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A Comparative Study in the MENA Region within Gender Equality Perspective

Rania F. Al-Rabadi¹ and Anas N. Al-Rabadi²

Abstract

This article presents key findings of basic research in the MENA region via a comparative perspective of active citizenship and gender equality. The article discusses the pre-existing inequality in the family and presents a significant issue in Bahrain, for there is a Sunni-Shi'ite division, which Jordan does not have. This is relevant to citizenship and gender equality for how family codes have an effect on women's political participation in both countries. The political participation will be analysed via women constitutional rights. Whether this right is really exercised in Jordan and Bahrain remains arguable. Other important issues are the state machinery point of view with regards to gender equality and the state implication of the international agreement, CEDAW, which is concerned with women's human rights and their legal equality.

Keywords: Gender Equality, MENA Region, Empirical Study, Family Law, Sunni-Shi'ite Split, Parliament Structure, Political Participation, State Women's Machineries, CEDAW.

Introduction

The Bahraini constitution of 2002 in Article 1(e)³ and Article 18⁴, as well as the Jordanian constitution in Article 6(i),⁵ clearly states the principle of equality among all citizens in all

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³ Article 1(e) states that: "Citizens, both men and women, are entitled to participate in the public affairs and may enjoy political rights, including the right to vote and to stand for elections, in accordance with this constitution and the conditions and principles laid down by law. No citizen can be deprived of the right to vote or to nominate oneself for election except by the law." (The Bahraini Constitution, 2002: 4).

⁴ Article 18 states that: "People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the bases of sex, origin, language, religion or creed." (The Bahrain Constitution, 2002: 11).

⁵ Article 6 (i) "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion." Article 6 (ii) "the government shall ensure work and education within the limits of its possibilities, and it shall ensure a state of tranquillity and equal opportunities to all Jordanians." (The Jordan Constitution, 1952: 6).

political, social, and economic aspects. Both constitutions grant equal opportunities to all citizens, the right to work and to select the kind of work. Article 6(ii)⁶ of the Jordanian constitution and Article 13(a)-(b)⁷ of the Bahraini constitution grant citizens equal opportunities in obtaining public jobs, with no discrimination related to origin, language, religion, faith, or others. Moreover, both countries give women equal opportunities to enjoy their legal rights, such as the laws that bestow women the right to make contracts of their own and to administer their own property. Although women's rights in Bahrain and in Jordan are subject to the constitutional laws, it is the laws of the private sphere -family law- in Article 103(ii)⁸ in Jordan, and in Article 2⁹ and Article 5(b)¹⁰ in Bahrain - "natural" vs. "positive" law - that poses flexibility in both legal systems (Al-Rabadi, 2012).

Hijab argues that articles of the family law disagree with the constitutions in the region. Constitutions in most of the Arab states that have them, assure equal rights for all citizens, but under the family law, women have unequal rights (Hijab, 1988: 14).

Moreover, according to Zuhur, the wording of these codes permits limitations of women's rights (Zuhur, 2005: 10). To elaborate more, Offenhauer explains that the dual legal system in these states is arranged, on one hand, on a civil code and on the other hand, on a personal status or family law, mainly based on Shari'a law (Offenhauer, 2005: 33).

From the field research, a Shura member from Bahrain confirms, "The equality before the law must not contradict with Shari'a law" (cf. Interview 4 in Table 1 at end of document). In the Jordanian constitution, equality is not expressed explicitly regarding gender. The committee on the CEDAW¹¹ convention always criticises Jordan for this definition, as a previous United Nations consultant for CEDAW commented, "Jordan's definition of citizenship does not explicitly specify equality regardless of gender, thus the term 'all Jordanians' does not mean both men and women" (cf. Interview 5 in Table 2 at end of document). Based on this, the legal situation in these countries is considered a dual legal system, as it is also suggested, by Lazerg, that in most Middle Eastern countries, the characteristics in the legal system are ambivalent, creating a dual legal system; one reflecting codes that are internationally equal and the other representing diverse degrees of codification of Shari'a that identify women's rights in matters of marriage, divorce, children custody and inheritance. Rights written and protected by the constitution in these countries are generally denied or subverted in various family codes (Lazerg, 2009).

There are provisions and missing explications that might be considered loopholes in the constitutions, regardless of the definition of equality as citizens before the law. In theory and practice, both countries are affected by the patriarchal system and by the prevailing explanation of

⁶ Article 6 (ii) "the government shall ensure work and education within the limits of its possibilities, and it shall ensure a state of tranquillity and equal opportunities to all Jordanians." (The Jordan Constitution, 1952: 6).

⁷ Article 13(a) states that: "Work is the duty of every citizen is required by personal dignity and is dedicated by the public good. Every citizen has the right to work and to choose the type of work within the bounds of public order and decency. (b) States that: "The state guarantees the provision of job opportunities for its citizens and fairness of work conditions." (The Bahrain Constitution, 2002: 9).

⁸ Article 103(ii) states that: "Matters of personal status are those which are defined by law and in accordance therewith fall within the exclusive jurisdiction of the Shari'a Courts where the parties are Moslems." (The Jordan Constitution: 1952: 55).

⁹ Article 2 states that: "The religion of the state is Islam. The Islamic Shari'a is a Principle source for legislation. Language is the Arabic" (The Bahrain Constitution, 2002: 5).

¹⁰ Article 5(b) states that: "The state guarantee reconciling the duties of women towards the family with their work in the society, and their equality with men in political, social, cultural, and economic spheres without breaching the provisions of the Islamic canon law (Shar'a)." (The Bahrain constitution, 2002: 6).

¹¹ CEDAW is the Convention on the Elimination of All Forms of Discrimination Against Women

clergymen, which may contradict women's personal status issues, such as freedom of movement. The citizenship is more consistent in the public sphere's right than in the individual private sphere. This is the case, even if the latter stands in direct contradiction to the civic and political rights expressed in the claimed liberal constitutions. The clergymen have always resisted liberal feminist demands, for rather than empowering women, they always classify women as second class citizens under the authority of men. By analysing data from both countries, the definition of citizenship in Jordan and Bahrain conforms, in some extent, to the model of a modern liberal state, but both are not considered as modern states. In a modern state, the citizenship definition entails that all citizens, as individuals, are equal in front of the law regardless of their language, race and religion. Furthermore, the social contract with regards to the rights and duties between the individuals and the state (through a legal process) occurs on equal bases.

