Middle Eastern Women and Human Rights

Ann Elizabeth Mayer

The codifications of human rights principles that have been devised at the UN since its foundation in 1945, most of which have been incorporated in international law, constitute the authoritative statements of human rights as these are commonly understood. Certain precursors of the modern UN human rights principles may be found in the history of thought in the Middle East, but the term “human rights” only entered into common usage in the Middle East in the latter half of the twentieth century. Women’s human rights ideals have had demonstrable influence in the Middle East but continue to encounter widespread resistance and obstacles to their implementation.

In a period when the process of decolonization was underway but not yet complete, the UN General Assembly approved the 1948 Universal Declaration of Human Rights (UDHR), the cornerstone of the UN human rights system that is now binding as part of customary international law. All Middle Eastern states then belonging to the UN voted in favor with the exception of Saudi Arabia, which abstained. Middle Eastern states participated in devising the declaration, which in its preamble affirms “the equal rights of men and women.” The equality principle is reinforced in the wording of Article 1 that “(a)ll human beings are born free and equal in dignity and rights” and in the Article 2 principle that everyone is entitled to all the rights and freedoms in the UDHR “without distinction of any kind,” mentioning sex
among other classifications. As the preamble of the UDHR indicates, it assumes a connection between human rights and freedom, justice, and peace. In the Middle East, the lack of freedom, justice, and peace correlates with deficiencies in the area of women’s human rights.

As the era of colonialism drew to a close in the 1960s, Middle Eastern states had opportunities to contribute to the human rights formulations adopted in UN human rights documents, including the two major UN covenants that were derived from the UDHR, the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR). Like the UDHR, the covenants unequivocally affirm women’s right to equality. Some Middle Eastern states refused to ratify the ICCPR, and a smaller number did not ratify the ICESCR. Many Middle Eastern states that did eventually ratify them delayed doing so for many years and often appended reservations indicating their refusal to comply with individual provisions such as ones upholding freedom of religion and barring discrimination.

The principle that sex discrimination constituted a human rights violation was amplified in the provisions of the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), also known as the Women’s Convention. Although Middle Eastern states with the exception of the Islamic Republic of Iran and Sudan ratified CEDAW, many of the ratifying states did so only pursuant to reservations that indicated fundamental disagreements with central principles such as the Article 2 call for eliminating discrimination
against women “in all forms” and the Article 16 call for eliminating
discrimination against women in marriage and family relations. Because
many of the problems facing women have their roots in the
discriminatory and harmful treatment of the girl child, provisions in
the 1989 Convention on the Rights of the Child (CRC) are relevant for
women’s rights. The CRC has been ratified by all Middle Eastern
states, but many qualified their commitments by entering reservations.
The 1993 Declaration on the Elimination of Violence against Women was
adopted by the UN General Assembly without a vote. It belatedly
addressed domestic violence as a factor impeding the achievement of
women’s equality and called for states to take measures to prevent and
punish it. The declaration affirms that violence against women
constitutes a violation of the rights and fundamental freedoms of
women and is a manifestation of historically unequal power relations
between men and women.

In addition to stating principles that specifically address
women’s rights, the UN human rights system articulates general
principles that can matter greatly for women. Failures to uphold human
rights principles that on their face seem gender neutral often have
more severely detrimental impacts on women than on men, given that
women typically occupy vulnerable and disadvantaged positions. For
example, the CEDAW preamble recognizes that in situations of poverty
women have “the least access to food, health, education, training and
opportunities for employment and other needs.”
Deficiencies in the area of civil and political rights are typically the focus of discussions of human rights in the Middle East, where egregious violations of the so-called first generation rights are common. These are often called negative rights, because many provisions call on governments to refrain from infringing rights and freedoms. The protected rights include the rights to equality; freedom of expression; freedom of association; freedom of religion; and freedom from torture or cruel, inhuman or degrading treatment or punishment. They cover the right to take part in the conduct of public affairs, directly or through freely chosen representatives and the right to vote and to be elected at genuine periodic elections by secret ballot. Governments are called on to treat persons deprived of their liberty with humanity and respect for their inherent dignity.

