The Quest for Hegemony

An Analysis of the Muslim Brotherhood and Tagammu's

Attitudes towards *Shari'a*

Amber Khan

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To mom

"Paradise lies beneath your Mothers' Feet"

(Ibn Majah, Sunan, Hadith no. 2771)

Abstract

In contemporary Egypt, at a first glance one is inclined to believe that Islamist and secularist constitute binary oppositions, and will therefore be unable to find common ground, in particular in the question of *Sharia* as source of law. Presumably, religious parties will defend hegemony by preserving Islamic law, while secular parties will on the contrary challenge hegemony by attempting to remove *Sharia* as a source of law, thus create family laws that are based on secular principles.

The aim of this study is to challenge this notion by comparing the attitudes of two political parties, the Muslim Brotherhood and Tagammu, towards *Sharia*. This will be investigated in light of family law, which is the only area of laws in Egypt based on Islamic law. As these laws are related to women's right, it is also interesting to look at each party's gender policies.

As my analysis will show, these parties, or more precisely the reformist faction of the Brotherhood, are not binary oppositions in the question of *Sharia* being the source of Egyptian family law. Tagammu challenges hegemony only to a certain degree, while it recognises that the principle of the family law should be derived by progressive interpretation of *Sharia*.

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CHAPTER 1: INTRODUCTION

As post-revolutionary Egypt is being shaped, many ask to what extent the political forces that united in order to overthrow Hosni Mubarak's regime will be able to co-operate across ideological divides. There are fears that religious and secular political parties are too distant ideologically to find common ground in a democratic Egypt. The family law is commonly seen as the ideological "battleground" between religious and secular political actors. In contemporary Egypt, as the only legal area, the family law is confined to *Sharia*, which is often translated as Islamic law. A common perception is that religious and secular political parties stand on their opposite sides of the political spectrum concerning the question of what should be the legal source of the family law. Presumably, religious parties will defend hegemony by preserving *Sharia*, while secular parties will on the contrary challenge hegemony by attempting to remove *Sharia* as a source of law, thus create family laws that are based on secular principles.

The aim of this study is to challenge this notion by comparing the attitudes of the Muslim Brotherhood (Arabic *Ikhwan al-muslimun*) and the National Progressive Party (Arabic *Hizb al-tagammu*), hereafter Tagammu, towards *Sharia*. This will be investigated in light of family laws. As these laws are related to women's right, it is also interesting to look at each party's gender policies. The Brotherhood and Tagammu are among the oldest and best organised established political parties in Egypt. These parties have opposite ideological bases: While the Muslim Brotherhood is a religious, or an Islamist party, Tagammu is a secular party. The crucial question to be answered is therefore:

What are the Muslim Brotherhood and Tagammu's attitudes towards Sharia?

As my analysis will show, these parties, or more precisely the reformist faction of the Brotherhood, are not binary oppositions in the question of *Sharia* being the source of Egyptian family law. Tagammu challenges hegemony only to a certain degree, while it recognises that the principle of the family law should be derived by progressive interpretation of *Sharia*. Neither, are the two parties entirely opposed to each other when it comes to gender politics, a topic closely related to family laws, as there are fraction within the Brotherhood that promote a gender policy, resembling the policies of Tagammu.

Regarding the organisation of the thesis, the next chapter, Chapters 2, examine the conceptual and analytical framework, methodological approach, and empirical data that form the basis of this thesis. The following chapter, Chapters 3, introduces the Muslim Brotherhood and Tagammu, and outlines the different ideological platforms of these political parties. Chapter 4 elaborates on the gender politics of the Muslim Brotherhood and Tagammu, while in Chapter 5 both parties' stance on what should be the source of family law – to what extent the principle of law should be secular or religious – will be discussed. The final chapter, Chapter 6, draws together the discussion pursued in the thesis and provides a conclusion on the issue this study deliberates on.

CHAPTER 2: THEORETICAL FRAMEWORK AND METHOD

A key consept in this study is hegemony. The fight over the sources of law can be seen as a struggle over hegemony. As indicated in the previous chapter, Egyptian religious parties are likely to defend hegemony by preserving *Sharia*, while secular parties are presumed to challenge hegemony by attempting to remove *Sharia* as a source of law, thus create family laws that are based on secular principles. Hegemony is the subject of a huge theorecial debate – and it is not my intention to dig deepely into this discussion as my aim is to unveil the Muslim Brotherhood and Tagammu's attitudes towards *Sharia*. Here, I will therefore rely on Gramsci's understanding as the point of departure.

Gramsci on Hegemony

Hegemony is a Marxist concept derived largely from the work of Antonio Gramsci (1891–1973). In the writings of Antonio Gramsci, hegemony is referred to as the dominance exerted by one social group over other groups. A group prevails, according to Gramsci, when its own culture, beliefs, values and norms become the 'conception of the world' [Weltanschauung] for all. The dominant group succeeds in projecting their specific worldview as legitimate by wielding intellectual and moral leadership over other groups. More importantly, creating alliances with a variety of forces, this would ultimately lead to development of a consensus culture for the society. This consensus culture is what Gramsci calls hegemony.

Even after hegemony is established, it may be under threat and therefore lasting consent of the subordinate groups is necessary in order for it to remain superior. Nevertheless, subordinate groups can at any time pose a challenge to the hegemony and potentially cease the consensus.

For this reason Gramsci, perceived hegemony of being in constant struggle between differing ideologies competing to maintain control over the "hearts and minds" of subordinate groups (Ransome 1992:132).

In Egypt, *Sharia* is the essence of the ideas and beliefs held by Islamist groups, which in the field of family laws currently represent hegemony, in the words of Gramsci. The laws pertaining family matters, also referred as Personal Status Code, have been derived from *Sharia* since the days of the Ottomans. It has remained the main source until present, and has even been defended by secular presidents. Anwar al-Sadat, as an example, called for "a turn to *Sharia*" in order to protect the Egyptian family (Najjar 1988:323). The hegemony however, may at any time be challenged by forces advocating a different worldview.

A Note on the Sources

My thesis is based on different empirical data: qualitative interviews, official documents, and second-hand sources. Chapters 5 and 6, in particular, draw heavily on interviews that I conducted in Egypt during two periods, in April 2007 and from September to November 2007. Given recent developments in the country, the issue discussed during these interviews has gained more relevance, than I initially realized. During my visits to Egypt, I carried out in-depth interviews with key figures in the Muslim Brotherhood, Wasat and Tagammu, as well as representatives of governmental institutions, research institutes, as well as non-governmental organizations. Given party figures' access to the "inner circle" and their willingness to share their in-depth knowledge, these informants contributed significantly to my understanding of the issue debated in this study.

The interviews were unstructured, so that was in a position to adjust my prejudiced views, ask unplanned questions, and ask them to clarify the meaning of the responses given. I was thus

able to come into possession of important information which had not seemed relevant before the interview. In addition, I could ask the interviewee to elaborate on new topics. Unstructured interviews also better suited sensitive subjects, such as the role of religion in Egyptian politics, as many interviewees would have baulked at telling the truth in a more formal interview and their response might not have been on the predefined list of questions. As the issue of this study is sensitive in Egypt, some interviewees explicitly asked not to be mentioned by name. Half of interviews were in Arabic. The reliability of the statements from each informant was as far as possible checked against statements from other informants, as well as various written primary and secondary sources.

In addition, written primary sources, including official documents such as party programs, were also employed. Various secondary sources, such as books, academic articles and news reports have also been used. I have cited news reports from the Egyptian papers that are commonly viewed as reliable, including *al-Ahram Weekly*, *AlMasry AlYoum*, *Egypt Today* and *Daily News Egypt*.

CHAPTER 3: THE IDEOLOGICAL BASIS OF THE MUSLIM BROTHERHOOD AND TAGAMMU

> At the turn of each new century there will arise in my nation a man who will call for religious revival.
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> - The Prophet Muhammad

The Muslim Brotherhood

With the aim to win the hearts and minds of Egyptians, the Society of Muslim Brothers, or *Ikhwan al-muslimun*, was established by its founder Hassan al-Banna in 1928. Already in the early 1930s the Brotherhood rose as a mass movement and emerged as a new force in Egyptian politics. Brotherhood evolved into an expansive movement with political, social and religious aspects – constituting the largest Islamist force in Egypt to present. From the beginning of its establishment it managed to make politics available to broad strata of society. By applying modern methods in traditional settings of mosques, provincial villages and popular city quarters, affiliation to the movement increased rapidly. The group however, has never depended on individuals or certain personalities, rather on strong organisational structure. And affiliation to the movement was not based on social position, family background or political contacts, but rather on personal merits and dedication. Their commitment to provide social services was also crucial in enhancing its popularity and to establish a grassroots base (Lia 1998:120, 280, 282).

Tightrope Walk under Authoritarian Rule

In 1948 the movement was forced dissolved, after being accused of planning a revolution. The following year al-Banna was assassinated. Hassan Ismail Hudaybi assumed the post as General Guide (Arabic *murshid al-amm*), and led the movement forward (Mitchell 1993:86). For a short period of time, Brothers were given opportunity to operate freely – only to face severe repression under the regime of President Gamal Abdel Nasser. Hassan al-Banna's assassination, followed by the Free Officers' *coup de ètat* in 1952, that brought Nasser to power, marked the beginning of a difficult period for the Brothers. After an assassination attempt against Nasser in 1954 allegedly by the movement, several members were imprisoned and sentence to concentration camps. This serving as a backdrop, Nasser's intended to entirely seclude the movement from the formal political system, ordering clampdown on all its activities (al-Awadi 2004:33).

When Anwar al-Sadat assumed power as president, he, by contrast, gave increased support to Islamist groups including the Brotherhood. According to Maye Kassem (2004:140), "Sadat turned to the Islamists in effort to cultivate support for his own political motivations". By releasing Brothers from the jails and encouraging their activities, Sadat hoped they would counter the leftists and the Nasserites whom he perceived as main rivals. In the same vein, Sadat fostered development of Islamic student associations, so as to constitute an effective counterbalance to the leftist groups which at the time dominated campuses. The movement was given permission to reclaim its headquarters, reconvene its public meetings and resume its publication of their monthly magazine *Dawa* (al-Awadi 2004:36, Kepel 1985:84). Brothers utilised media as a channel to win public opinion and re-create a solid support base. During the 1970's the magazine's circulation was estimated to have reached 100, 000. This period of time was used to reconstruction and by the 1980s the movement remerged as a strong political force as well as an effective social agent. As noted by Wickham (2002:93) the Brothers

developed what she has called the "parallel Islamic sector", providing a wide range of religious and socio-economic institutions including private mosques, Islamic voluntary associations, health clinics, and schools. These services often filled the social void for many Egyptians belonging to different layers of the social strata.

During the reign of President Hosni Mubarak, the Brothers were give varying degree of political space. Though the regime tolerated many of the movement's social welfare and religious activities, it was not given legal status – neither as a political party nor as an association. Thus, the relationship between the regime and the Brotherhood has been rather fluctuating. In early 1980s Mubarak pursued an accommodating strategy towards the movement. Members of the Brotherhood for instance gained influence in the professional syndicates which became a pathway to the formal political system. Amongst former student activists Abdul Muneim Abu-l-Futuh and Abu Ila Madi acquired high ranks in the Medical Doctors Association and the Engineers Association in 1988 respectively. Increased stature in professional syndicates allowed the organisations to reinforce its "mainstream appeal on grassroots level, while allowing it to continue its own established socio-political activities" (Kassem 2004:148-149). As noted by Maye Kassem (2004:ibid) the movement became a vital oppositional force within parliament. Following their electoral performance in 1984, with the Wafd's electoral alliance, the Brotherhood was represented with 36 seats in the Peoples Assembly in 1987, then allied with the Labour Party (Arabic *Amal*) and Liberal Party (Arabic *Ahrar*).

