From the Liberation of Women to the Liberation of Men? A Century of Family Law Reform in Egypt

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Abstract

To what extent have notions of manhood and womanhood as incorporated in Egyptian Muslim family law changed over the course of almost a century of family law reforms, and why? In answering this question, I draw on the works of two Egyptian intellectuals, Qasim Amin and Azza Heikal, because they discussed ideas about manhood and womanhood in relation to Islamic religion and authoritarian rule. My analysis shows that there is a dire need within studies on gender in the Middle East to assess the effectiveness of family law reform on both women's and men's agency. After all, when an authoritarian government introduces legislation that enhances women's legal rights with regard to the family but does not reform men's legal rights inside that same family, it is not surprising that when political oppression ends, disenfranchised men will try to abolish the laws that expanded their wives' freedom and curtailed theirs.

Keywords

Egypt; shari'a-based family law reform; authoritarianism; gender; Qasim Amin; Azza Heikal.

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Introduction

A number of political scientists have shown that authoritarian states are less likely than democratic states to support women's rights, and they have pointed

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to some differences that may account for this tendency (For example Hudson et al. 2011). Yet, not all authoritarian states share the same approach to gender equality. Former Soviet republics, for example, often rank high on gender equality in regard to family law and the participation of women in the labour market – even surpassing many democratic states (Htun and Weldon 2015: 469; Pollert 2003; Waylen 2007). On the other hand, Muslim-majority countries frequently are less likely to promote women's rights, especially when high religiosity (Inglehart and Norris 2003: 67–68) and institutional links between the state and religion are present (Htun and Weldon 2015).¹ My intention in this essay is to analyse gender inequality in authoritarian states by highlighting the case of family law in the Muslim-majority country of Egypt. The primary question guiding the analysis is: to what extent have notions of manhood and womanhood as incorporated in Egyptian Muslim family law changed over the course of almost a century of family law reforms, and why? In answering this question, I draw on the works of two Egyptian intellectuals, Qasim Amin and Azza Heikal, because they discussed ideas about men's and women's rights and duties in the family and society in relation to Islamic religion and authoritarian rule. Qasim Amin (1863–1908) was an Egyptian reformer and judge who wrote two influential books – the 1899 *Tahrir al-Mar'a* (The Liberation of Women) and the 1900 *Al-Mar'a Al-Jadida* (The New Woman) – for which he gained credit as the father of Arab feminism (Ahmed 1992; Badran 1996). A century later, Egyptian professor of comparative literature Azza Heikal responded to *The Liberation of Women* by publishing the 2006 *Tahrir al-Ragul* (The Liberation of Men). Although separated by almost a century, both Amin and Heikal argue that authoritarian rule leads to the oppression of men in public life. This oppression, they argue, extends to the domain of the family, where politically oppressed husbands oppress their wives. Both scholars also share the belief that Islamic law should be used to improve the rights of *both* women and men, generally and in the family.

I focus on family law for two reasons. First, both in feminist (Verloo and Lombardo 2007) and sociological literature (For example Mazur 2002: Chapter 7), family law policy frequently is used to measure the extent to which states are committed to gender equality. This choice is not surprising given that family law regulates intimate relationships between husbands and wives and parents and children, and, as such, is highly gendered. Second, in Egypt, the only area of law that is non-secular, that is, where the principles of the *shari'a* explicitly apply, is Muslim family law.² Thus, Egyptian Muslim family law is a useful lens through which to analyse the relationship between authoritarianism and religion as it relates to the legal rights of men and women.

In highlighting the category of family law in Egypt, this chapter contributes to theoretical debates in two fields of scholarly inquiry, feminist scholarship, in particular feminist legal theory, and scholarship on gender in the Middle East. Feminist scholars in general, and feminist legal theorists, in particular, have paid little attention to law, gender and social change as they relate to authoritarianism and religion. For example, in one widely-used introductory book on feminist

¹ For a critique, see Tripp and Kang (2008: 356–357).

² Like Muslims, Christians and Jews continue to apply their own laws in the realm of marriage and divorce. Presently, there are six different Christian laws of marriage and divorce, two Jewish laws, and one Muslim law (Berger 2001).

legal theory, the words authoritarianism, state, religion and Islam (or related terms) are not included in the index (Chamallas 1999). This paucity of research is not the case in scholarship on gender in the Middle East, in which ample attention has been paid to the relationship between gender and law, on the one hand, and state and religion, on the other.

Scholars of gender in the Middle East typically argue that it is not Islam in itself, but rather the state's application of it, that is central to shaping gender relations (For example Ahmed 1992; Kandiyoti 1991) and they often look to how states have either curtailed or expanded women's legal rights (Charrad 2011: 423), particularly in the context of the family. They come to the conclusion that women's rights are strategically employed for the purposes of power consolidation by the state (For example Sezgin 2013). Other scholars have demonstrated that what looks like incomplete secularism has in fact emerged from secular processes, such as in Egypt, where the religious basis of the different family laws is a result of the state's formal adherence to the principles of liberal secularism (Agrama 2010; Mahmood 2016). Yet, by and large, scholars of gender in the Middle East, especially those focusing on family law, have concentrated on the impact of such laws on the lives of women, to the exclusion of men.