Second generation human rights, inspired by socialist ideals and designed to ensure social justice, are also poorly protected in the Middle East. These are often called positive rights, in that they call on governments to provide for the economic and social wellbeing of their citizens, to secure an adequate standard of living, and to ensure that people enjoy just and favorable conditions of work, access to education, and the highest attainable standard of health. They also guarantee the right of trade unions to function freely and the right of all persons to participate in cultural life. Rich and poor countries are not held to identical standards. Where the achievement of resource-dependent goals is involved, the ICESCR does not require overnight implementation but enjoins states in Article 2 (1) “to take steps” to the maximum of their available resources to achieve
progressively the full realization of economic, social and cultural rights, an injunction that is rarely followed in the Middle East.

Third generation human rights, the most controversial category, set forth programmatic goals and can include collective as opposed to individual claims. They include the right to development, to peace, and to a healthy environment, indicating goals that are far from being reached in the Middle East.

According to the structure of the modern UN human rights system the state is the central actor, being expected to carry out in good faith its obligations to uphold the human rights set forth in UN human rights instruments and to establish the institutions and mechanisms needed for their enforcement. Middle Eastern regimes have generally been remiss in fulfilling their obligations in this connection. They have lagged in incorporating human rights principles in their constitutions and laws, and their courts have poor records of enforcing them. Moreover, the states in the region have failed to establish any effective regional institution comparable to the European Court of Human Rights to which victims of human rights violations could appeal with realistic hopes that they could achieve redress. These shortcomings in the human rights domain, which impede the realization of women’s human rights, are far from being peculiar to the Middle East; analogous problems are commonly found in other regions, as well.

Within Middle Eastern countries different factors such as women’s class, education levels, degree of wealth, being included in
privileged groups or belonging to disfavored minorities, and living in urban versus rural locations can mean that women’s exposure to rights deprivations substantially diverges. Nonetheless, some generalizations can be made about the factors that lead to the poor state of Middle Eastern women’s human rights, characteristics that can be illuminated by comparisons with Scandinavia. Because the Middle Eastern human rights picture is linked to the prevailing political, economic, and social conditions, a comparison with relevant conditions in the Scandinavian region helps account for the disparities in the two region’s human rights records. In Scandinavia, the gender gap has narrowed, gender gaps involving the disproportionate differences in how women and men fare with regard to variables like economic and social status, opportunities, health, education, and political attainments. In the Annual Global Gender Gap Reports from the World Economic Forum Scandinavian countries generally wind up at or near the top of the rankings. In contrast, Middle Eastern countries rank in the bottom third of all countries with the exception of Israel, which is in many respects an outlier, a more developed country that hovers around the bottom of the top third. (World Economic Forum 2017: 11-12) In the Scandinavian region women play important and influential roles in governance – including serving in the highest offices, advocates of women’s interests are well-represented in decision making circles, and feminist principles inform official policies. Scandinavian governments ratify UN human rights conventions and conscientiously work to adapt their laws and policies to conform to international human rights law. The political systems are open and democratic, being designed to
ensure the kind of transparency and accountability that reduces corruption, governmental corruption being associated with abuses of power. Freedoms of expression and association are upheld, allowing civil society to flourish, along with women’s rights activism. The advanced and diversified economies perform well, enabling people to attain an adequate standard of living. Imbued with an egalitarian ethos and social justice ideals, governments carry out programs to secure second generation rights, and social assistance is provided for those in need. The societies are relatively harmonious, enjoying mechanisms adequate for resolving tensions between rival interests and competing factions. Operating in conditions of peace since the end of World War II, the military and security systems work to protect against external foes, not to suppress opposition to the governments. The independent judicial systems are staffed by well-qualified professionals and are geared towards the impartial administration of justice. The rights of the criminal accused are protected. Nonetheless a major shortfall persists: Scandinavia’s efforts to eradicate domestic violence have so far met with limited success.

In the Middle East conditions are radically different, with the typical political systems resembling more the kinds of authoritarian regimes that are frequently found in African and Asian countries. Like their counterparts in other authoritarian regimes ruling Middle Eastern elites exploit their untrammeled powers to plunder national assets, showing indifference to the setbacks that this means for the public welfare. Due to the prevailing lack of transparency and accountability gross corruption goes unchecked.
In most Middle Eastern governments men monopolize powerful offices, and, far from prioritizing measures to advance women’s international human rights, they frequently exalt patriarchal values and pursue policies at odds with women’s freedom and women’s welfare. By their very nature, the undemocratic systems in the Middle East are antithetical to upholding principles of civil and political rights. Even Turkey, which has enjoyed intervals of democracy, has endured periods of dictatorship and military rule in which dissent has been violently quelled. Since the twentieth century, the number of monarchical regimes has dwindled, with the few remaining monarchies varying considerably in terms their willingness to allow democratic freedoms, the Moroccan kingdom affording the widest space for public debate and, not coincidentally, having the most advanced level of protections for women’s rights, and the absolute monarchy in Saudi Arabia employing despotic methods to maintain its stranglehold on national wealth and power, which has correlated with extensive restrictions on women’s rights and freedoms.