The Brotherhood's political success caused dismay in the Mubarak's regime and the period from 1990 onwards was characterised by confrontation and repression. Tension between Mubarak and the movement however, culminated in 1995 when 95 Brothers, including prominent figures Abdul Muneim Abu-l-Futuh and Essam Erian, were arrested and tried in military court (al-Awadi 2004:113-114,174, Kassem 2004:ibid, Wickham 2002:190). To

bring civilians in front of military tribunals appears to have been a desperate attempt to curtail the group, yet, it was a clear signal to its member that the regime will not tolerate such dissent. Nevertheless, the Brotherhood managed to re-enter the political scene in 2000 parliamentary elections. Their unprecedented success was however, staged in the year of 2005. Prior to the parliamentary elections in September this year, President Mubarak initiated reforms allowing the very first multi candidate elections to be held in Egypt. Brothers refrained from filing a candidate for the presidential election, but in the Peoples Assembly's elections, 150 members ran all as independents. Strong community appeal in their constituencies combined with its financial and organisational capacity, resulted in securing 20 percent of the seats, making the group the major opposition in the Parliament, and, thus, creating a bipolar political scene.

Political freedom and reform was reversed since 2005, including extension of state of emergency[1] and constitutional amendments of March 2007, which according to Nathan J. Brown, Amr Hamzawy and Marina Ottawy (2007:3) in particular was aimed at crippling the Brotherhood. Amongst the articles affecting the Brothers most, was Article 5 – which deals with political activity and party formation – banned the pursuit of political activities or establishment of political parties "within any religious frame of reference". In the referendum of March 2011, Article 5 was significantly amended as the declaration's Article 4 in which the broader phrase "religious frame of reference" has been narrowed to a prohibition on activities or parties based on religion (Egypt's Constitutional Declaration of March 2011).

Moreover, President Mubarak ordered the Second Deputy Guide, Khariat Shatir, and 39 other Brothers to be tried, convicting all between three to ten years (Antar 2007:). In the legislative

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[1] Egypt has been under a nearly-continuous state of emergency since 1967, only interrupted for 18 months in 1980-81. The People's Assembly renews it every third year.

elections of 2010, the group was competing in remarkably different political circumstances. Due to election rigging and procedural violations coupled with mass arrests of members, the Brotherhood withdrew from second round held on December 6th. The post-revolutionary era seems to have heralded a new political environment for political parties including the Muslim Brotherhood. A positive gesture made by the interim government was to realease several Brothers from prison in March, including Khairat Shatir. In addition, the group was given permission to open a new headquarter in Muqattam Hills in Cairo.

The Freedom and Justice Party

Soon after President Mubarak was overthrown, the Muslim Brotherhood announced its intentions to establish a political party. In May 2011, the movement's Shura Council selected the leadership of the new party, appointing Mohammed Morsy – former member of the Executive Bureau – as party chairman, Essam Erian – former spokesperson of the movement - as his deputy, and Saad Katatny – the head of the movement's parliamentary block in the assembly of 2005–2010 – as the general secretary. The new party's application and legal documents has receently been submitted to the Political Party Committee, which has the mandate to approve and register all political parties in Egypt (*AlMasry AlYoum*, 17 May 2011). According to the current General Guide of the movement, Mohammed Badie, the party will be "completely independent, not binding on the Muslim Brothers' Executive Bureau and will be subject to the laws regulating the licensing of opposition parties", meaning that aforementioned leadership does no longer hold their positions in any bureaus of the movement (*Ikhwanweb*, 21 March 2011). Moreover, the movement has announced that the Freedom and Justice party will be the only party representing it.

Islam is (Still) the Solution!

As a new party is in the process of being established, there seem not to be any significant shifts in the movement's overall ideological outlook. The Deputy Guide, Khairat Shatir, upheld that the Freedom and Justice party will concentrate on political activities coordinated with the movement, while emphasising that the party is not a religious party, but rather a "civil party with Islamic background that adhere to the constitution" (*Ikhwanweb*, 9 May 2011).

The Muslim Brothers has over the course of time run under the campaign slogan of "Islam is the solution!" It was first used in the elections of 1984, and its electoral programme of 2010 was entitled with the same name. According to Carnegie Endowment for International Peace (2010) this platform was originally "devoid of any new political content, and dodges major issues such as the constitutional prohibition on political activity based on religion and whether the Brotherhood is truly committed to equal citizenship rights without discrimination". The Brothers released a draft party program in 2007, which excluded women and Christian from assuming both presidency and premiership. These issues have since been a matter of debate, causing rift between the different factions and external criticism. Due to both internal and external controversy this document was withdrawn shortly after its issuing and is not been published in its final form. In the time of writing the Freedom and Justice Party has not launched its party program, but it is likely that these controversial issues will be modified in the new program. Party members have for instance indicated that Copts will be welcomed to join the new party, and even signaled that Coptic intellectual Rafiq Habib will be nominated as deputy (*Ikhwanweb*, 11 May 2011).

The Muslim Brothers seems more internally diverse today than ever before. The factions within the group defy any easy categorisation; however three main trends seem to exist.

Firstly, the old guards are considered ideologically conservatives, placing high premium on spiritual education and proselytising (Arabic *dawa*). Members of this faction – which includes the General Guide Mohammed Badie – dominates the Guidance Bureau (Arabic *maktab al-irshad*). The second factions might be characterised as pragmatic conservatives, which seems to be the movement's mainstream wing. Members of this group combine religious conservatism, at the same time promote larger participation. Most of this faction's members have legislative experience, including the current Party Chairman, Mohammed Morsy, and the General Secretary, Saad Katatny, of the Freedom and Justice Party. The final faction consists of former student leaders of the 1970s, such as key figure Abdul Monim Abu-l-Futuh, that assign importance to developing reforms that would appeal to a wider audience and advocates a progressive interpretation of Islam (Altman 2006:26, Wickham 2011). Although, this trend does not have large following among the movement's rank and file, Abu-l- Futuh seems to have become an important model for a new generation of Islamist.

Irrespective of which faction Brothers are affiliated to, members of the movement have gradually placed less emphasis on the concept of the Islamic state (Arabic *dawla islamiyya*), and instead highlighted the civil nature of the state. A recent statement by the Deputy Guide, Khairat Shatir, affirmed this stance, stating that "the group's main objective is to peacefully establish a civil state based on Islamic reference" (*Ikhwanweb April 2011*). Manifestos for the group's parliamentary election of 2005 and the elections to the upper house of parliament, the so-called Shura Council election of 2007 suggests similar. Both programs declares that the movement does not seek to establish a religious state or a religious government, rather highlights that an "Islamic state is necessarily a civil state, based on *Sharia* – that aims at averting corruption and stimulating good" (Parliamentary election programme 2005:2, Shura Council election programme 2007:2, 3). Such statements indicate that the Brotherhood rejects the notion of a theocratic state. Furthermore, the programs advocate for a "republican,

parliamentary, constitutional and democratic government under the umbrella of the principle of Islam". Accordingly, the movement call for separation of authorities, plurality of parties and peaceful rotation of power, emphasising that "the ruler's authority is based on social contract between the ruler and the ruled that should be evaluated by the nation and its civil institution".

Divisions among the Brothers – and the Creation of Hizb al-Wasat

Fifteen years after a number of Brothers in 1996 decided to leave the movement and establish a separate party, the Centre Party (Arabic *Hizb al-wasat*) was finally licensed in February 2011. Hence, the party became the first political party to be officially recognised after Hosni Mubarak's resignation. Now the official name of the party is the New Center Party (Arabic *Wasat gadeed*).

In 1996, Wasat submitted its first request to the Political Parties Committee of the Shura Council, for recognitions as a political party. Of its 93 founding members, 24 were former Brothers, amongst other Abu Ila Madi , Abdel Karim and Essam Sultan, three Copts including Rafiq Habib and 19 female member (Scott 2010:57). Roel Meijer (1997:11) argues that by applying for legal political status, Wasat ventured to "play the political role which had been playing since it had taken over the professional association".

Its first request was however rejected, accused of being merely a front of the Brotherhood, despite that the movement had distanced it self from Wasat immediately after it was formed. Yet, the government insisted on the bond between the groups, and Madi alongside with several other party members were tried before a military tribunal for representing an illegal movement (Utvik 2005). A second application was presented to the Committee in vain in 1998. Their last refusal of recognition, in May 2009, caused disarray among Wasat's

members. In response to the rejection by the Committee, Abu Ila Madi fileded an official complaint, accusing it of violating Egyptian Constitution by denying the party its right to participate in political activity (*AlMasry AlYoum*, October 2009). The fact that Wasat's intention was to become a full fledged party in 1996, marks a departure from the Brotherhood. The Brotherhood did formally expressed an aspiration to form a political party before 2007, which could be seen as an opportunity to separate its religious and political wing. Yet, no application was presented for official approval even this year.

The schism between the old guard and reformist faction of the Brotherhood was the main reason for the breakaway. In the main, the divide between the factions is reflected on two levels, the Brotherhood's ideological outline and on its political future. Accusing the elders and conservative faction of the Brotherhood of being religiously rigid and hostile towards other political trends, Wasat considered its own approach as being more inclusive and liberal. Underscoring this, in Wasat's party program of 2004 Islam, more precisely *Sharia*, is presented as valuable collection of principles, arguing that interpretation should be applied in a way that does not prevent progress in society, and should be in compatible with the principle of equal citizenship. The program conceives Islam as an inherited culture that Muslim and Christians alike in Egypt have contributed to. Wasat suggest that an Islamic state does not preclude the involvement of religious minority, including in political party activism. The founding member Rafiq Habib, Coptic intellectual, was for instance entrusted with authoring Wasat's first party program in 1996. While drawing on a modernist interpretation of *Sharia* and upholding Article 2 of the Constitution as main source of legislation, it believes that religious coexistence is not contingent upon secularism as religion is asserted to be a fundamental component of Egyptian society.

On political activism Wasat regards, in particular the elders of Brotherhood as hostile to other political trends (Wickham 2002:217,218), while the party seeks cooperation with a number of

actors across the ideological spectrum in Egyptian politics. Prior to the 2005 election, Wasat fielded a joint candidate list with the National Front for Change – a coalition comprising of major oppositional forces, including Wafd and the Nasseristes, Karama (a breakaway faction of Nasserites) and Kifaya – formed to unite a opposition campaign for the November parliamentary elections. Despite being rejected as a legal party in 2009, Wasat joined the new electoral alliance, the Egyptian Coalition for Change, in April 2009. This Coalition united Kifaya, the April 6 Youth Movement, Karama, as well as individual members of the Muslim Brotherhood. The coalition presented a series of demands including the drafting of a new constitution, the abrogation of all emergency laws, annulment of the Camp David Accords and the release of political prisoners.

