Policy Shifts: State, Islam, and Gender in Tunisia, 1930s–1990s

Abstract

This paper offers a macropolitical framework to analyze shifts in the gender policy of the Tunisian state. Throughout the twentieth century, the status of women in Tunisia has been caught up in political wars fought largely over other issues such as colonialism, nationalism, modernity, and Islamic cultural authenticity. Only in the 1990s did women's agency emerge on the political scene, as women's rights advocates seized an opening created by conflicts in national politics. The paper suggests that neither essentialist concepts such as Islam and patriarchal state, nor models centering on pressures from below, can adequately explain shifts in state policy on women's rights in Tunisia. The paper argues instead that gender policy has been the outcome of contests over state power and that the contests sometimes have provided opportunities for women's agency. Four political configurations are compared: nationalism under colonial rule in the 1930s, the formation of the national state in the 1950s, the consolidation of the state in the 1970s, and the state challenged by feminism and Islamic fundamentalism in the 1990s.

In 1929, the prominent nationalist leader Habib Bourguiba urged Tunisian women to wear a veil. In 1957, Bourguiba as president of Tunisia, called the veil "an odious rag" and asked Tunisian women...
to drop it. His government promulgated radical family law reforms that abolished some of the most extreme aspects of women’s subordination in the Islamic Middle East, reforms that resulted in new legal rights for women. In another reversal, throughout the 1970s and 1980s the Tunisian government retrenched on gender issues as it reminded women that their proper place was in the home. In still another shift, in 1993, a new government promulgated additional laws that expanded women’s rights beyond those of the 1950s. In the last half-century of Tunisian history, the political leadership has fluctuated between policies expanding women’s rights and those emphasizing a more traditional conception of gender roles. What has prompted the state to expand women’s rights in one period and support traditional women’s roles in another?

This paper offers a macropolitical and polity-centered framework to analyze shifts in the gender policy of the Tunisian state. Using a comparative-historical methodology to compare periods, it locates gender policy within the context of the sociology of the state. The paper shows how the shifts in Tunisian state policy on women’s rights have been a by-product of struggles among social and political groups fighting over state power. It argues that gender policy has been the outcome and sometimes a tool of such struggles, as each group sought to consolidate resources and the social bases of its political support. Although this was not the only factor each time, shifts in state policy from the 1930s to the 1990s had in common the fact that they had less to do with varying degrees of commitment to Islam or feminism on the part of the leadership, and much more to do with the political struggles for state power dominating the national scene at any given historical moment. The shifts were differentiated by the fact that only in the 1990s did women’s agency emerge on the political scene.

Throughout the twentieth century, the status of women in Tunisia has been caught up in political wars fought largely over other issues such as colonialism, nationalism, modernity, and Islamic cultural authenticity. Most of the time, women themselves have been absent from the debates and their concerns considered secondary for both the advocates and opponents of expanding women’s rights, each of whom was using the issue as a foil for other causes. It is only in the last decade or so that women’s agency has played an important role, for this is when a somewhat independent movement has appeared, a movement for which women’s rights issues are not a side show, the result of something else, but the main event. During most of Tunisian history, however, women’s rights issues have been a pawn in political struggles among men fighting over other issues. Shifts in gender policy thus all reflect in different ways alliances and conflicts among key
political actors in different historical periods, as competing actors subordinated issues of women's rights to the undermining of contenders in political struggles for state power.

Political struggles over state power and resulting shifts in gender policy are examined in four different periods in the twentieth century: the 1930s—the early 1950s; the mid-1950s; the 1970s-1980s; and the 1990s. Each period represents a critical political configuration. These are, respectively: the nationalist struggle over colonialism; the formation of the sovereign national state; the period of consolidation of the state; and the era of Islamic fundamentalist challenges coupled with the emergence of feminism as a social force. Depending on the political struggles in which it was involved, the political leadership of Tunisia has defined women alternatively as a repository of cultural identity, potential supporters in the quest for modernity, voices to be silenced, or allies against militant Islamic extremism. In the same vein, the state in Tunisian history has treated Islamic family law in different ways, depending on whether political leaders were trying to end colonization, ward off secularist challenges, appease Islamic fundamentalists or, on the contrary, oppose them.

The paper explores how different political configurations generated different gender policies. First, during the nationalist struggle against French colonial rule, from the 1930s until the early 1950s, the nationalist movement took a conservative stand on gender and affirmed traditional Islamic restrictions on women's role. It sacrificed the "woman's question" to the "national question," as it sought to maintain cohesion among competing nationalist groups in the struggle to end colonization. Second, in the mid-1950s, a newly formed national state expanded women's rights in family law by making the first and most critical family law reform. It did so in the absence of a feminist movement, since none existed in Tunisia at the time. The reforms of the mid-1950s were the outcome of the victorious leadership's struggle to undermine its political rivals among Islamic clerics and patriarchally organized kinship groupings in rural areas.

Third, the same regime did not hesitate to place gender issues on the back burner of national politics later on, while consolidating its power and facing a threat from an ascending left throughout the 1970s and 1980s. It responded to the threat by making a rapprochement with Islamic forces against the left and emphasizing women's traditional roles. Fourth, in the 1990s after the ousting of Bourguiba, a new regime faced at once a challenge from Islamic fundamentalism and a new feminism. This is the first time that feminists truly captured a political space for women's issues. After a period of uncertainty, the new male-dominated state elite responded to the challenges by making an alliance with women's rights advocates against the common and
most dangerous enemy, Islamic fundamentalism. In this period, feminists served as actors in their own right and affected the terms of state gender policy. This paper considers similarities and differences among the four periods, with a focus on key political actors and their major alliances or conflicts in each period. With respect to the 1990s, the analysis indicates why and how women's agency emerged on the political scene.

**Gender Policy in Tunisia: A Definition**

By gender policy in the context of Tunisia, I refer to state-promulgated laws that expand or restrict women's rights in family law (also called law of personal status in Tunisia). We know that the issues at the heart of gender policy vary around the world because states have different immediate agendas in different countries and so do women (Tilly and Gurin 1990; Margolis 1993; Andersen 1991). In Tunisia as in other Islamic countries, issues of family law have dominated the political discourse on gender. At stake is the set of legal rights and responsibilities that men and women have in marriage and family and, by extension, in the society at large. At issue is whether traditional Islamic family law, known as the Shari'a and considered by some as the cornerstone of Islamic identity, will prevail virtually unchallenged, or whether legal reforms will alter the balance of power that the law gives to men and women. The crux of the matter is legal personhood and involves issues such as procedure for marriage, polygamy, conditions for obtaining a divorce, custody of children, and inheritance (Chamari 1991; Charrad forthcoming a).

A serious reform of family law in an Islamic country in effect redefines concepts of legal personhood in that it reduces the power of husbands and male kin by giving women greater individual rights. This is why feminists fight for such reforms throughout the Islamic world. How much women then avail themselves of the legal rights offered by the reforms is a related but separate question, to be addressed as such. The implications of family law reforms for women's lives in Tunisia are examined elsewhere (Charrad 1994 and forthcoming b; Bourqia, Charrad, and Gallagher 1996). The analysis in this paper focuses instead on the conditions that led on the one hand to reforms, and on the other hand to retrenchment.

**Theoretical Model**

The theoretical model of state policy on gender presented here centers on a key dimension: the autonomy of state actors from—versus their alliance with—social groups that have the highest stakes in protecting Islamic family law and in sustaining traditional restrictions on women. By autonomy, I mean that state elites do not seek
political support from the social groups in question and, in addition, that the state elites find their social and political base of support in other sectors of society. The most important groups that have had the highest stakes in protecting Islamic family law in Tunisian history are the Islamic establishment (religious scholars and judges), kinship groups organized as patriarchal communities, and Islamic fundamentalist movements. Gender policy has varied in Tunisia on the basis of the changing relationship between the state and one or several of the above groups. When they have been relatively autonomous from such groups, state actors have been more likely to reform family law and expand women's rights. When they have been allied with or dependent on such groups, state actors have tended to pursue policies that increased restrictions on women. At times, the interest of the state in reforming family law has coincided with pressures from below, such as in the 1990s when women participated in the shaping of family law reforms.

