



Gender and judging in Tunisia and the intersections of penalty and privilege

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Abstract

The international community encourages countries to increase the number of women in the judiciary. This is partly based on the hypothesis that female judges make the bench representative of society. However, the question arises as to which women we are referring to. While the experiences of women are different from men because of their sex, experiences of lower-class women are also different from those from the middle and upper classes, as experiences of women belonging to a minority are different from those belonging to the majority. Using the intersectionality grid of “penalty and privilege” proposed by Patricia Hill Collins (2000), this article aims to look beyond the gender-binary in the study of judges in Muslim contexts by bringing in an intersectional approach, using Tunisia as a case study. Focusing on two female judges functioning under the Tunisian authoritarian regime, this study hopes to show how different women bring different experiences to the bench.

Key words

Tunisia; female judges; intersectionality theory

Resumen

La comunidad internacional anima a los países a que aumenten el número de juezas. Esto se basa, en parte, en la hipótesis de que las juezas hacen que la profesión sea representativa de la sociedad. Sin embargo, surge la pregunta de a qué mujeres nos referimos. Si bien las experiencias de las mujeres difieren de las de los hombres en razón de su sexo, las experiencias de las mujeres de clase baja también difieren de las de aquéllas de clase media o alta, así como las experiencias de mujeres miembro de minorías

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lo son de aquéllas que forman parte de la mayoría. A partir de la rejilla de interseccionalidad de “opresiones y privilegios” propuesta por Patricia Hill Collins (2000), este artículo procura mirar más allá del binomio de género en el estudio de los jueces y juezas en contextos islámicos, y lo hace a través de un enfoque interseccional, con Túnez como estudio de caso. Así, nos centramos en dos juezas que operan bajo el régimen autoritario tunecino, y esperamos así mostrar cómo distintas mujeres aportan distintas experiencias a la judicatura.

Palabras clave

Túnez; juezas; teoría de la interseccionalidad

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1. Introduction

The need for women's participation in the labour market runs as a common thread through reports from international organisations. For instance, in her introduction to the March 2019 issue of IMF's journal *Finance and Development* which was dedicated to the theme of *Women and growth*, IMF's Chairwoman and managing director Christine Lagarde stressed the importance of women's access to the workforce (Lagarde 2019, p. 5). In the discussion on women's access to the workforce, the judiciary has a special place. In its MENA Gender Equality Profiles, UNICEF reserved a separate section to the question of female judges, addressing specifically the number of women judges per country (see, for instance, UNICEF 2011a, p. 3, 2011b, 4, 2011c, p. 3). The OECD Gender Initiative pays specific attention to women's access to the judiciary as well: among its eleven governance gender indicators, four pertain to the judiciary (OECD 2017).

That the international community encourages countries to increase the number of women in the judiciary, suggests that in the eyes of many, the more judges are women, the better it is. Underlying reasons for this assumption are various. For the OECD, having women in the judiciary means that a country is "working towards a legal system reflective of society" (OECD 2018). For Senior Gender Advisor of the International Development Law Organisation (IDLO) Rea Abada Chiongson, "[t]here is a higher chance that social justice issues are included, because we are tapping knowledge, interpretations and experience that are different from the norm" when women are included in the judiciary (IDLO 2017). The argument to include women in State institutions resonates Carol Gilligan's "difference feminism": women's experiences are different from the "norm" as the latter is male, and such diversity has added value, such as in the field of social justice (Schultz 2003, xxv; 2017, 25). Similar equations between female judges and social justice can be detected in feminist academic writing on gender and judging. For instance, in her foreword to the recent edited volume on female judges in the Muslim world, Valentine Moghadam writes that "women judges may be more likely to sympathize with women plaintiffs in cases concerning domestic violence, sexual harassment, divorce, abandonment, and child custody" (Moghadam 2017, xi).

This article questions the assumption that increasing the number of female judges makes the bench representative of society.¹ When thinking in terms of a judiciary containing women judges as being "representative", the question arises as to which women we are referring to. Surely, the experiences of women are different from men because of their sex, but experiences of lower-class women are also different from those from the middle and upper classes, as experiences of women belonging to a (racial) minority are different from those belonging to the majority. Using the intersectionality grid of "penalty and privilege" proposed by Patricia Hill Collins (2000), I argue that women judges are not just women, making them part of a socially oppressed group; they are also judges, privileged by their social position, their level of education, and their income. At the same time, different women judges may suffer or benefit from different structures of penalty and privilege related to their social background (e.g. level of education and income of

¹ On the necessity to have a judiciary that is in different ways (gender, race, sexual orientation, ability) representative of society, see Levin and Alkoby 2018.

their parents), their personal circumstances (e.g. married, children, health, age), and their political affiliations or sympathies.

This article aims to look beyond the gender-binary in the study of judges in Muslim contexts by bringing in an intersectional approach, using Tunisia as a case study. Focusing on female judges functioning under the Tunisian authoritarian regime, this study hopes to show how different women bring different experiences to the bench.

This study is based on material collected during field research for my PhD, which I carried out from July 2008 to September 2009. During this period, I had access to a family court where I spent my days with two female family judges. Apart from observing their practice in the presence of litigants, we spent much time face to face, where we had small talk or where I asked for clarifications of certain laws, practices or particular cases. I also spoke to them in private in their homes, in the presence of their families, when I returned to Tunisia for a short research trip in July 2010.² With the aim of carrying out a habitus analysis in the Bourdieusian sense, I asked them about their personal lives, their social backgrounds, their parents, their studies, their personal interests, and their hobbies. This served to establish where to situate them in terms of social class, personal circumstances and political affinities.

This article proceeds as follows. Section 2 discusses the existing literature on the topic of gender and judging and sets out the theoretical framework used for this article, namely intersectionality theory and the concept of penalty and privilege. Section 3 describes the socio-political environment that the women judges studied for this article were working in. Section 4 contains the case study of two women judges working at a Tunisian family court during the years 2000. But before I begin, two issues need attention: the temporal boundaries of this study (the years 2000), and my positionality as a researcher.

This article is based on data collected during the years 2000. In 2011, Tunisia underwent a change of regime: the authoritarian rule of former President Ben Ali came to an end, and since the first democratic elections of 2011, Tunisia has been governed by a succession of elected governments. The consequences of the regime change that are relevant for this study are the following. Since 2011, the international community has been actively lobbying for democratization in Tunisia, which included a lobby for the feminization of the judiciary. Besides, the percentage of women judges in Tunisia has increased since 2011 (see below) (IDLO 2017). Moreover, the political repression of judges that this article talks about, belongs to the past (see below), which is meaningful because as a consequence, judges' privileges are no longer (or to a lesser extent) influenced by their political convictions.

