Women's Rights after the Arab Spring:

Buds without Flowers?

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Cambridge
Scholars
Publishing

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This book first published 2019

Cambridge Scholars Publishing

Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

ISBN (10): 1-5275-3870-2
ISBN (13): 978-1-5275-3870-2

To the women from the Middle East and North Africa,
to their courage and commitment

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INTRODUCTION

ARAB SPRING OR SPRING WITHOUT FLOWERS?

"Only when women achieve their rights can
we say that the "Arab Spring" has
commenced"
(Ebadi 2012).

Dalia Ziada, executive director of the Ibn Khaldun Centre for Development Studies, raises the question: Can there be an Arab Spring without the 'flower of women's rights'? (Ziada 2013).

When protests erupted across the Middle East and North Africa, the general view was that these events would bring forward the regeneration of democracy. The Arab Spring was seen as a game-changer in the Arab world and, somehow, in the world in general. It was considered revolutionary, both as a political movement and as a renaissance in cultural and social values.

It was also meant to be the spring of women's fight for freedom and equality in the MENA area, because: "The solution to women's issues can only be achieved in a free and democratic society in which human energy is liberated, the energy of both women and men together. Our civilisation is called human civilization, and is not attributed only to men or women" (Karman 2011).

Unfortunately, as time passed and conflict and chaos ensued, it became clear that the process towards the social and political changes necessary to tackle female issues, would be a long one in many Arab Spring countries.

Two main issues are worth considering. The first one is the fact that MENA women's lives are generally represented as subject to several limits, due to Islamic theology and law. Women are perceived as wives and mothers, and gender segregation is customary, and sometimes legally required. Crucially though, Middle Eastern women are not only the passive victims of distorted development, they are also the makers of social change, especially in the new millennium.

In fact, women played a leading role in the mass demonstrations, constantly at the forefront of events, and sharing the universalism of the

demands and slogans of the protesters. They played a prominent role in all the uprisings, thus undermining those repressive measures aimed at contrasting strong female participation. As in Yemen, where President Saleh argued that *ikhtilat,* mixing of men and women, was un-Islamic, and protesters planned a march against Saleh's discrimination.

At the same time, their public presence and their activism made women particularly vulnerable to sexual and verbal violence, from soldiers and male protesters alike. In Egypt, for example, cases of soldiers and police forces attacking demonstrating women were frequent. According to an Amnesty International Report in 2012: "On 9 March, when army officers violently cleared Tahir square of protesters, they took at least 18 women into military detention. Seventeen of those women were detained for four days. Some of them told Amnesty International that during that time, male soldiers beat them, gave them electric shocks and subjected them to strip searches. They were then forced to undergo 'virginity tests' and threatened with prostitution charges. Before they were released, they were brought before a Court and received one-year suspended sentences for a variety of false charges" (International 2012).

Regrettably, such abuse was not an isolated incident. Mona El-Tahawy, a US-based Egyptian journalist, who partook in the Tahrir uprising, significantly, wrote the article, "Why do they hate us?", in which she portrayed the misogyny of Arab males. One of the main allegations she made, widely supported by other reports, was that it was not only soldier thugs who harassed women protestors, but normal, civilian Egyptian men too. The article elicited a storm of objections from women and men in the region, with the usual accusation of 'orientalism' targeted at both the author and the journal (El-Tahawy 2012).

In the Islamic world, it was generally considered more appropriate to let husbands and brothers demonstrate on behalf of their female counterparts: according to common opinion, no decent woman would demonstrate side-by-side with unrelated males. Regardless of these conservative views, Arab women chose to play a fundamental part in the common struggle for change, reforms, social justice, human dignity, freedom, and civil and political rights, all the noble goals of the Arab Spring.

Unfortunately, the Arab awakening for women might actually have been a spring without flowers. The 'Thahiris' and their equivalents did not prevail in the political arrangements that followed the fall of regimes, and, in the absence or weakness of political institutions, Islamic parties emerged.

Their revival was hardly surprising, given the role the same religious parties had had in granting welfare measures during the regimes. In Egypt and Tunisia, the Muslim Brotherhood and the Ennahda Party had successfully managed a welfare system during the dark periods of dictatorships, thanks to the network of associations operating in mosques and madrassas, funded by Gulf monarchies.

Over the last decade, the Gulf monarchies played an increasingly proactive role. They portrayed themselves as the protectors of the poor and the oppressed, as the providers of bread, rice, and exercise books for children, as well as the guarantors of a future better life. Despite the clear will to influence regional dynamics in order to maintain – or to alter – the status quo, it is difficult to grasp the rationale behind the Gulf monarchies' policies, considering that these monarchies are anything but a monolith with a single strategy. Rather, they encompass a wide range of interests and agendas. The most striking example is given by the opposing approaches of Saudi Arabia and Qatar towards the Muslim Brotherhood and the rise of political Islam. Certainly, the Gulf regimes intervened, directly or indirectly, in all the major regional crises, from Libya to Syria and Yemen: Arab uprisings provided the Gulf monarchies with opportunities to develop their political, cultural, and economic influence in the area, expanding their reach outward (Lacey-Benthall 2014, Talbot 2015).

Predictably, as soon as the protests ended, the cry *"al-Islam howa al-hal*" (Islam is the solution) replaced the slogans of the Arab Spring.

The electoral success of Islamic parties in the countries of the MENA area involved in the Arab Spring, raised concerns about the application of the *Sharīʿah* legislation on gender equality and family, considered an iconic and historical emblem of family and sexuality, characterized by patriarchal rights, segregation of the sexes, and female subjection to male power.