From what has been stated above, one might argue that both constitutions have to treat a woman as a human being equal to a man, in relation to their rights and duties. As mentioned by Charrad, feminism is not a theory about women's oppression, but a theory of human rights (Charrad, 2009). These rights are fundamental rights to which individuals are simply subjected by being human beings.

Moreover, the definition of citizenship in both countries contradicts Hatem and the international treaty CEDAW. Hatem explains that the liberal practice and the constitution commonly outlined the rights of citizens in universal stipulations where these rights are reflected in an institutional base of representation. This is the minimum standard for democratic societies (Hatem, 2000). In addition, both countries endorsed the international CEDAW convention, which is important for women's rights since it stipulates equality between men and women before the law in all rights and duties. These endorsements have to be actualized in reality. Gender inequality indicates that something is going wrong in the legal system in both countries. Normatively, the legal system has to reflect equal opportunity in rights among citizens, but not to enshrine the principle of discrimination. Cultural practices, which stem from religious interpretations and customs, often limit women's rights and their access to citizenship with equal value with men, particularly woman political right (Al-Rabadi, R.F. & Al-Rabadi, A.N., 2016). Therefore, we need to discuss these traditional codes and how these codes affect women's equal opportunity and their inclusion into the citizenship, taking in consideration the Shi'ite - Sunni split in Bahrain, whereas Jordan does not have this split.

Indeed, until now, there is a widespread call for the implementation of Islamic law in many Muslim countries. In terms of constitutional design, while a number of constitutions in older times had a state religion clause, constitutions in current Muslim-majority countries privileged religion more robustly. Many Muslim countries, including Saudi Arabia, Kuwait, Bahrain, Yemen, Jordan and the United Arab Emirates, took on constitutions that entrenched Islam or Islamic law (Sharia) as (1) a source, (2) a primary source or (3) the primary source for legislation (Ahmad & Ginsburg, 2014). This means that this situation will have an effect on women's political participation, since some religious interpretations might lead to a refusal of women in leadership positions in the legislative body because the religious authority—through the family law—is authorized to govern the personal status issues, such as women's obedience and freedom of movement.

Codes of Family Law and Different Groups (Shi'ite - Sunni) in a Comparative Context

Family law—Personal Status Law—in Bahrain and Jordan are codes that regulate the private spheres. Family is the core of the society in both countries. In this part, common and

different issues will be compared with respect to family law discrimination in favour of males. The similarities between Jordan and Bahrain encompass inequality issues in polygamy, rights and responsibilities during marriage, and inheritance. The latter excludes Shi'ite women, who can inherit equally with men in Bahrain. The countries differ according to a woman's guardianship, in that Jordanian and Bahraini Sunni women cannot marry unless the guardianship agrees to the marriage, while, again, Shi'ite women in Bahrain can marry without a guardian's consent. Usually, the guardian is the father, brother, or uncle. The legal age for marriage in Jordan is 18, for both men and women, whereas in Bahrain, it is 15 for women. Most women at that age are not educated past secondary school and they have not been well prepared for a responsible life, and now find themselves less prepared to assert themselves within marriage. Another dissimilarity concerns divorce; women in Bahrain can initiate Kulu' divorce with the consent of the judge, but in Jordan, they can without the judge's consent (Al-Rabadi, 2012).

As a matter of fact, laws come from the womb of the society and religion-based culture. Thus, family law reinforces the patriarchy system and discrimination against women, as well as confirms her classification as second class citizen, where she is located in the private sphere but not in the public sphere. As a consequence, the division between public sphere and private sphere - the family sphere - has emerged, regulating active and passive access to opportunities in the state. This hinders woman in enjoying certain granted constitutional rights in the national laws, and makes these rights contradict each other, both in Jordan and in Bahrain. The failure to free family affairs from dominant religious explanations - under control of some clergymen - has rendered many reforms that were aimed at empowering women. Indeed, Family Law influences other life aspects and the legal policies that legitimise certain definitions of gender inequality or oppression (Al-Rabadi, R.F. & Al-Rabadi, A.N., 2016).

While discussing the issue of who benefits from discriminatory laws against women, a respondent from the Legislation and Opinion Bureau in Jordan comments:

“It is because most of the Lower House members are men; this will lead to discriminatory laws... I will give an example, amending the family law, when debating the amendment that the first wife needs to be informed when her husband is going to marry to another wife.” (cf. Interview 3 in Table 2.)

The respondent means that most of the parliament members disagree to amend the existing inequality in the law, since it favours their own interests. Eisenstein argues that the very idea of citizen is that of a male supremacist. This discrimination, in opposition to the liberal democratic idea, is shown in the patriarchal structure of a society. The distribution between the public and private realms of social activity is a distribution that realises the realm of the family, as a women's sphere and the realm of the public as the man's (Eisenstein, 1986: 48). Fauré argues that people in power ensure the stability of the family, wielding this power with men's indisputable authority to control women to a legal non-status, making it difficult for women to be politically active; the codification of laws thus becoming an instrument of revenge (Fauré, 1991: 129).

Legal reform might adjust this contradiction by reforming religious-based laws to civil ones, then granting woman more equality in the public sphere and then in the private one in Bahrain and Jordan. Eisenstein argues that women are excluded from the public sphere because they are restricted to childbearing and other issues, which belong to the private sphere. This led to the framing of the state and the establishment of a distinct public and private sphere at the political

level. Real equality would change the patriarchal formation to a liberal equal society (Eisenstein, 1986: 6, ff).

The notion of equality in the constitution, in both countries, does not sustain women's legal status before the law. The laws that rule the rights and duties of citizens fall short of actualising the constitutional equality by permitting discriminatory laws and practices to exist. This will lead to a limitation of woman's political participation in the public sphere. This shows the relationship between the definition of woman's citizenship in the constitution and their political participation. The social contract of citizenship is not yet complete because of legal inequality. The irony here is that, instead of using laws as an instrument to improve justice and equality, they are used in the opposite direction. According to Waylen, laws on paper need to be reformed, implemented, and enforced in social reality; and women need to be able to exercise their rights and make advantage of new policies (Waylen, 2007: 164).

