activism at the level of party politics and civil society in the Arab world is constructed is very much in evidence when it comes to the issue of women's rights, which have become a terrain for the struggle between secularism and religious tradition with profound implications for democratisation. The opportunities that liberal globalisation has provided for secular women's rights organisations in the MENA to achieve a complete reform of personal status legislation or an amelioration of existing legal provisions have been numerous and effective. Al-Ali argues that one of the factors 'which have helped the rise of independent women's organisations in some countries is the increased influence of international constituencies'.²⁸ In addition, the United Nations claims that 'four world conferences on women convened by the UN in the past quarter of a century have been instrumental in elevating the cause of gender equality to the very centre of the global agenda.'²⁹ Moreover, the linkage of gender equality to the issue of economic development has prompted many MENA governments to face the issue of personal status legislation because of the necessity to link the country to the architecture of international development in order to obtain aid and recognition. For example, the World Bank is particularly active in promoting action plans geared towards the integration of women to national development goals which require legislative reforms on matters related to personal status. Santostefano highlights that 'since 1995 the World Bank commitment to women and gender has

been enshrined in two documents: the 2001 *Engendering development: through gender equality in rights, resources and voice* and the 2002 *Integrating gender into the World bank: a strategy for action*.³⁰ Conversely, liberal globalisation seems to have become a constraint for many local women's rights associations because of the accusation of identity-betrayal that the traditionalists can hurl at them. Islamist movements do indeed claim that changes to personal status legislation are simply the outcome of external pressures and are dictated by the cultural and economic expansionism of the West, which wishes to change societies in its mould. This reaction in the name of the defence of Arab-Muslim identity and anti-imperialism is at times very successful because of the poor image of the West in the Arab world due to the former's foreign policies and the generally more conservative nature of society. It is here that Islamic globalisation provides the opportunity for local Islamist movements to link their struggles, even the ones over the reform of personal status legislation, to a wider Arab struggle to withstand Western expansionism whereby Islamism becomes a synonym for *mouqqawama* (resistance). This resistance is however quite disconnected from both democracy and women's rights *per se*.

As demonstrated in other studies, progressive reforms on personal status legislation do not necessarily lead to a democratisation of the polity³¹ and women's rights organisations need the collaboration and sanctioning of the authoritarian regime to achieve their objectives, paradoxically strengthening the very authoritarianism that they challenge in many other respects. For Islamists, opposition to changes in personal status legislation is often couched in the language of democracy as the views of the majority of society, generally opposed to such changes, are not taken into account. In addition, most Islamists are not against changes towards gender equality *per se* and tend to utilise the issue for political visibility. There are two issues here

that it is worth mentioning. First of all, Islamist movements are often more open to the political participation of women than their secular counterparts in many Arab countries.³² For instance, women constitute more than 50 per cent of the membership of the Moroccan Islamist Justice and Charity Group, leading numerous activities and fully participating in the activities of the association.³³ This indicates that some Arab women, equally the well educated, have reservations about the liberal language of change surrounding personal status issues and might prefer an Islamic alternative. Secondly, a number of Islamist movements ideologically accept the necessity of changes with respect to women's rights, but contend that the justification for such changes should be found in indigenous values and traditions rather than on 'alien' ones imported by the west.

In conclusion, the problematisation of the concept of globalisation, the de-linking of secularism and democracy, and a change in the perception of Political Islam contribute to help dismantle three widely held notions, that: 1) the 'game' surrounding the advancement of women's rights in the Arab world is solely a product of liberal globalists; 2) it can be inevitably coupled with more fundamental democratic changes and 3) it depends on the degree of secularism of the protagonists. The cases of Tunisia and Morocco are helpful in highlighting the much more complex picture of the trajectory of women's rights and the actors involved in this issue.