The National Progressive Party – Hizb al-Tagammu

The National Progressive Party or *Hizb al-tagammu*, grew out of the left platform (Arabic *minbar)*, created by Anwar al-Sadat after he dismantled Gamal Abdel Nasser's centre of power, the Arab Socialist Union in 1976. Tagammu became a full-fledged party two years later, headed by its first chairman Khaled Moyhie al-Din (Waterbury 1983, Kassem 2004). Roel Meijer (1998:III) argues that in spite government's intention to restrict the leftwing to purely Marxists, Khaled Moyhie al-Din managed to rally – in accordance with its name – a broad coalition comprising of Arab nationalists, famous independent personalities, Nasserites, as well as enlightened religious representatives. Due to the disparate nature of many of its member's ideologies, Tagammu has been subject to internal disputes on various issues – including its political line and overall organisational structure. Channels for dialogue to contain disagreements within the party are however established, enabling Tagammu to solve disputes. All matters of conflict are submitted to the Central Committee and General Conference where they are finally settled (Shukor 2005:57).

Despite having representative in the majority of governorates in Egypt, 23 of 26 according to al-Ahram Centre for Political and Strategic Studies (2005), Tagammu lacks popularity and has a weak support base, resulting in poor electoral performances in the course of its existence. Tagmmus' success in 2010 resembles its victory in 1990 elections in various ways. In that election five party members entered parliament, meanwhile the election witnessed division of the legal opposition, which initially stood united on their stance against the government.

All major opposition forces, including the Muslim Brotherhood, boycotted the elections as a protest against continuing emergency laws, and Tagammu's departure from unanimous boycott was met with genuine grievance. Maye Kassem (199:105) argues that with its decision, Tagammu "became the first opposition party to enter into the regimes clientelist structure", and informal ties between the government and Tagammu saw the day of light. Party Chairman Mohyie al-Din, for instance, participated in vote exchange with the incumbent party, the National Democratic Party in their respective constituencies, permitting a number of the National Democratic Party's candidates to collaborate with their own candidates.

Prior to 1990, there was little indication of a client-patron relation between the ruling party and Tagammu. A formal cooperation however, became evident in early 1995 when the party's general-secretary at the time, Rifat Said, accepted Mubarak's nomination to the Shura Council. Such an appointment was widely considered patronising by all opposition, and was also contrary to the party's own traditional line. Rifat Said, who have since 2003 presided the position of chairman, has harvest harsh criticism from fellow party members. Prior to the 2010 elections, Tagammu was divided on the issue of whether to run or refrain from running. Against the will of a number of party members, who demanded Tagammu to boycott in protest against alleged violations in the first election round on November 28, Said refused to

withdraw his party form the run off elections. As a result, several members resigned, while others froze their membership expecting that Said renounces his position (*Daily News Egypt*, December 2010). Those members who left Tagammu opposing Said's policies, established a new party in 2011, The Socialist Popular Alliance, following the overthrow of Mubarak. This party, headed by former Tagammu member Abd al-Ghaffar Shukor, represent a new leftist force in Egypt.

The shift in the party's stance toward the regime can be seen in the context of failed attempts of consensus building between the oppositional actors in Egypt. In 1987 Tagammu initiated creation of a united front for elections with a strategy to divide winning seats according to a pre-arranged formula reflecting each party's presumed strength, which would give all opposition members some voice in parliament. Wafd, the other main party however, refused to join. Without Wafd's support the opposition ticket would be incomplete, leading to Tagammu withdrawing from the coalition, thus unable to secure a seat in this assembly (Post 1987:19, 21). Nevertheless, new moods of joint electoral activism – albeit not successful – between oppositional actors have appeared. Perhaps, to reverse the tide in its favour, Tagammu joined the electoral front, the National Front for Change, one month prior to the 2005 parliamentarian elections. Initially, this alliance comprised of the major opposition parties, Wafd and Nasserites, a broad spectrum of cross-ideological actors. Karama, Wasat and Kifaya were included later. The Front announced that it would contest with a unified list in the upcoming election "under umbrella for the sake of a single objective; challenging the regime" (Rabie:2005).

The Muslim Brotherhood also joined, but in the end pulled out. Its decision to withdraw from the Front can partly be explained by the movement's pragmatic consideration and the fact that the National Front for Change was formed shortly before the election. As this year's election was contested under independent candidate system, the movement did not need to ally with a

political party. According to Amr Hashem Rabie political analyst at al-Ahram Centre for Political and Strategic Studies, however, one of the main reasons behind the Brothers running without any alliance was "the groups eagerness to have its distinctive slogan, Islam is the Solution". Moreover, the Brotherhood viewed the legal opposition with distrust. Leaders of the movement made it clear that "potential alliance partners had little to offer since the opposition parties had no national organisation or proven record that could match the Brotherhood" (Brown and Hamzawy 2005:3). Equal distrust was evident among the other oppositional parties. Tagammu in particular opposed the inclusion of Brothers. As stated by former general secretary of the party, Hassan Abd al-Razek (*Egypt Today*, February 2006), "how would we coordinate with the Muslim Brotherhood on the question of amending the constitution? They call for an Islamic state and we want a civil state".

Religion is for God, and Nation is for All!

Although Tagammu is a nexus of various factions, it has embraced some anchors: social democracy, Egypt's Arab identity, independent development, and anti-imperialism and anti-Zionism (el-Mikawy 1999:46). By virtue of its first chairman, a former Free Officer, the party is considered to be a defender of the 1952 principles and Gamal Abdel Nasser's heritage. The legacy of socialism is well embedded in the party program which calls for "establishment of a socialist society free for exploitation" (Shukor 2005:53). Perhaps its most distinct characterisation is its clear emphasis on the state's civil nature. According to Rifat Said, such nature implies what follows:

> "Our party strives for a civil, progressive, democratic, and liberal future, in which the rights of the citizens will be respected, a future in which the livelihood and liberties will be guaranteed, as well as better education, better housing, and better healthcare, a

future in which the rights of women and of Copts will be respected" (cited in *MEMRI*, April 2008).

Said represents indeed the radical Marxist faction of the party, however, the party's rejection of those who mix politics with religion has been crystal clear from advent of its existence. During the 1995 elections the party used the slogan "religion is for God, nation is for all!" (Arabic *al-din lillah wa al-watan lil jami*), as opposed to parties with religious frame, the Muslim Brotherhood (Kassem 1999:109). Meanwhile, hostility towards Islamists has enhanced since Said became party chairman. Abd al-Ghaffar Shukor (2005:58) notes, however, that the draft political report which was submitted to the Fifth General Conference in December 2003 shows differing points of view concerning Islamists. Several party members, including Said opposes parties that are based on a religious reference point. While amongst other Abd al-Razek, has pointed out that "every political trend, including the Islamists one, has every right to form a party expressing its ideology, so long as it abides by the rules for forming political parties" (*al-Ahram Weekly*, September 2003).

The Sixth General Conference held in March 2008, indicated continued dissatisfaction within Tagammu, and Said again faced criticisim for his close tie to the government and attitude towards the Muslim Brotherhood (*al-Ahram Weekly*, March 2008). Both issues, whether to bond with the regime and establish any kind of cooperation with the Muslim Brotherhood, created a rift within the party. The rift is still highly visible. As an example when deputies of Tagammu attempted to establish dialogue with the Brothers to discuss potential common political cause for the upcoming elections of 2010, a senior figure of the party, Abdel Rahman Aly, resigned in protest, upholding that "We believe in freedom of expression and in a civil state, while they call for a theocracy with no place for women and Copts" (*AlMasry AlYoum*, March 2010).

CHAPTER 4: GENDER POLITICS

Egyptian women were at the forefront alongside men during the popular uprising that ultimately overthrew President Hosni Mubarak on 11th February, 2011. They played a vital role during the protests at the Tahrir Square, which became the focal point of the Egyptian revolutionaries. However, their future in terms of legal rights seems uncertain in post-revolutionary Egypt. After the assembly of 2010 was dissolved, no women have been appointed to the transitional government currently led by the Supreme Council of Armed Forces, and no women were assigned to the Committee responsible drafting of the interim Constitution which adopted on March 19th.

Political Rights versus Personal Rights

In comparison, the parliamentarian elections of 2010 had positive outcome for women. A year ahead of the elections, the People's Assembly passed a law allocating a quota of 64 seats for women (12 per cent of the total seats) – ending the era of appointed female parliamentarians in Egypt. Prior to the 2010 assembly, all female parliamentarians had been appointed by President Mubarak, instead of being popularly elected. The quota was promoted by the National Council of Women – a governmental body established by a presidential decree in 2000 with the purpose to advance the status of women in Egypt, was then presided by First Lady Susanne Mubarak. This quota system would according to officials serve the purpose of challenging the perception of Egyptian women in the political scene, which remains to a large extent male dominated (*Daily News Egypt*, October 2010).

Although Egyptian women obtained the right to vote 1956, as part of President Gamal Abdel Nasser's socialist reforms, this has not reflected the reality of women's political participation. Compared to other Arab parliaments, such as those in Tunisia and Morocco, Egypt's

parliament had until the introduction of the quota system a low proportion of female representatives. In Tunisia, the percentage of women in parliament has risen steadily since 1959, while in Morocco female presence significantly increased, from one per cent in 1995 to 11 per cent in 2003, after quotas on party lists were introduced (Arab Human Development Report 2005:205, Mustafa 2005:23).

Historically, in Egypt, it has been a huge gap between women's constitutional rights and their presence in Egyptian politics. In general female party activism within all major political trends – irrespective of ideological orientation - has been and remains to date meagre. Hala Mustafa (2005:24) argues that Egyptian women only play a symbolic role in the leadership apparatus and political parties, and the parties "are usually content to mouth the slogans contained in their reforms, such as reference to the role of women, without this having any real content". A prime example is that Wafd – historically labelled as a liberal party – only had two percent female members in 2005. Another party, Ghad, is the only party in Egypt with a woman, Makram Abeid, holding the post of party general secretary.

Similar tendency is apparent in all legislative bodies. Female representation remains weak in the upper house, Shura Council, because there is no quota system. In the June 2010 Shura Council elections, only one woman won a set. Because of the quota system enforced on the parliamentary elections, the electionof 2010 became a litmus test for all political parties to nominate sufficient number of female candidates. The former ruling party, the National Democratic Party, which presented the quota system – fielded 69 women of a total of 763 candidates, Wafd fielded 66 women of its 168 candidates, and Tagammu fielded 8 women of a totally 23 candidates. From the the Nasserites, six women were fielded of the parites 31 candidates, while Ghad fielded 5 women of a total of 20 candidates. The Muslim Brotherhood improved its female representation by nominating 14 women, in comparison to their lone women in 2005 elections. As feared and predicted by many, the vast majority, 60 women who

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entered parliament represented the National Democratic Party, thus maintaining the party's hegemony in the assembly even among women. The zero-sum mentality of the former incumbent party permitted limited scope for other than decorative opposition, as observed by the Egyptian Centre for Women's Rights. In its annual report on women's status in Egypt in 2010, the Centre stated that female candidates were merely used to "decorate the parliament" (The Egyptian Centre for Women's Rights, 2010).

The Egyptian society's perception of politics as a realm exclusive to men, will obviously take time to change. Meanwhile, affirmative legislative intervention to designate women's quota is a step forward and could prove important. Such action has made amends for its historical injustice against women and would compensate in giving effect to the principle of equal political rights enshrined in the Egyptian Constitution. Weak female political participation is not confined to the legislature or participation in general elections. It also extends to women's entire presence in politics.

While the Egyptian Constitution contain provisions affirming women's political right, the family laws remain gender biased, indicating a contradiction between general legislations and laws concerning personal matters.

The Muslim Brotherhood's Stance on Women

Historically, the Muslim Brotherhood has taken a conservative stance against women and their perceived roles in society. According to Carnegie Endowment for International Peace (Brown and Hamzawy 2010:27), leaders of the movement have to a large extent viewed women's issues through religious and moral lenses, treating them on the basis of their compatibility with *Sharia*. However, a move towards a more moderate gender policy has gradually become evident since the 1990s.