Given that both Qasim Amin and Azza Heikal have asserted that a relationship exists between authoritarianism, religion, gender inequality, and gendered legal rights, a discourse analysis of their work makes it possible to relate their findings to the established literature on feminist legal theory. Up to now, this literature has paid scant attention to such relationships. Similarly, extant scholarship on gender in the Middle East generally has failed to address the negative impacts of an authoritarian and conservative society on men. The new insights that derive from this discourse analysis may make it possible to provide an answer to the question of why *legal* notions of manhood and womanhood have remained largely the same after a century of Egyptian Muslim family law reform.

This essay proceeds as follows. In section 'Qasim Amin and The *Liberation of Women*', I analyse Qasim Amin's *The Liberation of Women* (1899) in light of feminist legal theory and specifically seek to answer what Amin meant by the liberation of women. In section 'A Century of Muslim Family Law Reform in Egypt: 1920–2008,' I analyse the extent to which a century of Egyptian family law reforms, introduced between 1920 and 2008, support Amin's understanding of these matters. In section 'Azza Heikal and The *Liberation of Men*,' I analyse Azza Heikal's *The Liberation of Men* (2006), particularly in regard to what Heikal meant by the liberation of men, and briefly relate her analysis to that of scholars of gender in the Middle East. In section 'On Authoritarianism, Religion, and Gendered Marital Rights in Egypt,' I analyse the impact of authoritarian rule and religion on men's and women's legal rights. Since Amin and Heikal share the belief that emancipation of women is closely related to the liberation of men from political and religious oppression, I also pay brief attention to the period following the revolution of 25 January 2011 to see whether the end of thirty years of political oppression under Mubarak has led, in fact, to the liberation of men as well as women.

Qasim Amin and The *Liberation of Women*

Qasim Amin was born in 1863 in Alexandria, Egypt. He grew up in a time when Egypt was formally an autonomous province of the Ottoman Empire ruled by

Tawfik Pasha (1879–1892) and ‘Abbas II Hilmi (1892–1914), both descendants of Muhammad ‘Ali (1769–1849), the founder of Egypt’s ruling dynasty. In fact, however, the country was occupied by British forces as a result of the Anglo-Egyptian war of 1882 and during Amin’s lifetime, Britain’s influence on Egyptian domestic political affairs expanded rapidly. By 1914 – six years after Amin’s death – Britain had declared Egypt its protectorate.

In the last quarter of the 19th century, seclusion of women was the norm in the upper classes to which Amin belonged. Upper class women seldom left the home, and would cover their faces when they did, unlike urban and rural women from the lower classes, who worked outside the home and did not cover their faces (Badran 1996; Tucker 1985). The period was one of great legal and social change, however. In 1883, a year after British domination in Egypt had begun in earnest the legal system was transformed drastically. Religious laws were replaced with codified European-style law codes and judges trained at al-Azhar University³ were replaced with secular judges like Amin, who had studied law in Egypt and France. In the religious realm, authorities like Amin’s friend Muhammad Abduh (who was appointed Grand Mufti of Egypt in 1899), along with large segments of Egypt’s educated class, believed that modernising Islamic religion was the key to freeing Egypt from foreign domination and occupation. It was during this turbulent period in Egyptian history that Amin published the books *Tahrir al-Mar’a* (The Liberation of Women) and *Al-Mar’a al-Jadida* (The New Woman). In this essay, I focus on the inherent reform plans within *The Liberation of Women*, a book to which Abduh is believed to have secretly contributed sections (Ahmed 1992).

Published in 1899, *The Liberation of Women* consists of four chapters in which Amin urges the ‘educated individuals’ of Egyptian society to consider his plans for reform (preface). In the introduction Amin states firmly: ‘Yes, I have come up with a heresy, but it is not a heresy against Islam’ (1972: 12). According to Amin, the Islamic legal system was the first to establish equality between women and men, even with regard to ‘untying the matrimonial knot’ (*ibid*: 15). This approach stands in contrast to some Western legal systems, Amin says, which equate the duties of men and women but grant men more rights (*ibid*). Like his friend Abduh, Amin believed the existing unequal (legal) status of women in Egypt to be contrary to Islamic law. He believed that those primarily responsible for this difference were despotic governments (16) and religious scholars (Chapter 3). Further, he argued for the existence of a clear relationship between the oppression of men by despotic rulers and the oppression of women inside the family by politically oppressed husbands. In *The Liberation of Women* he writes, ‘...in his superiority, the man began to scorn the woman in her weakness’ (16), and ‘from scorn he filled his house with numerous wives and slaves and divorced his wife without reason’ (*ibid*: 16–17). Further, he proposes a number of reforms that would put an end to these practices and stabilise the marital bond: education for women (Chapter 1), the lifting of the face-veil and the end of middle and upper class women’s seclusion in the home (Chapter 2), curtailing men’s divorce rights, and expanding those of women (Chapter 4).

