

THE ROLE OF WOMEN IN THE ARABIC JURISDICTION: A REVIEW OF THE LEGAL AND SOCIAL STATUS OF WOMEN IN THE ARAB WORLD

Written by Ahmad Aldaferi

LLM Student, University of Law, GCC states, Jordan

ABSTRACT

This review article aims to explore the legal and social status of women in the Arab world. We begin by examining the historical and cultural context that has shaped the role of women in the Arabic jurisdiction. We then review the legal rights and protections afforded to women under Islamic law and the laws of various Arab countries. We also explore the social and economic status of women in the Arab world, including their participation in the workforce and their access to education and healthcare. Finally, we discuss the challenges and obstacles that women in the Arab world face, as well as the efforts being made to promote gender equality and the empowerment of women.

Keywords: Women role, Arabic Jurisdiction, women rights

INTRODUCTION

The Arab world comprises a diverse group of countries with a rich history and culture that has shaped the role of women in the region. In this review article, we aim to provide a comprehensive overview of the legal and social status of women in the Arabic jurisdiction. We begin by examining the historical and cultural context that has shaped the role of women in the Arab world, including the influence of Islamic law and tradition. We then review the legal rights and protections afforded to women under Islamic law and the laws of various Arab countries. We also explore the social and economic status of women in the Arab world, including their participation in the workforce and their access to education and healthcare. Finally, we discuss the challenges and obstacles that women in the Arab world face, as well as the efforts being made to promote gender equality and the empowerment of women.

HISTORICAL AND CULTURAL CONTEXT

The role of women in the Arab world has been shaped by a variety of historical and cultural factors, including the influence of Islamic law and tradition. (Darcy 1994) Under Islamic law, women have certain legal rights and protections, including the right to own property, enter into contracts, and seek divorce. However, these rights have not always been consistently applied or protected in practice. In many Arab countries, traditional gender roles and expectations have also played a significant role in shaping the status of women. (Carapico 2013)

SHARIA LAW AND THE ROLE OF WOMEN

Sharia law is a legal framework derived from the Islamic scripture and tradition. It covers a wide range of topics, including criminal law, family law, and financial law.

In terms of women's rights, Sharia law covers issues such as marriage, divorce, inheritance, and child custody. (Coleman 2011) Some of the rights that Sharia law grants women include the right to a marriage contract, which outlines the rights and responsibilities of both parties. Furthermore, Sharia law grants women the right to seek a divorce, although the process can be more difficult for women than for men. (Jennings 1975) Moreover, in Islamic society, women

have the right to inherit property, although the amount inherited may be less than that of a male heir.(Nasir 1999) It should be noted here that there is a widespread debate regarding this issue, but it can be said that in most cases women inherit more than men.(Sonbol 2003) Finally, According to Sharia law women have the right to retain custody of children in certain circumstances, such as if the mother is the primary caregiver or if the children are young. It is important to note that the application and interpretation of Sharia law can vary widely across different countries and communities. Therefore, the rights and responsibilities of women under Sharia law can also vary.(Welchman 2007)

Historically, some Islamic societies have granted women more rights and autonomy than others. Some Islamic scholars argue that the Quran grants women equal rights and responsibilities as men in areas such as education, inheritance, and marriage, while others interpret the text differently.(Sapiro 1981) In practice, the status of women in Islamic societies has varied depending on time and place.(Zeidan 1995)

LEGAL RIGHTS AND PROTECTIONS

The legal rights and protections afforded to women in the Arab world vary widely across the region. In some countries, women have relatively equal legal rights and protections under the law, while in others, they face significant legal discrimination and barriers. For example, in some countries, women have the right to vote and hold political office, while in others, they are denied these rights. In addition, women's rights to inherit property and seek divorce may also vary from one country to another.(Tripp 2019)

SOCIAL AND ECONOMIC STATUS

The social and economic status of women in the Arab world also varies widely across the region. In some countries, women have relatively high levels of education and participation in the workforce, while in others, they face significant barriers to education and employment.(Razack 2007) In general, women in the Arab world tend to have lower levels of education and participation in the workforce compared to men. In addition, women in the Arab

world may also face challenges related to healthcare, including limited access to quality healthcare and high rates of maternal mortality.(Korteweg and Selby 2012)

WOMEN IN JURISDICTION

It is difficult to make a generalisation about the representation of women in the legal field, as it can vary widely depending on the specific jurisdiction and the specific role within the legal system. In some countries and legal systems, women may be underrepresented in certain areas of the legal field, such as in the judiciary or in certain legal specialties.(Norris and Inglehart 2001) In other countries and legal systems, women may be well-represented in the legal field.(Jennings 1975) There are a variety of factors that can contribute to the underrepresentation of women in the legal field, including cultural and societal barriers, economic inequalities, and discrimination. In order to promote gender equality and the empowerment of women in the legal field, it is important to address these issues and work towards creating a more diverse and inclusive legal profession.(Jennings 1975)

