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ARGUING ABOUT FAMILY LAW IN JORDAN: DISCONNECTED SPHERES?

Abstract
Do public policy debates between activists from different ideological camps in a nondemocratic and illiberal system bridge social divisions or deepen them? Focusing on three controversies regarding family law in Jordan, we argue that activist groups rarely talk to each other in public, and when they do, their discourses aim primarily at mobilizing support within their own camps rather than addressing each other's concerns. Through media analysis, discourse analysis, and in-depth field interviews, we find much polarization and few attempts to build bridges, but also limited though very suggestive exceptions. Those exceptions rely less on public and democratic mechanisms and more on entrepreneurial state actors working quietly, talking opportunistically to each side, and emerging as powerful institutional actors. Authoritarian states can provide sites of deliberation, but deliberation seems to lead to principled agreement beyond the platitudinous only when an institutional actor within the state takes the initiative to get involved.

Keywords: dialogue; family law; philosophical exploration; polarization of politics; political practice

The polarization of politics in many Arab societies, on full and even violent display since the uprisings of 2011, has been evident for decades. Adherents of various ideological orientations have advanced sharply different visions of a good society in debates about public policy. Many appear to be talking past each other, basing their conceptions of morality and rights on such widely different sources that they argue in separate worlds. The divisions have often been sharpest on gender issues. Disagreements over constitutional revision, personal status law, honor crimes, and other matters often polarize between those who anchor their arguments in Islamic legal thought and those who turn instead to liberal conceptions of rights, sometimes relying on international human rights instruments. Can politics—understood as the struggle over public policy outcomes—help fellow citizens bridge those differences?[1] Or do members of each camp talk largely among themselves, only deepening their divisions?

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Clash among those holding different normative orientations is hardly unique to the Arab world. But many of the tools we have for understanding how such clashes can be managed are developed by those whose concerns are primarily normative and assume a liberal and democratic society. Some of the tools of these liberal normative theorists may be more helpful for nondemocratic settings than they intended, but only if detached from an implicit view that holds that deliberation is of interest only among those who accept liberal values and operate in a democratic context.

Political philosophers, especially those writing in the liberal tradition, have devoted great attention in recent decades to how people reasoning from different sets of values should deliberate and how they might come to agreement. Particularly influential has been the work of John Rawls, who theorized how those with different "comprehensive doctrines"—or "conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct"[2] —might deliberate. His most promising approach was what he termed "overlapping consensus," in which adherents of different doctrines have their own private reasons for favoring a position but still seek to come to an agreement that all can find principled. In contrast to an overlapping consensus, those who differ might fall back on a less ambitious approach, a mere "modus vivendi," by which Rawls meant instances in which adherents of such doctrines arrived at an outcome for purely practical reasons without attempting to address deep moral principles. As a normative theorist, Rawls avoided discussing the actual political mechanisms with which such deliberations would take place—discussions among citizens, not decisions by institutions, were his focus. Rawls's later works grew increasingly pluralistic, attempting to include nonliberal and religious orientations as reasonable comprehensive doctrines. But his requirements for overlapping consensus among them were sufficiently demanding—and designed exclusively for constitutional democracies—that such an agreement might be seen as very unlikely to emerge fully in the context of existing Arab political systems.[3]

Jürgen Habermas, perhaps even more influential than Rawls, has explored ways in which members of a society can deliberate in a public sphere. He has attempted to marry normative concerns with institutional arrangements. In Habermas's view of a healthy liberal society, such deliberation among members of the general public can be linked to a political sphere that moves from discussion to decision. The political sphere, consisting of formal institutions such as parliaments, advances beyond principled agreement to concrete action, policy, and law to be applied by authoritative state bodies.[4]

Such approaches, however appealing normatively, seem to be based on a view of how politics should operate that few political systems—even ones that are recognizably liberal and democratic—remotely approach. They would at first glance seem to be extremely unpromising for illiberal and undemocratic orders. In this essay, we seek to move beyond such skepticism and to probe possibilities for deliberation and agreement in a nondemocratic setting. Specifically, we examine how those with different normative orientations argue and what outcomes their arguments have. How do those who differ handle their differences? Can those arguing from an Islamic frame of reference, anchoring their claims in religious texts and values, and those who start from other sets of norms, debate and reason with each other? Can they find ways to agree that reflect principles rather than raw power? Do those agreements matter—that is, do they affect legislation and public policy? There have been many abstract discussions in recent

decades about the compatibility of liberal and democratic values, on the one hand, and Islam-inspired values on the other. What happens when the discussions focus not on abstract values but on concrete and practical political questions? Through media analysis, discourse analysis, and in-depth field interviews, we find much polarization, many who preach to the converted, and few attempts to build bridges. But we also find limited though very suggestive exceptions. These exceptions rely less on public and democratic mechanisms and more on entrepreneurial state actors working quietly.

With much speculative and intellectual writing about the possible overlap between Islamic and liberal or democratic thought in recent decades, we might expect to find that agreement on vague generalities might have become far easier than agreement in the concrete world of politics, where consequential choices over practical issues are made. In fact, the opposite seems to be the case: it is the theoretical aspects of debates that are hard to resolve. When those who hold very different comprehensive sets of values focus on a concrete political question, compromise of a sort is difficult but possible. On the rare occasions when agreement occurs, the mechanisms involve politics and quiet compromise overseen by a state actor rather than abstract deliberation. But surprisingly, the outcome can more nearly resemble a Rawlsian overlapping consensus than a modus vivendi. That is, the agreement involves principled acceptance rather than a mere bowing to political realities.

This article focuses on recent debates in Jordan, particularly over women's rights and personal status law. We focus on Jordan because the country has one of the freer media environments (though it remains monitored and controlled) and one of the more pluralistic political systems (though within the strictures of what remains a largely authoritarian system) in the region. In other words, while Jordan is authoritarian, it maintains space for political debates and those debates can occasionally matter.[5] Under such conditions, can reasoned debate among various positions take place or are the participants simply speaking past each other? Do political camps develop their arguments primarily to talk amongst themselves and mobilize their own supporters? In short, can those with different comprehensive doctrines, to use Rawls's term, come to agreement using critical, rational deliberation?

To answer these questions, we focus on three attempts to revise family law in Jordan: the first two, which largely failed, were pushed by coalitions sponsored by the monarchy; and the third, which succeeded in part, was spearheaded more subtly by the shariʿa courts. First, we study the 2001 modifications to the personal status law, which introduced the practice of *khulʿ*, where a wife obtains a divorce in return for a financial payment, often amounting to the *mahr* (a mandatory dowry or sum pledged to the bride), other payments (such as the wedding expenses), and even *nafaqa* (alimony). Second, we examine the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) controversy that emerged in 2009 and continues to this day. Finally, we consider the amendments to the personal status law of 2010.

We argue that activist groups rarely talk to each other in public, and when they do their discourses, while interpenetrated, aim primarily at mobilizing support within their own camps. Defenders of shariʿa-based norms rarely cast their arguments in terms of international human rights standards to persuade liberals. When they refer to such standards, it is either to question their appropriateness or to suggest that what they offer is already provided by an Islamic framework. Liberals do invoke religious arguments, but generally

in a way designed to demonstrate that their adversaries are incorrect, rigid, or hypocritical rather than to persuade them. On the few occasions when various camps met to discuss their differences, they seldom reached ideological consensus or bridged divides. Compromise and persuasion did occur, but, as we shall see, through quiet (though still principled) deliberation rather than public argumentation. Because proponents argued based on their separate principles and managed to come to an agreement, they can be said to have reached an overlapping consensus, albeit a thin one.