Despite the aforementioned developments, the present study remains topical. The principal aim of this study is to bring the nuanced approach of intersectionality theory to the study of women judges in the region: this study shows how judges in Tunisia suffer and benefit from a variety of factors of penalty and privilege, and apart from maybe the political factor, these factors are still topical. Also, even if the political factor that is described here as an element of penalty and privilege under the authoritarian

² On 8 and 12 July 2010. Unfortunately, due to a combination of circumstances, political and inter-personal, I lost contact with both judges after the uprisings in 2011, meaning that I was unable to go back to my informants to ask further questions in preparation for this article.

regime may no longer be relevant for the Tunisian case, it has not lost its relevance for other countries, in the region and elsewhere.³

With respect to my positionality as a researcher, it may be relevant to mention my background as a trained lawyer in the Netherlands. Although I have never practised as a lawyer, I know the world of lawyers and judges in the Netherlands from the inside, since I went to law school and my birth family consists of lawyers and judges. This background has certainly influenced my understanding and interpretation of what I have observed in Tunisia when I automatically (yet often unconsciously) compared Tunisian judicial practice to what I knew.

2. Gender and judging meets intersectionality, meets Tunisia

Gender and judging

According to a study from 2018, women in OECD countries make up more than 54% of professional judges, meaning that globally, over half of the bench is female (OECD 2018). Nevertheless, women are under-represented in top-ranking judicial positions including High Courts and other senior roles in the legal profession. For instance, women hold 33.6% of judgeships in Supreme Courts. This trend is mirrored in the proportion of presidential positions that women occupy. On average, women hold 45.9% of presidencies in lower courts, 28% in courts of appeal, and 18.6% in high courts (OECD 2018). Thus, on a global level, the higher the position, the lower the number of women (Schultz 2003, xlvii).

Ulrike Schultz attributes the divergence to dominant stereotypes in selection and promotion procedures, that are in turn connected to notions of motherhood and femininity, which are perceived to damage professional commitment and efficiency (Schultz 2003, p. 1). Moreover, women judges tend to concentrate on the less prestigious fields of family law and parent and child matters, while men ambition matters characterised by visibility and impact on the wider world. As a result, Schultz argues, the image of the judiciary as being male is maintained (Schultz 2003, xlvii).

The field of study that has come to be known as “gender and judging” looks at various topics pertaining to the judiciary and gender, ranging from the judges’ gender to the effects of having women in the judiciary. Famous contributions to this field are Ulrike Schultz and Gisela Shaw’s edited volume *Women in the World’s Legal Professions* (2003) and their special issues in the *International Journal of the Legal Professions* that focus on gender (2003 and 2008). Existing studies include publications on women in the judiciary in general⁴ as well as specific country studies such as Germany, France, Israel, the US and Brazil.⁵

³ It should also be noted that the fact that since 2011, an Islamist movement (Ennahda) has entered government (in coalitions with non-Islamist parties) has not had any consequences for the findings in this study.

⁴ For an overview of the existing literature, see Schultz 2003 (pp. xxv–lxii), and 2017 (pp. 23–50). Among the most influential contributions to this topic are Sally J. Kenney (2008, pp. 87–110), Rosemary Hunter (2008, pp. 7–36), and Harriet Silius (2003, pp. 135–148).

⁵ For instance, Bogoch 2003, Schultz 2003, Boigeol 2003, Junqueira 2003, and Peresie 2005.

Studies that pertain particularly to the Muslim world include Monique Cardinal's 2008 publication on Syrian judges (Cardinal 2008), Monika Lindbekk and Nadia Sonneveld's 2017 edited volume titled *Women Judges in the Muslim World*, and several chapters in the edited volume of Gretchen Bauer and Josephine Dawuni on *Gender and the Judiciary in Africa* (2016). With respect to Tunisia, relevant studies are those carried out by international organisations (UNESCO and IDLO) (see Ammar 2010, IDLO 2019), as well as academic studies by Tunisian constitutionalists and feminist activists Sana Ben Achour (2007) and Salsabil Klibi (2016), French scholar Elise Hélin (1995), and myself (Voorhoeve 2014 and 2017).

Intersectionality

In the 1980s, African American feminist scholars formulated a feminist theory that included other axes of oppression beyond sex, underscoring the "multidimensionality" of oppression experienced by women of colour (hooks 1984, Crenshaw 1989). Authors such as bell hooks, Kimberlé Crenshaw and Patricia Hill Collins argue that women of colour are doubly oppressed, not only by their sex, but also by their race. Crenshaw, who coined this approach "intersectionality", added that other factors can play a role as well, such as social class and sexual orientation (Crenshaw 1989, p. 140).

The American legal scholar Patricia Hill Collins has added a useful dimension to intersectionality theory with her emphasis on so-called "intersections of penalty and privilege". She states that intersecting oppressions of gender, race, sexuality and class "produce neither absolute oppressors nor pure victims" (Collins 2000, p. 126). Indeed, what is key in Collins' theory is to reject "the binary thinking that has been so central to oppressions of race, class, gender, sexuality, and nation" (Collins 2000, p. 245), in which an individual belongs either to "an oppressor group or an oppressed one" (Collins 2000, p. 246). In her so-called "both/and" thinking, "all individuals and groups possess varying amounts of penalty and privilege in one historically created system" (Collins 2000, p. 246).

Collins gives the example of the North-American context to argue that "White women have been penalized by their gender but privileged by their race and citizenship status. Similarly, Black heterosexual women have been penalized by both race and gender yet privileged by their sexuality and citizenship status. In a transnational context, U.S. Black women are privileged by their citizenship yet disadvantaged by their gender. Depending on the context, individuals and groups may be alternately oppressors in some settings, oppressed in others, or simultaneously oppressing and oppressed in still others" (Collins 2000, p. 246).

Apart from anti-dualistic, Collins' theory is also anti-static: "Long-standing views of group organization see groups as fixed, unchanging, and with clear-cut boundaries. In contrast, the view advanced here retains historically constructed groups, but perceives these groups as being much more fluid" (Collins 2000, p. 246).

Gender and judging, intersectionality, and Middle Eastern studies

The intersectional approach is not new to studies in the field of gender and judging. Authors have pointed out that it is difficult to generalise about female judges' experiences and practices, because female judges' "life realities" and professional

ambitions are far too complex, diverse, and contextually divergent to be subsumed under any one category (Schultz 2003, li). This affirmation is intersectional not so much because it focuses on the oppression of female judges, but because by understanding “women” as a heterogeneous group, it is inscribed in feminist scholarship that is respectful of the diversity among women.

The shift to the intersectional approach to gender has also integrated Middle Eastern women’s studies.⁶ Examples are a study by Annelies Moors on the intersection between gender and social class, Leslie Peirce’s work on the intersection between gender and generation/age, and Vanessa Maher’s study on the intersection between gender and the urban/rural divide (Maher 1974, Peirce 1997, Moors 2008). In the field of particularly gender and judging in Middle Eastern studies, the dissertation by Anna Würth stands out in its finding that Yemeni judges’ gendered practices differed depending on the social class of the litigants (Würth 1995). This article aims to bring the intersectional approach to the study of female judges in the region, for the reason that women judges in the Muslim world are not a homogeneous group: characteristics that are decisive for their oppression or their privilege may pertain to their age, ethnicity, social background, religion, and other factors.