Although it acknowledges the importance of the patriarchal state and Islam in establishing the broad outlines of gender policy, the theoretical model presented here also raises questions about those concepts. The concept of the patriarchal state, as developed by theorists to explain state policies on gender in capitalist western democracies (MacKinnon 1989; Connell 1990; Walby 1990; Hartman 1979), does not suffice when it comes to analyzing variations in state policy on gender in Tunisia. Nor does Islam (Ahmed 1992; Bernal 1994; Charrad forthcoming b; Hatem 1994 and 1987; Tucker 1993; Joseph 1991; Mernissi 1991) or the role of orthodox Islamic doctrine account for shifts in state policies, even though Islam provides the social and cultural context for the policies. The Tunisian state has been patriarchal and Tunisian power holders have been men all along. The Tunisian state also has operated in an Islamic country unambiguously permeated by Islamic culture during its entire history. We must therefore look elsewhere for some of the reasons why the gender policy of the Tunisian state has fluctuated over time and, as this paper suggests, an emphasis on conflicts and alliances in struggles for state power provides some answers.

In emphasizing politics, the present paper takes state autonomy as a central concept and conceptualizes the state as an active political force making moves to consolidate its power. This paper builds on a polity-centered frame of reference, which examines how conflicts among state actors pursuing divergent interests, or between state actors and political competitors, shape and limit policy outcomes under different historical circumstances (Weber 1922, vol.2, ch.9 and vol.3, chs. 10–13; Skocpol 1992, 1979; Orloff and Skocpol 1984; Orloff 1993a, 1993b; Tilly 1975; Block 1987; Anderson 1986; Weiss
Most state autonomy theorists have not examined gender policy. Recent work by Skocpol (1992), Orloff (1993a, 1993b) and Charrad (1996, forthcoming a) has refocused state theory on the issue of gender. Skocpol (1992) and Orloff (1993a, 1993b) have provided a gendered and polity-centered analysis of social provision in welfare states in the Western world, where the autonomy of the state from social class is considered a central factor.

How states interact with social formations other than social class, in cases where such formations have played a major role in influencing state policy on gender, has not yet been fully investigated and requires further elaboration. Work by the present author has examined the issue of state autonomy from kin groupings in societies and periods in which kin-based groups have played major political roles. This approach has been used in a broad comparison of state formation and gender policy in Tunisia, Algeria, and Morocco (Charrad 1996, forthcoming a). The present article expands the analysis of state autonomy beyond kin groupings by including state autonomy from the Islamic establishment and Islamic fundamentalism, while focusing exclusively on Tunisia. State autonomy from several social formations within a single nation-state over four historical periods thus is the focus of the analysis that follows.

Nationalist Struggle Against Colonialism: The 1930s–1950s

During colonization, the French colonial state and the Tunisian nationalist movement were the key political actors in national politics. The colonial state was represented by French officials in the colonial administration that covered the Tunisian territory. The nationalist movement was a diverse group that included, among others, liberal Tunisian professionals and members of the religious establishment such as Islamic scholars and judges, a group that was united by the fight against colonialism. The colonial state and the nationalist party each favored keeping Islamic family law, but they did so for entirely different reasons. The French colonized Tunisia from 1881 until 1956 and left Islamic family law in place throughout the period for the Tunisian population, in part because they could exert their rule without changing family law. Furthermore, they knew that a family law reform could be politically explosive. Nationalist leaders also wanted to keep Islamic family law. They took it as a symbol of cultural identity to be preserved at all cost in the fight against colonization. Tunisian nationalists treated gender as a resource for power in the nationalist struggle and “The Woman” as a sacred repository of national values.
Family Law and the Colonial State

The family law that applied to the Tunisian population in the 1930s was essentially the Shari’a, as it has historically existed in the Maghreb and with all its restrictions on women. There was no minimum age for marriage, except for the stipulation that marriage should take place after puberty. In the actual ceremony that established the marriage contract, it was the father, or in his absence the woman’s (male) guardian, not the bride, who uttered consent to the marriage. Divorce was essentially a private matter in that the husband had a unilateral right to terminate the marriage by repudiating his wife, without court decision. Polygamy was allowed and a man could have as many as four wives.

Islam came into being in a society where kin groups functioned as corporate units whose male members had control over women. This generated a distinct form of women’s subordination. The Shari’a reflects that form. It gives power over women not only to husbands, but also to male members of the kin group. It also sanctions a special bond of community among male members of the extended kin group (Charrad 1990). In some instances, as in marriage and inheritance, male kin have considerable prerogatives. Strict inheritance rules designate the heirs and specify their shares. One principle holds in all cases: A woman inherits half the share that would go to a man in the same kinship relation to the deceased. For example, a daughter inherits half as much as a son. Inheritance rules also favor distant male kin over close women relatives. The combined power of husbands and male kin over women’s lives represents the form of patriarchy that primarily concerns women’s rights advocates in the Middle East. I refer to it as kin-based patriarchy.

French colonial officials refrained from interference with Islamic family law, although they changed other laws in Tunisia such as property or contract law. The reasons included economic and political considerations. Economic exploitation, which primarily interested the French, made changes in commercial law critical, whereas it did not require similar changes in family law. Furthermore, the particular form of colonization had a bearing on the French policy on family law in Tunisia. Other colonies such as Algeria experienced more extensive settlement of individual farmers with small landholdings. Colonization in Algeria resulted in a massive uprooting of the population, with profound transformations in family structure. This required French intervention in family law in Algeria. By contrast, large industrial and commercial interests prevailed in the colonization of Tunisia. The French colonial state could protect those interests without immediate concern for the family law and family life of Tunisians.
The French also realized that interference with Islamic family law could provoke a violent response among Tunisians. In Tunisia as in their other colonies, the French wished they could have turned everyone into a French man or woman. Sometimes, however, they knew not to try because of the anticipated cost that the attempt could bring. Colonial domination by its nature threatens culture and cultural identity. To most Tunisians under colonial rule, the definition of being Tunisian included predominantly allegiance to Islam. Many saw Islamic family law as the cornerstone of their separate identity from the French. In a colonial context, the colonized often experience family life as the last refuge against colonial encroachment. Quite aware of this, French colonial officials avoided confrontation on a point that, in any case, they could accept without undue hardship. Islamic family law was thus left intact and served as a point of differentiation between colonizer and colonized (Borrmans 1977).

**Nationalist Leadership**

Besides the French, the other key political actor in the colonial period was the nationalist movement. It rallied around the defense of Islamic family law for its own reasons. Organized as a mass party and avoiding ideological divisions during most of the colonial period, the nationalist movement welcomed those committed to lifting the colonial yoke. The nationalist leadership effectively joined a modernizing liberal elite with members such as Habib Bourguiba and Tahar Haddad and conservative forces such as Islamic judges and scholars committed to the defense of tradition. An inclusive organization, the nationalist movement brought together several social bases such as the labor union, urban populations, and kinship groups organized in patriarchal communities in rural areas. The nationalist party acted as the only legitimate political organization speaking in the name of Tunisians. Openly striving for state power in a future sovereign Tunisia, it subsumed all questions to the paramount objective of national liberation.

Throughout the colonial period, nationalist leaders took a conservative stand on the “woman’s question,” as gender issues usually were referred to in the period. Bourguiba, who later became president of Tunisia, voiced the collective position of the leadership in 1929. He declared in discussing the veil and other issues:

> Is it in our interest to hasten the disappearance of our ways of life and customs... that constitute our identity? Given the special circumstances in which we live, my answer is categorical: No. (Bourguiba 1929, 1)
He gave his reasons:

Tunisians must safeguard their traditions, which are the sign of their distinctiveness, and therefore the last defense of a national identity in danger. (Bourguiba 1929, 1)

The "woman's question" and the "national question" became intertwined in the nationalist debate, with the national question taking unquestioned precedence. Although there was no organized women's movement at the time, some individual women took a position on gender issues. A major controversy centered on the veil in the late 1920s. Some Tunisian women chose to drop it in the daily activities of their private lives. One woman, Habiba Menchari, went a step further by making a public appearance without a veil. She had the courage to attend a meeting unveiled. Her act provoked unequivocal criticism on the part of the nationalist leadership (Etendard Tunisien 1929, 1). During the colonial period, nationalists strongly urged Tunisian women to wear a veil. As sociologists of culture have shown, cultural schemes can be part of macro-level structures of power in that they reinforce boundaries between groups (Lamont 1992; Beisel 1993; Swidler 1986). In making women invisible, the veil served as the most visible divide between colonizer and colonized.