³ Al-Azhar University is a main centre of Islamic and Arabic learning. It was founded in 970 CE in what is now the medieval quarter of Cairo.

Amin also argues in this book – based on his conviction that women’s ability to think is the same as men’s – that women should be given an education. He contends that education would better enable a woman to fulfill her role in society (i.e., to work, be independent from a male guardian, and be self-sufficient) as well as in the family (i.e., raise her children and run the (financial) affairs of the household) (Chapter 1). The face veil prevents women from earning a livelihood and should be lifted. Amin makes it very clear that he does not mean to completely dispense of the veil. The veil (which does not cover the face, only the hair), so he says, is ‘one of the fundamentals of decency’ and should be preserved (43). Amin indicates that his positions on the face-veil and seclusion are not inconsistent with the *shari’a*, which does not order women to wear the face veil but instead recommends them to leave their face and hands uncovered (49). Secluding women is not a solution either. It is against Islamic *shari’a* (53). According to Amin, the chastity of women should reflect an inner spiritual quality that is learnt primarily through interaction with others, rather than seclusion or a garment that hides the body (68).

In the final chapter of *The Liberation of Women* Amin concludes with a portrayal of Egyptian family life. Religious scholars, he claims, are to blame for the weak structure of the Egyptian family. He argues that God sees the institution of marriage as ‘based on intimacy and mercy between the spouses,’ while religious scholars define it as ‘a contract which gives a man the right to sleep with a woman’ (83). This latter approach means that instead of showing love and respect, husbands frequently neglect their marital responsibilities, marry a second wife, or divorce a wife at whim. Amin seems to believe that proper education can eliminate such problems but, he argues, since it will take a long time for the effects of education to become visible, legislation must be enacted in the meantime. This legislation must curtail a husband’s right to repudiation by making it conditional on official registration and arbitration (104). Because repudiation involves a unilateral divorce pronouncement from the side of the husband, however, Amin sees even this measure as inadequate. He contends that giving women the respect and honour they deserve requires granting them the right to divorce, a right to which they are entitled according to Islamic law (106).

After its publication *The Liberation of Women* became the center of public attention and discussion both in and outside Egypt. Public discourse about it was equaled only by that concerning nationalism and British domination (Ahmed 1992: 171). Though the book inspired both admiration and contempt among religious leaders, journalists and writers inside and outside Egypt (Al-Muqaddam 2006: 31–40), it emerged as a source of inspiration to feminists throughout the Arab world.

Comparing Amin to Western Liberal Feminists of His Time

Although the term feminist was not used in Egypt until the 1920s (Badran 1996: 20), Qasim Amin often has been referred to as the first Arab feminist or the ‘father’ of Arab feminism. Amin’s advocacy took place in the last decades of the 19th century and the first years of the 20th century, a period in which Egyptian upper class women first started voicing a rising feminist consciousness, which expressed itself through women publishing books and essays in, mostly,

women's journals and writing letters to each other, usually within the confines of the private sphere. It was only after Amin had died (1908) that Egyptian women carefully moved into the public sphere and it was not until 1923 that women 'began to conduct an organized political movement' (Badran 2009: 65).

In their writings, the early feminists of Amin's time focused on enhancing the status of education for women. They argued that education for women would help them to manage their homes and not lead to women's loss of morality (Badran 2009: 60). Amin took the matter a few steps further when he asserts in *The Liberation of Women* not only that women have a right to education because they are equal to men: 'her organs and the way they function, her feelings, and her thinking are the same as a man' (1972: 19). Amin, who was a judge, also argues that the intellectual equality of men and women was not adequately reflected in extant Egyptian legislation. In pointing out gender related legal deficiencies, he resembled the equality or liberal feminists in Western Europe and North America of his time, who also saw women's unequal position relative to men as the result of unjust laws that denied women full citizenship rights, such as suffrage, and they believed that once these disparities were repaired women and men would enjoy equal status. But where the former focused on secular laws, Amin advocated for the reform of religious law.

At the outset of *The Liberation of Women*, Amin clarifies his rationale for such reform when he states that his work is an effort to return to the true spirit of Islam. Amin's convictions about practices like seclusion, face veiling, polygamy and divorce seem to have been grounded in personal experiences: 'My mind is full of incidents that passed me by through experience, and which overwhelmed all my thoughts. I do not wish to remember any of them, because I know that they do not leave any mind until they have passed by it' (1989: 334). Personal experiences were certainly the main impetus for the early Egyptian upper class feminists to urge for changes in such practices as domestic seclusion (Badran 2009). Together with the fact that Egypt was dominated by the British, it explains why Amin, and other male reformers, such as Amin's friend Abduh, focused on the reform of laws regulating polygamy and divorce rather than for suffrage, the issue that was peaking in the United States and Europe at the time (Misciagno 1997: 4).

