Politics, Power and Matrimony:

Understanding Women’s Marital Rights in Egypt and Iran

by

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Declaration

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Abstract

This thesis explores how secularism affected women’s marital rights in Egypt and Iran between 1920 and 1939. Situated within the religio-legal jurisdiction of Shari’a, family law in the Middle East North Africa (MENA) region has been critically scrutinised by both adherents to Islam and Western observers. There is consensus between both tradition that secularism had no meaningful impact on women’s rights in the private sphere due to the continued influence of Islam on social and cultural practices in the region.

The nature of the Egyptian and Iranian states has altered with varying degrees of religiosity being evident. This is partially dependent on individuals in power; however, interactions with foreign actors have also contributed to fluctuations in the secular or religious nature of the state. Despite arguments that increased gender equality arises within more secular environments, the authoritarian implementation of policies in some secular states results in further impediments. Religious interpretations also heavily influence policy development, with debates continuing about the compatibility of women’s rights and Islam as prescribed in the Qur’an.

Silences emphasised through contemporary events such as 9/11, 7/7, the Arab Spring and the emergence of ISIS highlight significant gaps in our historic understanding. Occidentalist arguments frequently emerge stating that increasing religious traditions serve to protect the identity and traditions of the state from Western influences. Whilst this perspective is heavily contested, patterns of a similar nature become evident in the early twentieth century following escalations in foreign presences in Egypt and Iran. Whilst twenty-first century family law in many Muslim countries remains firmly embedded in religious law, it is possible to see how the implementation of secularism during the early twentieth century influenced the trajectories of family law, facilitating the legal structures visible today.
## CONTENTS

**LIST OF ABBREVIATIONS**  
I  

**GLOSSARY OF TERMS:**  
**ARABIC**  
**PERSIAN**  
II  

**CHAPTER ONE: INTRODUCTION:**  
**EQUALITY AND MATRIMONY**  
1  
1.1 INTRODUCTION  
1  
1.2 CONTEXT AND BACKGROUND  
2  
1.3 METHODOLOGICAL CONSIDERATIONS  
8  
1.3.1 CONTEMPOORIZING HISTORY  
11  
1.3.2 CASE STUDY SELECTION  
14  
1.4 KEY CONCEPTS AND ISSUES  
18  
1.5 THESIS STRUCTURE  
20  

**CHAPTER TWO: GENDER EQUALITY, MODERNITY AND THE STATE**  
25  
2.1 INTRODUCTION  
25  
2.2 WOMEN, FAMILY AND THE LAW  
26  
2.2.1 MARRIAGE  
30  
2.2.2 DIVORCE  
33  
2.2.3 INHERITANCE AND CHILD CUSTODY  
34  
2.3 DIVIDING THE STATE  
37  
2.4 FEMINISM AND MODERNITY  
41  
2.5 ISLAMIC FEMINISM OR FEMINIST ISLAM?  
46  
2.6 SECULARISM: THEORY AND REALITY  
49  
2.7 RISING AND FALLING: THE SECULAR AND THE RELIGIOUS STATE  
55  
2.8 CONCLUSION: WOMEN, RELIGION AND SECULARISM  
59  

**CHAPTER THREE: FEMINISM, POST-COLONIALISM AND POWER**  
65  
3.1 INTRODUCTION  
65  
3.2 FEMINIST INSIGHTS  
66  
3.2.1 POST-COLONIAL FEMINISM  
76
3.3 Gender, Politics and Power Structures 81
3.4 The Significance of History 92
3.5 Comparative-Historical Analysis: A Qualitative Approach 97
   3.5.1 Finding and Analysing Sources: Interpreting Archives 101
3.6 Conclusion: A Historical, Post-Colonial Feminist Approach 105

CHAPTER FOUR: AN UNHAPPY RELATIONSHIP:

COLONIAL POWER STRUCTURES IN EGYPT, 1900-1919 107

4.1 Introduction 107
4.2 British Occupation: A Country Interrupted 108
   4.2.1 Khedive, Sultan, King: Monarchical Transitions and Patriotic Fluctuations 113
4.3 An Era of War: 1914-1918 116
4.4 Marriage in Crisis: Part One 120
   4.4.1 The Economics of Marriage 120
   4.4.2 Stealing Husbands: Mixed Marriage in Egypt 122
4.5 Politics of Resistance 123
   4.5.1 Nationalism as Resistance 125
   4.5.2 1919 and the Gendering of Resistance 127
4.6 Conclusion: Women, Power Structures and the State 131

CHAPTER FIVE: THE TUG OF WAR:

POWER, POLITICS AND RESISTANCE IN IRAN, 1900-1919 134

5.1 Introduction 134
5.2 Political Resistance: The 1906 Constitutional Revolution 135
5.3 Engendering the Revolution 140
   5.3.1 Writing to Resist 145
5.4 Constitutional Periods 147
5.5 Foreign Partitions and the World at War 151
5.6 A Monarchical Transition: From Qajar to Pahlavi 154
5.7 Conclusion: Women, the State and an Era of Transition 155

CHAPTER SIX: MATRIMONIAL EQUALITY 157

6.1 Introduction 157
6.2 Politicising the Private 158
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEDAW</td>
<td>Committee on the Elimination of Discrimination Against Women</td>
</tr>
<tr>
<td>ECR</td>
<td>Enlightenment Critique of Religion</td>
</tr>
<tr>
<td>EFU</td>
<td>Egyptian Feminist Union</td>
</tr>
<tr>
<td>FIS</td>
<td>Front Islamique du Salut Foundation for Iranian Studies</td>
</tr>
<tr>
<td>IRI</td>
<td>Islamic Republic of Iran</td>
</tr>
<tr>
<td>ISIS</td>
<td>Islamic State of Iraq and Syria</td>
</tr>
<tr>
<td>MENA</td>
<td>Middle East/North Africa</td>
</tr>
<tr>
<td>NLS</td>
<td>National Ladies Society</td>
</tr>
<tr>
<td>NWRO</td>
<td>Network of Women’s Rights Organisation</td>
</tr>
<tr>
<td>TNA</td>
<td>The National Archives</td>
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</table>
# Glossary of Terms:

## Arabic

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td>Al-Ittihad Al-Nisa‘i Al-Misri</td>
<td>Egyptian Feminist Union</td>
</tr>
<tr>
<td>‘almāniyya</td>
<td>Secularism - Derivative of the word ‘ālam meaning world</td>
</tr>
<tr>
<td>An Nīsa</td>
<td>The Woman</td>
</tr>
<tr>
<td>Bains</td>
<td>Irrevocable (divorce)</td>
</tr>
<tr>
<td>Bayt al taa‘a</td>
<td>House of obedience</td>
</tr>
<tr>
<td>Bint al- Nil</td>
<td>Daughter of the Nile</td>
</tr>
<tr>
<td>fatwa</td>
<td>Religious ruling</td>
</tr>
<tr>
<td>fitna</td>
<td>Forbidden female sexual behaviour/social disorder</td>
</tr>
<tr>
<td>‘iddah</td>
<td>A woman’s waiting period</td>
</tr>
<tr>
<td>Iddet el Waffat</td>
<td>Waiting period for a widow</td>
</tr>
<tr>
<td>ijma</td>
<td>Community consensus</td>
</tr>
<tr>
<td>Imamat</td>
<td>The leadership of the faithful</td>
</tr>
<tr>
<td>Jam‘iyat al Mar‘ah al-Jadidah</td>
<td>The Society of the New Woman</td>
</tr>
<tr>
<td>Jam‘iyat al- Ruggi al Adabi lil- Sayyidat al- Misriyiat</td>
<td>The Society for the Literary Advancement of Egyptian Women</td>
</tr>
<tr>
<td>Jihad al-nikah</td>
<td>Sexual jihad</td>
</tr>
<tr>
<td>Mabararat Muhammad Ali</td>
<td>Muhammad Ali Institute</td>
</tr>
<tr>
<td>Mahr</td>
<td>Dower</td>
</tr>
<tr>
<td>mahr al-mithl</td>
<td>Amount of dower in case of specific divorce</td>
</tr>
<tr>
<td>mahr al -mut’ah</td>
<td>Amount of dower in case of specific divorce</td>
</tr>
<tr>
<td>Misr</td>
<td>Egypt</td>
</tr>
<tr>
<td>mu‘akhkhar</td>
<td>Remaining dower payment at time of divorce or death</td>
</tr>
<tr>
<td>Mullá</td>
<td>Muslim scholar</td>
</tr>
<tr>
<td>muqaddam</td>
<td>First half of dower at time of marriage</td>
</tr>
<tr>
<td>Nashez</td>
<td>Disobedience</td>
</tr>
<tr>
<td>Qadi</td>
<td>Judge</td>
</tr>
<tr>
<td>Raddji</td>
<td>Revocable (divorce)</td>
</tr>
<tr>
<td>Sūrah</td>
<td>Chapter (of the Qur’an)</td>
</tr>
<tr>
<td>taa‘a</td>
<td>Obedience</td>
</tr>
<tr>
<td>Talaq</td>
<td>Proclamation of divorce</td>
</tr>
<tr>
<td>Talaq al-bid‘a</td>
<td>Talaq of innovation</td>
</tr>
<tr>
<td>Tatliq</td>
<td>Divorce by a third party</td>
</tr>
<tr>
<td>‘ulamā‘</td>
<td>A body of Muslim scholars</td>
</tr>
<tr>
<td>Umma</td>
<td>Public/male sphere</td>
</tr>
<tr>
<td>Umm Kabira</td>
<td>Big Aunt</td>
</tr>
<tr>
<td>Urjī</td>
<td>Common law or non-traditional</td>
</tr>
<tr>
<td>watan</td>
<td>Homeland/ territory</td>
</tr>
<tr>
<td>Zina</td>
<td>Illicit sexual relations</td>
</tr>
<tr>
<td>Persian</td>
<td>English</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Anjoman Mokhodarat Vatan Iran</td>
<td>National Ladies Association</td>
</tr>
<tr>
<td>Anjuman</td>
<td>Society (organisation)</td>
</tr>
<tr>
<td>Anjuman-i Azadi-yi Zanan</td>
<td>The Society for the Freedom of Women</td>
</tr>
<tr>
<td>Anjuman-i Himmat-i Khavatin</td>
<td>The Society of Women’s Efforts</td>
</tr>
<tr>
<td>Anjuman-i Khvatin-i Iran</td>
<td>The Society of Ladies of Iran</td>
</tr>
<tr>
<td>Anjuman-i Mukhaddarat-i Vatan</td>
<td>The Society of Ladies of the Homeland</td>
</tr>
<tr>
<td>Anjuman-i Nisvan</td>
<td>The Society of Women</td>
</tr>
<tr>
<td>Danesh</td>
<td>Knowledge</td>
</tr>
<tr>
<td>daulat</td>
<td>State</td>
</tr>
<tr>
<td>din</td>
<td>Religion</td>
</tr>
<tr>
<td>ghurbzadegi</td>
<td>Westoxicatoin</td>
</tr>
<tr>
<td>Hay’at-I Khavatin Markazi</td>
<td>The Council of Women of the Centre</td>
</tr>
<tr>
<td>Himmat-i Milli</td>
<td>National Will</td>
</tr>
<tr>
<td>‘isma</td>
<td>Actions that make married life intolerable</td>
</tr>
<tr>
<td>Ithnā ‘Ashari</td>
<td>Twelve Imams</td>
</tr>
<tr>
<td>Ittihadiyah-yi Ghaibi-yi Nisvan</td>
<td>The Secret Union of Women</td>
</tr>
<tr>
<td>Ittihadiyah-yi Nisvan</td>
<td>The Union of Women</td>
</tr>
<tr>
<td>Khanomha -ye hoquq- talab</td>
<td>Freedom seeking ladies</td>
</tr>
<tr>
<td>Khāstgārî</td>
<td>A suit (suitor)</td>
</tr>
<tr>
<td>Khedive</td>
<td>Viceroy</td>
</tr>
<tr>
<td>Majlis</td>
<td>Religious council/Parliament</td>
</tr>
<tr>
<td>Munaver al-fekr</td>
<td>Modern intelligentsia/ Enlightened thinkers</td>
</tr>
<tr>
<td>mut’a</td>
<td>Temporary marriage</td>
</tr>
<tr>
<td>shir baha</td>
<td>Milk price</td>
</tr>
<tr>
<td>Zaban Zanan</td>
<td>Women’s Voice</td>
</tr>
</tbody>
</table>
Chapter One

Introduction:
Equality and Matrimony

1.1 Introduction

This thesis examines how secularism, and more specifically the secular nature\(^1\) of the state shaped the development of women’s marital rights in Egypt and Iran between 1920 and 1939. Understanding the history of women’s rights and their relationship with the state is imperative as it allows for a more nuanced comprehension of the historical context of each country by bringing to the forefront issues at the heart of the development of women’s rights in the twentieth century. This analysis contributes to a growing body of literature seeking to challenge dominant assumptions about women’s positions in the Middle East North Africa (MENA) region that are based largely on stereotypes about Islam’s oppressive nature towards women. The tendency to homogenise the MENA region was explored in detail in Said’s seminal work *Orientalism* (1978: 84), in which he argued that colonial attitudes towards the Asian and African continents were particularly evident in the Orientalist’s belief that Egypt was the key to both continents. Evident in the strategic labelling of the region as the ‘Middle East’ which amalgamates all peoples, cultures and religions into one common object which was represented as different by imperial and colonising powers are the effects of imperialism (Tripp, 2013: 17), thus reinforcing the orientalist lens.

This research seeks to make an original contribution to the current literature on gender and MENA history by providing a comparative-historical analysis of the relationship between the secular nature of the state and women’s marital rights in Egypt and Iran; as well as to (re)emphasise the similarities and differences which occur between the two states with regard to matrimonial equality. It also seeks to shift away from a religious paradigm as the analytical focal point for gender equality in the MENA region. Its incorporation throughout

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\(^1\) This refers to whether secularism developed within the state or was ‘imported’ as a result of foreign occupation (see section 1.4). It should not however, be confused with Reilly’s (2011: 8) understanding of ‘internal secularization’ whereby ‘religions are becoming more oriented towards social or political issues, or self improvement, and less concerned with ‘transcendence’ of the material world’; this is also referred to as ‘worldliness’.
this project is inevitable however, not because of the ‘patriarchal nature’ of Islam, but because family law remained within a religio-legal jurisdiction. The primary research question underpinning this thesis is thus: ‘how has the secular nature of the state shaped the development of women’s marital rights in Egypt and Iran between 1920 and 1939? Related to this original research question, this project will also explore the following: 1) What marital rights did women have in Egypt and Iran? Were they similar? 2) What marital rights did men have in Egypt and Iran? Were they similar/different from women? 3) What restrictions were placed on both men and women with regard to marital rights? 4) How has this history shaped women’s marital rights in contemporary Egypt/Iran? Finally, understanding the relationship between men, women and the state with specific reference to marital rights will allow their culturally diverse histories of gender relations in the private sphere to re-emerge, thus providing one interpretation of the scope and limitations of the rights afforded to women in two countries of a region which is currently being heavily criticised for gender inequality. The examination of the effects of this history on contemporary developments in family law also reinforces the contemporary significance of this historically situated project.

Through the examination of existing literature, memoirs and legal documentation this research will systematically address each of the questions outlined above. Whilst this research’s focal point is women’s rights, establishing men’s rights will provide another point of comparison. It will also enable a comparison of the institutionalisation of women’s rights and gender equality in the selected case studies. Secondly, establishing the rights of both sexes in marriage and divorce will further highlight any inequalities which were present and why this is significant.

1.2 Context and Background

Since 9/11, 7/7, and more recently the Arab Spring, Islam, the MENA region, and their relationship with terrorism have become increasingly prominent in academic and policy discussions. According to Göl (2011: 431) however, the foundations for this increase in Western interest are frequently formulated around the ‘(mis)recognition of the images of Muslims in the media and this has created a new set of problems of ignorance and misunderstandings of terrorism and the Islamic world.’ Within deliberations which have
taken, and continue to take place, gender equality and religious politics have also come to the forefront; subsequently raising questions about women’s rights and secularism in the region, outside of the emerging discourses surrounding Islamic fundamentalism and terrorism.

Western typecasts of Islam, common in popular culture, depict it as a violent and intolerant religion with little or no respect for women, who occupy stereotypical gendered roles which are seen as oppressive, prevent them from gaining employment, and expect obedience to male relatives. ‘Modest’ dress is also a requirement. According to Qur’anic verses 2:282 and 4:11 (Ali, 2000: 37, 61), women are also viewed as half as valuable as male witnesses and inheritors. However, not all Muslim countries adhere to the same interpretation of Islam with regard to rights and laws, with the primary schools being Sunni and Shi’i:

The Muslim world is divided into two camps: the Sunnis and the Shiites. The Sunnis, or orthodox, are so called because they follow the sunna, traditions having authority concurrent to and supplementary with the Koran. The Shiites are the partisans of the house of Ali, Muhammad’s disciple, cousin, and son-in-law. They reject the authority of the sunna and believe that the sovereign imamāt (‘the leadership of the faithful’) is vested in Ali and his descendants, the sons of his wife Fatima (the Prophet’s daughter). Consequently they regard the first three caliphs, Abu Bakr, Umar and Uthman, as usurpers. They are found chiefly in Iran and India, but their influence has penetrated other parts of the Muslim world. (Mernissi, 1975: 186-7 ch.3 n.39)

Other schools of Islam such as Hanafi2 and Wahhabi3 also affect interpretations; however, popular culture tends to generalise Islam and the MENA region, ignoring their diversity. Islam is also becoming increasingly prominent in other areas of the (Western) world and in some cases is being viewed as a threat, thus linking to the concept of Islamophobia.4

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2 Hanafi Islam is one of the four schools of law within the Sunni branch of Islam. It is one of the oldest schools and has the largest number of adherents, with populations such as Egypt’s being majority Hanafi.

3 Wahhabi Islam is understood in the post 9/11 world as the ‘major Islamic threat’ and the most fanatical school of Islam, however, it is also the ‘conservative creed’ of the ruling family of Saudi Arabia. Challenging these negative understandings, Wahhabi Islam is also recognised by 20th century reformers (Muhammad Rashid Rida, Egypt and Ismail Raji al-Furuqi, Palestine) as a model for re-forming and rejuvenating the religion (DeLong-Bas, 2004: 3).

4 This was made prominent in 2009 when Dutch politician Geert Wilders was banned from the UK following the release of his anti-Islamic film. The film showed statistical predictions regarding the expansion of the Muslim population in The Netherlands, and the potential threat they posed.
These discussions also raise questions about ‘othering’ through an increase in Islamophobic attitudes and the creation of suspect communities. Seen to have close ties with xenophobia, Islamophobia has become a ‘shorthand way of referring to a dread or hatred of Islam and therefore a fear or dislike of Muslims’ (Runnymede Trust, 1997 in Sheridan, 2006: 317). This has assisted in shaping the lens through which the MENA region is viewed by the West and has arguably contributed towards the creation of suspect communities outside of MENA countries and a suspect region. The creation of such ‘suspects’ raised questions about the prominence of orientalism in contemporary debates and observations. This, along with the increased public visibility of women during the Egyptian uprising (2011) and their reluctance to renounce it in the chaotic period that followed, introduced questions about historic understandings of, and Western influences in MENA countries.

The process of ‘othering’ and the construction of suspect communities or regions however, are not restricted to Western views of the Middle East, Islam or Muslims. Occidentalism is defined as the manner in which the East views the West, and these two forms of observation are key determinants in the complicated (and deteriorating) relationship between the two regions. It is arguable that this stance falls under the label of ‘Westoxication’ (Gharbzadegi), which refers to the perceived threat of Western political and social reform within the Muslim world, which would eventually result in the erasing of the Muslim identity.

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5 This term is placed within a post-colonial theoretical context and refers to specific social contexts and conditioning experienced by minority groups; for example ethnic minority groups (Jensen, 2011: 63–4).

6 First coined by Paddy Hillyard in the early 1990s, this term initially referred to those arrested under the Prevention of Terrorism Act (PTA) throughout England, Scotland and Wales. Initial research related specifically to the experiences of those affected by this act through examination, arrest and detention. The initial study examined the impact of this suspect community on those residing in Ireland or those with Irish family heritage. Hillyard’s understanding of a suspect community refers to a process of threat identification, based on an individual’s nationality or place of origin, which illustrates and legitimises the politics of exception as implemented by the state (Hillyard, 1993: 7).

7 Here the term refers to a broader understanding of the above concept, with specific reference to the generalising lens through which the Middle East is frequently viewed.

8 Coined by Ian Buruma & Avishai Margalit, the term refers to the manner in which the West is perceived by non-Western observers as weak and (morally) bankrupt, thus creating an enemy which needs to be removed (Buruma, 2004: B10).

9 Gharbzadegi in Persian, initially referred to the loss of Iranian cultural identity under the Pahlavi regime due to the intense adoption of Western models and ideas. The term was originally coined by Ahmad Fardid, a Professor at the University of Tehran, in the 1940s. The term was later made popular by Jalal Al-e Ahmad in his book Occidentosis: A Plague from the West (1962). (Cronin, 2004: 44).
The role of individual identities in the establishment of cultural dialogues has become an important variable in the analysis of international politics. Huntington’s (1992) *The Clash of Civilizations* puts forward the thesis that religion and culture would replace the state as the primary cause of conflict. It argues that with the effects of globalisation making the world smaller, cultural clashes are more likely to occur and cause conflict, whilst also proving to be more difficult to resolve than political and economic issues; subsequently cultural dialogue can be seen to disappear in this understanding, with a geographic region and a religion being put in conflict with each other. Huntington’s thesis not only argues that a clash between civilizations, namely the West and Islam, is inevitable, but it also highlights how labelling - ‘Orient’ and ‘Occident’ - are based on cultural and religious (mis)understandings. Whilst this debate has had mixed responses, Huntington’s arguments reinforce the necessity of understanding historical occurrences so as to further contextualise current events.

The attention of the international community has recently been drawn back to the Middle East following the increased presence of Islamic State in Iraq and Syria (ISIS). The primary tenets which emerge from debates regarding the rapid territorial expansion, increased recruitment and execution methods of this group pertain to state sovereignty, human rights and gender equality. The violation of state sovereignty by ISIS in Syria and Iraq is argued by Mabon and Royle (2014: 2) to be a result of the fractured nature of the state following the US led invasion of Iraq (2003) and the Syrian Arab Spring (2011). They (2014: 2) further argue that the erosion of state sovereignty permits the emergence of ‘chaotic spaces’ which enables groups to ‘exercise autonomy over particular areas’. This erosion is also evident throughout various empires. It is thus arguable that through the erosion of state sovereignty, colonising powers were further able to enmesh their own cultures, traditions and politics into the societies of the countries they sought occupation of, as is currently being seen in the case of ISIS. Moreover, whilst increased secularisation was a characteristic of many colonised states, Esfandiari (2014: 1) notes the overtly religious nature of ISIS and the forced conversion of many Christian women.

Whilst debates on ISIS are multifaceted and reports indicate concerning recruitment numbers of individuals from outside of Syria and Iraq, the most prominent absence, according to Esfandiari (2014: 1) is the lack of response to these actions. She further argues
that violations of women’s rights have occurred as a result of ISIS’s sexual jihad (*jihad al-nikah*) and the exceptionally narrow interpretation of Islam being advocated. Forced marriage, child marriage, enforced veiling, rumours of FGM, trading of women, and restrictions on access to education and health care are amongst concerns resulting from the increasing encroachment of individual and state rights by ISIS. The strict reversion to these more traditional forms of control and essentially, the de-humanising of women, raise questions about motives for the dramatic reversal of rights and liberties which had previously been fought for. Not only does this raise questions about state sovereignty, but also about the sovereignty of the female body, irrespective of age. Moreover, it raises questions as to how ‘oppressive powers’ were previously overcome in order to establish increased gender equality in some aspects of life. Whilst Iraq and Syria will not be analysed in this project, the questions emerging as a result of ISIS have historic undertones, with some of these ‘traditional’ methods being prominent in this project.

In 2014, gender discrimination came to the fore of two salient cases in Iran and the UAE. The case of Ghoncheh Ghavami emerged through media outlets following her arrest after attempting to seek permission for women to attend a volleyball match in Iran. In 1979 women were prevented from attending ‘stadium football games’ and now, since 2012, they have been banned from attending volleyball games. Justification for this gender based segregation, according to government officials, was for women’s own benefit ‘as they need protection from the lewd behaviour of male fans’ (Amnesty International, 2014). Following her initial arrest, Ghoncheh was later re-arrested for crimes which her mother claims were recognised by the arresting authority as not relating to her peaceful protest (The Guardian, 2014); she was subsequently released on bail in November 2014. Not only does this case raise questions about gender segregation within the public sphere of Iranian society, but also how governmental justifications have reinforced gendered stereotypes of women needing protection. This consequently results in the binaries of masculinity/femininity and strength/weakness being further enmeshed not only into society, but also into governmental justifications for the increased gender based segregation of its citizens.

The UAE Lachaux custody battle has also emerged prominently in discussions relating to gender based discrimination within *Shari’a* law. Human Rights Watch (Roberts, 2014) have since become actively involved in increasing awareness pertaining to the potential
difficulties women could face if they suffer marital problems whilst living in the UAE. In 2014, Afsana Lachaux was given a suspended prison sentence after being accused of kidnapping her son during a custody battle. Found guilty of not obeying her husband, and ‘being careless in taking care of the child’ amongst other things, she is now not permitted to see her son until he is eighteen (Parmar, 2014; Roberts, 2014). What emerged from the case was that despite neither Mrs. Lachaux nor her husband being UAE nationals or Muslim, and that they had been married in England; it was possible for her husband, a French Christian, to request that Shari’a law be used in the divorce proceedings (Roberts, 2014). Since this case gained prominence, Human Rights Watch has ‘highlighted the use of Islamic law, which discriminates against women’, whilst simultaneously accusing UAE authorities of not taking reports of domestic violence seriously enough, a problem which has been frequently reported by British expats (Roberts, 2014).

The first observation to be made from this case is the absence of any reference to a specific school of Islam, and the general reference to Shari’a law; thus omitting differing interpretations and stances adopted throughout the Muslim world with regard to areas of family law. Secondly, it raises questions pertaining to women’s rights, rather than solely Muslim women’s rights under Islamic law. This case has thus reinforced the necessity of further understanding family law – with specific reference to marriage, divorce and child custody - in the MENA region and the differing approaches which have been adopted, both presently and historically.

From these contemporary observations, further questions arose about the impact Western influences had on women in the MENA region; how orientalist observations had affected the way in which they were externally perceived; and, what rights they had. One of the main criticisms made here of Orientalism is that it did not address women and their rights, rather, Said focused more on criticising the manner in which the West observed and conducted their research into the region; therefore raising the question of ‘what about women in the early twentieth century?’ This question narrowed the focus to countries where women’s rights movements were beginning to (or had) emerge(d), and that had also gained independence from Western occupation.
Finally, women have conventionally been restricted to the private sphere with men being able to move freely between the private and the public. This has occurred at a global level, with this societal distinction having been at the fore of feminist debates in the West, thus reiterating that parallels can be drawn between the condition of women in the Western and non-Western hemispheres. Furthermore, these parallels reinforce the prominence of patriarchy across borders. Traditionally, the family is seen as the crux of Islamic society (see for example Qutb, 2001: 25), and marriage provides the environment within which a family is started. Because of the position of the family in society, and the position of women within the family, women’s marital rights became the focal point for this research.

1.3 Methodological Considerations

Having historically situated this research puzzle and recognised contemporary relevances, the presentation of information about the MENA region indicates that gaps in knowledge remain. Through a historically focused political analysis, this thesis will address some of the remaining gaps which could potentially contribute to furthering our understanding of political developments in Egypt and Iran, especially with regard to family law. Moreover, the use of a comparative case analysis will emphasise the historic and political diversity of two countries in a region which has fallen into the orientalist trap of cultural, linguistic and religious simplifications and generalisations. Finally, the case study approach will highlight similarities and differences which occur with regard to women’s marital rights and the effect secularism can be understood to have had on them.

Whilst the use of Western theories and debates, such as those of feminism and secularism may be questioned due to the focus of this research, this is partly due to my positionality. Bourke (2014: 1) argues that research ‘represents a shared space’ which is affected by our perceptions of others and ‘the ways in which we expect others will perceive us’. Kezar (2002: 96) posits that ‘within positionality theory, it is acknowledged that people have multiple overlapping identities. Thus people make meaning from various aspects of their identity...’*. In order to recognise positionality and potential biases during the research process, reflexivity must occur. This involves the researcher engaging in ‘self-scrutiny’ (Bourke, 2014: 2) which results in ‘increased attention to researcher subjectivity in the
research process’ and recognition of how the role of personal understanding of the ‘self’ impacts data collection and the acquisition of knowledge (Pillow, 2003: 176).

As a white, agnostic, Western woman, Freire’s (2000) cautioning against attempting to speak for ‘participants’ or attempting ‘to work on their behalf to help them rise up’ (Bourke, 2014: 3) thus becomes crucial. It is therefore through recognising my racial, religious and geographic positionality that a detailed discussion on feminist debates is included (see section 3.2). Through the examination of these debates, and the criticisms which have emerged, recognition some of the weaknesses of Western feminist theories become apparent, thus reinforcing the adoption of a post-colonial feminist framework.

In addition to my position as a researcher, theories such as feminism and secularism are discussed due to their strong roots in the Enlightenment, which subsequently results in them being understood as modern. Through discussions of these debates and other issues such as the public/private dichotomy, it becomes possible to understand gaps which remain in Western theory and questions which still need to be addressed. In order to avoid the eradication of identity, the relationship between these topics, Islam and the MENA region, as well as their relationship with women will be addressed. What this will achieve is a means by which my position as a researcher is not lost, nor will it overshadow the identities of the peoples being examined in this thesis.

The issue of ‘truth’ and how this will be addressed thus becomes integral. Pillow (2003: 186) argues that ‘It is important, then, to explore how reflexivity acts in the interests of “discourses of truth” which “operate in relation to the dominant power structures of a given society” (McNay, 1992: 25). D’Costa (2006: 132) posits that truth telling is perceived as necessary for the processes of ‘peace-building, promoting democracy, striving for social justice, and transforming society more broadly’, but questions ‘whose truth is being told?’. Appleby et al. (1994: 7) posit that a certain amount of scepticism has become integral in searching for the truth as it ‘can encourage people to learn more and remain open to the possibility of their own errors’. The official mechanisms through which this truth is spoken is, however, frequently susceptible to manipulation by elites (D’Costa, 2006: 132), resulting in a selective truth being told. This speaks to the notion of relativism, whereby truth is seen as ‘relative to the position of the person making a statement’ (Appleby et al., 1994: 7). This
indicates that there is no whole truth, rather the subjective nature of experiences and the position of the researcher reinforces Appleby et al.’s (1994) assertion that no individual can be certain that their explanations are completely accurate, others must be listened to, and no one will have the final word on human histories; subsequently, ‘Telling the truth takes a collective effort’ (Appleby et al., 1994: 309).

The research undertaken in this thesis is situated within the colonial era, thus different truths emerged. Through the analysis of colonial documents and newspaper reports, British representations of their position in Egypt and Iran, and the nature of the Egyptian and Iranian peoples emerge. Memoirs and autobiographies provide individual truths which reflect personal understanding and experiences. The selection of sources used in the analyses thus seeks to reflect the multifarious nature of ‘truth’ based on the individual writing, their position in society and their engagement with differing power structures. Subsequently, no single truth is obtainable. Rather, the intersecting nature of individual truths around similar experiences, alongside colonial ‘truths’, serves to reinforce the importance of identity and positionality in the recording of experiences and observation. Consequently, this thesis does not seek to provide a ‘truth’ about the effects of secularism on women’s marital rights; instead it seeks to provide a partial truth which will contribute to the broader historical and contemporary puzzles.

The use of post-colonial feminism emerged as the most relevant theoretical framework for this thesis due to the period being examined, the theory’s roots in the de-colonisation struggle, and the position from which this research is being conducted. This framework will thus require a greater focus on the experiences and identities of the women being examined, alongside the intersecting fields of gender, class and location. This will be achieved through an interpretive textual analysis of memoirs and biographies of women in Egypt and Iran during this period; additionally, colonial documents pertaining to the public activities of women will also be analysed. This method of analysis will be adopted instead of discourse analysis as it permits increased interaction between language and context. Whilst Gill (2000: 175) writes that ‘As social actors, we are continuously orienting to the interpretive context in which we find ourselves, and constructing our discourse to fit that context’, an interpretive textual analysis enables recognition of divergent contexts and discourses, and permits a more reflexive relationship to occur with the underlying meaning
of the text becoming more prominent (see section 3.5.1). It is through this that an understanding of some women's experiences can be established, whilst ensuring that their identities from a colonial perspective are also understood, thus providing a possible comprehension of the gendered nature of colonial attitudes toward the public presence of some women during this period.

1.3.1 Contemporising History

This thesis is situated in an historical context due to the importance of understanding the past and what has been learnt from it. The importance of history, especially with regard to feminist history, is supported by Burton (1992: 26) who argued that history is now, and that history is not simply what has happened, but is also ‘the kinds of knowledge about the past that we are made aware of’. This not only emphasises the importance of recognising the past, but suggests that history is not static and is still of great contemporary significance. It is argued that following the linking of science and history, ‘dramatically new forms of historical knowledge became possible’, with ‘explanatory history’ emerging in the nineteenth century (Appleby et al., 1994: 52). This ‘search for the laws of historical development’ is understood to have provided people with an analytical tool which would enable them to comprehend ‘where they had been and what they were becoming’ (Appleby et al., 1994: 52).

The need to comprehend and (continue) learn(ing) from history emerges within the contemporary context which serves as this thesis’ point of departure. Through the examination of understandings in various contemporary contexts, gaps in knowledge become visible; thus an historic examination is required. Moreover, whilst this thesis is situated within the early twentieth century, it is being written almost a century later. Consequently, the use of contemporary issues as a point of departure for this research relates in part to my position as a researcher (see section 1.3.1), with homogenisations and gaps in knowledge which have been presented having contributed toward the formation of the research questions presented previously (see section 1.1). Appleby et al. (1994: 271) posit that to ‘Talk about the future of history pivots around the question of how best to deploy the passion to know’. Focussing this passion is the researcher’s understanding that ‘the past can reveal an aspect of what it is to be human’; lived experiences are believed to
alter research questions and it is claimed that the ‘sensitivity of historians to the lived moment’ becomes increasingly apparent when significant historical changes occur (Appleby et al., 1994: 271).

Badran (1988: 30) justifies her focus on late nineteenth and early twentieth century Egypt due to the inclusive nature of this period which incorporates ‘the emergence of women’s feminism and nationalism, their dual struggle against patriarchy in the form of indigenous male-dominated institutions and their nationalist militancy.’ She further argues that this positioned women to ‘generate their own construct of nationalism distinct from men’s nationalism’, with differentiations between the two being recognised by Badran (1988: 30) as ‘feminist nationalism’ and ‘patriarchal nationalism’.

Nationalism, according to Kedourie (1993: 1), is a ‘doctrine invented in Europe at the beginning of the nineteenth century’ and it is (briefly) understood to present the division of humanity amongst nations as a natural occurrence. Joireman (2003:12) builds on this, arguing that it is ‘an ethnic group with a political agenda’ and is thus defined as ‘politicized ethnicity’. Whilst she (2003: 12-13) argues that all forms of nationalism ‘seek to promote the particular agenda of a nation’, it is recognised that movements seeking self-determination ‘will indisputably be at odds with their existing state’. Building on Anderson’s (1983) assertion that ‘imagination’ is integral to the analysis of nationalism, Chakrabarty (2000: 150) posits that nationalism ‘presents the question of vision and imagination in ways more complicated than a straightforward identification of the realist or the factual with the political might suggest’. Moreover, nationalism required a ‘secular engagement with the world’ which went beyond ‘pure and narrow self-interest’ (Chakrabarty, 2000: 223).

Seen across the world, arising within different contexts, Kedourie (1993:138-139) argues that the spread, political force and outcome cannot be predicted; and to narrate it is to ‘provide a history of events, rather than of ideas’. Furthermore, within a modern context and the different means by which ideas can be diffused, Kedourie (1993: 141) states that it is more likely that national identity creates a nationalist doctrine than the doctrine being an expression of identity. Yuval-Davis (2013: 20) builds on this by highlighting works which have endeavoured to ‘classify the different kinds of nationalist movements and nationalist ideologies’ which occurred in the last two centuries. Subsequently, it is concluded that the
variations of nationalism which have been evidenced need to be recognised as part of the broader umbrella of ‘nationalist ideologies and projects which are combined in different ways in specific historical cases’ (Yuval-Davis, 2013: 21).

In reference to religion, Ghanem (2014: 3) contends that liberal-nationalism stands in contradiction to the principles upon which Islamism is based. Subsequently, it is possible to view Egyptian political Islam as the ‘antithesis’ of Egyptian nationalism and possibly explains current divisions in national identity (Ghanem, 2014: 3). Moreover, specific religious institutions and beliefs can develop into ‘inflexible symbolic border guards of specific collectivity boundaries and cultural traditions (Yuval-Davis, 2013: 42). This is emphasised through recognising Durkheim’s (1915/1965) understanding of religion in ‘the most basic socially cohesive act’ which allows society to worship ‘its own collective conscience’ (Yuval-Davis, 2013: 42). Simultaneously however, religions frequently present answers as pertaining to everyone not just those who belong to that collectivity (Yuval-Davis, 2013: 42).

Ghanem’s (2014: 3) argument regarding the potential impact of Egyptian political Islam and Egyptian nationalism on contemporary identities thus reinforces the need to further understand historic occurrences. Subsequently, Burton’s (1992: 26) argument that history is now, is reinforced and further insight into the historic positioning of this thesis in the early twentieth century is required.

Whilst this thesis shares Badran’s (1988: 30) justification, the examination of the 1920s and 1930s is further justified as it was a critical juncture in the development of women’s rights across the globe. The differing historical trajectories of both Egypt and Iran further contribute to this as they permit a more analytical comparison to occur than one between cases with similar histories and the same cultural classifications. The beginning of the twentieth century was a crucial point for women’s rights in the West; the onset of first wave feminism and women’s enfranchisement being the most prominent events. In the UK, women over the age of thirty were granted the right to vote in 1918, with the age being lowered to twenty-one in 1928, and in the US white women were given the vote in 1920.\(^{10}\) Whilst many countries in the MENA region did not enfranchise women until the latter half of

\(^{10}\) African Americans were not enfranchised in the US until the 1960s.
the twentieth century, this is also true of many Western European countries; and it is thus interesting to establish the rights which were being sought and the achievements made by women’s rights advocates in Egypt and Iran at this time.

The period of the 1920s and 1930s was also chosen because of the internal and external struggles which occurred in both Egypt and Iran. Not only was the introduction of Western ideas an issue with regard to politics and culture in both states, but the early twentieth century proved to be a period of ‘firsts’ for both countries with regard to legal and political developments, as well as achievements made by women in areas such as the home and education. In addition to this, both countries had established their first written constitutions by the early 1920s (Iran in 1906, and Egypt in 1923), thus enabling an understanding of women’s position within society when such documents were introduced. These documents are also significant as they were not changed until each country experienced a revolution (Egypt in 1952 and Iran in 1979). It is also noted (Kholoussy, 2010: 3) that marriage emerged as the medium through which Egyptian men and women are believed to have understood their rights and duties, especially during the early twentieth century under British occupation.

By bringing the history of Egyptian and Iranian women’s marital rights to the fore of this research, this thesis seeks to provide the foundations for more nuanced understandings of women’s marital rights in Egypt and Iran. It will also provide analytical insights into this area of history so as to reinforce the contemporary relevance of history.

1.3.2 Case Study Selection

This project has adopted a comparative approach focusing on two case studies. Egypt and Iran emerged as the strongest cases for this project due to their positions as states in the early twentieth century, their different historical and cultural experiences (see Appendix 1 for table of case considerations), and the wealth of sources available; thus permitting a more nuanced comparison to occur.

In addition to Egypt and Iran; Algeria, Kuwait, Libya, Morocco, Saudi Arabia and Tunisia were also considered as candidates for this project. Applicability of each country for this project

11 Women were enfranchised in Egypt in 1956 and in Iran in 1963.
was established through the inclusion of eight factors. These included whether the country had a history of colonialism or imperialism; the type of government they had at the time; whether they had experienced Western influences; whether feminist activities had emerged during the period of enquiry; the availability of documents of each case; the accessibility of data for each case; existing background literature; and the languages spoken in each country during this era. Within these factors were numerous sub-factors which were employed so as to ensure increased clarity on the suitability of each case considered for this project.

The first sub-factors determined whether a country had experienced colonialism or imperialism and this emerged as the most prominent criterion for comparison as it provides important insights into diverging experiences with foreign power structures and secularising influences. The second clarified whether the country in question was under the rule of a religious or a secular government; the third specified whether Western influences in the country were cultural or linguistic; and the fourth group determined whether or not feminist activities were understood to have occurred by this period. The next three sets of sub-factors related to existing sources on each country, with the three options being provided for document availability, data accessibility and background literature being ‘yes’, ‘limited’ and ‘no’. The final factor was languages spoken, and had seven sub-factors, with the most prominent languages from the considered cases being Arabic, Berber, English, French, Spanish, Italian, and Farsi/Persian. In order to establish the suitability of each case the number of sub-factors was counted, with those marked ‘no’ not being included as it removed that factor from consideration.

Of the eight countries considered for this project, Saudi Arabia emerged as the least applicable. Whilst it had experienced imperialism, had a religious government, and the language spoken in the country was Arabic; it did not have strong cultural or linguistic Western influences, with influences of this nature becoming more prominent after 1938 following an oil deal with the United States. Moreover, there was no evidence of feminist activities having occurred during this period and there was no apparent access to

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12 Turkey was not considered for this project due to the voluminous amount of (comparative) research which has been done on gender, secularism and women’s rights. See for example Arat (2010), Başkan (2013, 2014) and Göle (1997).
documents, data or background literature which would be applicable to this project. Kuwait was the second least applicable case for this research, with similar criteria matches to Saudi Arabia. The primary difference between these two countries was that Kuwait experienced both colonisation and imperialism, and Western cultural influences.

Kuwait was only just preceded in applicability by Libya. This marginal difference was attributed to the presence of Western cultural and linguistic influences and the addition of Italian to the languages spoken. Unlike Kuwait, Libya’s history appeared to deal with colonialism, rather than colonialism and imperialism. Morocco and Tunisia then emerged with equal applicability to this project. Whilst these countries both had religious governments, linguistic Western influences, and had Arabic as a spoken language; Tunisia emerged more prominently with regard to experiences of colonialism and imperialism and the presence of feminist activities. Morocco appeared to counter this with increased linguistic differentials, with Berber and Spanish accompanying the shared languages of Arabic and French.

Algeria and Iran emerged in joint second place with regard to applicability for this project. Whilst Algerian history is shaped by colonialism, Iran’s is shaped by colonialism and imperialism. The Algerian government at the time was religious, with Iran’s proving to be both religious and secular during the period being examined in this thesis. Western influences in Algeria appeared to be restricted to language, whilst in Iran it was cultural. This is evident in the inclusion of French in the spoken languages of Algeria alongside Arabic and Berber, whilst Persian/Farsi remained the predominant language in Iran. Additionally, during this period, there were no apparent feminist activities in Algeria, whilst in Iran they were gaining momentum. Furthermore, documents, data and background literature were limited for the Algerian case and were more easily obtainable for Iran.

Egypt emerged as the most suitable country for analysis with reference to this project. It had historic experiences of both colonialism and imperialism, a secular government, Western cultural and linguistic influences, an emerging feminist movement, good accessibility and availability of documents, data and background literature, whilst having Arabic, English, and French as its most prominent spoken languages. The determining factor in the selection of Iran as the second country for analyses were differentials between
Algeria and Iran regarding availability and accessibility of relevant sources. Further investigation into the two chosen countries reinforces the above results, with a deeper knowledge of the political history and development of each country being established.

Egypt’s long history with colonialism can be dated back to the 525BC Persian and 642CE Arab conquests. Having become part of the Ottoman Empire in 1517, it was later colonised by the French under Napoleon (1798-1801). In 1882 Egypt was occupied by the British and became a protectorate in 1914; quasi-independence was then gained in 1922 however, British influence was maintained until 1952.

During the 1920s and 1930s, Egypt was a secular monarchy under King Fu’ād I (1922) and King Farouk (1936); however, during this time there was a call for a return to Islam which resulted in later leaderships having more religious overtones. In 1923, the first written Egyptian constitution was introduced, and this was not changed until the 1952 Revolution. During this period there were numerous feminist groups and organisations present, including the Egyptian Feminist Union (EFU; Al-Ittihad Al-Nīsaʾ i Al-Misri), Shaqiqat (junior EFU – 1933), New Women’s Society, Wafdist Women’s Committee, and the Muslim Ladies Association.

The Iranian experience of colonialism can be dated back to the 636 Arab invasion that brought an end to the Sassarud dynasty and marked the beginning of Islamic rule. Later in 1220 Genghis Khan invaded. In 1906 the first written constitution was implemented and was not changed until 1979 following the Revolution and the establishment of the Islamic Republic of Iran (IRI). Whilst Iran was not colonised in the post-Ottoman era in the same way as Egypt or Tunisia, it did experience foreign occupation, culminating in the 1907 tripartite state partition by Britain and Russia.

During the 1920s and 1930s the Iranian government was secular under the Pahlavi dynasty following Reza Khan’s seizing of power in 1921. He was later crowned Reza Shah Pahlavi (1926) and his son was recognised as crown Prince. Despite Iran’s differing history to Egypt,

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13 The constitution was also known as Royal Decree No. 42/1923 Building a Constitutional System for the Egyptian State.
14 During this time the country was known as Persia, and it was not until 1935 that ‘Iran’ was formally adopted as the country’s official name. However, for the purposes of this research, all references will be to Iran unless otherwise stated.
Western influence was prominent through the Shah’s modernisation of the country which involved the adoption of Western culture. During this time women’s movements were visible with the Women’s Revolutionary Association (1910), the National Ladies Society (NLS, 1910), The Sixth Majlis (1922), and the Patriotic Women’s League (1922) being amongst those established.

Case study suitability was thus further established due to the shared historical experiences of European occupation. Although Iran was not formally colonised, as in the case of Egypt, the history of British, Russian and later American influences in the country is visible in its past with the secular reign of the Pahlavi’s, and the subsequent revolution (1979). The history of British and French occupation in Egypt is also prominent, with the establishment of the Muslim Brotherhood occurring in opposition to foreign presence and secularising influences. The group has since grown and spread across the MENA region with it being at the fore of current discussions in Egypt following their election to power and subsequent demise. Secondly, both countries have histories replete of women’s rights achievements, with both countries having strong feminist movements, and Iran’s being recognised as (one of) the largest in the region. Whilst they are both part of the MENA region, their geographic locations – Egypt in North Africa and Iran in the Middle East - allow for more culturally diverse histories to have occurred, than between Egypt and Algeria. Differences in cultural identity – Egyptians being Arab and Iranians being Persian - will also contribute to interpretations and understandings of women’s rights in these countries. Both countries also experienced similar political changes at the beginning of the twentieth century with the establishment of constitutions, thus enabling a comparison of legal approaches towards women’s marital rights during this era. Moreover, the marital bond between these two countries which occurred at the end of the 1930s, between Princess Fawzia (Egypt) and Muhammad Reza Khan (Iran) (Sabit, 1989: 117–118), further solidifies case suitability for this comparative-historical analysis of matrimonial equality.

1.4 Key Concepts and Issues

This thesis seeks to understand how the secular nature of the state affected women’s marital rights in Egypt and Iran between 1920 and 1939. ‘Secular nature’ refers to the manner in which secularism was introduced to each state and the impact this can be seen to
have had on matrimonial equality through documents such as civil codes and subsequent acts.

In seeking insight into how the secular nature of the state shaped the development of women’s marital rights in Egypt and Iran between 1920 and 1939, the term ‘secular’ subsequently lies at the heart of this thesis. Whilst definitional ambiguities arise (see section 2.6), a working definition of ‘secular’ within the context of this research emerges as the outcome of a process whereby the procurement of power becomes possible through modernisation via the separation of religion from politics and/or the state. Differing frameworks within which power was gained are reflected in the cases of Egypt and Iran, with different power structures seeking the implementation of secularism.

Diverging introductions of secularism in Egypt and Iran has resulted in the terms ‘internal’ and ‘external’ secularism being used. ‘Internal secularism’ refers to the implementation of secularism in Iran through Reza Khan’s modernisation project. Whilst external influences such as British and Russian can be seen as influential in this process, Reza Khan’s adaptation of the state as a secularising moderniser permits its overarching implementation to be viewed through a different lens. Contrastingly, ‘external secularism’ refers to the introduction of secularism to Egypt through colonising powers. Unlike Iran’s stringent internal implementation, secularism in Egypt was less rigid and this is evidenced later in chapter two by fluctuations in the religious and secular nature of the state.