An official declaration addressing women's rights that was published by the movement in 1994, touched upon their political rights. The declaration, entitled "The Role of Muslim Women in an Islamic Society", described the duties and rights of women from an Islamic point of view. Here, a woman's primary role as a mother was elevated by calling her "lord of house", however, underlining complementary rights between spouses including a wife's equal financial rights. In its section regarding political rights, the document emphasised that women had the right to vote, be elected and to occupy public and governmental positions.

Women's right to participate in political life was retained in the group's first draft party program of 2007. However, women and Christians were denied the right to assume the post as president, stating that "the only public office which it is agreed upon that a woman cannot occupy is the presidency or head of state". Like the 1994 declaration, this draft document celebrated women as wives and caretakers of children in a good Islamic manner – again defining home as basic arena for women.

In the wake of the 2007 draft party program's release, a struggle between two factions and their contrasting vision of its content became apparent. On one hand, the deputy general guide at the time, Mohammed Habib, and his fellow partisans, defended that women – and Copts –

were illegible for premiership and presidency. The competing vision was mounted amongst other by Abdul Moneim Abu-l-Futuh, who claimed that such a stance did not reflect any consensus among the Brothers (Carnegie Endowment for International Peace 2008:7). Abu-l-Futuh certainly represented those who favoured an inclusive female participation within the movement, and he had previously expressed that "women has the right to hold any public position – including the presidency" (*Arab Reform Bulletin*, 2006). Although, the draft party program of 2007 excluded women from being head of state, it did not prevent sister from engaging in political activism.

In this respect, it is significant to note that since the 2000 parliamentary elections, when the movement fielded its first female candidate, there has been a steady increase in women nomination. In his inauguration speech in January 2010, General Guide Mohammed Badie, expressed the Muslim Brotherhood's stance on women's rights in economic, social and political field, by stating that the group

> "calls on all Muslim women to play their role generally and to keep up to date with the current affairs as this benefits our Muslim and Arab nation" (*The Majlis*, 16 January 2010).

The Brother's campaign platform in 2010 conveyed similar view, emphasising the importance of supporting women so as to help them pursue their roles in society, including political participation. It further stated that women's participation to reform the political arena and promote social development, without conflicting with their role within the family, was necessary in order to achieve the goals of Islam. With the election of Mohammed Badie as General Guide in 2010, marking a leadership shift in favour of the conservatives within the Brotherhood, there seem not to be an immediate ideological change regarding the movement's

gender policy. Moreover, in the wake of the 2011 revolution female members of the Brotherhood have been increasingly vocal for greater inclusion within the movement.

Sisters in the Brothers' Ranks

Women affiliations are deeply rooted in the early days of the Muslim Brotherhood. The Brothers first women's division called "The Muslim Sister's Group" (Arabic, *ferqat al-akhawaat al-muslimin*), mainly consisting of the daughters, wives and other female relatives of the Brothers was formed in1932. Its official purpose was to "uphold the Islamic ethos and spread virtue" (Abdel-Latif 2008:2-3). Despite promising prospects, the division's progress was hampered due to lack of female activists. To revive and further develop the women's division, Hassan al-Banna approached Zaynab Ghazali, who later was to become an icon of Islamist women activism. Though not formally affiliated to the Brotherhood, she did take an oath of personal loyalty to al-Banna. After his assassination in 1949, she was instrumental in regrouping the Brothers and proved highly important when the group was banned. For a period of time, Ghazali distributed the Brother's literature. As a prolific writer, she also became editor of the women's section of the movement's magazine, *al-Dawa* (Mahmood 2005: 68). When President Nasser pursued a policy of confrontation, leading to imprisonment of many senior members of the Muslim Brotherhood, the Sisters' division started to play a more important role. The Sisters' main task was to hold meetings in order to maintain the work of the movement, which they carried out with great courage. Any activism on the movement's behalf during this time was risky business, as Nasser had banned the Brotherhood. The Sisters did in fact feel the wrath of Nasser, and during clampdown a number of female activists, including Ghazali, were arrested alongside with male cadres.

The important efforts of the Sisters' division, has arguably paved the way for greater political activism among female Islamists. The organisation nominated its first female candidate in

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2000, Gihan Halafawi, whose victory was disqualified when the government cancelled the election in her district, the Ramal constituency in Alexandria. For the 2005 parliamentary elections, the Brothers sought to increase the number of female candidates, initially placing between 14 and 21 women on their list. Ultimately, only one woman, Makarem Eddery, a professor in literature at al-Azhar University, from the Heliopolis district in Cairo, was fielded. Eddery managed to gain stronger support than her rival, Mustafa Salaab, from the incumbent National Democratic Party. Yet, the regime denied her victory, most likely due to the fact that she represented the Brotherhood (Abdel-Latif 2008:1).

In the 2010 parliamentary elections, the Brother's fielded 14 women, including Bushra Samny in Alexandria, Wafaa Mashour in Asuit and Amal Abdel Karim from the district of Giza in Cairo. None of them were able to secure seats in the parliament, according to Abdel Karim, as a result of animosity by security forces and their determination to hamper the campaigns of oppositional candidates. In an interview with the *Daily News Egypt*, in the wake of the first round on November 28th, Abdel Karim expressed that her representatives were prevented from entering polling stations, despite all having notarised permits (*Daily News Egypt*, December 2010). Due to such harassment by the regime, the Brotherhood boycotted the second round of the elections.

Although, observers claim that security measures were in particular directed towards the candidates from the Muslim Brotherhood, the movement's initial female list was smaller than those of all other parties. Explaining the rationale of weak female political participation within the movement, Manal Abu Hassan, a leading member of the Sisters' division, remarked that "there are so many obstacles, including social values, political regime, the media, individual culture, and the unclear political concept". She further highlighted the problem of many social values, deeply rooted in the Egyptian society, are gender biased – as a result the society tend to curb women's participation (*Ikhwanweb*, July 2007). The socio-

cultural legacy prevalent in Egypt indeed defines the framework of political participation, and the Brotherhood, like any other socio-political movement, is influenced by the social and political milieu in which it operates. The group vacillates between a conviction to ensure equal political rights on the one hand, and concern about the breakdown of the family coupled with fear of exposure of women to the same risk of harassment and imprisonment as its male cadres on the other.

Because women have no formal positions within the organisational structure of the Brotherhood, and the Sisters division is not not integrated into the movement's two main power structure – the Guidance Bureau (Arabic *maktab al-irshad*) and the Shura Concil (Arabic. *majlis al-shura*), female members are being vocal in their demands for increased participation also within the movement. The gradual increase of female candidates in elections indicates that the Sisters' calls have been paid attention to.

Several members of the leading figures in the Sisters' division are daughters and wives of senior Brothers. Because of such close kinship they are capable of making their voice heard to the effect of positive change for sisters. Active sisters, such as Zarha Shater and Somiya Erian are daughters of highly profiled Khayrat Shatir and Essam Erian. Both are members of the growing blogger's community within the Brotherhood. Though their blogging is related to personal issues stemming from their imprisonment of family member, such a forum offers a platform for debate on various issues. Khalil Anani (2007: 29) observers the Brotherhood bloggers, male and females alike are "freed from ideological and organisational constraints" expressing grievance and at times disagreeing with the organisations stances.

Meanwhile, Omayma Abdel-Latif argues that Sisters are in their genuine demands unwilling to sacrifice the movement's unity to obtain increased female representation within the Muslim Brotherhood. Their loyalty to the group shapes their call for action, as they insist that Islam

will bring justice to women (Abdel-Latif 2009). In the words of Bushra Samny "when the Brotherhood assigned me to run in this race, I agreed because it is a religious and national duty for a Muslim woman" (*AlMasry AlYoum*, October 2010).

The 2011 revolution, however seem to have give new haspiration to women within the Muslim Brotherhood, as more voices are being raised within the movement for including female members within its structures. Leading female member, Manal Abu Hassan, claimed prior to organisation's Shura Council meeting in May 2011 that increasing women's participation was on the agenda. In her own words:

> "the meeting will also tackle the extent of female participation in legislative and executive activities, adding the group was always open to the idea of women reaching the highest of ranks; however security restrictions were imposed by ousted Mubarak's regime" (*Ikhwanweb*, 27 April 2011).

Wasat's Differing Stance on Women

Asked about the difference between the Muslim Brotherhood and Wasat, Party Chairman, Abu Ila Madi stated that "Wasat's stance on women is one of the major differences between my party and the Brotherhood" (interview, November 2007).

Along the same line, Eman Kandil, a prominent female figure within Wasat, supported the Chairman:

> "Wasat respect the rights and duties of all members of the Egyptian society, regardless of sex, age or religion. And despite the advanced ideas that the program contain, it does not effect our religious background or our traditions" (cited in Wasat publication on party members' profiles, 2004).

Wasat has since its formation in 1996 always had female representatives in its upper echelon, contrary to the Brotherhood. When the party was established there were 19 women, including Eman Kandil, among its founding members (Norton 2004:143). In 2002, the Party Chairman, Madi, estimated that women comprised around 15 percent of his party's total membership (Stacher 2002). If accurate, Wasat had at that time the largest female member mass among the Egyptian parties (Mustafa 2005, Egyptian Centre for Women's Rights 2010). As now a legal political party, and because it has female members in higher ranks, it is reasonable to believe that Wasat will field women candidates in the upcoming parliamentary elections scheduled for September 2011.

In both previous Wasat party programs, of 1996 and 1998 respectively, the role of women received significant attention, underscoring the idea that women may fill any role in the Egyptian political system (Norton 2004:145). Nevertheless, in the first program, women were treated as caretakers of the family – a view maintained in the party's second program of 1998.

The latter party program, authored by Salah Abdel Karim, acknowledged that the equality between women and man was paramount. However, the role of women was concentrated on the establishment of the family. As the program argued, "women's position in society should be viewed through the family, caring for the family is the first task". At the same time, this program recognised the importance of granting women equal civil and political rights, and to ensure conditions allowing women to pursue the role of mothers and simultaneously be active members of society. Their last party program, however, indicates a more liberal stance on issues related to women.

Wasat's last party program, released in 2004, explicitly states that appointments to all public posts − including those in the judiciary and presidency − should be based on professional merits and not gender. According to the program, the members of the party are committed to ensure:

> "complete equality between men and women in terms of political and civil rights. Competency, professional background and the ability to undertake the responsibility should be the criteria for holding of public office, for example in the judiciary, or the presidency" (Wasat Party Program, 2004).

While Wasat's party programs of 1996 and 1998 resemble the view of the Muslim Brotherhood on women, the last program of 2004 distinguishes itself from the Brotherhood's position on the question of women assuming the posts of presidency and premiership. Such an inclusive approach towards women indicates that Wasat has gradually developed a more liberal gender policy than the Brotherhood.

Meanwhile, Wasat denounces the "Western family model", which is considered being based on individualism. It claims that this is the root of dysfunctional families in Western societies,

clearly distinguishing between what is seen as fundamental different Western and Muslim attitudes in this regard (Stacher 2002:428, 429, Utvik 2005:304).