The "woman's question," a label that covered the veil and Islamic family law together, came to the fore of the nationalist debate in the late 1920s and early 1930s. Discussions on the "woman's question" in Tunisia were not a separate debate, but part of a broad intellectual confrontation between East and West. A reformist movement, which touched most of the Middle East, raised the question of women's condition in the context of a general critique of society. Disturbed by the military and technological superiority of Europe in the period, Tunisian thinkers reflected on the reasons for it. Some wanted to find remedies for what they saw as the stagnation of their own society. A few spoke in favor of changing women's condition as part of larger social reforms.

Tahar Haddad, a nationalist intellectual, made a loud and clear call for reforms in publishing a polemical book entitled Women in Law and Society (1930). He was part of the general reformist movement. In his book, Haddad described the position of women in Tunisian society at the time as a social plague and complained that women were treated no better than dogs. Outlining the negative effects that this degrading of women had on the women themselves and on the society at large, he called for reforms of marriage and divorce laws in particular. The Islamic religious establishment, which the French had left in place, reacted vehemently against Tahar Haddad. One of its members responded with a devastating critique in a pamphlet with the telling
title *The Shroud of Mourning Thrown on al-Haddad's Woman* (Ben Mrad n.d.). Joining in the attack, other religious figures condemned the book as an attack against religion, morality, and law. For having spoken in support of women, Tahar Haddad finished his life in public disgrace. The nationalist leadership abstained from defending him, thus de facto siding with the religious establishment.

From the 1930s until the achievement of national sovereignty in 1956, the Tunisian nationalists placed national liberation first. They treated all other issues as means to that end. Although the movement included a range of positions on the desirability of social reforms (Chater 1978), nationalists agreed on two major objectives that shaped their position on the "woman's question." First, they wanted to present a unified front to the colonizer. Second, they strove to retain symbols of Islamic identity and Tunisian separateness from the French. Accordingly, nationalists avoided potentially divisive issues that could have broken the anticolonial consensus holding the movement together. They defended Islamic family law and called upon women to remain veiled. Any other position would have meant playing into the hands of the colonial regime. Given the realities of colonial domination, the safeguard of cultural distinctiveness and political consensus represented the most pressing agenda. The nationalist leadership in effect asked women to act as the embodiment of Tunisian identity for the duration of the colonial period.

The National State In Formation: The Mid-1950s

The alliance between the leading factions of the nationalist movement ruptured as the French were pushed out of Tunisia in the mid-1950s. Instead, an all-out confrontation for control of the nascent sovereign state broke out, with each faction vying for power and seeking to destroy the other. Upon winning, the modernizing faction promulgated a reform of family law that corresponded to its vision of a future Tunisia at the same time as it was likely to weaken the power base of its now-defeated rival whose power base was anchored in kin groupings and the Islamic establishment.

**A Conflict**

A conflict erupted between the two major nationalist factions, the modernizing and the traditional, on the eve of independence from French colonial rule (Anderson 1986). The outcome of the conflict goes a long way toward explaining the gender policy of the Tunisian state in the aftermath of independence. The two factions had a different relationship to the Islamic establishment and kin-based corporate communities. They also had different projects for the society as a
whole. In 1954–55, in addition to the bloodshed caused by the struggle against the French, the two nationalist factions faced each other in a bloody confrontation, with ambushes and physical attacks on members and locales of each faction.

In brief, Bourguiba's faction, which ultimately was the winner, drew its constituency mostly from urban areas and received the strong backing of unions. The competing faction, under Ben Youssef, found greater support among kin-based communities in rural areas and among members of the religious establishment. A lawyer educated partly in French universities, Bourguiba spoke of reason and moderation. An Islamic scholar with connections to Egypt and the Islamic Middle East, Ben Youssef made inflamed speeches on Islam. Whatever their ideological preferences at the start of the conflict between them, the two men sharpened their positions as the conflict intensified. Bourguiba was able to convince the French to help him, which they agreed to do because, once the end of colonial rule appeared unavoidable, the French preferred a sovereign Tunisia under a leader like Bourguiba rather than Ben Youssef. Helped by French military troops, Bourguiba's forces decimated the foot soldiers and resources of the rival faction. Ben Youssef himself escaped by fleeing Tunisia and taking refuge abroad (Hermassi 1972).

The victorious faction under Bourguiba moved quickly to weaken the base of the Ben Youssef faction. Fearing that its rivals might rally forces, Bourguiba's government enacted a general policy of state intervention in rural areas by setting up state agencies and programs that intervened in the life of previously more autonomous kin-based communities. It also took measures to undermine the religious establishment, which had supported the losing Ben Youssef faction. It deprived it of most of its privileges by eliminating religious landholdings and reducing the institutions of religious education to a skeleton. By 1956, Bourguiba and his faction had successfully decimated the fighting force of the Ben Youssef faction, silenced its leader, and seriously weakened its social base. They faced no challenger in that period.

**Family Law Reform of 1956**

In 1956, only a few months after the achievement of national sovereignty, the newly formed government gave a blow to legally sanctioned kin-based patriarchy as embodied in the Shari’a. It promulgated the Code of Personal Status or CPS (Republique Tunisienne 1991, first published in 1956), a unique body of legislation in the Arab-Islamic world. The CPS reformed marriage, divorce, custody, and to some extent inheritance. On all of these dimensions, it expanded women’s rights by eradicating some of the most patriarchal
arrangements of the Shari'a. It abolished polygamy, eliminated the husband's right to repudiate his wife, allowed women to file for divorce, and increased women's custody rights. The government followed the initial CPS with a series of amendments in the same vein in the late 1950s and early 1960s. The position of the leadership on the veil also shifted. Whereas in 1929 he had criticized the woman who came unveiled to a meeting, Bourguiba, now president, called the veil "an odious rag" and a "dreadful burden" (Bourguiba 1978, 348, 349). In speeches to the nation, he repeatedly urged women to drop the veil, and his government used the media to the same end.

Many have seen the action of the Tunisian state in 1956 as revolutionary and others have called it "feminist." Calling the Tunisian reforms "feminist" amounts to reading motives back into the 1950s in the light of debates in the 1980s and 1990s. We must distinguish between the driving force of a policy at the time when it occurred and how the policy appears to us today in the context of current debates. Today, with many Middle Eastern states bowing to Islamic fundamentalism, the Tunisian reforms of the 1950s may appear feminist. The reforms were indeed very bold and very progressive, but that does not mean that feminist concerns prompted them. First, feminism did not enter the political discourse and struggles of the 1950s in Tunisia. Nor did a feminist movement exist at that time. Second, a close look at the reforms reveals that their dominant thrust was other than gender equality.

True, the CPS reformulated power relations between men and women by reassigning rights and responsibilities within the family. Regulations on marriage increased women's potential autonomy from fathers and male kin. The banning of polygamy and repudiation reduced the power of husbands. These and other changes represented immense gains for Tunisian women. At the same time, however, the CPS openly maintained gender inequality. For example, Article 23 stated that the wife should obey her husband (Republique Tunisienne 1991, 9). In the same vein, the CPS retained the rule by which a woman inherits only half as much as a man. It also gave privileges to fathers over mothers with respect to legal guardianship of children. This leaves little doubt as to the persistence of gender inequality in the reforms of 1956, despite the real gains made by women.

In addition to expanding women's rights while retaining a framework of gender inequality, the CPS also did something else which I consider essential to an understanding of it. The CPS dropped the vision of the family as an extended kinship group built on strong ties crisscrossing a community of male relatives (Charrad 1990). It replaced it with the vision of a conjugal unit in which ties between spouses and between parents and children occupy a prominent place.
For example, the new inheritance laws increased the rights of daughters over those of distant male relatives. The CPS moved away from the model of the family as an extended kin group, which was the model embedded in the Shari'a. The CPS put forth a different model, one that emphasized individual rights and obligations anchored in nuclear families. A major thrust of the family law reform of 1956 was thus to challenge the model of kin-based patriarchy inherent in the Shari'a and to present a new, nuclear model.