WOMEN'S RIGHTS IN MOROCCO AND TUNISIA

Despite a similar historical background that saw both countries becoming colonies of France and achieve independence in the same year (1956), the trajectory of women's rights and personal status legislation in the post-colonial period took a very different route in Morocco and Tunisia. As Charrad demonstrated in her study,

Tunisia adopted a fairly liberal code thanks to the autonomy the new ruling elites enjoyed over tribes and lineages while the King of newly independent Morocco needed tribal support to outmanoeuvre the nationalist parties and remain the sole political arbiter of the new system.³⁴ The source of tribal power stems from the inability of the individual to choose autonomously the creation of marriage bonds because marriage must be functional to the collective tribal interests. This means that, politically, the tribe can provide support for ruling elites in exchange for the maintenance of personal status legislation that privileges collective rights over individual rights. Where, as in Tunisia, the nationalist movement did not need the support of tribal power, its leaders were able to shape personal status legislation in order to implement their vision of a modern Tunisia. As Grami asserts, ‘the Code of Personal Status (CPS) was not a response from the state to women’s claims and pressures, but a political decision taken by political leaders and urban reformists.’³⁵ Where, as in Morocco, two *loci* of power, the monarchy and the nationalist parties, battled it out for supremacy in the post-colonial political system, the support of tribes became a decisive factor to determine the winner. After independence, as Chaarani explains, Muslim scholars toyed with the idea of ‘Islamicising’ the entire corpus of Moroccan legislation, but the project was never carried out because of the opposition of large sectors of the nationalist movement. The scholars were made accept French codes and legislation, but obtained that the CPS would not be modified along the lines of the Tunisian one.³⁶

Consequently the development of the women’s rights issue in the two countries, including the activism of both liberal/secular women’s rights associations and Islamists, has differed considerably over time. In Tunisia, women’s organisations were quite quickly integrated into the corporatist structures of the state because they

were considered to be a vital contributor to the development of the nation. This feminism from above was instrumental to the project of Tunisian national development that the ruling elites had in mind.³⁷ It follows that the state became the guarantor of women's rights with the CPS being the most liberal in the Arab world and a pillar of the modernising image of Tunisia. This means that there was little militant activism on the part of women's organisations on the issue of women's rights, as the State had granted them an egalitarian CPS and had no intention of revoking it. In Morocco, women's rights activism was channelled through opposition left-wing parties in opposition to the Monarchy and this greater struggle against authoritarian rule took precedence for quite some time over the struggle for gender equality.³⁸ The failure of Moroccan political parties to incorporate gender issues in a serious and coherent manner provoked the growing disaffection of many female party members, who, over time left the parties to become civil society activists in order to promote their agenda of gender equality.³⁹

The collapse of the Soviet bloc at the end of the 1980s and the consequent acceleration of a liberal globalisation built on the values of democracy and human rights offered new opportunities and constraints to all the local actors regarding the opening up of the respective political systems. The contemporaneous acceleration of Islamic globalisation also has a profound impact.

Starting in the late 1980s MENA authoritarian regimes began suffering from a deep crisis of internal legitimacy and faced mounting international scrutiny and criticism, as they were under pressure to conform to the new dominant institutions and values. For women's groups however, the time was highly favourable to their gender equality agenda, as it coincided with the *zeitgeist* of human rights and development. The linkage made at international level between gender equality and the integration of

women into economic development constituted a significant opportunity for women's rights groups to argue that their demands were not simply aimed at individual satisfaction, but also beneficial to the economic growth of the nation. This point would become increasingly important from the mid-1990s with the involvement of international financial institutions and their campaigns to highlight the link between underdevelopment and the absence of women's rights. Paradoxically, the acceleration of liberal globalisation provided a powerful political opportunity for Islamist movements to assert their public role and presence as the only defenders of Arab-Muslim identity from the encroachment of what they perceived to be Western cultural imperialism. The Gulf War of 1991 against Iraq, which had been presented worldwide as the affirmation of the values of a new world order based on the respect of international legality and economic openness, was widely perceived in the Arab world as an attack on Arab Muslims. Islamist movements across the region capitalised on the war by arguing that Western imperialism resorted to the use of violence to make dissenting voices conform to the new world realities. Their success in presenting the Gulf War in such a manner was not confined to the 'usual Islamist suspects', as the Western intervention in Iraq also led many in the secular camp to question the validity of the values of liberal globalisation such as democracy and human rights given the hypocrisy that existed in relation to how Iraq and Israel were treated. As prominent feminist and president of the *Union de l'Action Féminine* (UAF) Latifa Jbadi affirmed, the Gulf War 'perturbed our way of thinking and operating, it is a scar in our being and in our Arab dignity...[this event] pushed us to reconsider our position towards Islam, this history which we had denied and marginalised. It is about time that we revised [what we think and what we do]'.⁴⁰