The second aspect of this thesis’ research question is women’s rights. Whilst frequently referred to as feminism, its application to this project is queried. Al-Ali (2000: 4) justifies her use of the term ‘women’s activism’ rather than ‘feminism’ due to her interviewees ‘pragmatic and ideological’ rejection of the term. As discussed later in chapter two, translation issues arise with some terms not having direct equivalents. Subsequently, the attribution of the terms ‘feminist’ and ‘feminism’ to individuals, groups and activities examined in this thesis may not accurately represent their (intended) identities. Whilst ‘feminism’ and ‘feminist’ will be used throughout this thesis, this is primarily due to the inclusion of feminist theory and the apparent absence of refutation to the application of these terms. This silence however, does not represent acceptance of the term as a form of identity.
1.5 Thesis Structure

This thesis adopts a thematic approach, with a comparative-historical analysis being conducted throughout. Chapter two will examine gender equality, modernity and the state by critically reviewing a selection of the available literature on family law, women’s rights, gender equality, feminist movements and secularism. This critical review will begin with women’s rights within family law, focussing specifically on marriage, divorce, inheritance and child custody, throughout the MENA region and religious perspectives pertaining to them. To reinforce similarities and differences between religions, and recognise the diversity of a frequently homogenised region, Israeli marriage and divorce practices will be discussed in conjunction with diverging Muslim practices. It will then move to discuss women’s rights and gender equality in other areas of society, highlighting socio-political relations between women, the state, religion and secularism; thus permitting insight into areas where increased gender equality was sought through women’s rights movements and debates regarding the public/private dichotomy.

Discussions pertaining to feminism then permit examinations of the current literature surrounding its development in both Western and non-Western contexts, as well as a more focused examination of literature regarding relations between Islam and feminism. A critical review of the literature surrounding the relationship between secularism and feminism will then occur, serving to highlight the interconnectedness of two distinct projects with roots in the Enlightenment. The discussion will subsequently move to examine the triangulated relationship between women, religion and secularism before moving on to examine secularism in more detail.

This review will thus conclude with an examination of secularism. Definitional debates will highlight its flexible nature, with recognition of secularism’s divergent global history further emphasising the various forms it has adopted, and subsequently the absence of a rigid concept. It is through this critical review that remaining gaps in current knowledge are highlighted and the contribution of this thesis will be further reinforced.

Chapter three serves to outline the theoretical framework and methodological approaches adopted for this project, whilst providing rationales grounded in the literature as to why this
thesis will be situated in a post-colonial feminist framework. It also serves to identify and justify the interpretive analysis which will occur throughout this qualitative small-N, comparative-historical project; as well as provide rationales for the chosen sources which will be used and the means by which they will be obtained.

Chapters four and five serve as the historical background for the Egyptian and Iranian cases. The purpose behind presenting them as separate entities is ultimately to recognise the different histories these two countries have. The structuring of the chapters has occurred in a similar manner, with revolutions, wars, the more public emergence of the female voice, and the effects of foreign powers on each state permitting comparable insights into each case. This is designed to ensure greater clarity in the socio-political and international positions of each state independently in the two decades prior to the epoch being examined in this thesis.

Chapter four provides the historical background for the Egyptian case through an analysis of the socio-political climate in the country between 1900 and 1919, the impact of colonialism on the country, the emergence of a politics of resistance, as well as the impact of war on the socio-political and economic landscapes of the country. The structuring of this chapter serves to provide a chronological approach to the first two decades of the twentieth century. Beginning with a discussion of the British occupation of Egypt, representations of Egypt and Egyptians by the British, and the discontent which emerged in all areas of society, the chapter then examines the impact of World War One and the effects of being a British Protectorate. It also emphasises the increased attempts by Britain at ensuring control of Egypt, whilst highlighting how this forced entry into war by the British was deemed responsible for the economic decline which was experienced.

The discussion then moves to examine the effects of economic decline on marriage rates as well as the perceived threat of mixed marriages between European women and Egyptian men, not only on the marriage prospects of Egyptian women, but also on Egypt in future generations. This links, in part, to the politics of resistance, which is argued to have culminated in the 1919 Revolution. This aspect of Egypt’s history was not simply in response to British occupation, but also in response to oppression, and this is argued to have been accompanied by the increased public presence of women.
Chapter five serves as the historical background for the Iranian case examining the socio-political climate of the early twentieth century. Structured in a similar manner to chapter four, it seeks to provide chronological insight into the socio-political climate of Qajar Iran, the effects of the 1906 Constitutional Revolution, the role of women in the revolution and the emergence of a female voice in written works as a form of resistance. It then analyses the constitution, its various periods of implementation and the Supplementary Fundamental Laws which were initially enacted in 1907. The analysis then examines foreign partitions within the country with regard to the triangulated relationship between Britain, Russia and Iran; in which Iran appeared to play a third wheel in determining its own future. It also examines the motivational effects of the Japanese defeat of Russia, the effects of World War One on Iran, and the role of foreign powers in the rise of the Cossack Brigade.

This chapter concludes with an examination of the monarchical transition from the ruling Qajars to the new force of Reza Khan. Examining the political tensions which existed throughout the final years of the Qajar dynasty and the oppositional stance of the Cossack Brigade from which Reza Khan emerged; it becomes possible to see the effects of foreign powers in Iranian politics as well as the continued discontent amongst the Iranian population.

Chapters six and seven serve as the primary discussion chapters for this thesis, focussing on women’s rights with regard to marriage and divorce respectively. Interpretive textual analysis will serve as a mode of enquiry through its application to sources such as the 1928 Iranian Civil Code (Naqvi, 1968a, 1968b, 1968c; Taleghany, 1995), the Iranian Marriage Act (Naqvi, 1968a), Egyptian laws 25/1920, 33/1926 and 25/1929 (The Egyptian Gazette, 12th March, 1929; NWRO, n.d.), memoirs of Huda Shaarawi (1987), Taj al-Sultana (n.d./2003) and Sattareh Farman Farmaian (1993); and the biography of Doria Shafik (Nelson, 1996). Analyses of these sources will be accompanied by examinations of British documents pertaining to the political situation in Iran and the activities of Egyptian women, thus permitting insight into colonial British attitudes, representations and understandings of economic, political and social situations in each country; as well as enabling insight into British representations of individuals. The purpose of these two chapters is to assess the
extent to which the predominantly masculine nature\textsuperscript{15} of marriage and divorce are shaped by the state, therefore contributing a new analysis of women’s marital rights in Egypt and Iran through an historical lens.

Chapter six emerges as the first chapter of analysis. Focussing solely on marital rights in Egypt and Iran between 1920 and 1939, the interpretive comparison comes to the fore of this chapter, thus permitting insight into the various rights women were (not) afforded with regard to the establishment of the familial structure. It also seeks to highlight feminist demands which were being made with regard to matrimonial equality. This chapter will subsequently push this research further by demonstrating the rights which women were (not) afforded following these demands.

This chapter is structured around the process of contracting a marriage. The discussion begins with the notion of politicising the private. Through this it becomes apparent that this politicisation was multifaceted; with it becoming evident through increasingly rigid laws pertaining to marriage and familial relations, the use of homes for political meetings, and the politicisation of the individual identity through political actions or male relations. It then moves to discuss the ‘method’ of choosing a partner, highlighting the removal of women from this process. This chapter also includes discussions on the \textit{wali} (guardian), \textit{mahr} (dowry), and examines areas of concern with regard to the contracting of marriage. Within this latter section, concerns and demands relating to child marriage, specifically between girls and men, in both countries, and the more specified health concerns and requirements which became legalised through Iranian law will be examined. It is through these discussions that it becomes apparent that the process of getting married is deeply entrenched in law, with one result being that the familial structure was drawn into the political realm.

Chapter seven serves as the second discussion chapter, and it is here that gender equality with regard to divorce and inheritance will be discussed. Drawing on the aforementioned documents, this chapter will examine the legalities of divorce and inheritance in both Egypt and Iran. Structured in a similar manner to chapter six, this chapter is arranged chronologically according to the process of ending a marriage. Beginning with a discussion

\textsuperscript{15} It should be noted that, by masculine nature, it is meant the traditionally perceived role of male relatives in choosing partners, negotiating dowry, the ability to initiate a divorce or marry more than one woman.
on the right to initiate divorce, this chapter analyses laws pertaining to the conditions under which men can divorce their wives and women may seek a divorce from their husbands. It then examines different types of divorce, for example, revocable and irrevocable. Polygamy and temporary marriage then come to the fore of the discussion, before turning to the financial responsibilities of the husband and the rights of the wife in the cases of maintenance, alimony and inheritance. The chapter concludes with a discussion on child custody, parental rights, and remarriage.

By structuring the two discussion chapters in this manner, it has been possible to move through the process of contracting and dissolving a marriage whilst permitting a comparative analysis to occur throughout. It has also allowed a comparative analysis to occur between the rights of men and women in both countries in parallel with the comparison between Egypt and Iran.

This thesis concludes with a chapter analysing the findings of this interpretive comparative-historical analysis. Modernity, history and secularism are initially brought together within the context of this thesis, with similarities and differences in their early twentieth century histories prior to 1920 and the multifaceted resistance which emerged in both countries is reinforced. The chapter then discusses the findings of chapter six, comparing the rights of men and women throughout whilst also comparing rights in Egypt and Iran. Findings from chapter seven are then discussed through the same dual comparison as is conducted for chapter six. The chapter and the thesis then conclude with a final discussion on women, modernity and the state in Egypt and Iran. It argues not only that both states are equally restrictive with regard to matrimonial equality, but also that increased references to women and a breakdown of their rights within the Iranian legal framework served to provide a façade of increased gender equality. This is thus understood to have further entrenched marriage and divorce within the patriarchal nature of the state.
Chapter Two

Gender Equality, Modernity and the State

2.1 Introduction

Women’s rights in the MENA region have served as a point of contention amongst politicians, activists, scholars and the wider observing audience for numerous decades. Debates pertaining to oppressive governmental regimes and Islam have provided a lens through which gender equality in the region has been critically viewed. Moreover, increased calls for democratic governance and the secularisation of the state have argued that the Western model would better serve citizen rights and subsequently gender equality. However, the majority of these calls (un)intentionally fail to recognise divergent historical trajectories of the countries which comprise the MENA region, as well as the divergences in religious interpretation which occur within the multifaceted nature of Islam.

This thesis’ point of departure within the broad spectrum of women’s rights is family law, with specific insight being sought into the effects of secularism on matrimonial equality between 1920 and 1939, in Egypt and Iran. Thus, this chapter reviews literature of the intersecting fields of gender equality, religion and secularism in the MENA region. Commencing with family law it then moves to examine the broader spectrum of gender equality as a means of further situating this research within the current literature. From this emerges a discussion on the public/private dichotomy, its continued entrenchment in some aspects of society and how this binary has been challenged through the establishment of women’s rights movements, a growing feminist consciousness and scholarly debates.

The discussion then examines the feminism-modernity relationship, successively directing discussions to discourse surrounding the highly contested notion of Islamic feminism. This examination of the relationship between feminism and religion, and religious feminism thus provides a point of transition to secularism as the final area of inquiry. Through an examination of the literature pertaining to the conceptualisation of secularism, it will become evident that there is little clarity on what it means to be secular, as well as contention surrounding the application of its numerous suffixes. Following this, a discussion on the rise and fall of secularism will further assist in understanding its application and
relationship with religion. This chapter will then conclude by reiterating some of the remaining gaps in current knowledge and thus, within an academic context, emphasise how this research will fill some of these crevices.

2.2 Women, Family and the Law

Remaining firmly in the religious jurisdiction of Shari’a, family law and matters of personal status have proven to be controversial issues, internationally and domestically. Within debates which emerge from the continued predominance of religion within the domestic realm, the secular/religious binary has further developed. Within this dichotomy, debates continue as to whether Islam advocates gender inequality and whether the secularisation of family laws would culminate in greater civil rights and increased democracy in the MENA region. The apparent uniqueness of the MENA region is however, questioned by Moghadam (2013: 6), who enquires whether the roles and rights of women can be understood solely ‘in terms of the ubiquity of deference to Islam in the region?’ Clarifying her position, Moghadam (2013: 6) argues that women’s situation cannot be exclusively located in the ‘intrinsic properties of Islam’; moreover, she argues that Islam is no more patriarchal than other major religions such as Hinduism, Christianity and Judaism, which all view women’s primary roles to be those of wife and mother.

The family, according to Asad (2003: 227), is the societal entity in which individuals are ‘physically and morally reproduced’ and where the foundations of individuals as ‘private’ beings are formulated. Designation of the family is further clarified by Moghadam (2013: 8), who notes that it is commonly understood as a unit whose laws serve to reinforce ‘patriarchal gender relations’. Furthermore, it is understood to represent the proper framework for sex, thus ‘ensuring legitimate filiation’, with social hierarchies being maintained through ‘marital alliances amongst families’ (Dunne, 1998: 9). Frequent assumptions indicate the reluctance of colonial authorities to interfere in matters of family law due to perceptions that ‘it was the heart of religious doctrine and practice’ (Asad, 2003: 227). Diverging from this view, Asad (2003: 227–228) posits that this understanding of Shari’a served as a ‘secular formula for privatizing “religion” and preparing the ground for the self-governing subject.’ Moreover, he (2003: 230) argues that the ‘reform’ which served to translate Shari’a as family law can be situated within this perspective.
Joseph (1996: 7) understands family law as remaining one of the most fundamental legal realms, serving as an environment within which religious sects, as a form of subnational community, can officially be assimilated into ‘juridical communities.’ Additionally, Joseph (1996: 7) notes that with the exceptions of Tunisia and Turkey, all MENA states submit issues of family law to ‘legally recognized authorities’, thus enforcing patriarchal control by male relatives and clerics onto women. Whilst this observation highlights patriarchal tendencies of religious authorities with regard to women and family law, the exclusion of Turkey and Tunisia indicates a reorientation of approaches to family law in some countries.

For Qutb (2001: 25), who is recognised for his meticulous interpretation of the Qur’an, the family is the foundation of society and it is formed through the marriage of God’s two souls. His (2001) interpretation of gender equality in the Qur’an however, appears paradoxical in comparison to frequent accusations of gender inequality in Shari’a based family law. He (2001: 25) argues that Islam sought to ‘elevate women to a position of dignity’ through the removal of cruelty and degradation experienced by women in every ‘ignorant society’ so as to ensure the necessary solidity in the foundations of the family.

Acknowledging Tunisia and Morocco’s more liberal family laws and Egyptian developments in 2004 which granted women more rights in divorce, Nazir (2005: 36) highlights that gender discrimination is still prevalent across the MENA region despite liberalising reforms. Abu-Odeh (2004: 1049) however, recognises interpretational differentials between schools of thought and reform potential by way of a spectrum. She (2004: 1049) argues that Tunisian legislative reform presents itself as the most liberal, with Hanafi, which Lombardi (1998: 94) notes ‘claims the nominal allegiance’ of sixty percent of the world’s Muslims – including the majority of Egyptians, and upon which Egyptian family law is based - being the most conservative (Abu-Odeh, 2004: 1049). Despite Hanafi’s strictly conservative nature, Abu-Odeh (2004: 1049) situates Egypt centrally on the spectrum alongside Jordan and posits that they represent ‘centrist reforms’. Moreover, she (2004: 1049) argues that the primary difference between Tunisian and Egyptian family law reforms is that the former introduced liberalism into its family code in a manner which appears to be unrivalled in the Arab world,
whereas the latter preserved gender reciprocity as inherited from Taqlid\textsuperscript{16} law whilst simultaneously chipping away at the husband’s ‘surplus powers in the family’.

In 2003, Morocco announced reform recommendations to family law which were subsequently ratified in 2004 (Moghadam, 2013: 8; Weingartner, 2004: 687). These reforms were understood to correlate more closely with modern notions of women’s rights and privileges in an increasingly democratic society (Weingartner, 2004: 687), allowing them rights and opportunities in both spheres (Moghadam, 2013: 8). Concurrently, Iraq’s Interim Governing Council passed Decree 137, abolishing their Personal Status Law and re-placing all matters into the religio-legal jurisdiction of \textit{Shari’\textquotesingle}a and religious authorities (Efrati, 2005: 577).

Progressions in increased gender equality in Iraqi family law commenced in 1959; with continuous reforms occurring under a sequence of secular governments (Efrati, 2005: 578). The decision to re-locate family law proved unpopular amongst women and activists, with the latter representing approximately eighty women’s groups, both carrying out a series of organised protests bearing the slogans: “No Discrimination Between Women and Men in Our New Iraq,” “We Reject Decree 137 Which Sanctifies Sectarianism and Division in Iraqi Society and Family” (Efrati, 2005: 577). The decision to revoke the Iraqi Personal Status Laws at the same time as Morocco enacted progressive modifications indicates that reform in the region is not uniform. Moreover, it raises questions as to whether Western influences impacted on these choices, with the deciding council in Iraq at the end of 2003 having been US appointed.

Whilst Muslim countries in the MENA region have been criticised for gender inequality and religious laws, Strong (1997: 154) postulates that Israel is no exception. The overtly religious nature of family laws results from their almost exclusive prerogative in religious courts in accordance with the Status Quo Agreement (Strong, 1997: 154). Moreover, without a

\textsuperscript{16} Taqlid law is inherited from the ‘pre-modern Islamic legal system. With regard to marriage, both Taqlid law and general Islamic law stipulate that women ‘retain both their juridical personality as well as whatever property they own when they enter marriage.’ Additionally, they are not required to ‘maintain the marital household except under limited circumstances when the husband is in need.’ These rules defined the manner in which the family was expected to operate, and their significance not only assists in further understanding historical patriarchal relations, but also contemporary family legal dynamics as they ‘are the precursor to family law in the Arab world (Abu-Odeh, 2004: 1051; 1062–1063; 1067).
religious affiliation, individuals are unable to marry or divorce (Strong, 1997: 139), thus emphasising the prominence of religion over matters of family law in the case of a non-Muslim, Middle Eastern state. Furthermore, Strong’s (1997) comparative analysis iterates similarities between the Israeli and Iranian states with regard to religious and legal imperatives.

One perception of the re-Islamisation of the Iranian household following the Shah’s demise was that safeguarding the family ‘required the strengthening of male privilege’, with the Family Protection Law being replaced with the reinstated 1936 Civil Code (Paidar, 1996: 58–59). This reversion is understood to have revoked rights afforded to women in areas such as abortion, divorce, marriage and child custody almost instantaneously. Additionally, compulsory hijab and extensive gender segregation were implemented, alongside methods for regulating family integrity. These policies fell under the umbrella of the ‘anti-corruption crusade’ (Paidar, 1996: 59). These legal alterations are thus understood to represent similar, if not more invasive, policy reversals to those seen in Iraq. Moreover, the reestablishment of a rigid public/private dichotomy reinforced gender differences and the regulating of family integrity contributing towards politicising the private sphere.

According to Higgins (1985: 480), the most far-reaching effects of the later revoked Family Protection Law was increasing marriage ages to eighteen and twenty for women and men respectively. The ease of male divorce was mired by the compulsory use of a court rather than simply declaring divorce with two witnesses (Higgins, 1985: 480). The grounds for female divorce were broadened and they were permitted to seek custody of children; however, to women’s detriment, the revocation of the law resulted in lowering marriage age to thirteen. It also resulted in increased constrictions to female divorce and greater ease of male divorce, with comprehensive reforms of family law being unlikely due to the continued reliance on *Shari’a* (Higgins, 1985: 480-481). Subsequently, fluctuations are demonstrated in the liberal nature of state policies in very specific areas of family law. Whilst the pre-revolution era was shaped by rigid policies of secularism and state modernisation, family law remained virtually untouched, with state power over the private sphere being ensured.
Contrastingly, modifications have continued with Tunisia reforming family law in the immediate post-independence period, 1993 and then in 2011 when the country’s remaining CEDAW reservations were removed (Moghadam, 2013: 17). Divergently, Turkey’s family law was not rooted in Islam yet was reasonably conservative until the government made involuntary changes in 2001 following the vigour of the women’s movement (Moghadam, 2013: 17). The conservative approach to contemporary Turkish family law can thus be understood as conflicting with Atatürk’s initial efforts following the Turkish Republic’s establishment (1923), with objectives including family law reform with regard to gender equality and the adoption of Western standards (Abadan-Unat, 1991: 178). Silences remain however, with regard to the potential of gender egalitarian family laws in state strengthening, as well as the impact of external influences on further entrenching family laws within the patriarchal framework.

2.2.1 Marriage

The rules of establishing and dissolving a marriage is the area of Islamic law where gender rights are most prevalent (Mir-Hosseini, 2009: 28), with marital rights serving as one of the most significant gauges of a woman’s general societal status (Engineer, 2008: 116). Arguing that in most societies and religions women’s rights to enter into a marriage have been revoked due to their perceived incapability of choosing a partner, Engineer (2008: 116) and Ahmed (1992: 64–64) recognise the oppositional view of Sūrah 33:35 (Pickthall, 2012: 247) in which women are represented as being mentally and morally equal to men. Furthermore, Engineer (2008: 118) interprets the Islamic view on marriage as being the foundations for the family, a framework within which the survival of the human race and social stability are ensured and ‘a dignified existence’ is guaranteed for both men and women. Secondly, marriage is more than a framework for licit sexual relations, with it also representing a ‘relationship of trust and mutual respect’ (Engineer, 2008: 119). Eaton (1994: 188) further contributes to the understanding of marriage, arguing that the individual strands of ‘the great web of relationships’ are interwoven through marriage; representing one of the rationales for the Prophet saying that ‘marriage is half of religion’. The expansion of family through marriage is positively represented in Eaton’s (1994) work, however, he then proceeds to justify its further expansion through polygamous relationships. He (1994: 189) argues that the extension of the family in this manner ensures the absence of breaks in this
‘web’ and that polygamous relationships are ‘complementary to the close-knit communal life of the city’.

Polygamy, according to Engineer (2008: 187) is ‘contextual whereas monogamy is normative’. Throughout the MENA region, governmental attitudes towards polygamy have varied, with opposition to its practice being echoed in Iraq throughout the 1920s and 1950s, and strict limitations being implemented in the 1959 reforms (Efrati, 2005: 585). A primary argument against polygamy was detailed in Article 13 of the 1959 law, which stated that it ‘contradicted the notion of modern marriage, offended a woman’s dignity and created a multitude of problems’ (Efrati, 2005: 585). However, a loophole in this law was highlighted by Budur Zaki, who noted the futility of punishing polygamous husbands when the registration of marriage was not compulsory, with Article 11 stating that acknowledgement and confirmation from the man and woman respectively would serve as proof (Efrati, 2005: 586).

Concurrently, Strong (1997: 148) notes the expansion of the Israeli prohibition on polygamy by the Knesset for (non) Jewish men. This amendment resulted in claims that it encroached on religious rights; this is evidenced by the case of a Muslim man who believed that his ‘religious freedoms’ as determined by the Proclamation of Independence, had been infringed upon (Strong, 1997: 148). The court’s response was that ‘[f]reedom of religion is not to be interpreted as freedom to do what the religion permits but freedom to fulfil what the religion commands...’ noting that polygamous relations fall into the former (Strong, 1997: 148). Simultaneously, Tunisia’s first complete reforms in the 1950s post-colonial era resulted in the abolition of polygamy (Abu-Odeh, 2004: 1123; Moghadam, 2004: 146); moreover, it is the only country other than Turkey to have completely prohibited the practice, with Moroccan reforms (2003-2004) making it more difficult (Moghadam, 2013: 109).

Contrastingly, polygamy was rare in Iran, with approximately one percent of men having polygamous marriages in 1966 (Higgins, 1985: 485). Qutb (2001: 32) argues however, that upon its advent, Islam restricted the limitless number of wives men were permitted in pre-Islamic times to four, and implemented criteria – primarily financial ability and the equal treatment of all wives. He (2001: 38) further postulates that the reason Islam restricted
rather than abolished polygamy was to ‘solve some problems in human life and to satisfy the needs of human nature’. Conversely, Ahmed (1992: 37) contends that some women throughout the Middle East had been better off during pre-Islamic times. She (1991: 58) posits that Orthodox Islam chose to interpret Muhammad’s ‘regulations and practices’ as ‘binding on all Muslims’, which stands in contrast to other sects which gave importance to the ethical dimension of Islam’s message and placed an increased emphasis on social contexts and periods rather than making them binding on all. Disparities in women’s marital rights emerged between regions, with women in Medina not being able to contract her own marriage and women in Kufa being able to contract a marriage without a guardian (Ahmed, 1991: 59). Moreover, it is posited that in the pre-Islamic era, women were permitted to remain within their ‘kin family circles after marriage’ and should the husband not be related to her, then he would visit (Karmi, 2005: 173). Stern (cited in Karmi, 2005: 173) argues that polygamy did not occur during this time, although its absence may have been due to the contracting of temporary marriages instead. Furthermore, women are understood to have remarried immediately after divorce, and polyandry17 existed (Karmi, 2005: 172-173). The independence women experienced during this era can be seen to have resulted from two things. Firstly, the prominence of esteemed women in early Islamic history; and secondly, the matrilineal and patrilineal backdrops against which Islam was born, with both standing in opposition to the other in regard to women’s position and societal structuring (Karmi, 2005: 173).

Age is another area of marriage which has proven to be a point of contention for many women’s rights advocates. Child marriage, under classical notions of patriarchy, results in girls residing in households under the authority of their father-in-law whereby they are subordinate to senior women as well as all men (Kandiyoti, 1991: 31). By the beginning of the twentieth century however, an increasingly critical view of child marriage was forming in Egypt, with women such as Malak Hifni Nasif arguing that it was detrimental to female health (Baron, 1991: 281). This practice was also prominent in Iran, with child marriage representing a huge problem in less wealthy rural areas. What emerges is the apparently waning prominence of religion in motivations to marry girls at a young age, but its exacerbation was due to environmental concerns such as drought, financial concerns and

17 This refers to a woman having more than one husband at a time.
the social implications of increasing links between family and loyalty (Bahramitash & Kazemipour, 2006: 113).

During the 1950s, Iraqi marital customs were criticised by leader of the League for Defence of Women’s Rights, Naziha al-Dulaymi. Her primary criticism, according to Efrati (2005: 581), was the manner in which peasant women especially, appeared to have become synonymous with business, working for their fathers at a young age, women being ‘bought and sold like animals’, and paternal ambitions to profit from his daughter’s dowry once she reached puberty. Moreover, drought and economic recessions served to increase the likelihood of child marriage so as ‘to absolve the burden of supporting them’ (Efrati, 2005: 582). Efrati (2005) and Bahramitash and Kaziepour’s (2006) arguments are reflective, emphasising the significance of external factors on young women and the age at which they were married. What remains unclear however, is the potential impact of increasingly secularised politics on matrimonial equality.

2.2.2 Divorce

From the above discussion it is apparent that marriage was traditionally entrenched in a patriarchal framework; the same can be argued for divorce. The ease of male divorce is demonstrated by the ‘legally accepted formula’ which men could speak within certain contexts (Abu-Odeh, 2004: 1065; Strong, 1997: 168). During her ʿidda (waiting period), the wife remains in her husband’s home and he is still responsible for her maintenance. Once the ʿidda ends and the divorce is finalised, the husband no longer has any financial obligations to her unless children are involved, in which case they continue until paternal custody commences (Abu-Odeh, 2004: 1065–1066). Alternatively, Osanloo (2009: 118) posits that in some cases this is a ‘quid pro quo’ response to the ‘wife’s offer of marriage’. It is within this context that an explanation for male predominance over initiating and permitting divorce becomes possible (Osanloo, 2009: 118).

Despite notions that divorce should be avoided due to its destructive effects on a relationship between two individuals (Engineer, 2008: 143), it is underscored by Bahramitash and Kaziepour (2006: 123) that following its decline in Iran in the 1980s and 1990s, divorce rates had increased by 2000. By 2001, approximately ten percent of marriages culminated in divorce and by 2002 an average of 1.9 percent of women aged
between thirty and thirty-four were divorced (Bahramitash & Kaziempour, 2006: 123). Paradoxically, divorce became ‘a weapon’ used by the Iraqi regime throughout the 1980s during the Iran-Iraq War, and into the 1990s, with financial incentives being offered by the government to men who divorced their Iranian wives (Efrati, 2005: 589). Additionally, women were encouraged by the government to divorce husbands who had avoided or abandoned military service, had been found guilty of treason, or had foreign citizenship and were unable to return to Iraq for three years or more (Efrati, 2005: 589).

Alternatively, Strong (1997: 158-159) understands Israeli divorce to be almost as difficult as marriage, moreover without a get a divorced woman is unable to remarry. Conversely, the Iranian struggle over the ease of male divorce is understood by Keddie (2001: 6) to have accounted for the increased number of divorces in the 1980s, which contradicts Bahramitash’s and Kaziempour’s (2006: 123) previous argument. A response to concerns emerged in 1989 in the form of limited alterations to divorce proceedings, with all divorces requiring court approval prior to their registration; later in 1994 women were granted twelve criteria by which they could obtain a divorce whilst increasing costs for men (Keddie, 2001: 6–7). Despite this, Higgins (1985: 485) notes geographical differentials, with urban women being more likely to obtain a divorce than rural or tribal women. Contrastingly, Abu-Odeh (2004: 1128) views Egyptian Law 100/1985 as indicating the close proximity women have achieved to no-fault divorce due to it instructing judges to grant a divorce upon the wife’s insistence, regardless of whether she can prove harm.

2.2.3 Inheritance and Child Custody

Other areas of family law where gender inequality is prominent are inheritance and child custody. According to Qutb (2001: 44), pre-Islamic women were excluded from inheriting. He (2001: 46) argues that the advent of Islam resulted in all peoples being entitled to inheritance depending on their degree of kinship to the deceased. Therefore, a husband inherits half from his wife, and a wife one quarter from her husband unless there are (grand) children, in which case the amount is halved (Qutb, 2001: 56–57).

18 Jewish law requires the wife to obtain necessary permissions from her husband for a divorce, alternatively, she is expected to submit to the husband’s conditions or remain unhappily married (Strong, 1997: 159).
Strong (1997: 161) emphasises conditions to gender discrimination in Israeli inheritance according to the Women’s Equal Rights Law (1951). Should the deceased have ‘died testate’ then gender biased religious laws will be upheld, should it be a case of ‘intestacy’ then the law will protect female family members from gender discriminatory laws (Strong, 1997: 161). Therefore, Israeli inheritance laws determine gender discrimination on the absence or presence of legal documentation as provided by the deceased. In the Iraqi case however, disagreement of interpretation resulted in continuous reform appeals throughout the 1970s, with Budur Zaki arguing that gender differentiation in inheritance was not ‘suitable for a progressive society’ (Efrati, 2005: 593). A superficial amendment in 1978 resulted in women inheriting the remainder of an estate after her parent(s) should she not have a brother, thus leaving women in the same position should a male sibling be present (Efrati, 2005: 593); subsequently reinforcing patriarchal family law and the perceived inferiority of women.

This notion is furthered through child custody, which has traditionally been awarded to the father following a brief period of maternal custody until the child reached a certain age. Prior to 1958, Iraqi law, which was established on the Hanafi school, permitted maternal custody of sons until the age of seven and daughters nine (Efrati, 2005: 590). Amendments by the 1959 law permitted women preferential rights unless she was ‘a minor, insane, untrustworthy, unfit for the task, or if she married a stranger to the child...’ (Efrati, 2005: 591). However, maternal custody remained restricted until the child reached the age of seven unless a court deemed an extension necessary for the child’s wellbeing. A prominent argument against paternal custody was that in Iraq, childcare was primarily the mother’s responsibility, thus a closer bond developed between mother and child than between father and child (Efrati, 2005: 591). Subsequently, Budur Zaki recommended the removal of age constrictions on maternal custody, with only visitation rights being afforded to the father (Efrati, 2005: 591). Whilst this recommendation removed impingements on women’s rights to child custody, it did not serve to resolve the problem of gender inequality within family law. Rather than ensuring more gender egalitarian custody policies, it reverses the inequality by placing strict infringements on paternal rights. Moreover, it does little to bridge gender divides within this aspect of family law, rather it serves to reinforce them, thus questioning the deeper implications of policy reform on gender equality.
Comparatively, Tunisia is considered (one of) the most liberal countries with regard to gender equality in family law. Stipulations in their laws have led Abu-Odeh (2004: 1116) to note some ‘peculiarities’ in their approach to equality. These instances include the embedded patriarchal nature of family finances, for which the husband/father is still responsible with the wife/mother providing a supplementary contribution should she have the means by which to do so. In return for this contribution, she receives the rights to guardianship over any children upon the condition that the father is absent or deceased (Abu-Odeh, 2004: 1116). The requirement of a supplementary financial contribution of the wife to the family finances as a means of guaranteeing her guardianship of children in the permanent absence of her husband implies the purchasing of rights. Moreover, it establishes conditions pertaining to gender equality in child custody as well as reinforcing the continued perception of women being secondary to men. It is thus through the meeting of these criteria that the increase in equal opportunities for women in relation to this specific aspect of family law can be established. However, not all women will have the economic means to contribute, thus it can be understood to reinforce positions of equality based on class. The prominence of superiority of one sex over another is further reinforced when Abu-Odeh (2004: 1118) writes of the re-positioning of women following their obtaining of guardianship rights as becoming ‘the husband’s “father.”’. Because of the ‘peculiarities’ outlined above with regard to financial contributions and child custody, the relocating of women within the family structure can thus be understood through the continuation of traditional patriarchal roles.

Contrastingly, Strong (1997: 162) notes how Israeli policies on child custody can ‘seem ideal in terms of gender equality’. Despite this, discrimination prevails on other grounds, with religion being prominent. Strong (1997: 162) evidences this with reference to child support as a government incentive for high birth rates, however, Jewish families are understood to automatically receive preference over Arab families. Strong (1997: 162) understands this to represent the ‘persona non grata’ status of non-Jewish persons in the state and can contribute to inter-religious strife. In parallel with Israel, Iranian children ‘appear to have no legally recognized rights’, with Islamic law and tradition influencing these rights and paternal custody being automatically allocated once the child has reached a certain age (1997: 170). This paternal right however, was vehemently challenged by Iranian women as a
result of the Iran-Iraq war, with Khomeini being seen to break from Shari’a and permitting custody of minors to widows, despite conservative opposition (Keddie, 2001: 6).

Whilst the impact of war on custodial issues was recognised in Iran, it remains unclear as to whether similar recognition occurred in Iraq. Despite gender equality in Israel being viewed in a positive manner, the primary consistency between all of the aforementioned cases is religion. Whilst family law remained entrenched in the religiously influenced private sphere, there is no insight into the possible effects of secularism, despite other areas of society reflecting secularised trends; therefore reinforcing gender based segregation and divergences between public/private reforms.

2.3 Dividing the State

Predominantly, state divisions have taken the form of the public/private dichotomy, with the latter being the realm within which family law is situated. Further insight into its formation and consequences thus becomes integral to this thesis. Sex is understood to have been inescapable in medieval Islamic societies, with the public/private dichotomy serving to reinforce the oppositional nature of men and women, its perceived importance in ensuring an ordered society, and understandings of rights inequalities (Entelis, 1996: 1268; 1272; Sanders, 1991: 74). Interaction between unrelated men or women was understood as an inevitability; however, the segregation of the two sexes meant that these interactions would remain licit, with marriage being the most common representation of this (Sanders, 1991: 74). A second representation is zina, which refers to illicit relations between men and women, with medieval jurists understanding the latter as the primary agents of fitna (social disorder) due to the possibility of their unlawful associations with men (Sanders, 1991: 75). Within this context, the public/private dichotomy represents a form of female protection through the relegation of women to the private sphere and the scrupulous monitoring of their behaviour. However, by locating women as the focal point of illicit relations two points of contention arise. The first pertains to the perceived untrustworthiness of women within the public sphere, and the second refers to the gendered lens through which illicit relations are viewed. Whilst representing a protection mechanism for women’s honour, little concern appears to have been raised about men’s illicit relations with women. This dichotomy
therefore reinforces gendered hierarchies present in both spheres, whilst accentuating gendered behavioural stereotypes.

This dichotomy, for Mernissi (cited in Lewis & Mills, 2003: 15), is an ‘experiential and ideological divide in Muslim society’ which occurs between the male space of the umma and the domestic, female space within which the family is situated. It is within this context that she views the veil as a means of ensuring this divide, women are permitted to pass through the public sphere without losing the security of seclusion, and the public sphere is protected from the anarchy of fitna (Lewis & Mills, 2003: 15). Whilst this understanding of the dichotomy-veil relationship provides insight into how the veil is perceived as a protective mechanism for both men and women; the notion of it shielding society against fitna reinforces the aforementioned behavioural stereotypes.

Within the colonial context, Shakry (1998: 128) advances that the ‘discourse of uplifting an entire population onto a higher plane of material and moral well-being’ overlapped with depictions of ‘gender and segregation’. It is within this discourse that secluded women became equated with ‘backwardness’ and colonial policies sought to infiltrate the private sphere (Shakry, 1998: 128). This perspective enables the reinforcement of the public/private dichotomy through colonialism to be discerned; however, Shakry (1998: 129) furthers this understanding by emphasising fluctuations in colonial successes based on their ability to enter and rebuild the private sphere. Furthermore, Hafez (2011: 15) perceives the colonial construction of this dichotomy as a ‘conceptual tool for ordering society’ through which the social and the personal can be controlled; with the establishment of a public, political sphere permitting secular governance to occur. It is thus within this milieu that Mitchell (1991) is understood to have warned against regularising state-society divisions and advocated the state as ‘an effect’ rather than a separate entity’, therefore permitting a more critical understanding of social process reproduction within the framework of state authority (Hafez, 2011: 16).

In continuation, Asad (2003: 183) argues that criticisms of the exclusionary nature of the modern, liberal public sphere emerged following Habermas’ (1962/1989) advocation of its importance. For Habermas (1962/1989: 27), ‘the bourgeois public sphere may be conceived above all as the sphere of private people come together as a public’. Asad (2003: 183)
evidences its exclusionary nature by drawing on the works of Ryan (1992) and Eley (1992) who posit that the liberal public sphere as always been exclusionary to certain people such as ‘women, subjects without property, and members of religious minorities’. Susen (2011: 43) builds on this, positing that the public sphere is ‘composed of private individuals whose social interconnectedness transcends the bourgeois of their personal lives; subsequently, it is argued that the public and private ‘can be considered mutually exclusive, rather than mutually exclusive social realms’. Moreover, the ‘public persona’ is understood to reflect the private person because ‘every public persona is embedded in the background subjectivity of a private person’ (Susen, 2011: 43). Eickelman and Salvatore (2002: 94) expand on this by recognising that the public sphere is not exclusive to modern societies, rather

It is the site where contests take place over the definition of the ‘common good’, and also of the virtues, obligations and rights that members of society require for the common good to be realized.

Habermas however, is criticised by Eickelman and Salvatore (2002: 96) for neglecting the role of religion in his early work. Subsequently, they (2002: 102) highlight how in societies where religious practice and expression are heavily controlled, such as ‘secular Turkey’ and ‘Ba’thist Syria’, they are a pivotal aspect ‘of the background understandings for most members of society’. The emergence of the Muslim Brotherhood (1920s) is used to evidence this, emphasising how they adopted this understanding; with Hezbollah (Lebanon) and Hamas (Palestine) later being seen to have ‘adapted themselves to play a role in their respective public spheres’ (Eickelman and Salvatore, 2002: 102-103). Identity is thus recognised as more than political, with the ‘Muslim public’ being ‘grounded in practices that emerge through the complex process of ingraining of Muslim traditions into modern social life’ (Eickelman and Salvatore, 2002: 112).

The exclusionary nature of the public sphere is thus perceived by Asad (2003: 184) to reflect that it is

a space necessarily (not just contingently) articulated by power. And everyone who enters it must address power’s disposition of people and things, the dependence of some on the goodwill of others.
Moreover, he (2003: 185–186) questions the secularist fear of religion in the realm of personal choice, and posits that this is partially because of the confining and dominating nature of religious recommendations. In an attempt to depart from Western notions of the public sphere, Thompson refers to it as a ‘civic order’ (Landes, 2003: 29). She is also understood to have accentuated the significance of economics in accompaniment to state structures as a means by which new formulations of both spheres can be endorsed (Landes, 2003: 29).

This stance is also advocated by Olsen (1993: 158) who positions the market/family binary as a second public/private dichotomy which is of particular significance to women. The paralleling of the market and the family however, was a particular point of contention for Locke who perceived the family to be founded on inequality between parents and children, whilst ‘political society must be organised around the equality of individuals in their activity in the market’ (Eisenstein, 1981: 39). Whilst Locke recognises the needs for a familial hierarchy founded on the parent-child relationship, his argument against the paralleling of the family and politics can be understood in two ways. Firstly, public equality is untransferrable to the private due to the parent-child hierarchy. Secondly, equating the two spheres could result in their overlapping, thus potentially enabling the participation of women in the open market. This suggests that the political will remain superior to the domestic, thus maintaining a hierarchy of societal spheres. It will be demonstrated later, within the context of Egyptian and Iranian family law, that whilst they are not paralleled, the political and the domestic converge. Moreover, Locke’s understanding will provide a lens through which the hierarchical structure of the patriarchal family can be further comprehended.

The continued dichotomisation of societies is however, disregarded by ‘third-wave’ feminists whose point of contact is diversity, seeking instead to query binaries and ‘further develop theories from women’s situated and embodied perspectives’ (Mack-Canty, 2004: 158–159). In furtherance, Gal (2002: 77–78) notes that the ‘doctrine of “separate spheres”’ has resulted in many Western analysts assuming that the social world is founded on binaries. Contrastingly, feminist scholarship is observed to have taken to the fore of its critique, focussing on issues such as irreconcilable ‘moral values’ and succeeding in accentuating mistakenly assumed stable boundaries (Gal, 2002: 78). The notion of this
dichotomy being an ideological divide, as posited by Mernissi, thus reverberates within feminist theory, and is therefore essentially immune to ‘empirical counterevidence’ (Gal, 2002: 78).

Whilst debates have emerged as to whether or not this dichotomy serves to uphold religious societal morals, this thesis examines the impact of a predominantly public concept (secularism) on an area of law entrenched in the private sphere (the family). With the notion of the two spheres converging, it has become possible to question how the increasingly modern, secular public affected religious family law.

**2.4 Feminism and Modernity**

Modernity is understood to emerge from ‘a culture of “stability, coherence, discipline and world-mastery”’ and thus represents ‘progress, reason and democracy’ (Felski, 1995: 11). Its masculine identification, according to Felski (1995: 16) is not a contemporary occurrence with emblems of the nineteenth century, including the public sphere, being considered responsible for this association and locating of women outside of the public experience. Expanding on this, Werbner and Yuval-Davis (1999: 6) highlight the paradoxical nature of modernity as it simultaneously represented the ‘the moment of ‘universal’ emancipation’ as well as the exclusion and subordination of women. Additionally, Hallaq (2005: 206) positions the rise of dictators in the modern MENA state in succession to colonial experiences, labelling it as ‘merely one tragic result of the process in which modernity wreaked violence on venerated traditional culture.’ What remains unclear however, is whether modernity is referring to secular policies, attempts at state building, or the imposition of alternative cultures and traditions which occurred alongside other modernising reforms under colonialism; therefore questioning whether it was modernity itself which can be understood as problematic, or its method of implementation.

Within discussions on modernity emerges ‘political modernity’ and it is this strand of thought which Chakrabarty (2000: 20) seeks to conceptualise within a non-Western context with the intent of exploring the strengths and weaknesses of specific European social and political classifications. The effects of European influence have thus become so prominent, that it ‘is impossible to think of anywhere in where in the world without invoking certain categories and concepts…’ all of which have strong roots in European thought (Chakrabarty,
Consequently, political modernity is inseparable from the Enlightenment and the
tenenteenth century due to its intrinsic link to concepts such as citizenship, the public sphere
and the public/private dichotomy (Chakrabarty, 2000: 4).

Emerging prominently as the means by which constructions of modernity and European
thought were disseminated throughout the non-Western world is colonialism. Chakrabarty
(2000: 216) posits that colonialism brought with it ‘many of the desires and institutions of
European bourgeois modernity but without, it would seem, the family romance of bourgeois
Europe’. The construction of Europe within this work however, is as mythical and as the
home of modernity when seeking to explain capitalist transitions in a non-Western context.
This has implications on perspectives of the level of transition within these countries, with
their comparison to this mythical counterpart resulting in the notion that this transition is
unfinished. Subsequently, Chakrabarty (2000) argues that this conversion should be
recognised as translation within individual contexts.

Representations of Europe, European thought and modernity are not alone in being
critiqued. Modernity’s relationship with the Enlightenment has also been critiqued by
feminists due to its inconsistencies (Moghissi, 1999: 78). Individual freedoms which are
understood to have resulted from the Enlightenment relied on state perceptions of the
individual, with dichotomies remaining, modernity has subsequently been understood as
liberating for men and restricting for women (Moghissi, 1999: 78-79). Postmodernists are
understood to have argued that the continuation of such binaries have simply replaced pre-
modern typologies; with Moghissi (1999: 83) noting that modernisation in the MENA region
over the last century omitted ‘genuinely transformative changes’ to gender equality.

The Enlightenment’s paradoxical nature is advanced by Ramazanoğlu (2002: 24) through its
shaping of and oppositional nature toward Western feminism. The predominance of
masculine thinking in the Enlightenment, against which feminists have struggled to become
vocal, is represented by Ramazanoğlu (2002: 24) as one of feminism’s prevailing critiques of
it. The centralisation of the West within the Enlightenment can also be seen to have
contributed to (colonial) assumptions of Western superiority. Additionally, the underpinning
by Enlightenment thinkers of the association of the West with truths of the natural and
Social worlds (Ramazanoğlu, 2002: 25) can be understood to have contributed to what Yeğenoğlu (1998: 95–96) has discerned as one history.

Tensions in the values and ideas espoused by the Enlightenment tradition also emerge. Whereas this tradition sought the promotion of individual rights, it also hinges upon highly gendered values, with the focus on rationality and the quest for objective truth feeding into the dominant gender paradigm (Guerrina, 2005). The Enlightenment’s quest for scientific knowledge was predicated on a hierarchical structure whereby rationality can come to dominate nature. In this context, men’s presence in the public sphere was to be aligned against women’s role in the private, with mothering and reproduction bringing women closer to nature and thus being used as symbols of ‘irrationality’. Whilst criticisms of universalising assumptions of feminist movements have emerged within post-colonial feminist literature, challenging the binaries of rational/irrational, subject/object, masculinity/femininity has emerged prominently within movements across the MENA region due to their entrenched nature in areas such as family law.

What emerges from this however, is the manner in which the underlying binary of secular feminism (religious/secular) is being challenged and consequently, debates pertaining to religion’s role in the public sphere have re-emerged. Feminist criticisms of the ‘Enlightenment Critique of Religion’ (ECR) have sought to interrogate the coherence of this binary, both inclusive and exclusive of religious studies, through the use of postmodern insight. Contrastingly, sociological criticisms have philosophically and empirically questioned the secularisation thesis with ‘a narrative of a single modernity wherein religion is expected to become a much diminished and private aspect of people’s lives’ (Reilly, 2011: 7).

Whilst scholars such as Badran (2007) and Mernissi (1991) emphasise points of contact rather than tensions between Islam and feminism, and Al-Ali (2000) reconceptualised secularism in the MENA region with specific reference to the Egyptian women’s movement; both secularism and feminism are still considered to be Western. Furthermore, recognition of the global development of feminist movements in particular places and at specific times – as documented by Jayawardena (1986) – has done little to challenge this view. Moreover, it is suggested that this is due to a lack of historic understanding or its perceived use as a tool of delegitimisation. Jayawardena’s (1986: Preface) work speaks to this particular tension:
‘those who want to continue to keep women of our countries in a position of subordination find it convenient to dismiss feminism as a foreign ideology...’ The continued stagnant, Western depiction of feminism therefore accentuates the occidentalist nature of those seeking to delegitimise current movements and the concept (Badran, 2007: 24). This indicates that the interpretation, change and reinvention of feminism has occurred in line with other religions, cultures and regions by gender equality advocates. Conversely, these trends appear to have been dismissed by those aligned against feminism, as evidenced by Badran.

Jayawardena’s (1989) work, according to Yuval-Davis (2013: 118), represents a potential break in the ‘deadlock’ between feminists and nationalists as it simultaneously highlights that feminism is not a phenomenon restricted to the West, nor does loyalty to a national liberation movement eradicate the fight for gender equality. Additionally, it is posited that ‘collectivities of the state and the role of women’ are inextricably intertwined (Anthias & Yuval-Davis, 1989: 1). This relationship however, is complex. They are recognised as members of collectivities and ‘participants in the social forces that give the state its given political projects in any particular social and historical context’; whilst also being a ‘focus for state concerns as a social category with a specific role’ (Anthias & Yuval-Davis, 1989: 6). Whilst this highlights diverging lenses through which women are viewed, it is reinforced that neither of these representations can be understood in direct relation to the reproduction of the state, and that complete control is unachievable because these multiple identities permit women to engage ‘within civil society and the economy’ through engagements with groups at different societal levels (Anthias & Yuval-Davis, 1989: 6).

The relationship between women and nationalism is also seen to move beyond participation in groups, with women being considered responsible for imparting knowledge of ‘cultural and ideological traditions’ to future societal participants (Anthias & Yuval-Davis, 1989: 9). Moreover, they often represent nationalist symbols, with the nation being presented as a ‘loved women’ (Anthias & Yuval-Davis, 1989: 9) (see Baron, 2005 in section 6.6).