Tagammu's Stance on Women

Amina Shafiq, a journalist in *al-Ahram,* from Tagammu, was among ten representatives appointed by President Mubarak to the 2010 assembly. Shafiq had been running for previous parliamentary elections, but was neither elected in 2000 nor in 2005. Presidential appointment to the upper and lower house of the Egyptian parliament has in general been disapproved of by the opposition. Emad Gad, political analyst at al-Ahram Center for Political and Strategic Studies, has argued that appointment of parliamentarians made them grateful to the Mubarak regime − which in turn is was keen on maintaining its interests and power monopoly in the People's Assembly (*Daily News Egypt*, December 2010). Nevertheless, for Tagammu's part the appointing of a female party member was of significance, given that all other opposition parties had non women represented in the parliament. All 64 women that entered parliament with the quota system in 2010 represented the then incumbent National Democratic Party.

Historically, female political activism has been an important aspect of Tagammu's political activities. In the 2010 parliamentary elections, 12 per cent of the party's running candidates were women. While in the municipal elections of 2008, 6 per cent of Tagammu's nominated candidates were women, more than any other opposition parties (the Egyptian Centre for Women's Rights, 2008). Political participation is both encouraged and supported by key figures within Tagammu, as stated by Rifat Said, the only way society will come to accept and grow accustomed to female participation is to include women in all aspects of the political life (Women Living under Muslim Law, 2005). In this respect, Tagammu clearly tries to distinguish itself from Muslim Brotherhood. Said has expressed aversion to any cooperation with the Brothers, claiming that its ideas on the establishment of a civil state and

the rights on women and Copts conflicts with Tagammu's political platform (Carnegie Endowment for International Peace, 2010).

According to its party program, Tagammu has reserved ten seats in the party's Central Committee for women belonging to the Progressive Women's Union (Mustafa 2005:24). Tagammu has also a female editor in chief of its mouthpiece, *Al-Ahaly*, Farida Naqqash. She is a key party figure that assumed the post in 2007, making her the first woman since Rose el-Yousef, the founder and co-editor of the independent newspaper *Rose el-Yousef*, to hold such an important position as chief editor.

Tagaummu's women federation, the Progressive Women's Union, was established in 1984 and is headed by Farida Naqqash. Laila Shall is the Union's General Secretary, while Fatiah al-Asal is the Assistant General Secretary. The Union seems better organised than women's unions of any the other opposition parties. There are three main entities in the Union: the highest authority is the General Conference, followed by the General Secretariat and the Central Secretariat. Union members that wish to be nominated to positions to the upper levels are required to be members of Tagammu. The Progressive Women's Union has branches in a number of governorates across Egypt, and it has four primary areas of work: citizenship law, law of associations, labour law and family laws.

In all these areas, the Union has with conjunction of Tagammu contributed to debates surrounding these laws, proposed amendments, carried out studies of their effects and, in some cases, provided legal advises. In particular, the Union has been involved in discussions on family laws, and was, as an example, vocal during the debate around the Jihan Laws, which is among the topics of the following chapter. Although the Union is firmly linked to Tagammu, it operates independently and is free from interference from the party.

Farida Naqqash, the head of the Union, shares many of the views of Tagammu's Chairman, Rifat Said, and expresses antipathy towards the Muslim Brotherhood and the Islamist ideology. She sees both the regime and the Brothers as obstacles to development in Egypt:

> "We must become society's third alternative, an alternative to the state and to the *Ikwan* [Muslim Brotherhood]. This means we need to provide a vision for renewing society." (*al-Ahram Weekly*, February 2007).

CHAPTER 5: THE SOURCE OF FAMILY LAWS

In order to establish a context for the analysis of the Muslim Brotherhood and Tagammu's attitudes towards *Sharia,* as a source of family law, this chapter will begin with an overview of the debates surrounding the Family laws in Egypt. Prior to the draft on family laws presented by the National Democratic Party in Marhc 2009, yet to be enacted, two previous reforms are of significance. First, the so-called Jihan laws issued in 1979 and, second, the law of *khul*, which was enacted in 2000.

The Debate on the Jihan Laws of 1979

In 1979 President Anwar al-Sadat issued a remarkable reform in laws concerning family matters, popularly referred as the "Jihan Laws". Sadat promulgated the law by a presidential decree and without presenting it to the Parliament for approval. As it indicates, the new law was named after Egypt's First Lady at that time, Jihan al-Sadat, who is said to have played an instrumental role behind its passing. This law made considerable changes in the personal status legislation, making it a substitute for the Personal Status Code of 1920/1929. The Code of 1920 (amended added in 1929) was the first officially adopted by the Egyptian legislative on family matters.

The Personal Status Code (Arabic *Qanun al-ahwal al-shakhsiyya*) is the one code derived from *Sharia*, while other religious communities have their own laws for personal matters founded on their respective beliefs (Bernard-Maugiron 2010: 28, 29). Upon issuing the Jihan Laws, heated debate erupted in public, and the laws were condemned by the general public and political actors irrespective of ideological orientation. Because of fierce opposition, the

Jihan the laws were ruled unconstitutional in 1985 by the Supreme Constitutional Court, which is provided with mandate to decide on constitutionality of legislation in Egypt.

In his article "Egypt's law of Personal Status" Fawzi Najjar (1988) elaborates on the discussion after the Jihan Laws had been passed. The provisions pertaining polygamy and matrimonial residence seems to have been the most controversial aspects, according to Najjar. According to the Jihan Laws, restrictions on the practice of polygamy were enforced by designating polygamy as harmful (Arabic *darar*), hence, enabling a wife to obtain court divorce if she alleged that her husband's second marriage was injurious to her. In addition, the laws granted divorced women with children the right to remain in the marital residence. Critics immediately deemed both clauses to contradict Islamic values. Since the reforms of Personal Status Code in the 1920s, this was the first time the practice of polygamy was to be restricted by law.

Over the course of time the polygamous marriages appear to have been a disputed issue in Egypt. Islamic reformist Muhammad Abduh, for instance, raised his outmost criticism against polygamy, and sought to find Quranic evidence in order to prohibit what he saw as public nuisance (Esposito and DeLong-Bass 2001:). Opponents of the Jihan Laws also took refuge in religious arguments when denouncing restriction of polygamy. As al-Sadat apparently foresaw the criticism of the Jihan Laws' religious foundation, he sought endorsement from various scholars in Islamic law (Arabic *ulama*) at the Islamic Research Academy prior to their passing. The Academy is a respected body that is regularly consulted on the matter of Islamic laws. Nevertheless, the veracity of the Islamic Research Academy was disputed by many amongst other the Muslim Brotherhood. Writing in the Islamist magazine *al-I'tisam*, members of the movement claimed that the *ulama* were only consulted after the law had been drawn up. The Brothers questioned why the Islamic scholars approved this law when several previous drafts were rejected on the basis of lacking religious base. It appears to be conflicting views

among the scholars as well. Amid the public debate on Jihan Laws' legitimacy, the Minister of Endowment at the time, *Shaykh* Abdul Monim Nimr, who was involved in endorsing the laws, claimed that "hands of the assembled *ulama* were forced, and that indeed several items of the law were contrary to *Sharia*" (Zubaida 2003: 171), suggesting that the endorsement of the Islamic Research Academy was not based on consensus of its *ulama*.

Apart from the substance of the law, which undoubtedly raised the ire of many, the mere fact that al-Sadat passed the law while parliament was in recession, caused discontent. Despite commitment to enhance Egyptian women's rights, including marital rights, Tagammu party's women federation, the Progressive Women's Union, campaigned for the annulment of the Jihan Laws. Nadje Ali (2001:74-75) observes that the Union did not oppose to "the actual substance of the issue, but a joint opposition against al-Sadat's general policies". The president's relation with Tagammu had been constrained over the past years because of the government's efforts to weaken the party's position in Egypt, leading to a breach of trust. His personal involvement in passing the laws was consequently deemed unpopular by Tagammu. Due to persistent opposition against the Jihan Laws, they were ruled unconstitutional by the Supreme Constitutional Court in 1985. Ensuing from the annulment, President Hosni Mubarak approved compiling of a new law of personal status, which was a revived version of the 1920/1929 laws. The new code removed a woman's controversial automatic right to divorce when her husband took a second wife. According to the new law, it was left in the hands of the judges to decide whether a woman should get a divorce.

The Jihan Laws seem not to have received adequate support from Egyptian society at large, arguably because the laws weakened men's traditional superiority over women. Two main reasons for opposition against the law become prevalent in the debate; absence of democratic process in the laws' passing and its inconsistency with *Sharia* – the latter argument appears to have been used by various political factions. Even among the judiciary resistance was

apparent. Prior to the Jihan Laws annulment in 1985, several judges refused to follow its provision, claiming it ran counter to Islamic law. Those judges, whom restrained from enforcing the law, challenged it and appealed to the Supreme Constitutional Court to make the Jihan laws' invalid. What is interesting is that the Court's decision was not based on observations that the law departed from *Sharia*, but rather due to procedural irregularities. It declared that personal status was not a matter of national urgency, concluding that al-Sadat's act of invoking emergency powers and bypassing the parliament was indecorous (Zubaida 2003:171, Sonneveld 2009:33, al-Araqchi 2003:130).

The Debate on the Law of *Khul* of 2000

On 29 January 2000 – fifteen years after the adoption of a new Personal Status Code of 1985 – President Mubarak announced "the Law on Reorganisation of Certain Terms on Procedure of Litigation in Personal Status Matters" to be issued. As the name suggests, the law aimed at modifying and facilitating litigation in matters of personal status such as divorce disputes. Because of immense attention on one of its articles, Article 20, which enabled a woman to obtain divorce by court order without her husband's consent conditioned that she pays back her dowry (Arabic *mahr*) and relinquishing all financial rights – the law was immediately dubbed the "*khul* law". Only three Muslim countries – Turkey, Tunisia and Pakistan – had preceded Egypt in granting women the right to initiate divorce (Arabic *khul*). The paradigm for divorce in Egypt, had, until now, been the husband's unconditioned right to divorce (Arabic *talaq*) – and not the right of the wife as *khul* opened for. Akin to the Jihan laws, *khul*'s religious basis and the approval of the religious establishment was vigorously debated in parliament, press and the general public.

The *khul* law was based on a narration of the Prophet Muhammad (Arabic *hadith*), which concerned the wife of Ibn Qays, Habiba. According to the narration, Habiba visited the

Prophet to inform him that she could not bear to live with her husband in marriage. Upon addressing the Prophet, she was released from her matrimony on the condition that she returned the garden – the bride wealth given by Ibn Qays (*al-Ahram Weekly*, 13/19.01.00, Abdel Fadil:). According to Islamic jurisprudence, *hadith* is regarded valuable source of legislation – given that its authenticity of transmission is identified. If a *hadith* does not meet the criteria of validity, it may not serve as source of law.

The Discussion on *Khul* in the People's Assembly

According to standard procedure the draft was first presented to the Shura Council, which approved it by a majority after it managed to resolve its disagreements. When voting for the new bill in the lower house, the People's Assembly, contentious debate occurred between the representatives. Major oppositional parties that constituted the assembly at the time was Wafd – with opposition majority, followed by Tagammu and the Nasserties; while Ahrar and Amal – affiliated with the Muslim Brothers – had only one representative each. Wafd and Amal dissented immediately after the law was presented. Tagammu and the Nasserites ultimately supported the bill but remained silent amid discussions in parliament. Interestingly, resistance was not restricted to oppositional parties. Prominent figures within the National Democratic Party which participated in preparing and presenting the bill were divided on the issue as well. Deputies representing the ruling party opposed the *Khul* Law and called for amendment of the clause in order to comply with juristic consensus which according to them implied not overruling a husband's consent. Essam Fawzy notes (2004: 65) that the National Democratic Party representatives probably had political calculations to take in consideration as the upcoming parliamentary elections were close.