At the same time though Political Islam faced a major constraint carried through the acceleration of Islamic globalisation. While the latter indeed provided local Islamist movements with transnational links they could borrow ideas and strategies from, it also favoured the expansion of an anti-Islamic discourse within the Arab regimes and the secular opposition. Such discourse was crystallised by the events in Algeria during the 1990s when the savagery of the civil war painted all Islamists as dangerous extremists bent on constructing a medieval state with no political role for women. However, this only partly offset the gains that Islamic globalisation had provided for Islamists across the Maghreb thanks to the expansion of satellite television and internet, which have created an Arab and Islamic public space with which both the regimes and secular actors have to contend.⁴¹ This is because the channels from the Gulf have over time become quite important both in terms of religious and entertainment programmes they offer where ‘Middle Eastern rather than North African modes of social behaviour and values influence many ordinary citizens’.⁴² In addition, the increasing difficulties that Europe placed on the movement of people between the two banks of the Mediterranean drove large sectors of the bourgeoisie of the Maghreb towards the Gulf and Egypt where they came into contact with different cultural models that tend to replace the Western one.⁴³ In the face of these perceived political and social threats, it is no surprise that a coincidence of interests between the regime, afraid of the growth of political Islam, and the secular elements of society, under threat from an expanding social model which they could and still cannot reconcile, developed over time. The terrain of women’s rights became the theatre where these relations are played out.

The combined effect of these global forces structures the behaviour of the local actors, resulting in dynamics that in both Tunisia and Morocco are at time

similar and at times radically different. This is because when globalisation encounters the local, the indigenous context reacts differently. In 1993, both the Tunisian republican regime and the Moroccan monarchy, having understood the importance of women's rights in the polarising contest between secular and Islamist opposition carried out a limited, but very important and symbolic reform of the CPS. In Tunisia, the CPS was amended, for example, by the abolition of the wife's duty to obedience. Also, a fund was introduced to secure alimony for divorced women and their children. In Morocco, the most important innovations to the CPS were the introduction of the public and explicit assent of the bride to marriage and the abolition of the institution of the *wali* (legal tutor) for orphaned women. In addition restrictions were placed on polygamy and repudiation. Obviously, the reforms in Tunisia simply built on an existing liberal code while the reforms in Morocco only introduced minor changes to a restrictive code. Nevertheless, the process of reform was highly symbolical because it signalled that both regimes were on the side of women's rights and only through the current rulers further changes could be achieved. The signal was for the benefit of both domestic actors and the international community.

In Tunisia, the reform was a continuation of a long-standing policy of the regime, which had, since independence, promoted gender equality and it reasserted that this was a priority at a time when opposition to the regime was increasing, because of the absence of political pluralism. In this context it is interesting to note that the Islamists in Tunisia were used as the bogey men of women's rights in order to solidify the alliance with large sectors of urban francophone women, although Islamists at the time in Tunisia were not really concerned with the issue of the CPS. As Allani argues, contrary to what occurred in former President's Bourguiba's time,⁴⁴ 'the [Islamic] Movement [at the time of Bin Ali] expressed... the need to safeguard