The role of women in anti-colonial, nationalist movements for independence thus becomes integral. In this context, nationalism is broadly defined as ‘an emancipatory movement for autonomy, popular sovereignty and universal citizenship’ (Werbner & Yuval-Davis, 1999: 1).
Jayawardena (1986: 3) states that the ‘movement towards women’s emancipation described and analysed in this book was acted out against a background of nationalist struggles aimed at achieving independence, asserting a national identity, and modernising society.’ Building on this, Werbner and Yuval-Davis (1999: 1) argue that these women understood nationalism to represent ‘an emancipatory movement for autonomy, popular sovereignty and universal citizenship’. However, after independence women frequently remained excluded (Werbner & Yuval-Davis, 1999: 1), and dissatisfaction was articulated in Iran (post-1906) and Egypt (post-1919) (see sections 4.5 & 5.3).

The gendered, exclusionary nature of politics which resulted in the continued ‘denial of women’s roles as equal citizens in the public sphere’ not only arose from their seclusion in the private sphere, but also from their ‘simultaneous elevation as reproducers of the nation’ (Werbner & Yuval-Davis, 1999: 12). Consequently, women were seen to ‘bear a double burden of representation: as national cultural icons and as mothers of citizens’ (Vogel, 1991: 63 cited in Werbner & Yuval-Davis, 1999: 14). Subsequently, whilst women publicly fought for independence at two levels, the result was that their private status and public symbolism in the national liberation struggle resulted in their position as national subjects remaining the same through denying them an equal role as citizens.

At the turn of the twentieth century, women and the family became one of the focal points in countries such as Turkey, Egypt and Iran, with ‘feminist’ topics such as family law and clothing becoming subjects for social reform enthusiasts (Abu-Lughod, 1998: 4). In the Egyptian case, Mitchell is understood to have ‘traced Egyptian nationalist reformers’ responsive calls to make women into modern wives and mothers to the general demand to train the population...’; moreover, most readings of nationalism and women in the MENA region have recognised nationalism as failing women, rather than as a ‘cultural and discursive project in which ideals of womanhood and notions of the modern were key elements’ (Abu-Lughod, 1998: 10; 17).

Generally, Sharabi (cited in Moghissi, 1999: 84) argues that throughout developing countries ‘the marriage of imperialism and patriarchy produced not a genuine modernity but helped instead to create a hybrid sort of society/culture, a kind of “modernized” patriarchy, namely neopatriarchy’. Mernissi (cited in Moghissi, 1999: 84) echoes this and identifies it as a
‘mutilated modernity, void of great democratic advances’. Similarities have also been identified in the Iranian process, whereby appropriate structures were not developed to accommodate reforms in gender equality. Subsequently, the modernising Iranian state represents ‘the big patriarch’ reinforcing class separation amongst women and disintegrating activists (Moghissi, 1999: 84).

2.5 Islamic Feminism or Feminist Islam?19

Islamic feminism has emerged as both points of contact and contention with Badran (2007: 23) defining it as a discourse and practice situated within the Islamic paradigm and informed by the Qur’an. Feminism, however, is not to be understood as monolithic, with divergences occurring across countries and regions. It is argued however, that the interlinking thread through these various discourses is the focus on more gender egalitarian rights and participation, in addition to women’s reproductive roles (Moghadam, 2013: 252). One area where differences occur is the use of ‘feminist’ with some women rejecting it due to ‘ideological and pragmatic reasons’ as well as its frequent association with colonialism, ‘the global North’, or disadvantageous perceptions (Al-Ali, 2000: 4–5; Moghadam, 2013: 252). This repudiation of ‘feminist’ is evident in countries such as Egypt and Jordan. Divergently, it is defiantly used in Iran whilst also incorporating ‘secular’ into their identity despite the risks this carries with religious authorities. This has also been evident in the Association Tunisienne des Femmes Démocrates and numerous Algerian groups (Moghadam, 2013: 252).

For Winter (cited in Badran, 2001: 47), all aspects of Islam - be they political, religious or Islamist - are considered detrimental for women. In continuance, Badran (2001: 49) advances the dangers of collectivising religious and political Islam, whilst simultaneously advocating the examination of feminist discourses externally of the frameworks of orientalism, pluralism and multiculturalism. Generalisations of feminist theories which cross cultural and geographic boundaries are also warned against by post-modern feminists, with feminist critics of post-modernism conversely arguing that the omission of these intersections could result in relativism and political paralysis. However, Afary (1997: 89)

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19 This question arose in Moghissi’s (1999:126) work when she wrote ‘...if Islam and feminism are compatible, which one has to operate within the framework of the other?’
suggests that these two concepts are not always as ‘diametrically opposed as they seem to be.’

Within (Iranian) debates on Islamic feminism emerge two opposing camps. On the one hand, there are those who explore various possibilities within Islam and the IRI with regard to women’s interests; and on the other there are those who argue against the employment of Islamic feminists as a descriptive category for those working within the Islamic framework. Prominent amongst this first camp are Afsaneh Najmabadi (1991, 2000), Nayereh Tohidi (2003), and Ziba Mir-Hosseini (2006, 2009, 2012) who were all educated in Iran and the West, with two of them being understood to have strong ties to the women’s movement and the Iranian Left (Saliba et al. 2002: 24–25). Najmabadi’s work is recognised for its exploration of Islamic feminist beliefs that gender inequality is societal rather than religious, thus providing potential openings for future social transformations (Saliba et al. 2002: 24–25). However, Mir-Hosseini takes her analysis one step further by examining the emergence of new gender discourses among theologians which incorporate challenges to family laws by ‘ordinary women’ and the appearance of reform minded feminists (Saliba et al. 2002: 24–25).

Prominent within the second camp are Haideh Moghissi (1999, 2005), Shahrzad Mojab (2001), and Hammed Shahidian (2002). According to Cooke (2001: 57), Moghissi argues that Islamic feminism is an oxymoron, with her assessment being based on an interpretation of Islam which is formed on gender hierarchies and is thus incompatible with the kind of social transformation inherent in feminist claims. Moreover, she is understood to argue the oppositional nature of the Qur’an to gender equality and its incompatibility with Shari’a. Her stance is further accentuated when she writes that ‘Islamic feminism has no ‘coherent, self-identified and or easily identifiable” ideology or movement and that its advocates are not women from within Muslim societies but rather ‘diasporic feminist academics and researchers of Muslim background living and working in the West’ (Cooke, 2001: 57).

A point of contention for Moghissi (1999: 17) is the notion of a cultural reaction to colonialism being posited as the rationale for Islamic societies resistance to reforming women’s status within the family. She (1999: 17; 125) argues that this overarching generalisation is as contentious as homogenising approaches which explain female
observation solely through the Qur’an and *Shari’a*, whilst simultaneously highlighting lexical
generalisations within the term Islamic feminism itself. Hafez (2011: 8) notes Kandiyoti’s
(1996) support of Moghissi’s argument that one ‘cannot be both feminist and religious’
through her examination of the ‘futility of theory that attempts to join feminism and Islam’.
This rationale pertains to differentials in historical and ideological trajectories which results
in an inability to streamline them both (Hafez, 2011: 8).

In Egypt, the family is integral to social organisation, thus women can be understood as
intermediaries between the family and secular projects, and activist women may face a dual
predicament due to their religious agenda and their gender (Hafez, 2011: 59). Moreover, the
emergence of the Egyptian women’s movement is understood to have been viewed through
a dual lens, with Egyptian feminists being labelled as Westernised (Huda Shaarawi) or
‘authentically Egyptian’ (Malak Hifni Nasif) without the authenticity of either possibility
being clarified within the Egyptian context (Hafez, 2011: 65). The Turkish case however,
evidences a clash between secular and religious identities of the female population which
was enhanced by ‘a loud public voice’ (Göl, 2009: 800).

For Moghadam (2013: 68), Algeria serves as the best illustration of controversy between
Islamism and feminism, with the first feminist upsurge occurring after President
Boumediène’s death (1978). Two months subsequent to this, the establishment of a
commission tasked with drafting a family law was announced which was recognised by
women as a means of pacifying the growing Islamist voice through the institutionalisation of
women’s second class citizenship (Moghadam, 2013: 68). The later opposition to the *Front
Islamique du Salut* (FIS) resulted in the representation of anti-fundamentalist women as
‘one of the greatest dangers threatening the destiny of Algeria’ equating them as ‘the avant-
garde of colonialism and cultural aggression’ (Moghadam, 2013: 68). Anti-fundamentalist
women were however, shocked in 1989 when approximately 100,000 women supported
gender segregation and fundamentalism, thus resulting in the second wave being aligned
against fundamentalism. Despite their aversion for the new authoritarian government,
Algerian feminists did support the banning of FIS (1992), continuing to position themselves
against a state founded on religious laws, instead advocating one based on rights
(Moghadam, 2013: 69–70).
The Iranian case however, can be understood to have longer historical roots, with Paidar (1996: 51) locating it within the early twentieth century constitutional movement where the ‘woman question’ was most overt. It is within this context that the relationship between feminism and nationalism originated and is understood to have had continuous effects on Iranian feminism since, with secular deliberations on women never directly opposing Islam (Paidar, 1996: 52–53). Prior to the advent of ‘Shi’i modernism’ (1970s) Iran’s feminist movement was predominantly secular however, in the post-revolutionary era both secular and religious women emerged dissatisfied with newly imposed reforms (Paidar, 1996: 57; Keddie, 2001: 5). Cooperation between groups, without a separate feminist group, was thus believed to be conducive towards addressing these issues, with convergences occurring in the belief that with their party in power women’s problems would be resolved. Keddie (2001: 4) thus posits that liberals supported secular liberal changes, Marxists grounded gender inequality within the frameworks of class and imperialism, with Islamists stipulating that a return to (their understanding of) Islam would eradicate gender inequalities which prevailed in a Westernised system.

What emerges from this is the controversial nature of Islamic feminism, how feminism has in some instances become synonymous with Westernisation, and the prominence of the religion/secularism binary. One of the problems Moghissi (1999: 135) raises with the term, is the reductionist effect of Islam becoming the sole means of identification within which both men and women are situated. Similar effects can be observed with ‘secularism’ due to lexical confusions and homogenising understandings. Subsequently, whilst oppositionally aligned within binary discourses, Islam and secularism appear to have fallen into the same lexical trap.

2.6 Secularism: Theory and Reality

Emerging prominently from previous discussions is the religious/secular dichotomy, with the latter serving as a point of contention due to definitional and contextual ambiguities. This links directly to the public/private dichotomy, with secularism often being used to refer to the separation of public and political matters from religious understandings which were traditionally positioned in the private sphere. The term secular is accompanied by suffixes such as secularisation, secularity and secularism(s) all of which are commonly confused with
each other (Fokas, 2010: 163), thus indicating an absence in definitional clarity. This observation is supported by Gellner (2001: 337) who advocates the development of a ‘contextualized and reflexive understanding of the idea of secularism.’ Başkan (2014: 2) reinforces this by detailing the discernible confusion crossing into academia’s parameters. For Başkan (2014: 2), this confusion can be attributed to the intangible elasticity of these terms and ‘their indiscriminate application’ within various contexts. Moreover, Başkan (2014: 3) observes the attribution of secularisation to individual, societal, organisational, public, political, polity and international political variants.

Subsequently, *secularisation* can be seen to refer to the transformation of a society which strongly identifies with religion, to one which associates itself with non-religious or secular values and institutions. Secularisation is thus ‘generally thought of as the name of some kind of decline of religion’ (Taylor, 2007: 427). Building on this, Taylor (2007: 423) posits that ‘secularization theory’ is predominantly focused on explaining the multifarious nature of secularity. He (2007: 1-4; 423) argues that there are three types of secularity. The first refers to ‘the retreat of religion from public life’; the second is a ‘decline in religious belief and practice’; and the third pertains to ‘the change in the conditions of belief’ (Taylor, 2007: 423). Whilst the secularisation theory is believed to focus primarily on the first two types of secularity, Taylor (2007: 423) recognises the inevitable overlap between all three facets. This has resulted in the questioning of religious decline or the amount of space religion originally occupied, thus resulting in understanding being based on questions of interpretation (Taylor, 2007: 427).

Expanding on this Ferrara (2009: 77) posits three narratives pertaining to the meaning of secularism. The first is *political* secularism which refers to the ‘exercise of legitimate state power’ within a secular environment where religious freedoms are respected and the church and the state ‘are neatly separated’ (Ferrara, 2009: 78). The second is *social*, referring to the cessation of religious communities influencing laws, and the reduction of religious symbolism and rituals to mark events, amongst other things; with the ‘phenomenological transformation of the experience of believing’ being the final narrative. Differentials between the first two, according to Ferrara (2009: 78–79), permit the identification of irregularities in multifaceted processes of secularisation influenced by
historical trajectories; thus in some instances, societal secularisation may occur at a slower rate than political.

From this it becomes possible to further understand the relationship between secularism and the public/private dichotomy, with Ferrara’s (2009) understanding reinforcing the public, political nature of secularism. This indicates that an understanding of secularism is that public activities and decisions, with specific reference to political ones, should not be religiously influenced. This perspective, alongside Ferrara’s (2009: 78-79) social secularism, thus reinforces notions of the privatisation of religion. This understanding and the differentiation between the secular nature of the Egyptian and Iranian state thus re-emphasises the separation of the public and private spheres and provides an insight into how religious law has continued in the private sphere, and therefore questions how the secular nature of the state shaped the development of women’s marital rights in Egypt and Iran between 1920 and 1939. Despite divergences in the implementation and stability of secularism in each state, those involved in the secularisation process in both states shared concerns about the relationship between religion and the state; their reasons for such concerns and the development of a secular state did however, vary and this was partly due to understandings of what ‘secular’ meant.

For Keddie (2003: 14), ‘secular’ originally ‘referred to clergy who were not bound by religious rules of a monastic order’, with its Middle English meaning being understood as oppositional to the Divine. Contrastingly, Al-Ali (2000: 4) posits that ‘secular’ denotes an acceptance of the separation of religion and politics, but not necessarily anti-religious sentiments. This is echoed by Asad (2003: 25) who understands ‘secular’ to represent the convergence of particular ‘behaviors, knowledges, and sensibilities in modern life’. Asad (2003: 23) however, positions the emergence of these terms in the mid-nineteenth century so as to avoid accusations of atheism. Offering an alternative interpretation, Reilly (2011: 8-9) posits that secularism is an unavoidable response to the form of modernisation according to Herbert’s four criteria, which echo Ferrara’s (2009) narratives with the primary difference being the prominence of scientific knowledge throughout Herbert’s.

The secular state also emerges with clarification discrepancies however, Başkan (2014: 3) highlights that there is a more general consensus on its primary features as outlined by
Smith fifty years earlier. It is within this understanding that the secular state emerges as guarantor of religious freedom without discrimination against groups or individuals on the ‘basis of their religion, and neither promotes nor intervenes with religion’ (Başkan, 2014: 3). This definition was then similarly employed by Ferrari and Taylor. Kuru however, provided a more restricted definition whereby state legal institutions are not under religious control and ‘constitutional neutrality toward religions’ has been declared; subsequently resulting in a state being neither atheist, nor having an official religion (Başkan, 2014: 3).

Paradoxically, Agrama (2010: 502) characterises secularism as ‘...not a separation between religion and politics, but an ongoing, deepening, entanglement in the question of religion and politics, for the purpose of identifying and securing fundamental liberal rights and freedoms.’ Therefore reinforcing that whilst there are convergences on the basic tenets of the secular and secularism, there is no resounding definition; thus as with religion, it has no uniform representation. In an attempt to further clarify secularism, Kosmin (2007: 3) developed a spectrum within which states have been situated. Hard and soft secularism represent polarities and signify divergences in ‘attitudes towards modes of separation’ (Kosmin, 2007: 2). He (2007: 3; 7) defines ‘soft secularism’ as primarily consisting of liberal religionists (Locke), who believe religion is a ‘private lifestyle option’; and it is within this that countries such as the UK, Denmark and Israel are positioned. ‘Hard secularism’ is thus understood to represent countries such as the USSR and China, where atheism is more prominent; for a theocracy such as Iran however, there is no secularism (Kosmin, 2007: 3).

Having evidenced the lack of cohesion on definitional attributes of secular and secularism, it becomes more complex as it emerges in the MENA region. The Arabic term for secularism is ʿalmāniyya (Badran, 2005: 10; Hashemi, 2010: 330; Najjar, 1996: 2), and it is posited that it was not until the term was coined in the nineteenth century that the concept emerged in the region (Badran, 2005: 10). It is important to note however, that in Arabic, Persian, or Turkish, there is no corresponding translation for secularism and Hashemi (2010: 330) underscores that this is not due to the incompatibility of Islam and secularism, rather it pertains to semantic absences in these languages; with the Turkish ‘laiklik’ being based on the French ‘laïcité’.
Since its introduction, Badran (2005: 10) writes of definitional alterations which have occurred, primarily since the 1970s, and this is understood to reflect the negative lens through which non-Islamic ideas and influences are viewed; subsequently becoming synonymous with ‘Westoxication’. This is fostered by Ismail (1998: 210) who posits that the recognition of secularism as a Western concept has resulted in its representation as ‘alien’ and being ‘inserted into the narrative of confrontation with the Other.’ Badran (2009: 27) builds on this by recognising the contentious nature of secularism in Egypt. She (2009: 27) highlights the use of ‘secular’ by fundamentalist women as a form of identification when referring to Egyptian feminism, thus indicating that it was external to Islam. However, it is argued that those who fell under this classification ‘distinguished their feminism, which they based on Islamic principles, from the “secular” basis of Turkish feminism’ (Badran, 2009: 27). An article in al-Misriyya, the EFU’s journal, outlined the manner in which Turkish women were perceived to have gained their freedom through the implementation of foreign laws, whereas ‘the Egyptian woman will never ask for her rights except by basing her requests on the Islamic Shari’a’ (Badran, 2009: 27). Subsequently, the EFU and later feminists refrained from adopting a form of secularism which ‘severed all links with religion’ (Badran, 2009: 27).

In furtherance, Badran (2009: 4) recognises the emergence of ‘secular feminism’ in some Muslim-majority countries within a nationalist rather than a religious framework, with religious principles remaining prominent. In this context, ‘secular’ represented national (Badran, 2009: 4). The emergence of an Egyptian nationalist movement in response to the 1882 British occupation resulted in the nation being constructed around notions of territory rather than the millet system, which had prevailed under Ottoman rule, whereby it was constructed around religion and ethnicity (Badran, 2009: 225). ‘Secular’ in reference to the nation is thus seen to indicate a ‘shared territory’; resulting in the nation moving from being a religious community to a community inclusive of all religions (Badran, 2009: 304), yet female seclusion remained.

Whilst women were traditionally restricted to the private sphere, methods for increasing female visibility and challenging patriarchal laws saw the two spheres converge. Women

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20 This referred to the 1926 Civil Code being based on a Swiss model rather than Shari’a.
have also been perceived as ‘property’ which enabled married men of all classes to become ‘active citizens in the public sphere’ (Werbner & Yuval-Davis, 1999: 6). Additionally, they (1999: 25) argue that by denying this divide the public sphere no longer has ‘specific spaces or places’ to occupy it. Whilst it is seen to reflect and re-present the liberal civil society, its strengths are seen to arise through ‘privileging the dialogical openness and porosity of the public sphere and its responsiveness to inequality and difference’ (Werbner & Yuval-Davis, 1989: 26). In furtherance, this dichotomy is specific to culture and gender and is determined by history and context, with women fighting to ‘reclaim civil rights to privacy, protection and autonomy vis-à-vis the state’, whilst simultaneously challenging welfare reforms which have undermined the achievements of previous generations of women’s rights activists (Werbner & Yuval-Davis, 1999: 29). Moreover, secularism was introduced into each state at the governmental and societal levels of the public sphere, with there having been no formal implementation in the private sphere; rather, it emerged through literature, observation, conversation and in some instances, the changing opinion of individuals. This has not removed the possibility of secular influences becoming apparent in the private sphere; rather it has resulted in is dispersal from the public into the private.

In post-colonial Egypt, the reduction of religion in the public sphere required the reconceptualisation of the private sphere so as to accommodate the modern Egyptian family and the ‘privatized religion’ (Asad, 2003; Hafez, 2011: 15). The Nasserite period (1952-70), according to Hibbard (2010: 58), was defined by Arab nationalism and Arab socialism, with the latter representing state-led modernisation and social reform which was not supposed to imitate Soviet hostility to religion but instead adapt to an Arab framework. Conversely, it was the anti-imperialist, secular movement of Arab nationalism which defined this period of Egyptian history (Hibbard, 2010: 59). Furthermore, Hatem (1994: 661) posits that secularism was not to be identified solely as state labelling, rather it was to be recognised as describing policies which have resulted in the marginalisation of religion in politics since the 1950s. This was arguably most obvious in the definition of women’s rights in the post-colonial society, with the right to vote (1956), maternity leave, child care and the right to employment being amongst those they were granted under Nasser (Hatem, 1994: 661).
Despite the prominence of secularism in Egyptian history, Agrama (2010: 520) recently posed the question of whether Egypt represents a religious or a secular state, subsequently concluding that it is not an answerable question. Rather it serves to reinforce the fine line between religion and politics and question its positioning, thus reinforcing the unstable nature of secularism. Additionally, Agrama (2010: 519) reiterates the historical ties between state sovereignty and the family which serves to continue the embroiled nature of religion and politics.

In reference to Iran, which has experienced both a secular and a religious state, Feldman (2008: 147) iterates the potential for a secular state to be equally authoritarian, corrupt and unpopular as one established in the name of Islam. Paradoxically, Israel is recognised as both secular and something akin to a theocracy (Strong, 1997: 122), with those who identify as secular being unique due to the formal relationship between the state and religious institutions (Beit-Hallahami, 2007: 157).

Contrastingly, Turkish secularism occurs at the state level and religious identities are maintained at the social level, with perceptions of incompatibility between Western modernity and the religious character of the state being disputed by Göl (2011: 109). Following Atatürk’s abolition of the Caliphate (1924), Najjar (1996: 2–3) writes of the ‘anti-religious political system’ which replaced it and subsequently resulted in secular becoming synonymous with irreligion. Furthermore, Başkan (2013: 166) advocates religious services remaining under state control and strict secularity, as has occurred in Turkey, as a means of religious and secular groups overcoming ‘mutually shared fears and suspicions’ resulting in the formation of alliances. From this emerge queries pertaining to state fluctuations in religious and secular affiliations and the potential implications this had on gender equality.

2.7 Rising and Falling: The Secular and the Religious State

The demise of empires, according to Feldman (2008: 1) is generally permanent, with the gradual disinclination towards monarchy and the end of communism being amongst his examples. Instances where this norm is challenged however, are democracy and the Islamic state, with the latter being adopted through the replacement of secular procedures with governmental foundations being influenced by Shari’a (Feldman, 2008: 1–2). Divergently, Feldman (2008: 85) accentuates that religious decline in the Muslim world cannot be
attributed to a (European) colonial perspective due to the previous Ottoman colonisation of many countries. Nasr (cited in Yom, 2002: 96) contradicts this by stating that secularism in the MENA region never overcame its colonial roots and the post-colonial struggle.

During the formative years of the 1920s, Atatürk sought Turkish re-orientation through a rigorous secularising project. Subsequently, the period between 1918 and 1921 have come to represent a transformational period from ‘Islamic empire to a modern nation-state’ (Göl, 2013: 1). As a means of reinforcing absolute sovereignty, Turkish secularisation was inclusive of religion with religious institutions serving to supplement the abolition of religious law (Başkan, 2014: 58). Correspondingly, the 1920s and 1930s also bore witness to the Iranian adoption of secularism which resulted in the detachment of religious institutions from the state; at the time the religious community are understood to have been disconnected, thus enabling neutrality towards those advancing the secularisation project (Başkan, 2014: 73).

Focussing on differentials in state secularisation, Başkan (2014: 147–148; 159) posits that Iran was separationist with the transformation of religion not being included in the project, with the Turkish model of accommodationism reforming religion within the state. Whilst the rise of the secular Turkish state represents success within modernisation theory, Başkan (2014: 159) states that this success occurred at the expense of minority religious groups due to the focal point of this transformation being one religion. Diverging from the Turkish approach, Iranian reforms occurred following a consolidation of power; the successive form of the Iranian project can thus be understood to have influenced the secular nature of the state (Başkan, 2014: 99; 101). Another distinguishing feature according to Başkan (2014: 102; 147) was the apparent absence of competition between rulers as was observed in Turkey. Subsequently, it became possible to define state secularisation within these differing contexts as the unabashed safe-guarding of state sovereignty which resulted in different methodologies for the suppression of religion within the public sphere.

It was also during this period that the effects of Egyptian secular nationalism could still be felt. However, the 1950s and 1960s came to be recognised as a period of independence for countries such as Algeria, accompanied by secular excitement of Western observers about the spread of nationalism (Juergensmeyer, 1993: 11). It was also marked by Egyptian
development at the social and state level, with modernity becoming representative of secularism. This model however, did not involve the complete removal of religion from public life, rather it employed secularism as the foundations of citizenship, thus removing specific religious privileges (Hibbard, 2010: 7). The gradual rise of the Egyptian secular state continued under Nasser who believed repression rather than removal of the ‘ulamāʾ would assist in the development of a ‘state-controlled monopoly on religion’ and thus his protectionist project (Hibbard, 2010: 63). Nasser’s Egypt can thus be understood to have attempted to follow a similar path to Turkey, with religious influences rather than commitment being prominent; subsequently resulting in calls for a return to Islam from the Muslim Brotherhood in the mid-1960s (Hibbard, 2010: 64).

Whilst Nasser is understood to have advocated national identity derived from Arab identity, Sadat is recognised for his undermining approach to previous reforms and re-accentuating religious divides, thus raising questions as to whether Egyptian public identity should be religious or secular (Hibbard, 2010: 75). The overarching effects of the Sadat epoch can thus be understood to have created a religiously infused atmosphere within which the rise of a religious state and the decline of a partially risen secular state could occur.

In contrast to Sadat’s (unintentional) upending of Egyptian secularisation, 1960s Iran saw the continuation of Reza Khan’s stringent secularising reforms by his son with increased gender equality emerging following the enfranchisement of women and increased literacy training (Strong, 1997: 133). The construction of ‘Pahlavism’ is however, perceived by Adib-Moghaddam (2013: 283) to have been founded on romanticised notions of Iranian identity and the methodology employed in modernising the state. The absence of Islamic characteristics in the formation of this identity is understood to have been portrayed by the Shah in an article in which Iran is situated ‘at the crossroads of East and West’, with an Islamic discourse re-emerging in the immediate pre- and post-revolutionary eras (Adib-Moghaddam, 2013: 283). It is from this geo-political portrayal of Iran that it becomes possible to argue that an attempt to (re)position itself in a similar manner to Turkey had occurred.

The secular rule of the Shah was however, met with resistance which culminated in the 1979 revolution, thus resulting in the demise of the secular Iranian state and the creation of
the IRI. This dramatic alteration in national identity and policy reform indicates public dissatisfaction with the tyrannical Pahlavi rule as well as the increasing Western influences which accompanied it. Moreover, the demise of Pahlavi rule is partly attributed to already established ‘secular opposition forces’ (Halliday, 2003: 57). In continuance, Mirsepassi-Ashtiani (1994: 51–52) posits that the revolution can be viewed as pivotal in the secular crisis which occurred under Pahlavi rule, and the call for an Islamic revival can be seen as a response to the crisis of the ‘modern secular state’ but also as possible state exhaustion.

Consequently, the 1980s were marked by a rise in religious sentiment following the Iranian Revolution and the Afghan-Soviet war, with political Islam establishing itself as the predominant method for challenging current state orders (Hibbard, 2010: 82). With Iran serving as the initial challenger to Western cultural superiority and secular politics, Juergensmeyer (1993: 1) understands the immediate post-Cold War era to have been characterised by this and the reestablishment of ethno-religious allegiances. Moreover, the increased religiosity of the Egyptian state continued under Mubarak’s rule. Whilst understood by Hibbard (2010: 94) to have been superficially opposed to an Islamist society, the efforts of Sadat and Mubarak to ‘coopt the discourse of conservative Islam’ instead reinforced Islamist advocated visions.

Since 2000, Mubarak’s indecisiveness over religion and secularism in public life resulted in an environment within which ‘a Saudi influenced version of Islam’ was able to flourish with Islamic orthodoxy also being promoted by the government (Hibbard, 2010: 110–111). Following a prolonged period of British colonial rule, the policies of contemporary Egypt, whilst adopting more liberal principles, are still influenced by religion which has not been isolated from the ‘secular public debate’ (Hafez, 2011: 56). Following Mubarak’s overthrow (2011) and the failure of Morsi (Muslim Brotherhood), the religious nature of the Egyptian state currently remains uncertain.

Emerging prominently however, are observable fluctuations across the MENA region with regard to the religious or secular nature of the state. They are not however, observable within the state, rather transitions between the two appear to have adopted a cyclical nature. In Turkey, the strict and structured implementation of secular policies and the inclusion of religion within this transition appears to have served the country well with
regard to stability. However, the employment of the majority religion in this drastic state overhaul has resulted in the modernisation of the Turkish state being exclusionary in practice. The Egyptian experience however, was more prolonged and this can be partially attributed to its colonial history. Moreover, the indecision of governments as well as between them resulted in a potentially inadvertent directionality becoming possible. In the Iranian case, the cyclical nature of the religious and secular state can be seen to have occurred as a response by a dissatisfied public. The overwhelming presence and absence of religious authorities in the state potentially affected its directionality, with both types of authorities emerging as equally restrictive.

2.8 Conclusion: Women, Religion and Secularism

The relationship between women, religion and secularism in the MENA region has conspicuously emerged in national, regional and international discussions as debates continue to circulate about the (in)authenticity of women’s rights within (less) religious contexts. Prominent amongst them are calls from Western observers for the increased secularisation of policies. Halliday (2003: 153) posits however, that in areas such as family cohesion and female exploitation ‘there is plenty for the West to be self-critical about’; further emphasising that this emerges from an increasing awareness of the failures of human rights advocates to adhere to their universalising and secular principles rather than the pre-eminence of Islamic thinking. The almost global history of gender discrimination is recognised by Baderin (2001: 271) who writes of pre-eleventh century English men being permitted to sell their wives. Moreover, it is argued that in pre-Islamic Arabia women had no rights (Baderin, 2001: 271), subsequently contradicting Ahmed’s (1992: 37) aforementioned argument. In an attempt to emphasise the dangers of generalisations, Moghadam (2013: 9) argues against gender being monolithic within the MENA context through the recognition of diverging socio-economic and political environments. Moreover, the absence of normative gender relations in the region is evidenced through variables such as education, political participation, employment and legal status (Moghadam, 2013: 19).

Within discussions on the oppression of Muslim women, several voices emerge. One represents those seeking to address preconceptions of Islam whilst recognising gender related issues; another denies divergences in oppression between Muslim and non-Muslim
women or posits that in some instances they had more rights. One group argues that it is external to Islam, but peripheral factors challenged Qur’anic intentions, with another group contradicting this (Keddie, 1991: 1–2). This reinforces quandaries over the relationship between and interpretation of women’s rights and religion. Moreover, the inclusion of gender rather than its affixation in the secular/religious binary is understood to have been successfully embedded in Jakobsen and Pellegrini’s (cited in Fokas, 2010: 166) work, thus cutting through generalisations of secular contexts liberating women and religious contexts oppressing them.

Ahistorical generalisations are another contention according to Najmabadi (2000: 29), due to their removal of individual characteristics of countries as diverse as Algeria, Turkey, Afghanistan and Indonesia. Torstrick (2003: 161) reinforces this position through references to the works of Al-Ali and Joseph, and how they remind the reader that concepts such as secularism and democracy, which are understood as improving Western women’s lives, are the result of specific historical trajectories. The importance of trajectories is also emphasised by Moghadam (2013: 8) who writes of the presence of ‘gender asymmetry’ in (non)Western contexts and deviations in legal codes throughout the MENA region resulting in different applications. She furthers her argument by drawing on Tunisian sociologist Boudhiba, who demonstrated the “plastic” nature of Islam. This is evidenced through Tunisia’s long history of female judges; approximately fourteen percent of Syrian judges between 1975 and the Arab Spring being women; Iran not permitting female judges; and Saudi Arabian women not having these rights (Moghadam, 2013: 9).

In the early twentieth century, Turkish reforms included the drastic transformation of gender equality within the state following the implementation of a modified version of the Swiss Civil Code (1926) (Abadan-Unat, 1991: 179). Not only did equality for men and women fulfil Atatürk’s earlier promise, but it represented determination in achieving ‘a level of contemporary civilization’ as well as echoing the beliefs of advocates that ‘monogamy and the right to divorce are principles required for a civilized world’ (Abadan-Unat, 1991: 179). Whilst it is observed that these reforms occurred primarily through ‘the unrelenting efforts of a small revolutionary elite rather than of large-scale demands by Turkey’s female population’ (Abadan-Unat, 1991: 179), increased gender equality only emerged in a small area of family law. Following an increased public female voice, amendments were made to
the constitution which permitted female participation in local elections (1931), and gave women the right to vote and be elected at general elections (1934) (Abadan-Unat, 1991: 179).

 Atatürk’s Turkey also proved to be influential in many respects, with the Iranian Shah interpreting the path to modernity as reflecting the need to extricate secular politics (civil law) from Shari’a; however, the modernisation of the Iranian state was sought through oppressive measures and consumerist ‘Western’ culture (Sullivan, 1998: 223). Whilst Pahlavi rule saw increased access to education for village women (1970s), the enforced abolition of the veil became symbolic of modernisation (Sullivan, 1998: 223); however, impediments remained to female access to resources and male economic power prevailed (Friedl, 1991: 195). The Shah’s obsession with Western culture was subsequently criticised through a gendered lens by Khomeini who viewed Iranian women as transforming into ‘pretty western dolls’, thus using this as a framework within which his Islamic project could be situated (Rahnema & Nomani, 1990: 11).

Contrastingly, secularism and religion in Egypt have fluctuated more than in the cases of Turkey and Iran. Attempting to understand predominantly religious legal alterations, Asad (2003: 205-256) enquires into facets of secularisation which are usually overlooked, stressing the transformative effects it can be understood to have on areas such as family law. Accentuating women’s differences, Sadat (1970-81) is understood to have sought a ‘paternal arm and/or protective arm of the state’ to ensure women were adequately represented, individually and collectively (Hatem, 1994: 664). With the state traditionally embodying male traits, the notion of a ‘paternal arm’ or state protection reinforces perceptions of female weakness and lexically reinforces the patriarchal hierarchy of the state. Divergently, Mubarak (1981-2011) was understood to emphasise ‘sameness’ as a means of achieving a similar purpose (Hatem, 1994: 664).

Complexities surrounding gender related policies are reinforced by Htun and Weldon (2010: 208) due to different fields and numerous actors. Some of these fields have been examined by Nazir (2005) who surveyed sixteen states and one territory as a means of understanding progression in gender equality. The survey, according to Nazir (2005: 31), evidences progress in some countries however, a ‘substantial deficit in women’s rights’ is observed in
all countries and almost all societal institutions. Whilst the survey provides valuable insight into gender equality progress in these countries (Nazir, 2005: 42), there remain areas requiring further expansion.

Emerging from this is the multifaceted relationship between women, secularism and religion, and how this has been affected by state behaviour. Moreover, Asad’s (2003) insight into the effects of secularism on Egyptian law and ethics provides the foundations for further exploration into secularising effects in MENA countries. Additionally, following these discussions, Taylor’s (2007:247) first comprehension of secularity as ‘the retreat of religion from public life’ is thus employed for understanding the issues being treated. However, due to the primary focus being how the secular nature of the state shaped the development of women’s marital rights, a concise definition of ‘secular’ is required.

Having discussed the complexities of ‘secular’ and its accompanying suffixes, the development of a working definition can be understood (see section 1.4). Drawing on Western theoretical understandings, applications and perceptions in the MENA region, and contextualisations of the period in question, ‘secular’ within the context of early twentieth century Egypt and Iran can be defined as the acquisition of power through modernisation by way of the separation of religion from politics and/or the state. Secularisation can therefore be seen as a process, secularism is the separation of religion from politics or the state, secularity is the type of separation (political/social), and secular is the outcome of the process and how it has manifest itself. The rationales and specific understandings of this definition, however, vary and this is evidenced in the adoption of ‘internal’ and ‘external’ secularism (see section 1.4) when exploring how the secular nature of the state shaped the development of women’s marital rights in Egypt and Iran between 1920 and 1939.

Whilst the secularisation of Egypt and Iran has not been a permanent feature, this does not mean that secularism has failed. Rather, it indicates that the methods of implementation have failed. When examining the secular nature of these states, it became apparent that, unlike in Turkey where secularism was implemented at society's roots, it was implemented in a more superficial manner. Whilst aspects of law and customs became more secular, there was no overarching attempt to secularise either state. Instead, Egypt experienced attempted social, political and legal secularisation through colonial powers and Iran had
similar experiences following Reza Khan’s rise to power, which resulted in an international façade of a modernising, secular state. Whilst secularism and modernity are considered to be synonymous, the failure of the implementation of secularism does not mean that Islam and modernity are to be considered antonyms, or incompatible. Rather, it indicates that a more rigorous implementation needs to occur through the state in question, and for the benefits of the state instead of external appearances or to benefit another state.

The religious nature of the Egyptian state, as Agrama (2012) has indicated, is not clearly determinable, unlike Iran following the development of the IRI. Fluctuations in state secularism (see section 2.7) and instabilities which have occurred following the advent of the Arab Spring thus make predictions difficult, thus the future of these societies with regard to secular and religious identities is unknown. What did emerge throughout chapter two however, was the subjective nature of religion and secularism, and the impact implementation styles can have on their apparent ‘compatibility’ with gender equality, therefore the future of these societies does not necessarily rest on whether the transformation from religious to secular has occurred, but how authorities interpret these terms and what they mean for the state and the individual.

This chapter reviewed literature on gender equality, women and the MENA region. Commencing with women, family and the law, and moving to address various areas of family law, it becomes apparent that whilst similar points of contention have emerged throughout the MENA region, governmental responses have varied greatly. Moreover, it accentuates the absence of a monolithic Islam and MENA region, thus serving to critique generalisations which provide homogenising insights into both. Subsequently, questions emerged about the relationship between feminism and modernity, with insight being provided into this relationship from both Western and non-Western contexts whilst simultaneously recognising occidentalist assumptions about the Western nature of both feminism and secularism.

Prominent amongst these topics was the gendered division of the state. Within this context it became possible to query the emergence of a public female voice in opposition to the patriarchal nature of the state, gendered policies of the state, and state responses to the public emergence of women. Through an examination of the literature surrounding Islamic
feminism, it became apparent that, as with many of the other concepts addressed in this research, there is no single definition. Moreover, absence in clarity surrounding the possibility of its existence has resulted in it becoming a controversial topic and thus questioning whether it is feminist religion or religious feminism which is being seen.

This chapter concluded with two sections examining the theoretical and realistic implications of secularism, within which definitional ambiguities were addressed, as well as fluctuations in the religious and secular nature of various states. From these intersecting fields it becomes apparent that the prominent aspects which have been discussed are not stable concepts, and are thus equally susceptible to change. Conspicuous amongst this however, is the absence of exploration into the effects of secularism on matrimonial equality, and points of convergence and divergence between gendered family laws. Therefore further insight into the politics and power of a state with regard to gender equality in the (dis)establishment of a marriage can be sought.
Chapter Three
Feminism, Post-Colonialism and Power

3.1 Introduction

Women’s rights and movements in the MENA region have received vast scholarly attention (see for example Abu-Lughod, 1998; Al-Ali, 2000; Sedghi, 2007). As the previous chapter has shown, great attention has been dedicated to religious imperatives and their diverging interpretations, legal obligations in family law, activities and demands of feminist movements, and the effects of religion and secularism on governmental policies. Drawing on silences which remained with regard to secular influences and family law, this thesis endeavours to establish how secularism affected women’s marital rights in Egypt and Iran between 1920 and 1939.

Emerging prominently from the previous chapter are concepts of feminism, post-colonialism and power structures. The theoretical foundations of this thesis are thus situated within a feminist paradigm, focusing on understandings of gender equality, the family and power. Due to the primary tenets of this thesis being gender equality, family law, and the effects of secularism on matrimonial equality, it is justifiable to employ feminist proclamations as an analytical framework.

This chapter therefore situates this research within feminist theory. Beginning with insight into feminism and its polygonal nature, the applicability of this strand of theory to this thesis will become visible. The theoretical focus of this thesis will then enable comprehensions to occur as to why post-colonial feminism has specifically been chosen as the analytical framework. Following these theoretical insights, the chapter will then engage with theoretical discussions surrounding gender, politics and power structures; it is within this that the intersecting fields of (post-)colonialism, patriarchy and the family can be further understood within a feminist context.

The chapter then examines the significance of history, providing rationales for the historical location of this thesis and the importance of history in regard to feminist theory, gender equality, the MENA region, and understanding the scaffolding surrounding gender equality and family law in the contemporary MENA region. This also serves as a point of transition
between theoretical insights and methodological considerations. This second part of the chapter will begin by establishing the qualitative nature of the comparative-historical analysis which occurs throughout this thesis and how this relates to the theoretical framework. Within this section, attention will be paid specifically to historical analysis, archival research and the use of case studies so as to further align methodological decisions with post-colonial feminism and this research. Subsequently, as will be evidenced in this chapter, intersections between a feminist approach, historical analysis and comparative cases provide a strong rationale for the approaches adopted in this project.

3.2 Feminist Insights

It is widely recognised that feminism is not a uniform concept; rather it serves as an umbrella term for a specific lens through which the world is perceived. It is also emphasised that it is not a ‘monolithic form of opposition’, with there being significant anguish over various priorities which are recognised as necessary for addressing ‘the historical limits and appropriations of specific feminist theories, strategies, and practices’ (Ebert, 1991: 888–889). It is from this that Ebert (1991: 889) defines feminism as a ‘dynamic ensemble’ which develops different methods for transmuting patriarchal social relations through written challenges of patriarchy and various forms of feminism. For Spivak (1987: 102) however, speaking of an overarching feminism is difficult, rather she speaks of her role within literary criticism as a woman, with her understanding of ‘woman’ being influenced by ‘man’ as presented in the literature she examines. From her (1987: 103) deconstructivist position, she argues that ‘no rigorous definition of anything is ultimately possible’, subsequently arguing that if one should continue deconstructing man and woman as binary opposites, it will eventually present itself as a self-displacing dichotomy. It is because of this that Spivak (1987: 103) feels that she is unable to advocate such a dichotomy, nevertheless, she perceives definitions as important in enabling stands to be taken, thus she restricts her definitional attributions to provisional ones.

Contrastingly, Offen’s (1988: 152) understanding of feminism contributes to a comprehension of feminists being any individual, irrespective of sex, whose actions and understandings meet three criteria which result in those falling into the category ‘feminist’ being ‘at odds with male-dominated culture and society’. Diverging from this more
constricted view, hooks (1984: 68) purports that when defined as a movement seeking to end sexist oppression, feminism permits equal participation in ‘revolutionary struggle’ for all members of society. Further expanding on this, hooks (1984: 68) notes that the contemporary feminist movement has primarily been shaped by women, recognising that this is not solely to be attributed to anti-feminist sentiment, rather it can be partially ascribed to the equation of women’s liberation with social equality of the sexes. Emerging from this is the creation, by liberal feminists, of the labelling of the feminist movement as ‘women’s work’ by women rather than men (hooks, 1984: 68). Whilst those advocating women’s liberation called on women to join the movement, the call on men to assist in ending sexist oppression was intermittent with the rhetoric of men as oppressors and women as oppressed reinforcing sexism and implying that female empowerment would occur ‘at the expense of men’ (hooks, 1984: 68).

Emphasising the concept of difference, feminism is also recognised as contesting gender status and representing women as the ‘sexual ‘other”, with recent debates orbiting difference and identity, with the two intersecting within postmodernism (Ebert, 1991: 889). However, in order for equality to be established between the two sexes, the needs of women need to be broken down so as to be representative of diverging biological and social aspects. Ebert (1991: 890) evidences this with the example of economic equality, noting that it is not simply access to employment which would enable this, but also recognition of required provisions in areas such as maternity leave and child care. Despite diverging interpretations of ‘feminism’ and ‘feminist’, it is argued that an overarching commonality between all strands of feminist theory is that women are oppressed, and it is from this shared observation that feminism arises (Hegde, 1998: 273; Stanley & Wise, 1993: 61). Another area of mutual agreement, according to Stanley and Wise (1993: 61–62) is that this oppression is not stagnant, rather the causes of oppression and the means by which it is believed to be alterable varies between feminist theories.

For Stanley and Wise (1993: 118), feminism contends that female experiences should be recognised and interpreted, with women also re-interpreting things which have previously been defined by men. Moreover, they (1993: 118) claim that feminism presents the personal experience as significantly political, with these tenets standing oppositionally to positivism. Whilst divergences in experience and feminist theories are recognised, first
world, or Western feminism has been heavily criticised by those excluded from preferences which emerge within this overarching feminist label. This critique has resulted in some scholars referring to various feminist theories as hegemonic, noting the invaluable insights women of other racial, social or geographic groups bring to feminism (Agathangelou & Turcotte, 2010: 50). In relation to notions of hegemonic feminisms, the use of related vocabulary has frequently conjured hostile reactions and this is partially due to the geographic locating of feminism in the West and has resulted in misperceptions arising in non-Western contexts (Jayawardena, 1986: 2). Accompanying these confusions is the notion that feminism outside of the Western hemisphere is imported. This is contested by Jayawardena (1986: 2) who seeks to refute this notion through multiple cases which illustrate the effects of different historical developments, including colonialism, on women.

The emergence of feminist movements in non-Western countries cannot however, fall into the homogenising trap that many theories continue to encounter. Using the case of Egypt, El Guindi (2003: 591) recognises Badran’s labelling of the Egyptian feminist movement as secular, providing a medium whereby women of upper and middle classes who identified with their nationality were able to come together. Ahmed goes one step further, removing the monolithic structuring of the movement, indicating that within the overarching Egyptian feminist movement, two different types of feminism were espoused. The first is understood to have a Western focus (Huda Shaarawi), and the other is recognised to be independent of Western influences (Malak Hifni Nasif) (El Guindi, 2003: 591).

Despite the recognition of the Egyptian movement as secular, Lazreg (1988: 84) claims that work on women in the MENA region by academic women is subject to the religion/tradition archetype. Whilst confining research to this paradigm is problematic, the continued location of the family and the private sphere within a religio-legal jurisdiction can be seen to present an automated framework within which women can be situated. This thesis however, seeks to break out of this paradigm by examining the effects of secularism on family law in Egypt and Iran, yet due to its location, it is impossible to remove religion from it.

It is because of this dislocation of the traditional religious paradigm in which family laws in the MENA region are situated that this thesis endeavours to provide alternative perspectives to the effects of patriarchal power structures on gendered areas of law.
Situating this historically focused project within the contemporary world however, relates in part to the effects of globalisation and construction of new locales of critique by feminist, poststructuralist and post-colonial thought (Hegde, 1998: 272). Moreover, recognising the intersecting nature of local and cross-national feminism is also of paramount importance, with Alexander and Mohanty (cited in McEwan, 2001: 106) being recognised for their call for a ‘comparative, relational feminist praxis that is transnational in its response to, and engagement with, global processes of colonisation’; which thus require the dejection of Western universalisms and encourage a new perspective of global diversities.

Despite new insights emerging from more inclusive strands of feminist theory, lexical concerns surrounding ‘gender’ and ‘woman’ are still prominent, along with homogenising tendencies which occur both within and about feminism. Aspects of these concerns have been echoed by Mohanty (2003: 67) who states that an issue with the term ‘women’ is that it frequently denotes a single category, ‘the oppressed’, and this is a common assumption made by predominantly radical and liberal feminists. This representation of women is further enhanced by the radical feminist portrayal of man which, according to Bethke Elshtain (1981: 205), is ‘in some ways an inversion of misogynist views of women’, and forms an image of a relentless and exacting male harshness. It is from this that male and female nature as the central tenet of radical feminist thought becomes increasingly visible, with ‘male and female being’ assuming ontological priorities (Bethke Elshtain, 1981: 205). Contrastingly, liberal feminists are recognised as having paid less attention to areas such as human nature, and male and female; rather they project a more malleable understanding whereby individuals are shaped by their surrounding social environments (Bethke Elshtain, 1981: 240).

The emergence of the public female voice has been associated with three specific periods of time and have fallen under what Valassopoulos (2007: 200) has labelled the ‘wave metaphor’. The second wave of the 1960s and 1970s espoused theoretical and practical assumptions of a shared female identity, ‘a united global sisterhood’ which preferentially served white, middle class women as representative of ‘the female experience’, thus excluding concerns of women marginalised because of factors such as class, race and religion (Ang, 2003: 191; Kapur, 2002: 6). Additionally, this second juncture in feminist history served to move beyond universal political inclusiveness as sought by the suffragists
and concentrate on areas such as reproduction and domestic labour, which had more centralised effects on their lives (Gillis et al., 2007: xxi). However, the homogenisation of ‘woman’ indicated the fragility of the term in having so many connotations attached to it; subsequently questions pertaining to identity and unanimity were raised in relation to this single word (Gillis et al., 2007: xxi).