**Outcome of Political Struggles and Projects**

An overall project of nation building, reinforced by political interest, drove family law reform forward in the mid-1950s. The CPS represented an aggressive reform from above. The executive branch of government under Bourguiba initiated it immediately after the achievement of national sovereignty, at a time when electoral politics did not exist, then presented it for ratification to a supportive national assembly staffed by members of the winning Bourguiba faction. The CPS was not a victory of feminism. It was the victory of a government strong enough for a while to place a claim on Islam and enforce a reformist interpretation of the Islamic tradition. Like other world religions, Islam offers many possible interpretations and systems of meaning (Geertz 1971). One can find in Islamic texts arguments supporting as well as against legal innovation. Members of the 1956 government introduced the CPS as a new phase in Islamic innovation, similar to earlier phases in the history of Islamic thought. Rejecting dogmatism, they emphasized instead the vitality of Islam and its adaptability to the modern world.

The victorious leadership in effect had nearly free rein to set policy immediately after independence. It had silenced the organized opposition that could have fought for a conservative interpretation of Islam. This was the opposition that could have spoken for two social groups: the Islamic establishment and the rural areas, especially in the south of the country, where kin groupings were organized as corporate communities on the basis of the kinship model embedded in traditional Islamic law as defined by the Shari'a. The CPS passed with little or no resistance in 1956, because the social groups that had stakes in keeping traditional Islamic family law, by then, had lost all leverage in politics.

At independence, the leadership combined considerable power with a specific project for Tunisian society. Calling on all Tunisians to join in a collective effort, Bourguiba declared in a famous 1960 speech "... another form of holy war is the war against underdevelopment ..." (Bourguiba 1978). The CPS was part of "the war against underdevelopment" that included, among other tasks, the elimination
of what the government saw as impediments to a modern state. Kin-based corporate communities and patriarchal arrangements permitted by the Shari'a represented such impediments to be eradicated in the process of nation building.

Reasons of political interest coalesced with the government's vision of the future Tunisia, motivating it to intervene promptly in the area of family law. The rural areas where kinship organization most closely followed traditional Islamic family law had supported the losing Ben Youssef faction. The CPS family law reform confronted these areas with a cultural model that not only was at odds with their practices, but made them feel excluded from the new social order. The reform also undermined the influence of the religious establishment, the other potential challenger with a vested interest in keeping the Shari'a unchanged. Individual members of the religious establishment reacted to the CPS by resigning in protest. As a group, however, the religious establishment was powerless. It had lost its collective political voice with the defeat of the Ben Youssef faction that it supported in the nationalist struggle. It lacked the organizational framework and political capital to challenge the modernizing leadership now in power under Bourguiba.

In sum, the CPS was at once part and by-product of an overall project of state building (Charrad forthcoming a). In promulgating the CPS, the government of the mid-1950s was implementing a vision of modern Tunisia in which kin-based communities and the Islamic establishment would be marginalized. In the mid-1950s, the Tunisian state was autonomous from both of these social forces, neither of which was part of its base and both of which had supported the rival contender for state power. The victorious power holders wanted to build a modern state and they were at the height of their power in the mid-1950s, after they had silenced the Ben Youssef opposition and before other challengers gathered strength. They combined a vision with the power to enforce it at a critical time, when a postcolonial national state was taking shape.

From the mid-1950s to the mid-1960s, state officials made a concerted effort to enforce policy decisions. They could implement family law reform forcefully because they faced no challenger strong enough to obstruct its application. In my visits to Tunisia, I heard numerous stories about that period. People spoke of the police arresting men who practiced polygamy by claiming that they had married one wife according to the new law (which required a marriage certificate) and another wife according to the old law (which did not require a written certificate). Family lawyers whom I interviewed commented that, in that period, the government instructed judges to apply the new laws strictly. In the same vein, the anti-veil campaign bore fruit in schools
and public buildings, where officials cultivated a stigma against the veil.

Legal reforms continued at a sustained rhythm, with several amendments clarifying or amplifying the initial text of the reform (Repulique Tunisienne 1991; Chamari 1991). Gender policy appeared to be set on a progressive course. The tide would turn, however, with a change in national politics in the following decades.

The State in Consolidation: The 1970s

Starting in the 1970s, the interplay of state power, culture, and gender took new forms. A new social movement arose to challenge the state modernizing elite in the 1970s. This was a leftist movement rooted among intellectuals and university students and in a wing of the trade union movement that had expanded in urban areas, as commerce and industry spread after independence. In the 1970s and early 1980s, the left appeared to the existing regime to be the most serious cause for worry, with Marxists and Socialists operating mostly underground in associations and networks in the context of a single-party system. Although already present in Tunisia, Islamic fundamentalism appeared to be more of a cultural movement in the mid-1970s, not really a threat to state power. (It would become such a threat a decade later.) Challenged mainly by political groups on the left, the Tunisian state, still under the leadership of Bourguiba, leaned increasingly on Islam as a source of political legitimacy. It tried to create a counterweight to the left and gain popular legitimacy by reaffirming Islamic identity. It made a rapprochement with the much-weakened Islamic establishment.

Leaving gender issues aside, the government emphasized instead policies that reaffirmed Islamic values. For example, the Ministry of Education transformed educational programs such as the teaching of philosophy in secondary schools. Not only did it change the language of instruction from French to Arabic in these philosophy courses, but it shifted the content of the curriculum from European to Islamic philosophers. This brought the Islamic intellectual tradition to center stage in national culture. The change to the Arabic language also conveniently eliminated a whole range of critical philosophy, a kind of philosophy that could have sewed seeds of radical thinking in young minds.

Whereas it had sought to undermine the influence of the Islamic establishment in the mid-1950s, the government now sponsored the creation of the "Association for the Safeguard of the Koran" in 1970 (Bessis and Belhassen 1992, 148). It sponsored it in part as an antidote to the Marxist left and as an affirmation of Islamic identity. Comment-
ing on the political climate of the period, Ahmida Enneifer, one of the leaders of the emerging Islamic fundamentalist movement, said, "At that time, we had no problem with the government" (Bessis and Belhassen 1992, 149). In another example, in organizing the first Tunisian book fair in 1973, the government helped distribute the writings of the Egyptian-based Muslim Brotherhoods, writings that seemed less dangerous than radical socialist literature (Bessis and Belhassen 1992, 148).

As part of its response to the new challengers, the regime gave a back seat to gender policy. The 1970s and 1980s witnessed fewer state actions than earlier periods with respect to women's rights and family law. The legislation passed earlier remained in place. The government oscillated between mild reforms and outright retrenchment on gender issues. In 1973, a government decree addressed the issue of a marriage between a Muslim woman and a non-Muslim man, a sensitive issue left undiscussed in the CPS. The decree ordered public authorities to refrain from performing and registering such a marriage on the argument that this would help preserve Tunisian cultural identity by protecting it from Western influences (Chamari 1991, 43).

In the same vein, the political discourse of the period emphasized that women belonged first of all in the home. For example, in a speech typical of the tone in that period, Bourguiba urged Tunisian women to remember "their family responsibilities as wives, mothers and homemakers." He also reminded them that "their role in public life might sometimes occupy a secondary role" (Bourguiba 1981, 238). The government supported and passed a new law on divorce in 1981. The law introduced modifications in alimony and child custody, with some positive effects for women (Charrad 1994). The same government abandoned a project to reform inheritance laws in favor of women, however, in fear that such an action might be read as a rejection of Islam and provoke the opposition of the Islamic establishment and others.

The 1970s and early 1980s thus contrast with the mid-1950s, when the Tunisian state operated in relative autonomy from the Islamic establishment and patriarchally organized kin-based communities. By the 1970s, kin-based communities had lost political leverage and were gradually integrated into the new social and economic order as a result of government intervention in rural areas. Instead of being autonomous from social formations with a vested interest in Islamic law as embodied in the Shari'a, the state of the 1970s and early 1980s formed an alliance with the Islamic establishment and strengthened symbols of Islamic identity. Accordingly, it pursued a relatively conservative gender policy. This continued until the next major turning
point in national politics, when the state faced the challenge of a militant, political Islamic fundamentalism coupled with the emergence of feminism as a social force.

The State Challenged by Feminism and Islamic Fundamentalism: The 1990s

In 1987, Tunisia experienced a change of regime with the peaceful, nonviolent dismissal of Bourguiba, who had been president for three decades. By then, the voices defending Islam had grown louder and Islamic fundamentalism had changed from a cultural phenomenon into a political threat. Gender policy remained on the back burner for awhile. Then, in 1992–93, the government made new reforms of family law that expanded women’s rights. An examination of alliances and conflicts among key political actors in national politics in that period sheds some light on the reforms.