Lacking solid popular mandates, like their counterparts in other antidemocratic states Middle Eastern regimes prioritize ensuring their own survival, frequently resorting to harsh censorship to stifle dissent and repressive measures designed to cow hostile factions and restive minority communities into submission. Although the patterns of restraints on freedoms of expression and association vary considerably from country to country, in general such freedoms, which are essential prerequisites for human rights, are severely limited. Opposition parties, independent NGOs, and labor unions are imperiled if they are
not shut down altogether -- often on the pretexts of combatting terrorism or thwarting foreign plots. Demands for upholding international human rights law are commonly classified as dangerous and subversive, and popular protests over rights abuses are roughly quashed. Horrific tortures and gross abuses of prisoners are routinely employed by police and security systems in the Middle East, with women often being targets of especially brutal and degrading cruelties. In the main, Middle East countries lack the kinds of legal institutions and independent judiciaries that would be needed to check governmental wrongdoing and administer impartial justice to plaintiffs whose rights have been violated.

That the people of the Middle East chafe under the prevailing patterns of misrule has been repeatedly shown by outbreaks of mass protest demonstrations, with women often figuring prominently in these. The most far reaching manifestations of demands for freedoms occurred in the period of the so-called Arab Spring beginning in 2011, which culminated in the overthrow of dictators in Egypt, Libya, and Tunisia and the near overthrow of the Assad family’s longstanding dictatorship in Syria, their ouster being thwarted only by the regime’s deployment of the most lethal forms of repression. The exuberant celebrations in Arab countries during the interludes of freedom, even where these were brief, testified to how deeply alienated the populace had become after enduring decades of tyrannical abuse and oppression.
The Middle East has been plagued by political turmoil, military coups and coup attempts, wars, and terrorist attacks that governments use to rationalize harsh clampdowns in the interests of “security.” In particular, the protracted Arab-Israeli conflicts have encouraged the kind of far reaching militarization in affected countries that correlates with the marginalization of women.

Many of the deficiencies in Middle Eastern laws pertaining to civil and political rights have counterparts in other regions, but women in the region have the special burden of coping with discriminatory rules that are extracted from the Islamic legal heritage or that are associated with Islam in the popular imagination while in actuality being rooted in local customs and values. An example of how customs can supersede Islamic legal rules can be seen in the common failure to respect the Islamic rules that say that women and men guilty of the serious crime of zina, extra marital sexual intercourse, should receive the same harsh punishments and that the crime can only be proved and punished where onerous evidentiary requirements are met. In practice, due to the influence of local customs, women merely suspected of zina may be summarily dispatched extrajudicially via so-called honor killings by relatives or, if they are brought to court, may be convicted proceedings that fail to follow the Qur’anic evidentiary requirements. This disparity reflects the values and priorities of the shame cultures that are widely found around the Mediterranean, where a premium is placed on preserving not only a woman’s chastity but also her reputation for chastity, which is closely associated with family honor. Because of the influence of the
local shame cultures, significant restrictions on girls’ freedoms may ensue that are casually ascribed to Islam even when their Islamic pedigrees are questionable. To ensure that they remain virgins until their weddings, girls are widely kept cloistered in the home, precluded from any education once they reach puberty, and forced into early marriages. In a few countries like Egypt and Sudan, female genital mutilation (FGM) is deployed to curb women’s sexuality, FGM being commonly presented by its proponents as an Islamic requirement even though the support for it in the Islamic sources is tenuous. The Qur’anic injunctions to women to dress modestly are not specific enough to preclude controversies about proper women’s attire, but due to the popular assumption that women going unveiled provokes illicit sexual activity, the injunctions are often expansively interpreted to mean that women are subject to punishment if not completely covered by veiling at any time when they are in the view of men outside the family. Modesty rules associated with the shame culture influence attitudes in ways that lead to claims that Islam prohibits women’s participation cultural activities, whereas an examination of Islamic history offers abundant counterexamples of such participation.