As is pointed out in intersectionality theory, every context has its own categories of oppression (and of privilege). For the Tunisian context it is relevant that between 1956 and 2011, it was an authoritarian State, which meant two things in terms of penalty and privilege. First, the authoritarian State upheld a myth of strict homogeneity, and silenced the factual oppressions that existed on the basis of race, language, class, sexual orientation and other factors, such as political orientation. According to the official discourse, all Tunisians spoke the same language (Arabic), belonged to the same race (Arab), adhered to the same religion (Sunni Islam), and belonged to the same social class (middle class). After the departure of the authoritarian regime, academics, politicians, civil society organisations and activists have pointed to the politics of exclusion underlying the former state discourse. For instance, Baccar Gherib argued that education has been unable to guarantee social mobility for everyone, meaning that a significant part of the Tunisian population belongs to the marginalised proletariat, which faces significant oppression and stands in great contrast to the so-called *grandes familles*, the bourgeois families from the large cities (Gherib 2011).

A second element of Tunisian authoritarianism that has had significant consequences for categories of penalty and privilege concerns the oppression of political activists, particularly Islamists, leftists and human rights activists. Since 1956, political opposition was factually illegal, and met with severe repression (Desrues and Hernando de Larramendi 2009). An aggressive nationalist rhetoric built on the concept of the “interior enemy”, suggesting that certain social, political and religious currents affected the “national interest” (Geisser and Gobe 2007). This political dynamic provoked a situation where individuals belonging to the opposition were actively marginalised, both by the regime and in society, be it in educational institutions, in the workplace or in everyday life. In terms of oppression and privilege, having strong political convictions hence

⁶ Frances Hasso is of a different opinion (Hasso 2005, p. 662).

provoked oppression, turning people into outcasts, whereas an individual's support of the authoritarian regime came with significant privileges.

3. Gender and judging in Tunisia

Judges in Tunisia

To become a judge in Tunisia, one needs to complete law school (four years of study at a Tunisian law faculty), followed by two years of study at the *École Supérieure de la Magistrature*. Where law school is accessible for anyone who has passed their bac (high school exam), one needs to pass an entry exam (*concours*) to enter the *École*. Although judgeship is a respectful occupation, which bestows status and a steady income, the judiciary has had difficulty to recruit: students prefer to enter the Bar or to work in business (Hélin 1997, p. 45). The reasons are manifold, but the fact that the average income of a judge is insufficient to maintain a family is likely to play a central role. The average income of judges and other well-educated civil servants such as university professors, was around the equivalent of 1,400 euros at the time of my research. This is significantly less than the income at a large enterprise or in Tunisian diplomacy for example.

Another reason why the judiciary has had difficulty to recruit lies in the development of the profession. Traditionally, being a judge was an occupation reserved to the so-called *grandes familles* belonging to the highly educated religious elite. The qadi, or Islamic judge, would come from a notable family of religious scholars, who had received training in a religious centre such as the prestigious Zaytuna mosque in Tunis (Botiveau 1993, p. 152). He would thus be a member of the upper strata of society with a maximum of power and privilege. Upon independence in 1956, however, Tunisia's first president Bourguiba stripped the religious elite of their privileges, starting with the qadis. Bourguiba abolished the religious courts and moved the qadis to the regular courts where they were to apply legislation rather than the religious law that they were trained in. From this moment, the training of judges was no longer in the hands of religious institutions: future judges received education in one of the newly established law faculties. These became widely accessible for students from a variety of class backgrounds. According to Elise Hélin, the result was a "de-valorisation of the judge's status" (Hélin 1997, p. 41), meaning that students who belonged to the *grande bourgeoisie* would be less likely to ambition a judge's career (Hélin 1997).

The deplorable working conditions of judges further diminished its appeal to students from wealthy backgrounds. By the time of my research, the government had visibly neglected the court buildings, with the result that doors did not shut, windows were broken, and curtains hung loose. The consequence was that the judges' offices were windy, noisy, and dusty, especially with the large road behind it. The temperature in the offices and court halls as also a problem: the government had not invested in heating or air conditioning, meaning judges often complained about the heat or the cold. Court halls in which hearings took place, suffered from lack of space, making it difficult for the lawyers and litigants to enter, and bad acoustics (partly because of broken windows), forcing people to scream. In the years 2000, the courts also suffered from a lack of digitisation: judges and scribes wrote rulings in handwriting for only the registry had a

computer; printers were old and often broken or out of cartridges, meaning that necessary documents were oftentimes illegible.

Despite the aforementioned de-valorisation, being a judge continues to come with status. Judges enjoy privileges in terms of income and status that most Tunisians can only dream of. The state-appointed judge is a public official, who benefits from a steady income and paid holidays. Judges enjoy health insurance, and have access to the Military hospital, which is considered one segment up from the public hospitals. Although they no longer belong to the highest elites, present-day judges belong to the higher echelons of the Tunisian middle class in light of their financial and cultural capital: in terms of financial capital, judges belong to the upper echelons of state employees. In terms of cultural capital, the judiciary is on a par with high school teachers and entrepreneurs with a university degree; their cultural capital is hence significantly lower than that of the qadi or of public intellectuals, journalists, writers, and university professors, but higher than shop keepers without a university degree.

Besides the cultural and economic capital of Tunisian judges, it is necessary to address their position on the political spectre before turning to the case of specifically female judges. Before the 2011 regime change, Tunisia's authoritarian regime was careful to avoid the politization of the legal professions (Gobe 2015, p. 117). Where the regime failed where lawyers and legal academics were concerned, it was successful with respect to the judiciary (Gobe 2011, p. 734). Indeed, many lawyers belonged to the constituency of the forbidden Islamist movement Ennahda or to more leftist or liberal movements and were considered "potentially dangerous for the political order" (Gobe 2011, p. 734).⁷ Also, many Tunisian feminist activists were law laureates, be it lawyers or law school professors. Judges on the other hand, were generally supportive of the authoritarian regime, and did not form a threat. They would refrain from having strong political opinions, be it leftist, Islamist or other. This is an indication that law students who upheld strong political opinions, entered other professions than the judiciary. In those rare cases where judges did engage politically, the regime sanctioned them: the judge would not be invited to the opening of the judicial year or be passed for promotion (these were strong warnings), they would be transferred to a court far away from family, or even dismissed (Geisser and Gobe 2007). In terms of power and privilege, this means that when judges became politically active, they were stripped of the privileges connected to being a judge.

Female judges in Tunisia: numbers and facts

Tunisia has the reputation of being the most "modernist", "secularist" and even "feminist" country in the region. It owes this reputation partly to the Family Code that was issued directly after independence (1956), and that deviates significantly from classical Islamic law. Until today, it is the only Code in an Arab country that forbids polygamy and allows full adoption. The Code was issued by president Habib Bourguiba, who continues to be venerated for his women-friendly laws and policies.