Amin differed in a third aspect from Western liberal feminists of his time. Where the latter treated the centralised power of the state as neutral (Chamallas 1999; Chunn and Lacombe 2000: 4), Amin fiercely and loudly attacked Egypt's ruling political and religious elite – the royal family and religious scholars. The early Egyptian women espousing feminist consciousness did not address this issue and were merely intent on changing their personal circumstances. In Amin's view, the undue influence, despotism, and ignorance of these entities were most significant obstacles to the liberation of women and, by extension, the nation of Egypt. His critique of the state, as a result, was more explicit than that of most liberal Western feminists of his time and arguably reflected the authoritarian and colonial context in which he lived. Moreover, this context led him to a broader focus: the curtailment of Egyptian *men's* freedom in the public sphere by state structures of oppression and its relationship to the subjugation of women. Amin noted that oppressed male citizens subordinated women in the only domain where male authority had remained relatively unchallenged over time: the family. Hence, unlike the liberal Western feminists of his time (and later radical feminists who, in the second wave of Western feminism

starting in the 1960s, pointed to the state embodiment of male hegemony and its detrimental effects for women) Amin portrayed men both as oppressors *and* as victims. He did not make it explicitly clear which categories of men were oppressed and writes in general terms about men's oppression. In an era of rising nationalism, where men and women had to stand united to face and stand up against the oppressor, this is not surprising. In her analysis of marriage in early twentieth century Egypt, Kholoussy remarks that 'fathers' threatened masculinity as colonial subjects perhaps heightened their need to express their authority over the household because most exercised little control in the political economic sphere dominated by the British' (Kholoussy 2010: 105).

Beginning in the 1990s, Arab feminists like Leila Ahmed (b. 1940) criticised Amin for mimicking 'the West.' Ahmed argued that beneath Amin's call for women's liberation was a call for Western-style male dominance, including assertions that women were biologically inferior to men and that domesticity and motherhood were the primary and preferred female roles (1992: 163, 151). Indeed, Amin does maintain that the main tasks of new and liberated women should be childrearing and the management of the home. At the same time, he repeatedly mentions that these responsibilities should not prevent women from working outside the home. In fact, in the first chapter of *The Liberation of Women*, Amin argues that self-sufficiency should be an essential capability of women.

Despite the criticisms that emerged almost a century later, Amin's books were a source of inspiration to feminists in the Arab world in the first half of the 20th century. One notable example is Egyptian feminist leader Huda Shaarawi (1879–1947) (Badran 1996: 38), who is known for having been the first upper-class Muslim woman to remove her face veil in public. Amin's views triggered a significant debate on the status of women, moving it from a side issue to a topic of national concern (Sidhom Peterson 2000: xiii) that planted the seeds for legal reform in Egypt (Esposito and DeLong-Bas 2001: 48; Kholoussy 2010: 4).

A Century of Muslim Family Law Reform in Egypt: 1920–2008

The Husband-Wife Relationship

Qasim Amin died in 1908 but his ideas remained a source of inspiration for nationalists, who also believed that strengthening the weak structure of Egyptian family life was a condition for the liberation of the Egyptian nation from foreign domination (Kholoussy 2010). In 'the emerging nation with calls for political independence, freedom, and equality for Egyptian men, some nationalists were willing to give some of this freedom to other family members too' (Kholoussy 2010: 116). In 1920, when Egypt was still a British protectorate (1914–1922), Egypt's first codified family law was drafted by an Egyptian committee, which included religious scholars, such as al-Azhar sheikh Mustafa al-Maraghi, the head of the committee from 1919 until 1928.⁴ The draft was implemented in 1920 (Law No. 25/1920), two years prior to (limited) independence in February 1922. In terms of the husband-wife relationship, in its very first article the law stipulates that when the wife surrenders herself to her husband, the husband

⁴ <http://www.dar-alifta.org/AR/ViewScientist.aspx?ID=58>, accessed 8 February 2016.

has the legal duty to be the financial provider in the marriage, even when his wife is wealthy or from another religion. In return for financial maintenance, she cannot leave the house without his permission, unless for good reasons. Until 1967, a husband could call the police and enforce the return to the marital home of a wife who had left it without her husband's permission. In such cases, wives lost and still lose their right to spousal maintenance (*nafaqa*). Reformers saw a husband's failure to provide maintenance in general and in cases of prolonged absence specifically as a threat to the stability of the family and for this reason they decided to give women more grounds for divorce than had previously been available.⁵ Before 1920, Egyptian Muslim women could only divorce on the grounds of impotence, prolonged absence of the husband (90 years have elapsed since the date of his birth) and apostasy of the husband. In the late 1920s, women could divorce on five more grounds.⁶ The family laws of the 1920s restricted men's right to repudiation somewhat, among others by requiring husbands to register the *talaq*. They did not limit polygamy.

This legal vision of men being financial providers and women being obedient mothers and housewives hardly changed in the decades that followed despite the fact that women's participation in public life would increase significantly. Under the single party socialist rule of president Gamal 'Abd al-Nasser (1954–1970) women gained the right to vote, to work outside the home, and to combine their professional duties with domestic ones. The equality of men and women was proclaimed in the constitution of 1956. Inside the family, however, not much changed, at least not on a legal level. Women could work outside the home and become ministers or ambassadors but in order to leave the house, they still needed the permission of their husband.