The facts that Islamic law still retains influence and that discrimination can be defended as being mandated by Islamic law has meant that measures designed to advance women’s rights can be portrayed as contravening religious mandates.

Despite their extensive borrowings of European laws, most Middle Eastern legal systems retain elements of Islamic law in the area of
personal status while also allowing non-Muslim minorities to follow their own religious laws in personal status matters. This pattern reflects the model of legal pluralism established in premodern Islamic civilization, which also formed the basis for the millet (religious community) system of the Ottoman Empire (1299-1922). The Ottomans governed much of the Middle East aside from Morocco and Iran, and their millet system still retains influence.

The degree to which Islamic law should be retained in Middle Eastern legal systems became a point of intense contention once modernizing reforms began in the late nineteenth century. For members of ruling elites aspiring to catch up with more powerful Western countries, the traditional cumbersome and decentralized legal systems based on Islamic jurisprudence became viewed as impediments to progress; importing the streamlined, codified systems of Continental Europe seemed advisable. Although extensive Westernization of Middle Eastern legal systems was undertaken, the practice of assigning personal status cases to religious courts has persisted with only a few exceptions. In a notable exception to the prevalent pattern of retaining elements of religious law to govern personal status matters, Republican Turkey undertook an overall centralization and secularization of laws under the presidency of Kemal Ataturk (1923-1938), which included wholesale abandonment of Islamic law and its replacement by European codes in 1926. Similar, albeit short lived, legal reforms were attempted in the Socialist People’s Democratic Republic of Yemen (1967-1990). In Tunisia in the wake of the democratization that followed the 2011 revolution trends pointed to
progress in the direction of a secularized national legal system that
could lead incorporate women’s international human rights.

This legal background accounts for the persistence of legal pluralism in Israel, set up in 1948 as “a Jewish state” on formerly Ottoman territory that had been governed as a British Mandate after 1920 and that was largely populated by Muslim and Christian Arabs. In most respects, Israel has adopted secular laws of European derivation, but in personal status matters it retains Jewish courts and laws for the Jewish population, whereas members of other religious communities are assigned to courts that apply their own religious laws in personal status matters, all of these religious laws having a marked patriarchal bias. Like Muslim Middle Eastern countries that have struggled to resolve disputes about the relationship of Islam and state, Israel has wrestled inconclusively with defining the proper roles for Jewish religion and law. This stalemate has impeded any agreement on a national constitution, leaving the legal system to operate using a compendium of legislation designated as the Basic Laws of Israel. To this was added in July 2018 a basic law entitled “Israel as the Nation State of the Jewish People,” which accentuated the Jewish character of the state and was notably bereft of any affirmation of the principle of equality.

Although Islamic law often affords women more protections than they would obtain under local customary laws, by and large the retention of Islamic law with its discriminatory features has been detrimental for women’s human rights. Even where Islamic law is not
incorporated in formal legal systems, it may exert influence as part of traditions or due to demands made by Islamist factions. Moreover, as a result of Islamization pressures formal legal systems may revert to using Islamic rules in areas that were previously covered by secularized laws. In its traditional formulations Islamic law envisages families structured along patriarchal lines with men exercising authority over women, who may remain subject to male guardianship even as adults. Women have only inferior, restricted rights in marriage, divorce, and matters of guardianship of children and child custody post-divorce. Wives owe their husbands obedience, and the latter are entitled to beat them for non-compliance. The concept of marital rape is absent. In typical scenarios when estates are distributed, women inherit only one half the share of a male inheriting in the same capacity.

As the prestige of international standards of women’s human rights has grown in the Middle East, opponents invoke the sanctity of Islamic law in efforts to legitimize discrimination. The Organization of Islamic Cooperation (OIC), the international entity to which all Middle Eastern states other than Israel belong, put forward its 1990 Cairo Declaration on Human Rights in Islam to supplant the UDHR. The Cairo Declaration assumes that Islam has its own distinctive set of human rights, one in which Islamic law overrides all conflicting standards of international law, eliminating when not eviscerating crucial rights guarantees. As would be expected of a document issued by an entity under the sway of Saudi Arabia, a country with a record of demeaning and restrictive treatment of women, it excludes any
guarantee of equality in rights for women, merely affording them rights to legal personage, financial independence, and retention of their family names. Although claiming to represent Islamic teachings, the Cairo Declaration has had limited practical impact; the positions on women’s rights actually adopted by Middle Eastern states or promoted by Islamic leaders and institutions differ among themselves and often diverge from those in the declaration. Nonetheless, the declaration is significant as representing the position of the main organization of Muslim states, showing that its members approve upholding Islamic law at the expense of women’s human rights.

