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Islamists in Power and Women's Rights: The Case of Tunisia

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Much scholarship has been devoted to the question of Islamist governance, its compatibility with democracy, and its sociopolitical implications for women. Some assert that Islamists cannot be in support of democracy, and women who support democracy would not support Islamists, as traditional Muslim law accords women fewer rights than men.¹ In the context of the 2010-11 Jasmine Revolution in Tunisia, many asked whether Tunisian women would lose rights, particularly those concerning personal status and family law,² when the Islamist political party Ennahda won 41 percent of the votes in the 2011 Constituent Assembly elections and maintained a significant proportion of seats in subsequent elections.³ Monica Marks elaborates on this concern, explaining that those opposed to Ennahda believed that it would “wage a war against women’s rights, mandate the hijab, and enforce a separate sphere ethos aimed at returning Tunisia’s feminists back to their kitchens.”⁴

This Brief argues that Ennahda’s inclusion in Tunisia’s government has had a counterintuitive impact on gender-based progress in the country. The Tunisian case demonstrates that the coming to power of an Islamist party does not necessarily come at the cost of gender equality and other forms of women’s rights.

In order to effectively assess Ennahda's record on questions of gender, this Brief first lays out the status of women in Tunisia before and after the Jasmine Revolution. It then presents three aspects of Ennahda's governance and policies that affect women's rights. First, in order to mobilize voters and develop coalitions with secular centrist parties, Ennahda did not withdraw any of the rights previously accorded to women under prior regimes. Second, a significant proportion of Tunisian female parliamentarians are either from the Ennahda party or affiliated with one of its coalition allies, thereby creating a partisan base that generates support for legislation promoting women's issues and resists legislation that impedes women's rights. Finally, Ennahda is a strong supporter of the recently passed 2017 law criminalizing domestic violence in Tunisia. The Brief concludes by reviewing how the specific history of Ennahda contributed to this outcome.

The Status of Women in Tunisia before and after the Jasmine Revolution

Under Presidents Habib Bourguiba (1956–87) and Zine el-Abidine Ben Ali (1987–11), Tunisian women were granted an impressive array of legal rights, including the right to work, vote, hold political office, participate in civil society, and pass citizenship on to their children. Unlike in many Muslim-majority countries, polygamy was illegal, women had the legal right to abortion and the right to initiate divorce, and couples had the right to adopt children. At the same time, the status of women in Tunisia was complex, and although many of their rights were protected under law, a series of structural problems and popular perceptions worked to counteract those legal rights.

The fact that Tunisian women were granted a wider range of legal rights than women in other Arab countries does not mean that women and men had equal rights under the law at the time of the Revolution. There was still legal gender inequality, particularly in matters of family law. According to Tunisian law, men were the legally appointed heads of the household.⁵ In matters of inheritance, women were entitled to only half of the inheritance that their brothers received; though women could gain custody of their children in the event of divorce, the father remained the legal guardian.⁶

Laws under Bourguiba and Ben Ali were also limited in scope as far as protecting Tunisian women from gender-based violence. There were no laws that criminalized psychological or economic abuse, and no protection orders that could restrain an offender from repeated instances of abuse. Moreover, under Article 227 of the Criminal Code, if a woman were raped, her rapist would be pardoned if he married her.⁷

In addition, there were many chronic structural barriers that prevented socioeconomic equality between women and men. Though women were more likely than men to be college educated, they were far less likely to be employed.⁸ In a Pew Center study on Gender Equality in the Arab World carried out in 2012, shortly after the Jasmine Revolution, 86 percent of Tunisians preferred to give a job to a man rather than a woman in the event of job scarcity, and women were also less likely to be thought of as skillful leaders.⁹ In another study conducted two years after the Revolution, although women were perceived as being less corrupt, men were still preferred as

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leaders and were seen as being more capable, a perception that cut across socioeconomic strata.¹⁰

One of the most important issues pertaining to women is the prevalence of domestic violence. According to a survey conducted in 2010 by the National Board for Family & Population, 47.6 percent of Tunisian women between the ages of 18 and 64 reported gender-based violence. Indeed, the actual rate was thought to be even higher, as most victims do not report abuse.¹¹ A rate this high indicates that women were under-protected by the law.

Many of these laws and socio-structural barriers are still in place. The laws relating to head of household, inheritance, divorce, and custody remain unchanged. The chronic structural problems and popular perceptions that reduce women's access to employment and political power continue. Ennahda rose to power shortly after the Jasmine Revolution, in which many Tunisians expressed the desire for democracy, transparency, and improved economic conditions; addressing gender inequality was not a core focus.¹² In spite of this, and despite Islamists having come to power, there have been improvements in women's status in Tunisia since the Revolution.