Disappointingly, in Egypt, women have been excluded from important decision-making bodies, and fewer than ten (a tiny 2%) won seats in Egypt's new Parliament, a total of 498 seats. In Tunisia, initially, women remained very active in the political scene, but it didn't last. Ennahda, the majority party in the Tunisian Parliament, gave in to heavy pressure from its conservative constituencies, and, in August 2012, its representatives in the Constituent Assembly introduced an article to the draft Constitution stating that women were no longer equal, as previously stated: they became 'complementary' to men. Even in Yemen, where the female contribution had been truly powerful, and had led to the Nobel Peace Prize being awarded to Ms Tawakkul Karman, women's presence in official

institutions did not match their expectations, and only one woman was appointed as a minister in the 2012 Government.

On the other hand, it cannot be overlooked that the Arab Spring has paved the way for some important reforms on behalf of women. For example, Tunisia withdrew its reservations to the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) at the United Nations, on 23 April 2014, confirming receipt of Tunisia's notification to officially withdraw all of its specific reservations to the treaty. But, at the same time, one must be reminded that it is specified that the country, "shall not take any organizational or legislative decision in conformity with the requirements of this Convention where such a decision would conflict with the provisions of Chapter I of the Tunisian Constitution." Critically, Chapter I of the Constitution states that the religion of the country is Islam.[1]

The transition period during the Arab Spring was most definitely the time to focus on women's empowerment, their human rights, and their access to decision-making processes, as a cornerstone of democratic governance. After the electoral success of Islamist parties, the urgent issue became how to reconcile women's demands with the Islamic character of the new establishment.

There is a long debate in feminist literature on this particular issue. Secular feminists, such as Juliette Minces, Mai Ghoussoub, Haideh Moghissi, Haleh Afshar, and Leila Ahmed, describe Islamic norms and laws as the main impediment to women's advancement, or as incompatible with feminism, because Islam regards women as the weak and inferior sex (Tabari 1982, Ghoussoub 1987, Moghissi 1999, Barlas 2002). On the other hand, Fatima Mernissi, although critical of Islamic law, has underlined that the idea of an inferior sex is alien to Islam; it was because of their 'strengths' that women had to be subdued and kept under control (Mernissi 1987). Others, such as Freda Hussein, developed counter arguments, such as 'complementarity of the sexes' in Islam (Freda 1984) or, as Azizah al-Hibri, Riffat Hassan and Asma Barlas tried to show, the egalitarian and emancipatory content of the *Qur'an*, has been hijacked by

[1] Declarations, Reservations and Objections to CEDAW. Tunisia's transitional Government on October 24, 2011 adopted decree law n.103 lifting the reservations to articles 9, 15, 16, and 29 of CEDAW. All these reservations concern treaty requirements to provide equality to women in family matters and they had enabled Tunisia to opt out of certain provisions, including on women's rights within the family". See Human Rights Watch, "Tunisia Landmark Action on Women's Rights", April 30 2014.

patriarchal interpretations since the early Middle Ages (Hassan 1996, Al-Hibri 1997).

On this same topic, a second and further reflection is needed.

Islam can be experienced, practised, and interpreted differently over time and space: even if the Islamic community may consider itself unified, Islam is fundamentally 'plastic', as there are various Islams—Tunisian, Iranian, Afghan, Saudia Arabian, to name a few. In order to understand its social implications, it is necessary to look at the wider sociopolitical and economic system within which it is exercised.

Probably, overemphasizing the role of Islam not only prevents us from looking at the more fundamental social contradictions that often foster religious requirements, but also implies little hope for change.

The idea of writing a manual on these issues, previously exposed through the analysis of the constitutional reforms after the Arab Spring, came about through meetings and conversations with women, whose names will remain anonymous, as a form of respect to those among them who so requested it. I met these women in the Middle East and North Africa, after 2011.

While talking to them, I realized that the constitutional protection of women's rights was one of the core elements of the constitutional drafting process. In order to explain this, I will here quote the testimony released in May 2014 by one of my Yemeni interviewees: "There can be specifities in any culture, but there are fundamental conditions that must be met, in order to grant an effective and efficient protection of women's rights at the domestic level. Our future Constitution will be the higher tool of women's rights protection because the constitutional law is the legal fundamental basis of our future ordinary law. The Constitution is like a 'mother' in which we can always find refuge for finding peace, justice, equality." (Yemeni women interviewee in 2013)

The 2011 Arab Spring offered unique opportunities for an overall, and radical, transformation of social, economic, and political structures. It represented a revolutionary movement of political emancipation that also challenged the dominant thinking about the region, took the regimes by storm, and surprised the West.

Two questions ensue, which are worth analyzing before delving deeply into the specific issue of this work: Could the Arab Spring have been predicted? and What were the reasons behind the Arab Spring?

1. Could the Arab Spring have been predicted?

A few years after the unforeseen collapse of Communism in Central and Eastern Europe, in 1989, Timur Kuran, in his far-sighted article "The Inevitability of Future Revolutionary Surprises", significantly anticipated important features of what became later known as the 'Arab Spring'.

In his work, the author referred to a collective failure to build a model that can successfully predict when, and where, revolutionary movements will potentially thrive. Assuming he is correct, it is equally true that it is indeed possible to find at least some 'indicators' that, correctly read, can alert us about incoming revolutions (Kuran 1995).

Widespread requests and needs, highlighted by some specific social categories, could be warning signals of possible unrest. Considering that women are, consciously and unconsciously, agents of social change, their movements and participation in uprisings must not be underestimated. Quite the opposite; their voices must be listened to, in order to understand the changes developing in society. Women are agents of social change, creators of the future. The feminist movement changed the way we think and talk; by framing the inequality that can exist in family and personal relations as a political issue, women's campaigns open up public discussion of topics earlier considered as private, and consequently beyond public scrutiny. For this reason, the female conditions and positions after the so-called Arab Spring will be analyzed in the following work as 'indicators' of effective social change in the countries involved in the 2011 revolts, which, even in the absence of a scientific model able to predict potential revolutions, were in fact anticipated by several cues, not rightly interpreted.