The intensifying threat of Islamic fundamentalism at home and abroad weighed heavily on the politics of the late 1980s and early 1990s. It was in this period that Islamic fundamentalists unambiguously coveted state power. It was also then that gender politics took a different turn. Emerging in earnest, feminism captured political space for women’s issues for the first time. Women met in their own associations and participated in the debates on family law. After trying a carrot-and-stick strategy for a while, the current regime attacked the fundamentalists directly in the 1990s at the same time as it invited women to join it in the fight against fundamentalism. In 1991, for example, the National Union of Tunisian Women, which was under government sponsorship, made an appeal to women following the uncovering of a fundamentalist plot against the government. The appeal stated: “We launch an appeal to all citizens, and foremost to Tunisian women, to show vigilance especially at this time... and to mobilize themselves even more around our President” (Riza 1991, 4). In making new reforms of family law in 1993, the state not only responded to pressures from women’s rights advocates, but also solidified its alliance with them. As they both face the danger of Islamic fundamentalism, the regime in power and feminists formed a partial alliance against a common overriding enemy.

Feminism

By the emergence of Tunisian feminism, I mean the development of a collective voice defending women’s interests and arguing in particular for women’s rights, without implying any particular organizational format. Feminist scholars have pointed out that women’s movements fashion their organizational form to meet their particular
situation in different places and times (Margolis 1993). Tunisian intellectuals use the French term *mouvance* rather than the word *movement* to refer to feminism in Tunisia. A *mouvance*, for which there is no English equivalent, is less structured and more diffuse than a movement, yet more organized than a current.

The major family law reform of the 1950s and the changes in women's expectations that followed in its wake provided part of the foundation for the women's *mouvance* in the 1980s and 1990s. This was reinforced by the effects of social structure changes, such as changes in literacy, women's education, and labor force participation. Many more women were able to read and write in recent than in earlier times, as illiteracy for both sexes declined sharply in recent decades. The rate of female illiteracy went from 96 percent for women in 1956 to 48.3 percent for women in 1989, the last year for which data is available. The decline is even sharper if one takes age into account, because efforts were directed primarily at the young: 13.3 percent of girls aged 10 to 14 were illiterate in contrast to 97.3 percent of women aged 70 and older in that same year (C.R.E.D.I.F. 1994a, 75).

There also have been changes in women's education following national programs to expand education beginning in 1956. The policies resulted in a rate of school age children enrolled in primary school of 93.76 percent for girls and 97.42 percent for boys in 1992–93. The proportion of women in the total secondary school population went from 21.5 percent in 1955–56 to 32.4 percent in 1975–76 to 47.2 percent in 1992–93. In higher education, the proportion of female students went from 15.8 percent in 1955–56 to 25.8 percent in 1975–76 to 40 percent in 1991–92 (C.R.E.D.I.F. 1994a, 64–68). Although considerable gender inequality has persisted in employment, the participation of women in the paid labor force went from 6.6 percent in 1966 to 24.2 percent in 1989 (C.R.E.D.I.F. 1994a, 134; United Nations Development Programme 1995, 176).

Professional women such as those in academe, medicine, law, and journalism have played a major role in women's associations and public debate on family law. The proportion of women in the professions has increased over time, thus increasing the pool of potentially politically active women. In college and university teaching, for example, women occupied 16.46 percent of the positions in 1982–83 and 21.66 percent in 1991–92, although (as in other countries) women were found at the lower levels of the academic profession. They occupied only 4.7 percent of the chaired positions and 7 percent of the full professor positions in 1987 (C.R.E.D.I.F. 1994a, 198). Women represented 10 percent of the lawyers in 1990 (C.R.E.D.I.F. 1994a, 210). They have fared best in the health professions, representing 33
percent of the physicians, 57 percent of the dentists, 65 percent of the pharmacists, and 18 percent of the veterinarians and biologists in 1992–93 (C.R.E.D.I.F. 1994b, 2).

Tunisian feminism has exhibited a broad range of what Clemens (1993) calls “organizational repertoires.” Like marginalized groups elsewhere, Tunisian women have developed alternative models of organization by bringing politics to previously nonpolitical structures. Women’s rights advocates have organized themselves into associations, study groups, research units, semi-informal networks, and women’s sections of trade unions. Their organizational repertoire has included, for example, a forum for lectures and discussions, the Club Tahar Haddad, named after the reformist of the 1930s (discussed above). Some feminists have formed close ties with human rights advocates.

In 1985, a woman’s commission constituted itself within the Tunisian League for Human Rights. The union of Tunisian workers, or UGTT, created a women’s commission in the early 1980s. The Association of Women Democrats, a vocal group, formed in the mid-1980s. Some women’s rights advocates operate in state-sponsored institutions such as the National Union of Tunisian Women or in internationally sponsored agencies, where they voice feminist concerns. The Association of Tunisian Women for Research and Development (Association des Femmes Tunisiennes pour la Récherche et le Développement 1992) has held writing workshops on women’s issues. The workshops, about which I have heard enthusiastic reports, generated intense energy and solidarity.

A member of the Tunisian Association of Women Democrats described her organization and its activities in the following terms:

It is a diverse organization which brings together women of different political tendencies. We are all united in striving for the improvement of women’s status and fighting against fundamentalism and all forms of extremism. . . . we organize conferences and talks, we show films, we distribute leaflets and we organize street demonstrations when necessary. . . . (Chater 1992, 220)

Although this has happened only infrequently, women’s rights advocates also have taken to the streets, as in 1989 when a few hundred women gathered to protest a speech against the CPS made by an Islamic fundamentalist leader, and to demand that the CPS be safeguarded (Bessis and Belhassen 1992, 243).

The feminist agenda includes first and foremost the defense of the rights that Tunisian women already have (Charrad 1994). Feminists realize that the CPS could be in jeopardy if Islamic fundamentalism
gained strength. They fear that the state might sacrifice women’s rights to appease fundamentalists. For example, a woman active in the labor union said:

Nothing is guaranteed forever and, therefore, the CPS is not protected from all threats. The danger of losing the gains embodied in the CPS exists because the demands of the Islamic fundamentalists can always be raised a notch. We could witness a move backwards with respect to women’s rights in Tunisia. (Chater 1992, 267)

In the same vein, a member of the executive committee of the National Union of Tunisian Women remarked:

We know that the gains made by women are defended by the highest authorities of the country and, at present, there is no reason to fear that things will change. However, the CPS would certainly be in danger if power fell in the hands of the Islamic fundamentalists. (Chater 1992, 276-277)

A member of a regional committee of the same union agreed:

For the moment, the CPS is not in danger. But, if power falls in the hands of the Islamic fundamentalists, the CPS will fall too and then nobody will be able to do anything about it. (Chater 1992, 277)

Feminists make it their objective to look after women’s interests in the application of the CPS in judicial practice on matters such as divorce and custody. Starting in the late 1980s, feminists also asked for further legal reforms that would address some of the gender inequalities built into the CPS of 1956. Most Tunisian feminists consider themselves Muslim and locate themselves within the framework of an enlightened Islamic tradition. Taking a secular position, a few argue for universal entitlement to individual rights, regardless of religion. Generally, however, Tunisian feminists speak for a tolerant and open Islam, as opposed to one that is militant and dogmatic.

**Islamic Fundamentalism**

With their own agenda on politics and culture, Islamic fundamentalist leaders have called for a return to patriarchy and a traditional model of gender, an issue that they have placed at the center of their platform. For example, one of their more conservative leaders named Ghodhbani expressed the extreme view that “Any woman who has received an education causes moral depravity” (Medimegh 1992,
The fundamentalists have made headway, despite the government's policy of decapitating the movement by silencing its leaders. One of their more noticeable activities has been to flood the country with free or symbolically priced small yellowish booklets, known in Tunisia as the “yellow books” and bearing titles such as “The Woman in Islam,” “The Role of Women,” “Women’s Work,” “Marriage and Polygamy,” and “The Principles of Marriage” (Medi-megh 1992, 132).