In Jordan, all the laws granting women more rights are introduced as provisional laws, which operate just like regular laws after its approval by the Prime Minister Council and the King, while the parliament is dissolved, as stipulated in the constitution Article 94(i)¹². In Jordan, provisional laws could be a temporary way to improve gender equality and accelerate the reform process. In Bahrain, law reforms do not work using provisional law. Also, it is important to know that legal reforms regarding woman's rights in both countries are sponsored by some governments, women's NGOs, and the United Nations, as an international actor support and spreader of awareness with regards to gender equality. The next part of this article will deal with the relationship between the parliament structures, women's political participation and policy outcomes.

Parliament Structure: Bahrain and Jordan

The legislation process, based on the respective constitution of Bahrain and Jordan, and with respect to passed laws, is similar but not identical in both countries. Legislations are issued and passed by the Upper House and the Lower House. The executive authority may propose laws, as drafts, in regards to women's rights. Also, women's NGOs may propose law amendments to the executive authority, such as on violence against women in Bahrain or honour killing in Jordan, which the executive authority would then pass on to the parliament. If the two Houses agree on the proposal, it will be approved. But if they do not approve it, National Council, headed by the chairperson of the Upper House, will be held and the majority will take the decision. Then, the law will be sent to the King for signing. The final step for it to become a law is for it to be issued through the official Jordanian or Bahraini Gazette. Another similarity is that the legislation process also encompasses what is called the law proposal. A number of representatives may suggest a law to be formulated. The law proposal is put forward to the president of the Lower House, who passes it on to the related committee to review and express its opinion on the proposal, as well as to the

¹² Article 94(i) stipulates: "In cases where the National Assembly is not sitting or dissolved, the Council of Ministers has, with the approval of the King, the power to issue provisional laws covering matters which require necessary measures which admit of no delay or which necessitate expenditures incapable of postponement. Such provisional laws, which shall not be contrary to the provisions of the Constitution, shall have the force of law, provided that they are placed before the Assembly at the beginning of its next session, and the Assembly may approve or amend such laws. In the event of the rejection of such provisional laws, the Council of Ministers shall, with the approval of the king, immediately declare their nullity, and from the date of such declaration these provisional laws shall cease to have force provided that such nullity shall not affect any contracts or acquired rights." (The Jordanian Constitution, 1952).

Legislative and Legal Committee for their comments. After that, the related committee gives its report on the proposal, along with the view of the Legislative and Legal Committee, to the president of the Lower House, who in turn puts it on the parliament agenda. Then, the Lower House debates the committee's report and, upon endorsement, the law proposal is given to the government to put it in the form of a law draft, after which it passes through the steps described in the case of the law draft (Al-Rabadi, 2012). In the next section, the parliament organisational structure in both countries will be discussed, since it influences the introduction of gender friendly policies.

Parliament Organisational Structure

It is important to recognise the parliament structure in regards to lobbying, nature and equality in number of members in the parliament, who are legitimately authorised to suggest laws. The question, here, is how these structural attributes influence the legislation process and decision-making, particularly on outcomes of women's rights policies in each country. Furthermore, unless it is stated otherwise, all the investigations and analyses are based on the Bahraini and Jordanian constitutions.

Lobbying

In both countries, introducing laws, which favour women's rights, is a rather difficult issue, especially when female representation is very low or even only symbolic, such as in the case of Bahrain. In Jordan, when answering the question about the legislation process, a former deputy reports: "Lobbying for law needs hard work to collect the number of MPs to agree on the proposed law," (cf. Interview 1 in Table 2). If we consider the (procedural) issue in Jordan, ten or more members of the Lower House could suggest a law, while in Bahrain, five members are needed. Thus, the number of required members may affect the legislation process, and this means lobbying for the introduction of a law (Al-Rabadi, R.F. & Al-Rabadi, A.N., 2016).

Given that, lobbying for law proposals is not an effortless matter; therefore, it is difficult to lobby for issues relating to women's rights in a patriarchal system, especially when the majority of the representatives are members in conservative parties. Conforming to this thought, Karamanic illustrates that religious interpretations have always involved the exclusion of women because citizenship was always formulated based on man's image (Karamanic, 2001). Similarly, Moghadam argues that conservative governments and the power of the Islamist movements can form an unwelcoming political legal atmosphere for women (Moghadam, 2003: 38).

Number of MPs and the Nature of the Parliament

With respect to women's rights, the number and nature of the Lower and Upper Houses in both countries also influence the legislation process. From what was analysed in the Bahrain interviews, with some members of both Houses and from what was observed in a session attended in the Lower House, the parliament is markedly a conservative one. The observation is supported by an Upper House member, who responds to the question about discriminatory laws regarding woman:

"The parliament was going to introduce a bill concerning the age and early retirement, the Shura Council disapproved the law, because it is discriminative against women, which will keep women away from the labour market. They think

that women could be less productive than men at this age, I think this is wrong to retire women at an early age based on physiological nature, and this is unjustified; woman could be productive regardless of their age.” (cf. Interview 4 in Table 1)

This means, that the Lower House members of a conservative majority are not motivated to introduce friendly gender policies with respect to women. They look at women through the lens of gender and biological role perspective, such as when rationalising women’s retirement at early ages. Since the Lower House consists of 40 members and the Upper House also consist of 40 members, the resulting equality in the number of the two Houses may affect policies, especially if the Shura members—Upper House—are liberal and the Representatives are conservatives. Both Houses gather in a National Council of majority rule, in case of disagreement on bills. A deputy in the Bahraini parliament expresses: “Women’s issues in the parliament would be supported if there were more liberals deputies,” (cf. Interview 2 in Table 1). The majority are Sunni - Shi’ite members who support traditional values and there is only one female deputy and few other independent representatives. This structure might influence the balance of power in the parliament by limiting the power of the Lower House, and consequently, the process of changing policies that affects other people’s status, such as women. Thus, the Shi’ites may use women’s rights as a wildcard to achieve other interests. In response to the question about the legislative authority and its role in regards to women’s rights, particularly, the introduction of a Family Law, women’s rights activist informs:

“They are using women’s rights in the parliament as an instrument to exercise pressure on the government in order to change the constitution for their interest, such as demanding an unequal number of representatives in both Houses. Further, by opposing laws in the parliament that will grant women more legal rights, they think that they could affect the government image before the international community and especially the United Nations.” (cf. Interview 5 in Table 1)

Therefore, the number of MPs explicitly influences the debate on women’s rights in the parliament. A Shura member, when explaining the legislation process, expresses: “We, the Shura Council, were against it. It is not in favour of women and we stopped introducing it, we work as a security control in the council for many issues, such as gender equality,” (cf. Interview 3 in **Table 1**). Appointing liberal members in the Upper House by the King, might result in a less conservative environment, since liberal legislators could support women’s issues in the parliament. This follows the belief of liberal feminism premise that, the legal guarantees of equality - in a liberal regime - grant an opening for social changes.

As for Jordan, the number of members in the Upper House must not exceed half the number of members in the Representatives of the Lower House, which consists of 120 members. Subsequently, the Upper House has 60 members creating an inequality in the number of the two Houses, which may have an effect on women friendly policies and reform of laws, especially if the majority of the Lower House sustains a negative legal reform atmosphere. Because of that, reform processes, or introduction of new laws to favour women, are more difficult. This was evident in the debate over women’s rights concerning the family law in the Jordanian parliament number 14.

It is worth it to mention that in Jordan and Bahrain, the members of the Lower House are elected for a legislative term of four years, while the King appoints the Upper House members. Further, decisions are made by means of voting and based on two thirds of the majority votes.

Advocacy

Some obstacles that may affect the contract of citizenship have been analysed. Another one is the lack of advocacy. It is one of the important categories for women, in the quest to obtain more rights to achieve equality. When explaining the role of the legislative authority, regarding women's rights in Jordan, a former deputy states:

“Most of female representatives are not eligible to support women's issues in the parliament, and to advocate more legal rights, rather, some may represent an obstacle for women's equality with men. Party's system in the Jordanian parliament is not a well-organised one. Many Representatives work independently, and the only organised party is the conservative Islamic party.” (cf. Interview 1 in Table 2)

If we compare the two countries, we see that in Jordan, the political party system is not well organised, and the organized one is often centralised under the Islamic Sunni Party. In addition, there are no Shi'ite members in the Jordanian parliament. Thus, advocacy has an effect on granting women more rights or on reforming laws to strengthen women's legal status.

Herb *et. al.* explains that Jordan's parties are weak and the formal parties excluding the largest organized party, the Muslim brotherhood, have failed to win seats. The electoral system weakens parties and produces conservative deputies (Herb *et. al.*, 2005: 182). Political pluralism is one of the important issues to confront women exclusion. Party and, in particular, those with liberal orientation, could introduce friendly gender policies to include women in the decision making process, through their parties policies. Unfortunately, party pluralism might not be considered a powerful means for social transformation in Jordan. There is to some extent no party pluralism to support women inclusion and to influence advocacy. Women who are, through the quota system, represented in the parliament are mostly supporting conservative ideas. This hints to the idea that they belong to the Islamic party. This emphasises the idea of kin-based patriarchy system. Joseph argues that the relational rights and responsibility assumes that citizens embed themselves in a family and religious group. The right and responsibility here devolve as a result of membership (Joseph, 2002: 19). While normatively, the social contract and membership have to be based on equality of rights and duties through a legal process by which the individual is defined as a member in a state. Comparing that to Bahrain, a deputy in the parliament clarifies:

“The Lower House, particularly the political Parties affect negatively the outcome of gender outcome policies, they are not liberal. Also, there is only one female deputy and she does not advocate and play a key role. The government and NGOs present laws to the parliament in order to debate them. In the legislative authority, if there were more liberal Deputies they would advocate women to have more rights, but as a matter of fact, the majority are conservatives and here the situation is different, women are going to obtain fewer privileges.” (cf. Interview 2 in Table 1)

Based on what was stated above, it could be considered that the applicability of party pluralism failed to support women friendly policies, short of applicability in the practice of both countries. It is not really reflected on the ground in Bahrain and Jordan. It lacks the political conditions and structures that are required for the pluralism approach to work. Waylen argues that the ability of political parties to engage citizens into politics has been weakened in many third wave democracies by a lack of institutionalised and firm party systems (Waylen, 2007: 2). There aren't women MPs to mobilise for granting women more rights in the parliament in Jordan or Bahrain. They are not effective in the conventional political arena to support women's issues, since their belonging lies with a group from their religion or class rather than being committed to women's issues. This is due to many factors. The respondent from the Legislation and Opinion Bureau in Jordan comments that: "women lack performance and efficiency to debate about women's issues in the parliament. They have been perceived to be limited in their contribution to the political and policy process" (cf. Interview 3 in Table 2). Also, in Bahrain, a women's rights activist says, "The female deputy has no role." (cf. Interview 5 in Table 1). In order to understand the conditions in which women can be effective, a deputy argues:

"As much as women get education, they will be able to introduce ideas, then to convince the government to change discrimination in laws, and to have more roles. Women have to be active in order to advocate. Women have to be consistent, persistent and dynamic." (cf. Interview 2 in Table 1.)

The deputy means that normatively, when women are educated, they will be able to argue about her rights. Women's presence in the parliament is crucial and central to improve the outcomes of gender equality. They need to be aware and dynamic, and to know how to advocate women's issues, especially if they carry a responsibility, such as legislators. However, the respondent from the Legislation and Opinion Bureau in Jordan replies to the question of who advocates and introduces laws concerning women's rights in the parliament:

"Most of the laws are introduced by the government or women's NGOs. Parliament has no effective role with respect to bringing in laws. As a matter of fact, governmental policies for empowering women are not easy to implement. It depends on the nature of the government." (cf. Interview 3 in Table 2)

Similarly, in Bahrain, government and women NGOs are central to the outcome of women's right. It could be seen here the relationship between the parliament organisation structure, lobbying and advocacy to introduce new or reform laws to achieve gender equality. All of these points need to be considered when analysing women's political participation.