Ennahda in Gender Politics

Created in 1981, Ennahda is a moderate Islamist party. Founded and headed by Rachid Al-Ghannouchi, the party was inspired by the Muslim Brotherhood in Egypt. Ennahda maintains that dialogue and political pluralism are key when it comes to Tunisian politics. Perhaps as a function of both its own party discourse and its having received a plurality, rather than a majority, of parliamentary seats, Ennahda works with secular, centrist parties in order to maintain a governing coalition. These parties were Ettakatol and Congress of the Republic in 2011¹³ and Nidaa Tounes in 2014.¹⁴ In both cases, Ennahda functioned within a secular coalition.¹⁵ None of its partner parties has desired to reduce women's rights, thereby further incentivizing Ennahda to avoid advocating for such a change.

Ennahda's 2011 electoral platform explicitly committed the party to democratic governance, political pluralism, and a free-market economy. Ennahda states in its platform that it will "protect women's working rights, combat all forms of violence against women, and oppose compulsory dress code among women." The party also promises to "ensure that women will have

equal opportunities in administrative and political responsibilities."¹⁶

Notwithstanding these commitments, the party did not state that it would work to achieve full gender equality. When drafting the new constitution, Ennahda favored describing women as complementary to men rather than equal.¹⁷ For this reason, among others, many secularists were concerned that Ennahda's centrist positions amounted to mere lip service, and Ennahda actually had a more conservative agenda, which it would seek to implement once in power.¹⁸ An additional dimension to this concern was that Ennahda encouraged lifting the 1957 ban on wearing the hijab in public.¹⁹ The party did not push for the hijab to be mandatory; however, it advocated allowing women to wear the veil in public, if they chose to do so. The ban was ultimately lifted.

Many secularist and feminist groups were apprehensive about the possibility that Ennahda would advocate reducing women's rights as they pertain to family law, particularly as some Ennahda members gave conflicting statements concerning such issues. In mid-2011, for example, Ennahda spokesperson Samir Dilou stated polygamy was a fundamental principle that Ennahda was determined to include in the constitution.²⁰ After the controversy that followed, Dilou said he had been misquoted, and the party had no intention of legalizing polygamy.²¹ In November of the same year, Ennahda Member of Parliament (MP) Souad Abed-el-Rahim stated existing family laws protecting single mothers should be eliminated.²² Shortly thereafter, however, Ali Al-Areed, a member of Ennahda's executive office, indicated Ennahda had no plans to change Tunisian family law.²³ While it is possible party members may have been expressing their individual viewpoints as opposed to reflecting party positions, it is more likely the party revised its stances on some aspects of family law after receiving criticism from feminist organizations and secular political groups.²⁴ Such policy shifts may also have reflected a desire to create distance between itself and more radical Salafist Islamist groups, who were also receiving criticism for their conservative vision of Tunisian governance.²⁵

Ultimately, the party did not advocate for any of the rights accorded to women in previous regimes to be rescinded—nor have any been. This could be due to partnerships Ennahda has forged with secular, centrist parties, as previously discussed, or the presence of female parliamentarians in the Ennahda delegation and their ability to support women from inside the government.

Ennahda's Contributions to the Socio-Political Representation of Women

The current proportion of women in the Tunisian parliament is 31 percent, which is higher than in many other parliamentary systems around the world.²⁶ The principal reason for this is that in May 2011, the Tunisian gender parity law was passed, mandating half of all party candidates in national elections be women, and men and women's names alternate down the ballot list.²⁷

Of the 49 female parliamentarians elected in 2011 to a 217-seat National Constituent Council, 42 were members of Ennahda, which had won a total of 89 seats.²⁸ In 2014, when a total of 68 female parliamentarians were elected to the Council, 27 ran on the Ennahda list, which had won 69 seats,²⁹ while 35 were members of coalition partner Nidaa Tounes, which had won 86 seats.³⁰ A total of 62 out of the 68 women elected to parliament were part of Ennahda's coalition.³¹

Having the bulk of female parliamentarians come from Ennahda and its coalition partners creates a partisan locus for female political participation. Ennahda's female MPs have been influential in developing the party's stance on women's political participation.³² Thus, as a consequence of collaborative efforts among Ennahda, Nidaa Tounes, Afek Tounes, and the Free Patriotic Union,³³ the National Constituent Assembly passed a bill in June 2016 requiring gender parity in municipal elections. Accordingly, female candidates must constitute half of the total candidates, and men's and women's names must alternate down the ballot list.³⁴

While this appears to be a replica of the 2011 gender parity law, the language of the June 2016 gender parity law created even more opportunities for female participation. The 2011 gender parity law required the party ballot list to have male and female names alternating down the ballot list, but there is no clause regulating the gender of the candidate listed first. (The tendency is to place men's names first on party ballots, ultimately granting men more chances than women to win parliamentary seats.) In contrast, the 2016 law required women to be listed first on the ballot in half of municipal constituencies;³⁵ this ballot structure increases women's chances of gaining municipal seats. The bill passed with 127 votes out of the 134 parliamentarians present.