Timur Kuran observed that, "sometimes, even a small, intrinsically insignificant event may be sufficient to produce a revolutionary bandwagon, in which an increasing number of people take to the streets, encouraged by the relative safety and anonymity of large crowds" (Ibidem 1528-1551).[2]

[2] Timur Kuran underlines the importance of 'preference falsification': it means that people may be reluctant to openly reveal their private preferences. Preference falsification makes it difficult to understand "the precise distribution of individual revolutionary thresholds" (1995: 1538) and calculate the probability that an opponent to a regime would actually join a movement against it, if others did the same. A very similar argument was made by Charles Kurzman in "The Unthinkable Revolution in Iran", (MA: Harvard University Press 2004); Kurzman also believes that individuals "were more likely to participate in revolutionary events if they felt that many others would do the same" (2004: 171).

In Tunisia, an apparently irrelevant event, the self-immolation of Mohamed Bouzazi, sparkled the 'revolutionary bandwagon', beginning in December 2010.

Mohamed was a fruit vendor, who acted not only against the shutdown of his business by the local police, but, more generally, against police corruption and the ill-treatment of citizens.

The Tunisian uprising, which culminated in dictator Ben Ali's fall, ignited a revolutionary process in the countries of the MENA area, where opposition to oppressive regimes was widespread.

In Egypt, Libya, Yemen, Syria, Bahrain, Morocco, Jordan, Iraq, and Oman, a common slogan was: "*Ash-sha'b yurid isagat an-nizam"* ("The people want to bring down the regime") (Urile 2011).

The term 'Spring' was not new, and it was largely connected to other previous revolutionary experiences, such as the 1848 European Revolution and the Prague Spring in 1968.[3] Also, the specific term 'Arab Spring' was used during the 2003 Iraqi War to forecast a major Arab movement towards democratization.[4]

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[3] In this regard Marwan Bishara "The Invisible Arab, the Promise and Peril of the Arab Revolutions", (Nation Books 2013); Tariq Ramadam, "Islam and Arab Awakening", (Oxford University Press 2012); Khalifa A. Alfadhel, "The Failure of the Arab Spring", (Cambridge Scholars Publishing 2016); Ed Rooksby "Summer's Here and it's Time to Call 'Arab Spring' a Revolution", (*The Guardian* 14 June 2011); Chrystia Freeland, "Hungary's Revolution and the Arab Spring", (Reuters, June 17, 2011); Chrystia Freeland, "Lessons From Central Europe for the Arab Spring", (*The New York Times*, June 16, 2011). The 1848 revolutionary wave, which began in France with the aim of removing the old feudal structures and creating independent national states, and quickly spread across Europe, is known as the Spring of Nations, the People's Spring, the Springtime of the People, or, more simply, the Year of Revolution. The Prague Spring, which began on January 5 1968, was a period of political liberalisation in Czechoslovakia.

[4] On April 9 2003, Baghdad fell to an American-led coalition. On 31 January, Iraqis elected the Iraqi Transitional Government in order to draft a permanent constitution. Although some violence and a widespread Sunni boycott marred the event, most of the eligible Kurd and *Shia* participated. As Professor Kanan Makiya wrote, "the removal of Saddam Hussein and the toppling of a whole succession of other Arab dictators in 2011 were closely connected." "The invasion", he added, "paved the way for young Arabs to imagine the removal of dictators elsewhere in the region", (Kanan Makiya "The Arab Spring started in Iraq" *New York Times*, 6 April 2003). See also Charles Krauthammer "The Arab Spring of 2005" (*The Seattle Times*, 7 July 2013). The author writes, "President Bush declined an invitation to claim vindication for his policy of spreading democracy in the Middle East. After two years of attacks on him as a historical illiterate pursuing the childish fantasy of Middle East democracy, he was entitled to claim a bit of credit.

Others are wondering if the events characterizing the 'Arab Spring' could also be a reference to the turmoil in Eastern Europe in 1989, when apparently impenetrable Communist regimes began falling down, with a domino effect, under the pressure of massive popular upheaval (Steven 2011).[5]

Events in the Arab world[6] are certainly reminiscent of the 1989 revolutions in Eastern Europe, even if the relevant similarities are, nonetheless, compensated by key differences.[7]

Yet he declined, partly out of modesty (as with Reagan, one of the secrets of his political success), and partly because he had learned the perils of declaring any mission accomplished. The democracy project is, of course, just beginning. We do not yet know whether the Middle East today is Europe 1989, or Europe 1848. 1989 saw the swift collapse of the Soviet empire. 1848 saw a flowering of liberal revolutions throughout Europe that, within a short time, were all suppressed. Nonetheless, 1848 did presage the coming of the liberal idea throughout Europe (by 1871, it had been restored to France, for example). It marked a turning point from which there was no going back. The Arab Spring of 2005 will be noted in history as a similar turning point for the Arab world."

[5] Cook, Steven A. in his work "How Do You Say 1988 in Arabic. From the Potomac to the Euphrates" (Council on Foreign Relations 28 March 2011), writes, "In the last few months, I have often been asked 'Is this the Middle East's 1989?' There is a temptation to make a connection between the fall of Communism in Eastern and Central Europe and the cracking of regimes all over the Arab world. The speed at which the uprisings spread from Tunisia to Egypt to Libya and Bahrain and Yemen are, indeed, reminiscent of the fast-forward changes that took place in the fall of 1989. Mu'ammar Qadhafi may very well be the Middle East's Nicolae Ceausescu. Still, 1989 has nothing on the 2011 winter-spring of Arab discontent." See also, Guéhenno, Jean-Marie, "The Arab Spring is 2011, not 1989" (*The New York Times*, 21 April 2011. Retrieved 25 June 2012). The author writes: " (…) 1989 and 2011 are two chapters of the same story, which connect in a self-congratulatory way the political appeal of democracy and the transformative power of entrepreneurship and new technologies. In reality, the movements that are shaking the Arab world are profoundly different from the revolutions that ended the Soviet empire. The Arab Spring is about justice and equity as much as it is about democracy, because societies in which millions of young men and women have no jobs - and millions live with less than two dollars a day - crave justice as much as democracy."