Women's Political Participation in Jordan and Bahrain

A citizenship attributes no value if political participation as a constitutional right is not exercised. The reflection of citizenship in traditional political beliefs reveals how the concept is inclusive. The extent to which citizenship is inclusive shows how far political institutions and activities are represented. The contemporary idea of citizenship assumes that citizenship stands for having access to become a representative. In a developed liberal democracy, every citizen has an essential role in the representative system (Sperling, 2001: 63).

Therefore, political participation shows to what extent a state is really democratic. This is central for women's citizenship, since it reflects their inclusion in the decision making process. Through representation in decision-making, a woman could achieve reform of their inequality status in the legislations. The reform process requires a dynamic feminism, resistance and persistence where all are important for woman's equality before the law. Musgrave sustains this discussion when she argues that the liberal model means equality before the law and necessary social reform could be framed. Liberalism requires the extending of civil rights and representation to all (Musgrave, 2003: 214). The citizenship, as defended by Al Baz *et. al.*, is a classification of the relationship between the state and citizens through laws that maintain equality among citizens and individuals' participation in all aspects: political, economic and social, regardless of the individuals' beliefs, race, religion, class, and gender based on a liberal view of citizenship and equality among citizens (Al Baz *et. al.*, 2006: 10).

In regards to women's political participation in Bahrain, the constitution states, in Article 16(b), that citizens are equal in assuming government positions along with the stipulations of the law. However, the analysed data show that Bahraini woman in political participation are dramatically underrepresented as state legislators. This does not reflect the granted constitutional political right of woman citizenship.

If we take women's representation in the Lower House as legislators, the attitudes toward women's role and the public opinion towards women are undoubtedly of importance; the voting outcome reflects the people's point of view because they vote for their representatives. At the root, here, are the social practices of people's upbringing in respect to attitudes toward women. It is the religious reading; they feed both women and society with the particular religious-based role with regards to gender that leads to patriarchal system. Religious ideas affect women's political participation in both countries. A liberal environment is essential; however, in Bahrain, to some extent, it does not exist. The religious currently believe that women have limitations with respect to occupying decision-making positions. In the election process, women vote for a man but not a woman. A deputy from the Bahraini parliament states:

“Some mentalities are against women's participation in the Bahraini parliament, there is a resistance to give women their rights. The conservatives see that there is a limitation for women to occupy particular places; they say that women haven't the right to be a parliament member. This stems from religious interpretations and society, but government emphasises women's participation in the parliament. The conservative ideas are important and influential. People could embarrass each other by asking how you allow doing this against Shari'a? There is a lot of social pressure. The conservatives' emphasis of women's role inside the family, and this makes strains and control of women's freedom with respect to their rights in the public sphere, such as the legislatives. In elections women can't win because even women do not vote for women. It is because of the women's stereotype. Clergymen used to limit women from exercising their granted constitutional rights in the election.” (cf. Interview 2 in Table 1)

Furthermore, the director of the United Nations declares:

“There isn't a push from her side and most of them are from the elite. I totally agree with you, unfortunately, that is what makes the United Nations double their

efforts to involve everybody. You shouldn't leave one stone in favour of mobilising every kind, efforts resources, entity and individuals to touch this issue. I agree with you, in theory, if you give women their rights, you expect them to go for election, to go all of them and to vote for women. This is not easy and it would take a long time." (cf. Interview 6 in Table 1)

The UN director means, some women are not active with regards to their issues, and the support comes mostly from the active elite class as a top-down support but not the opposite, which is important to recover rights. All forces need to push this issue in order to see tangible gains, and this needs time. Also, the election system plays a role with respect to women's participation in the Lower House. A former deputy commented, "One man one vote influences the selection of candidates, because people's preference is for male candidates but not for woman and this is due to social upbringing," (cf. Interview 1 in Table 2). Under the current election system, there is only one option, which is to choose one candidate, and since the society is patriarchal, women are not the public preferences. Not having a candidate list contributes to no woman winning seats; instead, male candidates are preferred. An academic states:

"It is this law that practically reinforces the role of belonging to a particular group such as a tribe or a religious one. Consequently, the idea of a citizen turns out to be a citizen in a tribe or in a family, or in a religious group, but not in a state. This leads to the reduction of state institution role, which normatively have to insure women exercising their rights, such as engagement in political parties. It rather reinforces the idea of kin-based patriarchy that hinders real women's equality with men in regards to political, economic and social rights..." (cf. Interview 7 in Table 2)

The absence of the quota system has also contributed to men winning all seats, except for one female candidate. Traditionalists in the parliament are against the quota system and the government is embarrassed to introduce a temporary measure until the government recognises that no women can participate in the new democratic experience.

There is also an economic factor that affects woman's political participation. The president of Women's Union in Bahrain explains, "... around 80% of qualified university graduate women and they are unemployed. This also plays a role in reducing their political participation..." (cf. Interview 5 in Table 1). This means, women do receive education but, at the same time, they are unemployed because the priority is given to men, in employment. This hinders woman and makes her economically dependent on a man. Eisenstein mentioned that Wollstonecraft highlights the importance of women's economic independence for their equality before the law (Eisenstein, 1986: 90).

On the other hand, the leadership's political support for women has been noted in the Upper House, which is appointed by the King. This means that leadership might be willing to give power to women, despite low participation as legislators and even as ministers and judges in the judiciary authority. As for the judiciary authority, in the religious courts, there are no women appointed because of religious beliefs. A deputy in the Bahrain parliament says, "We do not have female religious judges, but there are civil judges. The problem is the role of the clergymen. In Islam, there is a male clergyman but there is not a female." (cf. Interview 2 in Table 1).