This legislation is often celebrated as an effort primarily emerging from female parliamentarians and women's

rights NGOs. Female parliamentarians in particular worked across party lines to lobby and unanimously voted in favor of it,³⁶ while civil society groups such as Aswat Nissa ("The Voices of Women") lobbied for the law and held training workshops for women who wanted to go into local politics.³⁷

This is not the only instance in which Ennahda worked in support of matters pertaining to women's rights. Another example is the recently approved draft law that addresses the problem of gender-based violence.

Ennahda's Contributions to Protection from Gender-Based Violence

In 2010, Tunisia's National Board for Family & Population conducted a survey concerning the prevalence of domestic violence. They found 47.6 percent of women between the ages of 18 and 64 had experienced at least one episode of domestic violence in their lives.³⁸ In the wake of the Arab Spring, increased levels of gender-based violence were reported in North Africa and the Levant.³⁹ Some explained this phenomenon as a result of the breakdown in law and order that typically accompanies revolutions.⁴⁰ Others explained this particular regional increase as a by-product of political Islamization, noting that radical Jihadist movements invoke violence against women in their propaganda narratives.⁴¹ Whatever its source, the rise in domestic violence in Tunisia became acutely obvious, so a bill was developed in order to counter it.

In 2014, the Ministry of Women, Family Affairs, and Children introduced a bill protecting women from domestic violence and sexual harassment. Ennahda and its coalition allies supported this bill. Interestingly, Ennahda did so knowing some would find its support for the bill counterintuitive. Ennahda MP and Secretary of State Entrepreneurship Sayyida Ounissi stated that "[i]t's good to have conservatives like us saying violence against women is not acceptable. Some conservatives might argue that the state should not interfere in the private space [of the family], but when a person's physical integrity is harmed, the state needs to step in."⁴² The chair of the Women and Family Parliamentary Committee and Ennahda MP Mehrezia Labidi, a strong supporter of the bill herself, stated that "Ennahda champions the bill on domestic violence against women."⁴³ The draft law was approved by parliament in July 2016 and finalized in July 2017.⁴⁴ It is due to go into effect in 2018.⁴⁵

While there was no formal explanation as to the year-long delay, one explanation could be that there were additional elements of protection for women that were being incorporated into the draft law. As late as March 2017, a clause concerning the statute of limitations when reporting rape cases was approved by the parliament; it allows minors who were raped to file their cases into adulthood.⁴⁶ Currently, the provisions of the law include: prohibiting all forms (physical, psychological, sexual, and economic) of violence against women, criminalizing marital rape, ending impunity for rapists who marry their victims, and imprisonment or financial penalty should the law be broken.⁴⁷

In its degree of comprehensiveness, this legislation is the first of its kind in the Arab region. In the context of Arab politics, support for criminalizing domestic violence is often assumed to be a secularist cause;⁴⁸ in Tunisia, it is being treated otherwise.

Ennahda: The Case Study

Ennahda rose to power shortly after the Jasmine Revolution, in which many Tunisians expressed the desire for democracy, transparency, and improved economic conditions. Though it was itself a moderate Islamist party, some Tunisians and outside observers blamed Ennahda for failing to control more radical Islamist parties. After two secular leaders were shot, Ennahda agreed to step down from the government on September 28, 2013, and an independent caretaker government took power three weeks later.⁴⁹ Ennahda claimed to have stepped down because the Tunisian political scene was extremely polarized and could negatively impact the Tunisian transition to democratic governance;⁵⁰ preserving the path to democracy, the party said, was more important than holding on to its share of power.⁵¹ After the 2014 elections, Ennahda won 69 of the 217 parliamentary seats, and it once again participates in Tunisian politics and government in a coalition with secular, centrist parties.⁵²

Speculation continues as to whether Ennahda would advance a more conservative agenda toward women if it had either a strong parliamentary majority and/or fewer female parliamentarians. As of now, the party has a strong leader in Rachid Ghannouchi, who unifies the party, directs it toward pluralism, is responsive to critical cues from civil society and opposition groups, and specifically addresses women's rights in both the political and economic spheres. Whether Ennahda would behave similarly under different leadership is subject to debate.

It is also imperative to bear in mind that Ennahda attained a parliamentary plurality after 50 years of secularist governance under which women were accorded more legal rights than women in the rest of the Arab world. Tunisian electoral law now compels all parties to create alternating-gender party lists, thereby increasing the proportion of women who enter the party—and 40 percent of Ennahda MPs today are women.

Women in Tunisia have enjoyed an impressive array of legal rights for two generations. We can assume that women will not work to reduce their socio-political rights now that they have been accorded increased political participation through electoral law. Strong leadership, moderation, pluralism, and a large proportion of female parliamentarians aside, the case of Ennahda is one which indicates that the rise of an Islamist party does not necessarily come at the cost of women's rights.

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