

**UC Berkeley**  
**GAIA Books**

**Title**

Gender, Citizenship, and Human Rights in the Middle East: Agendas for Research and Reflections on Lebanon

**Permalink**

<https://escholarship.org/uc/item/61z790df>

**Author**

Joseph, Suad

**Publication Date**

2002-07-15

# Gender, Citizenship and Rights in the Middle East: An Agenda for Research

Suad Joseph

University of California, Davis

Editing the book, *Gender and Citizenship in the Middle East*, which includes some of the authors here in this workshop (Yesim Arat, Sondra Hale, Islah Jad), gave me an opportunity to consolidate to some of what we know about this subject. But more importantly, in some respects, it provided the database for raising questions about what we do not know and what we do need to study. In this paper, I outline an agenda for research on gender, citizenship, and rights in the Middle East. I focus on the areas in which research needs to be done and offer some suggestions for approaches to those questions. The goal here is to provoke discussion and encourage further investigation into this crucial area of gender theory and practice.

## Countries Not Covered:

The book covered 15 Middle Eastern countries: Egypt, Algeria, Tunisia, Morocco, Sudan, Lebanon, Palestine, Jordan, Iraq, Saudi Arabia, Kuwait, Yemen, Turkey, Iran, and Israel. I solicited articles on all Middle Eastern countries, but was not able to find authors for all of them and in the end decided to go to press so that the completed studies could be published in a timely fashion. It was difficult to find authors for countries like Libya,

Syria, some of the Arab Gulf states.

This raises the first question for research. For a number of Middle East countries, very little current research, especially ethnographic, "on-the-ground" research exists on the gender issues in general, and particularly on gender, citizenship and rights. While I was able to solicit a chapter on Iraq, for example, it was not based on on-the-ground research. Libya, Syria, and Iraq stand out as countries for which much research is needed on the laws and practices of citizenship and rights as they intersect with gender. For Libya, one author declined to write because of fear of reprisals on her family. The current experiences of scholars such as Nawal el Saadawi and Saad Eddine Ibrahim are extremely telling in terms of citizenship practices. That we do not know much about gender and citizenship in certain countries is not accidental. Lack of knowledge can be as much an expression of political conditions of citizenship as is the nature of the knowledge we do possess.

### What is citizenship?

The scholars in the edited book used a variety of definitions of citizenship. They discussed citizenship in the standard socio-political terms of a.) a juridical relationship between the legal members of the state and the state; b.) the delineation of rights and responsibilities of the citizen; c.) the actual practices engaged by states in relationship to their citizens and by citizens in relationship to their states.

But the researchers also raised critical questions about the applicability

of standard notions of citizenship to many Middle Eastern countries. In states like Saudi Arabia, a formal constitution does not exist. Rather there is what is called the Basic Law (Altorki), based on shari'a. This raises the question of what does citizenship mean in a country which does not have a formal constitution? In Palestine, there is no formally recognized state. What can citizenship mean for Palestinians when their governing authority has little sovereignty or power over its own institutions, over its borders, over its people, as Islah Jad, Penny Johnson, and Rita Giacamen have pointed out. In Egypt and Lebanon, there are many long-term residents, people who have no place else that they belong, who nevertheless are not citizens of the states within which they live. We need to consider what it means to not have citizenship in today's world. The issue of the "bidun's" -- --- those without citizenship -- emerges in every country of the world. In Egypt, some scholars (Center for Democracy Studies, Ghalia Gargani) have found that the bidun's are disproportionately women. In a related issue, they found that even when they are formally citizens, more women than men are not registered in the voting registries. That is, in families in which members tend not to register or more likely to not register their girl children than their boy children. This, of course, leads to a disproportional disenfranchisement of women "citizens", when they are citizens and a greater disenfranchisement of women from the whole domain of citizenship if they are bidun's.