the previously acquired rights for women that appeared in *Code du Statut Personnel*.⁴⁵ In spite of the absence of hostility towards the CPS on the part of the Tunisia Islamists, the issue has continued to be present in Tunisian politics and is repeatedly used by the regime to polish its external image. This is successful for two reasons. On the one hand, there has been an effective Islamisation from below in Tunisia and displays of public piety are on the increase; Islam is much more public than it was a decade ago. This is due to the very significant presence of media from the Gulf offering an image of the role and behaviour of women that is much more traditional and conservative. A number of ordinary Tunisians have been influenced in their life-style choices by this.⁴⁶ This Islamisation is perceived to be a problem by a number of secular women's rights groups in the country and worries the Tunisian left.⁴⁷ On the other hand, there is a fracture in the CPS between the *de jure* provisions and the reality on the ground because 'Tunisian society seems to resist State-enacted legal rules in a field where ancestral habits, somewhat redefined, still persist.'⁴⁸ All this is not the product of Islamist activism, which is heavily repressed in Tunisia and has been for two decades, but Islamism is still quite a useful scapegoat for the regime. There are certainly real fears of extremism in certain secular sectors of civil society, but they tend to be exploited by the regime.

In Morocco the issue of women's rights has been prominent since 1993, which is considered 'year zero' by Nezha Sqalli in terms of the promotion of women's rights.⁴⁹ The 1993 reform was a mixed bag for the women's rights movement. On the one hand, they were dissatisfied with the breadth of the reforms, which did not go far enough to even begin to dismantle the patriarchal nature of the Code. On the other hand however, they were very grateful for the intervention of the King because his legitimacy silenced the verbal attacks to which they had been subjected by the

Islamist camp. By clearly stating that he was the only authority in the country with the religious legitimacy to deal with the issue, the monarch certainly marginalised the women's rights movement, but, at the same time, he put an end to the Islamists' threats and accusations against women's rights groups and admitted that changes were needed.⁵⁰ Contrary to Tunisia, women's rights became much more politicised because the context of the reform was radically different in Morocco. The Tunisian big push towards gender equality had been made at independence by autonomous ruling elites operating in a context where western modernity had appeal, while the reform of the Code in Morocco was taking place in a much more globalised world, where the appeal and trust in Western institutions and values had decreased considerably. It follows that women's rights in Morocco became a much larger political issue that allowed Islamist political movements and tendencies, whose strength had been dismissed previously as irrelevant,⁵¹ the opportunity to demonstrate their strength and popularity in society. Playing on the issue of Arab-Muslim identity and Moroccan traditions, Islamists began to oppose women's associations and their demands. This struggle against the reform was instrumental in structuring and institutionalising a previously nebulous Islamism into a much more coordinated movement. It is possibly not a surprise that the most virulent attacks against women's rights groups were published in the newspaper *al-Raya*, directed at the time by Abdelillah Benkirane who is currently a leading member of the Islamist Party of Justice and Development, which was formed in the mid-1990s. The paradox of the developments of 1993 in Tunisia and Morocco is that, despite rather different premises, there is today a very similar situation with the regime having taken the role of promoter of women's rights. Bin Ali and his wife are the patrons of gender equality⁵² and the Moroccan Monarch is known as the '*Roi des Femmes*.' The changes made to the CPS with the sweeping

2004 reform⁵³ allow Morocco, just like Tunisia, to have a relatively democratising and modernising image abroad.

The reaction to the strategy of instrumental use of the women's rights issues in Tunisian and Moroccan associational life presents a number of interesting variations despite the fact that there is an overarching similarity in the outcomes, which have seen a strong rapprochement between women's rights groups and ruling regimes that have strengthened authoritarian practices rather than weakening them.⁵⁴ In Tunisia, the domestic environment allows women to openly declare and 'live' their *laïcité*⁵⁵ and to subscribe to the values that the regime also supports when it comes to the issue of women's rights. However, the Tunisian domestic structures also heavily constrain, much more than in Morocco, public debate and political pluralism on all other issues. It is a highly authoritarian regime with no toleration for domestic voices despite a pluralist façade. In this context women's groups are quite constrained when tackling wider issues of political pluralism and democracy, leading them to overemphasise the threat of Islamist *intégrisme*. For a number of activists, fighting against fundamentalism is a profoundly democratic struggle and this inevitably associates them to the regime, which holds a similar discourse, but anti-Islamist activism is the only field where a degree of freedom of expression actually exists.