As in other religions, fundamentalism in Islam covers a broad spectrum from politically militant movements to retreatist apolitical groups (Marty and Appleby 1991). Militant fundamentalism is, of course, the part of the spectrum that worries governments. It combines a selective retrieval of the Islamic tradition with a political project that ranges from taking over the state (either with bullets or ballots) to gaining a voice in politics. Where the fundamentalists stand in this range is usually left unclear. Although no one gives specific information, what is known by social scientists in Tunisia is that the fundamentalist movement is organized into tight networks at the grassroot level, especially in poor sections of cities.

With respect to the potential impact of the fundamentalist movement, the characteristics of the sympathizers matter even more than their sheer numbers. Fundamentalism feeds on discontent. Islamic fundamentalists appeal to a vulnerable and politically volatile segment of the population. Although they find some echo in all social groups, fundamentalists derive their widest support from the urban poor who have recently migrated from rural areas. These are usually young people, with little education. They come to cities in search of jobs, rarely find what they seek, end up unemployed or seasonally employed, lack community support, and find refuge in Islamic fundamentalist networks. This could amount to a base ready for mobilization, with a detonator in place, should fundamentalist leaders decide to set it off.

The more conservative Islamic fundamentalist leaders want to abolish the CPS and restore a law faithful to the Shari’a, even though a more progressive segment, the followers of Rached Ghannouchi, accepts the CPS as a given to be tolerated. Already in 1985, Abdelfattah Mourou, then general secretary of the Islamic Tendency Movement, had proposed a national referendum on the revision of the CPS. He said:

The preface of the CPS of 1956 indicated that its objective was to protect the family. Thirty years later we wonder whether this objective has been met. . . . I launch an appeal to constitute a national Commission of specialists and ask them to examine the
reasons why the cohesion of the Tunisian family leaves much to be desired. (Chater 1992, 38)

A woman lawyer who identified herself as a sympathizer of the fundamentalist movement consented to my request for an interview. She complained that the CPS had become the “sacred cow of Tunisian politics,” in that the Tunisian government protected it as something untouchable.

Conservative fundamentalists have argued for a restoration of polygamy, a move that would give back to men the privilege of marrying as many as four wives. They support this position with the claim that polygamy would help control prostitution. They also contend that divorce should be the privilege of the husband, in contrast to the CPS that now gives women the right to file for divorce. For example, Cheikh Lakhoua declared in an interview:

It is unavoidable to redo the CPS on the issues of polygamy, divorce and adoption. . . . The call to total equality between the sexes is a war against Islam. (Chater 1992, 44)

Some fundamentalists insist on women wearing a veil. Members of a small fringe physically attack women whom they consider insufficiently covered. Blaming social problems on vaguely defined changes in family life and women’s condition, Islamic fundamentalists want to bring back social order. They suggest that collective patriarchal organization provides the best kind of family arrangement, one that protects the welfare of individuals and communities.

The Islamic fundamentalist movement in Tunisia acts in part as the political voice of the disappointed urban poor, for whom national sovereignty and the discourse of modernization failed to deliver the promised goods. These disappointed groups long for a sense of family and community solidarity that extended patriarchal kinship arrangements can sometimes offer. They share a nostalgia for a secure order or, more accurately, for an idealized vision of such an order. In that vision, men have control over women and individuals are never alone in that they can count on extended kin in case of life crisis. Facing hardship and also yearning for the fantasized security of a bygone era, many women find refuge in Islamic fundamentalist networks, which are known to provide social assistance to those likely to support the cause. For example, a member of a local office of the National Union of Tunisian Women in a poor neighborhood said about Islamic fundamentalists: “They very much help women who have health or divorce problems. . . . They take initiatives. . . .” (Bessis and Belhassen 1992, 223). When migrating to cities, rural people bring to their new circumstances ideals of a lost rural society. Longing for the
traditional patriarchal family, young male migrants look to Islamic fundamentalism as a way to restore this kinship network.

The State

The Tunisian state thus faces Islamic fundamentalists, some of whom wish to restore kin-based patriarchy, and women's rights advocates, who want to reduce it further. Heir to the reformist national state that formed at the end of colonization in the mid-1950s, the Tunisian state of the early 1990s finds its base in the modernist segments of Tunisian society, rooted in the middle class and the economic business elite, both of which feel threatened by Islamic fundamentalism. President Ben Ali expressed his position and that of his government on Islamic fundamentalism by declaring, "The fundamentalists are fundamentally the enemies of democracy. They strive to take the people back to the Middle Ages. . . ." (La Presse, August 9, 1994, 4). As an active political actor, the government makes moves and alliances likely to further its own survival and interests. Treading a thin line, it has oscillated between skillful compromise on religious symbolism and an alliance with women's rights advocates. This alliance provides support in the fight against Islamic fundamentalism, which represents the most serious threat to established power.

Whereas fundamentalists politicize Islam, the state tries to depoliticize it. The state tries to reclaim Islam as a cultural system of meaning. State officials openly fight against militant fundamentalism at the same time as they attempt to reappropriate Islam by making a place for it in national institutions and by repeatedly asserting the Islamic identity of Tunisia. Moreover, the regime has held fast in refusing to authorize the creation of a political party around Islam. President Ben Ali declared: "As long as I am here, I shall continue to fight against the creation of a religious party. That is my conviction" (La Presse, August 9, 1994, 4).

At the same time, he has consistently asserted the Islamic identity of Tunisia. For example, he declared in 1988, a few months after taking power:

Our first concern has been to render to our religion the place that it should have in this country, for we are convinced that it constitutes the foundation of our civilization. . . . (Bessis and Belhassen 1992, 237)

Accordingly, national television indicates times for prayer throughout the day and government-sponsored newspapers include frequent articles on Islam. The government encourages the celebration of Islamic holidays and the respect of symbolic rituals. Other measures include the creation of a secretariat for religious affairs, which later gained
the higher status of a government ministry, and the creation of centers of Islamic studies, usually connected to mosques. All the while, the government pursues modernist policies. Most notably, it has reformed the curriculum at various levels of the educational system by modernizing it, reducing Islamic instruction and expanding the teaching of science.

Disturbing events abroad combined with internal developments to influence state policy in the early 1990s. The most compelling factor has been the bloody conflict involving militant Islam in neighboring Algeria, where more than 50,000 people have been killed in a quasi-civil war in the last few years (Cohen 1997). Direct reports of violence and horror in Algeria abound, as Algerians take refuge in Tunisia. The violence in Algeria increasingly has worried the government and many others in Tunisia. These developments have combined with domestic politics to prompt the Tunisian state to make policy moves that could secure more support against Islamic fundamentalists.

One such move has consisted in supporting women's rights up to a point, enough to generate the support of the majority of women's rights advocates. The new government affirmed its intent to protect the CPS, shortly after the change of regime in November 1987. President Ben Ali declared categorically in early 1988:

The Code of Personal Status is a gain to which we attach great importance and which we will continue to uphold. We are truly proud of the CPS, and there will be no going back on Tunisia's progress in the domains of the family and women's rights (Tunisian External Communication Agency and National Union of Tunisian Women 1993, 21)

Women's rights advocates support the fight against fundamentalism. Many have cooperated with the government by participating in committees constituted to discuss possible further reforms of family law. Women's rights advocates know that, if fundamentalists take over, the new order will exclude them and women in general. In the current climate, feminists and the state thus face a common enemy. “It is us or them,” women's rights advocates routinely say in Tunisia, referring to Islamic fundamentalists. The current regime could say the same.

The government has created national centers and commissions on gender issues. Examples include the Center for Research, Documentation and Information on Women, set up in 1991; a national “Women and Development” Consultative Commission with the mandate of bringing women's issues into the discussion of the national development plan (1992–96); and a national Commission on Women's Legislation, which discussed amendments to the CPS. In addition, the
government also has opposed the veil. Indeed, some women report that they have been harassed in city streets when wearing a veil. They blame public authorities for tolerating or encouraging the harassment.

The most important state action has been a set of amendments to the CPS, which were passed in July 1993. The amendments satisfied some of the feminist demands. For example, the revised CPS dropped the clause according to which the wife must obey her husband, a clause which was included in earlier versions. It expanded mothers’ prerogatives and reduced fathers’ power after divorce with respect to child custody, a point of great concern to women’s rights advocates. An innovation applauded in the country and complementing the amendments, a National Fund was created to guarantee alimony and child support to divorced women. If the former husband fails to provide either alimony or child support, the fund will provide the woman with the equivalent sum of money within two weeks of receipt of a legitimate petition on her behalf. The fund will then attempt to recover the money from the delinquent father.