Amongst oppositional forces the most vocal resistance against *khul* was mounted by Wafd. The Party Chairman, Yassin Serag al-Din, insisted that giving a woman the right to divorce

without the consent of her husband was a violation of the *Sharia* (Fawzy ibid:66). Yassin Serag al-Din thus contested the legitimacy of Egypt's supreme religious leader, the Grand *Shaykh* of al-Azhar, arguing that he lacked full consensus of al-Azhar's *ulama.* Other oppositional parliamentarians seconded Yassin Serag al-Din. Affirming that *khul* was against Islamic values, Amal's sole representative vehemently objected the law. To grant a wife's divorce merely because she dislikes her husband, as he claimed, was not valid ground for divorce. During another parliamentary session, representative of Ahrar, Ragab Hamida, cautioned against sacrificing men's supremacy in favour of the principle of equality. Hamida, like Yassin Serag al-Din, asserted that a husband's consent is a prerequisite for validating divorce by *khul*. Responding to these claims, the Minister of Justice, referring to the *hadith,* rhetorically asked why Ibn Qay's wife, Habiba, went to see the Prophet asking for divorce if both spouses consent was a requirement. The minister argued that Habiba approached the Prophet because he possessed formal judicial authority to dissolve a marriage (Fawzy 2004: 150,151, Sonneveld 2009), implying that the court was entitled to grant a woman divorce without her husband's consent. As the discussions in parliament uncovers, opponents feared that men's supremacy in marital relations was being undermined by the right to *khul*. More importantly, they claimed that favouring women in divorce matters lacked religious sanctions. Like in the case of the Jihan Laws, male supremacy as a God-given right in marital relations was upheld by the opponent of the *Khul* Law.

It is interesting to note that female parliamentarians did not make their voice heard, although the law empowered women. In the assembly of 2000, 11 representatives were women, yet, only Fayda Kamel from the National Democratic Party defended the bill, reminding her counterparts about the vital role of women in Islam (Fawzy 2004:67, Mustafa 2005:23, Singerman 2005:177-178). Due to opposition in parliament the People's Assembly passed a compromised version of the draft bill. It still allowed women to file for *khul* divorce, under

the condition of 60 days of mediation. In other words mandatory reconciliation between the spouses before a woman could seek divorce. She was entitled to divorce only if reconciliation attempts failed.

Public Debates on *Khul* – Resonating the Discussion in the People's Assembly

The media hype surrounding *khul*, revealed the same fears as those expressed in parliament. In her analysis of the debate of the controversial law in Egyptian media, Mariz Tadros (2003:75-85) identifies a range of arguments made by its critics. Predominantly, the question was whether *khul* divorce was compatible with *Sharia* or not. Prior to presenting the bill in parliament, President Mubarak had explicitly stated on the front page of the *al-Ahram Weekly* (Tadros 2003) that the new Personal Status Laws was in conformity with Islamic rules. Nevertheless, massive campaigns were launched by different party mouthpieces, casting doubt on the *Khul* Law's religious basis.

As reflected in the media, the *hadith* prompted by Ibn Qays's wife, Habiba, appears to be the core religious reference in the public debate. Supporters upheld this *hadith* as a manifestation of a woman's right to dissolve an unhappy marriage. As legislation of 1920/1929 provided limited access for women to obtain divorce, the *khul* was considered a saviour by many. Contesting this, opponents argued that the above interpretation of the *hadith* was based on false premises and immediately questioned its authenticity. Also scholars entered the debate, amongst other Yehya Halboush, an Islamic scholar, contended that *khul* was only granted in one case, which was the case of Habiba, and should therefore not be taken as a rule, but rather as an example of exception (*al-Ahram Weekly*, 20/26.01.00).

According to Tadros (2003), generally when covering *khul* divorce, the press frequently spoke in terms of the family rather addressing the issue of women's rights. As a result *khul* was not

depicted as a woman's right to dissolve an unhappy marriage, but rather as an opportunity to cause family destruction. Perhaps more importantly, opponents claimed that granting women an equal opportunity, or almost an equal opportunity, to divorce would disrupt traditional gender roles within the Egyptian family. In its 29 January 2000 edition (cited in Tadros 2003), Wafd's newspaper wrote that "application of *khul* is a violation of human rights because it represents a violation of family privacy and challenged men's authority and hegemony in the family". It was obvious that male superior standing within a home, which *khul* according to them threatened, was not be compromised.

Most of the media disseminating these views served to give a political dimension to the law, whereby globalisation and the negative impact of the West and Zionism was assigned important roles. Party papers such as *al-Shab* and *al-Ahrar* claimed that reforms of the family law were a Western and Zionist conspiracy. Magdy Hussein, Amal member and chief editor of the party's mouthpiece, *al-Shab*, stated that *khul* would "destroy the Oriental Islamic society, based on the integral unity of the family" (cited in Tadros 2003). The newspaper further highlighted this view in another article stating "it is obvious their [Western and Zionist] guilty hands worked to revive this proposal in order to damage the Egyptian family" (cited in Tadros 2003). By portraying *khul* as alien – a product of the West – thus far hostile to Egyptian values, opponents managed to claim themselves as true defenders of the "true" values of the Egyptian society. Simultaneously, supporters were portrayed as submitting to Western values.

The Muslim Brotherhood Defends Hegemony

Because of its religious foundation the Muslim Brotherhood cannot repudiate the *Shaira* any more than a religious group disowns its roots. Brothers – regardless of factional belonging – defend the fact that laws should be based on, or, at minimum, have a reference to Islam. The question is rather *how* the movement defines *Sharia* as various interpretations have become apparent within the group. In general, deputies of the movement are vague when asked for specifics on how they would legislate Islamic law if given the opportunity. A paper written by Carnegie Endowment in 2007 emphasised that Islamic law is one of the "gray zones" that the Brotherhood needs to clarify (Brown, Hamzawy and Ottawy 2007:6-7). Many deputies in recent years have in their statements deemphasised the importance of implementing *Sharia*, and instead highlighted the general goals of *Sharia* (Arabic *maqasid al-sharia*). Carnegie questions how the Brothers in real life will derive laws on these "general goals".

Sharia as the Core of Family Laws

As mentioned in the introduction, the family law is commonly seen as an ideological "battleground" between religious and secular political actors. By virtue of being an Islamist organisation, it stands beyond any doubt that the Brotherhood will defend *Sharia* as the source of family law. But how does it defend this hegemony?

Although Brothers defend the fact that laws should be based on Islam, there seems not to be a coherent understanding of *Sharia* among the Brothers – even in matters concerning family laws. When the new Child Law, a government initiative to bring Egyptian law in line with international standards, was passed in June 2008, head of the Brothers' parliamentary bloc at

the time, Saad al-Katatny opposed the law. Al-Katatny stated that that his movement did not denounced the law as whole, but rather "provision that run counter to the norms, customs and nature of the Egyptian people" (*The Christian Science Monitor*, 24 July 2008). He took issue with several of the proposed articles including prohibiting trial of children as adults, permitting birth certificates for the children of unwed mothers, restricting corporal punishment, raising the marriage age for females to 18 years, and reinforcing a standing ban on female circumcision. Several aspects of the new Child Law affect women's rights, including the rights of women giving birth to children outside marriage, marriage age of female and the restriction on female circumcision, which appeared to be the most controversial issue.

The Brotherhoods efforts to change the clause proved in vain, as the draft of the new Child Law was passed without modification. Al-Katatny, belonging to the conservative wing of the Muslim Brotherhood, protested strongly against the provision enabling unwed mothers to pass their family names to their children – claiming that this was a symptom of Westernisation in Egypt. In similar vein, he asserted that conditioning marriage age to 18 – until the law marriage age for female was 16 whilst for males 18 – did not reflect what he claimed being Egyptian norms. With regard to female circumcision, al-Katatny stated that the Brotherhood was opposed to this practice. However, opposed a ban because it was "a tradition that should remain an option for medical reasons and "beautification" purposes" (*The Christian Science Monitor*, ibid). In other word, unable to find support in Islamic principles, al-Katatny defended his position by referring to "social practice" in Egypt.

The issue of female circumcision has been debated for years in Egypt. Female circumcision is widely practiced in various social classes. According to a 2005 study conducted by UNICEF, as many as 96 percent of women between the ages of 15 to 49 who had been married were circumcised. After a girl died during a procedure in 2007, a ban was immediately enforced.

Despite legal prohibition and issuing of a religious decree (Arabic *fatwa*) against female circumcision by Grand *Mufti* Ali Gomaa, the head of Dar al-Ifta, it continues to be widespread phenomenon. The governmental institution of Dar al-Ifta issues *fatwas* on social and political subjects of concern in Egypt.

By contrast, Abdul Moenim Abu-l-Futuh, belonging to the reformist faction of the Brotherhood, voiced criticism against the practice of female circumcision, describing it as a "merely social habit that contradicts with Islamic moral". In his view the practice is not rooted in Islam, but rather entrenched in Egyptian custom. From both a medical point and religious view he supported penalising any practice of any bodily abuse, upholding that "we embrace the tolerant religion of Islam which gives sanctity to the human body and forbids any assault on it" (*Ikhwanweb*, June 2008). While al-Katatny on this issue defended Egyptian cultural praxis regardless of whether these are in line with Islam, Abu-l-Futuh made a clear distinction between such customs and Islam and rejected female circumcision on this basis.

Sharia as a Civil System

In his book *The Social Contract*, Jean-Jacques Rousseau carries out an historical analysis on development of the relation between religion and government. Here, Rousseau coins the term "civil religion" which he defines as the moral and spiritual foundation essential for any society. For Rousseau, civil religion was intended simply as a form of social cement, contributing to consolidate the state by providing it with sacred authority. He outlines what he consider as universal dogmas of sacred authority and what he believes every government is entitled to maintain. These tenets include belief in deity, afterlife where reward of virtue and punishment of vice is granted and exclusion of religious intolerance. Because main authority – upholding the basic guidelines – rest with the government, all citizens should pledge allegiance to the state religion. However, Rousseau underlined that the government's

obligation does not encompass the individuals' own religious opinion. In other words, he affirmed religious freedom of all citizens – given that people's opinion does not affect the well being of others – should be *beyond the reach governments*.

According to Abdul Munim Abu-l-Futuh, "Islam is a faith (Arabic *aqida*) while *Sharia* is a civil system that people can apply" (interview, October 2007). Precisely what he means by "civil system" is somewhat unclear; however, it is plausible to interpret it in line with Rousseau's understanding, in other words that neither government nor religious bodies should have monopoly on religious interpretations. For instance, Abu-l-Futuh renounces concentration of power to a supreme authority as it within the Shia Islam. In his own words:

> "In Shia Islam, there is the conception of *marja faqih* [supreme jurist] who gives orders no one can disobey. But in Sunni Islam no one can give such orders to others. Yes, we respect our values our Islam but there is no Ayatollah in Sunni [Islam]. Nobody controls your activities, your work and your ideas *except Allah*" (interview, ibid)

Moreover, Abu-l-Futuh advocates the view that religious interpretations should be open for all believers, and not be constrained exclusively to the *ulama.* This position became evident when he raised criticism against the establishment of a religious council proposed by the Muslim Brotherhood. The draft party program of 2007 suggested the creation of a religious council. This document proposed the formation of a council, elected by religious scholars, to serve as an advisory body to the legislative and executive branches in matters of religious law in Egypt. According to Nathan J. Brown and Amr Hamzawy, such a council would have a role extending beyond consultations, as its recommendations on legislative and executive acts probably would be binding – in matters in which the council felt that the *Sharia* rules were definite and not subject to divergent interpretation (Brown and Hamzawy 2008:4).