Studies have shown that women are underrepresented in the legal field in many countries, although the degree of underrepresentation can vary. For example, a study conducted by the World Bank found that women make up only 35% of the legal profession globally, with significant variations between countries. In some countries, women are more highly represented in the legal field, while in others, they are significantly underrepresented.(Raffa 2013)

In conclusion, the role of women in Arabic jurisdictions is a complex and nuanced issue that is shaped by a variety of legal, cultural, and historical factors. Despite the many challenges facing women in the Arab world, there is a growing movement to promote the rights and autonomy of women, and this is a positive step towards a more just and equitable society.(Johnson and Vriens 2014)

Women in Arabic jurisdictions face a number of challenges, including legal discrimination, where many Arabic countries have laws that discriminate against women, such as laws that give men more rights in divorce and child custody cases.(Comair-Obeid 2014) Some argue that even in countries where laws are more progressive, societal attitudes and cultural norms can

discriminate against women. This can limit women's opportunities and make it difficult for them to fully participate in society. Likewise, some believe that women are underrepresented in government and politics in many Arabic countries, which can make it difficult for their voices to be heard and for their needs to be addressed.(Korteweg 2008) They continue that women in Arabic countries often have less access to education and employment opportunities than men, which can limit their economic empowerment and ability to support themselves and their families. Some argue that women in Arabic countries may have limited access to healthcare, including sexual and reproductive healthcare, which can negatively affect their physical and mental health. She believes that women may be at a higher risk of harassment and violence, both in public and in private spaces.(Said-Foqahaa and Maziad 2011) It's worth to mention that these challenges vary between different countries and regions within the Arab world, and that there are some countries and regions that have made progress in addressing these challenges.(Kayadibi 2019)

It should be noted that the laws and cultural norms regarding women's participation in the judicial system vary among the different countries. Some GCC states have had women judges for many years, while others have more recently appointed female judges. However, it should be noted that in some GCC states, the role of women in the judicial system is still limited and they may face societal and cultural barriers.

CHALLENGES AND EFFORTS TOWARDS GENDER EQUALITY

Despite progress in some areas, women in the Arab world continue to face significant challenges and barriers to gender equality.(Bemmels 1988) These include legal discrimination, cultural and societal barriers, and economic inequalities. One major issue facing women in Arabic jurisdictions is discrimination under the law. In many Arab countries, laws and regulations are heavily biased against women. For example, in Arabic other countries, women are not allowed to travel, work, or marry without the permission of a male guardian. Furthermore, in many Arab countries, laws related to marriage, divorce, and inheritance are heavily skewed in favour of men. For example, in many countries, men are allowed to take multiple wives while women are not, and in many cases, men are given preferential treatment in disputes over property and custody of children.(Newman and Hill 2014)

Another major issue facing women in Arabic jurisdictions is cultural discrimination. Many Arab societies are deeply patriarchal, and women are often seen as inferior to men.(Frank Gardner 2013) This can lead to widespread discrimination and marginalisation of women in all aspects of life, including education, employment, and political participation. Furthermore, many Arab societies are deeply conservative, and women are often expected to conform to strict social norms and cultural expectations, such as wearing traditional clothing and adhering to strict codes of modesty.(Metcalf 2011)

Despite these challenges, there have been many efforts in recent years to promote the rights and empowerment of women in Arabic jurisdictions. For example, many NGOs and international organisations have worked to provide education and training for women, as well as legal assistance and support for women who have been the victims of discrimination or abuse. Furthermore, many women's rights activists and leaders have emerged in the Arab world, working to raise awareness about the issues facing women and push for change.(Escobar-Lemmon and Taylor-Robinson 2014) Efforts to promote gender equality and the empowerment of women in the Arab world include the adoption of international human rights conventions, the implementation of national laws and policies aimed at promoting gender equality, and the work of civil society organizations and activists.(Sonbol 2003)

THE ROLE OF WOMEN IN ARBITRATION

Arbitration is a valuable method for resolving disputes, but despite its importance, the field has traditionally been dominated by men. Women are underrepresented in the profession of arbitration, and this lack of diversity can have negative consequences for both women and the field as a whole. In order to promote the role of women in arbitration, several steps can be taken.(Greenwood and Baker 2015)