Under the authoritarian governments of Anwar Sadat (1970–1981) and Hosni Mubarak (1981–2011) the legal basis of the marital relationship remained unchanged in the sense that husbands remained responsible for financially maintaining the family. The family law of 1985 (amending the 1920s laws) clearly states that the husband is the main provider in the family and that he should provide his wife food, clothing, housing, and pay for her medical treatment fees (Article 2, 1 of Law No. 100/1985) on penalty of imprisonment for a period not exceeding thirty days (Article 76 bis of Law No. 91/2000). Whereas husbands remained financial providers, women's legal obligation not to leave the marital home without the consent of the husband was amended to the extent that husbands no longer had the right to deprive their wife of alimony (*nafaqa*) if the latter was leaving the house for the sake of lawful work; unless the wife misused the right to work or her work was against the interest of the family and her husband requested her to refrain from doing this work (Article 23, 2, 2 of Law No. 100/1985).

⁵ This does not necessarily mean that in the period preceding the 1920 reform judges did not grant women divorce (e.g. Abdal-Rahman Abdal-Rehim 1996).

⁶ Prolonged absence of the husband without legitimate cause for a period exceeding one year (Article 12 of Law No. 25/1929); imprisonment of the husband for a period exceeding three years (Article 14 of Law No. 25/1929); mental or grave and incurable sickness of the husband of which the wife had no knowledge at the time of contracting the marriage (Article 9 of Law No. 25/1929); a husband's failure to provide maintenance or a husband's harming of the wife (Article 6 of Law No. 25/1929; amended by Law No. 100/1985).

At the start of the new millennium, in January 2000, the members of the People's Assembly passed the first Egyptian law of the new millennium (Law No. 1/2000). It contains a provision that gives Egyptian Muslim women the right to divorce without the consent of the husband and without the need to show cause in court through a procedure called *khul'*. The introduction of *khul'* provoked heated public debates and it was argued that women would divorce men for frivolous reasons (because their eye was on another man, for example) and that *khul'* was against the teachings of Islamic law. Another main theme brought forward was that of gender reversal: women would become men and men would become women. There were cartoons portraying men being pregnant, pushing prams and being under the obedience of their wives (Sonneveld 2012a: 59–81). In this discourse, the liberation of women was leading to the emasculation of men. Although the '*khul'* law' did not change the legal basis of the husband-wife relationship (married wives still have a legal obligation to obey a providing husband), it affected a husband's control over his wife. Similarly, subsequent family law reforms – increasing the maternal custody age (2005) and transferring educational guardianship from the divorced father to the custody holder (usually the mother) (2008) – affected a husband's legal authority over his children.

The Egyptian family law reforms reflect Amin's ideas on the liberation of women in two respects. First, the law reforms gave women far reaching legal possibilities to escape an unwanted marriage and they also curtailed husbands' rights to repudiation somewhat by making it conditional on official registration. Secondly, acknowledging that educated women were important in the upbringing of not only small children but also adolescents, the maternal custody age (*hadana*) was raised from 7 to 9 in the 1920s to at least fifteen years in 2005. In the case of divorce, women custody holders were also granted the right to educational guardianship of their children. Over the course of a century, the legal role of Egyptian men in the family has not changed. They were and are expected to be financial providers and not be concerned with the moral and physical upbringing of their children as much as their wives were/are, a view which Amin also seemed to endorse when he says that women's natural instincts as well as their patience and sensitivity better equip them than men to raise children (1972: 35). At the same time, however, Amin also wanted to end women's seclusion to the home and ensure their financial independence. The persistent presence of the maintenance-obedience relationship as the legal basis of the marital relationship undermines this advocacy until this day.⁷ In the next section, I explain why the legal basis of the marital relationship has remained largely unchanged.

Azza Heikal and The *Liberation of Men*

By the turn of the 21st century, the enrolment of Egyptian women in education had increased significantly. Women across the class spectrum were in the labour

⁷ On the basis of two years of ethnographic fieldwork in Egypt, mainly Cairo, I show in my book *Khul' Divorce in Egypt* that the idea of the maintenance-obedience relationship is also popular at a social level across the class spectrum (2012a).

force, and in approximately one third of Egyptian households, women were the main breadwinners (Bibars 2001; Sonneveld 2012a). These social changes were not reflected in Muslim family law, however. Husbands were still expected to be breadwinners and wives to be obedient wives and housemothers. Prompted by the hundredth anniversary of *The Liberation of Women* and *The New Woman*, Egyptian professor of comparative literature Azza Heikal wrote *The Liberation of Men* (*Tahrir al-Ragul*, a pun on *Tahrir al-Mar'a*) to explore the status of women in 21st century Egypt.⁸ Published in 2006, *The Liberation of Men* is divided in three sections: 'Woman' (consisting of eleven short essays), 'Man' (nine short essays) and 'Seven Commandments for Women' (seven poems). The author, a well-known public figure who often features on Egyptian women's talk shows, was invited to discuss her book on al-Jazeera in June 2006.⁹ She noted that she used the anniversary of Amin's *Tahrir al-Mar'a* as a point of departure for asking questions about the progress of men and women's rights and responsibilities a century later.