From the questions which arose during and immediately after the second wave, a more inclusive engagement with post-colonial feminist experiences was advocated (Valassopoulos, 2007: 199). Moreover, it is posited that the metaphor of ‘third wave’ also serves to question the continued influence of Western feminism over post-colonial and Third World feminist practices, whilst also providing an increased flexibility which follows changing and newly established contours (Valassopoulos, 2007: 200).

Resulting from the privileging of a specific group of women arise criticisms from those marginalised by it, as well as an inability to identify with feminist theory (Strickland, 1994: 265). Based on the understanding that feminists are apprehensive about problems arising from essentialism and universalism, Strickland (1994: 266) argues that it becomes possible to understand the appeal of postmodernist theory. However, she (1994: 267) posits that this appeal is mistaken due to the initially superficial commonalities with feminism surrounding critiques of Enlightenment thought, with postmodern notions of ‘difference’ being understood as a means of eluding it and its threat to prevailing world views. Crucial in this understanding of homogenisation and the Enlightenment is the conflation of male experiences (Strickland, 1994: 267), thus indicating that the universalisation of experiences within theoretical paradigms was not exclusionary of men.

The predominant recognition of women’s exclusion therefore reverberates throughout feminist theories, with the refutation of political silencing as a result of generalised experiences being paramount to feminist political theory (Bethke Elshtain, 1981: 303). These universalisms do not however, stand alone; rather they contribute to the broader understanding of gender essentialism which involves the attribution of certain characteristics to women (Kapur, 2002: 7). In this context differentiations between sex (biological) and gender (psychological and cultural) become increasingly prominent, with traits such as fashion and occupation being understood as equally significant as biological
determinants (Oakley, 1972: 158). In turn, feminist analyses of gender as a system of meaning is believed to provide a new perspective to understandings of function formations which, according to Cohn (2013: 15), requires locating individuals within the intersecting societal spheres of race and ethnicity as well as gender.

This ‘gender-sex system’, as Benhabib (1985: 405) has labelled it, contributes to feminist theorising in two distinct ways. The first pertains to its essential role in the development of social reality and subsequently the creation of embodied identities; secondly, in its historical form, this system has contributed to female oppression and exploitation, with feminist theory serving to uncover this fact and develop a process which enables the emancipation of women from such constrictions (Benhabib, 1985: 405). However, the diversity of feminist theories does not permit the establishment of a single means by which oppression can be overcome, and this absence of homogeneity within feminist theory is seen as reflective of the social relations complexities it addresses (Walters, 2011: 13). Moreover, the primary tenets of diverging feminist theories contribute to certain aspects of society receiving increased attention over others.

Whilst there is no universal feminism, Fricker (1994: 95) questions what can be derived from a feminist epistemology. This quandary is partially addressed by Lennon and Whitford (1994: 1) who claim that the most convincing perception provided by feminism lies in connections between power and knowledge and is believed to have resulted in an epistemological shift from ‘esoteric philosophy’ to the core of contemporary culture. Within this emerge shared focal points with other prominent strands of theoretical thought such as Marxist and critical theorists who have a strong history of arguing the reflection of bourgeois interests in most of contemporary culture (Lennon & Whitford, 1994: 1). Additionally, feminist work in epistemology is understood to share obligations to emancipatory struggles with other intellectual movements, which has resulted in presently visible tensions in feminist theory (Lennon & Whitford, 1994: 1). What is surmised from Lennon and Whitfield’s (1994: 13) edited volume however, is that at time of writing, feminist epistemology was not a ‘female way of knowing’, nor a means of simply presenting femaleness as opposite to patriarchy; rather it refers to epistemological concerns which arise from feminist projects, requiring reflection on ‘the nature of knowledge and our methods for attaining it.’
Divergences in epistemological perspectives as devised by Harding, are recognised by Hansen (2010: 18) who notes their coupling with three ontological perspectives adopted by feminist approaches to international relations – standpoint, empiricist and post-structuralist. Standpoint feminism is recognised as emerging from a post-Marxist tradition, perceiving women as defined by physical traits whilst arguing against uniform constructions of masculinity and femininity at various epochs and locations (Hansen, 2010: 18, 22). This is furthered by Oakley (1972) who discusses divergences in gender roles and attributions of gendered characteristics within numerous societies, not only does this serve to reinforce cultural and societal differences, but it also assists in dispelling homogenous notions of gendered characteristics.

Empiricist feminism is situated in Keohane’s ‘rationalist approaches to IR’ and focuses more on positivist analyses which produce explanatory, causal theories pertaining to state and institutional behaviours (Hansen, 2010: 18). Post-structuralist feminism however, shares with standpoint feminists the ontological belief that the public/private dichotomy has served in the marginalisation of women in numerous areas of society; conversely, they argue that if gender is to be introduced then women cannot simply be represented as marginalised (Walker, 1992 cited in Hansen, 2010: 23). Through the conjunction of ontology and epistemology, Hansen (2010: 22) advances that marginalised women become acknowledged for divergent understandings to those of men or privileged women, therefore contributing towards the development of a more rounded picture of global politics.

Methodologically, Western works on women in non-Western locations are seen to have adopted multiple means to demonstrate the homogeneity of patriarchy, with one such method positing that the higher number of women who have experienced something, the more universal it is (Mohanty, 2003: 62). From this emerge multiple problems regarding the absence of location, culture, religion and personal choice in aspects, such as veiling, which is frequently recognised as a universal sign of female oppression. Alternatively, self-documentation has emerged as a methodological possibility, adopting a more anthropologically ethnographic style alongside other interpretive and hermeneutically related methods (Tickner, 1997: 615; 2005: 19 cited in Hansen, 2010: 22). However, within these various ontological, epistemological and methodological concerns remains a prominent silence pertaining to men unless referring to them through a patriarchal
paradigm. It is partially because of this in parallel with other problems, that Stanley and Wise (1993: 8) advocated a ‘feminist sociology’ which would occur through the repositioning of the field within feminist terms. From this they posited an epistemological position comprised of ten criteria. The second of these relates to the aforementioned silence and requires both men and women’s behaviours and experiences to be researched (Stanley & Wise, 1993: 8). Referring back to chapter one where the supplementary research questions have been outlined, it is evident that this approach will be adopted in this research. This does not serve to reinforce male predominance in family law, rather it seeks to understand restrictions which were also placed on men in parallel to those placed on women, thus resisting the exclusionary trap which has frequently arisen.

Prior to the examination of power structures however, clarification over perceptions of power needs to be established. As has previously been mentioned, Second Wave feminism sought to move beyond the parameters of political and economic emancipation, advocating shifts in focus to examine the private sphere within which gendered identities are reproduced (Benhabib, 1985: 418). It is within this sphere that power is understood to reside in ‘symbols, myths, and fantasies that entrap both sexes in the unquestioned world of gender roles’ (Benhabib, 1985: 418). However, the most common form of power recognised in feminist works and activities is patriarchy, with the potential threat of the ease of the entanglement of the male feminist voice with ‘patriarchal rhetoric’ being recognised (Shail, 2007: 88). An instance where this arises is the recognition of Qasim Amin as the father of Arab feminism, whose controversial works (1899, 1900) advocated legal reforms of polygamy and divorce laws (El Guindi, 2003: 593). However, this recognition is disputed by some (see for example Ahmed, 1992), due to perceptions that women’s rights as addressed by his works ultimately served to improve male experiences and were heavily influenced by European thought.

The perceived prominence of European thought in Amin’s work can be primarily attributed to the influence of Islamic modernist thinkers during the late nineteenth and early twentieth century. An Islamic modernist himself, Amin was heavily influenced by Muhammad ʿAbdūn who is recognised as one of the most prominent figures, alongside Jamal ad-Dīn al-Afghānī, of modernist Islam (Kurzman, 2002: 103). They believed that orthodox Islam and its teachings on social matters were unable to face the ‘challenges of modernity and rationalist
discourse’ (Moaddel, 1998: 120), and sought an alternative method of responding to Western criticisms whilst simultaneously avoiding allegations of ‘disloyalty’ and remaining ‘committed to the basic Islamic tenets’ (Moaddel, 1998: 120). Within this context and building on the emergence of increasing support for women’s rights, Amin’s work *The Liberation of Women*, is understood by Moaddel (1998:121) to have ‘represented one of the most systematic efforts to defend the compatibility of Islam with modern views on women’.

In endeavouring to respond to Western criticisms, advocate Egyptian independence, and ensure the primary tenets of Islam are recognised, the Islamic modernist movement can be seen to have provided a framework within which advocacy of women’s rights was able to become more prominent; whilst simultaneously emphasising the concept of Islam as resistance and challenging the British colonial power structure.

Initially, racial differences served as the focal point for analyses of colonial discourses, however, the inclusion of gender has been advocated by feminist theorists (Mills, 2005: 47). Since this interruption, increased assertions have arisen regarding the intersectionality of race and gender as a means of examining relations of male/female, coloniser/colonised, and more recently class differentials (Mills, 2005: 47). Raven-Roberts (2013: 38) further expands on this by noting the importance of post-colonial feminism in understanding colonialism and locations affected by war due to the majority of conflicts occurring in the global south. This framework of analyses thus results in a more nuanced examination of the intersectionality of variables such as gender, race and class, and how colonial dynamics affected them. It also serves to counter the ‘add women and stir’ approach which is criticised by Mohanty (2003: 518) for using non-Western women and cultures as supplementary examples to an unchanged Western-centric mode of analysis; consequentially resulting in prominent differences founded on geographic locations and the exclusionary nature of power structures due to their reproduction within a Western framework (Mohanty, 2003: 518–519).

This echoes Jayawardena’s (1986: 6) observation of Western secular thought contributing to the development of structures and perceptions which made Western power inescapable. The continued prominence of Western-centric thinking has resulted in calls for the West ‘to learn how to step out of its colonial boots’ and recognise the reality of those (who continue to be) subjugated by them (Schutte, 1998: 69). It is this critical observation that serves as a
point of departure for this thesis, with the effects of secularism on matrimonial equality being sought through examinations of the intersecting spheres of gender, class and lived experiences. However, historical identification with colonialism as a point of contact highlights tensions with feminism outside of the Western hemisphere due to perceptions of it as foreign importation (Sa’ar, 2005: 686).

It is not only power situated within the public sphere which serves as a point of contention within feminist theories, with the family presenting as crucial. Its prominence within feminist works has been considered insufficient, with this argument being grounded in the notion that personal experience should be predominant (Stanley & Wise, 1993: 92). Walters (2011: 18) partially addressed this through an examination of experiences within marriage. The premise of this argument is that such institutions epitomise the organisational powers of patriarchy, evidencing this with the traditional giving of a bride by her father, whilst her mother remains excluded from the process (Walters, 2011: 18). Although recognition of changing traditions, such as the woman’s right to choose her surname and the absence of dowry, are evidenced in this example, Walters still provides homogenising insights into the institutional power of marriage rather than reflecting diverging experiences between individuals and locations.

Power within the familial structure expands beyond the institution of marriage into feminist understandings of individual/society relations, with the family representing the parameters within which values and norms are assumed (Stanley & Wise, 1993: 93). It is thus within this framework that women’s roles are seen as integral in continuing ‘the system’, however, the weakness Stanley and Wise (1993: 118) emphasise in this case is that women appear to be ‘added’ into pre-existing understandings and a more nuanced engagement with the roles and the absence of women in some instances is thus not provided. In addition to this the perceived importance of women within the socialisation process can be understood as paradoxical when examined through an historical lens due to constraints of the historically ubiquitous public/private dichotomy which has been amply critiqued by feminists (Mills, 2003: 698); with scholars such as Milroy and Wismer (1994, cited in Mills, 2003: 698) advocating a dislocation of the amalgamation of gender and these spheres.
The positioning of the family in the private sphere has also been a point of contention for feminists due to anomalies as to what should be situated in each sphere. Anthias (2002: 280) evidences this confusion with the relegation of religion to the private sphere whilst disregarding the continued public role of religious institutions such as the Christian church. This indicates convergences between the two spheres which appear to have gone unrecognised in some instances. It is however, noted that should these distinctions be eradicated, ‘no differentiated activity or set of institutions that are genuinely political, that are, in fact, the bases of order and purpose in a political community, exist’ (Bethke Elshtain, 1981: 217); indicating that a restructuring of said community would be required as a result of this. This perspective is articulated by radical feminists who essentially seek to conflate public and private identities through the removal of this binary, successively resulting in the private being located under political definition (Bethke Elshtain, 1981: 217).

Contrastingly, liberal feminists do not seek the erasure of this divide, rather they endeavour to expunge the detrimental effects they understand it to have had on women (Bethke Elshtain, 1981: 241). Liberal feminism is understood to share strengths and weaknesses with liberalism, which include a divide between the public and the private spheres (Bethke Elshtain, 1981: 229); conversely, the term itself is understood by Eisenstein (1981: 14) to be paradoxical due to liberalism’s patriarchal bias. Divergently, Marxist feminism does not use the basic tenets of this distinction as a form of guidance; instead the majority of cases modify these spheres and are re-presented as ‘spheres of production and reproduction’, with a common view presenting class and sex as crucial factors in women’s positioning (Bethke Elshtain, 1981: 256). It is from these diverging lenses that it becomes apparent that a theoretical perspective more inclusive of gender, class, location, and experience is to be sought for this research.

3.2.1 Post-Colonial Feminism

Western theory and knowledge have been critically scrutinised by post-colonial theorists with regard to their approach to voices and knowing situated outside of mainstream understandings and thus stand as significant challengers to development theories (Briggs & Sharp, 2004: 661). Concurrently, Munck (1999 cited in McEwan, 2001: 96) is recognised for acknowledging the interaction between post-colonialism, feminism, and development as
the most extensive and ‘exciting’ theoretical and practical collaboration. Central to post-colonial theory is the analysis of the conjunction of power and knowledge as a means of understanding how ‘Western knowledge systems have become bound up with the construction of the colonial and postcolonial ways of knowing and acting’ both in the West and at a more global level (Said, 1978 cited in Briggs & Sharp, 2004: 663).

A primary tenet of post-colonial theory is the ontological and epistemological positioning of ‘subaltern’ voices within Western systems of knowledge (Briggs & Sharp, 2004: 664). It is the situating of these voices within the Western paradigm which has proven to be of great concern for many and it is the intersecting nature of feminism and post-colonialism which serve as a point of departure for challenging dominant Western representations (McEwan, 2001: 96). It is these adjoining spheres which permit challenges to arise in opposition to political claims which reject individual understandings of global politics and permit more rigorous frameworks for the examination of questions emerging through international, transnational and global lenses (Agathangelou & Turcotte, 2010: 53). Additionally, post-colonial theorists have queried the extent to which Western academics want to engage with people in different locations which consequentially required the de-centralisation of Western academics as experts (Briggs & Sharp, 2004: 664).

It is because of this that post-colonial theory is observed to interrupt normative discourses of hegemonic Western portrayals, subsequently seeking to de-centralise Europe (Hegde, 1998: 281). The centralisation of the West, and more specifically Europe, emerged as a result of the Enlightenment and its objective of ‘universalizing knowledge’ which subsequently ‘spilled over easily into the one-dimensional colonial representation of the other’ (Hegde, 1998: 283). Post-colonial criticism thus endeavours to offset the oversimplification of cultural portrayals through the recognition of socio-political variables which construct culture (Hegde, 1998: 283). Additionally, Hegde (1998: 283) posits that the deconstruction of homogenous Western representations allows post-colonial theory to argue against notions that the centre and the periphery are positioned in opposition to each other.

Post-colonial feminism however, goes one step further and narrows the point of examination to the representation of women and the intersecting spheres within which
they are present. Consequentially, it critiques Western constructed knowledge about non-Western women which omit variables such as race, class and location (Tickner & Sjoberg, 2013: 212). Ang (cited in Chakraborty, 2007: 106) furthers this by contending that ‘mainstream Western feminism operates like a nation with boundaries defined through the binaries of inclusion and exclusion, insider and outsider…’ therefore the ‘racially experiencing subject’ can only be a representation of difference. The exclusion of socio-political variables and non-Western women’s concerns by Western feminists was a prominent criticism made by Nawal El Saadawi, evidencing this with apparent fixations on concerns pertaining to sexuality and patriarchy whilst omitting class and colonialism (Amireh, 2000: 220). Building on such criticisms, post-colonial feminists seek to dislocate powers of naming, representing and theorising by challenging the centrality of Western knowledge, with arguments being put forward that Western feminist representations of non-Western women has not altered since the colonial era, with black women also being labelled as ‘other’ (McEwan, 2001: 100).

Against the backdrop of Western colonialism, post-colonial theories investigate issues of language, class and gender differences amongst other things, with post-colonial feminism specifically focussing on women’s lives and pressures impacting on women whose ‘voices appear in national narratives’ (Schutte, 1998: 54). Despite this recognition of gender differences emerging as a point of inquiry within post-colonial theory this is not necessarily achieved (Khan et al., 2007: 231), and Lewis and Mills (2003: 2) contend that contemporary post-colonial feminism continues to apply pressure on mainstream post-colonial theory due to lingering recapitulations regarding the consideration of gender concerns. Additionally, post-colonial feminism is observed to take experiences of Western colonialism and its contemporary effects in formulating ‘a standpoint of cultural, national, regional, or social identity’ whilst diverging from traditional critiques of imperialism by seeking to avoid ‘rigid self-other binaries’ (Schutte, 1998: 65–66).

Post-colonial feminism is situated at the intersecting junction of gender, class and race with its predominant focus being on the ‘gendered effects of transnational culture and the unequal division of labour in the political economy’ at a global level (Baylis & Smith, 2005: 284). Consequently, demands pertaining to gender equality in a Western style democracy as echoed by liberal feminists is not adequate due to its Western-centric nature (Baylis &
Smith, 2005: 284) and the omission of many crucial variables and individuals in its analysis. Lewis and Mills (2003: 3) thus contend that post-colonial feminism is involved in a dual project with the first aspect being the racialising of mainstream feminism, and the second being the insertion of ‘feminist concerns into conceptualisations of colonialism and postcolonialism.’ The insertion of these concerns to any variable however, can be problematic due to the risks which emerge regarding ‘add women and stir’ which has been criticised by Mohanty (2003: 518). Nonetheless, Sa’ar (2005: 683) posits that post-colonial feminists promote the incorporation of ‘exclusionary mechanisms’ into gender analysis as a means of countering mainstream feminisms apparently exclusionary nature.

From this the objective of post-colonial discourse can be seen to be the emphasis of ‘difference’ as pivotal in political relations (Olson, 1998: 47). Further expanding on the role of post-colonial feminism Khan et al. (2007: 231) endorse four elements they consider to be indispensable to the role of this theory as methodology. First is the analytical framework which permits concurrent analyses to occur between intersecting spheres; second is the fusion of ‘micro and macro levels of analyses’; third is knowledge constructed from the perspectives of those who have been marginalised; and fourth is the use of this knowledge ‘to correct inequities and injustices’ (Khan et al., 2007: 231). Whilst methods employed in post-colonial feminist research, such as textual analysis appear similar to other approaches, Khan et al. (2007: 231) posit that the researchers knowledge of post-colonial feminism in understanding narratives pertaining to class, race and gender against colonial histories whilst also maintaining awareness of their own socio-economic and historic positioning in relation to those providing the narrative, permits more nuanced insights to occur.

Within discussions on post-colonial (feminist) theories are power and knowledge. For Foucault (1980) the creation of understanding and discipline never being faultless; with knowledge being a construction of power which demarcates specific variables for inclusion whilst also serving as exclusionary. Within post-colonial scholarship, power functions as a point of contact when examining (non) violent resistance (Baylis & Smith, 2005: 290). When transferred to post-colonial theoretical endeavours however, power is transformed and consequentially accommodates new, deconstructed insights to be formed in regards to understanding the identities of those who have been marginalised and ethical dilemmas emerging from prominent Western myths ‘which Derrida (1982) describes as “inscribed in
white ink,...” (Hegde, 1998: 284). Still, a prominent criticism which emerged from post-colonial feminists is the absence of individual experiences, and this was argued by hooks (1984: 59) in relation to race who found that ‘they varied even among those of us who share common ethnic backgrounds.’ hooks argument thus reinforces the inescapable importance of individual experiences and serves as a form of justification for the inclusion of individual experiences and identities throughout this thesis.

Despite the explanatory potential post-colonial feminism provides, a prominent concern is the allegation of its institutionalised nature and situatedness in Western academia which subsequently functions to propagate the exclusion of those who have been subjugated (McEwan, 2001: 102). Additional concerns surrounding this approach are that its ‘theoretical sophistication has created greater obfuscation’, with the focus on discourse proving problematic with regard to the material continuation of colonial relations (McEwan, 2001: 102). Moreover, in its current form, post-colonial feminism is seen to be enthusiastic in reproducing ‘a recognisable and authoritative line-up of contexts and interpretations.’ Subsequently, Lewis and Mills’ (2003) anthology is criticised by Valassopoulos (2007: 199) for providing little discussion surrounding the various fields colonial and feminist theories are in communication with and where they traverse; additionally, she posits that a more flexible way of understanding collaborations within feminist thought might be through Shohat’s (1998) ‘multicultural feminism’ which questions Euro-centrism within the field.

Despite these concerns, post-colonial feminism is recognised for its cautioning against simplifying and pluralising feminisms which orbit homogenised notions of cultural and national differences (McEwan, 2001: 104). The deconstructive focus of post-colonial feminism on the intersecting spheres which affect women’s lives, including colonialism, permit new insights to be provided about the identities of those who have been subjugated; this therefore serves as rationale for the situating of this thesis within this framework as it endeavours to understand how secularism shaped women’s marital rights in Egypt and Iran between 1920 and 1939.
3.3 Gender, Politics and Power Structures

Within post-colonial feminism gender, politics, power structures, and history emerge as prominent factors, all of which intersect on several levels. One commonality is the prominence of power, the relations of which are understood as ‘a pattern of constraint on social practice’ which broadens to the pivotal question of survival (Connell, 1987: 107). Expanding on this, Foucault (1982: 794) contends that power relationships are ‘a strategy of struggle’ within which confrontation occurs. It is within this context that power relationships can be viewed in forms such as the coloniser/colonised and gender differences, within power structures, however, power relations can be seen to form around notions of hegemonic masculinity. Commonalities between these relations hinge on concepts of the powerful and the powerless and it is here that Scott’s (1985) ‘weapons of the weak’ emerges from “hidden transcripts’ of resistant action of the apparently powerless’ (Briggs & Sharp, 2004: 666). Within this milieu it becomes possible to recognise diverging formations of these ‘weapons’ which are dependent on the power relationship under examination and these will become increasingly apparent in the succeeding chapters. Before these can be discussed however, different power formations, such as gender differences, the family and colonialism, need to be recognised in relation to this thesis’ enquiry into the effects of secularism on marital rights, as well as post-colonial feminism.

One of the key tenets of feminist deconstructionist arguments are the deviating experiences of women who have fallen under the homogenising umbrella term ‘women’ which is traditionally positioned as a binary opposite to ‘men’ and thus forms part of a hierarchical relationship (Stanley & Wise, 1993: 204). It is within this binary that normative behaviours associated with men and women are prescribed into society (Stanley & Wise, 1993: 204) and these characteristics and other socially endorsed attributes become labelled as masculine and feminine. As a means of ensuring the continued centrality of power within gender focused discussions, Cohn (2013: 4) contends that ‘gender subordination’ is used by analysts due to its emphasising the gender binary as well as gendered hierarchies.

For radical feminists, power saturates the entirety of the social environment; subsequently the personal is political, ‘politics is power’, and ‘power defines all relationships’ (Bethke Elshtain, 1981: 217). This premise is expanded by Stanley and Wise (1993: 63) who contend
that power and its implementation can be evidenced in personal life; consequently, feminist arguments echo the sentiment that various systems and social structures can be comprehended and analysed through ‘an exploration of relationships and experiences within everyday life.’ For hooks (1984: 84), power emerges as aligned with domination and control over something or someone, highlighting indecisive responses from women involved in feminist movements. The message being expressed by these women appeared contradictory, with one argument condemning the role of male domination in female powerlessness, and the other advocating equal rights to men (hooks, 1984: 84). However, the vulnerability of ‘power’ to homogenising lexical concerns is recognised by Mohanty (2003: 66) and is seen as restricting forms of resistance within the confines of the powerful/powerless binary.

It is because of this potential confinement and post-colonial feminist endeavours to avoid such binaries that power needs to be examined through a more critical lens. McEwan (2001: 93) accentuates the prominence of power within development studies and its centrality to more nuanced understandings, with post-colonial and feminist theories playing crucial roles in conceptualising this field. Recently, the conjunction of development studies and gender emerged more prominently and has resulted in more critical inquiries being conducted. Whilst development studies pertains predominantly to changes occurring within the global south, its examination of gender, class and social movements, among other things, provides a forum within which perspectives into legal developments and personal experiences can be examined. Moreover, the prominence of post-colonial feminism within this field enables further engagement to occur between the family and factors such as social movements, which may have originally been considered external to it. Justification for the situating of this research within a post-colonial feminist framework is thus established due the power it possesses in transcending fields of inquiry.

Power however, is not a static construction. Yoder and Kahn (1992: 382-386) advance three types of power; power-over, interpersonal power-over, and power-to. The former, as theorised by Goodrich (1991b cited in Yoder & Kahn, 1992: 382), relates to the authority of a person or group over another and incorporates Johnson’s (1976) distinctions between direct and indirect power. Power-over also expands across four levels of analysis comprising of the ‘societal, organizational, interpersonal, and individual’ (Yoder & Kahn, 1992: 382). The
first occurs in reference to women and power, ranging from the overarching context of patriarchy to social, political, and sexual inequalities within it; the second focuses more specifically on binary relations whereby ‘one person has the power to influence another within a specific relationship such as marriage, and at its lowest level can be analysed as a personality trait (Yoder & Kahn, 1992: 382–384). The final type is also referred to as ‘personal empowerment’ and it pertains to ‘the control one feels over one’s own thoughts, feelings, and behaviors…’, and thus stands in contrast to power-over someone else (Yoder & Kahn, 1992: 384). It is however, contended that when examining power and gender, researchers need to avoid homogenising perceptions of gender differences as explanatory (Yoder & Kahn, 1992: 386).

Emerging within dialectics of power and gender is hegemonic masculinity, which Connell (cited in Cohn, 2013: 4) perceives as a legitimising aid in reinforcing some men’s power over women and other men. Further expanding on this, Connell (1987: 183) advances that the interaction between diverging forms of masculinity is pivotal in the functioning of a patriarchal social order. Concurrently, Kaufman (1994: 59) contends that when examined at an individual level, what is commonly associated with masculinity fulcrums on ‘a man’s capacity to exercise power and control.’ He (1994: 63) further contends that it is the historical reckoning of power and masculinity which has culminated in its conforming to and subsequent justification of male predominance over women. Connotations of “‘normal’ manhood” thus emerge from social processes which occur within patriarchal family relationships (Kaufman, 1994: 63). Within this milieu it is possible to recognise the family as a power structure, not simply in its traditional patriarchal structuring but also in its role as reproducer of said formations, and it is within the legalities regarding the establishment of this power structure that this thesis is situated.

Within the concept of hegemonic masculinity, the term hegemony can be seen to stand alone. Borrowing from Gramsci, hegemony represents social superiority which surpasses ‘contests of brute power’ and infiltrates the structural organisation of ‘private life and cultural processes’ (Connell, 1987: 184). Additionally, Connell (1987: 183) advances that there is no feminine equivalent to hegemonic masculinity and that at levels ‘of mass social relations…forms of femininity are defined clearly enough.’ Contrastingly, Chakraborty (2007: 102) contends that ‘hegemonic feminism’ has proven useful in historicising what has been
labelled white or Western feminism. Through engaging with post-colonial and critical feminisms more nuanced insights into hegemonic power relations have been provided (Agathangelou & Turcotte, 2010: 44); and it is subsequently through the recognition of diverging levels of male and female power that patriarchal power structures can be viewed through a different lens.

A traditionally recognised sphere where man’s empowerment over women is frequently acknowledged is the family. As a power structure the family provides the foundations for socialisation skills, with traditionalist ideologies presenting it as the ‘foundation of society’ (Connell, 1987: 121). Within the familial structure, power is perceived in numerous ways, with ‘influence in decision making’ being critically viewed as an insufficient definition, with Bottomley’s research indicating that environmental support was also a prerequisite (Connell, 1987: 123–124). Supporting this, Urry (2011: 104–105) contends that the family not only reflects social order, but also assists in maintaining the social structure; moreover, familial relationships are not organisable by those engaged in them, rather they are influenced and constrained by social norms. This has potentially resulted in many feminists perceiving the family as pivotal in comprehending female oppression (Stanley & Wise, 1993: 75).

Those residing within this camp advance two prominent variables in the family’s role in female subjugation. One pertains to women’s roles as wives and mothers which confine them to a ‘service and domestic mode of behaviour’; the other relates to the role of the family in the socialisation of children, with one aspect including ‘socializing them into sexually stereotyped ‘feminine’ and ‘masculine’ attributes which result in the perpetuation of unequal gender relations (Stanley & Wise, 1993: 75). Within the context of developing countries, Jayawardena (1986: 46) moves beyond the confines of the family in examining the reproduction of gendered stereotypes and posits that, whilst predominantly restricted to girls of ‘urban bourgeois families’, female education was designed to assist in their preparation to be proficient mothers and wives. Therefore, whilst the family can be seen as central to the perpetuation of gendered social norms, it was not the only contributing factor.
Moving beyond negative representations of the family as an oppressive power structure, hooks (1984: 37) emphasises the significance of the family as a ‘kinship structure’ within which those needing care are assisted, and it is this positive function which is overshadowed by sexist oppression. It is further argued that the prominence of the ‘devaluation of family life in feminist discussion’ is commonly reflective of class structures and those prominent within the movement.

The bourgeois woman can repudiate family without believing that by so doing she relinquishes the possibility of relationship, care, protection. If all else fails, she can buy care...Their devaluation of family life alienated many women from feminist movement. Ironically, feminism is the one radical political movement that focuses on transforming family relationships.

(hooks, 1984: 39)

Subsequently, through challenging Western philosophical norms which inform the concept of the family, feminism is understood to have sought to liberate the family repositioning it within the positive framework of kinship without oppressive gender relations being present (hooks, 1984: 39). Contrastingly, Cowie (cited in Mohanty, 2003: 57) is recognised for her emphasis on the political nature of kinship, which she claims needs to be examined as ‘ideological practices’ due to its function within the family as perpetrator of gendered norms. This homogenising trap is recognised by Mohanty (2003: 57) who claims that Minces’ assertion that the patriarchal family is ‘the basis for ‘an almost identical vision of women’ that Arab and Muslim societies have’ falls directly into it due to the absence of references to specific histories and ideological power structures in this imagery. Additionally, Mohanty (2003: 57) contends that ‘in merely describing the structure of the marriage contract, the situation of women is exposed.’ Acknowledging this criticism, the examination of marriage laws, gender equality, and the experiences of key women in both Egypt and Iran and the effect secularism had on them is justified as a means of developing a more nuanced understanding of women’s marital rights.

This research however, is situated within the contexts of colonialism in Egypt and imperialism in Iran. Consequentially, these power structures play crucial roles in the introduction of secularism into each country and therefore on the legal and political structuring of the country which in turn impacts upon family law and perceptions of gender equality. Within this environment emerged a system which ‘empowers some categories of
people at the expense of others’ with the powers of colonisers often being justified on the
grounds of that those being colonised are ‘racially inferior’ (Cohn, 2013: 5). Fanon (1963: 22)
evidenced this by writing that on ‘the other side of the ocean there was a race of less-than-
humans who, thanks to us, might reach our status in a thousand years...’. Secondly, he
(1963: 127) recognised that colonialism expressed regional preferentials and consequently,
the entirety of a country was rarely ‘exploited’; thus a homogenous history of the effects of
colonialism cannot be identified with by those residing in regions which were not specifically
affected. It is this universalised, historical, Western-centric experience that post-colonial
approaches seek to disrupt; additionally, it endeavours to ‘re-write the hegemonic
accounting of time (history) and the spatial distribution of knowledge (power) that
constructs the Third World’ (McEwan, 2001: 94-95).

One of the most prominent literary attempts to destabilise generalising assumptions
regarding colonialism and its effects is Orientalism (Said, 1978), however, one of the
conspicuous omissions within his work was women. The presence of the female figure for
Spivak (2010: 61) is seen to disappear in the subject formation which occurs in the
patriarchy-imperialism relationship, resulting in homogenised depictions of the ‘third-world
woman’ who is caught at the junction between tradition and modernity. Additionally, power
is perceived as habitually male, with MacKinnon (cited in Kapur, 2002: 9) being recognised
for her claim that ‘all women experience oppression at the hands of patriarchal power’
through male laws and male justice systems; what she fails to consider however, are the
effects of social, economic, and historical trajectories and the impact this had on men and
women. It is the importance of these spheres and the subjugation of both men and women
which are most clearly articulated in Fanon’s (1963) work. From his observations of
colonialism in Algeria where both men and women were ‘called upon to fight against
oppression’, Fanon (1963: 74, 129) recognised the position of the colonial forces as a
puppeteer, ensuring that divides occurred not only between coloniser and colonised, but
also between those being subjugated. Secondly, the simplification of colonialism not only
occurred within academic discourses, with Fanon (1963: 190) postulating that the
simplification of culture amongst other aspects of life resulted in the disruption of the lives

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21 Highlighting the diversity of orientalism is Lisa Lowe whose work highlights its presence in American society
in reference to the increasing Asian population (1998), and challenges eighteenth century French orientalism
of those colonised; moreover, the colonisers can be observed to have obtained the culture they desired (Stimpson, 1988: 226).

Further expanding on this, Lazreg (1988: 83) draws on continuities ‘between the traditional social sciences modes of apprehending North African and Middle Eastern societies rooted as they are in French colonial epistemology and academic women’s treatment from these societies.’ The most prominent of these was considered to be religion which thus receives ‘privileged explanatory power’; this framework is also the most frequently adopted within feminist research, with Islam being the most prominent within studies on the MENA region (Lazreg, 1988: 83). It is this paradigm that this thesis seeks to break away from, achieving this through the examination of the effects of secularism on women’s marital rights. Whilst the positioning of family law within a religio-legal jurisdiction prevents the complete removal of Islam from the analysis, the focus on the effects of other forces on this aspect of women’s lives and law thus alters the trajectory frequently adopted.

Prominent throughout the various power structures which have been addressed in this section is patriarchy, which in itself is a power formation. Addressing this, Bethke Elshtain (1981: 212) articulates the importance of remembering that the historic, patriarchal way of life was ‘a precapitalist social form’. Connell (1987: 130) magnifies this by stipulating that the patriarchal state can be viewed as the outcome of ‘a reverberating set of power relations and political processes in which patriarchy is both constructed and contested’; therefore the historical direction of the state is pivotal in comprehending its role in sexual politics.

Understandings of what patriarchy is have altered over time and this is evidenced by Weber’s (1947) adoption of the term to refer to a ‘system of government in which men ruled societies through their position as heads of households’ (Walby, 1989: 214), with Walby (1989: 214) arguing that this indicated that domination over younger males who did not hold the position of head of household was equally or more important than male domination over women. Liberal feminists are recognised for situating female subordination in ‘the customary and legal constraints blocking women’s access to the public domain and in prejudices (sexism) and stereotypes concerning their capabilities’ (Kandiyoti, 1996: 4). Whilst this understanding has resulted in invaluable empirics on domestic and work lives, it
has been criticised for failing to recognise the universal and ‘deep-rooted nature of gender subordination’ and thus failed to provide an explanatory framework for it (Kandiyoti, 1996: 4). Seeking to rectify this, radical feminists, who Walby (1989: 214) posits have been prominent in the advancement of the term, presented patriarchy as a ‘timeless’ and ‘universal system’ whereby male domination propagates female oppression ‘through the control of their sexuality and procreative capacity’ (Kandiyoti, 1996: 4). Theoretical standpoints also became prominent through the primary points of analysis being domestic violence, motherhood, and sexual assault, amongst others (Kandiyoti, 1996:4). What emerges from these criticisms is recognition of the over-arching, boundary crossing, and multifarious nature of patriarchy; with the notion of ‘multiple patriarchies’ being supported by Holt (2010: 398).

In reference to Islam, Eshkevari (2013: 195) recognises how the importance and integrity of the family has been stressed. He (2013: 195) posits however, that the ‘archaic traditions’ which are practiced cannot ‘have a reasonable Islamic defence’ as they are incompatible with ‘neither our theological and epistemological assumptions nor contemporary notions of justice’. He (2013:195) emphasises the pyramid structuring of seventh century Arabian families with men at the top, and highlights how rights were ‘naturally assigned’ based on ‘the patriarchal ethos on which social order was based’. Arguing in favour of the need for laws and regulations for the family, Eshkevari (2013: 195-196) puts forward the notion of recognising the family as a ‘joint enterprise’, whereby no member has superiority based on natural rights; rather rights of familial members should be determined by ‘what is accepted as good practice in our time..’ and in accordance ‘with a definition of justice that is both local and contemporary’.

He (2013: 196) builds on this by arguing against the elevation of a ‘best practice’ and in favour of laws and systems across different societies reflecting ‘the sum of collective knowledge and accumulated experience of successive generations’. The historic legacy of patriarchy or ‘right of dominion’ is also highlighted and it is suggested that if this were perceived as unnatural, then the emergence of organisations based on superiority, such as the family, is avoided (Eshkevari, 2013: 196-197). He (2013: 196-197) reinforces this by highlighting how Abrahamic and monotheist religions emphasised this, and iterates that ‘In Islamic thought, any submission apart from submission to God is a heresy’. Islam is believed
to have made significant alterations to the familial structure and customs surrounding it. Whilst it is seen to have imposed restrictions on promiscuous behaviour between men and women, it is also understood to have removed some restrictions (Eshkevari, 2013: 195). The consequences of this are understood by both Eshkevari (2013: 195) and Qutb (2001: 25, see section 2.2) to be the enhancing of women’s domestic and social positions and increased rights. Subsequently, the frequently assumed ‘patriarchal nature of Islam’ which was previously referred to (see section 1.1) comes into question as the subjective nature of religion once again comes to the fore of debates.

In seeking to understand perspectives on the relationship between gender equality, patriarchy and Islam, Mir-Hosseini et al. (2013: 24) posit that many Muslim, activist women conflated Islam with patriarchy during the (post-) colonial era, with a growing fear that the latter could not be removed under a regime which was heavily influenced by Islam. They argue (2013: 24) that as a consequence of this ‘...wherever Islamists gain power or influence – as in Iran, Sudan, Pakistan and Malaysia – their policies proved the validity of the activists’ fears’. Moreover, by arguing that patriarchy forms part of an authentic ‘Islamic’ life, attempts have been made to reverse some of the rights acquired by women in the early twentieth century (Mir-Hosseini et al., 2013: 25).

The issue of patriarchy has been a constant concern throughout twentieth century Iran and has continued into the twenty-first century. Badran (2014: 48) supports this within the Egyptian context, arguing that such concerns became increasingly prominent during times of revolution ‘whether masculinist power over women, or the power of one class over the other, or one generation over the other, and with that pinnacle of patriarchal power, the state’. De Groot (1996: 41) evidences this when she argues the need to understand the historical context surrounding the importance of sexual morality and gendered behaviour. She (1996: 41) writes of how, in Iran, they were placed on the ‘political/ideological agenda’ following events such as the Constitutional Revolution, social movements in the 1940s and the establishment of the IRI. Similar observations can be made in Egypt, with the concerns which have been articulated serving different purposes within both states, with some seeking to reinforce more traditional frameworks within which women operate, and others seeking to further enable female participation and choice in society.
Moghadam (2013: 206) reinforces this and argues that gender politics of the IRI may be ‘characterized as sometimes erratic and confounding, appearing to take one step forward and two steps back’. Evidencing this, she (2013: 206) highlights how Khomeini issued *fatwas* (religious rulings) which would permit female divorce and encouraged them to include stipulations in the marriage contract. Throughout the 1990s amendments to family law following advocacy of women’s rights occurred under Presidents Rafsanjani and Khatami (Moghadam, 2013: 206). Similarly, amendments to Egyptian family laws in 1979 granted women the right to divorce should polygamy occur, however, in 1985, this was reversed and women lost their automatic right to divorce in this situation (see section 8.5). In both instances, the prominence of the patriarchal power structure emerges, reinforcing fluctuations in the patriarchal nature of the legal and domestic frameworks within which women operate.

Seeking to explain how subjugated women sought to maximise their options, Kandiyoti (1988) introduced the ‘patriarchal bargain’; it is through this lens that she was thus able to evidence patriarchy’s diverging nature and differing female responses, highlighting how some women were able to benefit from a system which has traditionally oppressed them (Sa’ar, 2005: 680-681). Kandiyoti’s (1988) insight can therefore be seen to dispel homogenised experiences of patriarchy; the coherent groups of women which have been established on location, race, and the all-encompassing label of woman can thus be fractured and understood in reference to more specific variables. Encompassing the intertwined relations between gender, the family, patriarchy, colonialism and imperialism, and power, the significance of further historical examinations becomes apparent. It is therefore through recognising the significance of history that post-colonial theories endeavour to re-construct history and its voices through a lens which is not orientated towards the West (McEwan, 2001: 95).

Within discussions on gender, politics and power structures emerge questions pertaining to the notion of agency. This has emerged within feminist theory, primarily through a ‘thematization’ of gender identity, whereby it becomes less about externally imposed, constraining norms and more about embodied potentialities (McNay, 2000). The notion of feminist agency however, can be understood as paradoxical if feminist understandings of social structures and oppression are adopted (Issacs, 2002: 129). This arises due to
perceptions that it is compromised by sexist oppression, and agency is thus ‘diminished in ways that interfere with their capacity for feminist action’ (Issacs, 2002: 129-130).

Whilst it can be understood to represent the ability of individuals to think and act independently, this is often restricted by structures such as the state or organisations, to gender, class and race. According to True (2013: 255), feminist scholars view the state as playing a crucial role in (re-)producing violence against women, with an example of this being ‘non-intervention in the private ‘family’ or community religious or cultural group’. Pateman (1989) reinforces this when she speaks of the manner in which the justice system has employed ‘legal definitions of rape and victimhood from a male stand-point’ (True, 2013: 255).

This gendered lens has also been identified in the broader field of International Relations (Grant and Newland, 1991: 1). A female model of agency has been suggested as a means of counteracting this, however, Bethke Elshtain (1985: 41 cited in True, 2013: 255) posits that most scholars of feminist International Relations caution against this ‘nurturing account of feminine nature’ as a response to this gender bias. Tensions surrounding agency thus become visible and according to Clegg (2006: 312), they have been seen repeatedly with regard to political activism.

Tensions have also become visible with regard to forced marriages and domestic violence. Within the context of the UK, Wilson (2007: 32) argues that rationales provided for problems experienced in South Asian families and cultural communities, reinforce existing power structures whilst presenting parents as having a ‘brutal approach’, and women as victims in need of ‘saving’ who are thus without agency. Wilson (2007: 33) further argues that in the last twenty years (at time of writing), that the focus of ‘state interventionists has not been on women’s attempts to resist oppression’, rather a neo-liberal line has been followed whereby the absence or lack of choice is more concerning.

Agency thus becomes more pertinent in the analysis of action as demonstrative of the underlying intent or problem. It is also centred on roles and subsequently, in order to outline agency, roles must be attributed and distinguished between. Consequently, a primary issue which arises from the notion of agency is the implied reliance on dichotomies
of subject/object and powerful/powerless which emerges from the required attribution of roles.

Due to post-colonial feminism’s avoidance of such binaries, the notion of agency will not be directly engaged with. By not engaging with agency within the key arguments, binaries of strength/weakness and superiority/inferiority are not reinforced, and the development of identities and interests rather than strategies for achieving goals come to the fore of this thesis. Subsequently, this permits a more thorough engagement with the cases of Egypt and Iran, their histories and key individuals. Consequently, history, identity and capabilities within the intersecting spheres of gender, class and location emerge more prominently than pre-determined binaries through which identities are created, capacities are weakened, and they are presented as norms.

3.4 The Significance of History

The historical situatedness of the previously presented research questions not only emphasises the significance of history, but also ensures its inclusion within methodological and theoretical considerations. This thesis endeavours to understand how secularism affected women’s marital rights in Egypt and Iran between 1920 and 1939. It asserts that both states were equally restrictive with regard to matrimonial equality, with divergences occurring around the implementation of secularism within each state and the manner in which political smokescreens emerged with regard to the appearance of increased gender equality within family laws. In chapter one, the contemporary significance of history was outlined, echoing Burton’s (1992: 26) assertion that history is not simply the past, but also the knowledge about this past that we are conscious of. It was in this section that the contemporary significance of this historically located research emerged with regard to looking to the past for answers to contemporary questions.

The female presence in women’s writings examining women is recognised as ever-present, however, deviations between ‘feminist’ history and a history of women and their movements needs to be acknowledged (Gillis et al., 2007: xxi). Recognition of feminist history for Gillis et al. (2007: xxi) is orientated around the emergence of the three feminist waves. Acknowledging feminist history within this framework whilst emphasising points of
departure from previous movements and tensions between them can be viewed as exclusionary. Whilst the first wave of feminism positions historical insight within the nineteenth century, it subsequently omits anything prior to this prominent recognition of women’s rights. Moreover, the confinement of feminist history to this framework, whilst emphasising prominent movements and the advocacy of specific rights, potentially excludes specificities outside of the purview of the dominant feminism of the era.

When examining feminism in a non-Western context, McEwan (2001: 97) recognises arguments that it emerged as a result of European colonialism and anti-colonial struggles; subsequently ‘feminism must...engage with its imperialist origins’. This unequivocal association between feminism and Western influences is however, contested to a certain extent by Jayawardena (1986: 2) who posits that it was not ‘imposed on the Third World’, rather its multifaceted existence across the non-Western world was altered by ‘important material and ideological changes that affected women’, with colonialism being a prominent contributing factor. It is therefore through the differing engagements between Egypt, Iran, and Western powers that the secular nature of the state emerges, and will thus be examined in relation to the impact it had on women’s marital rights.

What remains continuous throughout feminist history is its continued positioning as a political and social challenge to ‘male authority and hierarchy’ (Offen, 1988: 152). What is emerging more recently however, in conjunction with challenges to male supremacy, are challenges to universalisations of women and the various forms of oppression that have been experienced. The most vocal of these challenges has arisen from women in the non-Western world and women of colour, with primary criticisms circling generalised assumptions which presuppose that all women have the same concerns. Mohanty (1988, cited in McEwan, 2001: 97) is recognised for producing a highly persuasive critique of western epistemology in regard to exploring the intersecting fields and experiences of women outside of a Western location. Iterating the inconspicuousness of coloured and non-Western women, this critique can be understood to have positively interrupted feminist history as well as the history of feminist writing. This interruption has resulted in the emergence of a voluminous amount of work seeking to reject universalised assumptions and has resulted in a form of dislocation between feminism and the West. This is not to
argue that the feminism/West relationship has been completely refuted, but new paradigms have arisen which reinforce Jayawardena’s (1986: 2) assertion.

Universalisations have not only occurred with regard to the experiences of women however, with some feminist theorists providing critiques of key elements of Enlightenment thought which have resulted in representations reflecting the ‘perspective of dominant white male westerners of the last few centuries’ (Strickland, 1994: 265). This perspective is argued to rely on the ‘othering’ of ‘genders, classes, races and cultures’ whose various experiences and perceptions have been ‘silenced and suppressed’, resulting in feminist assertions that all knowledge is dependent on and constricted by location (Strickland, 1994: 265). Consequently, feminists have called for increased awareness of historical, social, and political contexts by theorists as a means of evading universalisations (Strickland, 1994: 265). It is through this discussion that the manifold significance of feminist history is reinforced, within this however, the examination of binaries and power structures becomes pivotal as a means by which the relevance of history can be further understood in relation to this thesis.

A primary tenet of feminist scholarship is the addressing of the relationship between woman and women, with the former being recognised by Mohanty (2003b: 50–51) as ‘a cultural and ideological Other’ and the latter as ‘real, material subjects of their collective histories’. It is posited that the relationship between the historical subject and the production by means of hegemonic discourse serves not as a ‘direct identity’, but as ‘an arbitrary relation set up in particular cultural and historical contexts’ (Mohanty, 2003b: 50). Emerging from this observation is a critique of the homogenising effects of the feminist works analysed by Mohanty (2003b: 50–51) which result in the singular ‘Third World woman’ and essentially reinforces oppressor/oppressed power structures; not only within the male/female binary, but also within dichotomies such as coloniser/colonised, whereby power relations pertaining to biological, cultural and geographic determinants are reinforced.

According to Lazreg (1994: 54), patriarchy is represented in the works of Eisenstein (1979) and Hartmann (1979) as ‘the expression of maleness, and therefore biology.’ One of the perceived flaws with their works however, is the ahistorical nature of their use of patriarchy
and its stagnancy which contributes towards the continued tendencies of feminist historians to generalise the historical experiences of women (Lazreg, 1994: 54).