[6] The term 'Arab world' might be defined in two ways. First, it could refer to a geographic area that stretches from North Africa to the Western border of Iran (west to east), and from the southern border of Turkey to the Horn of Africa (north to south). The Arab world includes twenty-one states: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen. The phrase 'Arab world' also refers to the cultural world in

Possibly, the Islamic revolution in Iran in 1979 was even more similar to the Arab Spring, as both insurgencies shared the same fate. In Iran too, the emancipating objectives and promises were abandoned after the Islamic Republic got the power. The leftist Tudeh party, the women and the other groups which protested together with the Islamist movement of Ayatollah Khomeini to oust the Shah, lost the common ground after the Shah was removed. The Tudeh Party was persecuted for its political views, and a real movement for women's emancipation was never implemented. On the contrary, Iran retains very aggressive laws against women. Likewise, in the aftermath of the Arab Spring, when women were no longer needed, they were discarded and their fight for their rights and advocacy was betrayed.

All these previous considerations do not constitute a sheer academic exercise; rather, they underline the very high interest shown by experts in analyzing and understanding the 2011 events *post factum*. Somewhat surprisingly, even experts failed to predict both sets of rebellious movements. In 2011, a US think-tank, the Fund for Peace, published, in collaboration with the journal *Foreign Policy*, an annual 'Failed States Index', containing a list of which states were failing, on the basis of a

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which the inhabitants of the region, and others who identify with that cultural world, live. But this world is far from homogenous, as will be explored throughout this work.

[7] Interestingly, Erik Voeten, in his work "Similarities and Differences between Eastern Europe in 1989 and the Middle East in 2011", summarised remarks from a panel at American University on March 25 on "Uprising in the Middle East: A Social Movement and Comparative Perspective", 30 May 2011. (Retrieved 25 June 2012): "Among the similarities, we consider as more relevant that: 1) Neither set of movements was predicted—even by experts; 2) A key part of the anti-regime movements in both Eastern Europe and the Middle East resulted from elite defections, as political/military/security forces changed loyalties; 3) Both sets of movements were filtered through domestic contexts, but with international demonstration effect, or 'snowballing'. Among the differences: 1) While the East European states were not autonomous, the Middle East contained a mix of small and large states with different levels of autonomy; 2) The 1989 movements were not the first democratic protests in the region. Although dissent had been brewing in the Middle East for the past decade, there were no comparable precedents to these earlier East European movements; 3) The East European movements generally fit the classic model of elite agency, whereby divisions between hard-liners and soft-liners in the regime led to pacts with the opposition, resulting in compromises on both sides. In this model, the 'resurrection' of civil society only came later. In the Middle East, in contrast, the 'popular upsurge' came first, before the elite divisions became apparent."

dozen demographic, economic, political, and military indicators (Fund for Peace 2011).

Given that, according to the Index, political conflict was more likely to occur in inefficiently-run states, an African Spring was predicted in Zimbabwe, Nigeria, Kenya, Ethiopia, Uganda, and Cameroon. By contrast, among the Arab countries, only Yemen was included, while Tunisia, Libya and Bahrain - which experienced turbulence and violence in 2011 - were at the bottom half of the Index.

Considering these data in contrast with the historical factors which erupted in 2011, the following work will adopt a survey methodology, based on the analysis of facts collected not only through academic manuals, previous researches, and international documents, but also with the help of survey data collection techniques, such as questionnaires addressed to people living in the scrutinized countries.

To this purpose, the testimonies of 29 women have been heard. Some of them I met personally in their countries; with others, addressed by the women I met, I was in touch by skype/emails. The questions, among other things, aimed to focus on how the social and political situation was perceived by women, before and after the 2011 uprisings exploded.

The evidence of a deepening crisis in the Arab region, and the extensive demand for better human rights and fairer economic conditions, were underestimated by the agency of political scientists and policymakers.

During the International Studies Association (ISA) Annual Conference of 2010, senior analysts from various government agencies were boasting how closely foreign policy and intelligence programs were following 'all that's going on in the literature', in response to an inquiry from the audience questioning the government's rationale of ignoring academia's warnings before the war in Iraq. Just about a month after the Conference, Mohamed Bouazizi's act of self-immolation started the Arab Spring (Unver 2012).

But, long before Mohamed Bouazizi's extreme gesture, countless protests against repressive governments had passed unnoticed. Therefore, the 2010 Tunisian uprising, rather than being a new development, only represented a more dramatic explosion of the unrest common across the region.

Occasional political dissent could be witnessed in Tunisia, including a mass demonstration during the 2005 World Summit on Information Society in its capital, Tunis. Some minor incidents consisted of individual actions by a few opposition figures and activists

By far the most relevant episode, which shook the deprived Gafsa region in 2008, was the protest against the nepotistic hiring system

deployed by the State mining company. Workers, the unemployed, and young activists, all joined in spontaneous demonstrations which began to attract nationwide attention; the police response was so brutal and unnecessarily violent that it was criticized by a solidarity network of unions, political parties, and human rights defenders. At least 200 protesters were arrested, and many of them were sentenced to years in prison (Ottaway 2011).

The combination of unrest in inland Tunisia and the subsequent solidarity movement in the North was probably at the root of the regime-changing uprising of December 2010 and January 2011.

Tunisia is one of the case studies examined in this thesis. The other countries taken into consideration are Egypt and Yemen.

In Egypt, between 1998 and 2004, there were more than 1,000 episodes of unrest, over 250 of which occurred in 2004 alone, due to accelerated economic liberalization reforms, introduced by Prime Minister Ahmed Nazif. In the same year, the Egyptian *Kefaya* (Enough) movement organized street protests and online activism against a new term for President Hosni Mubarak and the succession of his son.