In the Middle East some leaders have promoted expanding women’s rights as facets of modernization programs based on secular nationalisms that included reforms meant to undo women’s subjugation. Atatürk’s far-reaching policy of expanding women’s roles led to many advances for Turkish women while not eliminating all discriminatory laws, because Turkey’s imported European laws also contained discriminatory elements. Ambitious initiatives to advance women’s rights in the family were also undertaken in Tunisia under the leadership of Habib Bourguiba (1959-1987) and in Iran under Mohammad Reza Shah Pahlavi (1941-1979). More commonly, modernization measures have involved compromises — such as retaining many discriminatory rules of Islamic law in personal status matters while undertaking occasional piecemeal reforms to improve women’s position. Thus, measures have been introduced to end child marriages, to expand women’s grounds for divorce or to restrict the husband’s right to
divorce, to eliminate extrajudicial divorce, and to constrain if not to bar the practice of polygyny.

Enhancements of women’s rights have prompted a backlash. Appeals to Islam have been frequently made in the calls for rolling back measures expanding women’s rights, such rollbacks becoming central goals of the Islamization trends that gained momentum during the last decades of the twentieth century. Islamists, as proponents of Islamization are designated, include some conservative Muslim women who reject women’s international human rights.

Islamization campaigns assume that reinforcing discriminatory rules appropriated from the Islamic legal legacy can reverse the social and economic trends that have changed the roles of women around the world. Whether undertaken by states or by sub-state entities, Islamization programs have endorsed laws and policies at odds with the philosophy of women’s international human rights and in extreme cases have reduced women to slave-like status.

Islamists commonly profess to find Islamic mandates for keeping women segregated and secluded, barred from leaving the home without an accompanying male guardian, blocked from education beyond basic instruction needed for tasks like reading the Qur’an or barred from studying certain subjects deemed suitable only for male students, excluded from all employment where they would have contact with men outside their own families, prohibited from serving in the higher echelons of government, precluded from access to contraception or to care by male doctors, and forbidden to participate in sports or
cultural activities like singing and dancing in public. Moreover, they have approved forcing young girls into marriage and have required all women to wear various forms of concealing dress under threat of harsh criminal sanctions if they fail to comply. Islamization programs have led to imposing versions of Islamic criminal law in which women are flogged or stoned for infringing rules designed to enforce a repressive sexual morality and more generally have aggravated the prevalent double standards that lead to harsher criminal penalties being imposed on women.

Features of the Islamization trends that entail reinforcing patriarchal values in the guise of following religious teachings include the normalization of violence against women in the domestic sphere. Recognizing how violence can be rationalized by appeals to culture, Article 4 of the Declaration on the Elimination of Violence against Women admonishes states not to invoke “any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.”

The ideology of Islamization had its greatest triumph in the wake of the clerical takeover in Iran after the 1979 Islamic Revolution, which led to the adoption of a constitution devoid of any guarantee of women’s equality. The new theocratic regime condemned the ambitious reforms previously taken to expand women’s rights in the family and in the name of implementing Islamic law adopted measures designed to force women back into a subjugated domestic role, measures that were occasionally thwarted or revised due to women’s resistance. Angered at
women’s challenges to its policies, the regime has been particularly aggressive in criminalizing and punishing advocacy of women’s international human rights. Moreover, Iran’s ruling clerics denounced CEDAW as contrary to Islam and in 2003 blocked an attempt by Iran’s parliament to ratify it. The intense hostility shown towards feminist ideals by the Iranian regime has been one of the reasons why women’s human rights activists view Islamism as a force inimical to women’s aspirations for equality.