⁷ The then forbidden Islamist movement Ennahda and the communist party had an important constituency among Tunisia's lawyers (Gobe and Béchir Ayari 2007).

Women's participation in the work force played an important role in Bourguiba's modernist policies. Under his presidency, Tunisia ratified the 1968 Equal Remuneration Convention (11 October 1968). Since 1993, the Tunisian Labour Code explicitly guarantees equal pay to men and women (Law 93-66 of 5 July 1993) and in 2001, the provision that married women need their husband's signature when they sign a labour contract, was abolished. According to the latest ILO statistics, the labour force participation rate of women was 26.5 % in 2017 (ILOSTAT 2017).

Bourguiba appointed the first female judge in 1968. Tunisia then witnessed a rapid feminisation of the judiciary: by 2016, 41 per cent of the judiciary was female.⁸ It is noteworthy that the rise of women in the judiciary was not the result of policy: there was no explicit political will to have women on the bench (Hélin 1995, p. 98). The relatively high percentage is also remarkable in light of the aforementioned difficulties that the judiciary has had over the years to recruit: that women were relatively well represented, is an indication that the judiciary had an appeal to women that it did not have to men. In her study among Tunisian female law students, Hélin found that for this group, the perspective of job security and of financial stability was important, and that these young women expected that they could successfully combine a career in the judiciary with family responsibilities, because there would be less pressure and competition than for lawyers (Hélin 1995, p. 100). This finding is similar to arguments of women jurists elsewhere in the world (Schultz 2003, xlvii).

In light of the numbers of the OECD mentioned above, it is significant that in Tunisia, female judges held positions of responsibility. At the time of my fieldwork (in 2008–2009), 46.1 % of the heads of chamber at the Courts of First Instance were women, and 47.6 % at the Court of Cassation (Ammar 2010). Three courts had a female President, namely two lower courts and one Court of Appeal (Ammar 2010). These numbers have increased since: for instance, by 2016, 32 % of the lower courts had a woman as president (IDLO 2019, p. 19).

I observed during my fieldwork in 2008–2009 that in the lower courts, female judges adjudicated various legal topics, including criminal law, contract law and financial law. This means that their access was not limited to the domains of family and children's law. Out of the six family chambers I visited (divided over five courts), three were headed by men. At the largest court, they were women, because for the President of this court, one should be a married woman with children to adequately adjudicate family matters.⁹

Tunisian attitudes towards female judges

Despite the high numbers of women in the Tunisian judiciary, research has shown that female judges did experience certain problems on the basis of their sex. For a study carried out end 2017, the NGO International Development Law Organisation together with Tunisian women's rights organisation CAWTAR interviewed 69 Tunisian female judges and found that women judges felt the need to make a double effort to prove their competence, and to hide "feminine manifestations" so as not to be criticized (IDLO 2019, p. 31). These women also felt that they should hide their pregnancy "to avoid any

⁸ IDLO 2019, p. 18. Note that the numbers of women judges fluctuate significantly: 1977: 27.2 %, 1979 9.3 %, 1987: 32%, 1991: 41.4%, 1994: 23%. See Hélin 1995, p. 98, and Ammar 2010, p. 29.

⁹ Interview with Belgacem Barrah, former president of the Court of First Instance in Tunis, 2008.

accusations of default because of our health situation” (IDLO 2019, p. 31). A similar conclusion results from Hélin’s study of Tunisian female judges in the 1990s: whereas she argues that they are “satisfied and well-integrated in the corps”, they also report rejection, for instance by judges who do not want to seat in a chamber if a woman is president (Hélin 1995, p. 99). I observed that female judges sometimes struggled to obtain authority in the face of the litigants. One judge once yelled at litigants “You’re in a court! Show some respect!”, and another said to me in a private conversation that she would hide her décolleté before entering the court room, “because litigants show little respect for female judges”.¹⁰

It is noteworthy that while the general public may have had difficulty to treat female judges the same way as male judges, some people applauded the feminisation of the judiciary. Tunisian feminist activists and feminist legal scholars considered that it had a significant impact on judicial practice (Ben Achour 2007). They argued that developments in judicial practice in the field of women’s rights were a direct result of the feminisation of the judiciary. In the years 2000, a series of breakthrough decisions were taken in the field of mixed marriage, which can be traced back to women-only chambers. For instance, a women-only family chamber set a precedent that declared the marriage between an Tunisian, Muslim woman and a foreign, non-Muslim man valid, going against existing practice declaring such marriages null and void on the basis of the religious rule that Muslim women, as opposed to Muslim men, may not marry a non-Muslim.¹¹ Also, female judges allowed a foreign, non-Muslim woman to inherit from her Tunisian husband, which went counter to existing jurisprudence informed by Islamic inheritance law excluding non-Muslims from the inheritance of a Muslim.¹² A third much discussed innovation initiated by a women-only chamber concerned the right of a foreign woman to obtain custody over a child with Tunisian nationality, even if she was living abroad, breaking away from existing practice denying such a right on the grounds of the child’s nationality and Tunisian identity.¹³

Where Tunisian feminist legal scholars and international organisations such as IDLO are happy with the feminisation of the judiciary, they remain blind to who these women judges are. Indeed, in Tunisian academic writings on the aforementioned breakthrough decisions, the assumption is made that these judges were informed by their sex: they took these decisions because they were women. However, the judges who I studied, did not follow the trend set by these so-called breakthrough decisions, despite the fact that they were women.

4. Zooming in: Judge Hadid and Judge Haddad

As becomes clear from the above, Tunisian female judges share a certain amount of privileges. They have a degree of cultural and economic capital, and being a judge carries the privilege of the power to rule over other people’s lives, within the constraints of the law. At the same time, Tunisian female judges also perceive a degree of penalty on the

¹⁰ Observations at the Court of First Instance in Tunis, between October 2008 and September 2009.

¹¹ Ruling confirmed by the Court of Appeal Tunis, 14 June 2002, 82861. See Ben Achour 2003, p. 1207.

¹² Court of First Instance Tunis, 18 May 2000, *Revue tunisienne de droit*, 2000, p. 247, annotated by Ali Mezghani.

¹³ Confirmed by the Court of Cassation in its ruling from 2 March 2001, 7286–2000, *Revue de jurisprudence et de législation*, January 2002, pp. 183–195.

basis of their sex, as female judges have pointed out that they feel discriminated against. This confirms that in terms of penalty and privilege as theorized by Hill Collins, women judges enjoyed the privileges of being a judge, yet the penalty of being a woman. The question arises as to other factors besides the sex of women judges that may add to or reduce their privilege.

This chapter looks closely at two female judges, who I will call Judge Hadid and Judge Haddad, who were family judges in Tunisia in the judicial year 2008–2009. As we will see, these judges are in some ways very similar in terms of penalty and privilege, while in others, they differ. I will look specifically at their social backgrounds (what did their parents do? What was the economic and cultural capital in their birth families?), their personal circumstances (are they married? Do they have children? How is their health?), and their political inclinations.