The release of the party document triggered disagreement and tense debate among the Brothers. Members, who opposed the formation of such a religious council, claimed that "the proposed body of religious scholars was based on an illegitimate privileging of some interpretation of *Sharia* over others", and not reflecting any established Brotherhood position (Brown and Hamzawy: ibid). This stance was voiced primarily by members belonging to the reformist faction within in the movement – including Abu-l-Futuh – who opposed constraining interpretation of religious law to a body comprising of religious leaders, *ulama.* Efforts to clarify the function of the council were made by the leadership of the Muslim Brotherhood. Former General Guide, Mahdi Akef, and Deputy Guide, Muhammad Habib, explained that the religious council would not replace the existing religious authority – the state-appointed head of al-Azhar. But they emphasised that al-Azhar's leader, the supreme authority in questions of Islamic law, should be the selected by the religious council, rather than appointed by the state. This was to ensure al-Azhar's independence, and protect the institution from governmental intervention. Al-Azhar was placed under the supervision of state in 1961, which entails state appointment of the Grand Shaykh of al-Azhar. Due to this relationship, al-Azhar has over the course of times provided political veneer to the policies of Nasser, Sadat and until recently Mubarak (Zubaida 2003:163). In the process of providing religious legitimacy to state policies, the religious establishment have over the years disseminated a "governmental-Islam", in order to encounter the Islamists. Al-Azhar has therefore continuously issued rulings confronting the Brotherhood's interpretation of Islam.

Amidst previous debates on family law, the Muslim Brothers opposed and questioned al-Azhar's credibility. Their representatives in the parliament even suggested laws to reform the institutional framework of al-Azhar. On several occasion during the 2000–2005 assembly, member of the Brotherhood's parliamentary bloc, Ali Laban, brought forward a draft to amend the law of 1961, stating that al-Azhars's Grand *Shaykh* should be popularly elected

rather than appointed by the government (Brown and Hamzawy 2010:). In the aftermath of the 2011 revolution, reconciliation efforts between al-Azhar and the Brotherhood seems to have taken place. For the first time in history, al-Azhar held meeting with members of the Brotherhood (*Ikhwanweb*, 3 May 2011).

Given that *Sharia* is a civil system applicable for human, as Abu-l-Futuh proposes, this suggests that interpretation should meet the needs and expectation of the civic community – at any given time. In this regard the divine legislation is subject to constant change. This statement suggests that the necessity of interpretation should comply with current time. Hence, like the Islamist reformist of the early 19th century, Abu-l-Futuh is committed to the practice of independent reading of *Sharia*, namely *ijtihad.* Giving reference to Muslim scholars he asserts that:

> "the perfection of religion includes allowing *mankind to practice ijtihad, creativity and research in his life affairs*. Results of this research and creativity are actually arrangements and actions that organise lives of mankind as individuals and societies. Though all these arrangements are worldly, they pertain to religion also in the general meaning" (*Ikhwanweb*, 2008).

Wasat Advocates *Ijtihad,* but Defends Hegemony

Abdul Moneim Abu-l-Futuh's stance on *ijtihad* is maintained by his counterparts in Wasat. According the Abu Ila Madi, the head of the party, "reading of religios texts should be done through the application of *ijtihad* in order to hinder that laws are biased against women" (interview, November 2007. As an example he refers to *khul* divorce as "an act of *ijtihad*". While almost all previous family laws were based on the teaching of Islamic law schools, the *Khul* Law was based on the *hadith* of Habiba. In the passing of this law the principle of *ijtihad* was applied.

Because *ijtihad* has not commonly been used, according to Madi, the reading of *Sharia* has been rigid, resulting in inequality in personal laws – favouring men. He blames the religious establishment for approving such laws. Al-Azhar constitutes what he calls "conservative thinking", and upholds that the establishment needs to develop in concurrence with changing times (interview, November 2007).

In order to improve women's legal rights, Madi argues that al-Azhar should be freed from political directions. Only when entirely separated form the government, he believes that the religious establishment can develop reading of the Islamic scriptures that adhere to current times. To ensure al-Azhar's independence is therefore a political priority for the Wasat, as clearly expressed in the party program of 2004.

> "working towards making al-Azhar independent financially and administratively from the state bureaucracy, reforming it, and supporting its role in presenting moderate thought – all in order to secure al-Azhar's ability to undertake the tasks specific to it namely; advocacy, guidance and education at national, regional and international level" (Wasat Party Program 2004:9).

Madi argues furthermore that "we need to gradually change the mindset of the judiciary", as he claims that many judges deliberately read laws through the lens of custom (interview, November 2007). Tahany Gabali, the first women to assume the position as judge in Egypt verifies Madi's assertions. The judiciary was, according to Gabali, unconvinced and hesitant to apply the law of *khul* (Tadros 2003:38). Several judges refused to apply the new law because they did not consider it legitimate. These attitudes are reflected in the length of time *khul* cases take, as well as the content of court decisions. Similar was evident after the introduction of the Jihan Laws, which the judges resisted to follow. They considered the law unconstitutional, because it violated the *Sharia* (Sonneveld 2009:33).

In addition to changing the mindset of the judiciary, Madi argues, the judiciary needs to be independent from the government as the government passes family laws that are biased against women,. This view is stated in the party program of Wasat:

> "the judiciary complete independent of the executive branch of the government as affirmed by general assemblies of judges and their many public statements so that no authority except the Supreme Judicial Council would have any authority over any post in the judiciary – be it terms of appointing judges, or transferring them to other posts or appointing them to administrative posts – and securing the financial independence to the judiciary by including its as lump sum in the state budget" (Wasat Party Program, ibid).

In other words, Madi consider the independence of al-Azhar and the judiciary as a prerequisite for a more liberal interpretation of *Sharia*. Given reforms of these two powers, Madi believes that family laws will have a positive development which will grant women equal legal rights. Although Madi advocates new and more liberal interpretations through the application of *ijtihad*, he affirms that all laws concerning family matters should be "within the

Islamic framework" (interview, November 2007). Thus, he defends the hegemony – which is that *Sharia* should remain the main source of family laws.

Tagammu Contesting Hegemony?

As we have seen, Egyptian religious parties defend hegemony by preserving *Sharia*. But to what extent do secular parties challenge hegemony by attempting to remove *Sharia* as a source, thus create family laws that are based on secular principles? This question brings us back to Tagammu.

Condoning Patriarchy

Farida Naqqash, Head of Tagammu's Progressive Women's Union and Chief Editor of the party paper *al-Ahaly*, claims that the Muslim world is not developing alongside modern times. This is, according to her, reflected in family laws which is based on "reactionary and anti-modernist interpretation" of religious texts – a reading perpetuated by Islamists in Egypt (interview, November 2007). Victims of such readings are women. As long as Islamists persist on their advocacy, the reading will remain reactionary, Naqqash states. Due to Tagammu's call for separation of state and religion, her antagonism towards the Brotherhood is not unexpected. What is interesting is that Naqqash upholds current interpretation of *Sharia* as an impediment to development, not *Sharia* as such. As she purports, "it is not exclusively matter of *Sharia* but the patriarchal thinking, which is keen to control women" (interview, November 2007). Along the same line, Najwa Ibrahim, another member of Progressive Women's Union, highlights that family laws are discriminatory towards women:

"as a direct result of the culture in society that is patriarchal in nature, as well as the pressure exerted by backward religious institutions, which preach that a man is superior to a woman" (cited in *Masriyya Magazine*, July 2006: 20).

Both Ibrahim and Naqqash agree that reading of Islamic law by the religious establishment reinforce patriarchy, which is the root of women's inferior status in society. The lack of significant reforms in personal laws since the 1920s, and considerable resistance against attempts to change these laws, reveals that the bastion of patriarchy is manifested in family laws.

In Naqqash's view, many Muslim jurists literally read the law through the lenses of Quranic Verse 38 of Chapter 4, stating that "men are providers of women" (Arabic *al-rijal qawwamun ala al-nisa*) (interview, November 2007). The concept of *qiwwama* – traditionally understood as a husband's financial mandate and guardianship over his wife – being institutionalised in family laws, is often aired in the debates. Men's privileges in marriage are manifested in laws through the provision of "house of obedience" (Arabic *bayt al-ta'a*). According to this provision, a husband is financially obligated to provide for his spouse whether in relation to the dowry (Arabic *mahr*) or maintenance (Arabic *nafaqa*). In return, the wife must be obedient to her husband (Sonbol 2009). In Egypt this ordain was enacted in the Personal Status Code of 1920, and has remained a part of the law ever since, with the exemption of the Jihan Laws that formally abolished *bayt al-ta'a*. The draft law on family matters presented by the National Democratic Party in 2009, has proposed for reconceptualising the ordain *bayt al-ta'a* and emphasised equal partnership of spouses.

By virtue of being a Marxist leaning party, Tagammu looks at the laws from a materialistic, or economic, point of view. According to Marxist theory, women's oppression rests on the sexual division of labour and the mode of production. With the onset of class society,

production shifted away from the household – the working domain primarily of women – no longer served as anything but a reproductive function. In this way households become economic units of consumption, thus women were cut off from production. The loss over the means of production is equivalent to loss of power. In line with Marxist belief, Naqqash proposes that women working within households should be recognised as productive labour. Through such recognition, she believes, the idea of "men pay and women obey", which entrenches the family laws, will be undermined (interview, November 2007). This will contribute to balancing the scale between husband and wife.

Promoting Progressive Interpretation

Naqqash stresses that there are interpretations of *Sharia* in other Muslim countries that are more progressive, and that treats women on equal footing with men. In this respect, she gives attention to Tunisian family laws, which remains a model among feminists in the Arab states in terms of women's emancipation. In 1956 Tunisian legislators gave women equal marital rights. These laws were enacted by President Habib Bourguiba soon after Tunisia attained independence from France. Tunisian family laws are in particular praised by feminists for formally abolishing polygamy, a male prerogative to take more than one wife, and Tunisia is until present the only Arab country to prohibit this practice. Giving reference to the liberal Tunisian laws, still derived by Islamic jurisprudence, Naqqash suggests that is it not the *Sharia* as such that discriminates against women, but rather the patriarchal reading of the religious texts.

As mentioned above, Tagummu supported the annulment of the Jihan Laws, due to President al-Sadat's personal and undemocratic involvement in passing the laws. However, internal debates on the Jihan Laws' religious foundations appeared in the party, which is interesting to note. Tagammu member Khalil Abdel Karmin Nasser, as an example, referred to religious

rulings to support the laws. In the Progressive Women Union's magazine, *al-Mara al-Munadila*, Nasser addressed the most controversial provisions of the new law – restriction on polygamy and matrimonial residence.

In order to build support for the Jihan Laws' restrictions in polygamy, Nasser referred to the Personal Status Code of 1920/1929 permitting a wife to seek irrevocable divorce if she could prove that her husband had caused her harm, *darar*, while citing the former Grand *Shaykh* of al-Azhar, Abdel Rahman Taj, who defined *darar* as "cursing, condemnation and hitting as well as other forms of inflicted harm". Nasser furthermore referred to a survey on court verdicts conducted by him. According to his survey the courts have granted women divorce in cases of physical or mental offence, and insult of the wife or her family members. On the basis of these references, Nasser argued that taking a second wife ought to be juxtaposed with harm because polygamous marriage was an offence against the first wife's integrity.