One of the most effective ways to promote the role of women in arbitration is through mentorship programs. Experienced female arbitrators can serve as role models and provide guidance and support to those who are just starting out in the field.(Hozyainova 2014) Mentors can offer advice on how to navigate the profession and provide valuable networking opportunities. This can be especially important for women who are the first in their families or communities to pursue a career in arbitration.(Van Harten 2012)

Another important step is to offer training and educational opportunities that focus on the specific challenges and opportunities faced by women in arbitration. This can include workshops, seminars, and online resources that provide information on topics such as negotiation, networking, and work-life balance. By providing women with the tools, they need to succeed in the field, these programs can help to level the playing field and promote greater diversity in arbitration.(Greenwood and Baker 2015)

Moreover, encouraging more women to pursue careers in arbitration is also essential. This can be done by providing information about the field and highlighting successful female arbitrators. This can help to dispel myths about the profession and show that women can be successful in arbitration. Additionally, by encouraging women to pursue careers in arbitration, the field will become more diverse, which can lead to better decision-making and more effective dispute resolution.(Sidani 2005)

Another important step is to encourage the appointment of women as arbitrators in a greater number of cases. Parties should be encouraged to select female arbitrators, and institutions should make an effort to appoint women to decision-making positions. This will help to ensure that women are represented in the field and can contribute their unique perspectives to the resolution of disputes.

Bennett suggests supporting research that examines the barriers to women's participation in arbitration is also important. This research can help to identify the specific challenges that women face in the field, and the findings can be used to inform policies and practices that promote gender diversity in arbitration. By understanding the barriers that women face, institutions and organizations can develop strategies to address them and create a more inclusive and diverse field.(Bennett 1986)

Some argue that promoting and encouraging gender diversity in hiring and advancement within arbitration institutions, firms, and organizations is also important. This can be done by implementing policies that ensure that women are considered for leadership roles and by encouraging diversity in hiring decisions. This will help to ensure that women have opportunities to advance in the field and that the profession becomes more diverse over time.(Van Harten 2012)

Furthermore, creating a culture of inclusivity and diversity within the arbitration community is also important. This can be done by promoting awareness of the importance of diversity in the field and by encouraging open and honest discussions about the challenges and opportunities faced by women in arbitration. By creating a culture of inclusivity, the field can become more welcoming to women and other underrepresented groups, and this can lead to better decision-making and more effective dispute resolution.(Carapico 2013)

In conclusion, promoting the role of women in arbitration is essential for creating a more diverse and effective field. By implementing mentorship programs, offering training and educational opportunities, encouraging more women to pursue careers in arbitration, and encouraging the appointment of women as arbitrators, institutions and organizations can help to level the playing field and promote greater diversity in arbitration. Additionally, supporting research, promoting and encouraging gender diversity in hiring and advancement, and creating a culture of inclusivity and diversity within the arbitration community are important steps in promoting women role in arbitration.

RECOMMENDATIONS

There are several ways to promote the role of women in the judicial system in Arab countries. First ‘education and training’, providing education and training opportunities for women to become judges and lawyers can help to increase their representation in the legal profession. Second ‘quotas’, implementing quotas for the representation of women in the judiciary can help to increase the number of female judges. Third ‘cultural change’, Addressing societal and cultural attitudes towards women in the legal profession can help to break down barriers and promote their participation in the judiciary. Fourth method is ‘Role model’, showcasing successful female judges and lawyers can help to inspire other women to pursue careers in the legal profession. Firth way to promote that is by applying ‘supportive policies’, implementing policies that support working mothers, such as flexible working hours and parental leave, can help to make the legal profession more accessible to women. Finally, ‘Gender-sensitive training for judges and lawyers’, this would help them to understand the discrimination and barriers that women face, and to make fair and gender-sensitive decisions in their court cases.

It's important to note that the promotion of women in the judiciary is a gradual process that requires the support and cooperation of various stakeholders, including government, legal profession, civil society and the media.

CONCLUSION

The legal and social status of women in the Arab world is a complex and multifaceted issue, influenced by a variety of historical, cultural, and legal factors. Women in the Arab world have made significant progress in some areas, including education and employment, but continue to face significant challenges and barriers to gender equality. These challenges include legal discrimination, cultural and societal barriers, and economic inequalities. In order to promote gender equality and the empowerment of women in the Arab world, it is important to address these challenges and support the efforts of those working towards these goals. This includes the adoption and implementation of laws and policies that promote gender equality, as well as the work of civil society organisations and activists. By addressing these issues, we can work towards creating a more equal and just society for all members of the Arab world.