With the exception of the *Ligue Démocratique des Droits des Femmes*, Moroccan women's rights groups display three types of attitudes in this new context where women's rights have risen to prominence in the royal strategy of development. First of all, unlike their Tunisian counterparts, activists tend to ignore the Islamists. This means that they do not seek a confrontation with them nor they seek a dialogue⁵⁶ and barely acknowledge their existence. For example, when human rights of Islamists are abused, women's rights groups remain largely silent, indicating thus that their

priorities lie with the narrower interests of women's rights rather than broad human rights. This also explains why their declarations on further changes on the family code such as equal treatment in inheritance legislation are often attacked by Islamists, while when other human rights groups call for the same changes there is no such strong reaction from Islamists given that the framing of the discourse is different and that changing the family code again is only one of the many objectives of organisations broadly defending human rights.⁵⁷ Secondly, women's rights groups take advantage of the opportunities that this new situation has created and utilise the very discourse of the monarchy about development and gender to advance their agenda. Women's rights groups are relatively powerful political entrepreneurs, often able to obtain significant benefits despite the absence of widespread popularity within society. This is due largely to the support they have within the regime, which uses the issue of women's rights to gain external legitimacy and, at the same time, to gain the allegiance of sectors of society where liberal ideals have made inroads. Finally, women's rights organisations are moving away from more traditional battles about the family code and are engaged in an attempt to increase the political participation of women in elected institutions. This is a way to wriggle out of the ideological debate about French-style *laïcité* and traditional values and concentrate on an issue that Islamists themselves do not find particularly controversial such as political participation of women in politics.

CONCLUSION

The outcome of these dynamic relations is that there is a very significant decoupling between women's rights and procedural democracy/democratisation. Thus, one of the pillars of liberal globalisation, namely the inevitability of the three-

way linkage between economic liberalism, liberal legislation and democracy, does not seem to hold true in the case of Morocco and Tunisia. In both countries a progressive liberal shift in the gender equality agenda has been witnessed since the 1990's. This has been more strongly pronounced in Morocco than in Tunisia where a quite liberal CPS already existed, but the direction of the changes is quite clear and, from a western liberal normative point of view, certainly positive. The reforms that began for both countries in 1993 indicate that the weight of liberal globalisation with its emphasis on democracy and human rights was considerable in the decision of the Tunisian president and the Moroccan monarchs to tackle the issue of women's rights, in addition to a number of other institutional reforms destined to present the countries as if on the way to democracy. At the same time, the 1993 reforms and the subsequent ones were the product of domestic social changes with economically independent women demanding more equality through civil society organisations. The needs of the regime to polish their international image and the demands of women's rights groups created a dynamic of change that is responsible for the advances that Tunisia and Morocco made in terms of women's rights when compared to other Arab countries. These liberal outcomes have however been achieved in a context of growing social Islamisation and 'authoritarian upgrading'⁵⁸ breaking the assumption of the virtuous cycle between economic globalisation, secularism and democracy. Quite paradoxically, the implementation of the new provisions of the CPS in both countries might not have occurred if society in both countries had not gone through a process of Islamisation that still now characterises them. It is in fact the perceived or real menace of Islamism that helps cementing an 'unholy' alliance between women's rights groups steeped in the values of democracy and authoritarian elites. The latter that are using women's rights as the credo of the regime in order to extract international legitimacy