The presentation of Islam as a bulwark against women’s human rights has attracted learned critiques in the Middle East, where both high ranking Islamic jurists and scholars of Islam who work outside the religious establishment have endorsed feminist principles that often fit with the principle of women’s equality that has been promoted by secular feminists in the Middle East since the nineteenth century. Islamic feminist scholarship, which is not limited to the Middle East, has burgeoned since the latter half of the twentieth century, offering reinterpretations of the Islamic sources that present the original Islamic vision of women and men as being essentially egalitarian in spirit, blaming medieval jurists for reading into Islamic law the patriarchal values of their own societies. For example, features of Islamic law that assign different rights to women and to men may be explained as having been responsive to specific circumstances in the early period of Islamic history, not intended to have permanent applicability. Even Muslims who have misgivings about aspects of CEDAW may accept a growing trend in Islamic thought that maintains that contemporary Muslims are entitled
to update traditional jurisprudence and reevaluate rules that restrict women’s freedoms and opportunities. In their shared quest to end discrimination, Islamic feminists may at times make alliances with secular-minded feminists who rely on the CEDAW model of women’s rights.

In their work to advance women’s equality Middle Eastern feminists have interacted with their counterparts outside the region since the nineteenth century, but in the era since the development of international human rights law, their international contacts have vastly expanded. Due to the convening of many international conferences on women’s rights and the advent of internet use and access to social media, women’s rights activists in the Middle East can readily communicate with their counterparts in other countries, both Muslim and non-Muslim. Moreover, with UN documents becoming readily available online, access to a trove of information on women’s international human rights and relevant news has been facilitated. Women’s rights NGOs like Women Living Under Muslim Laws (based in England) and Women’s Learning Partnership (based in the USA), have provided valuable resources for feminist education and women’s human rights initiatives. Offshoring projects for advancing women’s rights occurs because in the Middle East outspoken advocates of women’s equality are often treated as subversives and are exposed to censorship and harsh repression they have nonetheless persisted in their campaigns and have managed to exert pressures that helped to secure legal reforms enhancing women’s rights, including measures
designed to curb child marriages and punish honor crimes and violence against women.

Middle Eastern states’ refusals to abandon laws that clash with women’s human rights have placed them in awkward positions in UN human rights forums, where they are obliged to confront criticisms that they suppress in their home countries. Seeking to defend discrimination, their representatives have variously appealed to Islamic authority, argued that their laws are vital for the preservation of the family, or asserted that their principle of complementarity in rights -- which assumes that men and women have fundamentally different natures -- is fairer to women than the equality principle set forth in international law. In this regard governmental claims reflect ingrained gender stereotypes that justify placing power in the hands of men, deemed wiser and stronger, and calling for submission by women, deemed hyper emotional and weak and being designed to function best in the private, domestic sphere. These endorsements of gender stereotypes are at odds with CEDAW Article 5/a, which calls on States Parties to take all appropriate measures:

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

The credibility of Middle Eastern governments’ defenses of their resistance to complying with CEDAW has been undermined by reports
submitted to the UN by women’s rights activists in the Middle East who challenge the official rationales being offered for discriminating against women in their countries. Critics counter that the discriminatory laws cannot be accurately said to be uncontested religious mandates, because they vary considerably from country to country and are subject to being changed or discarded in accordance with political shifts, meaning that they properly belong in the same category as other positive laws that are governmental creations. Facing criticisms, some Middle Eastern states have withdrawn their reservations to CEDAW provisions and have also upgraded their laws to bring them closer to the equality called for by CEDAW.

Tensions of a similar kind exist in Israel between forces committed to upholding patriarchal features of Jewish law and women’s human rights activists, tensions that have grown as the formerly ascendant secular socialist ideals have lost ground and as the political influence of religious parties has grown. In the unresolved arguments between religious and secular Israelis, one of the main points of contention has been whether international human rights law will be upheld or whether priority will be assigned to upholding Jewish law. Many Israeli laws and court rulings support women’s right to equality, but in the absence of any explicit constitutional equality guarantee, discriminatory features of Jewish law may prevail – often extending beyond the boundaries of marriage and divorce into other domains. For example, religious parties determined to enforce their version of Jewish moral strictures have had successes in
enforcing gender segregation and imposing modesty patrols in public spaces in the face of vigorous opposition by women’s rights activists.

Analogous tensions are found in the Occupied Palestinian Territories (OPTs). In the complex layers of law that apply (Israeli, Jordanian, Egyptian and Palestinian), many laws discriminating against women persist. Moreover, OPT laws are notably deficient in addressing violence against women, and Palestinian Islamists have promoted the imposition of modesty codes and restrictions on women’s freedoms.