In similar vein, Nasser resorted to a religious ruling of 1903 issued by then Grand *Shaykh* of al-Azhar, Mohammad Ambabi, on the matter of marital residence. This ruling granted a wife exclusive right to the marital home – regardless if the dwelling was rented or owned by the husband – after divorce. She could remain in the marital residence during the entire period of custody, or until she remarried, unless the husband provided her with another residence. Mothers ought to be entitled to residence in addition to alimony, Nasser argued, while supporting his argument with reference to a verdict on the Personal Status issued in 1926 by Judge Mohammad Zakaria Bardissi, which stated that a child's home should be provided by the party responsible for child support, namely the father.

By referring to these religious rulings, Nasser asserted that both provision of the Jihan Laws were in accordance with *Sharia*. On the contrary, secretary of Tagammu's political committed, Mohammed Ahmad Khalaf Allah, is cited in the same issue of the magazine *al-*

Mara al-munadila, attacking the same two regulations of the Jihan Laws on religious basis. Interestingly, Khalaf Allah argued that the existing provisions already "represents the spirit of *Sharia* – and is a true expression of Islamic thought regarding matrimonial affairs". Further legal reforms were therefore unnecessary, from his point of view. Given that Nasser and Khalaf Allah both represented Tagmmu, it is noteworthy that both referred to *Sharia* to support their conflicting arguments. By doing so, they implicitly accepted the hegemony defended by the Muslim Brothers.

Khul a Progressive Reform – With Limitations

As mentioned, Naqqash and her fellow party members seem to support the idea of progressive interpretation of *Sharia*. She refers to the right to *khul* as a progressive step towards securing women equal marital rights. Even though Tagammu was silent during the sessions, as mentioned previously, it officially declared its support for the *Khul* Law. In its mouthpiece, *al-Ahaly*, party members expressed that their support was based on the opinion of the Islamic Research Academy, which by majority voted in favour of *khul*. The scholars of the Academy backed the endorsement of head of al-Azhar at the time, Grand *Shaykh* Mohammed Sayyed Tantawi, who affirmed that the law "complied fully with *Sharia*". Furthermore, Tagammu stressed that the party considered the new *Khul* Law was promising for women's rights, and was accordance with "logic and spirit of the age" (Tadros 2000:).

While Naqqash supports women's right to file for *khul* divorce, she a the same time share the concerns aired by many other women and human rights activists in Egypt. Women activist warned that the *Khul* Law was unjust in the sense that woman were forced to renounce one legal right, the financial, in order to obtain another, the right to divorce. Due to this fact, critics to date argue that *khul* would be limited to women with significant financial resources, while poor women would most likely face difficulties meeting this requirement (Welchman

2007:115). This dilemma is highlighted in a study conducted by the Progressive Women's Union, and presented by Ejlal Abduh:

"Society considers *khul* to be viable substitute for divorce – that is a woman's rights; thus, it is considered to be her saviour [from an unhappy marriage] However, such right fall short of being comprehensive as it grants women their freedom but, deprives them from their financial rights. This is why it remains highly important update the Personal Status law as change take place in society. Moreover, Egypt is committed to all international agreements that have underlined the severity of problems women face, especially after Cairo signed the Convention on the Elimination of all forms of Discrimination against Women" (*Masriyya Magazine*, 2006).

By upholding *khul* as an act of progressive interpretation, Naqqah does not contest hegemony, at least not entirely. What is clear is that Naqqash would not entrust interpretation of Islamic law to the Islamist faction in Egypt – the Muslim Brotherhood. Naqqash supports progressive interpretation of *Sharia* in family laws, but to her it is essential that this interpretation does not contradict international human rights, such as the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).

The Convention on the Elimination of all forms of Discrimination against Women – A New Term of Legal Reference?

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is an international convention adopted in 1979 by the United Nations General Assembly. Egypt ratified the Convention, with four reservations, in 1981 under the presidency of al-Sadat. Egypt reserved itself from the following articles of CEDAW: Article 2, articulating the state parties commitment to eradicate discrimination against women in all forms; Article 9, paragraph 2, delineating women's equal right with men with respect to the nationality of their children; Article 16, containing provisions to combat discrimination in matters relating to marriage and family; and, finally, Article 29, paragraph 2, which states that the state parties may declare that they do not consider themselves bound by paragraph 1 of this article, concerning the submittal of any dispute between state parties on the interpretation or application of the Convention to arbitration (Hellum 1999:1-7).

On Article 16, providing equal rights in marriage and family, Egyptian government expressly stated that this article contradicts *Sharia*:

> "Egypt holds that this is subject [family matter] to the rights granted by Islamic *Sharia* to the wife corresponding to those granted to the husband, and which provide for fair equality between them. This is in observance of the sanctity of the marriage relationship in Egypt, which is derived from solid religious faith, which may not be infringed upon" (NCHR report 2004/2005).

In general there exists antagonism towards international conventions – by various factions in Egypt – often perceived as alien to Egyptian culture and social values. When Egypt hosted the

United Nations International Conference on Population and Development in 1994, virulent campaigns both by Islamists as well as others were mounted. Hosting of this conference addressing women's issues was accused of providing backdrop for the *Khul* Law which was presented five years later in 1999. Amid the *khul* debate, Wafd, for instance, maintained that the new law will lead to the destruction of the Egyptian family as a social entity (*al-Wafd*, 23 January 2000, cited in Tadros 2003:76). Opposition against international conventions in the general public explains the very limited focus on Egypt's obligations to CEDWA in the public debates over family laws.

In recent years however, a number of feminists and human rights organisation have started to call for family laws to be in line with the international conventions Egypt has signed. All states which have ratified the CEDAW submit every fifth year a report on the status of women's right to the committee of CEDAW. In addition the official reports, the shadow reports are often submitted by civil society groups.[2] According to the shadow report of 2009, presented by the Coalition on Women's Status in Egypt, various aspects of the current family laws conflict with the CEDAW (Shadow report 2009).

The Muslim Brotherhood is reluctant to the ideas embedded in the CEDAW. Though Abdul Moneim Abu-l-Futuh believes that "*Sharia* and international human rights conventions are more or less compatible" (interview, October 2007), he contends that these treaties reflects Western values – which should not be imposed on Egypt. For his part, giving precedence to international conventions seems to be equivalent with embracing of Western ideas. The Brotherhood's view on the Convention is interconnected with their gender politics and their

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[2] The Coalition comprises of a number of NGOs, was established in 1997 with the purpose of making assessments of the government's progress in implementing the CEDAW in Egypt and enhances equality between men and women. The shadow report of 2009 is the second submitted by the Coalition.

general ideological stance. As the movement seeks to position itself as defender of the Egyptian family, it rather believes that the cause of women's rights should be pursued by reviving Islamic thoughts and promoting new interpretations of *Sharia*.

Similar views are to be observed by Islamist trends elsewhere. In her study dealing with Jordanian Muslim Brotherhood's reception of CEDAW before it was officially ratified in August 2007, Anne Sofie Roald (2009) suggests that Islamists in Jordan had a negative attitude towards "Western imported conventions". What is interesting is that such views were not restricted to male members of the Jordanian Muslim Brotherhood. Hayat Masimi, the Brothers only female Member of Parliament in 2007 – expressed anxiety over adhering to rules embedded in CEDAW.

Bushra Samny, the Egyptian Brotherhood's female candidate for the 2010 parliamentary elections, stated in an interview with the independent newspaper *AlMasry AlYoum* that she was against international conventions, including CEDAW, because they threaten the unity of the Muslim Family. Besides, she argued: "Egypt does not need to import western concepts to address our [gender] concerns. By adopting an Islamic approach, we can have more appealing solutions to address women's problems" (*AlMasry AlYoum*, November 2010). Such statements suggest that Islamists, male and female alike, believe that women's rights should be anchored in local values, that is Islam, rather being based on what they sees as Western import.

By contrast, Naqqash, as a defender of CEDAW dismisses that CEDAW is a Western import (interview, November 2007). Referring to Aziza Hussein, the Arab delegate to the UN Commission on the Status of Women, she argues that Egyptian values were taken into consideration when CEDAW was drafted. Aziza Hussein was appointed to the Commission on the Status of Women in 1962 and contributed in the drafting of CEDAW. For this reason,

Naqqash argues that Islamic values were secured and taken into consideration when the Convention was being adopted. In order to secure egalitarian family laws, Naqqash believes that the CEDAW should be given precedence (interview, November 2007). Although Naqqash assigns such importance to the Convention as a source for family laws, she still recognises the importance of progressive interpretation of *Sharia*. Hence, she only challenges the hegemony of *Sharia* as the source of family laws to a certain degree.

CHAPTER 6: CONCLUSION

At a first glance one is inclined to believe that Islamist and secularist constitute binary oppositions, and will therefore be unable to find a common ground, in particular in the question of *Sharia* as source of law. As these two trends are placed on the opposite side of the ideological spectrum in Egyptian politics, with the Muslim Brotherhood defending Islamic law as the foundation of the state and Tagammu advocating entire separation of religion and state. The aim of this study was to question this notion. By defining *Sharia* as the hegemony, my study investigated how the Brothers defend the application of *Sharia* and whether Tagammu challenges this hegemony.

As the study shows, the Brotherhood and Tagammu are not that far distant from each other regarding the question of what should be the source of family laws. The analysis shows that differing interpretation of *Sharia* is evident among the Brothers. There is a conservative and a more liberal understanding of how to apply Islamic laws. The latter is promoted by the reformist faction of the movement, which emphasises the principle of *ijtihad* as a tool of interpretation to ensure women equal marital rights.

On the other hand, Tagammu seems slightly to drift away from its secular belief, and favours progressive reading of *Sharia* as a source of family laws. The party uphold that the root of gender biased family laws is not *Sharia* as such, but rather the patriarchal reading of it.

It is likely that the issues of women's rights and family laws might not be the first priority of the political parties in the post-revolutionary Egypt. However, given that the transition from the authoritarian regime of Mubarak to a democratic regime succeeds, these issues will sooner or later gain priority on the political agenda. It is plausible to assume that *Sharia* will remain hegemonic, due to the fact that Tagammu seems less willing to challenge this hegemony. For

this reason, Islamists and secularist might also be able to cooperate on these issues – as long as a progressive and liberal interpretation of *Sharia* is implemented. As this analysis shows, such an approach is promoted by factions within both the Brotherhood and Tagammu.

APPENDIX: INTERVIEWS

Interviews were conducted in Egypt during two periods, in April 2007 and from September to November 2007.

The Muslim Brotherhood

Makaram Eddery – Professor of Literature, al-Azhar University, November 2007.

Abdul Moneim Abu-l-Futuh – General Secretary of Arab Medical Union, October 2007.

Wasat

Abu Ila Madi – Head of Wasat, October 2007.

Tagammu

Farida Naqqash – Chief Editor, Tagammu Party's mouthpiece *al-Ahaly* and Head of the Women's Federation, November 2007.

Representative of Tagammu, October 2007 – the representative asked not to be named.

Representatives of the Progressive Women's Union, November 2007.

Other

Kavita Kapur – the Egyptian Centre for Women's Rights, April 2007.

Representatives of the Center for Egyptian Women's Legal Assistance, April 2007.

Representatives of the Arab Human Rights Legal Assistance, April 2007.

Representatives of the United Nations Development Fund, April 2007.

Representative of the National Council for Women, April 2007.

Representatives of the General Department of Women's Affairs, Ministry of Social Affairs, October 2007 – the representatives asked not to be named.

Ehab Kohly – head of Ghad, November 2007.

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