and benefits from Western countries afraid of the rise of Islamism and beholden to secular constituencies that do not have much popularity.⁵⁹ This has created, in Tunisia and Morocco, a number of different political poles. There are pro-democracy secular movements in opposition that tend to privilege democratic demands for genuine political pluralism over what they tend to perceive as more divisive demands such as women's rights. These actors therefore refuse to collaborate with the regime unless very significant changes are made to the structure of decision-making. This would be the case of the 'Democratic Way' party or the Moroccan Association of Human Rights (AMDH) in Morocco and the Tunisian League for Human Rights (LTDH) in Tunisia. This does not mean that they do not fear Islamists and are not opposed to them, but believe that the problem of political Islam should be solved after the current regime has been made retreat towards more democratic practices. There are then Islamist movements whose main preoccupations are not women's rights and lifestyle decisions, but believe that it is first and foremost necessary to reform the current political system. Tunisian Islamists of the *Ennadha* movement had made this decision in the late 1980s, while in Morocco the popular *al-Adl* does not seem to be as interested in women's rights *per se* and is more concerned with wider issues of authoritarianism and social injustice. There are then Islamist groups, such as the The Movement for Unity and Reform (MUR) in Morocco, that have been able to occupy a prominent role in society precisely because of their very conservative agenda which included opposition to the family code reforms. The issue was used to restructure and to a certain extent unify the type of Islamism that now characterises the Justice and Development Party (PJD), which, quite controversially, accepts the primacy of the Monarch in politics. Finally, there are those secular groups that have accepted, to different degrees, the idea of a strong leadership promoting women's rights. For them,

this is a necessity for the struggle of the advancement of democracy because the promotion of women's rights can, according to these groups, foster democratic change and genuine pluralism. It is on this belief that many Moroccan feminists now emphasise the importance of women's participation in elected institutions. The discourse of left-wing parties whereby women's rights will be the product of democracy is for many feminists now discredited because it has failed to deliver any significant change.

The 'unholy alliance' mentioned above enjoys the support of the most important international actors and this helps the Moroccan King and the Tunisian President to forge the image of modernisers, which they then re-invest at home with key constituencies. The cases of Tunisia and Morocco highlight how the simplistic assumptions about globalisation, democratisation and secularism have to be problematised when encountering complex local realities and a range of different political entrepreneurs.

¹ Our definition of Political Islam coincides with Denoeux's definition (2002). It 'refers to the rise of movements and ideologies drawing on Islamic referents – terms, symbols and events taken from the Islamic tradition – in order to articulate a distinctly political agenda.' See G. Denoeux, 'The Forgotten Swamp: navigating Political Islam', *Middle East Policy*, 9:2 (2002), http://www.mepc.org/journal_vol9/0206_denoeux.asp

² See J. Miller, 'The Challenge of Radical Islam', *Foreign Affairs*, 72:2 (1993), pp. 43-56 and S. Huntington, 'The Clash of Civilisations?', *Foreign Affairs*, 72: 3 (1993), pp. 22-49.

³ See Z. Haddab, 'Les Algériennes dans le discours colonial', *Cahiers Berbères*, 20:1 (1999), pp. 77-88.

⁴ S. Rahal-Sidhom, 'Comme la lune et le soleil', *Confluences Méditerranée* 17:2 (1996), pp. 65-77.

⁵ D. Kandyoti, 'Malaise identitaire: les femmes et la nation', *Femmes Sous Lois Musulmanes*, Dossier 20 (1997).

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- ⁶ For a discussion on this see J. Haynes, 'Religion and Democratizations: an introduction', *Democratization*, 16:6 (2009), pp. 1041-1057.
- ⁷ In the context of this study, women's rights are equated with the pursuit of legal equality between men and women on matters related to private status legislation, including marriage, divorce, custody of children, freedom of movement and inheritance.
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- ²⁰ See for instance the framing of women's rights within Islam by prominent Moroccan activist Nadia Yassine. For an overview of her thinking on the issue see www.nadiayassine.net

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- ²² See for instance D. Brumberg, 'Islamists and the Politics of Consensus', *Journal of Democracy*, 13:3 (2002), pp. 109-115 and F. Cavatorta, 'Civil society, Islamism and democratisation: the case of Morocco', *Journal of Modern African Studies*, 44:2 (2006), pp. 203-222.
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