In 2008, the violence escalated when four textile workers on strike in Mahalla al Kubra on 6 April 2008 were killed by the police.[8] The participants requested socio-economic reforms and political changes: they demanded higher wages, improved services in public health, education and transport, the elimination of government corruption, an end to police torture and arbitrary detainment, and the creation of a fair judiciary system. In 2009 and 2010, there was a major increase in labor strikes and other forms of industrial action. After the 2005 elections, Egypt's daily newspaper, *al-Masry al-Youm,* reported 222 strikes, labor sit-ins, and demonstrations in 2006, and 580 in 2007 (Ottaway 2011).

Since 2007, both individuals and non-governmental institutions in Yemen had opposed the efforts by President Ali Abdullah Saleh, who had been in power since 1978, to clamp down on independent media and associations. Here, the movement against Saleh was also supported by Houthi rebels in the North, and separatists in the south, both opposed to the discrimination policies adopted by the central government. That same

[8] El Mahalla El Kubra, commonly shortened to El Maḥalla, is an industrial and agricultural city in Egypt, known for its textile industry. In 2006 textile workers protested for market reforms, and from the beginning of April 2008, the citizens protested against President Hosni Mubarak, claiming election fraud Security forces were deployed to repress the dissidents and some of the protesters were killed. Consequently, the 28-year-old engineer Ahmad Maher established the Facebook group, called 'The April 6 Youth Movement', which reached 70,000 followers.

civil society became a key force in determining the President's exit in 2011.

In Tunisia, Egypt, and Yemen, rulers were forced to give up power, and, as a result, a window of opportunity for constitutional changes opened in the Arab region. These three countries are of further particular interest and significance, because each one of them turned the demands of the Arab Spring into different constitutional developments.

Unrest was witnessed elsewhere too, and other regimes ended as a consequence of the 2011 revolts. Although such countries are not specifically included in this work, a general framework of their circumstances can be of help to better appreciate the significance of the popular movements that arose in the Arabic region.

The Arab Spring also occurred in Libya and Syria, both characterised by the most durable and oppressive regimes.

In Libya, the 42 years of Gaddafi's power ended after the revolts, that started in 1996, and strongly exploded in January 2011, followed by three months of civil conflict that saw the international involvement of outside powers, such as the Security Council of the United Nations, and of a coalition of States.

Sadly, since Gaddafi's overthrow, Libya has been in deep political instability, with some 300 revolutionary militias clashing. The actual Libyan Civil War is an ongoing conflict among rival groups for control of the territory. The conflict is mostly between the Government of the Council of Deputies (CoD), democratically elected in 2014, also known as the 'Tobruk government', and internationally recognized as the 'Libyan government', and the opposing General National Congress (GNC), also called the 'National Salvation Government', based in Tripoli.

Human rights activities also flared up in Syria before the 2011 events. In 2000, during the 'Damascus Spring' movement, small groups of Syrians displayed a new assertiveness, demanding basic rights, greater freedom, and an end to corruption. These requests erupted with the uprising that began in the southern city of Deraa in March 2011. By July 2011, hundreds of thousands of people across the country were calling for President Bashar al-Assad's resignation, which never took place. The uprising continued unabated, with opposition supporters taking up arms, first to defend themselves and then to oust loyalist forces. In February 2012, President Assad pressed ahead with a constitutional referendum that, ultimately, gave the ruling Baath Party unique status as the leader of the State and society The opposition denounced it; rebels seized control of large parts of the North and East of the country and attacked Damascus and Aleppo, while the opposition National Coalition was recognised

around the world as the Syrian people's ‘legitimate representative’. In 2013, government forces launched major offensives to reclaim lost territory. A terrifying civil war is still waging in Syria.

More countries in the MENA area were taken over by the wave of the 2011 uprising. In Bahrain, protesters forced local regimes to open to reforms. Likewise, in Algeria, the President had to amend the Constitution to strengthen the democracy. Similar situations could be found in Iraq, Jordan, Kuwait, and Morocco.

Minor episodes were seen in Sudan, Mauritania, Oman, Saudi Arabia, Djibouti, Western Sahara, and also in Palestine.

Although all this instability should have been a clear warning of the general dissatisfaction in the region, the Arab Spring was not seen coming in the MENA area, and no part of the 2011 uprising was predicted. On the contrary, the likely durability of the authoritarian Arab regimes and their ability to maintain a political system, based on a highly controlled and fragile civil society and a strong repression, were overvalued.

The insurgents’ slogans underlined the needs for liberty, social justice, a fair job market and the importance of human dignity and pride. From Mayadeen al Tahrir, in Tunisia, to Egypt, Libya, Yemen, Bahrain, and Syria, despite important differences and specificities of the various uprisings, a unifying thread runs through all of them.

2. The reasons behind the Arab Spring

No single cause could explain the revolution that has shaken the Arab world to its foundation, as focusing on a particular one would be a simplification of a more complex reality.

Extreme poverty, dismal economic conditions, appalling living standards and a general lack of hope, due to political systems that failed to renew themselves at the expenses of their citizens, were all contributing factors. Surely poverty was one of the principal reasons.

The MENA area suffered from low economic growth and high levels of unemployment. In 2011, 50% of the Arab population survived on less than $2 a day (Rosenberg 2011). Most of the poor lived in rural areas: more than 40% in Egypt; 62% in Syria; and 80% in Yemen. 60% of the population were below the age of thirty, and youth unemployment reached an average rate of a massive 40%. Despite holding huge hydrocarbon resources, the Arab region was characterized by possibly the most unfair income distribution in the world, and by an incredibly low, and poor-quality growth rate. The introduction of the so-called Washington Consensus (a scheme that opened up the Arab countries to foreign capital

and financial agencies) was greatly responsible for most of these huge inequalities. Such a project, which was not expanded to also cover the Middle East, did not produce the intended results. On the contrary, the neoliberal reform policies adopted since the 1980s, favored only a small part of the Arabic population, while the majority became more and more impoverished.