Fanon’s (1967: 114) observations present world history as the ‘history of men’s struggle for dignity’, with those oppressed by colonialism being invited to contribute towards the deconstruction of the colonial system. Whilst his observations provide invaluable insight into the effects of colonialism within Algeria, the omission of women from this representation reinforces a masculinised power structure. Moreover, the effects of colonialism function beyond the oppression of individuals, with it being noted that whilst colonialism only represents a segment of the histories of post-colonial states, its impact on contemporary social, political, cultural and economic situations extended far beyond that of ‘legacies’ (Rajan, 1993: 6). Additionally, Said’s ‘politics of blame’ according to Rajan (1993: 7), ‘short-circuits investigation’ into and about the formation of post-colonialism, therefore indicating that the attribution of blame within the context of colonialism and its consequences is detrimental to more nuanced historical insights.

As Hegde (1998: 281) observes, ‘it is almost impossible to think of the twentieth century without focussing on the impact of colonialism in the production of cultural and aesthetic forms.’ Resulting from this is an increased awareness amongst new forms of colonial resistance, including nationalism, which enables a ‘critical consciousness’ pertaining to continued Western influences and the effects it is having across social and political spectrums (Hegde, 1998: 281). Following the colonial history of oppression and exploitatons, Jacobs (2003: 672) posits that the suspicion of women in post-colonial states regarding Western fixations on difference is justifiable. This suspicion also emerges from the prominence of the homogenous ‘Third World woman’ as represented in Western discourse whereby they are presented as ‘victimized, tradition bound, and passive’ (Hegde, 1998: 281).

Whilst divergences in the experiences of the post-colonial woman are sought, Rajan (1993: 6) posits that similarities between post-colonial nations can be observed through a shared history of colonisation. It is from this broad historical commonality that implications of colonialism can be shared between states through the centrality of the state; ‘inequalities in social structures; the contrary pulls of nationalism and regionalism (or centralization and
federalization); and the conflicts between ‘tradition’ and ‘modernity’, with all of them being seen to have similar encroaching effects on issues of gender (Rajan, 1993: 6).

According to Chaterjee (2010: 83) examinations of subaltern history indicate that the subaltern emerged internally and externally to colonial spheres of influence and ‘nationalist critic.’ It emerges externally in the sense that independence had been maintained however, its internality originates from participation in processes and institutions within these spheres and thus served as self-transformative (Chaterjee, 2010: 83). From this emerges the need for a greater understanding of the historical process and points of contact between spheres within this context, and it is from this that historical insight into the effects of secularism on women’s marital rights can be situated. Within the examination of the colonial power structure however, emerges a call for a shift in analysis. It is from this that a greater focus on cultural and ideological aspects of the (post-)colonial impact on societies is advocated (Rajan, 1993: 9). Within this emerge discussions regarding religion and its formation as a power structure which, within the MENA region, is traditionally associated with the family.

In the context of the MENA region, Islam is not only a structure for specific aspects of societal life, but it is also viewed as ‘the cause of gender inequality’ whilst also being responsible for ‘underdevelopment’ within a vast amount of modernisation theory (Mohanty, 2003b: 59). Moreover, it is argued that feminist discourse on women from the MENA region is seen to reflect ‘theologians’ own interpretation of women in Islam…’ (Mohanty, 2003b: 59). Consequently, this exemplar serves to ‘deprive women of self-presence, of being’, women are overshadowed by it and they are seen to have almost no history (Lazreg, 1988: 87; Lewis & Mills, 2003: 59). This omission of women’s historical identities and experiences and the sole attribution of religion to issues pertaining to gender equality and development increases the need for further understanding of the effects of secularism on women’s marital rights. Furthermore, exclusion from history is recognised by Mohanty (2003b: 58) to be considered applicable to the patriarchal family due to its continuation from the era of the Prophet Mohammad.

Power structures, as has previously been shown, transcend publicly determined boundaries, however, it is within this line of thought that the family becomes positioned as one,
regardless of geographic location. It is within this that responsibilities and division of labour become prominent, however, Gillis et al. (2007: xxvi) contend that the ‘privileging’ of one generation over another, potentially by means of recognising feminist waves as generational, reinforces the masculine hierarchy of the family and serves as a point of tension between women. Consequently, a fluid dialogue between women of all generations is required in order to achieve a more nuanced understanding of feminist history and responsibilities (Gillis et al., 2007: xxvi). The family is not to be understood in monolithic terms, with its historic and contemporary contributions to the political economy as well as ‘patriarchal social relations’ being multidimensional and disputed (Spivak, 2010: 32).

Within this context, Spivak (2010: 32) argues against simply replacing the family or the adoption of a positivistic inclusion of women as oppressed ‘whose unfractured subjectivity allows them to speak for themselves against an equally monolithic “same system.”’ However, it is acknowledged that concepts such as reproduction, division of labour, the family, marriage and patriarchy, are frequently used as overarching concepts with no cultural or historical contexts being provided (Mohanty, 2003b: 58). This subsequently serves as a point of contention within feminist work when specificity is absent and they are employed as explanatory for women’s oppression (Mohanty, 2003b: 58).

Spivak’s question Can the Subaltern Speak? functioned as a supplementary precursor to the fissure which remained between the ‘necessities of historical and political representation’ and means of existing which move beyond official methods of ‘voice giving’ (Birla, 2010: 98). It is within this context, and the significance of the interrelated power structures which have been outlined above, that history is of paramount importance. Moreover, the historical situatedness of family law within religious law and the subsequent debates which have arisen pertaining to gender equality iterates the importance of challenging these normative portrayals through an historical examination of the impact of secularism on women’s marital rights.

3.5 Comparative-Historical Analysis: A Qualitative Approach

This thesis endeavours to establish how secularism affected women’s marital rights in Egypt and Iran between 1920 and 1939. Whilst there are competing definitions of secularism and
its role within the state, the positioning of MENA family law within Islamic law is universally recognised. This thesis does not seek to contest the continued situatedness of this area of law in Islamic religio-legal jurisdictions, it does however, seek to challenge notions that it has remained untouched by secularism. This is not necessarily to indicate that secularism penetrated this aspect of law, rather it supposes that its position as an external factor, located within various state power structures, impacted on alterations made to these laws. To understand family law within this milieu, whilst observing divergent historical trajectories and cultural practices, comparative-historical analysis is adopted.

Comprised of an amalgamation of two diverging approaches, comparative-historical analysis enables ‘contextualising comparisons of similar and contrasting cases’ which contributed to its uniqueness (Mahoney & Rueschemeyer, 2003: 13). A comparative approach is advocated for research conducting ‘feminist cross-cultural work’ as it enables theorising of intersecting factors such as experience, history and location whilst emphasising ‘common differences’, thus providing stronger foundations for understandings to develop across differences as well as ‘unequal power relations’ (Mohanty, 2003a: 518). This method however, is not restricted to differences, with similarities being of equal importance in critical enquiry (Rajan, 1993: 1); this mode of analysis is therefore justifiable for this thesis as similarities and differences are sought within and across state boundaries.

Central to comparative analysis is the case study, and it is through the adoption of this framework that a more nuanced examination of the impact of secularism on matrimonial equality in Egypt and Iran can be achieved. Whilst there is no prescribed number of studies which should be used (Rowley, 2000: 21–22), Ragin (1987: 49–50) posits that studies of this nature work well with small-N projects with two to four cases being seen as manageable, possibly arising from conflicting results in large-N projects (Moghadam, 2013: 2). The rationale for adopting two cases in this context thus relates to the point of inquiry being patterns of development in family law, with a specific focus on matrimonial equality; therefore case study selection, as previously discussed in chapter one, is paramount as they need to be representative of the wider process. Secondly, a small-N project is justifiable for this research due to its qualitative nature which is grounded in historical approaches and methods, rather than producing a taxonomy.
The adoption of a small-N comparative-historical approach also enables researchers to move ‘between theory and history in many iterations of analysis ‘as a means of developing new ideas’ or refining ‘pre-existing theoretical expectations in light of detailed case evidence’ (Mahoney & Rueschemeyer, 2003: 13). Researchers adopting this method are also recognised for generally having a good understanding of their cases and are subsequently able to ‘measure variables in light of the broader context of each particular case’ (Mahoney & Rueschemeyer, 2003: 13). This attribute is recognised to increase levels of measurement and theoretical validity which is less likely to occur in large-N projects, whilst also enabling the researcher to see how variables could have different causal effects in different contexts and has thus been labelled ‘contextualized comparisons’ (Locke & Thelen, 1995 cited in Mahoney & Rueschemeyer, 2003: 13).

Working in conjunction with comparative methods, historical methods or historiography ordinarily occur when examining events or characteristics of phenomena which transpired at a specific time and place. In regard to this project, historical methods will be employed as a means of examining the impact of secularism on women’s marital rights in Egypt and Iran between 1920 and 1939. The significance of this era in relation to secularism and women’s rights pertains specifically to the secular nature of the state following governmental changes and foreign occupations, as well as the post-revolution environment in which the constitutions of both countries were established.

It is through the use of historical methods that the historian can attempt to reconstruct as much of human history as is possible (Gottschalk, 2006: 44). It is argued however, that this method has a tripartite construction, encompassing the ‘collection of probable sources of information’; ‘the examination of these sources for genuineness (either in whole or in part)’; and ‘the analysis of the sources or parts of sources proved genuine for their credible particulars’ (Gottschalk, 2006: 45). The historical overview provided by this research is therefore important because it provides insight into how marital rights and their situatedness in religious law are contemporarily conceptualised as a site of contestation.

The chosen number of cases and the comparative-historical approach, coupled with theoretical insight from post-colonial feminism permit qualitative insight to be sought. Within feminist work, Oakley (1998: 707) writes of the increased attention which has been
given to methodology since the 1960s, arguing that the gender binary can be understood to have emerged within it whereby qualitative methods appear to have been aligned with feminism and quantitative methods appear to have been affiliated with defending ‘the (masculinist) status quo’. Rationales for the preferred alignment of feminist research with qualitative methods include concerns such as generalisations which can arise from quantitative research, although concerns pertaining to description arise from qualitative approaches (Stanley & Wise, 1993: 6). Additional concerns regarding the use of quantitative research methods within feminist works include topical choices supporting sexist values, the exclusion or marginalisation of female subjects, superficial and over generalised results, and the researcher/researched relationship adopting an exploitative nature (Oakley, 1998: 709).

Concerns encompassing the employment of quantitative methods in feminist research have arisen around the ‘fitting’ of women into ‘methodologically conventional quantitative frameworks’ and the issues emerging from the statistical analyses which have occurred (Tickner, 2006: 36–37). Qualitative methods are not immune to feminist concerns, with Kitzinger (2004: 12) articulating apprehensions surrounding frequent claims within feminist work of representing experience or ‘reclaiming voices’ which are subsequently represented as ‘truth’. A possible explanation for this is however, due to the integral role women’s voices are seen to play in feminist qualitative research, with the change from voice to experience being common within this methodological approach (Kitzinger, 2004: 29). The feminist critique of methodological approaches has thus been viewed by Oakley (1998: 715) as placing new emphasis on the ‘extent to which different methodologies imply different forms of power relations...’

It is from the concerns outlined above that the adoption of a qualitative, comparative-historical approach is justifiable. Whilst trepidations towards qualitative methods have also been emphasised, the employment of a comparative-historical framework for this thesis permits continuous transitions between theory and evidence which is considered to be a rare occurrence in quantitative methods due to the intensity the framework provides. The adoption of two case studies for this thesis permits the emergence of more nuanced insights into the political contexts of the period immediately prior to that which is under examination. It will also permit insight into the pre-revolutionary epochs of each case and the political processes implemented. Additionally, contextualisation of each case prior to
1920 is integral so as to further contribute towards an understanding of political, national, and religious identities espoused by those actively seeking change, as well as those implementing it. Through this it becomes possible to focus on the experiences and identities of those involved in various processes, as well as the surrounding intersecting spheres of gender, class and power structures. Consequentially, a more contextualised understanding of the political situation and environment within which women’s marital rights are examined becomes possible, thus avoiding universalised representations occurring.

3.5.1 Finding and Analysing Sources: Interpreting Archives

A primary concern surfacing from historically based research is access to documents and reliance on secondary data. This reliance is criticised by Goldthorpe due to the potential for biases resulting from the researcher’s ability to choose between two accounts of the same event and the risk of data manipulation due to the historian’s theoretical understandings influencing their interpretation of the data (Lange, 2013: 144). These concerns can be directly related to access. For historical researchers access to (reliable) materials can be problematic, and whilst proximate access occurs where the observer and the observed co-exist; historical researchers have mediate access to the observed through sources due to their existences not being co-present. Subsequently, observations made by the researcher are reliant on indirect evidence from documents produced by other people in the past (Scott, 2006: 5). Due to the historically situated nature of this research, mediate access is the only possible form of obtaining data.

Whilst archival research itself is not a method of analysis, it is an integral method for source collection in historical research. One benefit of archival research is the vast array of sources available to the researcher and it is because of this that this mode of obtaining data cannot be aligned with a single methodology (Gallo, 2009: 264). Secondly, archival research is not restricted to use by historians, with it becoming an integral tool for scholars of other disciplines which are not solely reliant on empirical experiments (Gallo, 2009: 264). Finally, it is flexible with regard to the qualitative or quantitative nature of the project; however, it is normally associated with the former.
Although archives cover a broad spectrum of historical documents and span a large period of history, there are some disadvantages to their usage, with the primary one being availability and the different types of issues which arise within this. According to Scott (2006: 29), in order for a source to survive it needs to be deposited in a place which is likely to accommodate this, such as libraries or archives. Unfortunately this does not happen for all sources, with some being disposed of. The second issue is ‘weeding’, and this occurs when documents are assessed on their perceived value to the researcher or their suitability to be released to the public – for example, some sources may be considered too politically sensitive or may contain confidential information about individuals or institutions (Scott, 2006: 29-30).

Another issue which arises within archival research is that data is collected for non-scientific reasons and for the benefit of those collecting rather than those researching; the researcher is thus ‘at the mercy of any biases that may have occurred in collecting the data...’ (White & McBurney, 2009: 201). Fortunately, locating and obtaining sources within archives and libraries has not proven to be too troublesome, and this is potentially due to the period being examined falling within the colonial era. For this thesis, a number of different sources will be analysed, including historical monographs, memoirs (al-Sultana/Vanzan & Neshati (eds.), n.d./2003; Farman Farmaian, 1993; Shaarawi, 1987), biographical accounts (Sharawi Lanfranchi, 2012) and legal texts (Peaslee, 1950c; Wright, 1919b). By contextualising sources through these categories it thus becomes possible to further understand their purpose and target audience, as well as better understanding their author.

Initial results indicated that The National Archives (TNA) was the most fruitful with regard to relevant source materials. Emerging prominently within these searches were access to the (French) draft of the 1923 Egyptian Constitution (TNA, FO 141/516/7, 1922) and a report by colonial officers pertaining to the activities of Egyptian women activists (TNA, FO 141/511/6, 1924). A primary issue which arose from this archival research however, was access to documents concerning Iranian history with there being no access to the 1906 Constitution or reports on women’s activities. What was retrieved were two reports outlining the political situation in Iran during the period being examined in this research (TNA, FO 248/1369, n.d.; TNA, FO 416/112, 1932). Whilst TNA was unable to provide some of the
sources required to gain insight into the political climate of Iran during the early twentieth century, access to legal databases served to counter this issue.

Through these legal databases translated versions of both the Egyptian and the Iranian Constitutions were obtainable (Peaslee, 1950a: 721–735; 1950b: 200–205). Moreover, access to newspaper archives through the Wellcome Library provided insight into British representations of Egypt and British troops in Egypt as portrayed in The Illustrated London News. Another issue which arose during the research process was access to documents pertaining to women who were not of the upper echelons of society, thus the key women examined do lean the analysis conducted towards the experiences of more privileged women, thus this thesis does not claim to represent an overarching female experience. Rather it presents partial insights into the lived experiences of some key women, recognising that they are not representative of all women in Egypt and Iran.

A total of forty-one sources will be used for the analyses of Egypt and Iran in conjunction with the surrounding academic literature, with a ratio of 32:9 for primary to secondary sources occurring (see Appendix 2 for breakdown of sources). More specifically, Egypt emerges with a ratio of 19:4 and Iran 13:5; with the larger number of primary sources being used for Egypt potentially arising from its official occupation by Britain. Differentials between the numbers of sources used, reinforces the overarching prominence of primary sources in the later analyses, thus addressing concerns of the over-reliance of historic research on secondary data. Goldthorpe’s (cited in Lange, 2013: 144) criticism of a researcher’s ability to choose between accounts of a situation is also countered through the inclusion of diverging perspectives, thus limiting the potential for bias in this historically situated, qualitative project.

Another issue to arise from this is that of the researcher bias, whereby the expectations and hopes of the researcher regarding the outcome becomes active in producing results, thus threatening the validity of the research. In approaching this research, expectations regarding the effects of secularism, and more specifically the secular nature of the state, on women’s marital rights were present. It was anticipated that secularism would have had an effect of matrimonial equality in Egypt and Iran and that there would be similarities in how this occurred; but what was not expected was the manner in which rights were affected,
where the similarities and differences arose, and how this has continued to affect the secular nature of each state into the twenty-first century. One of the methods adopted to ensure that researcher bias did not threaten the findings of this thesis was through the inclusion of multiple accounts and interpretations of the events discussed, moreover, the use of several translations of documents ensured increased reliability for this research and lessened the risk of other researcher biases, thus speaking to Goldthorpe’s (cited in Lange, 2013: 144) assertion.

Stanley and Wise (1993: 218) claim however, that it is not solely the representative foundations of historical research which need to be examined, with all research involving ‘the production of the textual representation of a research reality’. Consequently, textual analysis will be used for source analysis. The application of this form of investigation to this thesis is neatly summarised by Edwards (2000: 8):

…it is often helpful to combine observation with an evolving theory—to identify the likely key factors and relationships among factors early in order to be better able to “see” and interpret historical cases with some sophistication. The purpose is to evolve good, structured insights, even if rigorous and precise conclusions cannot be drawn from the historical cases alone.

This form of interpretive analysis examines the underlying meaning(s) of a text, how it is interpreted by various actors, and its relationship to surrounding social contexts (Gephart, 1997: 584). Furthermore, it is argued that this approach:

...involves mediation between the frames of reference of the researcher and those who produced the text. The aim of this dialogue is to move within the ‘hermeneutic circle’ in which we comprehend a text by understanding the frame of reference from which it was produced, and appreciate that frame of reference by understanding the text. The researcher’s own frame of reference becomes the springboard from which the circle is entered, and so the circle reaches back to encompass the dialogue between the researcher and the text.

(Scott, 2006: 35)

The reflexive relationship between the researcher and the text consequently enables a greater sense of identity to be established regarding the author and the intended audience. In addition to this, a feminist research ethic encourages self-reflection on how we analyse our work through the application of the same criterion to each case, it also enables the recognition of unintended biases which may affect the interpretation of information being analysed (Ackerly & True, 2006: 137). This also directly relates to the aforementioned
reflexive relationship between theory and history and will subsequently reinforce the analytical framework adopted for this project through the reflexive manner in which theory, text, and researcher are linked.

This form of analysis can also be seen to understand culture as a form of narrative, with specific texts linking (both directly and indirectly) to larger aspects of society. It is argued however, that ‘It is difficult to speak of a politics of interpretation without a working notion of ideology as larger than the concepts of individual consciousness and will’ (Spivak, 1987: 161). This type of textual analysis therefore focuses on how identity formation occurs within texts for those using them. This method of analysis thus accounts for the issues raised against Western feminism by post-colonial feminists and enables a greater understanding of individual rather than universalising experiences. The analysis will thus occur within the framework of power structures (see section 3.3), focussing specifically on gender, colonialism and religion. Simultaneously, perspectives and interpretations of all sources used will inform the analysis in parallel with recognition of who the intended audience was and the original purpose of the document.

The application of this approach to various sources also needs to be addressed with regard to their intended and received content, with the former referring to the author’s intended meaning and the latter referring to meaning constructed by the audience. Once the researcher begins analysis, they then become part of the audience and recognition needs to be made of the perspectives and interests of the varying number of audiences it may be received by (Scott, 2006: 36). Within the context of this thesis, the utilisation of this interpretive approach will facilitate a comprehension of the language used in sources whilst also recognising the cyclical relationship between author and audience as will be evidenced through analyses conducted in the following chapters.

3.6 Conclusion: A Historical, Post-Colonial Feminist Approach

Feminism has evolved as a set of theories which permit gender (in)equality and sexual differences to be comprehended through different lenses. These lenses permit engagements to occur between gender, women’s rights and spheres which intersect with them, thus allowing more nuanced understandings of divergent experiences. Concerns pertaining to the homogenisation of women and frequent restrictions when researching
women within the MENA region to rights and gender based binaries within a religious paradigm are some things which are still proving burdensome in contemporary debates.

From the above discussion, it is apparent that there are close relationships between feminist research, qualitative analysis, comparative-historical analysis and textual analysis. Consequently, a qualitative, comparative-historical approach will be accompanied by a post-colonial feminist framework and implemented throughout the succeeding chapters. These chapters will examine whether normative family law was challenged and altered to accommodate a greater sense of gender equality within marriage; or whether legal alterations appeared to mask issues of matrimonial inequality, whilst maintaining conditional loopholes by which the normative structure of the family and gendered normativity within the state remained essentially unchanged.
Chapter Four

An Unhappy Relationship:

Colonial Power Structures in Egypt 1900-1919

4.1 Introduction

This thesis endeavours to understand how secularism affected women’s marital rights in Egypt and Iran between 1920 and 1939. The previous chapters have contextualised this research’s situatedness within contemporary political occurrences and existing scholarly works, with chapter three positioning it within a comparative-historical, post-colonial feminist paradigm. The purpose of this chapter however, is to provide the historical background to one part of this comparative-historical study. Throughout the analysis of the period 1900-1919, it will be possible to contextualise the ‘trial separation’ which occurred between Britain and Egypt and the effects of the British colonial power structure on aspects of socio-political life, all of which intersect with gender, marriage and the family.

This chapter subsequently serves to comprehend the effects of diverging power structures on women, family law and gender equality in the epoch immediately prior to that which is the point of examination in this thesis. Commencing with insights into the effects of British occupation, the first part of this chapter examines the significance of representations of Egypt and the British presence there. It also explores the socio-economic and political effects of colonising forces on the Egyptian peoples. The chapter then examines the effects of World War One on social, political and economic variables within Egyptian society which provides the foundations for an examination between economic concerns and declining marriage rates. This section therefore provides a point of transition to socio-economic concerns of marriage. Within this emerge discussions pertaining to the economic considerations of marriage and the problematising of foreign settlers and subsequent mixed marriages. From this it is possible to gain insight into nationalistic and cultural concerns arising from inter-national marriages and points of tension between Egyptian and non-Egyptian peoples.

The chapter then discusses the politics of resistance against occupation and patriarchy. The former includes the examination of resistance during World War One and subsequent events, such as the 1919 revolution; the latter pertains to the gendering of the revolution
which saw an increased female public presence. Throughout both of these discussions however, emerge cultural, political, social, economic, and gendered observations, including the (in)visibility of some social classes. The chapter then concludes by reinforcing the conjoined nature of these factors and their significance in providing the foundations for the later comparative analysis which will occur with regard to the effects of secularism on women’s marital rights in the following decades.

4.2 British Occupation: A Country Interrupted

The 1882 British occupation of Egypt was only ever meant to be temporary. Whilst quasi-independence was gained in 1922, Britain refused to relinquish complete control of the country until 1952. Numerous factors contributed to the repeated colonisation of Egypt by foreign powers, with a primary justification being orientalist perceptions of Egypt as the key to both the African and Asian continents (Said, 1978: 84). The relationship between Egypt and Britain was tumultuous, and prior to it Egypt had experienced unhappy relationships with France and the Ottoman Empire in addition to other forms of foreign occupation eradicating Egyptian independence (see section 1.3.2). Following the successful removal of French and Ottoman forces by the British, Egyptians sought the removal of British forces which culminated in the 1919 Revolution.

The British government’s removal of forces however, is recounted by Goldschmidt (1992: 1) as difficult. This is due to the development of hypothetical financial and administrative reforms which Britain believed necessary should the suppression of the Urabi revolution have proven insufficient (Farid/Goldschmidt, 1992: 1). Within a year of the British occupation, Lord Cromer was sent to Egypt under the guise of political representative and it was established that Britain’s, and subsequently Egypt’s, interests would be best served if the hypothetical reforms became realities (Farid/Goldschmidt, 1992: 1). Despite British presence in Egypt, prior to the establishment of the 1914 protectorate (Sadiqi & Ennaji,

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22 This notion was derived by Jaques Berque in his historical monograph of Egypt (1972: 102).
23 The Urabi revolution was a sequence of political and military events between 1879-1882 led by Colonel Ahmed Urabi who sought to remove British and French forces from Egypt. However, the revolution came to an end following an increased British presence and is perceived as responsible for the continued British occupation of Egypt.
2011: 58) Egypt remained under the hereditary rule of the Ali dynasty\(^\text{24}\) which followed the ‘Ottoman rule of succession’ and governors adopted the title of *khedive*\(^\text{25}\) (Goldschmidt, 1992: 1).

A prominent concern within the British colonial power structure however, was the representation of both Egypt and Britain to each other as well as to the wider international audience; with Cuno (2003: 265) positing that these concerns arose within the palace regarding public opinion within both Europe and Egypt. The significance of representation is reinforced by Spivak (1999: 113):

> In order to resist, we must remind ourselves that it should not be possible, in principle, to read nineteenth-century British literature without remembering that imperialism, understood as England’s social mission, was a crucial part of the cultural representation of England to the English. The role of literature in the production of cultural representation should not be ignored...

This depicts normative discourses of hegemonic Western portrayals which post-colonial theorists seek to disrupt (Hegde, 1998: 281). Representation goes beyond literary domains however, and ventures into the realm of the media, with newspapers providing one of the most common means of information dissemination amongst British peoples. Consequently, the representation of British troops was arguably just as, if not more important than the portrayal of Egypt, due to the need to reinforce the continued dominance of colonial power structures within foreign territories.

Between 1907 and 1908, *The Illustrated London News* produced at least three articles pertaining directly to Lord Cromer and his work in Egypt. Language used in the headlines ‘*The Maker of Modern Egypt: Lord Cromer, His Successor*’ (1907); ‘*And Landmarks of Egyptian History Under His Rule*’ (1907); ‘*Lord Cromer’s Egypt*’ (1908) and throughout the articles denotes a sense of ownership and superiority which subsequently imply that Lord Cromer’s work was not only raising the status of Egypt as a country, but also reinforcing the strength of Britain. This speaks to post-colonial feminism’s criticism of Western centric knowledge which in turn has resulted in endeavours to perturb powers of representing, amongst other things (McEwan, 2001: 100). The language used in these instances also

\(^{24}\) Following the convention of 1840, Egypt was to remain under the rule of Muhammad Ali and his descendants. Signatories included the Ottoman Empire and Great Britain, along with all of the other great powers (Goldschmidt, 1992: 1).

\(^{25}\) Persian term which roughly translates to ‘viceroy’ (Farid / Goldschmidt, 1992: 1).
reinforces Cohn’s (2013: 5) observation that rationales for colonising powers frequently related to perceptions of racial inferiority of those being colonised; thus underlining Western-centric portrayals and perceptions of Western, in this case British, superiority.

Four years later, ‘To-Day in Egypt’ (The Illustrated London News, 1912) provided British ‘insights’ into the behaviour of the Egyptian peoples. Throughout the article there is an obvious sense of pride in the developing resemblance to Western cities. Surprise at this achievement in some places is also evident through language such as ‘Even Port Said...’ however, the benefits of this development are only recognised to benefit Europeans in the region. The remainder of the article is gendered in two senses. First is the gendering of the state through phrases such as ‘...Young Egypt will never be right until he has an educated mother...’ This imagery implies that Britain’s primary role was to act as the educated mother to Egypt; moreover, Egypt is depicted as a young delinquent in need of guidance, subsequently reinforcing a positive understanding of the British occupation of Egypt amongst its readers.

The final part of the article pertains to Egyptian men. Derogatory references to male citizens as ‘dark skinned youngsters’ who ‘ogle’ English girls and speculation about their opinions of these girls further contributes to the young, delinquent portrayal of Egypt and its citizens, whilst simultaneously serving to reinforce Cohn’s (2013: 5) observation of rationales for colonising powers. Moreover, it implies the naïveté of English girls and their choice of friends. What the article does not say however, speaks in greater volumes than what it does. Omitted from this article are British men and Egyptian women and questions pertaining to British opinions of them consequently arise. It therefore becomes possible to query whether Egyptian women were seen as docile and unthreatening to British men, or whether British men were understood to be less naïve than the ‘girls’ who were seen to fraternise with Egyptian men. The perceived strength of the British man and the unthreatening nature of the Egyptian woman are thus expressed more strongly through their absence.26 Secondly, the use of ‘girl’ rather than woman places the English woman into the same category as children, implying that they need to be protected and guided. The

26 The alternating between British and English is intentional. Egypt was considered part of the British Empire, and thus denotes strength and capability. The term English is used to refer to female citizens and is considered here to represent innocence, possibly as an indirect reference to the ‘English rose’.
language used thus reinforces patriarchal overtones, whilst silences reinforce male strength as well as a positive depiction of the British occupation.

Despite the inclusion of the ‘English girl’ and ‘Egyptian man’ within this account, the article excludes female and Egyptian experiences, reinforcing the white, male, colonial narrative. It is the exclusionary nature of such universalised, Western centric accounts which (post-colonial) feminist theory seeks to disturb (Bethke Elshtain, 1981: 303). Within this context Connell’s (1987: 130) observation of the patriarchal state representing ‘a reverberating set of power relations and political processes…’ is reflected. Subsequently emphasis is placed on the importance of understanding gendered and colonial relations as sought by post-colonial feminism in situating the effects of secularism on women’s marital rights within an historic context.

In 1911, Lord Kitchener was appointed Agent and Consul-General, and it was under him that progress was seen to be made in the economic and social conditions of the Egyptian people (R.I.I.A, 1952: 2) and was presented as ‘The Strong Man for Egypt’ by The Illustrated London News (1911). Colonial power structures are thus reinforced in this portrayal of Lord Kitchener through his empowerment as ‘the strong man for Egypt’ over other individuals, concurrently serving to position Britain over Egypt. In 1913 a new organic law (Wright, 1919a) was promulgated, along with the creation of a legislative assembly of which some members were elected; however, this consultative body had no authority to initiate legislature, but it did have veto powers over tax (R.I.I.A, 1952: 2–3).

The language used throughout the law once again denoted ownership and control (‘our’, ‘us’) (Wright, 1919: 175,178) and modernity (‘enlightened’) (175); as well as a monogamous relationship to the khedive and subsequently Egypt (‘fidelity’) (177); and finally, it is emphasised that the development of government systems will not be a ‘servile imitation of Western methods…’(176) thus reinforcing the determination of the khedive to present Egypt as an independent nation and serving to threaten established British power structures. This determination could thus have contributed to his expulsion following the British overthrow of Ottoman control in Egypt and the implementation of the British protectorate over Egypt (Berque, 1972: 263). Indicative of the destabilising potential he wielded, his removal represents a means of reinforcing power in a country of perceived
importance to Britain. It also emphasises the hegemonic masculinity of the strong, white male within a colonial context which speaks to Connell’s (cited in Cohn, 2013: 4) perception that it functions to legitimise some men’s power over others, irrespective of sex. Consequently, this indicates the multifaceted effects of power structures and reinforces its effects on men as well as women; therefore reinforcing the socio-political effects of power structures within the context of occupied Egypt. Subsequently, the polygonal nature of power structures within Egypt during this epoch serves to historically contextualise the intertwined nature of different spheres and how they impacted upon women’s marital rights.

The social and economic restructuring which happened throughout these years is understood to have had a detrimental impact on women’s position within society. Golley (2004: 531) advances that the impact of the new capitalist system was an increased working urban population which resulted in a higher rate of competition. Consequently, a vast number of women became unemployed and were forced to return to the domestic sphere; however, this was, according to Golley, another means by which cultural identity was reinforced against the ever looming European influences whilst also reinforcing a pre-capitalist patriarchal structure as discussed by Bethke Elshtain (1981: 212). However, women’s rights had been emerging as a prominent subject area, with Western inspired feminists such as Qasim Amin arguing that the position of the nation could not be improved without advancing the position of women, and women’s rights thus emerged within a religious framework (Golley, 2004: 531-532). This Islamic framework is interpreted here as an oppositional move by Egyptian citizens against the secular politics and Western models which were being implemented, rather than opposition to the ‘foreign Christian regime’ they were critical of (Sadiqi & Ennaji, 2011: 63). Within this milieu it is arguable that the continued presence of family law within a religio-legal jurisdiction functioned to ‘protect’ the cornerstone of society from foreign socio-political threats.

Economic prowess was thus perceived as powerless in the face of nationalist prejudice (Sadiqi & Ennaji, 2011: 63) and contributed to another fear. This time, the concern faced the British and was a decline in power. According to Berque (1972: 263), by 1910 both sides of the argument for British occupation had occurred; moreover, by the eve of World War One, British prominence in Egypt appeared to be ‘utterly exhausted’. It is from this observation
that fluctuations in the strength of colonial power structures becomes prominent, however, in order to further understand these instabilities, it is necessary to examine them in parallel to variables such as war. Prior to this however, it is necessary to understand the impact of monarchical transitions during World War One, fluctuations in monarchical patriotism which occurred, and their subsequent implications for secularism and women’s rights.

4.2.1 Khedive, Sultan, King: Monarchical Transitions and Patriotic Fluctuations

Occurring during World War One, the monarchical transitions is pivotal in understanding the implementation of secularism in Egypt and therefore historically contextualising how the secular nature of the state shaped the development of women’s marital rights. Until 1914 Abbas Hilmi II, the seventh ruling member of the Muhammad Ali dynasty, was khedive (Sonbol, 1998: 1). Recognised as an enthusiastic nationalist, clashes with the British authorities began in 1893 when he sought to replace pro-British members of his government without the consent of Lord Cromer (Goldschmidt, 2000: 2). After 1894, Abbas was unable to publicly oppose British rule and secretly established ‘The Society for the Revival of the Nation’, which ‘became the nucleus for Mustafa Kamil’s National Party’ (Goldschmidt, 2000: 2).

Despite clashes with the British, peace was made and Abbas’ anti-British sentiment ended, whilst maintaining support for constitutional rule. Goldschmidt (2000: 3) suggests that the ending of his anti-British sentiment was due to the retirement of Lord Cromer – who he felt has attempted ‘to make himself the true monarch of Egypt’ (Sonbol, 1998: 12), and while his successor, Gorst, was in charge relationships with the British strengthened and he turned away from the nationalists (Goldshchmidt, 2000: 3). A reason for improving British relations emerges, as Gorst’s writings indicate that ‘he preferred the idea of working with the khedive’ (Hunter, 2007: 49), thus placing him in stark contrast to his predecessor. Through the adoption of this method, Gorst began improving relations with Egypt whilst simultaneously weakening the nationalist party. This more lenient approach, however, can be understood to have been detrimental to Gorst’s profile with cooperation potentially resulting in him being disliked by older British colonialists. Additionally, Abbas’s memoirs are recognised by Sonbol (1998: 6) as illustrating ‘the harmful effects of the “open door” policy on Egypt’.

113
Gorst’s perceived ability in Egypt was, however, questioned. Analysis of Britain’s role in Egypt (see section 4.2) emphasised the presentation of Lord Cromer and Lord Kitchener as strong, capable men. The apparent absence of representations of Gorst, indicate that his approach did not conform with more traditional colonial methods. Following his return to England, Lord Kitchener was appointed to this position and Abbas’ anti-British sentiment soon returned; however, by this time the power of the Nationalist Party had waned. Despite the disappearance of his anti-British sentiment during Gorst’s time, it is argued that it was his patriotism which saw him deposed in 1914 (Hassan, 2000: 49). His patriotism is reinforced in his memoirs (Sonbol, 1998: 177-178) when he says:

I cannot mention all those who, under my rule, devoted themselves to national rebirth; but those who defended the rights and liberty of women merit a place of honour.

Whilst language indicates that women’s rights were considered important, the emphasis on ‘those who defended’ raises questions about recognition, with ‘defending’ indicating strength and the ability to protect. In examining his account of this, recognition is paid to specific individuals who advocated women’s rights, however, closer examination reveals an emphasis on male advocates with a ratio of 2:4 (women to men) emerging. Moreover, whilst male advocates were recognised directly, Malak Hifni Nasif was recognised through her pen-name, Bahithat al-Badiya, with the other being identified by her husband: ‘Bishara Takla and his alert wife...’ (Sonbol, 1998: 178; fn 9). Consequently, whilst women’s rights have been recognised, and praise has been given to those advocating them, the lack of recognition or engagement with female advocates reinforces notions of the male strength.

Building on this, within the context of developments in education and studying abroad, Abbas wrote:

It pleases me to add here that we also did not forget that it was necessary to pay attention to the feminine element of our country, for centuries kept apart from national life, which was, however, already showing itself energetic and active here and there, following the example of what was taking place elsewhere in the world.

(Sonbol, 1998: 197)

In reference to this, Sonbol (1998: 197 fn 7) posits that this was ‘one of the few places where he discusses the condition of women’. Divergently, it is argued here that this does not refer to the position of women; rather, ‘feminine element of our country’ implies
disengagement from women and advocates of gender equality. Furthermore, ‘feminine’ stands in contrast to masculine; once again reinforcing binaries of strength and weakness.

Following his removal from power, the British offered the position to his uncle, Hussayn Kemil three times. Having declined the first two times due to his belief that Abbas was the ‘rightful sovereign’, he accepted the third offer following the threat that the dynasty would change and that a British candidate was in a nearby hotel (Hassan, 2000: 80). Subsequently, he was given the title of the ‘first “sultan” of Egypt’ (Goldschmidt, 2000: 83). Abbas’ (Sonbol, 1998: 325) observation of his removal and the appointment of his uncle, was that it ‘effectively sanctioned the unlimited extension of a so-called temporary occupation and entry into war, and the defence of Egypt became a uniquely British affair’. British prominence is further enhanced when Abbas (Sonbol, 1998: 325) recalls imposed restrictions which were placed on his uncle, resulting in the British Agent being the only person able to conduct ‘relations between the Egyptian Government and foreign Powers in Cairo’. Following his death three years later, Fu’ād ascended the throne, with his nephew being perceived as ‘anti-British’ (Goldschmidt, 2000: 59). Abbas (Sonbol, 1998: 140) indicates that his appointment was because he was seen as ‘an honest and ardent patriot’ with an ‘uncompromising attitude towards England’. Five years later, he issued a decree permitting him to change his title from Sultan to King.

From these transitions emerge several observations which build on Berque’s (1972: 263) notion that both sides were ‘utterly exhausted’. Firstly, the khedive’s inconsistency in nationalist and anti-British sentiment indicates more of an anti-individual sentiment rather than opposition to British occupation as a whole; and this has been evidenced in his diverging approaches to Lords Cromer, Gorst, and Kitchener. Subsequently, Gorst’s more lenient approach and the khedive’s altering approaches can be seen to have threatened the British colonial power structure. Secondly, Britain re-established its power through threats to the dynasty and the appointment of individuals with more pro-British sentiment. Thirdly, Fu’ād’s adoption of the title ‘King’ is interpreted here as showing increased allegiance to the occupying power. The appointments of Kemil and Fu’ād indicate the reinforcing of British control in Egypt, thus providing the occupying power with a stronger framework within which their secularising policies could be implemented, whilst not engaging with the private sphere and women’s rights.
The disengaged language of Abbas’ memoirs in reference to women and their rights reinforces the manner in which nationalism was prioritised. Whilst praise is afforded to specific individuals advocating increased gender equality, the prominence of men and the absence of direct references to women reinforces patriarchal power structures. Moreover, the independence of the nation is presented as more important, with references only being made directly to the British colonising power structure. The positioning of women within Abbas’ memoirs alongside restrictions imposed by the British and Fu’ād’s perceived loyalties to them indicate that the introduction of secularism via this power structure did not directly impact on women’s rights. Rather, these observations reinforce the above argument (see section 4.2) pertaining to how this emphasises hegemonic masculinity, with the strong, white male being representative of this within a colonial context. Whilst these transitions occurred, however, Egypt was embroiled in World War One, the effects of these power structures within this context thus become pivotal in historically contextualising this research and how the secular nature of the state shaped the development of women’s marital rights in the following decades.

4.3 An Era of War: 1914-1918

On November 7th, 1914 the Egyptian Journal Officiel published a proclamation outlining rules of conduct regarding British and Egyptian relations with the Ottoman Empire, as well as the presence of Ottoman ships in Egyptian ports. The absence of ‘any days of grace in which to depart...’ from these ports (1919: 436) suggests restrictions being implemented against Ottoman presence. Moreover, the above restrictions are understood here to indicate a degree of paranoia regarding a potential Ottoman threat to Britain’s position in Egypt. Later, in December 1914, another proclamation was issued, thus making Egypt a British Protectorate. The document indicates that it was Turkish action in the state of war which resulted in Protectorate status, and the termination of ‘The suzerainty of Turkey over Egypt’, and was considered to be in the best interests of the Egyptian people (1919: 436). The manner in which Protectorate status occurred and the British fear of Ottoman rule in Egypt, thus reflects Britain reinforcing control over Egypt through the adoption of ‘all measures necessary for the defence of Egypt...’ (1919: 436).
In addition to the removal of Ottoman authority from Egypt, the imposition of British ‘protection’ over it, and the restrictions against Ottoman ships in Egyptian ports, the two proclamations discussed above were not formalised until three and four months respectively after the onset of war in August 1914. This indicates the increase of threat perception from a British perspective over their ‘special position’ in Egypt during the first few months of conflict. Therefore maintaining control in the region and ensuring Egypt’s position as an ‘ally’ was of substantial importance to the British government. Subsequently, the establishment of such rules and the implementation of a protectorate speaks to the notion of ‘power-over’ (Yoder & Kahn, 1992: 382) (see section 3.3).

Egyptian involvement in the war was not optional, as ‘a part of the British empire’, it was automatically considered an ally of the British forces against Germany (Farid/Goldschmidt, 1992: 173). Prior to the aforementioned proclamations, British fears of colony revolts had been expressed and Muhammad Farid27 took it upon himself to write to the khedive, encouraging him to take advantage of this unstable period and declare an Egyptian constitution (Farid/Goldschmidt, 1992: 173–175). The letter implored the khedive to take his suggestions into consideration, and throughout repeatedly praised the khedive through language such as ‘exhalted’ and ‘Your Highness’. Additionally, Farid made it explicitly clear that he sought not to instruct the khedive in this matter; rather, he sought to encourage him to take it upon himself to deliver said constitution to Egypt. It is clear throughout that should he decide to take Farid’s advice, that the National Party and the people will support him and that Farid will assist him by instructing his colleagues in Egypt to work cooperatively with him. Additionally, the language used throughout the letter has religious overtones with references to ‘God’, the ‘Islamic ummah’, and the use of ‘amen’ (Farid/Goldschmidt, 1992: 173–175).

What this implies is not only the desire of an Egyptian nationalist leader, but also an attempt to remove secular influences from issues relating to Egyptian independence. The incorporation of religious language into the letter has been interpreted here as an attempt to reassert a religious and cultural identity of matters political. Finally, the use of ‘British’ to

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27 Muhammad Farid (1868-1919) was an influential political leader of Turkish descent. He was a nationalist leader, lawyer and writer in Egypt. ‘Close to Mustafa Kamil, Farid became one of his main political and financial backers’; following Kamil’s death in 1908, Farid became second president of the National Party (Goldschmidt, 2000: 53).
refer to the controlling government, and ‘English/England’ to refer to the occupying forces (Farid/Goldschmidt, 1992: 173) reinforces power through labels (see section 4.2, fn 5 for alternation between terms). The power of labelling is further supported by Spivak (2008: 209) who advances that ‘Asia’ reflects the direction of Europe’s gaze however, determining its first usage is impossible; thus reinforcing the Western-centric nature of geographic terminologies.

The outbreak of war not only highlighted fissures in the British front, but also immediately exposed weaknesses in the Egyptian economy. A critical concern was Egypt’s sole reliance on cotton exports as a source of income, as well as extensive European funding to market their sole product (Tignor, 1976: 42). Consequently, when war was declared, the British Protectorate over Egypt enabled them to prohibit sales to countries which were either considered to be or could act as suppliers to British enemies; thus reinforcing colonial power in Egypt through exportation restrictions. Subsequently, the demand for cotton declined dramatically along with its market value (Tignor, 1976: 42). This decline in exports as well as the value of cotton detrimentally impacted on Egyptian agriculture and economy, and can also be linked to declines in marriage due to increasing mahr demands from many families (see for example Kholoussy, 2010: 26) (see section 4.4). Additionally, export restrictions to enemies invoked by British authorities suggests that Britain was at least partly responsible for the economic crisis facing Egypt and can thus be viewed as another potential factor in the politics of resistance which was experienced in the immediate post-war era (see section 4.5) as a means of challenging colonial power which had ensured Egypt’s economic reliance on Britain. This also mirrors women’s enforced economic reliance on men within the family, thus reinforcing the prominence of international variables in understanding women’s marital rights.

As the war advanced Britain become more aggressive in their approach to Egypt in an attempt to control the entirety of the country. An increase in both British civil servants as well as troops, was accompanied by high inflation severely impacting on the majority of the population (Botman, 1991: 25). Whilst nationalist efforts were suppressed during the war, aspirations for independence grew (Baron, 1991: 285) as Anglo-Egyptian tensions increased,

28 The export value of cotton was seen to have declined from £E34,000,000 (1913-14) to £E20,000,000 (1914-1915) (Tignor, 1976: 42).
particularly due to British interests in the war appearing to be more important than the interests of the Egyptian state (Botman, 1991: 25).

By the end of the war, the Ottoman Empire was no longer an option in the struggle to remove British occupation, thus requiring alternative methods to be adopted in the quest for national independence. For Baron (1991: 285) the nationalist movement was seen to change direction and adopt for a form of liberal territorial nationalism. This change in trajectory was also understood to have been welcomed by women in the hope that it would assist them in advancing their rights. What this shift signifies is not only a move towards the hoped integration of women into Egyptian society, but also the hoped integration of Egypt into the international system as a sovereign, self-representing nation instead of being represented under the banner of British colonialism; thus a dual emancipation was sought.

Whilst France and Britain emerged as dominating powers in the MENA region, it was one area where they were seen to remain regional rivals. However, the war drained both countries, leaving them with few resources to distribute amongst their newly acquired territories. This, along with the impact of various mandates resulted in an increased presence of nationalist resistance. Instead of marking a new era in the ‘Eastern Question’, Goldstein (2002: 68) contends that this presented the same pre-war issues in a slightly different light; thus resulting in it being viewed as the same issue in a different world.

During this era, it is possible to establish numerous ways in which the Egyptian state, and subsequently the Egyptian citizen were affected by the British Protectorate. The unquestioned loyalty which was expected of Egyptians to the British during the war resulted, firstly in detrimental economic declines, and secondly in the forced conscription of Egyptians to fight. This, accompanied by the lack of resources available from the European powers to support and assist with recovery in the post-war era also contributed to the increased nationalist drive which resulted in the constitutional revolution of 1919 (see section 4.5.1). In addition to this, the family structure can be seen to have been damaged.

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29 The ‘Eastern Question’ refers to ‘the problem of who was to succeed the Ottoman Empire’ for territorial control in the Middle East. This was addressed by Britain’s ‘Eastern Committee’, who saw continued British control in the region as a central concern; primarily because it provided a ‘gateway to India’ and there were ‘potential petroleum resources. Those supporting the notion that Britain’s primary interests were in the Empire and shared concerns regarding ‘non-European elements of the post-war settlement’ were ‘old style imperialists’ (Lord Curzon) and ‘imperial reformers’ (Lord Milner) (Goldstein, 1987: 419).
through the period of economic downturn through increased unemployment and thus higher dowries, consequently questioning the effects of foreign influences on women’s marital rights and subsequently the formation of the family.

4.4 Marriage in Crisis: Part One

The family, as previously iterated in chapters two and three, represents the foundations on which (Islamic) society is based and a prominent criticism of European influences was the decline in the familial structure they believed was being brought into Egyptian society. The marriage crisis, as presented by Kholoussy (2010) uses the impact of economic downturn in Egypt as a framework within which Egyptian marriages can be examined. Here the concept of a marriage crisis is adopted, but the tenets of Kholoussy’s (2003, 2010) enquiries into marriage in Egypt during the early twentieth century will be amalgamated to present a double factor crisis, which can ultimately be seen to emerge from diverging economic issues. This will also contribute to an understanding of different manipulative methods adopted by French occupiers in Egypt as a means of deflecting blame from themselves onto Egyptian men (Talhami, 1996), thus reinforcing power hierarchies which occurred between colonisers and those being colonised.