Whereas in the area of civil and political rights Middle Eastern states have become notorious for defending stances that clash sharply with the principle of equality for women, in the area of social and economic rights, their shortcomings are not grounded in philosophical disagreements with the relevant principles but instead result from governance deficits. The World Bank defines governance as power exercised in the management of a country's economic and social resources for development. A twenty first century assessment of progress towards development would conclude that in the main Middle Eastern states have managed their resources poorly. Many countries in the region fall in the special category of rentier states, which means that their governments enjoy substantial and regular revenues – most often from sales of oil or natural gas – from other countries, placing the control of great wealth in their hands. Although citizens of the richest Middle Eastern rentier states enjoy a generally high standard of living, by and large states in the region have failed to deploy their resources effectively to fulfill ICESCR goals. Misuse of public
resources has created situations where rich elites live comfortably while much of the population struggles to make ends meet and where the underclass, if dwelling in the spreading urban slums or neglected rural areas, is mired in conditions of immiseration. Predicaments like unemployment or underemployment leave large parts of the population suffering from acute economic distress and make the youth desperate to escape to countries where they have prospects for improving their lot. Furthermore, the Middle East is a region beset by warfare of various kinds; extensive disruption and destruction caused by armed conflicts in many places have aggravated the shortfall in meeting international standards of economic and social rights.

Where Middle Eastern governments followed the socialist philosophies that were influential throughout much of the twentieth century, programs that aimed at achieving social justice served the cause of advancing second generation rights, as happened in the era of Arab Socialism in Egypt under the leadership of Gamal Abdel Nasser (1954-1970). Women benefited from improvements like access to schooling and medical care, expanded employment opportunities, subsidized food and fuel prices, and the like. Subsequently, under the influence of the paradigm of neo-liberalism and in reaction to admonishments from international institutions like the IMF to privatize what were formerly seen as governmental functions, policies have changed. After the abandonment of socialist commitments, some subsidies for necessities like food and fuel might still be provided, but these tended to be merely offered as palliatives with the aim of forestalling outbreaks of popular unrest, not as part of broad based
schemes designed to advance the wellbeing of the population. Moreover, with government officials being engaged in extensive self-dealing and their families benefitting from the wealth that has become increasingly concentrated in the hands of a small ruling class, the incentives for governments to underwrite public services have dwindled. Elites are not the losers when the quality of public healthcare and education available to the less affluent turns out to be unsatisfactory.

If able to work outside the home, women have often been relegated to poorly paid informal forms of work or have been obliged to toil in exploitative conditions. Organizations like independent unions that potentially could improve labor conditions have been widely suppressed. In addition, impoverished women who are non-citizens who come to the Middle East in search of employment typically have wound up serving in menial jobs such as domestic servants, often living in virtual slavery and being exposed to severe abuses.

In the area of third generation human rights, the performance of Middle Eastern states is also deficient. Human rights like the right to development enshrined in the 1986 UN Declaration on the Right to Development are far from being realized. According to the UN, the right to development embodies the human rights principles of equality, non-discrimination, participation, transparency and accountability, as well as international cooperation. It involves improving the well-being of people and the fair distribution of gains. (Office of the High Commissioner for Human Rights. Development is a human right)
Without successful development, the gender gap afflicting women in the Middle East is doomed to persist, along with many attendant human rights violations. The failures of states in the region to secure other third generation rights like the right to a healthy environment have likewise had harmful impact on women’s human rights. In the Middle East environmental degradation has been extensive, with the neglect of prudent management of water resources constituting an especially ominous problem as water supply shortages mount due to climate change. The UN affirms that realizing the right to water, sanitation, and hygiene is vital for women’s rights and dignity. (Office of the High Commissioner for Human Rights. Every woman’s right to water, sanitation and hygiene).

Destructive armed conflicts, largely conducted with disregard for humanitarian law, plague the region. Decades of wars and foreign military interventions along with violent insurgencies and counterinsurgencies have had devastating consequences, especially for women. The 2016 Declaration on the Right to Peace, approved by majority vote in the UN General Assembly, asserts in its introduction that “development, peace and security and human rights are interlinked and mutually reinforcing” (UN General Assembly 2016). The failure to achieve peace in the Middle East correlates with a multiplicity of other unfavorable conditions prevailing in the region and on the international scene that in combination have made it particularly difficult to realize the rights that women are entitled to enjoy under international law.
REFERENCES