On the other hand, and comparing that to Jordan the constitution, in principle, also confirms the right of women, as citizens, to participate. Article 22 states that every Jordanian is entitled to be appointed to public office and that appointment to any government office has to be based on the basis of qualification. However, Jordan has a one-man one-vote election system; at the moment, there is an intention to change the election system. In addition to that, there are many negative social attitudes toward women's participation in the public sphere. This is clear when a human rights activist in Jordan says:

“There is a traditional division between the private sphere and the public sphere in the society. A woman is to work inside the house and a man is to work outside the house. Of course, this prevents her from being an active citizen in the political life. A woman has no opportunity to exercise this right.” (cf. Interview 4 in Table 2)

Also, the first secretary of the Jordanian National Committee for Women explains that:

“Women have not been able to reach elected office in their own right. The significant support is from the country's leadership. They introduces a provisional quota law in January 2003, and it was activated as Provisional Quota Bylaw (no. 42 of 2003) to enable the quota system for women to work... but we need a quota of more than 30 % in order for the quota to be effective.” (cf. Interview 4 in Table 2)

We can notice that even though there is a quota, the percentage is not high enough; women's representation does not reach the aim. However, in order for women to participate in the parliament, Jordan has applied some measures by reserving seats for female representatives; this could show the influential role of the international interventions, women NGOs such as JNCW and the desire of the leadership to improve women's legal status.

As for women's participation in decision-making positions, such as in the executive authority, the patriarchal trend in the governments exists. The First Secretary of the Jordanian National Commission for Women argues, “Representation in the executive authority is still low, it is due to the patriarchal trend in the government,” (cf. Interview 4 in Table 2). In the judiciary authority, women's participation as judges is notable. The Gender Auditing in the Public Sector in Jordan informs that many female students of law are willing to be appointed as judges. A recent study, co-sponsored by the JNCW, identified that the female representation in the legislation sector is 30.7 % (JNCW, 2010: 3). A lawyer and women's rights activist comments, “Women's representation in the legislative authority shows that when chances are open for them they participate,” (cf. Interview 4 in Table 2).

Comparing both countries, and based on what has been stated above, even though the constitutions grant women the right to exercise political participation and positive measures have been taken to improve women's political participation, in comparison with international standards—CEDAW convention—it remains low. Thus, departing from valuing citizens as human beings, remaining discrimination is recognised in the contract of women's citizenship in both countries.

Moghadam argues that Arab women activists have always been engaged in political movements of national liberation and in feminist movements, but their representation in formal

political structures, such as political parties, parliaments and governments, has been more current and stays limited (Moghadam, 2003: 34). Indeed, the situation in Jordan and Bahrain does not fulfil the requirement of the liberal notion that political participation is important for women, in order to achieve equality with men by triggering the laws that discriminate against women. Influential political and social decisions are made within the government in a narrowly defined sense. Eisenstein states that political participation, in a narrowly defined sense, is important for women to realise their full citizenship (Eisenstein, 1986: 179). Women could gain political power through appointment in governmental positions. A key issue is to increase the number of women in decision-making positions, especially in the parliament, since men and women have different perception and show different policies for dealing with women's rights. At the same time, this needs to be accompanied, not just by a descriptive representation that concerns numbers, but representation also needs to be substantive and take into consideration representative support and positive gender outcomes. The role of the state is crucial; it could contribute a lot by introducing friendly gender policies. Establishing state institutions will carry real and serious advocacy and support strategies, as well as push for reform of biased laws to grant women more rights. To illustrate, by training candidates, women will be eligible to run as representatives for the parliament, especially when traditionalists dominate it. In so doing, the state apparatus might be able to adapt to the current situation, due to their background as elites. They can mobilise all kind of efforts, resources and individuals to touch women's rights issues. This can be noted in the interview with the director of the United Nations when he argues, "... most of the push comes from the elites," (cf. Interview 6 in Table 1).

Furthermore, the political participation is affected by women's economic situation in both countries; economic independence is highly important. Many women in Jordan and Bahrain do not own the right to make decisions. Even though they are legally treated as economically independent, real life finds them in a situation of dependency.

Family law also affects political participation. Malhas argues that family law is entrenched in the cultural, political and economic structure of any society. The family law in the Arabian Gulf states, similar to other Islamic countries, is ruled by, or otherwise performed in conformity with, Shari'a and safeguarded by the special jurisdiction of particular family courts- the Shari'a courts (Malhas, 2009: 16). The argument also agrees with Eisenstein, when she argues that women are excluded from the public life because they are restricted to childbearing and other issues, which belong to the private sphere. This has led to framing of the state as a public sphere that has been established as separate from the private sphere at the political level. Real equality would mean to replace the patriarchal formation to a liberal society (Eisenstein, 1986: 6, ff).

When advocating, real liberal women are absent. Laws, policies and institutions should enable women to exercise their political participation in practice as decision-makers. It is worth mentioning that Bahrain and Jordan are concerned with their reputation before the international community. A Shura member from the Bahrain parliament mentions:

"Women are more accepted in positions where it shows before the international community that women are participating in the government institutions, but when it comes to leading and decision-making positions, they are rarely represented."
(cf. Interview 4 in Table 1)

This means more serious attention needs to be given towards real women participation and to the implementation of international agreement CEDAW. Once more, imbalance appears because of the inconsistency of women's rights.

Different Interpretations of Women's Rights in CEDAW

Considering women's rights and their citizenship, the application of CEDAW as an international agreement plays an important role. This agreement is considered an international affirmation of women's human rights. It calls for legal equality and equal opportunity for men and women in all spheres of life, and was approved in 1979 (Nasser & Abu Arida, 2009).