In *The Liberation of Men*, Heikal analyses the status of both men and women in Egyptian society by looking at political, religious and social discourses. Heikal, herself a single mother, maintains that on a social level women's extensive divorce rights have done little to help them avoid the negative judgments of society. First, although a woman can choose to leave a marriage, both men and women in society will adversely judge her since they consider divorce the solution most hated by God and the husband's prerogative (59). Second, in Egypt a divorced woman is likely to become the secret wife of an already married man because unmarried men will not want to marry a woman who is no longer a virgin. Heikal pays extensive attention to the occurrence of informal marital relationships, in which husbands are exempt from the duty to be financial breadwinners. Where Amin wanted to put a stop to what he perceived as male's excessive use of the right to repudiation, Heikal observes that at the turn of the third millennium, instead of divorcing their wives, husbands marry a second wife in secret. In this way, they are able to experience a relationship free of responsibilities and full of pleasure and leisure (55–60; see also Sonneveld 2012b). For Heikal this behaviour is related to the pervasiveness of political oppression – of men as well as women – in Egyptian society.

Like Amin, Heikal is convinced that the political oppression of men results in a broader social oppression that is ultimately manifested within the family. In this regard, she treats men as a homogenous category in much the same way Amin does. According to Heikal, when men are unable to exercise personal freedom they find another way to redeem their shattered pride: by treating women as inferior beings (Heikal 2006: 6). Unlike Amin, however, Heikal argues that the liberation of women ultimately depends not on the provision

⁸ Interview with Azza Heikal, 22 October 2015, Cairo.

⁹ Al-Jazeera (23 June 2006), <http://www.aljazeera.net/news/cultureandart/2006/6/22/%D9%83%D8%A7%D8%AA%D8%A8%D8%A9-%D9%85%D8%B5%D8%B1%D9%8A%D8%A9-%D8%AA%D8%AF%D8%B9%D9%88-%D8%A5%D9%84%D9%89-%D8%AA%D8%AD%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B1%D8%AC%D9%84-%D9%84%D8%AA%D8%AA%D8%AD%D8%B1%D8%B1-%D8%A7%D9%84%D9%85%D8%B1%D8%A3%D8%A9>.

of education or family law reform by the state but on the liberation of men from oppressive political and socio-religious structures. Where Amin was convinced that education would erase the 'inferiority' of women in the minds of religious scholars, Heikal, with the benefit of hindsight, notices how the increased prevalence of education among women has done little to change the way Islam is interpreted. In fact, since the 1970s, returning Egyptian workers from the Gulf countries have brought back more conservative and extremist ideas about religion that have gained widespread favour among both men and women in Egyptian society, especially the idea that women's bodies embody male honour and must be hidden from view through the donning of the (face) veil (49–53). Thus, where Amin contends that education will make women be more valued lifetime companions to their husbands, Heikal finds that the opposite has occurred: Egyptian men oppress women in the same way the political system oppresses men, that is to say, by installing fear in their hearts and minds (*ibid*).

Like Heikal, many scholars of gender in the Middle East are convinced that an analysis of the persistence of patriarchal structures in the family, politics and religion (Charrad 2011: 427) is crucial to a complete understanding of the position of women. Heikal, however, takes this assertion one step further. In arguing that oppression is embodied by many Egyptians, that is to say, internalised and even reproduced in their bodies, Heikal suggests that men are as much prisoners of the extremist ideas about women's bodies as women.¹⁰ In the next section, I explore in more detail the relationship between authoritarian rule, men and women's embodiment of authoritarian rule, and Muslim family law reform.

On Authoritarianism, Religion, and Gendered Marital Rights in Egypt

In 1964, Linz provided a still-influential definition of authoritarianism: 'political systems with limited, not responsible, political pluralism, without elaborate and guiding ideology, but with distinctive mentalities, without extensive nor intensive political mobilization, except at some points in their development, and in which a leader or occasionally a small group exercises power within formally ill-defined limits but actually quite predictable ones' (Linz 2000: 159). Based on this definition, nearly all political regimes in the past and present Middle East may be categorised as authoritarian (Bölme 2015: 9), including those in power in the time of Amin and Heikal. Thus, despite the process of liberal secularism that began in Egypt under the British (more recently manifested in the re-establishment of a multiparty system under Sadat in 1977 and the first-ever 'competitive' presidential elections under Mubarak in 2005), authoritarianism in Egypt, and its implications for family law, persist.

¹⁰ Although Heikal does not explicitly refer to Foucault, her analysis touches on Foucault's concept of bio-power, a practice whereby modern state power not only becomes encoded into human bodies but also multiplies itself through these bodies (Foucault 1990: 140–141).