4.4.1 The Economics of Marriage

A prominent concern which resulted from economic downturn (see for example Tignor, 1976) was the subsequent decline in the total number of marriages in Egypt. This presented socio-political problems, with the stability of the family being representative of state stability. Within this, one of the most prominent concerns was over bachelorhood which provided insight into political and cultural apprehensions, which were frequently seen to support ‘experiments in colonial modernity’ (Kholoussy, 2010: 6). What this omits however, are the effects or concerns pertaining to unmarried women; and this potentially relates to the prominent male role in marriage proceedings. The exclusion of women in this instance speaks to Yoder and Kahn’s (1992: 382–384) ‘interpersonal power over’ whereby an individual has power over another within the context of relationships such as marriage. For Rabinow (2008) however, claims to modernity need to be traced through the manner in which they are made, rather than attempting to define it. Adopting this approach, Kholoussy (2010: 6) argues that modernity in Egypt can be understood through the development of
the family, with ideas of colonial modernity being (re)produced as a circumstance for political independence.

A point of tension in this respect was the middle-class man, more specifically the bachelor, whose emergence as a distinct group was proving to be cause for great concern (Kholoussy, 2010: 6). Awareness of bachelorhood and decisions not to marry are also traceable to the pre-twentieth century epoch, and for Amin (1899/2000: 81) it was not

...an exaggeration to claim that the new generation of men prefer bachelorhood to marriage because they do not believe that present-day marriage will fulfil any of their dreams.

He believed that the man who assumed the sharing of good and bad days with a companion could be achieved through marriage was severely mistaken. Rather, he (1899/2000: 80–81) understood the marital contract to be a means by which patriarchal norms could be continued within the domestic sphere unless women were to remove the veil of ignorance they were shrouded in. For Amin, female understanding and awareness was to be primarily achieved through education. The low opinion of women and the patriarchal system he (1899/2000) promoted thus explains the absence of single women in discussions of matrimonial decline.30

Western dress was also considered a possible cause for this marriage crisis. Ahmad al-Sawi Muhammad (cited in Kholoussy, 2010: 7), outlined the dilemma facing most men in his journal al-Ahram:

You are the victims of this society that . . . gives you a paltry salary . . . and forces you at the same time to become an effendi, wear a fez and suit,... ride the tram, read the paper, and sit in a coffeehouse. But if you were, my brother, to wear a galabiya . . . you would find thousands . . . happy to marry you.

Another issue which contributed to declining marriage rates was that of mahr. According to the 1875 Egyptian Islamic Code of Personal Status a man should not be wronged with an excessive mahr, just as a woman should not be wronged by one too small. According to

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30 The stance taken by Amin shares similarites to Mary Wollstonecraft’s (1792/2004) in which a scathing overview of women is presented to the reader. This attitude is understood here to indirectly critique the patriarchal system and the restrictions which were placed on women. Through the criticism of women and their lack of rights, both Amin and Wollstonecraft can be understood to have circumvented obvious criticisms of patriarchal society whilst achieving exactly that. A prominent difference which emerges however, are critical perceptions that Amin sought to enhance male experiences through improving women’s status in specific areas (see for example Abu-Lughod, 1998; Ahmed, 1992).
Kholoussy (2010: 33), reformers sought more viable opportunities to marriage through the limitation of *mahr*, with excessive *mahrs* relating directly to the economic situation in Egypt having been touched upon (see section 4.3). With increased unemployment and a struggling economy, which was seen as the result of fighting in a war they had not chosen to participate in, it is likely that families elevated *mahr* prices, with most men being unable to afford them. From this, it is possible to see the inextricable link between foreign occupation, economic decline, and the private sphere which subsequently concluded in the politicisation of the private sphere as the normative structure on which society was based began to disappear. Whilst this aspect of the marriage crisis was male dominated, there were other factors which directly affected both men and women’s abilities to marry, with *mahr* concerns being focused on the excessive cost to men.

4.4.2 “Stealing Husbands”: Mixed Marriage in Egypt

The occupation of Egypt by French and British troops can be seen to have been problematic for Egyptian women, as with foreign occupation also came an influx of settlers. Two issues emerged from the presence of French women in Egypt. The first was the manner in which the French circumvented blame for patriarchal laws in Egypt in 1800 by influencing the female sector of society and instigating criticism of Egyptian men for restricting their rights in comparison to the French woman. Exposure to French women was understood to have encouraged the unveiling of some women as well as increasing fraternisations with French men. According to Talhami (1996: 2) this resulted in mixed marriages, some of which were illegal, others of which were legal following a compulsory conversion to Islam; thus indicating that legalities were reliant on religion.

The second issue was the ‘threat’ European women posed to Egyptian women. The notion of ‘threat’ emerged, according to Hatem (1989: 187), because European women were understood to ‘steal’ intelligent men. The subsequent mixed familial environment was understood to produce a generation of mixed loyalties; and this resulted in nationalist determinism adopting a gendered lens as Egyptian women sought to dissuade Egyptian men from marrying foreign women.

Mixed marriages however, were not the only point of tension between European and Egyptian women. Nabawiyya Musa (cited in Hatem, 1989: 187) advances another area of
contention was the perceived audacity of the European woman to seek the right to vote; which from her perspective placed Egyptian women in an inferior position. These rising tensions resulted in the portrayal of the working class European woman as manipulative for successfully ‘convincing’ middle class Egyptian men to marry them. Moreover, when challenged, Egyptian men justified their commitment to a European woman with the belief that they could transform her and any children into loyal Egyptians (Hatem, 1989: 188).

The impact of economic fluctuations on the private sphere not only placed pressure on issues relating to household expenditures, but also the amount to be asked for as mahr should a daughter be married. In addition to this both Egyptian men and women had to contend with their European counterparts as fraternisation with European peoples became more common. However, additional tensions, such as European women seeking the right to vote in Egypt, could thus be seen as a contributing factor to engendering political resistance in the struggle against British occupation. These concerns speak to Connell’s (1987: 121) observation that as a power structure, the familial environment is where socialisation skills are presented; as well as Urry’s (2011: 104–105) reflection that the family reproduces social order as well as maintaining the social structure. The potential threat of European spouses not only relates to concerns regarding national loyalties of future generations, but also contributes towards an increasing number of unmarried Egyptian women. Additionally, economic downturn and prerogatives which accompanied increased pressures resulted in unaffordable mahr prices. From this emerge queries pertaining to the increased presence of a public female voice, rights being sought, and women’s marital rights in the immediately succeeding era, all of which will be discussed in chapters five and six as a means of understanding the effects of secularism on matrimonial equality.

4.5 Politics of Resistance

Post-colonial feminism sits at the juncture of intersecting fields such as gender, class and race. It seeks to destabilise hegemonic, Western-centric assumptions of peoples in non-Western contexts and is thus pivotal in the examination of political resistance. The politics of resistance takes many forms whether it is through literature, art, or armed force. It is not only about that which individuals seek to oppose, rather, it also refers to the organisation of those seeking to resist. Within the Egyptian context of 1900-1919, it is possible to recognise
numerous forms of resistance which occurred against two primary backdrops; foreign occupation and patriarchy. From the above discussions, it is possible to ascertain that both men and women fought forms of oppression in their varying guises; with the predominant form being foreign occupation and the demand for national independence, and the second being the liberation of women. As has previously been highlighted (see section 4.2), literary portrayals have been integral to the development of normative, hegemonic discourses. Prior to the revolution however, nineteenth century Egypt witnessed the emergence of a genre of writing to be labelled as *autobiographical*. Women’s work was often submerged and not recognised as contributing to this genre and it was not until the turn of the century that feminist discourses began to emerge following publication increases in 1890 (Booth, 2013: 36).

The majority of these discourses were produced by Egyptian and Ottoman Syrian intellectuals, however, because they were not recognised as autobiographical, Booth (2013:36) argues that it is necessary to recognise them within other genre classifications. Despite this genre categorisation dispute, the ‘fragmentary, relational, and indirect autobiographical practices’ produced by these late nineteenth century texts, which reflected gendered writing restrictions, are also recognised as establishing some of the foundations for 1920s Egyptian feminism (Booth, 2013: 37). Marriage was also used as a framework within which male and female writers were able to critique Egyptian society and modernise the family. What must be recognised however, is the partial rather than complete adoption by Egypt of the Western model (Kholoussy, 2010: 6), thus ensuring the recognition of Egyptian identities in these developments.

The emergence of a female voice in literary spheres thus reinforces questions pertaining to the role of women in nationalist movements, and how this presence contributed towards vocalising demands for increased rights in the domestic realm. However, before this can be approached, it is necessary to understand the impact of foreign occupation and the First World War on Egyptian politics, thus providing a backdrop against which the emergence of women onto the political scene can be addressed.
4.5.1 Nationalism as Resistance

Nationalism, with reference to most of the ‘classics’, is understood by Al-Ali (2000: 40) to be represented as a ‘kind of monolithic or universal phenomenon’, with the singular of nationalism being challenged, in particular by post-colonialists. Until the advent of the First World War and the implementation of the British Protectorate, the dominant form of nationalist ideology was an Egyptian ‘adaptation’ of Ottomanism, and it is argued that this, along with the Ottoman suzerainty which accompanied it, were preferable to the extended British occupation (Baron, 1991: 283).

When discussing nationalism in occupied Egypt, Baron (1993: 244) reiterates Lord Cromer’s restrictive measures which were justified by his belief that ‘there is no such thing as an Egyptian nationality’. It is not that Baron sought to reinforce the justifications presented by Cromer, rather, it is understood here to represent the attitude of the occupying powers towards the Egyptian people. Thus the argument presented here is that by denying the existence of an Egyptian nationality, it was increasingly justifiable to try and impose British customs and thus develop an Anglo influenced nationality for Egypt and this is what nationalist groups were trying to resist.

Tripp (2013: 10) reinforces this view by arguing that after enduring this extended period of imperial domination, resistance (in the Middle East) was considered to be both a religious and national duty against ‘alien forces’. Imperial domination was also viewed as a hegemonic system which sought to dominate the globe which presents itself under the guises of secularism, liberalism, and capitalism, with imperial history being seen as ‘a 200-year’ campaign to dominate the Middle East (Tripp, 2013: 178). This echoes Fanon’s (1963) Algerian observation in which the superiority of the colonising power is amply recognised; however, as has been evidenced, there is no overarching historical experience due to differentials arising between countries and individuals; thus the homogenised historical experience, not only of the MENA region, but more specifically Egypt has been further dislocated.

During World War One, Egypt was re-classified as a British Protectorate under the guise of protecting the Egyptian nation from the threats of war. In reality however, this was likely a cover for the prominent position of British security being above that of the Egyptian state,
and despite its previous association with the Ottoman Empire, Goldstein (2002: 67) posits that British domination preceded the advent of war. However, it is argued (R.I.I.A, 1952: 4) that this involuntary incorporation into the British Empire represented the demise of Egyptian identity as it became recognised as a British colony. Moreover, the experiences and impact of the war on Egypt can be seen to have been a prominent trigger in the elevation of national sentiment. This is understood to have been further reinforced by President Wilson’s theory of self-determination; with Egyptian nationalists determining Egypt’s new position as not only a sovereign state, but also as the leading Muslim state. The nationalist sentiment among Egyptians was thus successfully and energetically championed by Sa’ād Zaghlul31 (R.I.I.A, 1952: 5).

The effects of foreign occupation and war coupled with the denial of an Egyptian nationality are understood here to be the root causes of the 1919 revolution in which nationalist demands for Egyptian independence were vocalised. Tripp (2013: 180) reinforces this understanding by arguing that the system of ‘imposed forms of behaviour’ as experienced by Egypt, and other territories in the MENA region, justifies the terminology of ‘resistance’ as those who have experienced it seek change or the overthrowing of said regime.

From 1919 until 1922 when Egypt became quasi autonomous, the nationalist call that echoed throughout parties was that of complete Egyptian independence. Jankowski (1991: 259) posits however, that independence did not only refer to the liberation of Egypt from the British Protectorate, but also from the remnants of Ottoman rule. Moreover, no alternative external affiliations were provided by those, primarily the Wafd party,32 who represented Egypt (Jankowski, 1991: 259–260); thus reinforcing the determination of the Egyptian citizens to recover from foreign occupation and war, and present Egypt as a strong, independent state.

Egyptian resentment of British occupation can thus be seen as one of, if not the strongest motivating factors in the emergence of the 1919 revolution. Within the Egyptian population, ‘the lower segment of Egyptian society’ suffered numerous economic hardships which,

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31 Zaghlul Pasha was an Egyptian statesman, leader of the Wafd party and nationalist movement (1918-1919) and was Prime Minister briefly in 1924.
32 The Wafd party was established in 1918 and was a national delegation which claimed to represent Egypt in its search for independence (Botman, 1991: 55).
according to Tignor (1976: 44) were effective in the development of rural and urban discontent. Additionally, the Egyptian press played a significant role in highlighting the exploitive nature of foreign business in Egypt. Within the call for independence and a recognised national identity, emerged demands to develop Egyptian controlled and financed companies which would have a ‘more sympathetic’ outlook (Tignor, 1976: 44). It is thus the situating of post-colonial feminism at the intersection of spheres, with interests in aspects of political economy, which brings economic concerns into this thesis as political resistance sought not only the removal of colonising powers, but the subsequent effects of this power structure which filtered down through and spilt over into diverging sections of society.

The socio-economic, national and international issues which were raised during the revolution can all be placed under the umbrella term of nationalism. This is not because national identity was more prominent, but rather because it addressed independence as a whole. Under this umbrella, it is possible to recognise various factions which emerged demanding independence within the country as well as the ability to represent themselves as independent. Thus within this broader nationalistic framework, traditions and institutions which were considered to be directly threatened by foreign powers were frequently adopted as symbols of resistance. The consequences of this, according to Megahed and Lack (2013: 205), can be seen to have taken the form of an anti-European sentiment, including the notion of gender equality. Subsequently, this questions the prominence of gender equality in the revolution and the impact of occupation and resistance on women’s marital rights in the immediately succeeding era.

4.5.2 1919 and the Gendering of Resistance

The 1919 constitutional revolution is not only recognised for its achievements in attaining the development of an Egyptian constitution and quasi-independence (1922), but also for being the environment in which women’s resistance became more prominent. Prior to the revolution, women were rarely recognised as being involved in the national struggle and this period in Egyptian history represents the point when nationalist activities shifted to a feminist orientation (Baron, 1991: 272). However, Baron (1991: 272) argues that the establishment of the 1919 revolution as the turning point in Egyptian feminist politics has
resulted in the overshadowing of previous (non) feminist happenings prior to this event. This reinforces Spivak’s (2010: 61) observation of the disappearance of women as a result of the patriarchy-imperialism relationship and moreover, the universalised representation of the ‘third-world woman’ who is situated between tradition and modernity.

An important relationship which arises from this discussion is the one between nationalism and feminism and how different socio-political environments can be seen to affect trajectories. Furthermore, Al-Ali (2000: 45) reiterates Yuval-Davis’ (1997:116) argument that it is problematic to conceive of a single category of men and women as:

Differential positionings in ethnic, racial, class, age, ability, sexual and other social divisions interface with gender divisions, so that although women usually are constructed and treated by various agencies as different to men, “women” as well as “men” do not constitute homogenous categories as either social agents or social objects.

Secondly, the role of women as the possessor of cultural values, traditions and community symbols must be emphasised as a means of recognising the variety of positions held by women in the national collectivity. Despite this, women are frequently relegated to ‘object’ rather than ‘subject’ and are thus commonly excluded from the wider group (Yuval-Davis, 1997: 116 in Al-Ali, 2000: 44).

Whilst it is recognised that some groups such as the EFU were born from the 1919 revolution, arguments have been put forward (Fluehr-Lobban, 1980: 243) that such groups were not in existence prior to this nationalist event. It is however, debatable as to whether nationalism can be seen as responsible for the emergence of feminism. Whilst there is no denying that strong correlations exist between the Egyptian nationalist movement and the emergence of feminist groups in 1919, it is crucial to recognise the presence of feminist work and activities prior to this period.

For Baron (1991: 272), the “woman question” in the pre-1919 epoch is represented primarily through the works of male advocates of reform (Qasim Amin) or those who opposed it rather than from a female perspective. This restricts historical understandings in the development of a feminist sentiment within Egypt. Not only does the fixation on the 1919 revolution as the point of departure for such groups detract from activities prior to this
period; but the use of male work as the primary source of information removes the female identity from women’s history.

Whilst the term ‘feminism’ is multifaceted and there are risks associated with the amalgamation of women’s history under this umbrella term, Conway (cited in Baron, 1991: 273) distinguished between two types of feminist. The first is the ‘enhanced-authority feminist’, who seeks to increase women’s roles within the private sphere; and second is the ‘equal rights feminist’ who seeks equality with men in social, political and economic spheres through the removal of boundaries of separation. Whilst Conway’s work initially focused on eighteenth and nineteenth century America, Baron (1991: 273) understands it to be of great relevance to discussions on early twentieth century Egyptian women, and thus places these women in the framework of ‘enhanced-authority feminists’.

The focus of women’s rights advocates during this era and the manner in which they have been understood is thus reinforced by varying understandings of relationships of ideas, beliefs and identity and how they all relate to social action. Therefore reinforcing the primary tenet of Tripp’s (1996: 51) thesis which is that ‘people have the capacity to choose their symbolic vocabulary according to their perception of their interests at the time’. Whilst this argument was provided in relation to the Islamic state, notions of symbolism, identity and belief can all be applied to the nationalist movements of 1919, as well as (self) portrayals of women.

Despite debates over the impact of nationalism on the emergence of the feminist movement in Egypt; the correlation between nationalism and feminism is strong, with feminist groups drawing on nationalist motivations in an attempt to achieve their goals. It is argued here that feminist activities during this time had two primary objectives. The first was to assist in the emancipation of Egypt from foreign powers; the second was to liberate women through the advancement of education and increased domestic equality. In addition to this, it was not during the 1919 revolution when concerns about liberation of women were first voiced, it was however, possibly the first time in which they had been voiced in this manner. Thus insight is to be sought into the impact these demands had on matrimonial equality between 1920 and 1939.
Throughout this epoch of Egyptian history, some women involved in the feminist movement viewed ‘men as valuable allies’ and are understood by Hatem (1989: 187) as explaining the negative attitude adopted by Egyptian women in reference to mixed marriages (see section 4.4.2). Their role in ‘emphasizing moral influence as mothers’ was also problematic (Baron, 1991: 284), thus indicating concerns about their own marital rights and future generations.

What is interesting to note however, is the deference of blame onto European women and foreign powers rather than onto Egyptian men (Baron, 1991: 284). This represents several stances adopted by Egyptian women, which speaks to the aforementioned value men were perceived to have. The first justification for not attributing blame to Egyptian men for women’s subjugation is that it provided a medium through which calls for reform and increased gender equality could be made; second is the possible recognition of male oppression under foreign powers. Finally, European women were seen to have been more threatening than may originally be recognised. The primary difference between foreign occupation of the nation and foreign occupation of the home was the direct involvement of the family, and the impact mixed families could have on future generations and subsequently the state; therefore questioning the extended effects of colonial power structures on the family. Whilst this does not directly contest assumptions that colonial authorities were reluctant to interfere in areas of family law, as recognised by Asad (2003: 227), it does highlight the intersecting nature of colonialism and marriage within the Egyptian context. Furthermore, this colonial impact raises questions about the effects of secularism on women’s marital rights in Egypt in the post-1919 revolution environment.

Women made their presence in the 1919 revolution known when thousands descended on the streets in the ‘March of the Veiled Woman’ which sought independence from Britain (Fluehr-Lobban, 1980: 238). Later, in 1923, it is argued that groups such as the EFU developed as a result of the events of the revolution. However, this was not the first group to have been organised by Huda Shaarawi who had assisted in the development of Mabarat Muhammad ‘Ali (Muhammad Ali Institute, 1908) which provided sewing classes for less
fortunate women and medical assistance for women and children (Talhami, 1996: 12); thus emphasising co-operation between classes and across fields.

It was not only Muslim women who contributed towards the nationalist effort. The events of 1919 also brought forward women from conspicuous Coptic families such as the Wasefs, Iskanders, and Hannas (Talhami, 1996: 10). However, the visibility of these prominent women could have contributed towards criticisms of the bourgeois classes dominating movements, thus indicating class divides within Egyptian society. Whilst these divides did exist, it is argued here that the achievements made by those advocating gender equality, no matter how small, affected all classes; and whilst the voices may have been elite, it does not necessarily mean that all of their support was too.

The 1919 revolution represents a stepping stone in Egyptian women’s political history. Due to the already existing female voices which were emerging through outlets such as literature and media (primarily journals), as well as the voices of male advocates for reform, this event is seen to represent the next phase in women’s history, rather than the beginning of it.

4.6 Conclusion: Women, Power Structures and the State

Traditionally, Egyptian women have been omitted from public politics; but in recent history an increased visibility of women in the public sphere has ensued with some having actively participated in political discourse, often ‘under the banner of nationalism’ (Fluehr-Lobban, 1980: 236). This chapter has examined early twentieth century Egyptian history up until 1919, including observations on the revolution which occurred in the immediate post-war era. Against backgrounds of foreign occupation, monarchical transitions, and involuntary accession into war, it has become possible to understand the context in which feminist and nationalist voices began to emerge more prominently.

For Fluehr-Lobban (1980: 236-7), who sought to undermine the ‘myth’ of Arab women’s conservative and a-political status, it is not customary for the West to contemplate the position of Arab women in the political sphere and thus the media are less inclined to

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33 Princess ‘Ain al-Hayat helped Sha’rawi in the development of this group. Later in 1914, these two women established Jam’iyat al-Ruqqi al-Adabi lil-Sayyidat al-Misriyat (The society for literary advancement of Egyptian women) and Jam’iyat al-Mar’ah al-Jadidah (The society of the new woman) which provided women with access to lectures on topics such as art, literature and music (Talhami, 1996: 12).
portray Arab men or women within the context of the national struggle for liberation. This speaks to Briggs and Sharp’s (2004: 664) observation that post-colonial theorists have queried Western academics preparedness to engage with non-Western peoples, which in turn requires the decentralisation of these academics as experts.

The position of women within Egyptian society has, for the most part, maintained the traditional overtones of the public/private dichotomy. What can be evidenced from the discussions which have occurred throughout this chapter is that a feminist consciousness in Egypt was evident prior to its emergence in the 1919 revolution. That is not to say that the revolution did not assist in advancing feminist voices, rather it is emphasised here that greater attention needs to be paid to the pre-1919 feminist works and the advancing of gender equality in the Egyptian state.

Attention also needs to be paid to ‘protocols’ following marriage. According to Berque (1972: 563), following their nuptials in 1919, which King Fu’ad had postponed until he had successfully established a ministry he deemed appropriate, Safinez was required to change her name to one beginning with F; which was understood to then place her ‘in the category of King Fu’ad’s children.’ This act alone speaks volumes as to the position of some women, implying that some women in the upper echelons of society were viewed in a similar manner to children, thus reinforcing the patriarchal order within the family; whilst also setting a precedent for maintaining the normative familial structure amongst Egyptian citizens. Moreover, this is understood as signifying submission to her husband, therefore implying his attainment of a fatherly status and her requirement to obey. Through the altered perception of women, this speaks to the hierarchical relationship between parents and children as espoused by Locke (see section 2.3) (Eisenstein, 1981: 34–39).

From the above discussions it has been possible to contextualise several things. First is the presence of the British in Egypt, the impact they had on politics, monarchical transitions, and Egyptian perceptions of them through events such as the 1919 nationalist movement. It has also been possible to establish the manner in which British presence in Egypt and the Egyptian people were presented to the British public through The Illustrated London News. Not only has this highlighted the orientalist overtones in British representation of Egypt, but the denial of nationality has also indicated that Britain did not necessarily regard Egypt as an
Arguably the most significant impact of the British on Egypt was the involuntary accession to World War One. In addition to human losses, nationalist sentiment was that the representation of Egypt as a British colony eradicated the Egyptian identity; the economic effects of war were also felt heavily across the country, especially amongst landowners.

The detrimental effects of war on the Egyptian economy have also been seen to extend beyond the realms of trade and employment into the family. Through each of these different discussions, the politics of resistance emerges as a prominent point of contact. Calls for the political and economic emancipation of Egypt from Britain, alongside calls to liberate women from patriarchal systems of oppression and the increasing threat of European-Egyptian marriages echoed this. What remains to be seen however, is if the increased visibility of feminist movements and the quasi independence of Egypt (1922) as a result of the 1919 revolution, provided an environment rich enough to further establish a feminist voice. Moreover, the question still remains as to whether the manner in which secularism was introduced to the state through British occupation affected women’s marital rights in Egypt?
Chapter Five

The Tug of War: Power, Politics and Resistance in Iran, 1900-1919

5.1 Introduction

This research endeavours to comprehend how women’s marital rights in Egypt and Iran were affected by secularism between 1920 and 1939. Previous chapters have located this point of inquiry in contemporary events, academic literature and a qualitative, post-colonial feminist paradigm; with the previous chapter functioning as the first part of the historical background for the chosen case studies. The purpose of this chapter is to compliment chapter four by providing the historical background to the second part of this comparative-historical study. Throughout this chapter, the analysis of the period 1900-1919 will permit the contextualisation of the effects of foreign power structures on socio-political life in Iran, all of which relate to gender equality, marriage and family law, and how they were influenced by ‘internal’ secularism.

The investigation which occurs in this chapter therefore serves to understand the impact of various power structures on gender equality, women and family law in Iran between 1900 and 1919. Beginning with insights into the effects of the 1906 Constitutional Revolution, socio-political contextualisations are sought in relation to demands being voiced as well as those who participated. The chapter then moves to examine the gendered nature of the revolution through the increasing prominence of women in the public sphere. Throughout these discussions arise socio-political, cultural, geographic and gendered observations pertaining to methods of resistance and the (in)visibility of some social classes.

The chapter then examines the 1906 Constitution and its various periods of implementation; highlighting alterations and its initially discontinuous nature. The chapter then studies the effects of British and Russian power structures within Iran, as well as the impact of World War One. Moreover, the conflicting relationship between Britain, Russia and Iran, and the looming fear of Ottoman imperialism in Iran essentially resulted in a tug of war between the two great powers, with Iran seeking to maintain control of its affairs. It is also during this discussion that the circumstances surrounding Reza Khan’s emergence are
clarified. The final point of examination for this chapter is thus the monarchical transition between the Qajars and the Pahlavis. The chapter will then conclude by emphasising the intersecting nature of these factors and their significance as the backdrop against which the later comparative analysis on the effects of secularism on matrimonial equality will be situated.

5.2 Political Resistance and the 1906 Constitutional Revolution

Situated at the intersection of gender, class and location, post-colonial feminism enables insights into experiences which have previously been omitted or homogenised. It is within this milieu that comprehensions surrounding the Qajar dynasty, reforms and the 1906 Constitutional Revolution are pivotal in understanding the era immediately prior to that under examination in the following chapters.

Spanning over 129 years, the Qajar era is recognised as a period of ‘cultural and artistic contributions and of important popular movements’, it represents a key point in the transitional process between pre-modern Iran and the later societal and cultural modernisation (Keddie, 1999: 1). Keddie (1999: 2) contends that whilst under Qajar rule, Western perceptions of Iran were that of a ‘backward Oriental society with very different and often irrational values’. Those writing on the subject often displayed sympathy for movements such as the Babis, or the revolutionaries (1905-1911) who represented religious and political opposition. Keddie’s perception thus speaks to the concerns highlighted by Said (1978), whereby Western representations became normative.

This era also heralded some significant changes, such as the reestablishment of a ‘durable central government’, policy reformation pertaining to foreign threats, as well as aspects of social and economic modernisation which were accompanied by some disruptions (Keddie, 1999: 14). Additionally, Keddie (1999: 16) notes that during this period, women of the upper classes were heavily veiled when leaving the private sphere, with more freedoms being granted to them within the domestic realm. Conversely, women of the more rural classes, specifically peasant and nomadic pastoral, remained unveiled and did not experience such extreme seclusions, with many working outdoors, as well as continuing with their domestic work. Recognition of diverging roles and experiences across class boundaries and geographic locations therefore serves to refute homogenising representations such as those
problematised by Keddie (1999) and Said (1978). However, despite the greater amount of work rural women conducted throughout their property, urban women were more likely to inherit and control properties, as was prescribed by the Qur’an; with royal and tribal women occasionally exercising ‘considerable political power’ (Keddie, 1999: 16).

Abrahamian (1974: 11) posits that Western observations and interpretations of Qajar politics were that they fundamentally lacked the tools for the effective implementation of their power, despite contemporary visitors awe at their all-encompassing power. Disparities between these interpretations are potentially due to framework differentials for observers. The overarching power which visitors remarked on could be primarily understood from a socio-cultural perspective, whereas the waning power and lack of appropriate apparatus could be framed within a political discourse, thus reinforcing the importance of perception and interpretation and their equally subjective roles.

In an attempt to strengthen their position and potentially develop tools to enforce their power, the Qajars developed new institutions; however, those recruited are believed to have undermined Qajar thinking. The newly developed intelligentsia indicates this as those involved described themselves as *munaver al-fekr* (modern intelligentsia or Enlightened thinkers) and had been exposed to Western customs and thought, such as the ‘March of Human Progress’ rather than the revelation of God’s will, as was believed by the ‘ulama (Abrahamian, 1979: 395). Additionally, the ‘Western challenge’ along with the Qajar response resulted in structural changes at the societal level. The first, according to Abrahamian (1979: 393) was the incursion of mass manufacturing, modernisation and commercialisation of various sectors, as well as the development of monopolies which resulted in the forging of a ‘middle class consciousness’ due to its effects on bazaars. Moreover, the development of a secular education system, increasing the central administration and the ‘development of a small but vital salaried middle class’ all contributed to the changes and the emergence of a new middle class (‘modern intelligentsia’). This evidences the expansive ramifications of reforms throughout social classes, emphasising the spill over effects and the inclusion of all levels of society regardless of diverging effects. It also evidences the establishment of an ‘internal’ secularism whereby institutional structures began to be modernised and provided the foundations for Reza Khan’s later project.
For Tripp (2013: 252-3), political resistance is especially discernible in the ‘post-colonial Middle East where the definition of national identities has been integral to the struggle for power.’ However, as the twentieth century progressed, discontent with foreign interference, the government, and the absence of a constitution grew. With over ninety-five per cent of the population being Muslim, Cottam (1979: 75) argues that ‘a near unanimity has characterized the country for several centuries’ and the ability of the religious minorities such as Zoroastrians, Jews and Christians to cope with relatively little hindrance speaks volumes with regard to ‘the tolerance of Islamic Iranians’. With the emergence of Iranian nationalism, Cottam (1979: 75) argues that feelings of solidarity would potentially have been easy due to the majority of the population being Muslim, and this may have reinforced the élite position of Shi’i Muslims. However, due to the intrinsically secular characteristics of nationalism, it is argued that the exclusionary atmosphere which may have initially been felt by the minority populations could be (partially) overcome through the uniting of peoples of different religions through a common allegiance (Cottam, 1979: 75). This is partially evidenced through the public emergence of women and the vocalisation of their public and domestic concerns. Consequently, the predominantly secular nature of nationalism and the emergence of women raise questions about secularism’s effects on women’s marital rights.

Diverging from socio-religious aspects, the prominence of official Islamic leaders and their relationship with the current system becomes integral. For Akhavi (1980: 25), the involvement of the ‘ulamā’ in the constitutional movement proved to be a strong demonstration of the intersection of religion and politics, with the majority of these Islamic leaders agreeing with those seeking freedom. It is however, during this period that the Shah sought the aid of Russian forces following his defeat by the constitutionalists, thus resulting in him reversing the initial outcome and triumphing against them; this was however, once again reversed, resulting in the overthrowing of the Shah in favour of his more passive replacement, Ahmad Shah (Akhavi, 1980: 25). The motions of the constitutional revolution were arguably not new to the Iranian peoples, with the Tobacco Protest (1891-1892) being viewed as a trial for the revolution itself (Afary, 1996: 17). What emerges from this is thus indicative of deviating levels of social collective action, with the intersecting nature of class, gender and location become increasingly prominent as diverging levels of discontent arose throughout the country, with varying experiences evidencing different impact factors.
The Tobacco Protest was not alone in impacting on the political climate of early twentieth century Iran. Developments during the late eighteenth and early nineteenth centuries contributed to the clergy-state hostility, and Algar’s (cited in Akhavi, 1980: 25) study compares the ‘ulamā’’s swelling power during the era of Qajar rule to its relative weakness during the Safavid epoch. Despite modifications in strength, both the Shah and the ‘ulamā’ are understood to have interpreted the daulat (state) and din (religion) as separate yet intertwined entities, with survival of both being reliant on the other (Bayat, 1991: 21). Members of the ‘ulamā’ active during the revolutionary period are also believed to have drawn on familiar language previously used against the Shah during the nineteenth century, with accusations of tyranny and corruption being made (Akhavi, 1980: 25).

Afary (1996: 12) posits that the Constitutional Revolution (1905-1911) enables the study of the multifarious issues in the Third World, such as Western imperialism, internal and external pressures to implement Western models of modernisation, calls for democracy, women’s rights and conflicts involving religious institutions. The revolution thus serves to reinforce the intertwined nature of different fields, reinforcing the necessity of recognising broader, deviating impacts and experiences. The post-colonial feminist emphasis on location also becomes apparent as public discontent was not restricted to Tehran, with regions such as Tabriz and Shiraz becoming involved at separate instances. However, most events remained within the capital due to the vast majority of religious leaders and merchants residing there (Cottam, 1979: 93). Following the establishment of the constitution however, regional disparities in governmental approval became visible. Cottam (1979: 93) posits that the urban north strongly embraced the movement, whilst in the south minimal responses were heard and villages generally indicated no response, with this disparity potentially being due to larger middle class populations residing in the north.

Public discontent with the Shah continued into the twentieth century, with extravagances being a source of dissatisfaction amongst people. Of particular concern were indulgences in land sales and his insistence on continued pensions, which were often inheritable; he is thus seen to stand in opposition to Amin od-Dauleh’s (1897-98) proposed reforms (Keddie, 1969: 8–9). However, disillusionment with the Shah and the intertwining of religion and politics were not the only contributing factors resulting in an Iranian constitution.
For Foucault (1982: 794), power relations are ‘a strategy of struggle’ whereby confrontations arise. This is visible within the Iranian context whereby the increasing presence of Western powers contributed towards a heightened sense of nationalism, with many slogans pertaining directly to sovereignty. Whilst external influences contributed to strengthening the movement, external conflicts and colonial endeavours served to reinforce the determination of the revolutionaries. Evidencing this is the Japanese defeat of Russia (1905), with Japan becoming a symbol of progress against dominating powers in Asia, especially amongst the Iranian peoples (Browne, 1910: 2).

The Russian Revolution (1905) also impacted Iranian politics and economics, with their economy further deteriorating due to the voluminous amount of trade which occurred between the two countries (Afary, 1996: 50). Moreover, inflation saw sugar prices increase by thirty-three percent, and wheat by ninety per cent, thus further heightening discontent throughout the country. The economic situation was further aggravated by the custom tariffs of two years previously, subsequently resulting in merchant strikes (1905):

Between spring of 1905 and summer of 1906 three sets of strikes and protests took place, sometimes concurrently, in Tehran, at the Shah ‘Abd al-‘Azim Shrine outside Tehran, and in Qum. Each strike attracted a broader number of participants; the earlier ideas of a house of justice and a representative form of government were now popularized and radicalized, leading ultimately to the creation of a much broader institution of democracy in the Majlis. (Afary, 1996: 51)

Increased popularity for a more centralised, representative government indicates that political instability and a reliance on external sources were seen as the root causes of such extreme inflation. In December 1905, a second set of strikes were triggered by the forceful actions of Tehran’s governor, ultimately demanding decreased sugar prices in the bazaars. In protest to Ahmad ‘Ala’ al-Dawlah’s demand, the bazaars closed. The final set of strikes were in Qum, where the government began a process of arresting and exiling some nationalist leaders (Afary, 1996: 51–53). The establishment of a National Consultative Majlis was finally agreed on 9th August, 1906,\(^{34}\) indicating a victory for the secular constitutionalists and those supporting them (Afary, 1996: 58).

In a recently post-revolution Iran, Colliver-Rice (1923: 107) observed that ‘A Persian is proud of his country and its past greatness, of his religion, of his sons, and of himself’. This can also

\(^{34}\)The given date is August 5\(^{th}\) 1906, which also happened to be the Shah’s birthday.
be aptly applied to the periods before and during the constitutional revolution. Moreover, this observation refers to the Persian (man) rather than the Muslim, indicating the potential unity amongst citizens of a state, irrespective of religion, thus reinforcing Cottam’s previous tolerance argument. However, the gendered nature of this statement reinforces the absence of women in the public sphere, as well as further accentuating its predominantly male nature, especially with regard to nationalism and religion. Consequently, questions emerge about female roles and rights, both during the constitutional revolution and after, as well as the effects of this historic event on gender equality within the state of Iran. Moreover, the victory of the secular constitutionalists raises questions about the impact of secularism on women’s rights, and the gendered nature of values included in the constitution and its accompanying documents.

5.3 Gendering the Revolution

During the constitutional revolution, ‘national will’ (himmat-i millī) (Tavakoli-Targhi, 1990: 77) became increasingly prominent across most sectors of society. During this period women became increasingly visible in demanding a constitution and freedom from foreign powers. With increasing dissatisfaction with foreign power structures, women arrived in the public sphere prepared to fight for their rights and their country, sometimes unveiled. The increased nationalist tone of the constitutional movements indicates calls for a new national identity as well as reforms in the nation’s political discourse. Tavakoli-Targhi (1990: 77) argues that these calls were in part enabled by the ‘selective remembrance of things pre-Islamic’ thus enabling a form of dislocation between Islam and Iran, subsequently facilitating questions pertaining to the effects of secularism on women’s marital rights.

The championing of women’s rights was not however, new, nor was it restricted solely to Muslims. Fischer (1978: 296) notes that in the last two decades of the nineteenth century, Mirza Aqa Khan Kirmani and Shaykh Ahmad Ruhi, two renowned Babis, chose to focus on women’s rights as one of their many areas of inquiry. More contemporary intellectuals, such as Mirza Malkum Khan and Mirza Fathali Akhundzada, a convert to Islam and reconvert to Christianity, and an atheist respectively, also wrote comprehensively on the same issue. This indicates that concerns relating to gender equality were thus trans-religious, and were not restricted to women.
As an observer of the Constitutional Revolution, Qajar Princess Taj al-Sultana witnessed its multifaceted nature, becoming intrigued with women’s emancipation. The emergence of women into the public domain is perceived by Amanat (in al-Sultana/Vanzan & Neshati, n.d./2003: 67) as representing ‘an important force of dissent, often appearing in the front line of demonstrations’. Moreover, Taj appeared to have no qualms advocating the Western liberal values of the women’s rights movements of Britain, America and France; seeking to travel to Europe and meet these ‘freedom-seeking ladies’ (khanomha-ye hoquq-talab) and ask them to recognise the endeavours of Asian women (Amant in al-Sultana /Vanzan & Neshati, n.d./2003: 68). This reinforces the prominence of cross-cultural and transnational influences, whilst echoing post-colonial feminist emphasis on the significance of location.

From a young age, Taj believed that women’s education was vital to marriage and the family, possibly influenced by her experience as a child bride, and it was her reformist attitude to this aspect of women’s lives (Amanat in al-Sultana/Vanzan & Neshati, n.d./2003: 69) which spilled over into her later work. Her modernist views also extended to issues of veiling and marriage, with her understanding of gender equality predating a decade of women’s activism (1910s-1920s); which, during the 1930s under Reza Khan became a non-political venture that remained from the revolutionary era (Amanat in al-Sultana /Vanzan & Neshati, n.d/2003: 71).

Outside of the royal harem, female perspectives began to alter, looking beyond the imposed, patriarchal harem (Bamdad, 1977: 25–26). Shuster (1907 cited in Amanat in al-Sultana/Vanzan & Neshati, n.d./2003: 67) evidences this through his recognition of women’s roles and their importance in the revolutionary movement:

The women did much to keep the spirit of liberty alive. Having themselves suffered from a double form of oppression, political and social, they were the more eager to foment the great Nationalist movement for the adoption of constitutional forms of government and the inculcation of the Western political, social, commercial and ethical codes. Equally strange is the fact that this yearning by the people received the support of large numbers of the Islamic priests, a class which stood to lose much of its traditional influence and privilege by the contemplated changes.

Recognition of women’s dual oppression and their determination to ensure a more Western style of government through the implementation of a constitution reinforces dissatisfaction.
with the current system and attempts to destabilise normative power structures. Shuster also wrote that:

Special commendation must be given to the veiled women of Iran—women kept in seclusion by an impenetrable wall of social customs, deprived of any social or intellectual independence, allowed no opportunity to acquire knowledge or mental training, but filled nevertheless with an intense love of their country. When rumours spread that Iran’s parliamentary deputies had decided in secret session to surrender to the threat of force, it was this love of their country which made the women respond to the foreign insult with manly courage. At the same hour of the same day, three hundred of them walked out of their homes and their barred harems, with glowering expressions and in many cases with pistols hidden under their black čádors, and made their way to the Majles (parliament), where they tore off their veils and declared that rather than see the deputies timidly and cravenly let the nation’s dignity be trampled underfoot, they would kill the deputies and their own husbands and children and themselves so that at least the corpses might vouch for Iran’s honour.

(cited in Bamdad, 1977: 27)

Within this purview the honour of the nation and women can be viewed through similar lenses. Frequent justifications for implementing a patriarchal system include the protection of women’s honour by male relatives; the sentiment behind the women’s nationalist movement is perceived as maternal, reinforcing perceptions of duty to protect the state from foreign intervention. This is emphasised by reference to the ‘independence of the motherland’ in women’s speeches (Bamdad, 1977: 35) as well as in the works of Russian nationals Akhundov and Abdol Rahim Talebov who, as pioneers of Iranian secular nationalism ‘addressed themselves to issues related to Iran and Iranians living in the motherland’ (Bayat, 1991: 98). Furthermore, the female personification of the state serves as a metaphor for those involved in the movement, with the independence of the motherland symbolising the independence of women. The political climate of 1906 is thus understood by Sanasarian (1982: 20) to have provided an idyllic environment for women to enter the public sphere due to the changing nature of power structures and the intertwining of nationalism and feminism. It is also understood here to have provided a framework within which dominant Euro and male-centric representations can be challenged.

Women began organising into societies, one of which held its meetings outside of Tehran so as to avoid unnecessary attention. The Women’s Freedom Society, of which Taj and one of her sisters were members, focused exclusively on issues facing Iranian women (Bamdad, 1977: 30). The meetings were mixed, however, male attendees were not permitted to
speak, rather, the purpose of their attendance was to assist women with appropriate behaviour when addressing a mixed group and to overcome any fears they may have had about speaking publicly (Bamdad, 1977: 30).

In the early stages of the women’s movement religious leaders were supportive and facilitated the emergence of a sense of freedom amongst some women accompanying men in nationalist campaigns. This is evidenced, according to Sanasarian (1982: 20), by the bread riots, where women’s ‘very unladylike’ behaviour appeared on the public scene; by 1906 women are understood to have become more discernible and autonomous with *anjumans* (societies) and *dowrehs*. This combination of formal and casual modes of communication amongst the female population increased awareness of potential non-domestic roles (Sanasarian, 1982: 20); and it is within this milieu that the post-colonial feminist refutation of the public/private dichotomy becomes visible within the Iranian context.

Following the establishment of the constitution, many female advocates sought to challenge the absence of an enfranchised female population. Five years later, these women found themselves an advocate within the *Majlis* (religious council) who instigated a debate on the matter (Bayat-Philipp, 1978: 300). The response to this was shock and uncertainty as to whether the proposed discussion was serious. A few days after the publication of an account of the meeting in the *London Times* (August 22nd, 1911), an ‘authorised’ and ‘accurate’ account was provided:

Hadji Vekil el Roaya: I beg leave to ask for what reason should women be deprived of votes; are they not human beings, and are they not entitled to have the same rights as we have? I beg the ulama for a reply. Sheikh Assadollah: we must not discuss this question, for it is contrary to the etiquette of Islamic Parliament. But the reason for excluding women is that God has not given them the capacity needed for taking part in politics and electing the representatives of the nation. They are the weaker sex, and have not the same power of judgment as men have. However, their rights must not be trampled upon, but must be safe-guarded by men as ordained in the Koran by God Almighty.

(cited in Bayat-Philipp, 1978: 301)

This not only indicates resistance to the female vote (Bayat-Philipp, 1978: 301), but it further indicates the determination of the state to maintain Islamic customs according to their interpretation, thus ensuring religious prominence in political life. Women’s nationalist 35 ‘A dowreh is best defined as “an amorphous amalgam of patterned personal relationships. The contact that exists between the members is what makes the structure a group while at the same time guaranteeing that it remains an informal group,” (Sanasarian, 1982: 20).
endeavours however, proved more fruitful than their search for political equality. A vast number of men advocated increased political rights for women along with basic social change, the foundations for which lay with the improved status of women (Bayat-Philipp cited in Sanasarian, 1982: 23). Despite increasing support for the women’s cause, Regan (1985: 61) argues that during the earlier stages of the revolution, mullahs (religious leaders) used the veil as a tool of manipulation when referring to the movement, indicating that they would later suggest the unveiling of women. The impact of this suggestion was the closure of bazaars in opposition to women attending the same revolutionary meetings as men (Regan, 1985: 61); subsequently reinforcing traditional perceptions of gender segregation, as espoused by patriarchal power structures, especially within the public sphere.

Opposition to mixed meetings did not deter some, as is evidenced through the establishment of secret societies and organisations. (Non) violent methods were employed by groups advocating the development of a constitution and the removal of foreign powers (Sanasarian, 1982: 20). Action by women’s groups against foreign influences included the sale of items such as jewellery in order to buy bonds from the National Bank that the Majlis sought to establish and the boycotting of foreign goods – succeeding in tea shop closures to reduce imported sugar usage (Bamdad, 1977: 45; Sanasarian, 1982: 20). Consequently, this reinforces the prominence of imperial power structures within Iran, their far reaching socio-economic effects, and the impact of such responses on feminist organisations.

The established women’s groups however, had diverging objectives. The National Ladies Society (Anjoman Mokhadarat Vatan Iran, 1910) focused primarily on the eradication of foreign occupation indicating that imperialism was blamed for the Iranian political situation, which subsequently impacted on their status (Bamdad, 1977: 35). Conversely, the Women’s Freedom Society blamed internal issues like restrictive clergy, with gender inequality being a point of contact for these groups as they sought to challenge diverging power structures (Sanasarian, 1982: 35). Other anjumans which were formed during this era include: The Anjuman for the Freedom of Women (Anjuman-i Azadi-yi Zanan, 1907); The Secret Union of Women (Ittihadiyah-yi Ghaibi-yi Nisvan, 1907); The Anjuman of Women (Anjuman-i Nisvan); The Anjuman of Ladies of the Homeland (Anjuman-i Mukhaddarat-i Vatan, 1910); The Association for the Welfare of Women of Iran (Shirkat-i Khairiyah-yi Khavatin-i Iran, 1910); The Anjuman of Ladies of Iran (Anjuman-i Khvatin-i Iran, 1910); The Union of Women
(Ittihadiyah-yi Nisvan, 1911); The Anjuman of Women’s Efforts (Anjuman-i Himmat-i Khavatin, 1911); and The Council of Women of the Center (Hay’at-i Khavatin Markazi, 1911) (Afary, 1996: 184). Prominent commonalities between these groups however, were situated around the challenging of patriarchal power structures, foreign or national, with education being prominent amongst their concerns. However, questions also arise regarding group methodologies for challenging gender inequality in family law.

5.3.1 Writing to Resist

Women’s public protesting against foreign powers and female subjugation was assisted by the emergence of writing as a mode of communication. Whilst the former is understood here to represent the oppression of individuals by a colonising power, irrespective of gender, the latter refers to gender specific subjugation; with women mobilising against both due to their experiencing a ‘dual oppression’. Browne (1910: 127) observed that ‘one of the most remarkable features of the Constitutional Movement was the rapid development of journalism, which was, however, most marked in 1907, when the total number of newspapers appearing in Persia was said to be about 90.’ It was also during this period that numerous male intellectuals advocated women’s rights, amongst them poets, journalists and members of the Majlis.

According to Afary (1996: 178), male advocates included Dihkhuda in Sur-i Israfil (Satirical columnist, 1907-1908); Iraj Mirza (Poet); and Vakil al-Ru‘aya and Taqizadah (Majlis delegates), with their stances being accompanied by numerous articles in Habl al-Matin (1907-1909), Musavat (1907-1908), and Iran-i Naw (1909-1911). Moreover, she (1996: 178) notes that institutional support of the women’s rights movement by members of the Majlis, whilst not effective in securing changes, was more significant than that received during the later 1979 revolution. This therefore indicates the more advanced, modernist approach being taken by some Majlis members during the formative years of the twentieth century; subsequently reinforcing the prominence of the early twentieth century for challenging gender inequality.