MOBILIZATION WITHIN CAMPS, ARGUING ACROSS THEM

One of the chief protagonists in debates over personal status law argues for the universality of liberal values on equality and rights by drawing on transnational conceptions and international human rights instruments. He and his camp also can cite the Jordanian Constitution's general promise of equality (though the clause does not mention gender). Their egalitarianism is not without subtlety; it is based not on complete blindness to gender but on recognition that existing societies often need to devote specific attention to addressing power imbalances, social practices, and hidden legal mechanisms that place obstacles in the path of many women. The camp—which we have referred to loosely as "liberals"—includes intellectuals, political activists, some members of the royal family, and an international network of groups (sometimes supported by human rights–focused actors within Western governments).[6] While arguing from international standards, the liberal camp claims that full legal equality between men and women is compliant with the spirit of shariʿa law.[7]

The centerpiece of the formal international framework for this effort, CEDAW, has been open to adherents since 1980. While many predominantly Muslim states have ratified CEDAW, some have expressed concern that it might put into question aspects of their domestic practices and culture. In particular, states with shariʿa-based personal status law, which conditions the rights and obligations of family members on their gender, inserted formal reservations when ratifying CEDAW to indicate that the convention be interpreted in a manner consistent with the shariʿa. Jordan ratified the convention with such reservations (a matter that, as we shall see, became the subject of controversy).

Those arguing from a religious standpoint make their own strong set of claims rooted in law and Islam. In addition to the commitments cited by liberals, the Jordanian state presents itself domestically as governing in accordance with Islamic traditions, with the monarchy entrusted to a Hashemite family that asserts its own religious credentials (descendants of the prophet Muhammad). The Constitution proclaims Islam the official state religion; and parts of Jordanian law, especially in the realm of family relations, draw on the Islamic legal heritage, giving advocates of shariʿa-based norms a strong set of legal bases for their claims. These advocates have a different understanding of universal values than that cited by liberals: they anchor those values not in recent, human-authored texts, but in eternal truths of divine origin. The concept of human rights is certainly not found by name in Islamic jurisprudence, but shariʿa advocates see the Islamic legal heritage as very much protecting the rights of individuals. For them, the task of jurists is to interpret God's commands—themselves given in mercy, compassion, and understanding of human nature—in a manner that meets the religiously recognized rights and needs of individuals. The starting point is not always the individual, however:

sometimes the holder of a right is the community; at other times, it is God who has rights (which hardly conflict with the rights and interests of humans).

In the area of family law, Islamic legal thinking begins not with assumptions of absolute equality, but with a set of reciprocal obligations and rights among family members who differ in their nature, position, power, and duties. Roles are not interchangeable in this framework. Not only are parents and children distinct from each other, but the concept of a complementary relationship between husband and wife dominates. Those obligations and rights are mentioned in a divine text (the Qur'an), the inspired sayings and practices of the Prophet Muhammad (the Sunna), and over a millennium of expert inquiry into how to translate this set of instructions and guidance into practice.

The most forceful organized political advocate of a shariʿa-based legal framework has been the country's Islamist movements, with the Muslim Brotherhood historically the best organized and most prominent among them. Islamists often highlight the role of female activists within their own ranks—who are held to be defenders of an Islamic conception of women's rights more appropriate than the liberal one.[8] The Brotherhood, like women's rights activists, has also been able to reach out to friendly cousins: scholars, religious specialists, other Islamist movements and independents, non-Islamist conservative politicians who see their constituencies' tribal social practices as consonant with Islamic law, and often a broader society that is generally conservative and religious.

While the two camps might therefore be seen as subscribing to different comprehensive doctrines in the Rawlsian sense, they do not necessarily reject all of each other's claims in principle. As much as the camps rely on different sources to derive their normative views, they generally do not wholly repudiate each other's values. Liberal advocates of women's rights sometimes make arguments for their desired outcomes based on elements within the Islamic legal tradition and sometimes search for interpretations and practices in that tradition that support their claims. Effectively, the discourse of women's rights activists (with some exceptions) accepts the Islamic basis of the personal status law. The activists thus do not contest the need to find a religious basis for their positions, but hold that an interpretation of shariʿa law that is compatible with international law and commitments is both necessary and possible.[9] Similarly, Islamists and Islamic legal scholars sometimes argue for shariʿa-based practices in terms compatible with international human rights instruments (though less conciliatory Islamists sometimes blast those documents as foreign to and inappropriate for Jordanian society). Thus, one might conclude that there are areas where some reasoned and principled agreement is possible.

But there are also areas, especially family law, where the tension seems more difficult to sidestep through conciliatory approaches. Bridging arguments can still be made—but they are often easily rejected as sophistic, insincere, or misleading. In recent decades, there has been a series of efforts by Islamists and non-Islamists to reach across the ideological divide to explore commonalities. The two camps talk in a variety of settings, and while some fairly limited, perhaps even shallow, understandings have been possible, they have been shorn of practical effect by their limited nature, the narrow circles involved, their restriction to the intellectual and political realms, and the fact that many of those involved hail from opposition movements and elite groups. There have been a few limited efforts at electoral and programmatic collaboration among opposition parties of various stripes,[10] but they have realized limited success, and in the wake of regional upheavals since 2011 the ideological gulf between the camps has grown.

In short, general discussions tend to highlight the differences among the camps; at best they might produce shallow and platitudinous agreement. However, there have been instances in which the debates left conference halls and seminar rooms. In more practical settings, participants have brought their different values to detailed legal questions. One of these settings is parliament, where advocates of various ideological positions have not merely had to grapple with conceptual arguments or electoral slogans but have tried to affect legislation. It is to three such instances that we now turn. In general, we find scant evidence of principled agreement. But we also uncover an important exception: since changes in family law are often framed with the Islamic shariʿa as a reference point, religious officials attached to the Jordanian state are not merely an audience or target; they can emerge as significant actors in their own right and have shown entrepreneurial ability to bridge gaps and produce agreements on legislative change.

THE 2001 *KHULʿ* LAW

In 2001, senior officials in Jordan took up the cause of personal status law reform. The new king, ʿAbd Allah II, had succeeded his father two years earlier and, in response to domestic, regional, and international pressures and stimuli, embraced liberal socioeconomic policies that would put the country on a more progressive and modern path. Economic reforms included measures such as privatization and cutting regulations, while social reforms aimed to enhance Jordan's image as a modern state at the international level. The series of social and economic moves came after the king had placed himself in a powerful legislative position by dissolving the parliament. In such a vacuum, legislative authority for emergency matters passed to the Council of Ministers (in turn responsible to the king)—a constitutional provision that the Jordanian regime had often used to push through legislative changes when the parliament was likely to balk. Under the Constitution, any decrees with the force of law (*marāsīm bi-l-qānūn*) issued by the Council of Ministers would remain in effect until and unless a later elected parliament rejected them. The king did not call for new parliamentary elections until 2003.

As part of the effort to introduce changes, in 2001 a former prime minister, Ahmad ʿUbaydat, acting on a royal initiative to reform the judiciary (including the shariʿa courts), asked the Qadi al-Quda department, which is the highest shariʿa authority in Jordan and is responsible for administrative oversight of all shariʿa (i.e., personal status) courts, to prepare modifications to the personal status law. Drawing the royal court's special interest were laws explicating women's rights in relation to marriage, divorce, and visitation rights regarding children. At the time, the reforms proposed in these areas were viewed favorably by some senior regime officials.[11] Specifically, senior officials asked the Qadi al-Quda to consider modifications to the personal status law and advocated the introduction of legal provisions for *khulʿ* divorce.[12] Such provisions had just been adopted by Egypt in 2000, suggesting to the authorities that the timing was propitious for Jordan to adopt them as well.