Asad (2003), Agrama (2010) and Mahmood (2016) all conducted detailed analyses of the introduction of liberal secularism in Egypt in relation to religious family law. Their work is important because it shows that what looks like incomplete secularism – a failure to modernise – is nothing less than the process of liberal secularism at work par excellence, including the fundamental process through which religion and the family were assigned to the private domain. Asad argues that when religion and religious law were moved to the private sphere, the spiritual cultivation underlying religious law (embodied through religious rituals of worship) was shuffled into the private sphere too and it became the concern of the individual, generated and sustained by the family (Asad 2003: 236). The separation between law and morality left a moral vacuum in the public sphere, which was filled by the ethics of the sovereign state (i.e., representative democracy, citizenship, civil liberties) (Asad 2003: 248–256). Asad speaks of embodied practices of religious conduct, which, through the figure of the judge, gave moral authority to religious law. In the public sphere, this moral and embodied authority of law was replaced by the political authority of the nation state and expressed through its legal codes. The state started to embody, produce, and administer the law (235), in other words, it started ‘the legal work of educating subjects into a new public morality’ (240). The law, family law in particular, became indispensable in introducing a new morality, sustained, even generated, by the family, and based on compliance and obedience.

The Family and The Nation

Historians frequently point out the relationship between the family and the nation. Lisa Pollard, for example, has demonstrated how the Egyptian home of the early 20th century was a space where men and women learned to be modern nationals (2005: 166–204 in Kholoussy 2010: 10). I argue that under the successive authoritarian governments of Nasser, Sadat and Mubarak, the family was a space where men and women learned to be obedient in order to ensure the continued existence of authoritarian rule in Egypt. It seems, in fact, that the greater the political oppression that existed, the smaller the political will was to embark on legal reform of family law. Under the presidency of Nasser, for example, the political system, civil society and the economy experienced limited pluralisation, a state of affairs in which few changes took place in family law. True, women’s rights in the public sphere were extended considerably (free education, right to work, maternal leave, child care), but these measures were intended to serve Nasser’s socialist vision of a new Egypt rather than increase women’s self-determination. Neither were later changes that increased pluralisation in Egypt under Sadat and Mubarak designed to improve gender equity in the family.

Under Sadat and Mubarak political oppression became less severe and this went hand in hand with a steady improvement of women’s rights in Muslim family law (see section ‘A Century of Muslim Family Law Reform in Egypt: 1920–2008’). The formal political system experienced increased political parties, greater competition within the ranks of the ruling party, and an increasingly independent judiciary (although the state of emergency in force after the assassination of Sadat in October 1981 was never lifted). Some sectors of civil society, such as the media and non-governmental organizations (NGOs) – mainly those

that served bourgeoisie interests – also were given greater autonomy, especially human rights NGOs in the late 1990s (Shehata 2010: 34–38). Nevertheless, these authoritarian rulers and those who followed have not allowed deep legal reform, that is, reform that abolishes the spousal maintenance-obedience relationship. In a study of Egypt and the United Arab Emirates in the 2000s, Hasso notes that ‘family patriarchy is one arena of male authority that is useful in undemocratic states in which men are disfranchised in other domains’ (2011: 171. See also Kandiyoti 1991). In other words, because authoritarian states in the Muslim world curtail men’s rights in the public sphere they are careful not to challenge men’s alleged religiously-ordained authority in their last bastion of power: the family. Hence, for ruling elites to stay in power, oppression must be maintained within the personal lives of citizens such that ‘authoritarian powers in particular establish a strategic cooperation with family policies’ (Yilmaz 2015: 160). Both Amin and Heikal point to this problem of the internalisation of authoritarianism inside the family, that is, men’s authority over women and children. Amin believed that the end of political oppression would simultaneously end women’s oppression by oppressed husbands. Heikal is more careful; even when political liberalisation sets in and family law is reformed, chauvinistic attitudes that have developed over decades will not disappear overnight. The revolt of divorced fathers after the 2011 revolution testifies to this contention.

The Liberation of Divorced Fathers

Khul’ was introduced in 2000, during a period of relative political liberalisation, and it allowed Muslim women to divorce unilaterally without the need to show cause in court. The more liberal climate in which *khul’* was instituted saw the greater participation of secularist reformers, women’s groups and NGOs that employed notions of gender equality, and it allowed Islamists of various signatures to claim a greater public presence in debates concerning family law reform (Moors 2003: 4–5). The opening up of the public sphere notwithstanding, the *khul’* reform provoked much controversy and was a topic of heated debate for weeks after its inauguration. I have analysed these debates in detail elsewhere (Sonneveld 2012a: Chapters 2 and 3). Suffice it to say here that Islamists and liberals alike depicted women as irrational beings who would divorce for frivolous reasons when no longer under their husband’s authority and disrupt the family in the process. Women’s NGOs argued that, to the contrary, the divorce reform would bring more stability to the Egyptian family.