In many Middle Eastern states, the relationship between the formal constitution and the processes by which laws are generated is often not

transparent. Jacqueline Ismael and Shereen Ismael observe that Iraq's constitution has little to do with the ways in which laws are made. As Fateh Azzam has observed, citizens of many Middle Eastern states have lived continuously under national emergency laws for decades (Egypt, Libya, Syria, Iraq...). Such on-going renewals of "emergency" status suspend the rule of law, to the degree that any constitution assures legal protections to citizens. The relationship between the formal constitution and the actual practices of governance, even under "normal" conditions in the region, are often quite tenuous. What does citizenship mean in states which do not govern through the instruments of their constitutions, through the application of laws on the books, through the observance of international conventions which they have signed?

#### Why citizenship studies are so important now

We might ask: Why should we be concerned with citizenship? Scholars like political sociologist Bryan Turner argue that citizenship is increasingly diminished in importance in today's world. Processes of globalization; the massive traffic in people through labor movements, wars, dislocation, rural-urban migrations; the disintegration of major states such as the Soviet Union, the Eastern European blocks; the generation of international conventions intended to supersede the laws of nations; and the questionable degree of application of citizenship laws by many states all seem to question the efficacy and meaningfulness of citizenship as a set of legal relationships, conditions, and guidelines. Yet for many women and

minorities around the world -- First and Third World, citizenship is an increasingly active site of negotiations over their legal and social personhood.

Questions for investigation include how the idea of citizenship is perceived by women of different classes, religions, ethnic groups, nationalities around the world? Why are there discrepancies in the interest women have in the issue of citizenship? Why are some women mobilizing around the question of citizenship at a time when some scholars believe citizenship is being replaced by other structures and procedures -- such as human rights? Why are women willing to invest in legal struggles in countries where there is no or little rule of law? Why are so many other women disinvested in the struggles over citizenship?

#### Citizenship as an Expression of Society or Myth

Rogers M. Smith suggests that every state constructs its notions of citizenship around myths used to construct the notion of the nation. He calls these civic myths. He argues that in the United States, citizenship is built around the civic myth of democracy, the civic myth of the rule of the people. In Lebanon, I argued that citizenship is built around the civic myth of sectarian pluralism underwritten by kinship and the kin contract. The civic myth of sectarian pluralism is not only underwritten by the kin contract, but rests heavily on the delegation of family law to the 18 recognized religious sects. Thus through the kin contract and the intertwining of sectarian family law into the fundamental basis of

citizenship, Lebanon systematically and legally genders citizenship.

Civic myths are continually contested and changing. Homa Hoodfar argued (2000: *Gender and Citizenship in the Middle East*), that citizenship is a masculinist discourse. If so, civic myths are also masculinist discourses. A critical question for us to examine is how women are written into or out of the civic myths which undergird notions of citizenship? How do women participate in the construction of civic myths? How do women understand, assimilate, pass on, or resist and subvert civic myths of citizenship?

#### How citizenship is gendered?

Homa Hoodfar's analysis of citizenship as a masculinist discourse can be observed concretely in the processes of how citizenship is passed on in each country. With the exception of Turkey, Tunisia, Israel, women cannot pass citizenship on to their children or to their foreign husbands in Middle Eastern countries. In many countries, women who do marry non-nationals must follow the nationality of their husbands. Most countries make provisions to allow a women to pass citizenship on to children if there is no identified father, but some (as did Lebanon until recently) have penalized those children by identifying them as "illegitimate" in official government papers. In many countries, women cannot obtain a passport without their husband's or father's permissions. Even if they have passports, in many countries they need their husband's or father's permission to travel. In some countries women cannot marry themselves, but must have a wali, a guardian, to marry them. In a number of countries women cannot be judges,

and their testimony counts half of that of men. The President of the Court in Metn in Lebanon, a woman, pointed out the irony that in Lebanon, she could be a judge, but her testimony, until recently, still counted half that of a man.

These concrete and material expressions of the gendering of citizenship suggest research needs to be done on the implementations of these discrepancies and the impact they have on women in Middle Eastern countries. To what degree and in what arenas, are women (and which women) aware of rights they do and do not have before the laws in their own countries, for example?