Wrong macroeconomic policies, particularly declining investments in fundamental, productive sectors, coupled with unequal distribution arrangements and a chronically high rate of unemployment were a sure recipe for disaster.

The previous considerations must be seen in connection with the demographics of the Arab region, where the population more than doubled between 1975 and 2005, to reach 314 million people.

Economic development in most Arab states could not keep up with such an incredible increase; the 2011 protests could, probably, not have developed into a mass phenomenon, had the prevalent discontent not transcended ideological divisions. In the Arab Spring, for a while, both secularists and Islamists, the middle-class and the poor, stood united.

Economic adversity and misery can be better tolerated if there is hope of a better future, or when the people believe that the pain is equally distributed. This was certainly not the case in the Arab world: the chronic endemic corruption turned the State into a family based *uzba*, (fiefdom), and people realized that, while half the population languished in poverty, a rich elite flourished.

In dynastic regimes where the Presidents' sons were trained to replace their fathers, radical changes were not on the cards.

Police brutality was also a main contributing factor in the creation of the social-rainbow coalition which ultimately got rid of authoritarian regimes.

The most remarkable aspect of the 2011 uprising was the sight and the sound of hundreds of people across the Middle East's streets and squares, invoking the *haibat al-sha'b*, awe of the people, rather than the *habat al dawla*, awe of the State.

The public spaces occupied by demonstrators had always symbolized the images of supreme leaders and authoritarian governments, of surveillance and public humiliation. Space must be understood as more than a neutral container of activity. Space is generated, not only in its physical collocation, but in its social meaning, by the activities that go on in it, or that go on in some spaces, but not others (Lefebvre 1991, Smith-Low 2006).

From Egypt's Tahrir Square, to Tunisia's central Bourguiba Avenue, to the plazas of Syria's ancient cities, public squares were at the center of the Arab Spring. People also took control of public buildings and institutions, like the Court House in Benghazi, the Parliament and the Courts in Tunis and in Cairo, and the University Campus in Sana'a.[9]

In 2011, all these sites acted as catalysts for the uprisings, and became the places in which to show the world the solidarity of the excluded, neglected, and deprived, driven by common concerns and complaints. People were not only fed up with their daily struggles, but were also sick and tired of those governments whose policies were to blame for their predicament, independent of religious and idealistic factors. None of the 2011 events had a predominantly Islamist agenda.

While in Tunisia the major Islamist group, al-Nahda, was banned, in other parts of the region the role of Islamist groups varied. In Egypt many young Muslim Brothers may have joined the marches, despite the initial reluctance of their leadership, but the sea of Egyptians in Tahir Square waved only Egyptian flags. Even in Bahrain, regardless of a deep division, the protesters chanted 'No *Shi'ah*, no *Sunnis*, only Bahrainis'(Gunther 2016).

In Yemen, on the other hand, the Joint Meeting Parties, of which the Islamist Islah was an important member, although active in the protests, maintained a conciliatory attitude towards the regime. The Joint Meeting Parties (JMP) included the Islamist Islah and the Yemeni Socialist Party—which had initially demanded changes rather than Saleh's overthrow. The JMP supported the youth protesters, but also remained open to negotiations with the regime.

In Syria, despite the cruel suppression of the Muslim Brotherhood since the 1980s, a strong Islamist element permeated the anti-Assad rebellion. Expectedly, the rebels' appeals for heavy weapons were rejected

[9] The centrality of these spaces to the narrative of the Arab Springs has largely been overshadowed by the role played by social networking. Many words were written to emphasise the importance of Facebook and Twitter in fomenting rebellion. Yet, the old public spaces too, became the place where, ultimately, young people congregated. See Rabbat, Nasser. "The Arab Revolution Takes Back the Public Space." (Critical Inquiry 39, no. 1 September 2012, The University of Chicago, 198-208). The author mentions al-Sadiq al-Nayhum who focuses on the quintessential Islamic space, the Mosque, as the premier public space in the Islamic city, the equivalent of the Agora in the ancient Greek city, and the public square in the medieval Western city. See al-Sadiq al-Nayhum, "Al-Islam fi al-asr: Man saraqa al-jami' wa ayna dhahaba yawm al-jumu'a?" (London 1991).

by Western and Gulf allies, concerned by the prominence of jihadists affiliated to al-Qaeda (ICG 2011).

At the same time, in general, no pro-Palestine, anti-Israeli or anti-American slogans were particularly visible during public demonstrations. The crowds only demanded freedom, equality, and democracy.

The outcome of the rebellions was, somehow, contradictory.

In the MENA area, the political scene after the Arab Spring saw the rise of traditional Islamist movements, as they were enabled or forced to re-engage with mainstream politics.

In Tunisia, the Islamist al-Nahda Party, legalized in March 2011 after 20 years, won 40% of the vote, and 89 out of 217 seats in the October 23rd elections.

In Egypt, the Muslim Brotherhood's Justice and Freedom Party was legalized alongside the moderate Wasat.

Finally, in Yemen, the Islamist Party, Islah, grasped new opportunities for institutional power and joined a coalition government in December 2011.

Most considered the revival of the Islamist parties as one of the ambiguities of the Arab Spring. The ambiguity becomes even more evident when we examine some of the crucial and sensitive issues characterising the protests, such as women's conditions in society, and their rights.

Undeniably, the 2011 revolutionary moment is still far from closed, and its consequences will linger for years to come. Like any other revolutionary moment, it needs time and space to produce outcomes, and surely, any evaluation must consider the shift from the streets to the buildings of power, and the actual drafting and enforcing of legislation.

Regardless of the final outcome, and despite the social and political turmoil that followed, the Arab Spring turned the wheels of history in the direction of progress.