At the same time, the state has refrained from reforming inheritance laws. Since Islamic law severely limits women’s inheritance, the most radical women’s rights advocates would like to see major changes. Others prefer caution on this point, however, because inheritance laws are a delicate matter in an Islamic country. The text of the Koran itself contains clearly formulated rules on inheritance, thus leaving little room for interpretation. This contrasts with most other points in the Shari’a, the wording of which has permitted—and caused—many interpretations in the history of Islam. Inheritance laws constitute an especially thorny and explosive issue. By offering an immediate motive for mobilization, a move on inheritance could precipitate a fundamentalist upheaval, thus posing too high a risk for the state and feminists alike.

The Minister of Justice accurately described the objectives of his government in making the 1993 reforms. Explaining that the objective was “to strengthen the family, without negating the Arab-Islamic heritage,” he stated that the reforms placed Tunisia “at the forefront of the Arab-Islamic world with respect to women’s rights” (La Presse 1993, 5). The 1993 reforms did just that. They addressed social problems related to family, such as the problems of children after divorce and the economic plight of most divorced women. What impact they will have is too early to tell at the moment. They do not negate the Arab-Islamic heritage, and they keep Tunisia ahead of other Arab countries with respect to women’s rights.

The current regime has turned for support to a broad coalition of forces as a counterweight to fundamentalism. Personal commitment
of individual leaders notwithstanding, state officials know that revising or abandoning the CPS would mean giving in to the Islamic fundamentalists. For example, Bessis and Belhassen (1992) comment that “the CPS has become the emblematic text of modernist positions” (239). In the same vein, a Tunisian legal scholar remarked, “The CPS is a more powerful symbol of Tunisia than the Constitution.” The CPS has become the rallying cry of feminists, human rights advocates, democratic forces, and the modernist segments of Tunisian society. These are groups that the state cannot afford to alienate on this matter. The government has done more than calm their worries. It has reassured them by reforming family law up to a point, partially satisfying the demands of women’s rights advocates, but stopping short of moves that might inflame Islamic fundamentalists.

Conclusion

A politically active Tunisian woman said:

This is unquestionably the freest country for women in the Arab world. But the irony is that it is not women who fought for their rights in this country. It was the men who gave them to us. (Bronner 1993, 2)

The statement is only partly correct. It applies fully to the 1950s, when the expansion of women’s rights was a by-product of family reforms that male state elites made for their own political reasons. It fails to reflect accurately the 1990s, because women contributed to the development of state policy in this contemporary period. The two periods when family law reforms expanded women’s rights differed in one important respect: Women’s agency was absent in the 1950s but is present in the 1990s. The statement above points to two related yet separate issues raised by the analysis presented in this paper: Now that women are beginning to take their destiny into their own hands, what effect is this likely to have on the ability of male state elites to treat women’s issues as a foil for other political conflicts, as they have done in the past? And why have these male state elites expanded women’s rights in some periods (1950s and 1990s) and taken a conservative stand in others (1930s and 1970s–1980s)?

The first issue concerns the usefulness of the social movement model outside of Western liberal democracies. The feminist movement has played the central role in promoting women’s interests in the United States; consequently scholars have conceptualized legislative reforms won by women primarily as policy outputs generated by the state in response to effective pressure from below (Brenner and Laslett 1991; Bookman and Morgen 1988; Gelb and Palley 1987; Deitch 1993).
This paper shows that gender policy does not everywhere and always result from political struggles centered on gender. It can be the outcome of struggles involving issues of another order, such as control of state power, as has been the example in periods of Tunisian history. Once made, however, gender policy affects the conditions for future struggles and policy making. This is especially the case when structural changes have occurred in women’s education and labor force participation to favor the development of women’s agency. Then, a gender policy made in the absence of pressures from below, as in the 1950s in Tunisia, may contribute to the emergence of a movement. It may give it a powerful rallying cause, as in the early 1990s, when women’s rights advocates defended the rights gained in the 1950s and had some impact on the reforms of the early 1990s.

In the 1990s, women’s rights advocates seized a window of opportunity created by the strategic alliance of state actors with those forces that were unsympathetic to Islamic fundamentalism. The effectiveness of women’s rights advocates was enhanced by the support they found among state actors, who were seeking allies against the fundamentalist challenge. For a group to mobilize itself into associations and participate in debates, as Tunisian women’s rights advocates did, means that it seeks to shape the policies affecting its destiny. It does not mean that such a group is effective. History is replete with stories of defeat on the part of social movements unable to effect policy. The success or failure of social movements often has as much to do with the actions of the power holders as with their own actions (Markoff 1997). This paper has argued that, in the 1990s, political alliances of state elites offered a fortuitous context that allowed Tunisian women’s rights advocates to translate their consciousness into a political force that could influence gender policy. It is the interaction between a reformist elite seeking allies and women’s rights advocates seeking reforms that produced the changes of the 1990s.

This is an interesting historical moment in Tunisia because women’s rights advocates have gained a place in national politics for the first time. Only time will tell how much women’s agency develops in the future, how much of an independent force it becomes, whether it can prevail under unfavorable conditions, and how effective it is. These are questions facing comparative-historical sociologists interested in the relationship between reform from above and pressure from below in the development of gender policy. The next decade should provide data as socio-political conditions unfold, whereas one can only speculate at this point in time. Favorable conditions for women’s rights advocates might result if the state continues to seek alliances against Islamic fundamentalism. This may allow women to promote women’s issues and press for changes in areas not favored by state male elites.
or at times when such elites are not paying attention to women’s issues. In contrast, conditions unfavorable to women’s rights advocates might emerge if the government faces no threat at all from Islamic fundamentalists and thus no immediate pressure to seek alliances against the threat, or if the government tries again to court fundamentalists and appeals to their base as it did in the mid-1970s to the early 1980s.

In addressing similarities and differences among periods, this paper has argued that family law reforms in Tunisia should be understood within the context of conflicts and alliances among key political actors and not simply as policy output generated by the state in response to pressures from below. The theoretical model I have used to explain shifts in gender policy in Tunisia focuses on the autonomy of the state from—versus alliances with—social groups that, at any particular time, have the highest stakes in protecting patriarchy as embedded in traditional Islamic law defined by the Shari’a.

In the specific case of Tunisia, I have identified the following groups with such stakes: a) the Islamic establishment, b) regions with a predominance of tribal or kin groupings organized along the lines of the Shari’a, and c) political formations that define their identity in terms of a return to Islamic orthodoxy, such as Islamic fundamentalists. Conflicts and alliances between the state and one or more of these groups have shaped gender policy through several historical twists and turns. In Tunisian history painted in broad strokes, conflicts between the state and groups with the highest stakes in protecting Islamic law have had a positive outcome for women’s rights (1950s and 1990s). By contrast, alliances usually have had a negative outcome (1930s and 1970s–1980s). After women’s agency developed in Tunisia, conflicts between the state and groups with the highest stakes in protecting Islamic law generated an opening for women’s rights advocates to contribute to family law reforms. Table 1 summarizes the strategic alliances and the conflicts that have predominated in different historical periods.