#### What are the historical sources of citizenship laws

Ussami Makdisi (1999, *Citizenship in Lebanon*), writing on Lebanon, offered the provocative argument that Ottoman law had been somewhat more favorable to women than French law. Ottoman law allowed citizenship to be passed on to children through their relationship to the land, in addition to their relationship to blood (being children of someone who was a citizen). Passing citizenship through relationship to the land, opened a window to allow women to pass citizenship on to their children, if their children were born in Ottoman land. French law, at the early 20th century, privileged blood, and the passing of citizenship on to children through blood relationship. It was by following French law, instead of Ottoman law, that Lebanese citizenship law became increasingly gendered in this arena. While it is taken as a given that European law is superior to Middle Eastern laws



on gender issues, it is useful to remember such historical traces left in the Middle East. And to realize the recency of changes in women's legal status in Europe. England did not let women pass citizenship on their foreign husbands for example, until 1982. The source of citizenship law is therefore crucial to understanding the assumptions behind it, and requires much further research in order for us to historicize and deessentialize the patterns of gender and citizenship observed in the region.

#### What are the Conceptual Assumptions of Citizenship Laws?

Every set of citizenship laws rests on a series of assumptions, assumptions often lacking a coherent logic unifying them. In the above example, whether citizenship devolves from relationship to land or to blood crucially sets the tone for women's enfranchisement or disenfranchisement.

This is particularly so, when blood is assumed to be patrilineal (Joseph 1999, *Descent of the Nation*). If citizenship is through blood, and descent is patrilineal, then logically only men can pass citizenship on to children.

If, In addition, the constitution assumes that the family is the basic unit of society, as opposed to the citizen subject, then the patrilineal rules of recruitment into family units further disenfranchises women, who can never aspire be the conduits into family units and therefore to citizenship.

Most Middle Eastern constitutions do indeed assert that the family is the basic unit of political society. While some find, as Soraya Altorki (2000, p. 221) does for Saudi Arabia, that this maybe a liberatory mechanism, for

other scholars of other countries, the positing of membership in political society through family units sets the stage for the subordination of citizen subjects to patriarchal structures of authority. Such systems, normally and normatively, disproportionately disadvantage women as citizens. These differences in views of the merits of funneling citizenship through family units suggest that further research is needed on the impact on the citizen subject, especially the woman citizen, of formally and functionally requiring membership in family units in order to be eligible for the rights and resources of citizenship. What are the implications for women's citizenship of the relationship between family and citizenship (family and state). What are the implications of conducting citizenship through family structures and identities. Is the family always an inherently patriarchal or can it be recuperated?

### Women's Enfranchisement as Citizenship

Women have the right to vote in most Middle Eastern countries (including Islamic Iran), though not all (for example, Kuwait). Yet, as one of Homa Hoodfar's (2000, p. 302) Iranian interviewees noted, what does it mean to have the right to vote if she can be divorced from her husband for going to the polling place; or what does it mean for her to become president or ambassador if she has to ask her husband permission to obtain a passport and to travel? In Egypt and Iraq and Syria, women have asked, what does it mean to vote, even when there is a 99% turnout, when there is only one slate of

officers effectively one can vote for?

Whether women are legally allowed to vote, whether they are registered to vote, whether they in fact do vote, and what the choices are for them if they do vote, are all critical questions in the simple and straightforward issue of enfranchisement. At what age are women allowed to vote compared to men? Are there requirements for women's voting that are different from men's, as for example in Lebanon, a woman must have elementary education to vote, while a man need not. These are simple questions for which we still need data.

What is the relationship between citizenship and religion?

If there is a singular issue around which the Middle East stands out in the cultural specificity of its gendering of citizenship, it is in the linkages of religion and citizenship. In some countries, a citizen effectively is assumed to be formally a member of a/the religious community (ies) in order to have citizenship. In Lebanon, until and through the war, religious affiliation was stamped on each citizen's national identification card. If religious membership is assumed or required, in most Middle Eastern countries normally membership in a/the religious community assumed to pass through the male line (with the exception, historically, of Israel). Women are presumed to follow their husbands' religious affiliation. Children similarly follow their father's religious affiliation.