The Qadi al-Quda complied with the request, developing a series of proposals to increase women's rights within a shariʿa-based framework.[13] The most controversial proposed change was the introduction of a *khulʿ* provision allowing the wife to divorce her husband without having to provide a justification, as she is usually obliged to do under the shariʿa-based "disagreement and strife" (*nizāʿ wa-shiqāq)* category. If

the wife availed herself of such a divorce through the court, she would be required to return to her husband the marriage expenses—mainly the dowry (*mahr muʿajjal*), but in some cases other expenses borne by the husband at the time of the marriage, such as those associated with the wedding ceremony. She might also have to abandon certain future financial rights such as alimony. The provisions did allow for some judicially overseen negotiations.[14] The proposed change was challenged by Islamist and conservative elements in Jordanian society for fear that it would increase the number of divorces, weaken the fabric and unity of the family and society, and threaten men's authority. Yet while Islamists objected, those drafting it made an effort to frame it in terms of the shariʿa, quoting specifically from the Sunna tradition.

By the time parliament was finally elected in 2003, the changes in family law had achieved real prominence. Some regime loyalists, liberals, and women's rights activists supported the reform. Islamists and their socially conservative allies opposed and criticized the *khulʿ* provision. It probably did not help that the *khulʿ* law had been linked in public debates to a much more controversial legal amendment introduced in the same period, that of Article 340 of the Penal Code, which stiffened the punishment against the perpetrators of "honor crimes." Thus the parliament was handed a very polarizing topic to consider.

Since the matter had been a unilateral measure by the regime, there had been no initiatives for dialogue between the two camps. The palace had pushed for the reforms in the first place, but was curiously diffident when they were publicly debated in 2003 by the new parliament. At a time when the palace was hard pressed by security and foreign policy issues (the US-led invasion of Iraq, the Palestinian uprising), perhaps the issue had become too controversial.[15] The palace thus effectively stepped back just as the debate passed into the public realm, with supporters and opponents mobilizing their camps.

Religious officials (the Iftaʾ and Qadi al-Quda departments) had made serious effort to cast the *khulʿ* modification in a shariʿa-based framework, but the authority of these bodies did not immunize the change from attack (though it most likely encouraged a less harsh reaction than that to CEDAW, discussed below). The law irritated and provoked conservative actors in the government, parliament, the media, and the Islamist movement, especially the Muslim Brotherhood–inspired Islamic Action Front (IAF), which took up the issue in in the 2003 parliament. An activist who supported the law recalls that when she lobbied Muhammad Abu Faris, a firebrand member of the IAF, with the argument that Egypt's al-Azhar approved *khulʿ* in Egypt as consistent with the shariʿa, Abu Faris responded dismissively: "Al Azhar mufti [*sic*] is an agent for the [Egyptian] government."[16]

Through their unofficial newspaper *al-Sabil* (The Path), Islamists repeatedly emphasized that the law would increase the number of divorces in the country. Women's increased liberties meant a threat to the sacred family unit, the pillar of Islamic society. Conservative allies of the Islamist campaign against the law also claimed that it diminished Jordanian men's status and authority. Their stance was aided by the term used: *khulʿ* literally means removal, and the word per se, although carrying technical religious and jurisprudential meaning, also has come to carry defiant and condescending connotations in current usage.[17] These connotations aggravated the tendency of some actors to view this modification as a threat to their masculinity and act upon this perception.[18]

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Among the most vociferous opponents of the law were Mahmud Kharabsha and ʿAbd al-Karim Dughmi—both known for their staunchly loyalist and conservative (though non-Islamist) positions. Kharabsha, who initiated the call for the law's rejection when it was first deliberated in the Lower House in 2003, was quoted as saying, "if it was up to me, women would be at home raising their children."[19] Dughmi said the law had created social problems in an Islamic community that views "family" as the basis for a healthy society.[20] Islamists profited from this opposition and worked to mobilize support from others in this conservative camp, specifically in the parliament and through the media (mainly newspapers).

Opponents of the law did not claim it was an absolute violation of shariʿa, but rather criticized it and its effects as inconsistent with a religious and shariʿa-inspired social order. They managed to discredit the term *khulʿ*, already suspect in some circles, so widely that later changes in the personal status law (in 2010, to be discussed below) used the term *iftidāʾ* instead.[21] As recently as 2014, an article in *al-Sabil* still cited the *khulʿ* law as one of the reasons for the increasing number of divorces in Jordan.[22]

When the new parliament was elected in 2003, the law's supporters worked to obtain parliamentary approval. They organized lunches with the wives of parliamentarians in an effort to pressure deputies to accept the law. Princess Basma, president of the Jordanian National Commission for Women (JNCW), also supported this modification and organized various activities to promote it that brought together parties from various camps (i.e., women's rights advocates, conservative forces, Islamist figures, religious scholars, government officials). The princess also involved judges from the Qadi al-Quda department. In their arguments favoring the law, women's rights activists claimed it would address women's daily suffering[23] and remained consistent with religious guidance.[24] Princess Basma's efforts did not lead to agreement. Instead the debate continued in the parliament.

When seeking legislative rejection of the law, the opponents found that they were operating on favorable terrain—they had conservative and Islamist deputies (seven from the IAF alone) in their camp, giving them enough strength to try to put an end to the issue in parliament. Members of the Islamist bloc allied themselves with the conservative bloc and voted against the law, emphasizing its negative impact on the unity and religious sacredness of the family.

Women's rights activist tried to pressure parliament to approve the law. A delegation of women's groups met with Zayd al-Rifaʿi (then president of the senate) to convince him of the importance of passing the law. While they seem to have won his support as well as the senate's, he ultimately decided to "put the law in the drawer" when it became clear it could not pass a joint session with the Lower House.[25] The result was a moral defeat for the law's proponents, though parliamentary inaction left the law on the books legally.

The public debate was thus fought to something resembling a draw. Supporters kept the law on the books; opponents discredited it and made further reforms politically difficult. Almost unnoticed was that a new party had joined the debate—state religious bodies, which had become autonomous political actors in their own right. Their role in drafting the changes has already been noted. But their participation hardly ended there. As a member of the legal committee for reform, the former supreme judge of the shariʿa courts, ʿIzz al-Din al-Tamimi, participated in a TV talk show debate along with ʿUbaydat

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and the mufti, Saʿid ʿAbd al-Hafidh Hijjawi. The purpose of this debate was to promote the new modification, give it religious and legal legitimacy, and mobilize public support and approval. It concentrated on the religious justification and textual *taʾsīl* (literally, "rooting," in this case meaning the grounding of legal provisions in a shariʿa-based framework) and *tashrīʿ* (legislation). Judges from the Qadi al-Quda department also participated in meetings with deputies to explain the law. They were aware that the *khulʿ* provision would irritate those deputies but viewed their objections as based more on their gender than on their religion.

Even as they were basing their arguments for the *khulʿ* modification on shariʿa-based norms, judges cooperated with human rights activists by publishing studies explaining the modifications in religious and legal terms, thereby legitimating them with constituencies the activists could not reach as effectively.[26] And they cooperated with women's rights nongovernmental organizations (NGOs) in Jordan (some of which are, despite their formal NGO status, effectively sponsored by the state or members of the royal family), especially the commission headed by Princess Basma, by participating in various debates and events.