As Tawakkol Karman said, "Arab Spring has declared that, in this part of the world, there is a resilient aspiration to catch up with modernity, with the principles of democracy, justice, and human rights values. The Arab Spring has declared that the State must transform from being a tool of oppression, that kills people and their dreams, to a home where every citizen has a place, where every idea can be expressed, and every dream can be fulfilled. The Arab Spring has declared that in this region, there are people dreaming of attaining a genuine democracy that vanquishes corruption, and transmits power peacefully. A true democracy! Not one that masks a dictatorship, hierarchy, and unchecked power"(Karman 2016).

Structure of the following work

The following work will focus on how the Arab Spring spurred the affirmation of women's rights in the Egyptian and Tunisian constitutional reforms, and had a significant impact in the drafting process in civil war-ridden Yemen.

These case studies were chosen because in all three countries, as also happened in Libya, the rulers were forced to leave. Here, the Arab uprisings nourished hopes and illusions that the fall of the long-standing regimes would push ahead a new era of justice, democracy, and equality. Libya will not be analyzed for two reasons, primarily because of the uncertainty over the constitutional draft at the time of this work, and also because of the difficulties I encountered when trying to collect testimonies on the ground.

The analysis will be divided into four different chapters.

The first chapter will cover three main issues, over three paragraphs.

The question of women's rights according to *Sharīʿah*, legislation will be explored, together with the controversial issue of whether *Sharīʿah*, law and human rights are actually compatible. Women's rights, between the universalism of fundamental rights and Islamic tradition, will then be examined. Lastly, the focus will shift to the meaning of constitutionalism, its basic features, and its relationship to democracy, with attention to the MENA area's experiences. The relationship between Islam and elements of modern constitutionalism in the Western tradition will also be addressed.

The second, third and fourth chapters will focus respectively on the analyses of our three case studies: Egypt, Tunisia, and Yemen. For each country, the historical transition from the old regimes to the new forms of government after the Arab Spring will be looked into. Then, the work will move on to explain the drafting work on the Constitutional reforms, and on the texts of the passed Constitutions.

The analysis will consider Islamism after the Arab Spring. Islamism is a complex phenomenon with multiple dimensions and various ramifications, such as *Sunni*, *Shi'a* and *Wahhabi*. In the following work, Islamism is considered as a totalitarian ideology that differs from 'Islam'. Despite differences between various Islamist groups, they all aim at the re-instauration of Islamic might in the world. It would seem clear that, after the rebellions, the unprecedented opportunity for reform and state building has stalled, with Islamist movements more concerned with the meaning of Islamic identity than with constitutionalism, the most extreme version of which has been the Islamic State (ISIS).

This work is also based on, and inspired by, the testimony of local women, whom I was lucky enough to get in touch with when working on some international projects in the MENA area. As some of them asked to remain anonymous, I decided to respect the anonymity of them all. They are activists, judges, lawyers, and politicians, and some of them were involved in the Constitutional draft processes.

It was not always easy to receive complete answers: I realized that many women needed to talk first about their own life, during the Arab Spring and after the revolts, their worries, fights, threats, hopes, illusions and disillusions.

Conversing about their personal lives helped them to confide more in me. And that, in turn, helped me to further confirm how women can really be the makers of social change. Especially in the MENA area.

I will take this occasion to wholeheartedly thank all the women who kindly gave their time to contribute to my work.

This manual is dedicated to them.

CHAPTER ONE

WOMEN'S RIGHTS AND DEMOCRACY IN THE MENA AREA

1.1 Women's Rights in Islamic Law: Between Theory and Different Forms of Implementation

Some general aspects are worth reflecting on, before dealing with the specific issue of this work. It is impossible to tackle the topic of women's rights in the constitutional reform after the Arab Spring without first trying to focus on concepts such as democracy, universalism and relativism of fundamental rights, constitution and constitutionalism in the MENA area. The purpose is not to underline the analogies or differences between Western and Arab-Muslim cultures, but, rather, to understand and appreciate the complexity of the Islamic world, composed, as it is, of different souls, several ideological divisions, and currents in permanent contrast among them.

Such an approach is, in fact, crucial, not only to develop a dialogue between the West and Islam, but mainly to find possible keys of comprehension inside the multiple components of the Arab Muslim world itself.

As Amjad M. Hussain quotes, the word 'Muslim' means "one who submits to Allah." Muslims summarize their doctrine in six articles of faith: 1. Belief in one Allah. Muslims believe Allah is one, eternal, creator, and sovereign; 2. Belief in the angels; 3. Belief in the prophets. The prophets include the biblical prophets, but end with Muhammad as Allah's final prophet; 4. Belief in the revelations of Allah. Muslims accept certain portions of the Bible, such as the Torah and the Gospels. They believe the *Qur'an* is the pre-existent, perfect word of Allah; 5. Belief in the last day of judgment and the hereafter. Everyone will be resurrected for judgment into either paradise or hell; 6. Belief in predestination. Muslims believe Allah has decreed everything that will happen. Muslims testify to Allah's sovereignty with their frequent phrase*, inshallah*, meaning, "if God wills."

Instead, the Five Pillars of Islam compose the framework of obedience for Muslims: 1. The testimony of faith, *shahad*. "*la ilaha illa allah. Muhammad rasul Allah*" means, "there is no deity but Allah. Muhammad is the messenger of Allah"; 2. Prayer, *salat*. Five ritual prayers must be performed every day; 3. Giving, *zakat*; 4. Fasting, *sawm*. Muslims fast during Ramadan in the ninth month of the Islamic calendar. They must not eat or drink from dawn until sunset; 5. Pilgrimage, *hajj*. If physically and financially possible, a Muslim must make the pilgrimage to Mecca, in Saudi Arabia, at least once. The *hajj* is performed in the twelfth month of the Islamic calendar (Hussain 2016).