These intertwinings of religion and citizenship raise the question can a person NOT belong to a religious community and be a citizen, in many Middle

Eastern countries. Indeed, can one be an atheist and be a citizen? If, as Homa Hoodfar has argued, religion is a masculinist discourse, how does this intimate interlinking of religion and citizenship systematically marginalize women and the feminine from discourses of citizenship? How do women of various classes, religions, ethnic groups respond to these close interconnections. In Egypt, Lebanon, Algeria, Tunisia, strong women's movements have argued for greater separation of citizenship and religion, particularly for secular civil code, or codes of personal status. What would it take to produce a culture for such separations of religion and citizenship in the Middle Eastern countries where they are intimately connected?

#### The Status of Personal Status Laws / Family Law

In almost all the Middle Eastern countries, including Israel, family law (personal status codes) is based on religious law. The practice in many countries, a legacy of the Ottoman practices, to some degree, has been to allow each religious community to adjudicate marriage, divorce, child custody and inheritance through religious law (Lebanon, Israel). In most Middle Eastern countries, there is a unified family code, but based mostly on Shari'a (Egypt, Iraq, Algeria, Morocco, Iran, Iraq, Saudi Arabia) -- making it necessary for religious minorities (such as the Copts in Egypt) to adjudicate their family matters in Islamic courts. Turkey and Tunisia have gone further in secularizing family law, but even in these countries (especially Turkey), Islamists contest the legitimacy of secular family

codes.

Judith Tucker's (199 In the House of Law) fascinating analysis of legal pluralism during the Ottoman period, revealed that at times, having more than one set of personal status laws has worked to women's advantage. In contemporary Lebanon, that is less the case. But Tucker's research raises the very interesting issue of whether unification of family code in and of itself advantages women -- especially if the family code is unified in favor or more conservative interpretations of law, as Homa Hoodfar has argued occurred in the Islamic Republic of Iran.

The research questions this raises for us is how legal pluralism or unification of personal status codes affects women. How does the presence or absence of a civil option for marriage, divorce, inheritance and child custody affect gender relations? What are the circumstances which lead to the rise of efforts/movements to enact civil personal status codes? What are the implications of the current personal status codes for women's citizenship?

Family law has profound implications for women's capacity to act as an autonomous legal subject. For example, is she allowed to marry herself or must she have a wali? At what age is she allowed to marry versus men's marriage age. Is she allowed to initiative divorce? Can she have custody of her children, and under what conditions? Is she assured financial support on divorce? Can she inherit equal to her brothers from her parents?

The Citizen Subject / Citizenship and Subjectivity

As Jennifer Nedelsky and Jane Collier have argued, law is constitutive of selfhood. Citizenship, in the West, has been presupposed on a contractual, individualist notion of self and subjecthood. While such notions of selfhood and subject exist and are supported in Middle Eastern countries, I have argued (Joseph 1999, *Intimate Selving*), that relational or connective notions of selfhood are also subsidized, and likely more so than individualist, contractual notions of the self. If law is constitutive of the citizen subject, then what are the implications for women of the construct of self assumed by notions and practices of citizenship in the different Middle Eastern countries.

#### Citizenship and International Human Rights

As mentioned earlier, some prominent citizenship theorists, such as Bryan Turner, have argued that citizenship discourses are being displaced by the separate discourses of human rights embodied in international conventions and materialized in multiple human rights movements and NGO's. He further argues in favor of this movement, contending that, in a globalizing world, human rights discourses, conventions, movements, have and will have greater leverage in the lives of future world citizens.

The international human rights movements has raised critical questions for citizenship discourses. Most particularly, we need to investigate how particular states respond to and negotiate on the global stage of human rights and how their public postures affect women "back home". How does and to what degree does the international arena assist women in their local

citizenship struggles? How have women locally organized to link with global movements? How have women organized to delink with such global movements? What cultural specificities are being transported in the international human rights discourses and how are these converted and translated locally?

### Citizenship, Civil Society and the Debate of Domains

The issue of civil society and its necessity to the development of "active" citizenship (in Bryan Turner's meaning of "active citizenship") has been among the most discussed issues of the 1990's. This discourse has been closely linked with discussions of the public/private domains and the issues of boundaries between domains. Whether citizenship implies a specific relationship between the state, civil society and family (governmental, non-governmental and domestic spheres) and what impact does this have on women's citizenship are questions which continue to require analysis and fieldwork on the ground.