The macropolitical model I have presented includes a key dimension to consider in analyzing gender policy: The relationship between the state and the social groups that have the highest stakes in women’s subordination in the society under consideration. The relevant groups and the particular interests of the state must be specified for each context under study. In general terms, the model suggests that, when the state is in conflict with social groups that have the highest stakes in women’s subordination, state actors are more likely to engage in policies that expand women’s rights. Conversely, when the interests of the state encourage coalitions with these groups, state actors are more likely to avoid any action that may jeopardize the coalitions. They tend to promote policies that curtail women’s rights. Far from
Table 1. Shifts in National Politics and Gender Policy

<table>
<thead>
<tr>
<th>Political Configuration</th>
<th>Period</th>
<th>Key Conflicts and Alliances</th>
<th>Overall Trend in Gender Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nationalist struggle against colonial rule</td>
<td>1930s</td>
<td>Cooperation and alliance between modernizing and traditional factions of nationalist movement against French colonial rule</td>
<td>Conservative policy. Traditional Islamic restrictions on women’s rights are left untouched</td>
</tr>
<tr>
<td>Sovereign national state a) in formation</td>
<td>1950s</td>
<td>All-out bloody conflict between modernizing and traditional factions for control of newly formed national state</td>
<td>Major, progressive reform of family law on marriage, divorce, polygamy in 1956 (CPS)</td>
</tr>
<tr>
<td></td>
<td>1970s</td>
<td>Modernizing faction in control of state challenged by ascending left. Rapprochement between ruling elite and Islamic forces against the left</td>
<td>Not much happens in gender policy. Mostly conservative orientation cements rapprochement with Islamic forces</td>
</tr>
<tr>
<td></td>
<td>1990s</td>
<td>Rise of women’s agency. Challenged modernizing elite forms on alliance with feminists in opposition to Islamic fundamentalist movement</td>
<td>Prudently progressive policy. Small reforms of 1993</td>
</tr>
</tbody>
</table>
seeing the state as a neutral mediator between conflicting interests, I have conceptualized it as an active political force making moves to consolidate its power (Weber 1922, 1946; Collins 1986; Tilly 1975; Skocpol 1979, 1992). Thus, I have proposed that states handle women’s rights in a variety of ways, depending on their own sources of support and the nature of other contenders to power within each historical context.

The approach may shed light on shifts in gender policy in other parts of the Islamic world, where one would have to consider the extent of state autonomy from, or alliance with, groups that have the highest stakes in protecting conservative interpretations of Islamic law. Depending on the historical period, the critical groups to consider will vary. The groups might include kin-based forms of association such as tribes, clans and lineages, in countries where these forms of association have served as a basis for political mobilization. One may also apply the approach to the relationship between the state and Islamic fundamentalism within the context of other conflicts and alliances in the society under study. One would include an examination of the opportunities for women’s agency.

For example, the macropolitical model used in this paper to analyze policy shifts within Tunisia from the 1930s to the 1990s has also proven useful in the comparison of family law policy in Tunisia, Algeria and Morocco, following the end of colonization in the 1950s and 1960s (Charrad forthcoming a). The comparison expands the model by examining how different conflicts and alliances between the postcolonial national state and political forces that mobilized kin groupings have shaped the possibilities for reforms of family law in three countries. Based on a comparative-historical approach to the formation of each national state, the model centers on the role of political forces with a vested interest in protecting Islamic family law. It helps explain conservative outcomes in family law policy in Morocco and Algeria (where the state or segments of it made alliances with forces supported by kin groupings), in contrast to the progressive family law reform of the 1950s in Tunisia.

For cases outside the Islamic world, the paper points to a direction for research. It suggests the usefulness of a comparative-historical and polity-centered approach to gender policy. The comparative-historical perspective draws attention to structural forces and the changes that they undergo over time. The polity-centered framework places emphasis on the (changing and historically specific) relationship between the state and groups that have the highest stakes in women’s subordination in a particular context. For the analysis of gender policy in different cases to remain culturally sensitive, we must specify the following for each case: the relevant groups and their objectives, the
particular issues at stake, the interests of the power holders, their alliances and conflicts, and the opportunities that may result for women's agency.

In sum, essentialist concepts such as the patriarchal state, the capitalist state or Islamic culture, have limited usefulness when it comes to explaining gender policy over time. Proposing another avenue for research, this paper has focused on the shifting conflicts and alliances that accompany the pursuit of state power and create at times openings for women's agency, once women have developed the capacity for collective action. The complexity of the issues surrounding the making of gender policy thus has steered us in the direction of a comparative-historical framework centering on contests over state power and the opportunities that the contests create for those committed to bringing about change.

NOTES

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1. For example, women's rights advocates have demanded reforms of Islamic family law in Algeria, Morocco, Egypt, and many other Islamic countries. An international solidarity network called “Women Living Under Muslim Law” takes such reforms as an objective. The network is based in Europe and publishes a newsletter with the same title.

2. French law applied to French citizens.

3. The relevant context is that of Islamic law as it has developed historically in the Maghreb, defined as including Tunisia, Algeria, and Morocco. Despite many shared aspects of Islamic law in the Muslim world, each region also presents its own distinctiveness. The analysis in this paper centers on the Maghreb. Orthodox Islam has included four major schools of thought with respect to family law, depending mostly on geographic area within the Middle East. The school called Maleki has predominated in most of the Maghreb, including Tunisia, Algeria, and Morocco. Borrman (1977) presents a detailed account of Maleki law as it developed in the Maghreb.

4. Women in Islamic countries, as elsewhere, have found ways to negotiate power resources in everyday life, even under the stringency of Islamic family law, with varying degrees of success (Tucker 1993; Bourqia, Charrad, and Gallagher 1996; Davis 1983; Fernea 1985). This does not negate the subordination inherent in the law.

5. Tunisia has been at the forefront of the Arab-Islamic world with respect to reforms of family law. The relevant context here is the world in which
Arab and Islamic identities overlap. Another Arab and Islamic country, the People's Democratic Republic of Yemen, also made significant reforms in promulgating its Family Law in 1974. The Republic of Yemen did not go as far as Tunisia, however, in that it only restricted polygamy, whereas Tunisia banned it. Turkey made reforms similar to those made in Tunisia, but did so by rejecting the Islamic legal tradition altogether and adopting an entirely secular law. The fact that Turkey stands outside the Arab world has created a different set of conditions for promulgating reforms and implementing them.

6. For example, this was the label used by some members of the Harvard University Center for Middle Eastern Studies Gender Forum in discussing this research.

7. By setting a minimum age for marriage at 17 for women and 20 for men, whereas Islamic law had set puberty as the only condition, the CPS makes child marriages more problematic. The CPS requires that the bride attend the marriage contract and express her consent directly, which makes compulsory marriages more difficult to implement.

8. For the framework and historical data in this section, I draw on Charrad (forthcoming a).

9. Following the French system, Tunisian schools teach philosophy in the last year of secondary education.

10. The process by which power changed hands may be one of the clearest testimonies to the relative success of Bourguiba's efforts to develop a modern state. Regime transition without bloodshed has been a rare occurrence in the postcolonial world. In 1987, Bourguiba was 87 years old and in poor health. Several physicians signed a statement declaring Bourguiba unfit to govern because of health problems. Relying on an article of the constitution which states that the prime minister will take over if the president is incapacitated, then-Prime Minister Ben Ali, took over the presidency and formed a new government.

11. For men, the overall rate of illiteracy went from 75 percent in 1956 to 26.4 percent in 1989 (C.R.E.D.I.F. 1994a, 75).

12. I draw most of the evidence for this section from field research in Tunisia during two trips of three months each in the last two years. I interviewed twelve women lawyers and activists. I also interviewed eight social scientists who shared information with me on the Islamic fundamentalist movement in Tunisia, under the condition of anonymity. I found no publicly available information on the strength and organization of the fundamentalists. The movement expresses itself through a variety of informal and sometimes underground channels. For an overall analysis of the Islamic fundamentalist movement in the Maghreb, see Burgat and Dowell (1993) and Ruedy (1994).

13. In the past, the father retained legal guardianship of the child even when the mother had custody. The mother therefore had responsibility for the day-to-day care of the child. In having guardianship, the father retained control over school enrollment, the issuance of a passport, and financial matters concerning the child. The arrangement created difficulties for many divorced mothers. Now, the mother who gets custody after divorce may also obtain guardianship if she can show that the father fails to respect the best
interest of the child or manipulates guardianship to hurt her as his former wife.

14. Law no. 93-65 of 1993, Journal Officiel de La Republique Tunisienne, no. 50. The National Fund is managed by the Office of Social Security. I believe that there are few instances of such funds in the world. I am aware of similar initiatives in Egypt and Belgium. Created in 1993, the Tunisian Fund helped 489 families and provided approximately $170,000 in its first year of operation (La Presse 1994, 2). The test of its full impact on women can only come in the long run.

15. This was the subject of a debate at a conference on “Women in the Maghreb” that I attended in Tunis in April 1995 and that was organized by the Association of Women Democrats. The issue of inheritance is now at the cutting edge of debates on women’s rights in Tunisia.


REFERENCES


*Etendard Tunisien*. 1929. Archives of the National Documentation Center, Tunis, January 11.