To start with, Jordan ratified this convention in 1992 and raised most of the reservations on CEDAW convention. However, from the ground perspective, the respondent from the Legislation and Opinion Bureau answers the question "To what extent does Jordan agree with the international agreement?" as follows:

"Jordan still has a reservation on Article 9; nationality law, and 16; marriage and family affairs but it lifted other reservations such as on Article 15 in CEDAW on February 2009. It involves women's equality with men in their legal competence in civil issues. The Prime Minister discussed it, then it was sent to the parliament, but lifting the reservation does not mean that they follow the constitutional procedures to have it in a formal law and to publish it in the Gazette to be a formal law." (cf. Interview 3 in Table 2)

In Jordan, certain parts of government intend to improve women's rights. They are concerned about the international point of view, namely in CEDAW convention. This can be seen in the lifting of reservations on other articles of the convention and also in the family law reform as a temporary law, even though the parliament at that time refused any reform. The government is more concerned with the religious current in Bahrain, than in Jordan. Bahrain also has a reservation on the Family Law, like Jordan, and even more, as the president of Women's Union reports:

"Still Bahrain has reservation on Article 15, which relates to freedom of movements. This issue between Bahrain and CEDAW has not been solved. Also, Bahrain did not lift their reservation with respect to Articles 2, 7, 9 and 16. Their reservations are mainly considered on articles contradictory to Shari'a". She adds, "The religious parties in Bahrain work against the international agreement CEDAW. They consider it destructive and they arouse the public against such agreements." (cf. Interview 5 in Table 1)

Indeed, CEDAW was criticized in Bahrain in a conference called the Women's International Agreements and Their Affect on the Islamic World Conference and sponsored by feminist conservatives. The attendance mainly came from Saudi Arabia and they were traditionalist, not liberal; this was evident from their dress code and the ideas they communicated. On the first panel, they criticized CEDAW and they argued that it is considered a Western cultural concept, brought to threaten and demolish the Bahraini culture. At this point, it is important to consider the values, themselves, rather than focusing on the label as coming from the West. These

values are fundamental for democracy and any human being. This was also confirmed when there was a chance to interview the Director of the United Nations in Bahrain:

R: “Why are they commenting like this about it?”

UN Director: “Of course, there are some readings about CEDAW that, according to some beliefs, are binding, but the CEDAW itself and the United Nations was drafted by all Arab countries. These countries presented their contribution in terms of law and women’s empowerment, and they are inspired by their beliefs. CEDAW has nothing to do with Islam in the eyes of those who are not convinced of CEDAW.” (cf. Interview 6 in Table 1)

As a deputy from the Bahraini parliament and also as a member in the CEDAW committee explains:

“The committee members argue with the Bahraini minister of Justice to lift these reservations, but the minister doesn’t want to involve himself with political forces, even though he is a liberal. He could be asked in the parliament and the conservatives easily could embarrass him, so he does not want to take this risk, because the conservatives are the majority in the parliament.” (cf. Interview 2 in Table 1)

This shows the relationship between the international agreement, CEDAW, its application, and the influence of the family law on the equality of women’s citizenship. The Director of the United Nations commented, “...when you have all these countries which sign all these commitments, they have worked hard but I think they did not put the necessary will and necessary resources,” (cf. Interview 6 in Table 1). Al-Ali confirms that the countries of the region have similar issues in sharing their connection to the nationalist movements and in practicing of modernisation and development, as well as in the conflict between secular and religious tendencies. The combination of predominantly Muslim societies, mixed with the agendas for national development and the preoccupation with Islam as cultural identity, have constrained and restricted feminist debate throughout the region (Al-Ali, 2010: 217). This argument also agrees with Charrad when she explains that traditional considerations in the family law have been at the heart of the matter when it comes to women’s rights in the Arab Muslim countries. By its very character, family law brings up questions that are at the juncture of relationships, the place of individuals in the society at large, the state and the immediate society and the family (Charrad, 2009). The argument is further reinforced when Lazerg argues about the features of Middle Eastern countries, as that policy intervention is important to take away gender inequality, especially in the private sphere. One of these features is the existence of a dual legal system with one following the internationally equal model, and the other representing diverse degrees of codification of Shari’a that defines women’s rights in the private sphere, based on family law. Consequently, rights written and, supposedly, protected by the constitution are generally denied or undermined in diverse religious family codes that are based on Shari’a (Lazerg, 2009).

Leadership's Role in Bahrain and Jordan, and SWMs that Pursue Country's Policies Supporting Women's Rights

According to Waylen, civil society plays a part in the transformation of state institutions by assisting to redefine what is considered political, and thus plays a role in retaining democracy (Waylen, 2007: 50, f). Leadership could positively influence women's rights by giving top-down support. The idea of top-down support is confirmed by the field research. Establishing a SCW in Bahrain and a JNCW in Jordan, have an effect on legal reforms, to some extent, with respect to women's rights and gender equality. This argument goes along with liberal feminist such as Enslin, where liberal feminism should not be discouraged from encouraging autonomy and equality for women by promoting the change of practices that harm their interests (Enslin, 2003: 73). For instance, the Jordanian National Committee for Women in Jordan and the Supreme Council for Women in Bahrain describe the respective turnout as shown in the following section.

SCW and JNCW: Different Points of View With Respect to the Quota

Bahrain has not undertaken any short-term positive measures, on the legislative part, to assure the conditions of real opportunities for women to gain seats in parliament, as recommended in Article 4 of the CEDAW convention. The article requests reserved seats for women in the parliament. When asked about discriminations related to civil rights, the General Secretary of the SCW strongly rejects the idea of the quota, even on a temporary basis: "How do we want to merge the international agreement with our constitution? It is unconstitutional," (cf. Interview 1 in Table 1).

If we consider this point of view, one might see the reason behind women's limitation to locate seats in the parliament. A deputy in the Bahraini parliament and a representative in the CEDAW committee illustrate that the Bahraini reservations to reserve seats for female candidates: "The reason behind not Bahrain lifting its reservations, because they do not want to have struggle with religious clergymen in Bahrain," (cf. Interview 2 in Table 1). He means that the government does not want to embarrass themselves with the conservative religious men. The Supreme Council for Women also represents the government's point of view. This could cause limitation of their work because it is crucial for them to form a balance between the points of view of different actors in the country, such as the conservatives, government and the international community.

The SCW plays a key role regarding governmental policies related to women's rights. However, sometimes these policies have had a negative effect on women's political participation in the parliament, for example, by not taking temporary positive measures regarding the quota. Amawi says that governments are required to work together with the international community and local groups on achieving a better positioning and standing of women. There have been transformations in women's rights and their political status. The alterations of roles adopted by women may lead to altering of attitudes of both men and women, concerning the appropriate activities of women. Yet, in contrast to these transformations, society remains conservative and hinders a public role for women (Amawi, 2009).