Geographically speaking, about 20% of the world's Muslims live in the Middle East and North Africa. The most populous Muslim-majority country is Indonesia, with 12.7% of the world's Muslims, followed by Pakistan with 11.0%, Bangladesh with 9.2%, and Egypt with 4.9%. Minorities are also found in India, China, Russia, Ethiopia, the Americas, Australia, and parts of Europe. Islam is the second-largest religion in the world, with 16 billion followers. It is also the fastest-growing religion in the world, due primarily to the young age and high fertility rate of Muslims. According to a Pew Center study in 2016, Muslims have the highest number of adherents under the age of 15 (34% of the total Muslim population) of any major religion, while only 7% are aged 60+ (the smallest percentage of any major religion). According to the same study, Muslims also have higher fertility rates (3.1) than any other major religious group (Pew Research Centre, 2016).

The complexity of differences inside the Arab Muslim world is evident, just by looking at the topic of women's rights.

Women's rights have been discussed at length within the international community. Islamic countries are generally considered to be oppressive, because their systems are believed to preclude women from fully enjoying their legal rights, or socially and politically partaking in society.

According to the World Bank Group's "Women, Business and the Law (WBL) Report" (2016), legislation in most MENA countries tends to discriminate against women, and excludes them from social and political life (World Bank 2016).

The MENA region has the fewest number of laws protecting women from domestic violence than any other area. Married women are prohibited from becoming heads of the household, applying for a passport, or getting a job without permission from their husband. Laws, regulations and institutions differentiate between women and men in such a manner that women face the most wide-ranging legal constraints to their economic activity.

Some examples and rates will further illustrate the issue: virginity tests are still used in Libya, Jordan, and Egypt; in Saudi Arabian women are not allowed to drive a car, travel, or marry without permission from a male guardian; In Iraq, less than 15% have jobs; only 63% are literate in Iraq, 44% in Egypt and Morocco. An estimated 30% of women in the Middle East and North African region have experienced physical violence by intimate partners at some point in their lives, while one in seven girls is forced to marry as a child, with the highest rates in Mauritania, Sudan, and Yemen; 87% of women and girls aged between 15 and 49 have undergone FGM (female genital mutilation) in Egypt and Sudan, an estimated 19% have experienced the same form of violence in Yemen, and 8% in Iraq since 2015. Although a complete estimate of the prevalence of violence is lacking in the region, largely due to under-reporting of violence within marriage, some figures were available (Kadi 2017).

But such a frightening and appalling configuration of female status could, indeed, appear incomprehensible in view of the following excerpts from the Muhammad's message:

> "O Mankind, keep your duty to your Lord who created you from a single soul and from it created its mate (of same kind) and from them twain has spread a multitude of men and women..." (*Qur'an* 4:1);
>
> "He (God) it is who did create you from a single soul and therefrom did create his mate, that he might dwell with her (in love)..." (*Qur'an* 7:189);
>
> "Woman according to the *Qur'an* is not blamed for Adam's first mistake. Both were jointly wrong in their disobedience to God, both repented, and both were forgiven" (*Qur'an* 2:36, 7:20-24);
>
> "And they (women) have rights similar to those (of men) over them, and men are a degree above them" (*Qur'an* 28:229);
>
> "The believers, men and women, are protectors one of another: They enjoy what is right and forbid what is evil" (*Qur'an* 9:72).[10]

Such powerful and ground-breaking concepts were strongly supportive of female dignity. Islam at the summit of its civilisation, between the seventh and eleventh centuries, was neither repressive nor regressive. It was a progressive, humanistic, and legalistic force for reform and justice (Bassiouni 2012).

[10] The translation of all the verses in this work is by Abdullah Yusuf Ali, *The Meaning of The Holy Qur'an* (Amana Publications, May 2004). Should different sources be used, they will be cited.

The same could not be said for all previous or contemporary civilizations and religions. Without delving into a deep historical analysis, it is, nonetheless, worth highlighting that, in the ancient cradle of civilization, and also in the modern age, women did not enjoy any rights or any social or political role.

Building on the argument that gender discrimination is a result of various cultural influences that have converged during different periods over history, Emory Adam Allen, in her 1889 book, *History of Civilization*, describes the status of females in the most considerable ancient civilizations. The framework that emerges in the author's analysis is of a widespread and general conception that women's submission to the power of men is somehow natural. Athenian women were considered minors, subject to some male - their father, their brother, or to some of their male kin. A woman's consent to marriage was not generally thought to be necessary, and she was obliged to submit to the wishes of her parents, and receive her husband and her lord from them, even if he was a stranger to her (Allen 1889, Vol.3).

Likewise, a Roman wife was:

> "…a babe, a minor, a ward, a person incapable of doing or acting anything according to her own individual taste, a person continually under the tutelage and guardianship of her husband. In Roman Law a woman was, even in historic times completely dependent. If married, she and her property passed into the power of her husband...the wife was the purchased property of her husband, and like a slave acquired only for his benefit. A woman could not exercise any civil or public office, could not be a witness, surety, tutor, or curator; she could not adopt or be adopted, or make a will or a contract. Among the Scandinavian races, women were under perpetual tutelage, whether married or unmarried. As late as the Code of Christian V, at the end of the 17th century, it was enacted that if a woman married without the consent of her tutor, he might have, if he wished, administrate and usufruct of her goods during her life" (Allen 1889, Vol.3).

Similarly, in Mosaic Law, the wife was 'betrothed' according to the meaning of the expression, as explained in the Encyclopedia Biblical: "To betroth a wife to oneself meant simply to acquire possession of her by payment of the purchase money; the betrothed is a girl for whom the purchase money has been paid (..) From a legal point of view, the consent of the girl was not necessary for the validation of her marriage: the girl's consent is unnecessary and the need for it is nowhere suggested in the Law (…) The woman being man's property, his right to divorce her follows as a