The role of these judges in these debates, as explained by Judge Wasif al-Bakri (a member of the Shariʿa Court of Appeals and an active official in the Qadi al-Quda department), was to defend the modifications in front of various actors. Often invited by both parties to explain the nature of the legal modifications, Judge al-Bakri played the role of mediator, but his varying discourse was clear. With the Islamists, he tried to convince them that they have common interests with him (and the Qadi al-Quda department): safeguarding the shariʿa's undisputed laws (*thawābit*). However, he also stressed the flexibility of the shariʿa and the department's ability to apply shariʿa-based norms faithfully while remaining responsive to social needs. With the law's supporters, he conveyed the message that an Islamic reference for any change in personal status law was essential because the Constitution states that shariʿa courts are responsible for implementing shariʿa law and that Jordanian society will accept only Islamic law. According to his approach, women's rights activists should cooperate with the department.[27]

THE CEDAW CONTROVERSY

In 2009 a similar series of events occurred involving CEDAW. Once again, the regime used the absence of parliament to bring about by decree a change that would enhance its international reputation and allow it to reach out to domestic women's groups. And once again, Islamists moved immediately to mobilize their own constituencies against the change. And yet again, the two camps talked past each other, directing their arguments only to those who might be sympathetic. This time, however, the official religious establishment took a position closer to that of the Islamists.

Jordan signed CEDAW in 1992 and ratified the agreement in 1997, but did so subject to a series of reservations related to family and women's issues. In particular, Jordan noted reservations to Article 9, Paragraph 2, which demands that "States Parties shall grant women equal rights with men with respect to the nationality of their children."[28] Reservations were also made to Article 15, Paragraph 4, which specifies that "States Parties shall accord to men and women the same rights with regard to the law relating

to the movement of persons and the freedom to choose their residence and domicile,"[29] and to Article 16 paragraphs c, d, and g, that respectively call for "The same rights and responsibilities during marriage and at its dissolution"; "The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount"; and "The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation."[30] Jordan's reservations about those articles were rooted in their potential contradiction with certain provisions of Islamic personal status law, which the Jordanian government was constitutionally bound to observe. Having ratified the agreement, Jordan dawdled on any domestic measure related to it. CEDAW was finally published in the *Official Gazette* only on 1 August 2007 without any clarification of what the reservations would mean in practice; despite the government's evident fear of domestic reaction, no immediate major act of contestation followed this publication.

In 2009, King ʿAbd Allah dissolved a parliament that had sat for only two years; new elections were not held until a full year later. Taking advantage of the absence of parliament, the Jordanian government decided to withdraw the reservation to Article 15, Paragraph 4 of the convention. This withdrawal meant that shariʿa-based legal concepts such as *wilāya* (guardianship of men over women mainly as father or husband) and associated provisions would be threatened. In response, the Islamist movement, including the Jordanian Muslim Brotherhood and its political wing, the IAF, decided to launch public and private campaigns to prevent further withdrawal of reservations and to mobilize against this international agreement. In April of 2009, they called on the government to completely withdraw from CEDAW.

The IAF framed its opposition to the move on two grounds, one based in the shariʿa and the other in terms of the Jordanian Constitution. The IAF opened the first front in a press conference at its headquarters to which it invited a sympathetic religious figure, Ibrahim Zayd al-Din al-Kilani. Al-Kilani, a member of the party's religious (legislative) council, condemned CEDAW as foreign and a new "occupation" tool of the West aimed at "disintegrating" and reforming Islamic society to become Western.[31] He then elaborated on the specificity of Islamic culture and the sufficiency of legal sources within Islam. Al-Kilani and other Islamist speakers used religious justifications to invalidate CEDAW's controversial articles. As with the *khulʿ* reform, opponents of the change emphasized immediate social problems in Jordan, such as *ʿunūsa* (spinsterhood), and highlighted the different socioeconomic realities between those societies initiating CEDAW (in which countries with Muslim majorities were more sparsely represented than non-Muslim states) and Muslim societies. Zaki Bani Arshid, secretary general of the IAF, treated the issue as a distraction from larger matters. Citing the global economic crisis and Western economic decline as instances where the West had failed as a model, he called for genuine international pressure for political reform instead of concentrating only on women's issues.[32] Al-Kilani called on scholars, judges, parliamentarians, the media, as well as tribal chiefs and heads of families to join the effort against CEDAW. He also declared that those who support the agreement or those working for its implementation are apostates.[33]

The Islamist opposition groups also based their objection to the agreement on constitutional grounds. They cited articles such as Article 33 of the country's governing

text, stating that "Treaties and agreements which involve financial commitments to the Treasury or affect the public or private rights of Jordanians shall not be valid unless approved by the National Assembly." Even those Islamists who were less antagonistic to the government than the IAF voiced their displeasure with the government's decision, indicating an Islamist consensus on the matter across the loyalty spectrum.[34]

The liberal camp, although persistent in its demands for change, quickly found itself on the defensive. Perhaps because its base of support was restricted to a fairly elite audience, it held only a few large public events. However, it did continue to reach out to potential supporters in a targeted way through coordination, small-scale lobbying such as meetings with parliamentarians and government officials, and pursuit of contacts with members of the royal family seen as sympathetic.

The JNCW was the locus of state–activist cooperation on the issue. This organization is committed to CEDAW and other international agreements. Rather than working confrontationally, however, it prefers to coordinate activities with the official establishment, including the Council of Ministers and the royal court. The JCNW is viewed by other women's groups, especially the Jordanian Women's Union, as a governmental organization that tends to accommodate the state and its legal religious reference, shariʿa law. That its secretary general, Asma Khader, is a Christian was also emphasized by at least one activist as a reason for its "diplomatic" stance.[35] And indeed, the JNCW seeks to emphasize its commitment to women's empowerment within the legal system of Islamic shariʿa courts.

While liberals and Islamists lined up against each other, the arguments they made seemed addressed primarily to their own supporters. Debates between the two sides were rare. One of the few exceptions occurred on a talk show hosted by a women's rights activist and leftist political party leader, Abla Abu ʿUlba, but the two debaters did not even look at each other while explaining their views.[36] Arguments and questions raised by the host centered on the relationship between CEDAW and the Jordanian Constitution (e.g., inconsistencies and violation of sovereignty), and both the Islamists' and the government's reservations to the convention.[37] Thus, the bulk of the debate involved conflicting interpretations of controversial articles in CEDAW, with the Islamist camp expressing suspicion and accusations and the liberal camp defending its position and international commitments. The legal and rhetorical references remained within the shariʿa framework, indicating a measure of dominance by the Islamist camp.[38] Overall, both stated their position and elaborated on justifications without exploring common interests and immediate issues such as women's actual suffering due to discriminatory laws, procedures, and practices.

Other contentious debates have occurred where women's rights activists have discussed at length their commitment to the Islamic framework of legislation.[39] In a different televised show joining the two parties, the participants clashed over *al-wilāya* of men over women and the "specificity" of Jordanian society as pertains to "gender," but agreed, at least in principle, that women should not marry without family approval.[40] Khader claimed in this context that CEDAW and the shariʿa are reconcilable:

> We cannot say that these laws are sacred. These laws have been amended throughout history, and people changed them, not God, because their thinking changed. Additionally, all Arab countries claim to derive their personal status laws from the shariʿa, but there is a huge variance between

them. . . . Human interpretation of religion is a civil task, a scientific one, and so no one can say that it is sacred and cannot be touched.[41]

Some of the liberal activists enjoyed friendly and personal relations with women Islamists. Khader noted that in many regards activists from both orientations saw eye to eye on women's participation in politics, identifying other secular and nationalist parties (in addition to the conservative and traditional elements in society) as much more resistant in that regard.[42] Yet when it came to substantive women's issues, each party defended its own view in public debates—with Islamists claiming the activists were promoting a "foreign agenda." They managed to turn the CEDAW issue into an external threat and a nationalist issue.[43]