What has been stated above is different in Jordan, where the JNCW peruses the government policies and is more supportive to CEDAW agreement than the SCW in Bahrain; therefore, the outcome of gender policies might be more positive. This can be noticed from Jordan lifting most of CEDAW agreement reservations and the implementation of its recommendations. By taking the quota as an example for comparison, the point of view of the JNCW first secretary and the SCW general secretary of toward the quota will be considered. The JNCW secretary argues that, "In

order to have an influential quota that leads to a positive effect concerning women's rights issues in the Jordanian parliament, they needed a minimum of not less than 30 %," (cf. Interview 4 in Table 2). Whereas the general secretary of the SCW says that, "... It is unconstitutional," (cf. Interview 1 in Table 1). One might say, as far, as we are talking about inequality before the law, temporary measures might be a priority when talking about positive gender outcomes and ending discrimination. According to the Association for Women's Rights in Development, the Arab countries can encompass gender neutralizing rules and practices, such as gender quotas, which are a common tool to pursue fast women's equal representation in government, and the quota systems may be adapted to the country's political structure (Maltbie, 2011).

A quota system could be a first step towards political and social equality. Enslin reinforces this argument, when she encourages intervention policies by the government to change men's point of view about women's role, and also policy intervention to change customary ways of decisions contribution (Enslin, 2003: 78, ff). Indeed, Jordan's legal system is more according to CEDAW than Bahrain, with respect to policy intervention. This is due to the centralised Islamic stream, which is more powerful in Bahrain than in Jordan. Of course, we do not have to forget the surrounding conservatives neighbouring the countries of Bahrain and their influence on Bahrain decision making regarding positive gender policies and women empowerment.

Conclusions

In this article, analysis regarding gender policies and women's empowerment in Jordan and Bahrain have been introduced and compared. It is shown that despite the fact that there are rights in constitutions, women are not allowed to utilize and exercise such rights in religiously based culture. One can see that in both countries, there are loopholes and over flexibility in the constitutions, with respect to equality before the law. The family law is a side-force in the national legislations of Jordan and Bahrain, causing a form of a dual legal system. This leads to the hindering of women to exercising many rights granted in their national legislations. This can be recognised in the national legislations, which carry legal discriminations with regards to gender equality and in particular within the private sphere, i.e., the family law. The patriarchy structures, which influence the social practices that are entrenched in institutions, are a key point with respect to woman's inequality and to biased applications of the law, namely in the parliament, where customary legislations are made by mainly conservatives. This can be recognised in the existing discriminatory laws and the state policies regarding women's rights. These issues hinder women from enjoying their granted constitutional rights, in general, and their political participation, in particular.

Women's political participation still has not reached the international level, with respect to the three authorities. In the Bahraini parliament, there is one woman, while, in the Jordanian Parliament, fifteen women were elected without a reserved seat (i.e., outside the quota). As for the Upper House, both countries have achieved well, since senators are more liberal and appointed by top-down level support. In Jordan, the judiciary authority has done a good job, whereas Bahrain, in this aspect, still needs to work on it. Indeed, Jordan's experience is older and more successful than that of Bahrain.

As for the State Women's Machineries that pursue the country's policies to empower women – in both Jordanian JNCW and Bahraini SCW. Support for women's issues exists, but in Bahrain, they are more limited in regards to the country policies, which are not the same in Jordan. This might be due to the influence of the conservative neighbourhood surrounding Bahrain.

However, in both countries, further serious policies need to be taken to reinforce their positive initiatives to empower women; for example, Family Law needs to be replaced by Civil Law. Also, the push towards gender equality needs to be from both sides, top-down and bottom-up. In addition, women in Jordan and Bahrain need to be insisting, consistent and dynamic.

One might consider what has been mentioned above as reasons for women not to enjoy equal full rights of citizenship with men, even though they are, in principle, granted these rights in both countries' constitutions. In fact, these analysed reasons currently present obstacles for women practicing their political participation as true citizens.

Table 1: Interview Respondents in Bahrain

Name	Title and Function of Position	Date of the Interview	Time of the Interview
1- Lulwa Al Awadhi	- Supreme Council for Women General Secretary - Rank of Minister - Head of Arab Women League - Women's Rights Activist	12.4.2010	1 p.m.
2- Dr. Abd Al Aziz Abul	- Member of Parliament - Academic - Member of CEDAW committee	12.4.2010	6 p.m.
3- Dr. Bahia Al Jashi	- Member of Shura Council - Chairwoman of the Shura Council - In Charge of Women's Affairs in the Bahraini Parliament	14.4.2010	1 p.m.
4- Rabab AlOrayedh	- Member of Shura Council - Lawyer and Legal Advisor	14.4.2010	6 p.m.
5- Mariam Al Rwahi	- Chairperson of the Women's Union in Bahrain - Candidate in the last parliament election - Women's rights activist	15.4.2010	1 p.m.
6- Najib Friji	- Director of the United Nations Media Centre for the Arabian Gulf Countries	15.4.2010	4 p.m.

Table 2: Interview Respondents in Jordan

Name	Title and Function of Position	Date of the Interview	Time of the Interview
1-Toujan al Feisal	- Former deputy in the Lower House of Parliament - Political activist	9.12.2009	2 p.m.
2- Maram Magalsah	- Lawyer (family law) - Member of the Women's Union	13.12.2009 23.12.2009	6 p.m. 1 p.m.
3- Dr. Maha Al Deir	- Legislation and Opinion Bureau	15.12.2009	4 p.m.
4- Asma Khader	- First Secretary in the JNCW - Human rights activist - Lawyer - Former government spokeswoman	24.12.2009 7.1.2010 11.1.2010	11 p.m. 1:30 p.m. 8:30 a.m.
5- Lamis Al Nasser	- United Nations consultant (CEDAW) - Human rights activist	28.12.2009	2 p.m.
6- Rihab Al Qaddoumi	- Lawyer - Women's rights activist	30.12.2009	9 p.m.
7- Dr. Massoud Rabadi	- Academic - Political Science at Yarmouk University	13.1.2010	12 p.m.

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