Female judges

Both Judge Hadid and Judge Haddad had the privileged position of vice president of a family chamber. Thus, in terms of professional position their privilege was equal: both women headed a chamber of three judges. Both Judges had obtained this position in part *because* they were women, were married, and had children: for the President of the court, these were conditions to be a good family judge.¹⁴ There was, however, an important difference between these two female vice presidents on the level of experience. Judge Hadid had the privilege of having acted as a judge for three decades, without a career break, and of having served as a family judge at this Court for fourteen years. Judge Haddad on the other hand was new to the position of Family Judge: she had only just been appointed to the position when I first met her in October 2008. Moreover, she had had a career break of three years where she had not practised law at all, when she and her family lived in Europe for her husband's job. In short, even if they were both female family judges, their experiences were not identical: in terms of penalty and privilege, Judge Hadid had the privilege of experience.

In their day-to-day work experience, Judge Haddad was visibly under more stress than Judge Hadid. She made long hours and made sure not to waste time on anything other than work, such as personal conversation or coffee breaks. I had the impression that she was eager to prove herself. Judge Hadid on the other hand gave the impression to be working under less tension. She had certain privileges with the President of the Court, whom she had known for a long time and who convened with her on a regular basis. She also had a privileged position among the other members of the court, as well as lawyers and even litigants. It happened often that judges or lawyers approached her for advice and she was well-respected by the litigants.

Judge Hadid and Judge Haddad had in common that they identified as women, and both downplayed their femininity in their demeanour, their voice, and their clothing. Both judges spoke with deep and monotone voices and dressed "professionally". They wore trousers and wide blouses, and flat or semi-high heels, carefully avoiding to show

¹⁴ This did not mean, however, that they were stuck in this position. Numerous times Hadid had refused promotion to different functions and higher courts, as she did not find this important. After my fieldwork both judges were promoted: Judge Hadid became attached to the family chamber of the highest court, the Court of Cassation, and Judge Haddad became vice president at the court of appeal.

bodily forms or *décolleté* (which was quite common for female lawyers and other female professionals). However, Judge Haddad was less successful in hiding her femininity, not only because she was ten years her colleague's junior (Judge Hadid was in her fifties, Judge Haddad in her forties) and was very attractive, but also because her style was more distinct. Judge Hadid described her own style as "classic": she wore black and grey tones, long trousers, large and long buttoned-up blouses, and a blazer, with simple, discrete make-up. Judge Haddad on the other hand wore bright colours (yellow, orange, red, pink, green, blue), shiny textiles, and conspicuous colourful make-up. As a result, she looked more feminine, which may have increased the penalties connected to her sex, for instance in the eyes of the litigants.

Social backgrounds

Both judges were originally from the capital, and came from large families of ten children. There were, however, significant differences on the level of the social class and other circumstances of their birth families. Judge Hadid was born around the time of Tunisia's independence, in the 1950s, and grew up in the capital, where she attended the schools of the middle classes of the old city centre. She did not come from one of the *grandes familles*, whose names are familiar for every Tunisian from the capital, but her birth family did belong to the higher middle class. Her father had been a high civil servant under the French Protectorate and had been the first Tunisian subject under French rule to own a car. Later in life, Judge Hadid's social network consisted of people from similar backgrounds, who had come from the same urban middle class educational system.¹⁵ Her father had been an important figure in her upbringing, and was a strict man, as Judge Hadid herself said: he would not allow her to go to the cinema with female friends, and picked her up from school in his car.

Judge Haddad was born in the 1960s to a lower middle-class family in Tunis. Her father had also been a civil servant, albeit of a lower stance: the family was not wealthy. Judge Haddad grew up in one of the slightly poorer suburbs of Tunis and did not attend the schools of the urban elite, and her network did not include this elite either. As a little girl, she had been the mediator in the family, as she said to me, and her family members told her she should become a judge. Her father died when she was fifteen years old, and she felt responsible to live up to his expectations and enter the judiciary.

The backgrounds of these judges are strikingly similar in terms of their place of birth (the capital), the make-up of the family, and the father's occupation. However, given the high status of Judge Hadid's father under French rule, the social positions of their birth families are quite different in terms of elite status and income. I argue that Judge Hadid belonged to the traditional upper middle class, whereas Judge Haddad came from a lower middle-class background. These differences came with different privileges, and possibly, the privileges that Judge Hadid earned with her colleagues and the President of the Court were connected to her social background.

These data show the relative diversity in the Tunisian judiciary where the social background of judges is concerned. This also means that some judges share factors of privilege or penalty with litigants that other judges do not. As I have argued elsewhere,

¹⁵ Lycée Montfleury, Lycée Khaznadar, Lycée Rue du Pacha, Collège Sadiqi, Lycée Pierre Mendès France.

I observed that in her demeanour, Judge Haddad was more empathic towards litigants who faced economic problems than Judge Hadid was, and that she showed more respect and understanding towards litigants from the traditional lower class than her colleague (Voorhoeve 2017). As such, the variety of individuals on the Tunisian bench allowed for a differentiated judiciary.

Private life

Both Judges belonged to the first generation of women in their family with a university degree and a paid occupation. They were also the first generation to have been able to exercise control over the number of children they gave birth to.¹⁶ Although the judiciary does not pay well, these women were financially independent to a degree. This marks an important intergenerational shift: they were pioneers who had a life next to their family life. This also had the disadvantage that their mothers could not teach them how to be a female professional, or how to combine a career with having a family.

Both Judge Hadid and Judge Haddad were married and had children; they both had three sons. They were middle-aged (in their forties and fifties). Judge Hadid had married the man that her father had picked for her, whereas Judge Haddad married a man whom she met in law school. Both judges benefited from a double income: Judge Haddad's husband worked for a large national company and Judge Hadid's husband had retired after a career in the international tourism business. Despite these similarities, there were some important differences in terms of penalty and privilege on the level of their private lives.

Judge Hadid was married to a French Tunisian (a double national with a French mother). This allowed her and her children to enjoy the privileges of a European national in terms of social status and mobility. Marrying a Western European national generally provoked upward class mobility, as Western Europeans are considered upper middle class because of their citizenship. In terms of mobility, having French passports allowed one of their children to pursue his studies in France¹⁷ and her youngest received French healthcare and spent his holidays in France with the French side of the family. Apart from her husband's nationality, Judge Hadid was also privileged in terms of time. Her sons were grown up, and Judge Hadid had two *bonnes* (maids) who helped her with shopping, cooking and cleaning. Next to these privileges, Judge Hadid suffered from the penalty that originated in a factor connected to her health: she suffered from a chronic disease for which she was hospitalised numerous times during my research. Where this disease significantly disabled her, the fact that her youngest son suffered from the same illness, added to the burden as she needed to organise treatment for him and was generally worried about him.