It was also during this epoch that women’s writing became more prominent. According to Parvis-Brookshaw (2013: 22) the royal harem was a sphere of female autonomy and was where a vast number of patrons of female poetry resided and celebrated the works of
others. Moreover, ‘A number of the leading male writers, prominent royals and court poets composed poetry in praise of royal women in Qajar Iran’ (Parvis-Brookshaw, 2013: 23). For women outside of the royal harem, writing posed numerous issues and was more complex, and Parvis-Brookshaw (2013: 19) draws on the work of Milani (1992: 6) to emphasise this:

It is not surprising that, given the religious, social, and aesthetic constraints on women’s self-expression in public, exceptionally few women could or perhaps even wanted to break this ancestral silence. Women writers had to transgress feminine proprieties that shut them out of the public domain. They had to expose their voices because literature transmits and translates the human voice to the printed page. Writing, with its potential for public communication, for entering into the world of others, could be considered no less a transgression than unveiling. In both, a woman expresses/exposes herself publicly. Through both, an absence becomes a presence ... Writing, like unveiling, makes a woman publicly visible and mobile. Naturally, it could not be included in the repertoire of proper behaviour for women. Instead, it was a closely defined filial activity passed down from fathers to sons. Milani’s (1992: 6) observation thus emphasises patriarchy’s transcending reach within society. It reinforces traditional roles and expectations, and why some women adopted writing as a mechanism to address gender relations. Traditional perceptions of roles and activities reinforce Briggs and Sharp’s (2004: 666) notion that power relations form around hegemonic masculinity which subsequently encompasses the powerful/powerless dichotomy. Two prominent concerns which emerged within the writings of women’s rights advocates were access to education and polygamy. The notion was that increased female education and the eradication of multiple marriages could contribute towards a new generation of Iranian patriots due to the establishment of a “healthy’ family environment’ (Bayat-Philipp, 1978: 297). Moreover, some advocated the eradication of mahrs, in favour of putting the money towards female education; thus placing education at the fore of the gender equality campaign. The subjugation of women also became a prominent topic for satirical columnist Dikhuda who wrote:

Everyone knows that, among us, it is a shame to call a woman by her own name. Not such a small shame, but a big one! Really, what does it mean to mention the name of one’s wife! While the woman is childless you call her by saying “hey!” Once she has a child you then call her by the child’s name as in Abul, Fati, Abu, Ruqi, and so on. Then the wife says Ya? And you tell her what you want. That’s it! Calling a woman by her own name is absolutely improper!’ (cited in Afary, 1996: 130)

As previously evidenced (see section 4.6), this represents the removal of women’s identities, recognising them only through their roles as wife or mother. Furthermore, this indicates the paralleling of women with children, effectively depoliticising them whilst simultaneously
implying immaturity and an inability to be self-sufficient. It also speaks to the hierarchical relationship between parent and child as espoused by Locke (see section 2.3) (Eisenstein, 1981: 34–39) when justifying the unparalleled nature of politics and the family.

Despite this attitude, the first women’s journal, Danesh (Knowledge) was published around 1910. Later, in 1913, Shekoofeh, the oldest women’s newspaper was founded and focused on numerous aspects of women’s education. It later became more opinionated, openly criticising child marriage as well as addressing issues of foreign imperialism and nationalism (Sanasarian, 1982: 32). In 1919, the publication Zaban Zanan (Women’s Voice) by the Women’s Association of Isfahan directly condemned the position of Iranian women, and was the first one to openly advocate the abolition of the veil (Afary, 1996: 187). It was the first journal to be openly registered under a woman’s name, Sediqueh Dovlatabady, and proved integral in the long campaign for gender equality (Sanasarian, 1982: 32).

Whilst the Iranian women’s movement was more successful on the nationalist front than they were on the issue of gender equality, the various roles played by women and the support they received from men indicates the increasingly modernised attitude towards gender relations. The development of groups and publications represents growing challenges to power structures in which women are positioned as binary opposites to men (Stanley & Wise, 1993: 204). Whilst education was the most prominent concern, the inclusion of child marriage and *mahr* indicates that women’s marital rights were also emerging as prominent concerns. This, accompanied by the increasingly secular atmosphere in revolutionary Iran thus raises questions pertaining to the effects of secularism on matrimonial equality in post-revolutionary Iran.

### 5.4 Constitutional Periods

The intersection of feminism and post-colonialism serves as a point of departure for challenging Western homogenisations (McEwan, 2001: 96). Seeking to dislocate over simplified (cultural) portrayals, post-colonial feminist criticisms are pivotal in further understanding specific events and experiences. It is within this milieu that the Iranian constitution and its surrounding environment are crucial in understanding the effects of secularism on diverging aspects of socio-economic and political life. Additionally, following its implementation, it was later revoked and subsequently reinstated, thus indicating the
disinclination of the Shah to commit to the constitution, potentially due to its power to decentralise his political position.

The constitution was arguably not Iranian in nature, and failed to grant women any rights, situating them on the same point of the spectrum as the insane and the criminal (Sanasarian, 1982: 19). Moreover, Western influenced individuals were prominent amongst those involved in its development, and it was viewed as ‘an odd amalgamation of contradictory concepts, including Muslim religious law, secularism, and Western constitutional precepts’ (Sanasarian, 1982: 19). Additional critiques by Sanasarian (1982: 19) present the constitution as lacking an innovative and national component; being a proclamation with religious nuances, it was a poor replica of those established by Western monarchies such as Belgium and The Netherlands.

Muzaffaru'd-Din Sháh, crowned on June 8th 1896, according to Browne (1910: 98) will be remembered for his permitting the establishment of the constitution, thus distancing himself from the previous actions of his father. Ratified on December 30th, 1906 (Dhu’l-Qa’da 14, A.H. 1324), and despite the fact that the movement which had resulted in its development had been predominantly secular, the constitution began with ‘In the name of God, the Merciful, the Forgiving’ (Peaslee, 1950c: 200; “The Persian Constitution,” n.d.: 527). The overarching reach of religion in the political realm and its continued presence in Iranian politics, despite the predominantly secular tones of the movement, are thus reinforced. It also suggests reluctance to part from religion in the political world; indicating the prominence and perceived importance of religion in Iran, whilst also raising questions about the broader effects of secularism with regard to law and gender relations.

The preamble to the constitution framed its purpose in relation to the Kingdom and the peoples, as well as reinforcing governmental structures and government employee duties whilst seeking to ensure the execution of religious laws as prescribed by the Prophet (FIS, n.d.; Peaslee, 1950: 200; Wright, 1919: 482; “The Persian Constitution,” n.d.: 527). Prior to the first chapter, references to God, the Prophet and Islamic Law are prominent, immediately indicating continued religious influences in its construction, despite the increasingly secular nature of its advocates.
Chapter one outlines the establishment of the Assembly, with Article One indicating that this had been achieved in accordance with the Firman. Article Two then states that it represents the entirety of the Iranian nation who are involved in Iran’s political and economic affairs (FIS, n.d.; Peaslee, 1950c: 200). Gendered language is evident through specific references to the participation of people in politics and economics. Therefore removing women from this representation due to their relegation to the private sphere; subsequently excluding them from participating in politics and permitting the prohibition of non-domestic female work. Moreover, this indicates the continued relegation of women within society and removes the possibility of female emancipation under the constitution.

Wright (1919: 482) permits a more egalitarian reading with regard to female representation under the Assembly by referring to ‘political and domestic affairs’. Domestic affairs can be more broadly understood to represent the work of women within the home. However, women’s absence in the political realm, enables ‘domestic’ to represent the patriarchal order of the family and the predominantly male role of ensuring an income to account for domestic expenditures. Subsequently, this speaks to Stanley and Wise’s (1993: 75) argument that many feminists perceive the family as crucial in understanding female oppression.

Article Eleven then reinforces the religious nature of the constitution through the compulsory oath members of the Assembly have to swear to (FIS, n.d.; Peaslee, 1950: 201; Wright, 1919: 483; “The Persian Constitution,” n.d.: 528). The exclusion of women from the political process under the new constitution was then reinforced in Article Thirty-Two when referring to complaints or cases being made to the National Assembly. This was evidenced in ‘his own case’ and ‘give him a satisfactory’ (FIS, n.d.), which once again removes women from the public, political role and reinforces the patriarchal structure of Iranian politics.

On October 7th, 1907 (Sha’ban 29, A.H. 1325) The Supplementary Fundamental Laws were ratified by Shah Muhammad ‘Ali, and their purpose was to complement those already outlined in the constitution. As with the constitution, the supplementary laws began with ‘In the name of God the Merciful...’ (FIS, n.d.; Peaslee, 1950a: 206; Wright, 1919: 489; “The Persian Constitution,” n.d.: 534), thus reinforcing religious overtones and the continuing
relationship between religion and politics. This brings the impact of secularism on the political process, and more specifically women’s rights, into question.

Article One outlined the official religion as the Ja’fari doctrine of the Ithnā ‘Ashari (Twelve Imams) branch of Islam and states that the Shah must endorse this (FIS, n.d.; Peaslee, 1950a: 206; Wright, 1919: 490; “The Persian Constitution,” n.d.: 534). Conversely, this Article may well have been broken by Reza Khan as he implemented his policies of modernisation and secularism. With regard to equality, Article 8 stated that all people of the state are entitled to equal rights under Iranian law (FIS, n.d.; Peaslee, 1950a: 207; Wright, 1919: 490; “The Persian Constitution,” n.d.: 535). The language used indicates gender equality in the eyes of the law, the absence of ‘citizen’ further implies this as it has frequently referred to enfranchised males. As evidenced previously however, gender equality was not prevalent throughout, with previous lexical analyses indicating that it had yet to be established.

The constitution not only restricted women, and essentially limited the role of the Shah. In the summer of 1908, the Cossack Brigade staged a coup against the Majlis, thus ending the First Constitutional Period (Afary, 1996: 119). Cronin’s (1997: 9) analysis of the first Majlis concludes that they accomplished very little during their time, however, the second part of the revolution (1909-11) produced ‘effective legislation’ through the ‘increased prominence of state building as a constitutionalist objective’. In 1909 the Constitution was reinstated and those advocating reform and state restructuring formed the new Majlis (Cronin, 1997: 9) and members were elected to their positions under an electoral law which contained no class discrimination. Lack of representation in some areas however, resulted in the majority of those voting being from wealthier, more conservative socio-economic groups (Keddie, 1999: 61); and new political parties such as the new Democrat Party and the Moderate Party also emerged. The former comprised of social democrat organisations which had formed prior to the revolution, along with members from the liberal left. They followed a secular line and sought land reforms, various forms of direct taxation, a centralised government and equality for women and religious minorities (Keddie, 1999: 61). Conversely, the Moderate Party was formed, primarily consisting of conservatives and ‘including most of those in the old ruling class and ulama’ (Keddie, 1999: 61). Whilst this provides insight into disproportionate class representation and constitutional inconsistencies, the effects of war
and foreign power structures in Iran need to be understood as a means of discerning the development of secularism and its impact on women’s marital rights in the post-World War One era.

5.5 Foreign Partitions and a World at War

Recognition for the need of a constitution marked Iran’s political history, with Britain and Russia playing prominent and often opposing roles in escalating tensions. British motives for involvement and the Russo-Iranian relationship were arguably egotistic in nature, viewing a strong Iran as a shield for India and subsequently British interests there. Divergently, fear of angering Russia is posited as justification for British reluctance to support reform in Iran (Cronin, 1997: 4). This speaks to Cohn’s (2013: 5) observation that colonialism ‘empowers some people at the expense of others’; as well as Fanon’s (1963: 127) argument that colonialism was regionally preferential. It is because of this looming foreign presence that an Iranian nationalist movement developed, based primarily on cultural identity and anti-imperialistic sentiments. Contrariwise, Ghani (1998: 298) argues that the emergence of this form of nationalism diverges from modern definitions of the term, suggesting that this would not occur until after Reza Khan’s seizing of power and the drastic socio-political changes which would be implemented.

Early twentieth century Iran witnessed the completion of large Russian loans and the establishment of new trading agreements between Russia and Iran. New regulations following Russo-Iranian trade agreements and Iran’s apparent economic dependence on Russia were accompanied by sentiments that Iran was essentially being ‘sold to foreigners’; resulting in a growth in anti-government sentiment and the development of secret societies (Keddie, 1969: 3–4). It was during this initial period of the twentieth century when Britain received persistent calls for help from the anti-Russian movement. Whilst Britain responded, it was limited and their focus was directed towards the more conservative members of the opposition, thus excluding reformers of a more secular or revolutionary inclination (Keddie, 1969: 4). Limited responses to calls for help indicates British reluctance to become completely involved, possibly out of fear of angering the Russians. It also

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36 This sentiment was labelled ‘Russophobia’ by Edward Granville Browne (1910: 265), and is understood to represent the intense hatred of Russia and its peoples with regard to their position in the Iranian state.
indicates a disinclination to assist in the increased secularisation of Iranian politics, potentially due to perceptions that increased control would be possible if secularisation were not to occur.

Iran was classed as a semi-colonial zone due to its avoidance of direct colonisation and the precarious nature of state sovereignty (Marashi, 2008: 17). It is within this milieu that the establishment of ‘internal’ secularism can be further understood, therefore contributing to a comprehension of secularism’s impact on women’s marital rights. This classification is arguably linked to the failure of the constitutional movement to bring forward a strong parliamentary rule, a solid leader and a more confident and coherent party system as had emerged in India (Ghani, 1998: 21–22). Tensions increased during 1906 following demands that merchants lower sugar prices, and anti-government merchants along with tradesmen and some mullās took refuge in the Royal Mosque of Tehran (Keddie, 1999: 55), thus giving rise to the constitutional revolution which continued until 1911. The eventual success of the movement that saw the establishment of the constitution was, according to an article in the St Petersburg Birzheviya Vedomosti (September 13th, 1906 cited in Browne, 1910: 123), not entirely an Iranian triumph:

it was becoming obvious that Persia would succeed in obtaining reforms and even a Constitution, thanks to the benevolent co-operation of England, and that this would be another heavy blow to Russian prestige in Asia.

This indicates that Russian opinion of the Iranian achievement was that it would not have been possible without foreign assistance, thus illustrating normative Western perceptions of non-Western abilities. It also suggests a form of Russian resentment towards perceived British assistance in the constitution’s establishment, essentially viewing this as Britain working against them, therefore suggesting a struggle between foreign power structures.

Prior to the establishment of the constitution however, Japan defeated Russia (1904-1905); subsequently Russia became more amenable in cooperating with the British with regard to developing a means by which their respective interests in Iran could be protected, especially with the increasing power of Germany in the international system (Ghani, 1998: 8). The Japanese defeat of Russia served two purposes for Iran. Firstly, it reinforced the capabilities of an Asian country against a European power; secondly, it reinforced the benefits of a constitution, with Japan having one and Russia not (Foran, 1998: 17). The perceived power
of a constitution was consequently emphasised through the fact that Japan was the only Asian state with an established constitution whereas Russia was the only major Western power without one (Tabari, 1983: 54).

Resulting from British-Russian negotiations was the signing of the 1907 Anglo-Russian agreement which, whilst directly relating to the territorial divisions of Iran, was arranged without Iranian involvement. The Agreement resulted in foreign partitions within Iran; the wealthier Northern provinces were allocated to Russia. Moreover, the two powers became more inclined to work together following the Agreement in order to address two issues; first, the looming threat of Germany, and second, the potential implications of the constitutional revolution (Foran, 1989: 15). Concerns pertaining to the sovereignty of Iran were then raised and a response from the British envoy to the minister of Foreign Affairs a month after the signing of the Agreement guaranteed independence by both powers (Bayat, 1991: 196). Furthermore, British behaviour following the signing of the Agreement caused much disappointment, with observations being that Britain was preoccupied with establishing authority and influence in the south rather than ensuring the sovereignty and independence of Iran. This resulted in them appearing to have adopted the same approach as the Russians (Hermann, 2013: 444), essentially ‘undermining constitutional rule’ (Keddie, 1999: 59).

By 1914, oil had become a significant feature of Iran. Not only did this discovery encourage interest from other foreign entities, but the British viewed this development as vital and their hold in the South became livelier (Keddie, 1999: 64). By 1914 there were fourteen large British corporations which dealt with other areas of trade such as silk worm eggs and carpets; with trade rising from approximately 1.7 million pounds in 1875 to 4.5 million in 1914 (Foran, 1989: 11-12). Additionally, Iran was economically weak as the Russian stronghold in the North increased (TNA, FO 416/112, 1932); thus indicating the effects of imperialism on Iran’s failed economic restructuring and the continuing economic hardships which were to be felt throughout the country.

With the effects of war being felt across the globe, British policy makers took this opportunity to reinforce their exclusive position. Initially the plan was to place Iran under a British mandate at the 1919 Peace Conference, however, due to perceived interest by the
United States and France towards the region imperialistically, it did not occur. Instead, Britain sought to isolate Iran and leave them with no option other than British control; with access to Iran being limited, ‘undesirable foreigners’ such as Germans and Turks not being permitted entry, and the expulsion of others (Ghani, 1998: 23).

By 1921, the Cossack Brigade remained a ‘reliable military force to the monarch’ with Reza Khan as its leader (Akhavi, 1980: 26). With goals concerning the modernisation of the state, self-promotion, independence and the establishment of order being at the fore of his agenda, it is at this point that Reza Khan began his rise to power (Akhavi, 1980: 26–27), and increased secularisation occurred. Emerging from this are queries pertaining to the effects modernisation and secularism had on matrimonial equality, but more immediately, the nature of the monarchical transition which enabled the emergence of a modernising power.

5.6 A Monarchical Transition: From Qajar to Pahlavi

Situated in the era of Reza Khan’s rule, the transition between the Qajars and Pahlavis is crucial in historically contextualising this thesis as a means of understanding how the implementation of a secular, modernising project occurred and the effects it had on matrimonial equality. Tensions between the Qajar dynasty and the Cossack Brigade had been evident throughout the early twentieth century, and Cronin (1997: 2) posits that the era of Qajar rule has scatterings of military reform attempts as the European model was sought for a standing army. The superiority of this model and its tools were further evidenced by the Russian defeat of Iran, thus reinforcing the determination of Abbas Mirza to develop an army capable of defending Iranian territory. His determination was such that, according to Cronin (1997: 2), he brought in French and British instructors and sent students abroad so as to solidify the foundations of the army of the Azerbaijani province. Despite the initial success of this, it was not possible to maintain due to the increased resistance it met and the hindrances of the new army (Cronin, 1997: 2).

Later in 1919, Britain sought to place Iran under a protectorate to ‘systematize a de facto situation’; however, this was met with patriotic opposition, which saw Reza Khan and Sayyed Zia al-Din Tabataba’i, instigators of the later 1921 coup d’état, as the main beneficiaries (Keddie, 1999: 77). Reluctance to accept reforms of this nature indicate the

37 Abbas Mirza was the crown-prince of the Iranian province of Azerbaijan.
force of modernisation opponents. This was not only due to perceived Western influences and breaking from more traditional methods, but the conversion of the traditional army into a standing army would result in tax increases, along with a reduction in areas such as pensions (Cronin, 1997: 3). Subsequently, more financial constraints were placed on the Iranian people, creating further economic hardships in an already struggling country.

It was not, however, only internal disputes which were proving to be problematic for those seeking to modernise and advance Iranian military capabilities. With less than supporting attitudes from the two squabbling powers, advocates of this military enhancement were hindered by Russia’s desire to maintain military weakness in the state (Cronin, 1997: 3). The Qajar dynasty were viewed as weak, militarily and otherwise; following the 1921 coup which saw Reza Khan emerge further onto the political stage, his support increased due to his political stance towards modernisation. Moreover, this support grew due to his recognition of the yet unaccomplished second aim of the constitutional revolution, the development of a resilient, centralised government with a modern national army at its core (Cronin, 1997: 10). This new army however, is understood to have been plagued by the ineffectual nature of the Qajar army and the financial implications which accompanied it (Cronin, 1997: 7). This indicates the transcending nature of socio-economic, military and political issues.

5.7 Conclusion: Women, the State and a Period of Transition

Traditionally, Iranian women have been excluded from political endeavours, however, recent history evidences increasing female visibility in the public sphere. This chapter has examined the first two decades of the twentieth century with a specific focus on power structures, the 1906 Constitutional Revolution, and the emergence of women through various mediums. Against these backgrounds it has become possible to contextualise and further understand the emergence of feminist and nationalist voices as well as their specific goals.

In chapter four, Fluehr-Lobban’s (1980: 236-7) attempt to destabilise ‘myths’ of the conservative and a-political status of Arab women was introduced. A concern which arises from this however, is the restriction to Arab women, with those of other cultures such as Persian women in Iran being excluded. Her (1980: 236-7) concerns are thus transferable to the Iranian (and other) context(s), and permit Briggs and Sharp’s (2004: 664) reflection on
post-colonial theorists querying of the willingness of Western academics to engage with non-Western peoples to re-emerge.

The discussions which have occurred throughout this chapter have contextualised the socio-economic and political situation in Iran, the impact of foreign power structures, the strong presence of patriarchal hierarchies and the emergence of female voices. It has also reinforced the manner in which Iran was excluded from some negotiations regarding its political future and the tug of war which occurred primarily between Britain and Russia. However, minimalistic efforts were made with regard to increased gender equality, and familial law remained within the purview of *Shari’a* law. As mentioned previously, the family represents the foundations of society which subsequently form the state as a whole and by maintaining its presence within this religio-legal jurisdiction, religion and politics thus remain intertwined.

Moreover, as will be evidenced in the following chapters, the separation of religion and politics are understood here to have further contributed to the international façade of modernising the state and removing potential impediments to the state’s further political and cultural development. What remains unclear however, is the impact secularism had on women’s marital rights in Iran in the immediately succeeding decades, therefore the next chapter provides a comparative analysis of this in Egypt and Iran between 1920 and 1939.
Chapter Six

Matrimonial Equality

6.1 Introduction

In seeking to comprehend the development of women’s marital rights in Egypt and Iran, this thesis examines how secularism affected them between 1920 and 1939. Chapters one through three have situated this point of enquiry in contemporary occurrences, an academic milieu and a qualitative post-colonial feminist paradigm. Chapters four and five subsequently drew on these methodological and academic considerations, and have historically located this thesis in the first two decades of the twentieth century. This chapter therefore serves as the first part of this comparative analysis and will provide analyses of Egyptian and Iranian laws within a post-colonial feminist framework. It will also highlight divergences in Islamic interpretations through the incorporation of various schools and their perspectives on marriage.

The analysis which occurs in this chapter serves to understand rights which were (not) afforded to men and women in Egypt and Iran between 1920 and 1939. By examining this through a post-colonial feminist lens, diverging experiences based on factors such as class and gender will become visible. Commencing with insights into the politicisation of the private sphere, the public/private dichotomy is scrutinised through the examination of laws and specificities pertaining to behavioural aspects of marital relations. It will also provide insight into the gendered and politicised identification of prominent women during this era. An examination will then occur as to the rights of men and women in choosing who they are to marry, and emphasising the removal of ‘participants’ by parents and/or male relatives.

The chapter will then examine the role of the wali in establishing a marriage, thus reinforcing the removal of those being married. The chapter then analyses the role and significance of mahr in establishing a marriage, and the business connotations accompanying it. This will be followed by analyses of diverging factors which contributed to marriage being in crisis. In this section, the reiteration of economic aspects will be accompanied by analyses of laws pertaining to health and age; subsequently emphasising numerous concerns about the gendered divisions within and detrimental effects on marital relations.
The chapter will then conclude by reinforcing the socio-political nature of marriage in both Egypt and Iran. Moreover, it will emphasise the overarching consequences of the laws which have been examined and the feminist demands which were being advocated and how these contribute towards a more nuanced understanding of the effects of secularism on women’s marital rights in Egypt and Iran between 1920 and 1939.

6.2 Politicising the Private

Recognised as the union of families between two persons; marriage is also the traditional establishment of the familial structure. The family is understood to represent the foundations of society, and thus the nation; and it is within this structure that future societal participants are raised and educated. Traditions have resulted in the absence of women’s rights, with male relatives or assigned guardians being responsible for their honour and eventual marriage. It also represents a specific type of power relation, whereby one person has the power to influence another (Yoder & Kahn, 1992: 382–384). Whilst post-colonial feminism endeavours to avoid the use of binaries, the examination of the public/private dichotomy is unavoidable in this instance. This is due to its prominence in debates and the societal ‘structuring’ which was evident in Egypt and Iran during the 1920s and 1930s. This thesis thus echoes radical feminist assertions that the private is political following the introduction of Personal Status Laws, which in turn determined relationships and roles of different familial members.

Previous analysis of the Iranian Constitution (1906) and its Supplementary Fundamental Laws (1907) (see section 5.4) alongside Reza Khan’s progressively rigid framework for marriage indicate the increasing politicisation of the private realm in comparison to the pre-constitution era. Subsequently, these policies further politicised the female body through the granting of rights to women, ultimately reinforcing the patriarchal system that advocates of gender equality challenged.

Changes in Iran ‘can be thrown into sharper relief as a contrast is initially drawn with the Arab tribal society’, which is frequently confused with the broader status quo across the MENA region (Fischer, 1978: 197). This stereotype is formed from three sources. First is partially from reasoning pertaining to maintaining a form of social order when there is no state, the second is derivatives of Sunni jurisprudence, and the third is related to a man’s
assumed right to marry his paternal cousin which he must relinquish should another suitor have been found (Fischer, 1978: 197).

The politicisation of the private sphere also occurred through the emergence of the public female voice and increased advocations of gender equality, with women in both countries opening their homes for meetings and salons. The politicisation of the private by making the home a forum for women’s political discussions thus links to Botman’s (1991: 109) observation of the absence of government support, and the short reaching effects of female emancipation to both male and female citizens, which was evident in both Egypt and Iran.

Following the Egyptian nationalist movement of 1919, political scepticism and distrust of activists remained noticeable. On December 25th and 28th 1921 political communications emerged about Safiyya and Huda respectively (TNA, FO 141/511/5) with both women being identified through their husbands. Distrust of these two women emerged prominently, being determined by their activities and affiliations. In a communication to Cairo City Police it was stated that ‘Mme. Zaghloul is to be carefully watched’ (FO 141/511/5, 1921). This indicates her perceived untrustworthiness, and whilst it did not provide justification for such suspicions, it possibly related to her public persona as well as her husband’s perceived threat to the British presence in Egypt. This is reinforced by a letter (1922) warning the press not to publish Safiyya’s appeal38 (TNA, FO141/511/6). This not only reinforces the notion of her being a threat, but also indicates the restrictions placed on the freedom of thought and expression of individuals as a potential means of protecting the current nature of the state.

Similarly, Huda was identified as ‘... one of those who have gone back to the Wafd’ (TNA, FO 141/511/5). This indicates that her primary identity was as a wife, thus reinforcing the absence of female identification; secondly, that despite party disparities, some people had returned to the Wafd Party. The phraseology of the note – ‘one of those’ - indicates potential disdain for returning Wafd supporters and possible generalisations regarding their behavioural and political characteristics; thus identifying her through her affiliations. The only certainty of who she was, emerges through the identification of her husband, thus bringing a private relationship into the public domain.

38 This appeal was to the Egyptian public, calling on her Egyptian son’s to assist her in ensuring the return of her husband from exile (see for example Baron, 2005).
Later, a letter was written regarding Safiyya, her husband and the murder of Sir Lee Stack:39

December 27th, 1924

Dear Furness,

You may be interested to learn that Madame Zaghloul has recovered from her emotion, and is inciting her husband to stir up resistance. You will guess the source of this information. I had tea this afternoon with Hilmi Issa Pasha, late Mudir of Gharbia. He said quite frankly that he regarded Z. as responsible for the recent murder, since he had created the required atmosphere.

Yours Sincerely

Sd. P. G. Elwood

(TNA, FO 141/511/6)

The use of ‘inciting’ suggests that Safiyya was considered problematic; there was no recognition of Zaghloul Pasha’s previous activities, nor of his own ability to create resistance. Moreover, it implies her ability to control him. She was also identified as a ‘continuing problem’ to authorities due to her anti-British sentiment which was prominent during the years of her husband’s exile. ‘You will guess the source of this information’ indicates that previous communications of a similar nature have occurred. However, the letter itself appears contradictory as it commences with accusations of Safiyya encouraging her husband, yet it concludes with Zaghloul Pasha being held accountable for the murder due to his role in creating the necessary atmosphere, thus implying that this was considered equal to pulling the trigger. Not only does this highlight a British perspective of some Egyptian activists, but it indicates a potential means of reinforcing Zaghlul’s state of exile, thus finding a solution to a prominent Egyptian nationalist.

The politicisation of the private continued into the world of business as the language used in reference to marriage carry heavy overtones of property and ownership. This was observed by Iranian Sattareh Farman Farmaian (1993: 154) who noted that ‘...after marriage a woman belonged not to her own family but entirely her in-laws’. The linguistics not only denote business but also reinforce the strength of the patriarchal system and the shadow status of women in society whereby they are considered property.

Observations pertaining to the arrangement of marriage were made by Iranian Princess Taj al-Sultana (n.d./2003: 111) who recalled:

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39 Sir Lee Stack was the British Governor-General of the Sudan and Egyptian Army Commander. He was assassinated on November 19th, 1924.
A few months later, my future father-in-law took one of the daughters of the Grand Vizier to wife. After his marriage, he petitioned my father to allow me to be married, too; or if permission was withheld, it could wait until he was so inclined....Permission for my wedding was granted, and they began to celebrate. The preparations were done beautifully and exquisitely, but the numbers were smaller than at the betrothal ceremony I relapsed into a state of frenzy bordering on insanity, constantly fearful of some external threat. I found myself sinking deep into a whirlpool with no means of escape. I wept and pleaded a great deal, entreating that my wedding be delayed. But the force of my father’s wrath subdued me, and, using threats, he compelled me to submit.

Stanley and Wise (1993: 93) posit that power within the familial structure transcends the institution of marriage, moving into feminist understandings of individual/society relations. This is emphasised through the business of marriage, and Taj reinforced this as she wrote of ‘taking’ a woman ‘to wife’ and the petitioning to her father for her marriage. This also indicates how Taj felt removed from the process as ‘they began to celebrate’; secondly, it is possible to interpret this ‘external threat’ as her looming nuptials and future husband. Taj also indicates that she had been placed in an inescapable situation far beyond her. Thirdly, her response to her betrothal and the effects such fears had on her caused her father to become angered and forced her to acquiesce to his decision. This evidences the strength of the patriarchal system within the family and paternal authority over their daughters’ future; with Walters (2011:18) reinforcing this through the example of the giving of a bride by her father.

It was not however, only male relatives who had authority to grant permission for marriage, with Iranian men of governmental authority being permitted to reject requests for marriage:

> In view of the consular instructions prohibiting a consular officer from solemnising a marriage of parties who profess a religion which recognises polygamy or concubinage, His Majesty’s Minister rejected the application for his marriage in the consulate’.
> (TNA, FO 416/112, 1932: 44)

In addition to non-family members being able to determine the actuality of a marriage, the Iranian Civil Code (1928) outlined legal impediments to marriage, thus further politicising it.

> Section 1050. If a person marries a woman (already) having a husband despite the knowledge of the matrimonial tie and the prohibition of such marriage, or a woman who has not yet completed her 'Iddah for divorce or death (of her husband) despite the knowledge of (the woman’s not having completed) the Iddah and the prohibition of the marriage, his contract of marriage shall be void and the woman shall be rendered perpetually unlawful to him.
> (Naqvi, 1968: 151; Taleghany, 1995: 155)
This outlined prohibitions for a man marrying a woman, reinforcing the monogamous relationships women were required to maintain, whilst reiterating the 'iddah and the absence of a waiting period for men following the death of a spouse. Furthermore, ‘his contract of marriage’ reinforces ownership not only of the woman but of their marriage and his ability to determine its existence; therefore underpinning the gendered nature of marriage and laws pertaining to it.

The legalities of mixed-marriages were also outlined in relation to religion and nationality. The marriage of a Muslim woman to a non-Muslim man was prohibited (Sections 1059 in Naqvi, 1968: 152; Taleghany, 1995: 156), yet silences remained regarding the marriage of a non-Muslim woman and a Muslim man. British records (TNA, FO 416/112, 1932: 44–45) expand on this, noting that should an Iranian woman marry a foreigner then she forwent her right to Iranian nationality. However, following the death of or divorce from her husband she could resume Iranian nationality by ‘offering an application and request to the Persian Government’, thus requiring them to follow the ‘usual terms’. The requirement for a woman to relinquish her right to Iranian nationality whilst married to a non-national indicates that a woman’s (national) identity was dependent on her husband or father; thus reinforcing the masculine representation of the state.

Section 1060 stated that a marriage between an Iranian woman and a non-Iranian required governmental permission providing there were no other impediments (Naqvi, 1968: 152; Taleghany, 1995: 156), thereby suggesting that providing the man was Muslim their marriage would be permitted. Similar conditions were attached to the marriage of a man (associated with the government) seeking to marry a foreign woman (Section 1061 in Naqvi, 1968: 152; Taleghany, 1995: 156). Permissions in this type of mixed marriage were not compulsory; however, it was at the government’s discretion whether it was necessary. Additionally, these criteria and rules for marriage further emphasise the manner in which the private was politicised.

The Civil Code further enforced the politicisation of the private sphere through legalities pertaining to marital behaviours and relations:
The conjugal relation between a husband and wife begins immediately after the execution of a valid marriage contract, and the rights and obligations of the two parties to each other are also established with immediate effect.  
(Section 1102 in Naqvi, 1968: 156; Taleghany, 1995: 161)

Through this legalisation of marital relations, the sexual contract (Pateman, 1988) was essentially established in Iran, with behavioural requirements being justified as necessary in the strengthening of their relationship and the family should children be involved (Section 1103 & 1104 in Naqvi, 1968: 156 - 157; Taleghany, 1995: 161–162). The family’s role as a power structure confines women to a ‘service and domestic mode of behaviour’ (Stanley & Wise, 1993: 75). This is evidenced by the ‘special privilege’ the husband had as head of the family and his ability to prevent his wife from non-domestic female work should it be damaging to the honour and dignity of any family members (Section 1105 & 1117 in Naqvi, 1968: 156 - 157; Taleghany, 1995: 161–162). Furthermore, it was stated that:

In case as a result of the marriage contracted in contravention of the aforesaid provisions and intercourse causes damage to any part of the body of the woman or a permanent disease in the woman, the person (marrying her) shall be liable to an imprisonment for five to ten years with hard labour. If the intercourse results in the death of the woman, the man (marrying her) shall be liable to an imprisonment for life with hard labour.  
(Naqvi, 1968: 158)

Rigid structures pertaining to post-marital relations reiterate the depth of the government’s reach into the private sphere. Criminal charges brought against a husband should he cause damage to his wife, whether through illness or death, and the marriage contravened legal criteria also indicated the politicisation of the male body. However, the scope of bodily politicisation was far greater for women than men, and the exclusion of women from the public, political sphere is arguably contradicted through these legalities. Politicising female bodies through legislation determining sexual activities, bodily damages and private behaviour ultimately politicised the private sphere and resulted in female participation in a form of politics. The legalisation of cooperation between spouses further politicised the private sphere and the individuals involved as it sought to ensure a strong, stable environment which was beneficial for the family; thus ensuring that the foundations of society were secure through the politicisation of the private sphere.

The inclusion of British perspectives of Egyptian actors and experiences of prominent Egyptian and Iranian women illustrates how women were identified and how they related to
the marriage process. Not only does this emphasise women’s masculine identity,\(^{40}\) but it reinforces the importance of marriage at the societal level, with women being identified as the wife or daughter of a male individual. The politicisation of the private sphere through laws and the political identification of women thus reinforces their removal from the marriage process, subsequently raising questions as to their rights in choosing the individual to whom they were to be married.

### 6.3 Choosing a Partner

Mohanty (2003: 57) contends that the status of women is revealed simply through ‘describing the structuring of the marital contract.’ Expanding on this, this thesis argues that their status is clearly evidenced through the partnering of individuals as the marriage process begins. Traditionally, parents or guardians were responsible for ensuring the marriage of a daughter, with her suitor being selected for her, often without their meeting beforehand.

Engagement is defined as an ‘unbinding promise of marriage between a man and a woman, whom he can lawfully marry; it is a precursor to marry’ (NWRO, n.d.: 22), and either party could refuse to marry the other unless a marriage contract had been completed (Section 1035 and 1036 in Naqvi, 1968a: 148; Taleghany, 1995: 151). Chapter One of the Iranian Civil Code pertained to marriage, with sections 1034-1036 and 1039 relating explicitly to ‘A Suit (khāstgārī)’ and betrothal, also ‘A man can be a suitor for any woman who is free of (legal) impediments to marriage’ (Section 1034 in Naqvi, 1968a: 148; Taleghany, 1995: 151). The language of these definitions highlight masculine overtones and the patriarchal order which determines a man’s right to marry a woman. What it omits is women being lawfully capable of marrying a man. It could be, however, that due to the absence of women in the betrothal process, they were considered to have no legal rights in choosing their future husband. ‘Lawfully marry’ indicates that the woman had no spouse, or had observed the necessary waiting periods if she were widowed or divorced. It also suggests that due to the common practice of polygamy, the man was lawfully permitted to wed the woman in question providing he had no more than three wives. However, should there be deception to the other party involved and no valid excuse for refusing to marry is provided, then

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\(^{40}\) This refers to their identity being that of their husband or father.
compensation was payable for any losses, with a maximum period of two years from the breaking of the betrothal being provided for any cases to be filed (Section 1039 in Naqvi, 1968: 148). Another contributing factor to a man’s ability to marry was obtaining paternal consent, indicating the male arrangement of marriage.

A key problem arising from arranged marriages was age discrepancies (see section 6.6.1); with Badran writing that in Egypt ‘They were often acquired at a young age’ (Shaarawi, 1987: 11). The ‘they’ she refers to are women, or more precisely girls, and the use of ‘acquired’ indicates business, which is reinforced by its later usage when referring to the land acquisitions of Huda’s father (Shaarawi, 1987: 15). Additionally, the process of choosing a partner was one from which women were removed. From her observations in Iran, Colliver-Rice (1923: 91) noted that ‘She is betrothed and married as a child without the slightest reference to her own wishes or ideas, in fact without any knowledge, on her part, of the man to whom she is to be married.’ One justification for the removal of women from this process was that of age, with tradition permitting the youthful marriage of girls. Another was female seclusion, thus preventing them from interacting with men they were not related to and leaving the ‘job’ of finding a suitor to their male relatives. The latter is recalled by Sattareh (1993: 27) whose father, whilst an advocate of women’s education, emphasised the importance of establishing domestic skills such as cookery, should she wish him to find her a husband.

Naturally, I had no way of looking for a husband myself. Western-style courtship was unknown; a girl sat in the andarun and waited until her father or brother or cousin found her someone, and if they couldn’t, she was out of luck and had to spend the rest of her life being looked after by her brothers or other male relatives.

(Farman Farmaian, 1993: 114)

This reinforces the position of some Iranian women and the role of male relatives in finding a suitor, and emphasises the manner in which a husband was sought to care for a woman. The manner in which she writes of the ‘consequences’, should a suitor not be found, depicts the unmarried woman as burdensome on her male relatives. Furthermore, it re-emphasises the patriarchal system and absence of liberties experienced by women.

Huda recalled her exclusion from the decision to marry her to her cousin and guardian, Ali Shaarawi. Recollecting conversations between her mother and ‘Aunt’ Gazibiyya Hanim, who
were responsible for her marriage, she remembered the shock and how the ‘room began to spin’ on hearing ‘If necessary...we could arrange a marriage with her cousin’ (Shaarawi, 1987: 52).

Similarly, Taj (2003: 144) recalled her own betrothal, and a conversation with her father: ‘I will have you married soon. I will come to your home often and you must serve me.’ This conversation was preceded by an incident involving her mother, and it is in this context that her future marriage can be understood as a means by which she could escape her. Moreover, the latter part of the conversation implies that suitors will be brought to Taj’s home by her father and she is to respect his wishes. Through this, the patriarchal order of the domestic realm is reinforced and indicates how removed she was from the betrothal process. The unknown element of this relationship and the suitability of a family rather than the bond between two people is emphasised as she ‘prepared myself to love him’, thereby reiterating the absence of an established relationship prior to marriage and highlighting the forced, unnatural nature of her love for him.

Throughout her memoirs, Taj recalled the emotional turmoil experienced as a result of being married to someone unknown at such a young age. Remembering her wedding day:

> The vow was said and everyone waited for my response. But tears left me no reprieve for a reply, and I was trembling all over. Finally, after painstaking efforts, and several clandestine beatings, I said a feeble aye,” thereby winning release from the turmoil and confusion of the moment... Oh, what a cursed day, what an evil hour! Never will I forget that moment. When freedom and dignity were snatched away from me and replaced with antipathy and revulsion. Holding that damnable day as the author of my ruin, I will denounce it forever. (al-Sultana /Vanzan & Neshati, n.d./2003: 111–112)

A similar situation, was observed in Iran by Colliver-Rice (1923: 27), whereby a woman’s lack of response incited demands for an answer. This silence infers reluctance to commit to this arrangement, yet the eventual answer was forced. Divergently, Taj remembered ‘clandestine beatings’ as a means of ensuring she answered correctly. It was at that moment that she believed she lost her independence and her dignity, falling into a new patriarchal structure.

At a young age Taj was very critical of customs and traditions associated with marriage:
Ah misery! Of mankind’s great misfortunes one is this, that one must take a wife or husband according to the wishes of one’s parents...Man must always choose his eternal companion well, and get to know her thoroughly before making his choice, so that he does not ruin his life and fall prey to temptation.


Taj therefore questioned the traditions of Iranian marriage and the absence of a sense of knowing the person to whom you are to be married. The language she used is prominently male. ‘His eternal companion’, ‘his choice’ and ‘ruin his life’ all represent the patriarchal nature of marriage. Moreover, Taj believed that unhappiness due to ignorance about their future spouse and being unable to make an educated decision would potentially result in extra marital indiscretions.

Whilst both Huda and Taj’s experiences occurred prior to 1920, similarities can be drawn with other women’s experiences. In 1920, following the death of her mother, 12 year old Egyptian, Doria Shafik, requested her arranged betrothal be ended (Nelson, 1996: 22), thus representing a break with conformity. The use of ‘ask’ signifies respect towards her grandmother and indicates recognition of the implications of what she was requesting. The use of ‘this’ when referring to her betrothal to al-Sa’id al-Qasabi suggests that Doria did not identify as participating in this process. This request also indicates the emergence of a feminist consciousness, an understanding of self-determination and achieving personal satisfaction without a pre-determined future; characteristics which were also evident in Huda, but were not as obvious with Taj. These divergences are potentially due to varying constraints which accompanied differing class expectations, and this is evidenced through the social positioning of the three aforementioned women; with Doria being middle class, Huda upper class, and Taj of Iranian royalty.

In 1926, a committee became responsible for amendments to the Egyptian law of 1920 which proposed the inclusion of stipulations by the wife in the marriage contract (Shaham, 1999: 465). Whilst approved by the Cabinet, King Fu’ād vetoed the proposal due to the public outcry which ensued, and it was omitted from the later 1929 law (Shaham, 1999: 465). One justification for objecting to the proposal was its contravention of the Hanafi doctrine (Shaham, 1999: 475). Due to the rigid nature of the Hanafi law, and the adoption of the principle of selection (takhayyur) by Egyptian legislators by the 1920s, it was later suggested that the Hanbali doctrine be adopted as it permitted the inclusion of stipulations
in the marriage contract providing that they do not contradict *Shari‘a* (Shaham, 1999: 476).

Despite King Fu‘ād’s veto, stipulations had become an informal tradition prior to 1926. This is evidenced through the inclusion of a stipulation by Huda’s mother prior to her marriage to Ali, and by the ending of her Uncle Idris’ betrothal following stipulations pertaining to the location of the marital residence (Shaarawi, 1987: 24). Whilst this indicates a move towards protecting women once the marriage has been contracted, the stipulations in both cases were implemented by the bride’s parent(s), thus indicating that control was not possible. However, the proposition of 1926 placed the responsibility of stipulations with women, thus indicating the proposed relinquishing of power from guardians.

Contrastingly, under Iranian law a marriage contract was invalid should it contain stipulations however, this was further clarified stating that a marriage contract was invalid if stipulations related to its revocation. If stipulations in a contract of permanent marriage pertained to the possibility of *mahr* providing that a time frame is specified ‘...after revocation it will be as if no dower had been mentioned (in the marriage contract)’ (Sections 1068 and 1069 in Naqvi, 1968: 152; Taleghany, 1995: 157).

The method by which potential suitors were found was also referred to in a negative manner, ‘If a man swam into Shazdeh’s net whom he and Khanom considered suitable, I would have no choice but to obey’ (Farman Farmaian, 1993: 155). The language used makes the betrothal process comparable to fishing, finding a fish and, if not suitable, throwing it back into the water. The search for a suitor, according to Sattareh (1993: 157), was not simple, recalling an instance where after the ‘interview’ her father decided it would be an unsuitable match. The language used in this instance once again denotes business, which has proven to be a common occurrence when discussing marriage arrangements. The interview for potential suitors reinforces this, ensuring that the contract which will be established will provide strong foundations for the extension of his family. Additionally, it reinforces Kaufman’s (1994: 63) argument that connotations of “normal” manhood’ emerge from social processes which occur within patriarchal familial relations. Sequentially, questions about the impact of secularism on matrimonial equality, and the role of the *wali* arise.
6.4 Wali

The *wali* is recognised differently by all schools of Islam. One commonality is the recognition of the right of ‘marriage guardians’ to marry children of both sexes without their consent (Coulson & Hinchcliffe, 1978: 39). Moreover their role in determining a woman’s marital future relates directly to female restrictions in choosing a partner (see section 6.3). In *Hanafi* law however, the individual who was married by a guardian who was not the paternal (grand) father was permitted to end the marriage when puberty was reached. For women of other Muslim faiths, marriage was contracted on her behalf and against her will, regardless of her age, until she had already been married (Coulson & Hinchcliffe, 1978: 39), thus refuting monolithic representations of Islam and reinforcing the significance of its divergent nature and accompanying interpretations.

The Iranian Civil Code, Section 1071, stated that either of the betrothed may permit another individual to contract the marriage for them (Naqvi, 1968: 153), however, a woman may not marry without her guardian’s consent until she reached the age of eighteen (Section 1042 in Naqvi, 1968: 149). For non-*Hanafi* women:

> The marriage of a girl who has not yet married depends on the permission of her father or paternal grandfather, although she may have attained the age of more than 18 years. In case her father or paternal grandfather fails to give permission for her marriage without any sound reason, the girl may contact the Marriage (Registration) Office, introduce fully the man whom she wishes to marry, and (mention) the conditions of marriage and the dower agreed upon by them, and also inform her father or paternal grandfather through the said Office about the details. After fifteen days of the (receipt of) notice, the Marriage (Registration) Office can lawfully execute the marriage. The said notice may be sent to the father or paternal grandfather through a channel other than the Marriage (Registration) Office, but the receipt of the notice must be ensured.

(Section 1043 in Naqvi, 1968: 149)

The following section then clarified that only the paternal (grand) father may personally give consent; should they not be around and the individual has another guardian, then it is not necessary to obtain his permission (Naqvi, 1968: 149). This reinforces the strength of the patriarchal familial structure and a girl or woman’s future. It is also apparent that guardianship was solely a male responsibility, therefore further emphasising the enforced dependence of women on men. For both Sattareh and Taj, their fathers maintained the role of *wali* and were responsible for finding suitors; for Taj however, it was Anis al-Dawla – considered head of the harem - who became responsible (Amanat in al-Sultana/Vanzan &
Neshati, n.d./2003: 34). The death of Huda’s father resulted in her cousin adopting the role, which was essentially eradicated when Huda was betrothed to him and she was asked: ‘Whom do you wish to designate as your wakil to sign the marriage contract?’ (Shaarawi, 1987: 54). Whilst this represents an aspect of choice for Huda, the decision of whom she would marry was still removed from her. In Huda’s case the decision had been made by her guardian, but due to their betrothal, it is arguable that the position he gained as her wali was abused by his involvement in arranging their betrothal.

The removal of women from the process of choosing a partner through the wali resulted in calls from feminists in both Egypt and Iran for increased female participation in marital arrangements. This is evidenced in Egypt through the ‘questioning of the Egyptian father’s authority’ (Kholoussy, 2010: 115). In both cases, the wali essentially denoted ownership of the father, or allocated male, over women or children; thus reinforcing the patriarchal, business-like framework which ensured the predominance of male authority in the marital process. This signals the distancing of women from marital arrangements, thus indicating that they had limited conditional rights, and this is further evidenced by mahr.

6.5 Mahr

Mahr, also known as the bride price, is the monetary amount ‘contracted by the groom’ and whilst this is payable when demanded by the bride, it is generally given if he divorces her. The payment of material goods to women prior to their marriage represents a woman’s acceptance. Moreover, the value of mahr indicates the societal position of the bride’s family, subsequently reinforcing the prominence of class hierarchies and social strata in establishing a marriage.

A small amount is usually paid at the point of marriage, however, the remaining payment is understood to discourage divorce (Coulson & Hinchcliffe, 1978: 200). This small amount is also known as milk price (shir baha) and ‘theoretically is to pay the mother of the bride for bringing up the girl’ (Coulson & Hinchcliffe, 1978: 200). This initial payment, and the labelling of it as ‘milk price’ represents a form of compensation should a daughter be born. Consequently, traditional gendered attitudes towards female children and the burden they were seen to represent is reinforced.
Kasravi (cited in Regan, 1985: 70) posits that *mahr* is not required due to marriage being the ‘joining and living together’ of two people. Justification for this tradition ensures that women will not face destitution should the marriage disintegrate, and in some instances a means by which fathers profit (see section 2.2.1). However, Kasravi (cited in Regan, 1985: 70) believed there should be an alternative to this potential issue, especially as it is understood to favour women, leaving men with numerous daughters in a potentially precarious situation. It is possibly due to these initially unforeseen circumstances that the financial position of men is taken into consideration when *mahr* is discussed.

