

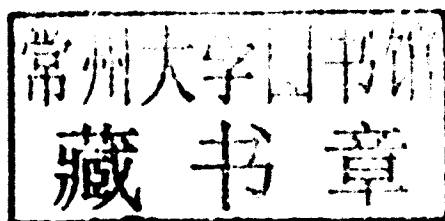
Competing Fundamentalisms and
Egyptian Women's Family Rights
*International Law and the Reform
of Sharī'a-Derived Legislation*

Jasmine Moussa

Competing Fundamentalisms and Egyptian Women's Family Rights

International Law and the Reform of
Shari'a-Derived Legislation

By
Jasmine Moussa



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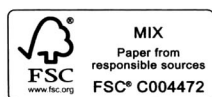
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Competing Fundamentalisms and Egyptian Women's Family Rights

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VOLUME 4

For my parents, and my brother

“And He it is Who hath produced you from a single being,
and (hath given you) a habitation and a repository.”
– Quran (6:98)

“He it is Who did create you from a single soul, and therefrom
did make his mate that he might take rest in her.”
– Quran (7:189)

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Finally, I have my parents and my brother to thank for their unfailing support in all my endeavours. My father's idea to produce a book on this subject was followed up with a quest to provide me with access the most credible sources, both in print, and in person. I cannot thank him enough for making this project as much a personal endeavour of his as it is of mine.

PREFACE

Soon after this book had been submitted for publication, a popular revolution toppled Egypt's long-time dictator Hosni Mubarak, on January 25th, 2011, ending his three decades of repressive rule. The revolution, driven by Egypt's youth who mobilised the nation through blogs and social networking sites such as Facebook, was both classless and genderless; it united men and women, young and old, religious and secular, raising the banner of liberty, democracy and social justice. Almost 850 Egyptians died during the eighteen days of protests that ultimately brought down the ruling regime.

Awakening Egypt from the lethargy that had beset the country for more than half a century of bad governance, the revolution promises to usher in a new era of freedom and democratic rule. For the first time in many decades, Egyptians voted in a referendum that was free and fair, in favour of constitutional amendments which lifted previous restrictions on Presidential nominees, largely thought to have been engineered to favour President Mubarak's son, Gamal. The former President and his family, as well as members of the previous ruling regime, were indicted for corruption-related charges, while a spate of legal and social reforms was introduced to allow for greater civil and political rights, as well as to address poverty and meet demands for higher wages.

For all the changes brought about by the revolution, one area in much need of reform has been largely overlooked: Egyptian women and their rights. Although the images broadcasted from *Tahrir* (liberation) square, the seat of the revolution, showed women as leaders and agents of change, reporting, mobilising, assisting with security and communication, even hurling stones at pro-government thugs, a few months after the revolution it seems that Egyptian women have decidedly put their own demands on the back burner.

There was an outcry amongst intellectuals when the ruler *ad interim*, the Supreme Council of the Armed Forces, set up a Committee of experts to draft the proposed constitutional amendments; not one of these experts was a woman. Another blow arrived when the text of the amendments was revealed. Although they opened the door for independents as well as party candidates to nominate themselves for the Presidency, the language used to describe the criteria for nomination was exclusively

masculine, with a specific phrase excluding from candidature any Egyptian married to a non-Egyptian woman. In spite of claims to the contrary, this language implicitly excludes women from running for the Presidency. When a new 'caretaker' Cabinet was appointed, it included only one woman (as compared to three under the previous regime). Women were similarly under-represented in the newly-established 'National Dialogue' which brings together representatives of civil society and diverse political groups to make policy recommendations for the transition period, and for restructuring the country's institutions.

The aftermath of the revolution witnessed another threat to Egyptian women; the resurgence of political Islam, as restrictions on the participation of the Muslim Brotherhood and the more radical *Jamā'a Islāmiyya* and *Salafi* movement disintegrated. Public attacks against the emancipation of women started proliferating in the media. Heated debates erupted regarding article 2 of the 1971 Constitution (which stipulates that the Islamic *Sharī'a* is the primary source of law) with thousands of people taking to the streets to protest any amendment of the provision. The debate led to trepidation amongst many observers wary of an impending sectarian conflict between Egypt's Muslims and Coptic Christians, and fearing a regression from the Supreme Constitutional Court's interpretations of article 2, which had previously guaranteed legislative gains made by feminists.

In spite of open criticism by a number of intellectuals and feminists in the press (one commentator warned against the return of the age of the *Harem*), to date, there have been no serious attempts to include women in the process of rebuilding Egypt. In the critical weeks and months ahead, it can only be hoped that the spirit of *Tahrir* Square will finally prevail, bringing diverse groups of women to the forefront of the new democratic process. History has shown that feminism and nationalism go hand in hand, that once nationalist demands have been met, women have proceeded with determination to demand their own rights. Just as they have liberated their own society from dictatorship, this new generation of Egyptian women is well-placed to liberate themselves from the chains of patriarchy, according to their own priorities and needs, and without the need to conform to anyone else's ideal of the emancipated woman.

Jasmine Moussa
25th April 2011

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