Judge Haddad was married to a Tunisian man from a lower middle-class neighbourhood in down-town Tunis. They had both benefited from the social mobility that the post-independence Tunisian educational system had made possible. His job at a large national company gave her the privilege of a good income. Her husband's job

¹⁶ Thanks to Bourguiba's family planning program initiated in the 1960s.

¹⁷ Under the authoritarian regime, a State scheme allowed young Tunisians to pursue their study in France provided they had very high grades at their *baccalauréat*; this obstacle did not apply to the son of Judge Hadid.

had also been the cause for the family's temporary move to Europe, which in her eyes had provoked social mobility as well: she was proud to have familiarized herself with a few "European habits". However, the husband's job also had a significant disadvantage: at the time of my research, he was stationed abroad. For Judge Haddad this meant that she took care of her three sons, who were between six and fourteen years old, on her own. She did not benefit from the help from a *bonne*, as was common for Tunisian female professionals, because, as she pointed out, it was her duty as a mother to take her care-taking duties upon herself. Judge Haddad stressed that it was difficult to combine her duties as a mother of three with her job, and she often complained about fatigue.

The diversity on the bench in terms of social background and the judges' private life is significant in terms of access to the judiciary, at least on the level of head of chamber at a trial court: the data show that women from a lower middle class background had access to the judiciary, that a career break for the sake of the family was not detrimental to their career, and that it was possible to combine judgeship with taking care of a family or with serious health conditions. On the level of political (or feminist) convictions, however, the Tunisian bench of the years 2000 was not very inclusive, although my interviews with Judge Hadid and Judge Haddad reveal that some degree of social concern was possible.

Feminist inclinations

So far I have discussed these two judges' social and professional dispositions. But what about their socio-political inclinations? As I pointed out before, it was unlikely for judges to be politically engaged. If they were a member of a political party, it could only be the ruling party, the RCD. This makes it difficult to situate these judges in terms of political affiliation. However, we can say something about their socio-political *inclinations*, particularly their feminist inclinations¹⁸ and their relationship with the authoritarian regime.

As I have argued elsewhere, Judge Hadid and Judge Haddad did not self-identify as feminists (Voorhoeve 2017). Moreover, even if their practices in the field of family law touched upon some great concerns of the Tunisian feminist movement, I never heard them talk about these movements, suggesting they were hardly aware that these existed. They did not adhere to a feminist discourse other than the one upheld by the authoritarian State, which at the time was an uncritical, self-gratulatory discourse describing Tunisian law as women-friendly and unique in the Arab world, leaving no room for critique or concern. Particularly Judge Hadid repeatedly reproduced this official narrative.

That these judges had no outspoken political or feminist inclinations translates into a factor of privilege, as not only political affiliation but also strong feminist inclinations would render them vulnerable in the authoritarian Tunisia of Ben Ali. Indeed, feminist organisations such as the Association Tunisienne des Femmes Démocrates had faced severe repression in terms of constant surveillance, arbitrary arrests and blocked foreign funds.

¹⁸ Hunter argues that what is decisive for judges' practices is not so much their sex, but whether or not they are feminists (Hunter 2008).

Political affinities

As stated above, the regime's attempt to de-politicize the judiciary had been successful: judges were loyal to the regime, and as a result, the judiciary was an integral part of the authoritarian machine. Nevertheless, the level of loyalty varied between the individual judges.¹⁹ Living under authoritarian rule meant, for the common man (or woman) and judges alike, "to feel the weight of the constraints of the political system and, at times at least, to effectively perceive the latter as a system of observation and control".²⁰ At the same time, however, judges, like other people, "would be the first to affirm (...) that he or she owed it to 'the regime' to have social peace and geopolitical stability, and that the constraints were in a way 'compensated' by a number of very concrete benefits" (Hibou 2005, p. 17). The relationship of the people, including judges, with the State was one of compromise. The Tunisian Panoptical machine with its many tentacles was all-encompassing, and its sanctions for non-acceptance were multiple, forcing people to keep low profile, to move their focus inwards, to concentrate on their personal and familial interests and well-being, and to withdraw from the public realm (Hibou 2005, p. 27).²¹ Nevertheless, the degree of withdrawal varied: apart from the few who opposed the regime, individual relationships with it ranged from full-fledged support to a silent acceptance of the status quo, which Hibou describes as "obedience" or "voluntary servitude" (Hibou 2006).

I argue that there was a distinction between our two judges on the level of voluntary servitude and the necessary withdrawal. I base this on interviews I carried out with them in which I asked general questions about their hopes and fears, employing an interview technique designed for research in the sociology of religion, that is equally applicable to understand where actors stand politically instead of religiously (both judges were practising Muslims). Their answers revealed which topics were specifically relevant for the interviewees and brought two very distinct logics to light.²²

Judge Hadid formulated her answers to my questions on her greatest fears, hopes and concerns in terms of "personal well-being", particularly financial and physical well-being. The way in which she framed her concerns revealed a strong focus on her nuclear family, particularly her children. She wished for them to be happy, successful and in good health. She hoped that they would find a good job, get married and have children. She stated that as she herself was of age, her hopes and her worries centred around her offspring. I noticed that once she had formulated her answer to my first question (about her largest hopes) in terms of the well-being of her sons, she felt that my questions and her answers were becoming repetitive: fears, hopes and concerns centred on her children's well-being. This was a typical consequence of moving one's focus inwards, towards the home and the family.

The contrast with Judge Haddad was significant. In my conversation with her a few days later I asked the same series of questions, and what followed was a heated discussion.

¹⁹ On the variance in political loyalty among Tunisian and Egyptian judges, see Ghamroun 2016.

²⁰ This citation from Hibou's study of the political economy of repression pertains to businesspeople, but is just as applicable to judges (Hibou 2005, p. 17).

²¹ This pertained to the reaction of Tunisian businesspeople on the so-called *mise à niveau* programme.

²² These interviews were inspired by the work of Heinrich Schäfer on the praxeology of religious life, where he develops a method to situate individuals in terms of religious dispositions (Schäfer *et al.* 2016, p. 180).

We had never had quite personal conversations, since she had been reserved towards me and kept a professional distance at all times. These questions made her open up, as if she felt that we had finally found something to exchange. Judge Haddad couched her answers in terms of existing poverty and injustices in Tunisian society at large. While she was answering my questions, she was literally looking outwards, pointing towards the slums of Tunis (visible from the roof terrace where we were sitting). She became angry, emotional and showed concern and even despair for the Tunisian poor and the future of the country. As such, her interests were also in the field of well-being, but for society at large and especially the poor. These political interests and critiques made Judge Haddad vulnerable: if she would have shared these concerns on social media for instance, they would have been considered as criticism of the regime and would likely get her into trouble. Her husband, who was present at the conversation, appeared to feel this threat: he was anxious and wanted to know exactly what I was to do with this information.