The women's sector of the IAF organized activities aimed at its supporters, but also at the public. Activists coordinated talks with the professional associations, and organized human chains in protest of CEDAW. Some, such as Sajida Abu Faris (the daughter of Muhammad Abu Faris and a university professor who teaches a course on CEDAW), used their professional positions to mobilize.[44] For her part, Maysun Darawsha became the spokesperson of the party against CEDAW. Darawsha participated in TV interviews with local (private) as well as regional TV shows.[45] Islamists also mobilized through their networks in the social domain. The al-Afaf Association, a Muslim Brotherhood charity organization whose goals are "to preserve the Jordanian family" and "facilitate marriage,"[46] condemned CEDAW and produced a book that criticized it from an Islamic perspective.[47]

As the two sides worked to enlist supporters, the Islamist camp found that it had allies in the official religious establishment, with the Ifta' Department, affiliated with the Ministry of Religious Affairs, emerging as the major public player. (The Ifta' Council, a broader body headed by the mufti, includes a representative from the Qadi al-Quda department, a shari'a scholar, and the mufti of the armed forces. That body also condemned CEDAW articles that it claimed contradicted the shari'a.) The former supreme judge and head of the Ifta' Department, Nuh al-Quda, became personally involved in the cause. He issued a fatwa condemning the withdrawal of the reservation to CEDAW, explaining that this convention contains articles that contradict shari'a law, even if it also contains many articles consistent with the shari'a.[48] He emphasized the foreign provenance of the convention, and its inadaptability to Muslim societies. In the fatwa, he referred specifically to CEDAW Article 15 on which the reservation was lifted, condemning the withdrawal as in conflict with shari'a law.[49] He also emphasized the legislators' commitment to the constitutional article that stipulates that Islam is the religion of state, and called on both the Qadi al-Quda department and the parliament to display an "Islamic" stance in line with the Constitution if they were asked to modify the personal status law on the basis of this convention.

Meanwhile, the Qadi al-Quda department inclined toward the Islamist camp, but also tried to calm the public storm raised by these actors and took a leading initiative to resolve the problem—quietly and legally. Rather than mobilize popular support, the officials worked behind the scenes to discuss the issue with leading actors. The department held a small meeting with a number of concerned ministers including the minister of interior to take concrete measures to stop the withdrawal from being "activated."[50] It issued a memo that made clear that withdrawing the reservation would not lead to measures or laws in

contradiction with the shariʿa. This memo was approved by the government and sent to the Jordanian Ministry of Foreign Affairs in order to be added to the official documents of the agreement.[51] This act, as described by Judge Tawalba, was complementary to the Qadi al-Quda's position expressed along with the Ifta' Department.[52] In acting this way, the department remained consistent with a conception of its location in the Jordanian society and political system: the Qadi al-Quda is part of the Jordanian state, but in that capacity it sees itself as representing the interests of the people.[53] Effectively, since the present supreme judge (who heads the department) took office, the department has become more involved in state politics. Although still an autonomous state institution, it has adopted certain approaches that allow it more flexibility and pragmatism while remaining true to the religious nature of its mission. The department under the current supreme judge became officially involved in the international agreements and reports related to human rights. As explained by Tawalba, the Qadi al-Quda played "the basic and major axis in preparing all reports submitted to international partners involved in agreements."[54] In the specific case of CEDAW, the department acted as the coordinator and to a large extent the ultimate decision maker when preparing the cyclical reports for the CEDAW international committee. It became responsible for "explaining the position of the state towards the agreement in general terms; explaining the measures taken by the state as related to the approved articles; and explaining the state's position regarding the reservations."[55]

The Qadi al-Quda department also participated in the CEDAW meetings in Geneva, where it presented Jordan's case concerning the series of reservations Jordan had filed.[56] Through this strong and active presence the department was able to stop the contemplated withdrawal to Article 16 of the agreement. In the process, by working quietly, the department was able to contain the public firestorm that Islamists raised about CEDAW. In private sessions, the Qadi al-Quda explained its position to all parties involved through meetings organized by the various actors, including the government and women's rights NGOs. The judges did not avoid the public spotlight altogether: they participated in talk shows and numerous public events to clarify the department's position, which they presented as based on the state's interests, the Jordanian people's needs and interests, the legitimacy of shariʿa law, and the sovereignty of the Jordanian state.[57] The effect was to cast these sources as complementary rather than contradictory. Consequently, although taking the initiative in the debate, the department coordinated with other state actors and managed to satisfy the demands of the majority of the political forces involved while preserving the various principles at stake.

THE 2010 MODIFICATIONS TO THE PERSONAL STATUS LAW

In 2010 the Jordanian government approved the modified Personal Status Law proposed by the Qadi al-Quda department. This law was to replace Law No 61 of 1976. As in the past, the legal change was issued by the Council of Ministers and approved through a royal decree at a time when parliament was dissolved.[58] Yet, while at first glance the pattern may seem familiar, this change was dramatically different than its predecessors in several respects.

First, it was initiated not by activists, the royal court, or the regime, but by the Qadi al-Quda department. The department had now moved beyond mediating and managing

to initiating change. Second, there was virtually no public controversy surrounding the law—while it provoked plenty of discussion, that discussion took place quietly between the Qadi al-Quda department and various groups, with most of them coming to believe in the course of the initially private discussions that the legal change was in their interest. Third, the change did not pit advocates of international standards against those who grounded themselves in the shariʿa; instead, it was presented as consistent with both. There was one common element with the previous debates, however: little direct dialogue occurred between the two ideological camps. There was talk aplenty, but mostly between the camps and the Qadi al-Quda department; the rivals rarely dealt directly with each other.

This modified law was drafted in a shariʿa-based process in which those involved took great care to operate within widely accepted interpretations of shariʿa law. The drafters tried to address the majority of personal status issues through a comprehensive legal approach that drew on the four Sunni *fiqh* (Islamic jurisprudence) schools (Hanafi, Maliki, Hanbali, and Shafiʿi), rather than limit themselves to the Hanafi school, as in the old law. Moreover, in choosing from these four schools, the drafters took into consideration the preponderance of the evidence of a *fiqh* rule (*rujḥān al-dalīl*) and sought to achieve the general benefit or community interest (*maṣlaḥa ʿāmma)* in a manner consistent with the general goals of the shariʿa and contemporary needs.[59] In other words, in terms of Islamic *fiqh* strategies of change (*ijtihād*), the new law is based on selections from the four *fiqh* schools (*takhayyur)* and the principle of the benefit of the community (*maṣlaḥa ʿāmma).* While drawing on all four schools, however, the drafters did not combine rulings from different schools when dealing with the same subject (*talfīq)*, since that degree of eclecticism is regarded as weaker by many Islamic scholars.[60]

The modified articles addressed the majority of issues addressed by the former law, such as marriage, divorce, custody, and visitation rights. But the new law was far more extensive than its predecessor, comprising 328 articles instead of 187. In general, the modifications expanded on the old law by adding new rules and providing more details about matters already covered. The declared goal of the reform was to alleviate women's suffering and expand their rights. Thus, new justifications for women to pursue a divorce, such as sterility of the husband, were added. Other changes addressed the marriage contract and its conditions, giving more rights to women and imposing more obligations on men. Custody and visitation rights were also revised to the benefit of women. The establishment of credit alimony would ensure that divorced women received payment from former spouses. Other modifications in this regard underlined women's rights to alimony even when a woman had her own job and earnings. Additional restrictions to divorce and polygamy were added. Overall, the new law managed to introduce changes to enhance women's status and rights in marriage that remained within the framework of the Islamic shariʿa. No drastic or "revolutionary" changes were made, and some provisions opposed by the liberals remained. For instance, marriage for girls as young as fifteen years old was still allowed, although conditioned to the approval of the Qadi al-Quda.