### Citizenship and State

From the lens of the state, the issue of citizenship takes different forms than it does from from women looking into the masculinist state. States often look to identify how the state evoke a sense of citizenship; how can it build capacities in its citizens for the kind of state that leaders want to build; how can it create loyalties to itself rather than to tribes, religious communities, ethnic groups, families or other competing forms of allegiance; how can it create the kind of labor force it needs for its

production system; how to extract a sense of duty and obligation required to serve in the militaries and obey the decisions/dictates of state leadership.

From the lens of those disenfranchised, women and minorities, the issue of citizenship raises the question of how citizens might turn to the state to protect their rights and responsibilities, when the state is often seen as the greatest barrier to their rights; when the agendas of state leaders appear at odds with citizen agendas; when states may seem to have relatively little connection with their own societies. Indeed, when the notion of citizenship, appears to some, to be alien to the dynamics of governance.

### Citizenship and Specificity

The latter series of questions has raised for some scholars and activists the question of whether the notion of citizenship is alien to Middle Eastern states. Is it a modern Western concept, which, while globalized, has not grown roots in the soils on to which it has been transplanted? Though studies must work to deessentialize the Middle East, the idea of "the" Middle Eastern state, or Middle Eastern "women", yet we must more acutely study where are the specificity to citizenship rights and practices in the Middle East? Simultaneously we need to carefully identify the patterns which are general, shared across regions, attributable to other processes and patterns such as patriarchy, class, "development" dynamics, structural positions in world markets and the like.

Certainly the prevalence of patriarchy through out the Middle East is a shared dynamic of citizenship. Patriarchy is not unique to the ME but the



centrality of the family and family system to society and governance may give patriarchy a greater valence than in some countries. The centrality of family to state constitutions, the consistency of patrilineality as the vehicle of citizenship (except Israel), the strong sense that children belong to their fathers and their fathers families, that men are the political leaders as well as the family leaders, that sons succeed fathers in political power, that political family lineages are to be groomed; that men are the economic actors and decision makers (regardless of the more complex realities). These have profound impact on citizenship laws and practices. But patriarchies differ and have differing impacts on the gendering of citizenship. The varieties of Middle Eastern patriarchies need further study.

Regardless of its the particular form, one can still say that family systems are politically and socially powerful in most Middle Eastern states. Families are the conduit into the political space and political participation. Families are the conduit to social services. And families are crucial to the market place, the division of labor and to economic security. The interpenetration of state, civil society, and family systems, is not unique to the Middle East, but the particular forms of those interpenetration may be related to particular histories and social structural dynamics of the Middle East and need further investigation. The boundaries, assumed by theorists of civil society and advocates of democracy and liberalist constructs of the state as necessary for civil society, tend not to be as supported in the Middle East in general. The

state often strictly regulates the non-governmental sphere, regulates who can be in NGOs (which are often GNGO's) and what they can do, regulates the press, monopolies political parties, takes control over unions. I have elsewhere argued that family structures and systems and patriarchal structures and processes are central to these interlinkages. But how these relationships operate on the ground need refined study and analysis.

The intermeshing of religion and state in much of the Middle East, again, while not unique, takes a specific form through the elevation of religious family law to national law; the attempts to identify state religions in some states; the general deference to religious law; the deference to religious identities in political mobilization, or the equation of religious identity with national identity in some instances (or even the competition between religious and national identity in other instances); and the deference to religious authorities/leaders/clerics -- all these relationships, structures and dynamics need further investigation to clarify the specificities of the gendering of citizenship in the Middle East and their differing dynamics.

#### Agendas for Research

This discussion has been focused primarily on raising issues for further research on the gendering of citizenship in the Middle East. What is specific to the Middle East, what the Middle East shares with other Third World countries; what the Middle East shares with First or Second World countries; -- these are questions which call for careful examination of terminology, language, categories of analysis, points of departure for

analysis, evidence and data, history and culture. The subject is crucial for domestic struggles as well as for international discourses and movements. The first generation of research has painted the broad brush strokes, but hopefully the next generation of research will provide us with detailed roadmaps.