In terms of power and privilege, these answers reflect significant differences on the degree of “servitude”, “obedience” and withdrawal. Where neither had political affiliations, Judge Hadid was more privileged than her colleague in terms of political dispositions since she adhered to the dominant culture of obedience and withdrawal more than her younger colleague did. At the same time, that a person with the convictions of Judge Haddad could sit on the bench shows that the Tunisian judiciary under the authoritarian regime was not void of people with strong opinions about social justice.

5. Conclusion

The idea that a judiciary containing women judges is “representative of society” begs the question as to which women we are referring to. If the experiences of women are different from men because of their sex, experiences of lower-class women are also different from those from the middle and upper class, as experiences of women belonging to a racial minority are different from those belonging to the majority. Using the intersectionality grid of “penalty and privilege” of Patricia Hill Collins, I argued that women judges are not just women, making them part of a socially oppressed group; different women judges additionally suffer or benefit from different structures of penalty and privilege related to their social background (e.g. level of education and income of their parents), their personal circumstances (e.g. married, children, health, age), and their political affiliations or sympathies.

Focusing on female judges functioning under the Tunisian authoritarian regime, this article aimed to show how different women bring different experiences to the bench. On a number of points these judges shared the same privileges in terms of race (Arab), language (Arabic and French), political affiliation (none), feminist inclinations (none), sexual orientation (heterosexual), civil status (married with children), age (middle aged), urban background (the capital), and religiosity (both were practising Sunni Muslims). However, on various levels there was a difference between these judges in terms of penalty and privilege, particularly their level of experience as a judge, their social backgrounds, their personal circumstances, and their political affinities.

In sum, both judges faced various factors that either enhanced or diminished their privilege. This shows that there is diversity on the Tunisian bench, not only in terms of the judges' sex, but also on other levels. This in turn demonstrates that the Tunisian bench is representative of society where the judges' experiences are concerned: these female judges did not represent women as a homogeneous group; they represented the various social backgrounds, private situations (family, health) and opinions that exist amidst Tunisian women.

Since the regime change of 2011, the political *ouverture* enabled Tunisian judges to become politically involved. This means that political conviction potentially stopped to be a factor of penalty or privilege in Tunisia. In the elections of 2014, female Judge Kalthoum Kennou even ran for president of the Republic. This resonates with Patricia Hill Collins' stance on factors of penalty and privilege, which are not only non-binary, but also non-static, since historically constructed groups, such as political opponents, can move out of the position of the oppressed.

References

- Ammar, M., 2010. Femmes, droit de la famille, et système judiciaire dans les États du Maghreb: le statut et le rôle des femmes dans l'ordre judiciaire en Tunisie. In: S.S. Zoy, ed., *Femmes, droit de la famille et système judiciaire en Algérie, au Maroc et en Tunisie*. Rabat: UNESCO, pp. 113–202.
- Ben Achour, S., 2007. La féminisation de la magistrature en Tunisie entre émancipation féminine et autoritarisme politique. *L'Année du Maghreb* [online], 3, pp. 55–74. Available from: <https://doi.org/10.4000/anneemaghreb.353>
- Ben Achour, S., 2003. Tunisie. *Journal de droit international*, 4, p. 1207.
- Bogoch, B., 2003. Lawyers in the Courtroom: gender, trials and professional performance in Israel. In: U. Schultz and G. Shaw, eds., *Women in the World's Legal Professions*. Oxford: Hart, pp. 247–267.
- Boigeol, A., 2003. Male Strategies in the Face of the Feminisation of a Profession: The Case of the French Judiciary. In: U. Schultz and G. Shaw, eds., *Women in the World's Legal Professions*. Oxford: Hart, pp. 401–418.
- Botiveau, B., 1993. *Loi islamique et droit dans les sociétés arabes*. Paris: Karthala.
- Cardinal, M., 2008. Women and the judiciary in Syria: appointment process, training and career paths. *International Journal of the Legal Profession* [online], 15(1–2), pp. 123–139. Available from: <https://doi.org/10.1080/09695950802439718>
- Collins, P.H., 2000. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*. New York: Routledge.
- Crenshaw, K., 1989. Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum* [online], n° 1, pp. 139–167. Available from: <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>

- Desrues, T., and Hernando de Larramendi, M., 2009. S'opposer au Maghreb. *L'Année du Maghreb* [online], 5, pp. 7–36. Available from: <https://doi.org/10.4000/anneemaghreb.483>
- Geisser, V., and Gobe, E., 2007. La question de « l'authenticité tunisienne » : valeur refuge d'un régime à bout de souffle ? *L'Année du Maghreb* [online], 3, pp. 371–408. Available from: <https://doi.org/10.4000/anneemaghreb.387>
- Ghamroun, S., 2016. A qui s'adressent les juges ? Les magistrats tunisiens et égyptiens face aux aléas de la représentation professionnelle. In: E. Gobe, ed., *Des justices en transition dans le monde arabe ? Contributions à une réflexion sur les rapports entre justice et politique* [online]. Rabat: Centre Jacques Berque, pp. 169–188. Available from: <https://doi.org/10.4000/books.cjb.770>
- Gherib, B., 2011. Les classes moyennes tunisiennes entre mythe et réalité. Éléments pour une mise en perspective historique. *L'Année du Maghreb* [online], 7, pp. 419–435. Available from: <https://doi.org/10.4000/anneemaghreb.1296>
- Gobe, E., 2011. Les avocats tunisiens dans la Tunisie de Ben Ali: économie politique d'une profession juridique. *Droit et société* [online], 3(79), pp. 733–757. Available from: <https://doi.org/10.3917/drs.079.0733>
- Gobe, E., 2015. Penser les relations avocats-magistrats dans la Tunisie indépendante : conflictualité professionnelle et dynamique politique. *Politique africaine* [online], 2(138), pp. 115–134. Available from: <https://doi.org/10.3917/polaf.138.0115>
- Gobe, E., and Béchir Ayari, M., 2007. Les avocats dans la Tunisie de Ben Ali: une profession politisée? *L'Année du Maghreb* [online], 3, pp. 105–132. Available from: <https://doi.org/10.4000/anneemaghreb.359>
- Hasso, F.S., 2005. Problems and promise in Middle East and North Africa gender research. *Feminist Studies* [online], 31(3), pp. 653–678. Available from: <https://doi.org/10.2307/20459056>
- Hélin, E., 1995. Les femmes magistrats en Tunisie. Implantation professionnelle et intégration sociale. *Droit et Cultures*, 30, pp. 91–105.
- Hélin, E., 1997. La magistrature: de la marginalisation à la restructuration. *Maghreb Machrek*, 157, pp. 40–46.
- Hibou, B., 2005. Economie politique de la répression : le cas de la Tunisie. *Raisons politiques* [online], 4(20), pp. 9–36. Available from: <https://doi.org/10.3917/rai.020.0009>
- Hibou, B., 2006. *La force de l'obéissance*. Paris: La Découverte.
- hooks, b., 1984. *Feminist Theory: From Margin to Center*. Boston: South End Press.
- Hunter, R., 2008. Can feminist judges make a difference? *International Journal of the Legal Profession* [online], 15(1–2), pp. 7–36. Available from: <https://doi.org/10.1080/09695950802439759>
- ILOSTAT, 2017. *Country Profiles* [online]. Geneva: International Labour Organization. Available from: <https://ilostat.ilo.org/data/country-profiles/>