The influence of the two camps is evident in those matters where modifications were made and in the nature of those modifications. Issues related to the reservations on CEDAW were addressed even as the modifications remained within accepted religious

norms and interpretations. With regard to marriage age, for example, the exception to the eighteen-year-old minimum marriage age (marriage is allowed under this age if and when the shariʿa judge feels it necessary and of interest to both members of the couple) was kept, but the authority to grant this exception was now limited to the Qadi al-Quda *in persona*.[61] Before this compromise, women's rights advocates had repeatedly requested the higher marriage age and restrictions on exceptions,[62] but Islamists and conservative forces had objected. Moreover, the controversial *khulʿ* law was again modified to satisfy the demands of Islamist and conservative forces, but it maintained the "essence" of the reform to grant wives greater divorce rights, thereby working to satisfy women's rights activists, to an extent. The law used a different term, moving from *khulʿ* divorce to *iftidāʾ,* in cases prior to consummation of the marriage, where the woman would have to pay back all expenses borne by the man, such as *al-mahr al-muʿajjal* (payment received by the wife at the time of marriage).

The word *khulʿ* was similarly avoided in the case of consummated marriage where women could ask for divorce under the older and less controversial *nizāʿ wa-shiqāq* (disagreement and strife) general framework. Under the modification, a wife can ask for divorce without having to provide justifications (which had been required by the old law).[63] Under this categorization, the wife does not have to give up her right to *nafaqa*.[64] In other words, the *khulʿ* modification of 2001 was changed in 2010, with the 2010 language a "well-studied" compromise on the part of the department in favor of Islamists and conservatives, at least in regard to terminology.[65]

The Qadi al-Quda department had quietly begun working on this modified version of the personal status law as early as 2007. Though claiming to be self-motivated, the department acted just as CEDAW was published in the government's *Official Gazette,* rendering it legally operative. Trying to accommodate all demands and pressures from the various groups, such as women's rights activists, Islamists, and high authorities, the Qadi al-Quda department followed an innovative and a resourceful strategy. First, it formed a committee of judges from within the department's own ranks to prepare the modifications. Subsequently, a draft of the modified law was sent to all judges in the kingdom for feedback and/or approval. Next, the department formed another committee of shariʿa scholars from universities, religious scholars, lawyers, judges, and the mufti, ʿAbd al-Karim Khasawna. Academic scholars included those supportive of women's issues who often advocated publicly for women's rights, such as Mahmud al-Sartawi. The committee deliberated on the law, and their suggestions and observations were taken into consideration by the Qadi al-Quda department. The law was then modified and sent back to the religious scholars a second time for another round of suggestions and observations. The resulting draft law was then published on the web page of the department for public review and comments.

Taking all this input into consideration, the supreme judge, Ahmad Hulayyil, held a press conference open to the public. Representatives from various NGOs, parties, professional associations, and the media were present. In this press conference, the supreme judge explained that this modified law is based on shariʿa laws and principles, but still addresses contemporary socioeconomic realities. While reaffirming shariʿa-based rulings (*thawābit al-sharīʿa*), he was keen to emphasize the flexibility of this divine body of laws to meet the requirements and needs of different contexts and times. He also described the long and elaborate process of change. Another part of the message

conveyed by the Qadi al-Quda department and later by the media and the department's judges (in their public and promotional work for the modified law) was the pioneering and innovative nature of the law in the region. Implicitly appealing to local pride, the officials insinuated that other Arab countries were looking at this new version of the interpretation of Islamic law as an example to follow. The Qadi al-Quda department was keen to explain in public that the impetus for the change was its own initiative rather than any external (or international) pressure.[66]

Women's rights activists were generally satisfied with the law. Khader mentioned her appreciation for the process, as well as partial satisfaction with the outcome.

> The [Qadi al-Quda] department wanted to hold a societal debate about the law prior to its passing [as opposed to the 2001 amendments]. . . . We knew it was going to be a Muslim personal status law, but we sought to elevate the status of women and children within the law. The judges from the department took a lot of our comments into consideration, most important of which was the *khulʿ* amendment. . . . We believe that the debate that happened was very useful.[67]

Some activists publicly acknowledged that they did not get everything they wanted even as they realized significant gains and achieved notable compromises. During a debate with the Qadi al-Quda to discuss the law, the Jordanian Women's Union president at the time, Amna Zuʿbi, also cited many positive changes made to the law, but criticized a lack of restrictions on polygamy. She also noted that the law failed to address the issue of joint marital property.[68] Women activists had lobbied for these changes (in addition to paternity test and recognition—which was adopted), and they continue to do so.[69]

Some have remained more sharply critical, even while unable to dispute that favorable changes occurred. Recently, an article published in the daily *al-Ghad* (Tomorrow), for example, noted that a study prepared by the Women's Union criticized the 2010 personal status law as the most discriminatory against women.[70] The study acknowledged the positive modifications achieved so far, which it claimed to be in agreement with international law. But it also condemned many provisions, such as Article 8 which demands the presence of two Muslim male witnesses or one man and two Muslim female witnesses as a condition for the legal acknowledgement of the marriage contract.[71] Moreover, Abla Abu ʿUlba considered the law's sanctioning of exceptions to the minimum age of eighteen for women's marriage a "major failure" for the women's movement (despite the greater restriction on exceptions discussed above).[72]

Despite their persistent demands and what they saw as suboptimal results, women's rights activists have maintained a generally positive official position towards the 2010 modifications. In a televised talk show involving both Asma Khader, secretary general of the JNCW at that time, and Nuha al-Maʿayta, president of the General Federation for Jordanian Women, a gradualist approach to changing women's status in Jordan was stressed.[73] A positive example discussed by al-Maʿayta is the 2010 personal status law. She believes that laws favoring women's rights are improving with a gradualism she accepts as necessitated to secure approval from the broader Jordanian society.[74]

Following this lengthy consultative process, the law was presented to the Iftaʾ Council, which approved it. It was then forwarded to the Council of Ministers and in 2010 was approved as a temporary law because parliament was dissolved at the time. As a temporary law, it was submitted by the Council of Ministers to the current parliament, and as of this writing has been approved by both legal committees of the parliament and

the senate. The law only needs to be voted on by the two houses of parliament. The new law has thus been viewed as legitimate in constitutional, legal, and religious terms by a wide number of actors.[75] Even Muhammad Abu Faris, one of the least compromising IAF members (and a specialist in personal status law), has expressed satisfaction with the project.[76]

Overall, the Qadi al-Quda department played a dual role: it served as a mediator but also as the final decision maker in matters of religion. Islamists were satisfied, as were conservative forces. Women's rights activists expressed some satisfaction; however, they continue to apply pressure for further changes. The Qadi al-Quda's compromise persuaded most activists to shift their focus: they still advocate parliament, but they have begun to treat the Qadi al-Quda department as the real authority on religious issues affecting women's rights.

CONCLUSION

The struggle over rights in Jordan might take one of two forms. First, very sharply contrasting conceptions of the source of rights—whether they are rooted in divine instructions according to Islamic texts and interpretative traditions or in a set of universal values as codified in a transnational and largely liberal discourse—could result in a political battle among rival camps. Second, a possible common set of understandings—perhaps approaching a Rawlsian "overlapping consensus" or even a syncretic liberal-Islamic tradition—could emerge through dialogue, political practice, and philosophical exploration.

The experience of Jordan over the past fifteen years suggests that the first path might be the norm but there are unexpected possibilities for the second path. The first path was followed when the two camps dealt directly with each other. When unmediated discussions between them took place, they were rarely productive, with participants seeming to speak to their own supporters and potential allies even while addressing the other side. While each camp did dip into vocabulary and argumentation developed by the other camp, this was done more for rhetorical effect (to suggest that the other camp was hypocritical or did not faithfully apply its own principles); the effect was not to persuade but to argue. There is little evidence that either camp has modified its position as a result of incorporation of the arguments or views of the other side.