Scholars of gender in the Middle East often describe domestic opposition in terms of organised opposition of collectives rather than individuals, most prominently those of conservative religious scholars and Islamist groups. In a context of authoritarianism, however, it can be questioned whether the inclusion of opposition groups, such as the Islamists, in the political and public debate is a matter of political strategy of the authoritarian government resulting in the exclusion of other subordinated groups (Verloo and Lombardo 2007: 27), most notably the individuals that are directly and personally (likely to be) affected by legal reform. In the Egyptian case, for example, the opposition of divorced fathers to the *khul’* divorce and the other family law reforms of the 2000s was as, if not more, vehement than that of the Islamists, but their voices were hardly

heard before the revolution. After Egypt's 25 January 2011 revolution, when the public sphere was reconfigured, the exclusion of these less organised voices in the public debate ended.

A few weeks after the forced departure of Mubarak on 11 February 2011 and five years after the release of Heikal's *The Liberation of Men*, divorced fathers (and sometimes also their parents), loosely organised under various organisations fighting for the rights of divorced fathers forcefully expressed their own understanding of 'the liberation of men' by publicly challenging the existing family law provisions, most particularly those pertaining to the unilateral divorce rights of women (*khul'*) and the visiting rights of divorced fathers (*ru'ya*). They called these provisions 'Suzanne Mubarak laws' and asserted that a 'revolution' was needed to purge them as remnants of the previous authoritarian regime (Sonneveld and Lindbekk 2015; Sonneveld and Voorhoeve 2011). By connecting the family law provisions to the repression of the old regime, the divorced fathers' organisations found a forceful way of politicising the divorce laws and rescinding certain women's rights. They had great hopes that the fall of the regime would open the way to liberation – not only of men within the nation, but also of men within the home (al-Wafd 21 December 2011). Their voices, almost unheard before the revolution, gained much public prominence. Divorced fathers demonstrated in front of highly public spaces such as the parliament and al-Azhar and their representatives were invited to Egyptian talk shows. Their alliances with members of Egypt's first post-revolutionary parliament allowed them to influence public policy, at least until the parliament was dissolved in June 2012. After the fall of the government of Muhammad Mursi in July 2013, their public activism came to a halt.¹¹

The sudden public appearance of the divorced father's groups leads to two important observations. First, in contrast to what Amin had predicted, these men did not want to extend women's liberties but curtail them. For example, one of the main demands of these groups was the repeal or amendment of the provision on *khul'*. Second, the eventual activism of these men was unanticipated in Egypt, just as their perspectives and experiences often are overlooked by scholars of gender in the Middle East, especially when they assess the effectiveness of family law reform on women's agency. When an authoritarian government introduces legislation that enhances women's legal rights with regard to the family but does not reform men's legal rights inside that same family, it is not surprising that when political oppression ends, disenfranchised men will try to abolish the laws that expanded their wives' freedom and curtailed theirs.

Conclusion

This article addressed the following question: to what extent have notions of manhood and womanhood as incorporated in Egyptian Muslim family law changed over the course of almost a century of family law reform in Egypt (1920–2008), and why? The analysis of a century of Egyptian family law reform

¹¹ Interview with Egyptian journalist Ahmad Aboe Zeid, who has written extensively on the activism of the divorced fathers' rights groups, 15 February 2016.

makes it clear that gender identities and marital identities continue to be mutually constitutive in Egypt (Kholoussy 2010: 11). In the 2010s, just as in the 1920s, legal Egyptian manhood/fatherhood is defined in terms of breadwinning and legal Egyptian womanhood/ motherhood in terms of homemaking and obedience to a financially providing husband.

Egyptian intellectuals Qasim Amin and Azza Heikal subscribe to the point of view prevalent in both feminist legal theory/radical feminism and scholarship on gender in the Middle East that a relationship exists between state policies and the (legal) position of women in society. But where scholars focus only on the detrimental effects of state policy on the position of women, Amin and Heikal add another dimension to this issue: the effects of authoritarian leadership on men's position in the family and society. Authoritarian regimes, they argue, curtail men's political agency and personal freedom to such an extent that men try to regain some of their autonomy and freedom by restricting that of women in the family sphere. While Amin believed that the provision of education and reform of family law matters would give women the rights they deserved, Heikal argued that political oppression is embodied, that is, maintained within personal lifestyles. As long as men and women believe that the female body embodies male honour, political liberalisation will not quickly change such deeply ingrained socio-religious beliefs.

After the January 25 2011 revolution, even more than Islamist groups, groups of divorced fathers (including, to a lesser extent, women) were vocal in demanding, and almost successful in repealing, previous family law reforms – or, as they called them, the Suzanne Mubarak laws. Their experiences, and the lack of attention it drew among scholars, suggests a dire need for more research on the effectiveness of family law reforms over time. Further, it supports Heikal's assertion that women's liberation cannot be achieved without men's liberation, and that gender analysis must include the perspectives of men as well as women.

Finally, this article has not addressed the question whether there are differences in the way different categories of men, with diverging religious, class, and educational backgrounds, respond to political and social oppression, and how this impacts on husband-wife relationships inside the domain of the family. Future empirical research is needed to provide an answer to this very relevant question.

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