- International Development Law Organization (IDLO), 2017. *Tunisia workshop promotes pathways for women justice professionals* [online]. Press release. 18 December. Available from: <https://www.idlo.int/news/highlights/tunisia-workshop-promotes-pathways-women-justice-professionals>
- International Development Law Organization (IDLO), 2019. *Women's professional participation in Tunisia's justice sector: Pathways and opportunities* [online]. 30 October. Available from: <https://www.idlo.int/publications/womens-professional-participation-tunisias-justice-sector-pathways-and-opportunities>
- Junqueira, E.B, 2003. Women in the Judiciary: A Perspective from Brazil. In: U. Schultz and G. Shaw, eds., *Women in the World's Legal Professions*. Oxford: Hart, pp. 437–450.
- Kenney, S.J., 2008. Thinking about gender and judging. *International Journal of the Legal Profession* [online], 15(1–2), pp. 87–110. Available from: <https://doi.org/10.1080/09695950802461837>
- Klibi, S., 2016. A new Constitution and more women judges. In: G. Bauer and J. Dawuni, eds., *Gender and the Judiciary in Africa: From Obscurity to Parity?* New York: Routledge, pp. 80–92.
- Lagarde, C., 2019. A global imperative. Empowering women is critical for the world's economy and people. *Finance & Development* [online], 56(1), pp. 4–5. Available from: <https://www.imf.org/external/pubs/ft/fandd/2019/03/empowering-women-critical-for-global-economy-lagarde.htm>
- Levin, A., and Alkoby, A., 2018. Shouldn't the bench be a mirror? The diversity of the Canadian judiciary. *International Journal of the Legal Profession* [online], 26/1, pp. 69–88. Available from: <https://doi.org/10.1080/09695958.2018.1489818>
- Maher, V., 1974. Divorce and property in the Middle Atlas of Morocco, *Man* 9/1, pp. 103–122.
- Moghadam, V., 2017. Foreword: making the case for women judges in the Muslim world. In: M. Lindbekk and N. Sonneveld, eds., *Women Judges in the Muslim World: A Comparative Study of Discourse and Practice* [online]. Leiden: Brill, pp. xi–xviii. Available from: https://library.oapen.org/bitstream/handle/20.500.12657/37794/9789004342200_weready_content_text.pdf?sequence=1&isAllowed=y
- Moors, A., 2008. Registering a token dower: the multiple meanings of a legal practice. In: B. Dupret, B. Drieskens and A. Moors, eds., *Narratives of Truth in Islamic Law*. London: I.B. Tauris, pp. 85–104.
- OECD, 2017. *Key charts on governance* [online]. Data sets. Paris: OECD. Available from: <http://www.oecd.org/gender/data/governance/>
- OECD, 2018. *Women in the Judiciary: Working towards a legal system reflective of society* [online]. Paris: OECD. Available from: <http://www.oecd.org/gender/data/women-in-the-judiciary-working-towards-a-legal-system-reflective-of-society.htm>

- Peirce, L., 1997. Seniority, sexuality and social order: the vocabulary of gender in early modern Ottoman society. In: M.C. Zilfi, ed., *Women in the Ottoman Empire. Middle Eastern Women in the Early Modern Era*. Leiden: Brill, pp. 173-196
- Peresie, J., 2005. Female judges matter: gender and collegial decisionmaking in the Federal Appellate Courts. *The Yale Law Journal* [online], 114, pp. 1758–1790. Available from: <https://www.yalelawjournal.org/note/female-judges-matter-gender-and-collegial-decisionmaking-in-the-federal-appellate-courts>
- Schäfer, H.W., et al., 2016. Towards a praxeology of religious life: tools of observation. In: F. Wijzen and K. von Stuckrad, eds., *Making Religion: Theory and Practice in the Discursive Study of Religion*. Leiden: Brill, pp. 173–202.
- Schultz, U., 2003. Introduction: Women in the world’s legal professions. Overview and synthesis. In: U. Schultz and G. Shaw, eds., *Women in the World’s Legal Professions*. Oxford: Hart, pp. xxv–lxii.
- Schultz, U., 2017. Do female judges judge differently? Empirical realities of a theoretical debate. In: M. Lindbekk and N. Sonneveld, eds., *Women Judges in the Muslim World: A Comparative Study of Discourse and Practice* [online]. Leiden: Brill, pp. 23–50. Available from: https://doi.org/10.1163/9789004342200_003
- Schultz, U., and Shaw, G., eds., 2003a. *International Journal of the Legal Profession* [online], 10(2). Available from: <https://doi.org/10.1080/09695950410001691988>
- Schultz, U., and Shaw, G., eds., 2003b. *Women in the World’s Legal Professions*. Oxford: Hart.
- Schultz, U., and Shaw, G., eds., 2008. *International Journal of the Legal Profession* [online], 15(1–2). Available from: <https://doi.org/10.1080/09695950802536166>
- Silius, H., 2003. Making sense of gender in the study of legal professions. *International Journal of the Legal Profession* [online], 10/2, pp. 135–148. Available from: <https://doi.org/10.1080/09695950410001691663>
- UNICEF, 2011a. *Iraq. MENA Gender Equality Profile* [online]. October, p. 3. Available from: <https://www.unicef.org/gender/files/Iraq-Gender-Eqaulity-Profile-2011.pdf>
- UNICEF, 2011b. *Regional Overview for the Middle East and North Africa, MENA Gender Equality Profile, Status of Girls and Women in the Middle East and North Africa* [online]. October, p. 4. Available from: <https://www.unicef.org/gender/files/REGIONAL-Gender-Eqaulity-Profile-2011.pdf>
- UNICEF, 2011c. *Yemen. MENA Gender Equality Profile*. October, p. 3. Available from: <https://www.unicef.org/gender/files/Yemen-Gender-Eqaulity-Profile-2011.pdf>
- Voorhoeve, M., 2014. *Gender and Divorce Law in North Africa: Sharia, custom and the Personal Status Law in Tunisia*. London: I.B. Tauris.
- Voorhoeve, M., 2017. Female judges in Tunisia and the “emancipative potential of Tunisian family law”. In: N. Sonneveld and M. Lindbekk, eds., *Women Judges in the Muslim World: A Comparative Study of Discourse and Practice* [online]. Leiden: Brill, pp. 178–204. Available from: https://doi.org/10.1163/9789004342200_008

Würth, A., 1995. A Sana'a court: the family and the ability to negotiate. *Islamic Law and Society* [online], 2/3, pp. 320-340.