Yet some common understanding was possible when state actors got involved. These actors were not the ones whom one might expect to take the lead. In an authoritarian monarchy, one might look to the monarch and his agents and supporters to impose a common understanding, excluding other views from public discussion. But in Jordan, when the monarchy and its coterie intervened (as they did, especially early on), their intervention generally set off controversy rather than resolve it; their initiatives did not bridge gaps but accentuated them.

A second actor that might be expected to play a strong role would be the parliament—a body that, after all, is the subject of much interest among those who look for a Habermasian "public sphere." Jordan has a parliament that is very much involved in the issues covered in this article—but again, it hardly resolved these debates or provided a bridge to common understanding between the two camps. Instead it was the locus for grandstanding, digging entrenched positions, and makeshift solutions.

The Qadi al-Quda department, by contrast, was able to bridge gaps not by getting the two sides to talk, but by opportunistically talking to each side individually. The result was that an agreement was forged wherein each side felt it had stuck to its principles. Moreover, the Qadi al-Quda department emerged as a powerful institutional actor. It proved capable of defining and pursuing its own interests while persuading others that it was protecting theirs.

In sum, we have found a mechanism for critical, rational deliberation among those with very different comprehensive doctrines in a nondemocratic setting. The mechanism in question—involving a religiously based but very much official body—was able to forge an agreement that received the principled assent of those with different values. It required a measure of compromise, to be sure. In particular, women's rights activists had to accept from the beginning (and indeed never challenged) the legitimacy of an Islamic reference for Jordan's family law. But they were able to give an endorsement—ranging from ambivalent to full—to an outcome navigated by a state-led process that included beneficial reforms from their point of view. When that process was not in evidence—that is, when the terrain of argumentation moved into the fully public realm—even royal backing could not get them what they wanted. The mechanism was not democratic and, while not hostile to liberalism, it was not based on liberal values anchored in international human rights instruments. Neither side conceded on matters of principle but both accepted a compromise. This outcome was accomplished not by talking to each other. Deliberation can take place in authoritarian settings—it requires neither liberalism nor democracy—but the nature of authoritarian politics in this case did little to encourage it until a state actor became involved.

NOTES

[1]Michaelle L. Browers, *Political Ideology in the Arab World: Accommodation and Transformation* (Cambridge: Cambridge University Press, 2009), 16.

[2]John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 13.

[3]For the fullest elaboration of Rawls's approach, see ibid.

[4]See, for instance, Jürgen Habermas, *Between Facts and Norms* (Cambridge, Mass.: MIT Press, 1996).

[5]Comparable cases in the region may include other monarchies that have had functioning parliaments with opposition representation, such as Kuwait, Bahrain, and Morocco. The findings might also apply to presidential republics with a plurality of views and party life, such as Egypt. Our argument may not apply where the fora for these debates are too restricted or closed (absolute monarchies such as Saudi Arabia and the United Arab Emirates, or rigidly authoritarian republics such as Baʿthist Syria or Iraq).

[6]Jessica Dumes Lieberman. *Global Means, Local Ends?: A Case Study of Transnational Human Rights Networks in Jordan* (PhD diss., George Washington University, 2006).

[7]Asma Khader, one of the most notable figures in this camp, said in an interview that her work on a women's committee within the Cairo-based Arab Lawyers Union to revise personal status laws in 1978 developed "a shariʿa-based argument that there is nothing in shariʿa which would prevent raising the age of marriage. When we got this from a very conservative Arab League, representing everyone from Saudi Arabia to Mauritania, this meant that there was consensus that the provision was shariʿa compliant, and helped us later with our national struggles to raise the age of marriage." Asma Khader, interview with the authors, Amman, Jordan, 19 August 2014.

[8]Hayat al-Masimi is exemplary in this regard. A pharmacist from Zarqa of Palestinian origin who is a part-time lecturer in pharmacology at the Intermediate University College, al-Masimi reached parliament in 2003 through the women's quota (gathering an impressive 7,133 votes). Her decision to run for parliament in 2003 was based on the IAF's nomination, intended to show that "the Islamist movement does not discriminate against women." She described the Islamist framework as providing "regulations, not hurdles for women's political

activism" as long as that activism does not clash with women's primary occupation—motherhood. She also mentioned that the reference point for such activism is harmony with shariʿa, and that she was personally unconcerned about the opinions of women's associations on legislative issues. "Al-Naʾiba al-Islamiyya al-Urduniyya Hayat al-Masimi: al-Ikhwan La Yuʿaridun ʿAmal al-Marʾa al-Siyasi," *al-Sharq al-Awsat*, 3 August 2006, accessed 6 July 2016, http://archive.aawsat.com/details.asp?issueno=9896&article=376139#.V31BIZMrJPM.

[9]Abla Abu ʿUlba, Secretary General of the Democratic People's Movement Party (Hashd), interview with the authors, Amman, Jordan, 2 September 2014; Hala Dib, interview with the authors, Amman, Jordan, 6 September 2014.

[10]Jillian Schwedler and Janine A. Clark, "Islamist–Leftist Cooperation in the Arab World," *ISIM Review* 18 (2006): 2.

[11]Wasif al-Bakri, interview with the authors, Amman, Jordan, 19 August 2014.

[12]The commission specifically asked for the *khulʿ* law.

[13]Wasif al-Bakri, *Dirasa Hawla Taʿdilat Qanun al-Ahwal al-Shakhsiyya allati Tammat bi-Mujib al-Qanun al-Muʾaqqat Raqam 82/2001*, Mizan (Law Group for Human Rights), accessed 7 July 2016, http://www.mizangroup.jo/files/5.pdf.

[14]Implementation of this provision was notably difficult. Determining how much a woman seeking *khulʿ* had to pay her husband was particularly challenging for shariʿa judges. A clearer mechanism for calculating this compensation was not devised until the summer of 2003. "Judges Work Out Khuloe Mechanisms," *Jordan Times*, 2 July 2003.

[15]In describing the Lower House's first rejection of the *khulʿ* amendment, human rights activist and renowned Jordanian women's advocate Asma Khader was quoted as saying, "This was simply a political bargain and a way to make a stand against the government. Unfortunately women's issues are always the weakest links." "Women's Rights Activists, Local Pundits Express Shock and Dismay over Lower House Rulings," *Jordan Times*, 9 August 2003.

[16]Rana Husseini, *Murder in the Name of Honour: The True Story of One Woman's Heroic Fight against an Unbelievable Crime* (Oxford: One World, 2009), 79. See also "Protesters Face Off with MPs at the Dome: 'We Care about Women's Rights, as Much as You' – Deputy," *Jordan Times*, 11 August 2003.

[17]"MPs Reject Khuloe Amendment, Which Allows Women to Divorce without Consent: Deputies Describe the Law as One of Most 'Dangerous.'" *Jordan Times*, 4 August 2003.

[18]Hala Dib, legal consultant to the Jordanian National Women's Union, interview with the authors, Amman, Jordan, 6 September 2014.

[19]"MPs reject."

[20]Ibid.

[21]Samar Haddadin, "Qanun al-Ahwal al-Shakhsiyya Yulghi al-Khulʿ wa-Yadaʿ Shurutan ʿala al-Zawaj al-Mubakir," *al-Raʾi,* 28 September 2010.

[22]Ayman Fadilat, "12 Alf Fatwa bi-l-Talaq khilal ʿAm wa-Irtifaʿ al-Talaq bi-Nisbat 12%," *al-Sabil,* 27 March 2014.