REFERENCES

- Bemmel, Brian. 1988. "Gender Effects in Discipline Arbitration: Evidence from British Columbia." *Academy of Management Journal* 31 (3): 699–706.
- Bennett, Laura. 1986. "Job Classification and Women Workers: Institutional Practices, Technological Change and the Conciliation and Arbitration System, 1907-72." *Labour History*, no. 51: 11–23.
- Carapico, Sheila. 2013. *Political Aid and Arab Activism: Democracy Promotion, Justice, and Representation*. Vol. 44. Cambridge University Press.
- Coleman, Isobel. 2011. "Women and the Arab Revolts." *Brown J. World Aff.* 18: 215.
- Comair-Obeid, Nayla. 2014. "Salient Issues in Arbitration From an Arab Middle Eastern Perspective." *Arb. Brief* 4: 52.

- Darcy, Robert. 1994. *Women, Elections, and Representation*. Vol. 1. U of Nebraska Press.
- Escobar-Lemmon, Maria C, and Michelle M Taylor-Robinson. 2014. *Representation: The Case of Women*. Oxford University Press.
- Frank Gardner. 2013. "Saudi Arabia's King Appoints Women to Shura Council." 2013. <https://www.bbc.co.uk/news/world-middle-east-20986428>.
- Greenwood, Lucy, and C Mark Baker. 2015. "Is the Balance Getting Better? An Update on the Issue of Gender Diversity in International Arbitration." *Arbitration International* 31 (3): 413–23.
- Harten, Gus Van. 2012. "The (Lack of) Women Arbitrators in Investment Treaty Arbitration." *FDI Perspectives*, February.
- Hozyainova, Anastasiya. 2014. *Sharia and Women's Rights in Afghanistan*. JSTOR.
- Jennings, Ronald C. 1975. "Women in Early 17Th Century Ottoman Judicial Records-the Sharia Court of Anatolian Kayseri*." *Journal of the Economic and Social History of the Orient* 18 (1): 53–114.
- Johnson, Toni, and Lauren Vriens. 2014. "Islam: Governing under Sharia." *Council on Foreign Relations* 25.
- Kayadibi, Saim. 2019. *Istihsan: The Doctrine of Juristic Preference in Islamic Law*. The Other Press.
- Korteweg, Anna C. 2008. "The Sharia Debate in Ontario: Gender, Islam, and Representations of Muslim Women's Agency." *Gender & Society* 22 (4): 434–54.
- Korteweg, Anna C, and Jennifer A Selby. 2012. *Debating Sharia: Islam, Gender Politics, and Family Law Arbitration*. University of Toronto Press.
- Metcalf, Beverly Dawn. 2011. "Women, Empowerment and Development in Arab Gulf States: A Critical Appraisal of Governance, Culture and National Human Resource Development (HRD) Frameworks." *Human Resource Development International* 14 (2): 131–48.
- Nasir, Jamila M. 1999. "Sharia Implementation and Female Muslims in Nigeria's Sharia

- States.” *Sharia Implementation in Northern Nigeria* 2006: 76–118.
- Newman, Lawrence W, and Richard D Hill. 2014. *Leading Arbitrators’ Guide to International Arbitration*. Juris Publishing, Inc.
- Norris, Pippa, and Ronald Inglehart. 2001. “Women and Democracy: Cultural Obstacles to Equal Representation.” *Journal of Democracy* 12 (3): 126–40.
- Raffa, Dr Mohammad. 2013. “Arbitration, Women Arbitrators and Sharia.” *LJ Nigeria*, Available at: <https://works.bepress.com/Mohamedraffa/1/>, (Accessed 20/10/2016).
- Razack, Sherene H. 2007. “The ‘Sharia Law Debate’ in Ontario: The Modernity/Premodernity Distinction in Legal Efforts to Protect Women from Culture.” *Feminist Legal Studies* 15: 3–32.
- Said-Foqahaa, Nader, and Marwa Maziad. 2011. “Arab Women: Duality of Deprivation in Decision-Making under Patriarchal Authority.” *Hawwa* 9 (1–2): 234–72.
- Sapiro, Virginia. 1981. “Research Frontier Essay: When Are Interests Interesting? The Problem of Political Representation of Women.” *American Political Science Review* 75 (3): 701–16.
- Sidani, Yusuf. 2005. “Women, Work, and Islam in Arab Societies.” *Women in Management Review* 20 (7): 498–512.
- Sonbol, Amira. 2003. “Women in Sharia Courts: A Historical and Methodological Discussion.” *KADER Kelam Araştırmaları Dergisi* 2 (2).
- Tripp, Aili Mari. 2019. *Seeking Legitimacy: Why Arab Autocracies Adopt Women’s Rights*. Cambridge University Press.
- Welchman, Lynn. 2007. *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy*. Amsterdam University Press.
- Zeidan, Joseph T. 1995. *Arab Women Novelists: The Formative Years and Beyond*. Suny Press.