[23]In a meeting with parliamentarians who had recently voted against the *khulʿ* law, activist Kawthar Khalafat pleaded with them: "If you could only see the suffering caused by pending divorce cases you might be obliged to change your mind." "Advocates Work to Focus MPs on Women's Rights as a Broader, National Issue: Khuloe Remains Sore Point amongst Constituents," *Jordan Times*, 24 August 2003.

[24]Shortly after the law was first rejected by the Lower House in August of 2003, women's rights activists organized a sit-in outside parliament and raised banners proclaiming: "We are partners not hostages. . . . What we are calling for is constitutional . . . we call on parliament to respect women's constitutional, human and shariʿa rights." The protesters urged deputies entering the Dome to reconsider their actions "because [the laws in question] guarantee justice and equality for women and society." Rana Husseini, "Protesters Face Off with MPs at the Dome: 'We Care about Women's Rights, as Much as You'— Deputy," *Jordan Times*, 11 August 2003.

[25]Dib, interview.

[26]Al-Bakri, *Dirasa hawla Taʿdilat.*

[27]Al-Bakri, interview.

[28]Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), accessed 30 March 2015, http://www.un.org/womenwatch/daw/cedaw/cedaw.htm.

[29]Ibid.

[30]Ibid.

[31]"Muʾtamar Sahafi li-Jabhat al-ʿAmal al-Islami hawla Ittifaqiyyat CEDAW," YouTube video, posted 26 October 2011, https://www.youtube.com/watch?v=MI5c2bDb63Q&feature=youtu.be.

[32]Ibid.

[33]Ibid.

[34]"Women Activists Call on Gov't to Lift Remaining Reservations on CEDAW," *Jordan Times*, 3 May 2009.

[35]Dib, interview.

[36]The talk show was "al-Nisaʾ Qadimat," broadcast on al-Tamyiz TV. The two guests were Maysun Darawsha (from the IAF) and Hala Dib. See "Taʿarud Baʿd Bunud al-Sidaw maʿ al-Shariʿa – Alif/ Maysun al-Darawsha," YouTube video, posted 26 October 2011, accessed 6 July 2016, https://www.youtube.com/watch?v=Qu-x0_Ds8YA.

[37]Ibid.

[38]Ibid.

[39]The talk show Kalam fi al-Samim was broadcasted on Jo-Sat. See "Ittifaqiyyat CEDAW," Parts 1 and 2, posted 12 August 2009, accessed 6 July 2016, http://youtu.be/TOmafvBRPRA; http://youtu.be/Cm1KbLLNm0g; http://youtu.be/mK2wMtrtVDk.

[40]Ibid.

[41]Asma Khader, interview.

[42]For data on the increasing number of women participants in Islamist political movements and parties, see Hassan Abu Hanieh, "Women and Politics: From the Perspective of Islamist Movements in Jordan" (Amman: Friedrich-Ebert Stiftung, 2008), accessed 6 July 2016, http://www.library.fes.de/pdf-files/bueros/amman/05997.pdf.

[43]Maysun Darawsha, IAF member and spokesperson (CEDAW), interview with the authors, Amman, Jordan, 31 August 2014.

[44]Sajida Abu Faris, IAF member, interview with the authors, 20 August 2014, Amman, Jordan.

[45]"Al-Marʾa al-Muslima fi Zaman al-ʿAwlama/Maysun al-Darawsha," an interview with Maysun Darawsha broadcast on Al-Jazeera TV, YouTube video, posted 24 November 2011, http://youtu.be/vIwZoB3rvp4/.

[46]Jamaʿiyyat al-ʿAfaf al-Khayriyya Facebook page, accessed 6 July 2016, https://www.facebook.com/alfaf.society/info/?tab=page_info.

[47]Muna Abu Hammur, "Kitab Yastaʿrad CEDAW," *al-Ghad,* 17 June 2011.

[48]The text of the fatwa was published on the website of the Iftaʾ Department, 10 May 2010, accessed 6 July 2016, http://www.aliftaa.jo/Question.aspx?QuestionId=704#.VLZgtCuG9ig.

[49]He also referred to Article 16.

[50]Judge Mansur al-Tawalba, Director of Shariʿa Jurisprudence Institute, interview with the authors, Amman, Jordan, 14 January 2016.

[51]Ibid.

[52]Ibid.

[53]Ibid.

[54]Ibid.

[55]Ibid.

[56]Ibid.

[57]Ibid.

[58]This is according to an interview by the authors with Judge al-Bakri (19 August 2014). However, according to a recent phone interview by the authors with Hala Dib (6 December 2014), the law was modified by the parliament's former legal committee. The committee protested one modification which eased restrictions on visitation rights of spouses (especially women) because it saw it and other modifications like it as limiting men's rights and "authority." Women activists are now pressuring the parliament for further modifications so that the law is referred again to the new parliamentary legal committee before being voted on.

[59]The text of the law can be viewed at http://sjd.gov.jo/EchoBusV3.0/SystemAssets/PDFs/AR/AppliedLegislations/a7walsha5seye.pdf, accessed 7 July 2016.

[60]*Talfīq* has never been considered fully by the religious department. This is according to Judge al-Bakri, but also to Judge Salih al-Muhtasib, former president of the Shariʿa Appeal Court, interview with the authors, 24 September 2015, Amman, Jordan.

[61]Chief Islamic Justice Ahmad Hulayyil was quoted as saying, "We have placed many restrictions and the new law will only be applied in limited cases and once a panel of Shariʿa judges decides that such a marriage

is necessary." Rana Husseini, "New Personal Status Law Strengthens Jordanian families—Hilayel," *Jordan Times*, 28 September 2010.

[62]They asked for no exceptions.

[63]Hulayyil said the new law kept the essence of *khulʿ*, an expedited means by which a woman can divorce her husband, but removed the word *khulʿ* in order to protect the children of women who invoke the law from the social stigma associated with it. Husseini, "New Personal Status Law."

[64]This is one reason given by the department. "We believe that the khuloe law only serves the rich, as only women who are financially able can pay back their husbands' dowry or wedding expenses," al-Bakri told activists and lawyers at a meeting to discuss the law. "Chief Islamic Justice Department to 'Reconsider' Khuloe Law," *Jordan Times*, 3 May 2010.

[65]The *khulʿ* law of 2001 remained controversial among political activists and the general public.

[66]Al-Bakri's comment from a debate over the law with women activists sums up this position: "This modern law was not drafted for women, children, or men, but for the stability and security of the Jordanian family." Rana Hussieni, "Debate Continues over Personal Status Law," *Jordan Times*, 20 October 2010.

[67]Khader, interview.

[68]Hussieni, "Debate Continues."

[69]Wasif al-Bakri, interview with the authors, Amman, Jordan, 1 September 2014.

[70]Ranya al-Sarayra, "Dirasa: al-Ahwal al-Shakhsiyya al-Akthar Tamyizan didd al-Nisaʾ," *al-Ghad,* 27 August 2014.

[71]Ibid.

[72]Abu ʿUlba, interview.

[73]"Asma Khader wa-Nahi al-Muʿayta Tatahaddathan ʿan Daʿm al-Marʾa," from Dunya ya Dunya Talk Show, Ruʾya Television, YouTube video, posted 26 May 2012, https://www.youtube.com/watch?v=R5Y50BPimBc&feature=youtu.be.

[74]Ibid.

[75]"Barnamaj Fa-Isʾalu Ahl al-Dhikr—Qanun al-Ahwal al-Shakhsiyya Raqm 76 li-Sanat 2010," from Fa-Isʾalu Ahl al-Dhikr Talk Show, JRTV Channel, You Tube video, posted 9 January 2014, https://www.youtube.com/watch?v=0RHt7QtsBOU&feature=youtu.be.

[76]Muhammad Abu Faris, interview with the authors, October 2014, Amman, Jordan.