It was also not uncommon for *mahr* to be paid in instalments, and in early twentieth century Egypt, the advance was usually between one third and a half (Kholoussy, 2010:28). The payment of goods to a certain value, depending on the social status of the woman, once again reinforces the business of marriage. This thesis posits that advanced payments represent the marital equivalent of a reservation payment, thus ensuring that women were recognised as betrothed.

Huda recalled her excitement upon finding an array of jewellery from which she was to choose her favourite pieces. ‘I found a casket of jewels lying open in front of her; she asked me to select some pieces in fulfilment of a vow she had made for the recovery of my illness’ (Shaarawi, 1987: 52). This recollection reiterates the exclusion of women in betrothals, however, it could have been a result of Huda’s youth, as she was thirteen when she married. The marriage of girls at a young age potentially removed issues of refusal as obedience to elders, especially fathers or guardians, were of great importance within the familial structure.

Taj also recalled a morning, when in the presence of her father, trays of toys and jewellery were brought into the room and placed in front of her. It was announced that they were for a young boy to give to ‘any girl’ he wished. She remembered how he had been advised to choose her despite one of her older sisters also being a candidate for betrothal. Taj wrote of her mother’s forceful approach in ensuring she was chosen and that the boy had complied (al-Sultana /Vanzan & Neshati, n.d./2003: 99). Taj further recollects the boy’s nerves:

> As soon as my father had spoken, the boy picked up a ring and put it on my Sisters finger, saying, “S-s-s-sir, I ch-ch-ch-choose th-th-this girl as my b-b-b-betrothed!” My father
embraced him and said, “My dear Aziz! Your betrothed is this Other girl, and it is my wish that you have her.

(al-Sultana /Vanzan & Neshati, 2003: 100)

This indicated the prominent role of parents in this instance, with the future of each child being determined for them despite the element of ‘choice’ given to them. Huda (1987: 53) recalled her excitement at the jewellery she had been permitted to select. ‘I chose a splendid diamond necklace and bracelet and I rushed to show them to Umm Kabira so she could share my joy’. Huda’s excitement evidences innocence and unawareness of the true meaning of her materialistic gains. Following the acceptance of mahr, Huda became aware of their displaying whenever guests visited her mother, thus making public her betrothal to Ali within the private sphere.

The tone of Taj’s recollection varied drastically to that of Huda’s, with the use of ‘candidate’ reinforcing the business of marriage. Moreover, the boy’s decision as to whom he should be betrothed to was not his, as is evidenced by Taj’s father’s response when his elder daughter was chosen. Additionally, the presence of toys, reiterates the age of the persons being betrothed; whereas Huda was presented with jewellery with the absence of toys representing the substantial age difference.

Under Iranian law, anything ownable with a monetary value can be offered, items or amounts given in this form however, must be clarified so as to eradicate any confusion at a later date and all parties must agree to the amount (Sections 1078 - 1080 in Naqvi, 1968: 153). Should the husband fail to pay mahr, the marriage would become void within a certain period of time, with the marriage and mahr remaining valid but ‘the condition shall be void’ (Section 1081 in Naqvi, 1968: 154). The legalities of mahr payments were outlined in Sections 1082-1084, with women’s ability to determine its use once the contract was established, and the husband’s liability should it have been or become flawed after the marriage but prior to consummation, being clarified (Naqvi, 1968: 154).

Should a woman not immediately receive mahr, then she could legally refuse to fulfil duties to her husband without ramifications of maintenance refusal; however, if she fulfilled her duties without coercion prior to receiving it, the absence of ramifications would not be

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41 Umm Kabira (Big Mother) was her father’s other wife, with whom she appeared to have more of an emotional connection than with her own mother.
applicable to her (Section 1085 in Naqvi, 1968: 154). Furthermore, if the marriage was permanent and *mahr* was not mentioned or its absence was stipulated in the marriage contract, the marriage would be valid and negotiations could occur as to the amount, but she would be permitted the full amount if the marriage had been consummated. Should either party die before consummation and the agreement of *mahr*, then women were entitled to nothing (Naqvi, 1968: 154).

In the case of the husband divorcing his wife prior to consummation she was entitled to half of the agreed amount; however, should she have been paid more than half, she was required to return the outstanding amount to her husband as it was given to her or something of equivalent value. Should this occur without an amount having been agreed, then women were entitled to *mahr al-mut’ah*; if she was divorced subsequently then she was entitled to the full amount (*mahr al-mithl*). Whilst establishing *mahr al-mut’ah*, men’s financial status were taken into account (Sections 1092-1094 in Naqvi, 1968: 155).

The patriarchal structuring of marital laws, irrespective of class, was reinforced through the legalities of *mahr* for temporary marriages, stating that if it was not mentioned then the marriage was invalid. Should the woman die she did not lose her *mahr* – regardless of consummation, and if the husband excused the remaining period of marriage to the wife before its consummation, he should pay her half of the dower (Sections 1095-1097 in Naqvi, 1968: 155).

Sections 1098 and 1099 stated that regardless of the permanence of the marriage, if it had been void and was not consummated the wife was not entitled to *mahr* and anything she had received must be returned to the husband. However, if she was unaware of its invalidity and the marriage was consummated, then she was entitled to *mahr al-Mithl* (Naqvi, 1968: 155). Furthermore, should issues arise with regard to clarity as to the form of *mahr* or she was unable to own it, then she was entitled to the full amount. Should it belong to another person then another item of similar nature or value should be provided unless the other owner permitted her to have it (Section 1100 in Naqvi, 1968: 155). For all other reasons for divorce after consummation, other than the husband’s impotency, the woman would not be entitled to her *mahr* (Section 1101 in Naqvi, 1968: 156).
Should the marriage not take place, section 1037 stipulated that either party could demand the return of gifts from the other. Should this not be possible, the recipient of the gift(s) must ensure the other party received the equivalent value. This condition was further clarified by the subsequent section which stated that this was not applicable should the revocation of the betrothal be due to death (Naqvi, 1968: 148).

In 1937, whilst undertaking her two theses at the Sorbonne, Egyptian feminist Doria Shafik was reunited with her cousin Nour. Having had previous betrothals end and having sought divorce from her husband, Doria was sceptical of marriage, its potential restrictions, and what it represented. The significance of Doria’s marriage to Nour was three-fold. Not only had she married in a foreign country without parental consent, but she had refused to accept *mahr* (Nelson, 1996: 92). This indicates an increased sense of the feminist consciousness which can be seen to have emerged during Doria’s childhood (see section 6.3). Moreover, her rejection of *mahr* represents a different type of marriage than was experienced by Huda and Taj, with the primary difference being that she was not ‘bought’. The absence of *mahr* in this instance represents a change in forms of marriage and male attitudes, and whilst reforms had occurred, *mahr* was still a prominent factor. The removal of this aspect in Doria’s marriage potentially increased her sense of liberty within the bounds of the marriage contract. Whilst cultural and traditional aspects of Egyptian marriage and family were clearly important to her, the removal of the sense of ownership on Nour’s part indicated a new type of marital relationship where equality was more prevalent than in other cases.

Whilst *mahr* had a prominent role in the betrothal and eventual marriage of a couple under Islamic law, Kholoussy (2010: 28) identifies it as a contributing factor to the Egyptian marriage crisis which occurred during a period of economic hardship. Moreover, the noting of the total *mahr* in the marriage contract indicated a formal acceptance of the price paid for the bride, thus reiterating the business configuration of marriage. Traditionally, *mahr* was paid in two parts. The first (*muqaddam*) was paid before the consummation of the marriage, with the latter part (*muʾakhkhar*), being reserved for the ending of a marriage, whether through divorce or death. However, the economic climate in Egypt and Iran during the (inter) war (years) contributed to a higher than average *mahr* being expected. Subsequently, more Egyptian men chose to remain bachelors, primarily because the cost of
mahr was too great (Kholoussy, 2010: 28), and Iranian girls remained single due to their father’s inability to provide an appropriate mahr (Regan, 1985: 71). Through this lens it thus becomes possible to see the impact of secularising power structures on the economy and the subsequent effect on marital opportunities for both men and women.

6.6 Marriage in Crisis: Part 2

The marriage crisis was comprised of many variables, and previous discussions (see section 4.4) focused exclusively on the Egyptian case with issues such as economic downturn and mixed-marriages coming to the fore. Here the discussion on Egypt will continue however, a comparison will occur following the introduction of the Iranian case; along with other variables such as age and health.

Despite Colliver-Rice’s (1923: 107) observation that ‘Bachelors are not found in Moslem lands,…’ , Kasravi (cited in Regan, 1985: 69) argues that one of Iran’s biggest problems was that ‘men are not marrying’ due to difficulties in finding ‘honourable women’. Bachelorhood not only refers directly to the aforementioned variables, rather, it also represents a metaphorical stance adopted by Egyptian, and to a certain extent Iranian men with regard to foreign occupation. The socio-political construction of Egypt as a bachelor through the envisaged future of a post-colonial Egypt (Kholoussy, 2010: 11) reinforces the personification of the state. This had already been achieved, according to Baron (2005: 11, 7) who writes of the familial metaphors used throughout the nationalist struggles, Safiyya Zaghlul as ‘mother of the Egyptians’, and the gendering of the Egyptian nation as a woman through the term Misr (Egypt) being female.

Whilst this politically symbolic bachelorhood may be seen to contradict Baron’s position, she recognises the gendering of the Arabic language, and whilst Misr may be female, watan (territory/homeland) is male (Baron, 2005: 7). Through Baron’s recognition of the gendering of terminology, it is possible to see how the Egyptian state can be portrayed as both female and male. This indicates that the majority of Egyptian citizens - inclusive of those who sought to increase women’s political rights, as well as those who chose to remain unmarried - mirrored their public, nationalist beliefs onto their private, personal decisions.
Despite correlations between bachelorhood and national self-determination, Mustafa Sadiq al-Rafi’i believed that:

Marriage is the cornerstone of manhood and a principle of national allegiance. A man who does not marry is like a deserter from the army: Both betray their responsibility and duty to their nation. Manhood can only be attained through marriage.

(cited in Kholoussy, 2010: 23)

Kholoussy (2010: 23) notes that concerns regarding the Egyptian marriage crisis in 1934 were not new, nor were they fully examined, with the emasculation of men and questioning of their national loyalty occurring rapidly. Whilst the decision not to marry has been metaphorically linked to the gendering of watan as well as nationalist self-determination, the criticism of Mustafa Sadiq al-Rafi’i indicate support of a female Egypt and the familial metaphors which emerged with the feminist movement.

Iranian bachelorhood can be viewed through the same lens, with freedom for the state and for the people being the primary objective of nationalists and constitutionalists, along with calls for the increased secularisation of politics. One area of the marriage crisis where parallels can be drawn between the two states is mahr. Due to economic misfortune in Egypt mahr rates increased to the extent that suitors were unable to afford them (see section 4.4.1); in Iran the same issue is understood to have occurred. The primary divergence was that in Iran it was fathers who ‘were not wealthy enough to provide a dowry’ (Regan, 1985: 71), thus resulting in girls remaining single and not being viewed as honourable by prospective suitors due to the ‘unfortunate situations’ they may have found themselves in (Regan, 1985: 69).

For Kholoussy (2010: 42), the Egyptian crisis provided an alternative lens through which governmental responsibilities were able to be redefined, and this is equally applicable to the Iranian case. Additionally, alternative variables were brought to the table with possible explanatory values as to why Egyptian marriage rates had declined. In 1920, arranged marriages bore the brunt of the blame for reductions in marriage, and in 1931 the public/private dichotomy was deemed responsible (Kholoussy, 2010: 52), thus echoing the primary tenets of Amin’s (1899, 1900/2000) theses, as well as concerns raised by Taj (n.d./2003) and Sattareh (1993). However, as these issues dissipated, blame shifted onto debauched women (Kholoussy, 2010: 55); thus indicating that no single factor can be
attributed to the Egyptian, or the Iranian marriage crises. The inability to connect a single factor to the crisis reinforces the intersecting nature of all fields. It is thus within this milieu that economic, social and religious factors contribute to the examination of the impact of secularism on women’s marital rights.

6.6.1 Age

A prominent contention was the young age at which girls were married. This was problematic for two reasons. Firstly, in some cases, girls as young as twelve were being married to much older men, thus having a potentially detrimental impact on the development of the child. Second is the tension caused by the age differential between spouses; thus age can be seen to contribute to the marriage crisis, not only as defined by Kholoussy (2003, 2010), but also with regard to the stolen innocence and youth of many girls.

Talhami (1996: 106-107) perceives Egyptian Law 56/1923 to be ‘much more pro-feminist.’ This law was, in essence, aimed at encouraging a higher age of marriage for both men and women, with marriages where the wife or the husband were under the age of 16 or 18 respectively, being invalidated if it became a judicial case (Talhami, 1996: 107).

According to Harik and Marston (1996: 69) a traditional father may seek to ‘marry off his daughter as young as possible’, thus relinquishing him of the burden of maintaining her honour and supporting her financially. Another justification for marrying girls at such a young age was that they ‘are thought to be more pliable, better able to learn and adapt to the ways of the husband’s family’ (Harik & Marston, 1996: 70). The ‘privileging’ of one generation over another however, creates tension amongst women (Gillis et al., 2007:xxvi). This could potentially be removed due to the ‘pliability’ of young girls and their learning the structural framework of the husband’s family relating directly to the notion of obedience (taa’a). By immersing his wife in the familial structure of his home at a young age, she was less likely to behave in a disobedient (nashez) fashion, thus reinforcing the patriarchal system of his family from a young age, essentially replacing the role of her father, and ensuring taa’a from the onset of marriage.

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42 Obedience, or taa’a is regarded to be a legal obligation since Shari’a is understood to have made marital rights and duties ‘mutual and complementary (NWRO, n.d.: 30).
Married to her cousin (and guardian) at the age of thirteen, Huda experienced the effects of arranged marriage (Fay, 2003: 94), and it is evidenced in her later activities that she sought to prevent other young girls being subjected to this. During their activities in the 1920s,

...the EFU petitioned the government to set a minimum marriage age. Parliament acquiesced and set the minimum marriage age for girls and boys at 16 and 18 respectively.

(Sadiqi & Ennaji, 2011: 136)

Taj (n.d./2003: 167) recalled the first day of marriage and the impact of their youth on their relationship, ‘Both of us were so young, still children’, and its later deterioration. She recalled the unpleasantness of her husband towards her, and his preoccupation with playing (al-Sultana /Vanzan & Neshati, n.d./2003: 168). Betrothed at the age of eight, Taj became acutely aware of the significance of maturity in relationships, particularly hers. Reflecting on this part of her life, the emotive language used evidences its impact (al-Sultana/Vanzan & Neshati, n.d./2003: 104). Moreover, the removal of the two children from this process and the domineering parental role in establishing this union reinforced Taj’s belief that the foundations of marriage should be love, the choice of the individuals involved, and moreover, the importance of meeting each other rather than remaining shadows of each other’s future.

Whilst visiting a village near to Isfahan, Colliver-Rice (1923: 146-147) recalled another situation of a young Iranian orphan girl:

...they told me that her father had left her some money,...It was soon known in the village that she had money, and she was married when very young to a man thirty years her senior. He represented to her guardians that he wanted to start business as a muleteer, and persuaded them to let him have his wife’s money to buy mules and pack-saddles. Very soon after this he and his mules set out on a journey and were never seen nor heard of again. The child’s money had all gone, and she was dependent on her aunt, and her future seemed very uncertain...She went to school, and proved clever and promising, and thoroughly enjoyed the freedom of her new life...the mother of another pupil came to see me, and said: “I am not going to send my daughter to the school any more, and some of the other mothers say they will take their girls away too.” I asked the reason for this, and she said: “We don’t think it good that a girl who has been married should come to school with our girls. Her mind has been poisoned with all that she has seen and known, and she is not fit to mix with our daughters.”...

This reinforces the issue of age differentials and the social stigmatisation she experienced from parents who learnt of her situation. Their primary concern was that she may be a
wayward influence on their daughters, primarily by suggesting that her reputation was damaged.

Whilst age was a cause for concern, Section 3 of the Iranian Marriage Act stated that a prison sentence of six months to two years would be punishment for anyone marrying someone who had not attained the legal age as previously stated in Section 1041 of the Civil Code. Moreover, the individual marrying her would receive a two to three year sentence if she had not reached the age of thirteen (Naqvi, 1968: 158). However, Sattareh (1993: 50) recalled that whilst puberty was the benchmark for girls to become of marriageable age, some were married as young as nine or ten; thus indicating that, as in Egypt, social traditions were prioritised over law.

Whilst the petitioning of the Egyptian government was successful, minimum marriage ages at the societal level were not always adhered to, with document falsification occurring (Sadiqi & Ennaji, 2011: 136). Legal stipulations pertaining to the minimum marriage age can be considered successful on three fronts, and was understood to have different implications throughout the class hierarchy. Additionally, it adopted a supportive role for parents who sought to continue their children’s education to sixteen and eighteen for girls and boys respectively, thus relegating marriage to second place behind education, as was evidenced in chapters four and five in the case of pre-1920 Egypt and Iran. The law also addressed Huda’s other primary concern of women’s health, due to the risks of childbirth at a young age and limited access to the necessary resources (Sadiqi & Ennaji, 2011: 136).

Because of the various damages which accompanied child marriages, the Iranian publication *Patriotic Women* stressed ‘the danger of early marriages of young girls’ (Sanasarian, 1982: 36). This simultaneously reinforced the presence of an Iranian feminist consciousness and press, and emphasised the awareness amongst women, some of whom will have experienced child marriage, of the risks of marrying children, primarily girls, at a young age; thus sharing the primary tenets of the Egyptian feminist movement of the same era. Sanasarian (1982: 46) further notes that the one of the many interesting aspects of the Iranian feminist movement was ‘their classless character’, and despite the majority of them coming from upper classes, they still experienced ‘degrading conditions’. These conditions included situations such as child marriage and divorce, thus indicating that these issues
which were not only being addressed across the parameters of class, but also across state boundaries.

Another area of interest highlighted by Sanasarian (1982: 47) was the reluctance of Iranian feminists to criticise Islam, condemning those interpreting it for their inferior social status. This method was also adopted by Egyptian feminists and indicates that those advocating women’s rights did not oppose Islam, rather they opposed the patriarchal system which endorsed female seclusion. Therefore suggesting that those advocating women’s rights understood them and the movement to be compatible with Islam; whilst some participants were criticised for adopting a secular approach, the impact of secularism on increasing women’s marital rights was minimal.

6.6.2 Health

Under Iranian law, it became customary to establish the health of those to be married so as to ensure the prevention of transmitting sexual diseases and other illnesses. Section C2 of the Marriage Act stated that prior to marriage all persons must present a medical certificate at the Registration Office proving that they are medically fit. However, ‘Girls are exempted from production of a medical certificate to the effect that they are not suffering from any venereal disease’ (Naqvi, 1968: 161). This implies her assumed virginity, whether this was age related remains unclear, however, there was no mention of women having to produce one, and this could be because of the tradition that girls would be married once at a young age.

Section five stated that either party, regardless of sex, would face imprisonment for six months to two years should they be found guilty of deception at the time of marriage (Naqvi, 1968: 159). The placement of women and men on equal grounds with regard to the type of punishment which they would be dealt should they be found guilty of this was possibly due to marriage forming the familial framework. Whether men and women received different sentence lengths for the same ‘crime’ however, remains unclear, thus suggesting that gender related discrepancies could still have occurred in this instance.

The health of those entering into a marriage is also understood by Kasravi to be of great importance due to the potential risk of passing such diseases onto children. Moreover, he
argues against ‘Lepers’ having children, and advocates penalties against those marrying with diseases (Regan, 1985: 70). Throughout the analysis of Kasravi’s work, Regan (1985: 69) highlights that approximately ninety percent of ‘marital incompatibility problems today’ have an adequate solution. Arguing the same position as Taj al-Sultana, Kasravi (cited in Regan, 1985: 69) states that such situations can be circumvented if both parties receive an adequate education, arguing that its absence ‘strengthens bad habits and selfishness’. Additionally, Kasravi (cited in Regan, 1985: 69) believes that the introduction of anti-violence laws may further contribute to the reduction of family problems, however, health related laws further reinforced gendered divisions within family law.

6.7 Conclusion: Equality and Matrimony

This chapter has analysed various family laws relating specifically to marriage, demands regarding women’s rights in marriage, and lived experiences of some individuals. Through the various discussions, it has been possible to determine that whilst acts pertaining to the establishment of the family were implemented, the rights afforded to women were minimal and carried strict conditions. Issues regarding child marriage brought to the discussion the actions of feminist groups and their differing methods of addressing such problems. Whilst this analysis has indicated the necessity to improve the position of women in society, Colliver-Rice (1923: 274) stated that Iran had a women’s movement, it was not large nor particularly well organised, but what was more important was the awareness it was raising about the poor position of women and the progress they sought to achieve, and the same observation can be aptly applied to the Egyptian case.

A prominent question which emerged for Fay (2003: 77) however, is why elite women, such as Huda, who founded the EFU, became proponents for the ‘Western-style nuclear family?’ Moreover, Fay (2003: 92) argues that reforms sought by Huda and the EFU should be understood as an attempt to ‘re-write the patriarchal bargain within the context of the new nation-state that was taking shape in Egypt.’ It is understood here that the new Egyptian state was primarily founded on the establishment of the 1923 Constitution. Based on European influences at the state level, with European educated lawyers being amongst those who drafted the Constitution, and the increasing cultural influences evident at the
societal level, it is arguable that whilst Islam was established as the state religion, it could not completely be recognised as a religious state.

What has been established from the above analysis is the sparse nature of women’s rights. Traditions of arranged marriage spilled over from the nineteenth century into the twentieth, and it was not until the 1920s that marital age was legally determined. Moreover, mahr and wali continued to play prominent roles in the betrothal and marriage of women, thus placing tradition above all else. Additionally, whilst marriages declined throughout the first half of the twentieth century, women who were being married still faced issues inherent in the patriarchal nature of the private sphere, as well as of the marriage process. In contrast to Sunni Egypt, the foundations of Iran’s family laws are based on the principles of Ithnā ʾAshari Shīʿa, with the Majlis adding aspects of civil laws which became legislation between 1928 and 1935, and Vatandoust (1985: 114) posits that legislation such as the Civil Code and the Marriage Acts did not deviate from Shariʿa.

Throughout these two decades, significant reforms were implemented under Reza Khan. Women were able to stipulate that husbands remained monogamous otherwise she could seek divorce; and men had to inform their betrothed if they were already married. Issues which had been raised by feminists, such as child marriage were ‘addressed’, making it illegal to marry anyone who had not yet reached puberty. However, this did not necessarily address the issue of girls being married too young as it was common belief that they reached puberty before boys (Sanasarian, 1982: 61). Despite these token reforms with regard to increased gender equality in family laws, Reza Khan implemented reforms in education and other cultural areas such as dress, more rigorously (Sanasarian, 1982: 61). Based on feminist demands, it is clear that Reza Shah’s fixation on banning the veil and other religious clothing was essentially a mask to hide the continued lack of matrimonial equality experienced by women. Sanasarian (1982: 65–66) argues that it is apparent that women had far more significant needs than the banning of the veil. With European fashion being of little significance to women, especially those who were already married with a family, the reforms being implemented can be seen as superficial.

Whilst in Iran, Colliver-Rice (1923: 91) questioned how men could become patriots and leaders with uneducated, ignorant mothers. The relegation of women to the private sphere,
their lack of knowledge, and the perceived reduction in their capabilities is thus understood to be detrimental to the domestic, and subsequently the political spheres (Colliver-Rice, 1923: 91). Although some gains had been made with regard to women’s rights following the 1919 Egyptian revolution, it is argued by Botman (1991: 107) that women were still ‘regarded as legitimate possessions of men’, and has been evidenced in both cases; however, women’s rights in divorce remain to be seen.
Chapter Seven
Dissolution of a Marriage

7.1 Introduction

Family law is prominently situated in Shari’a law, and in seeking to understand how secularism affected matrimonial equality in Egypt and Iran between 1920 and 1939, this thesis moves beyond traditionally employed religious frameworks. Chapters one to three have positioned it in contemporary events, academic literature and a qualitative post-colonial feminist milieu. Chapters four and five drew on these considerations and situated this thesis historically in the first two decades of the twentieth century. Chapter six then formed the first part of the analysis into women’s marital rights between 1920 and 1939. This chapter therefore serves to compliment chapter six by providing analyses of legalities regarding women’s rights in divorce.

The analysis conducted in this chapter will establish the rights which were (not) afforded to men and women in Egypt and Iran between 1920 and 1939. By situating this research within a post-colonial feminist paradigm, understandings of diverging experiences and impact factors such as class and gender will be possible. Beginning with insights into the initiation of divorce, rights in divorce proceedings come under scrutiny, evidencing the continued patriarchal dominance in this area of family law. The chapter then examines different types of divorce and the conditions surrounding them. The primary comparison which arises in this section will be between revocable and irrevocable divorces, waiting periods and the reclaiming of a wife by her husband.

The chapter then examines rights in polygamy and temporary marriage, with the latter only being permissible in Iran. During this discussion, women’s rights pertaining to the taking of another wife are examined, outlining the required evidence proving that this had a detrimental impact on her. A discussion on temporary marriage will then ensue, outlining the unrestricted number of ‘temporary’ wives a man can take, and the specifiable duration of the marriage. Following this, financial rights will be discussed in the form of maintenance, alimony and inheritance; outlining the strict rules which accompanied them.
The penultimate section then examines rights in child custody; emphasising the restricted period of maternal custody, and reinforcing gendered stipulations concerning remarriage. Within this section however, it will become apparent that the duration of maternal custody and children’s decisions as to which parent they reside with are determined by the Islamic school which is adhered to. The chapter then concludes by reiterating the socio-political nature of divorce in Egypt and Iran. Furthermore, it will accentuate the overarching patriarchal nature of these laws, the increased stipulations pertaining to women’s rights in this area of family law, and subsequently contribute to a more nuanced understanding of the effects of secularism on women’s rights in divorce between 1920 and 1939 in Egypt and Iran.

7.2 Initiating Divorce

The right to initiate divorce was applicable to both men and women, the primary difference being that in order for women to begin proceedings, certain criteria had to be met. Such conditions included evidence that suffering had been inflicted due to a subsequent marriage, inability of the husband to financially support the wife (and children), disappearance, imprisonment and abuse. Consequently, women were positioned at the intersection of the patriarchal legal system and the familial structure, whereby their rights remained embroiled within patriarchal structurings of the public and private spheres.

A prominent question which has arisen when examining family laws in Muslim countries is the ease with which men are able to divorce their wives. Divorce was understood by Colliver-Rice (1923: 91) to be used as a threat or punishment should women not have maintained their looks, pleased their husbands, or, more seriously, not given him a son. Should she suggest divorce, her husband was understood to punish her by withholding her mahr which she would receive when divorced by him (Colliver-Rice, 1923: 91). However, stipulations in the contract provided a means by which women could seek divorce should they be broken.

This is evidenced prior to 1920 by Huda who, at the age of fourteen, became aware that her husband had returned to his pregnant concubine. Prior to their marriage, Huda’s mother had stipulated that Huda was to be his only partner. Upon the discovery that the stipulations had been broken, Huda left Ali and moved back to her mother’s quarters (Fay,
For Fay (2003: 94) it is important to recognise her decision separate from Ali prior to meeting European women such as Eugenie Le Brun and her intense self-education; and it is because of this that Fay seeks to understand the conditions that changed Huda’s perception of the family structure.

Furthermore, it is important to note that Huda and Ali did not divorce and she returned to him at the age of twenty-two. What Huda’s actions indicate however, is the recognition such stipulations gained and her ability to leave her husband should he violate them; according to Badran (Shaarawi, 1987: 18), Huda’s decision to separate was ‘by no means typical of other young women’. This suggests that Huda broke with conformity, indicating the emergence of her own feminist consciousness and a clear understanding of her rights based on the stipulations determined by her mother; moreover, the term ‘young’ raises the question of whether such actions were more common place amongst older women.

Contrastingly, Taj expressed her unhappiness with her marriage. Whilst laws stipulated that only a man may complete the act of divorce, she (n.d./2003: 216) referred to ‘my separation from my husband’, with Amanat (in al-Sultana/Vanzan & Neshati, n.d./2003: 217) referring to it as ‘her divorce’. Whilst the marriage was severed and no stipulations in the contract were recorded, similarities lie between her and Huda as they played prominent roles in the eventual direction of their respective marriages. What is further emphasised here however, is that both of these women are understood to have broken with conformity by initiating each process. This is evidenced in Taj’s case through the language used in these two accounts of the ending of her marriage, which indicates she divorced him. Due to legal restrictions however, this could mean that she initiated proceedings, with the result being him granting her a divorce. The inability of women to divorce their husbands under Iranian law is further emphasised by Sattareh (1993: 136) who highlighted this legal disadvantage when recalling Reza Shah and his determination ‘to create the appearance of emancipation’.

In Egypt under Law 24/1920, reforms began to occur with regard to a wife’s right to seek a divorce should her husband be unable to support her or suffer from an incurable illness.

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43 Eugenie Le Brun was the wife of Husain Rushdi Pasha. Born in France, and later marrying an Egyptian man, Eugenie was a great influence in Huda’s life, was prominent in Egyptian feminist politics and was a prominent salon host.
Therefore making it possible for women to begin divorce proceedings; however, certain criteria had to be met and evidence provided. Whilst this indicates a relaxation of Egyptian divorce laws, the strict criteria which had to be met reinforced the legally recognised patriarchal stronghold of men in marriage. This later became law in Iran under sections 1120-1142 of the Civil Code of 1928 which outlined the premises on which a marriage contract may be dissolved (Naqvi, 1968b: 358).

More specifically, Section 1121 of the Civil Code stated that either ‘party’ was able to revoke the marriage should the insanity of their spouse be established, ‘whether permanent or intermittent’ (Naqvi, 1968b: 358). What is unclear however, is the intermittent period, its length and whether it will be determined by the length of one period or whether it is the cumulative amount of time these episodes have occurred. Specific blemishes in both men and women were then outlined, which resulted in the other being permitted to seek revocation. The primary difference between the two sections is that the first outlined blemishes which ‘prevent him from fulfilling the duties of a husband’ whereas the second referred to ‘blemishes in a woman’ (Sections 1122 & 1123 in Naqvi, 1968b: 358). The Code stated that in order for a woman to be able to seek revocation of the marriage contract, her husband must suffer from:

1. Impotency, subject to the condition that it is not cured even until one year after the woman’s application to a judge (for revocation).
2. Eunuchism.

(Naqvi, 1968b: 358; Taleghany, 1995: 163)

In order for a husband to revoke their marriage contract, it is stated that the wife must be suffering from:

1. Fleshy protuberance or bone in the vulva which prevents intercourse.
2. Black leprosy
3. White leprosy
4. The two passages of nature becoming one
5. Invalidity resulting in the wife’s being confined to bed.
6. Blindness with both the eyes.

(Naqvi, 1968b: 358; Taleghany, 1995: 164)

Marginal gender equality is visible here as medical conditions permitting revocation were available for both men and women. The severity of these conditions however, and the number of conditions which permitted this situation varied greatly between men and
women. The primary discrepancy was the one year waiting period for a wife whose husband suffered from impotency before she was permitted to apply to a judge for revocation, whereas no waiting period was prescribed for the husband. Additionally, there was no mention of men having to apply to a judge for revocation, thus reinforcing the ease of male divorce. Moreover, the number of ‘blemishes’ for women was double that of men, thus providing men with more opportunities to end the marriage should they wish to.

Section 1124 further clarified circumstances surrounding these conditions, stating that they ‘entitle a man to revoke the marriage contract only in case the blemish existed at the time of execution of the marriage contract’ (Naqvi, 1968b: 359). Women were permitted to revoke marriages in the case of insanity or impotence, even if symptoms occurred after they were married (Section 1125). In all other instances where the other blemishes were known about prior to and at the point of contracting the marriage, neither party was permitted to revoke it (Section 1126 in Naqvi, 1968b: 359). The final health related stipulation which permitted women to refuse sex with their husband should he have a venereal disease; moreover, this section permitted such refusals without the risk of losing maintenance (Section 1127 in Naqvi, 1968b: 359). Subsequently, the prerogative of the government to ensure the health of the couple so as to ensure a healthy base for society was reinforced.

The following sections also stated that should a man fail to maintain his wife, satisfy any other duties, or the wellbeing of the wife is at risk – due to violence or illness - then ‘the wife may apply to a court of the law for divorce, and the judge shall compel her husband to divorce her’ (Sections 1129 & 1130 in Naqvi, 1968b: 359; Taleghany, 1995: 164-165). Additionally, Section 1120 of the Civil Code stated that dissolution without medical or financial issues may be achieved through revocation or divorce in the case of a permanent marriage, and the relinquishing of the remaining period in a temporary marriage, however, this could only be executed by the husband (Naqvi, 1968b: 358). Whilst these criteria provided women with the right to divorce, the language indicates that it was only men who could divorce; rather, she was only able to petition a court that then encouraged him to divorce her rather than her being able to divorce him. This further indicates the perception of divorce as a male realm, whereby it can be initiated by women but not completed.
In 1921, Egyptian women gained the right to sue for divorce when husbands were found guilty of *darar* (mistreatment). Later, the 1929 law introduced additional grounds whereby women could gain a judicial divorce because *darar* had occurred, and reconciliation was not possible (Kholoussy, 2010: 97). From 1925 onwards, Egyptian repudiation was proscribed (Badran, 1991: 76 cited in Sadiqi & Ennaji, 2011: 135) and legislation was geared more towards the discouragement of repudiation and divorce, whilst enforcing a minimum marriage age and removing the necessity of parental consent once the age of consent had been reached (Sadiqi & Ennaji, 2011: 135). Recognition of women’s marital rights was thus beginning to emerge in Egyptian Personal Status Law, but a gendered division remained with regard to accessing divorce.

The promulgation of Law 25/1929 introduced, amended and removed stipulations from the previous Law of Personal Status (1920). Chapter two outlined laws pertaining to the *Disagreement between husband and wife and Divorce for wrong caused to the wife* (The Egyptian Gazette, 12th March 1929: 4), with Article 6 promulgating that should men behave in a manner detrimental to the marriage, a *qadi* (judge) could be requested by women to grant a divorce. Should the *qadi* be unable to reconcile the relationship and evidence had been provided to support the wife’s claim, a divorce *Bain* (irrevocable) would be granted. If the claim was rejected, renewed, and it lacked evidence supporting her claim, the *qadi* was to appoint an arbitrator from both families whose responsibility was to reconcile the issue(s). Should the arbitrators be unable to come to an agreement, two other arbitrators would be appointed (Articles 7-10). Once a decision had been agreed upon, the *qadi* would ‘give his judgement in conformity with the arbitrator’s opinion’ (Article 11).

The rights of a wife and the procedure to be adhered to in the case of divorce being filed due to the husband’s absence or imprisonment were then stipulated. Should the husband have been absent for one year or more without a legitimate reason, the wife was permitted to request a divorce *Bain* ‘even if the husband has left wealth upon which the wife can live and cover expenses’ (Article 12 in The Egyptian Gazette, 12th March 1929: 4). If correspondence with the husband was possible, then the *qadi* would fix a period of time within which the husband was to return to his wife to either resume co-habitation or to divorce her (Article 13 in The Egyptian Gazette, 12th March 1929: 4). If he failed to return or provide a legitimate excuse for his absence, then the *qadi* would provide the wife with a
divorce Bain. If communication was not possible, divorce would be granted immediately. Additionally, Article 14 referred to the husband’s imprisonment, whereby the wife was permitted to request a divorce Bain from the qadi if the term of the husband’s imprisonment was three years or more after waiting for a period of one year; even if the husband left enough wealth for her to live on.

In the case of the husband’s disappearance, the new law promulgated regulations pertaining specifically to his presumed death:

A husband who disappears in circumstances rendering his death very probable will be declared to be presumed dead four years after the date of his disappearance. In all other cases the period after which he may be declared presumed to be dead will be left to the appreciation of the Cadi. In one case or the other, the Cadi will not give his decision except after investigations made by all possible means with view to know if the disappeared is dead or alive.

(Article 21 & 22 in The Egyptian Gazette, Tuesday 12th March 1929: 4)

Following the qadi’s decision in which the husband was presumed dead, the wife was expected to observe Iddet el Wafat (period of continence prescribed for a widow) and the inheritance would be distributed amongst the husband’s surviving heirs on the date of the decision (Article 22 in The Egyptian Gazette, Tuesday 12th March 1929: 4). The revisions of laws in 1929 also included stipulations that the husband could not repudiate his wife ‘in a moment of duress’ (Sadiqi & Ennaji, 2011: 135).

Unlike Egyptian law, which did not recognise stipulations placed in the marriage contract, Section 1128 of the Iranian Civil Code stated that should stipulations have been made in the contract and it later became apparent that the party did not have ‘that particular quality’, then the spouse was entitled to revoke the contract regardless of whether it was established on this quality or whether it was ‘expressly mentioned’ (Naqvi, 1968b: 359). In order for revocation to be possible, it must be sought immediately after learning of the cause, otherwise the marriage remained valid (Section 1131 in Naqvi, 1968b: 360). Moreover, section four of the Marriage Act, along with Section 1119 of the Civil Code stipulated that the production of a ‘certificate of non-reconciliation’ is also applicable to the wife who ‘had the power of attorney to repudiate herself if her husband did not abide by the stipulation(s) included in the marriage contract’ (Naqvi, 1968a: 159; Taleghany, 1995: 163; Vatandoust, 1985: 116).
Chapter two of this section of the Civil Code also outlined general provisions for divorce. It stipulated that a husband may divorce his wife whenever he wants, however, it shall only have occurred when the necessary words have been said in the presence of two male witnesses; an ‘authorized agent’ may also say these words. The man divorcing his wife must be of sound mind with genuine intention to divorce ‘and free’. Moreover, should the man be permanently insane his guardian may divorce his wife for him if it was in his best interests. Divorce may only occur if the marriage was permanent, however, the equivalent for a temporary marriage required the husband to waive the remaining duration of their contract (Section 1133 in Naqvi, 1967: 242; Sections 1133-1139 in 1968b: 359). Divorce was not valid should the woman be menstruating, unless the husband had not been present to be aware of this (Section 1140-1142 in Naqvi, 1968b: 360; Taleghany, 1995: 166). Furthermore, should the wife be of menstruating age yet not have had her course, and a period of three months had elapsed since she was last intimate with her husband, then a divorce was valid (Naqvi, 1968b: 360; Taleghany, 1995: 166).

The first thirty years of the twentieth century witnessed a rise in Egyptian female consciousness. Paternal authority in the arrangement and dissolution of his daughter’s marriage and male jurisdiction over divorce began to be challenged. Paternal annulments were simplified through evidence that the husband was of an ‘inferior social status’ (Kholoussy, 2010: 112; 114); therefore indicating that it was not only husbands who had jurisdiction over the dissolution of a marriage. Class was thus crucial in determining women’s social positioning with a husband’s lower social status representing a potential hindrance.

This indicates that both Egyptian and Iranian law created the appearance of increased gender equality in divorce. However, on closer inspection, the absence of stipulations and their rigid nature under Iranian law implies reluctance to provide women with ‘loopholes’ when establishing the marriage contract. Moreover, legalities pertaining to a woman’s right to divorce remained tightly bound in the prevalent patriarchal framework of each country. Whilst these laws potentially advanced gender equality in the matrimonial sphere, the stringent rules by which women had to abide, the requirement of evidence, and the necessity of an application to a judge, reinforced the ease of male divorce. This speaks to the patriarchal structuring of the family, thus contradicting arguments that the private
sphere is female. Whilst the examples of Huda and Taj’s experiences occurred prior to 1920, they evidence traits which were later discussed within a legal context.

7.3 Types of Divorce

Under Islamic law there are several different types of divorce; the two recognised by Sunni Islam are types of repudiation (talaq). Understood to be in agreement with the Sunna, talaq becomes effective following 'idda or the birth of a child should the wife be pregnant. The single pronouncement or three over a period of three months, is not permanent and the husband may take his wife back (Coulson & Hinchcliffe, 1978: 42–43). However, the most popular form of divorce is the ‘talaq of innovation’ (talaq al-bid‘a) and whilst considered to be immoral, is legal and effective (Coulson & Hinchcliffe, 1978: 43). This form of divorce is immediate and requires the husband to pronounce three talaqs consecutively. Unlike the single pronouncement, this form is permanent and husbands are unable to take their wives back; he is also unable to remarry her until she has married another man, consummated the marriage and it has ended in divorce or death. The Ithnā ʿAshari Shi‘i’s however, do not recognise talaq al-bid‘a (Coulson & Hinchcliffe, 1978: 43).

For Ithnā ʿAshari Shi‘i’s, the validity of a divorce relies on it meeting specifications and the accurate Arabic pronouncements of specific words and ‘idda must be observed (Ferdows, 1985: 28). Sunni Islam recognises no formalities with regard to the method of divorce and its validation except for the period of ‘idda (Ferdows, 1985: 28). Ferdows (1985: 27) understands Mernissi to interpret the regulations of khul and tamlik divorces as ‘the only remnants of the pre-Islamic practices where women had more rights and sexual freedoms’, with talaq being practiced with little limitations by both sexes.

Repudiation is outlined in the Egyptian draft law of 1929, as the rejection of something or the denial of validity of something. In this case, it represented the denial of the validity of a marriage contract, or the denial of responsibility towards a wife. According to this law:

Article 1. – Repudiation (of a wife by a husband) made in a state of drunkenness or under constrains is invalid.
Article 2. – Conditional repudiation, used as a means of constraining the wife to do or not to do certain acts is invalid.
Article 3. – A single repudiation remains a single repudiation even though accompanied by words or gestures aiming at giving it a multiple or three-fold significance.
Article 4. – A formula of repudiation which is ambiguously worded is only valid as a repudiation providing the intent to repudiate is clearly established.

Article 5. - Every repudiation is “Radjii” or revocable, except repudiation pronounced for the third time (three-fold repudiation); repudiation prior to the consummation of marriage, repudiation in exchange for compensation, and the repudiation considered as “Bains” or irrevocable by the present Law and by Law No. 25 of 1920.

(The Egyptian Gazette 12th March 1929: 4)

The invalidation of repudiation when inebriated or under pressure, removed a threatening element from the relationship. However, only a woman can be repudiated by her husband, so whilst this removes a threat from the relationship, the process itself was not eliminated. What was achieved however, was reassurance that decisions of this nature could not be made in a drunken haste. The invalidity of repudiation based on conditions of the wife’s behaviour also eliminated the possibility of the husband using it as a threat to ensure certain behaviours. Stipulating the necessity of clarity and intention in repudiation, negating the replacement of words with gestures and stating that ambiguity, also rendered it invalid. Finally, Article 5 clearly specified that repudiation was Radjii (revocable) except in certain circumstances, thus reinforcing the gendered nature of divorce, indicating that minimal changes occurred in family law during this era.

Serving as the counterpart to this, the Civil Code outlined permissible types of divorce (Sections 1143-1155 in Naqvi, 1968b: 361). Only revocable when it occurred before consummation; a woman was past child-bearing age; divorce occurred through Khul or Mubarat providing ‘the wife does not demand the return of compensation (paid to the husband); and a third divorce following three ‘consecutive matrimonial connections by way of recall or a fresh contract’ (Section 1145 in Naqvi, 1968b: 361; Taleghany, 1995: 167). Additionally, it was forbidden if girls were under nine years of age (Ferdows, 1985: 27). It stated that ‘Khul divorce is one which a wife obtains from her husband due to the hatred borne towards him against payment of some money to the husband, whether the money is the dower itself or its equivalent, or more or less than it’; whilst Mubarat ‘is one in which there is hatred in both the parties, but in case of a Mubarat divorce the compensation (paid by the wife to the husband) shall not exceed the amount of dower’ (Sections 1146-1147 in Naqvi, 1968b: 361; Taleghany, 1995: 167). Naqvi (1967: 242) posits that the purpose of an irrevocable divorce as outlined in the Civil Code and Marriage Act was a form of protection for women so as to prevent husbands recalling them during ‘idda.
According to NWRO (n.d.: 47), *talaq* has several variations within the Egyptian legal system. However, in the case that the wife be the claimant, *talaq* occurs by a third party (*tatliq*), therefore removing the possibility of female divorce, placing it in the hands of a *qadi*, who thus appoints male arbitrators. Whilst the wife was granted the right to request divorce, the ultimate decision remained a male jurisdiction. The processing of divorce or the inclusion of a third party contained certain conditions and had three different classifications. The first was revocable, which was applicable to a single divorce, whereby the husband ‘owns the right to take back his divorced wife to the marital bond during her waiting period (*Idda*)’ without the need for a new contract regardless of her acceptance (NWRO, n.d.: 47). The other two are minor and major irrevocable. The former was reliant on the wife’s acceptance of returning to him, thus removing the notion of male ownership. This form of divorce required a new marital contract and *mahr* if the wife agreed to return, and could occur either during or after the end of ‘*idda*. The latter refers to divorce following the third pronouncement by the husband, whereby he had no claim over the wife and could not take her back unless she had entered into another (consummated) marriage which ended either in divorce or widowhood (NWRO, n.d.: 47).

The conditions under which wives could request divorce included imprisonment, harm, polygamy, illness, and absence (NWRO, n.d.: 48–50). Whilst women were afforded this right it was more theoretical than practical, with the formation and dissolution of marriage both being male domains. One reason for this stringent and gendered approach to divorce is the prominence of the Hanafi school in Egypt since the Ottoman epoch (Shaham, 1999: 463). Thus, whilst family law remained under religious law, the effects of secularism on women’s rights in this area of law are integral to further understanding their development.

An alternative to divorce is annulment, and this depends on the marriage having been contracted with witnesses. An area of contention with regard to matrimonial validity was mixed marriages. Whilst understood to have contributed to the Egyptian marriage crisis (see section 4.4.2), insecurities pertained directly to the marriage of a Muslim man and a non-Muslim woman. Clarity over the dissolution of mixed marriages had to be determined by the High Commissioner in Egypt, in reference to the validity of divorce recognised under Egyptian law. On August 31st 1927, the Acting First Secretary’s response read as:
2. ‘Article 120 of the Code du Statut Personnel recognizes the validity of a marriage between a Mohammedan and a Christian woman, provided that there are two Christian witnesses to the wedding. But, although these witnesses can bind the Christian woman, their testimony is valueless against the Mohammedan man. It seems to follow from this, that in a case such as the present where the Mohammedan man denies the validity of the marriage, there will be no witness to prove it, and, therefore, under Article 134 (4) it will be null and void, as being a marriage contracted without witnesses.

3...By Article 217 the husband alone has the right of repudiation. Divorce can apparently be obtained by mutual consent...

(TNA, FO 141/792/4)

The absence of rights for the marriage of a Muslim woman to a non-Muslim man indicates that such marriages were not permitted. Secondly, the legal necessity for two Christian witnesses to be present at the marriage and no mention of Muslim witnesses, indicates that non-Muslims were perceived to have the same value as (Muslim) women – whose statement of evidence is considered to be half of a man’s. It places the Muslim man in a superior position to his wife and the witnesses, thus making it easy for him to remove himself from the marriage. Article 217 also reinforced the absence of women’s rights to repudiation prior to the 1929 law. Moreover, it emphasised the lack of rights non-Muslim women had when entering a mixed-marriage. Not only does this legislation highlight the patriarchal system of marriage and divorce, but it reinforces the perceived superiority of Muslim men over (non) Muslim women under Egyptian law, thus emphasising the dual oppression experienced as a result of gendered laws and colonialism.

7.4 Polygamy and Temporary Marriage

Ferdows (1985: 19) argues that in the West, polygamy is the most recognised feature of Islamic marriages, and for Muslims it is the most contentious issue. The homogenous interpretation of polygamy amongst Sunni and Shi‘i Muslims is unsurprising due to Sura 4:3 of the Qur’an forming its foundations. However, the marrying of four wives is only permitted should the necessary criteria be met; furthermore, this practice is not encouraged in Islam (Ferdows, 1985: 19). Justifications for this tradition are shared by Sunni and Shi‘i scholars as it is understood to prevent ‘spinsterhood’ amongst women and in the case of female infertility, it enabled husbands to father children without the need for divorce (Lari, 1979: 115 cited in Ferdows, 1985: 20). The fear of increasing numbers of unmarried women was in part due to the ratio of female to male children born, along with threats of war,
lower male life expectancy, restrictions on women’s reproduction and poverty on women’s ability to find husbands (Lari, 1979: 114 cited in Ferdows, 1985: 20).

Whilst there was increasing controversy regarding the absence of monogamy, the permission granted to men by the Egyptian and Iranian states to have more than one wife was one area which was not reformed. It was however, one of the areas attacked by the emerging Egyptian and Iranian feminist voices. Additionally, Iranian law permitted temporary marriages which could last from hours to decades, thus placing an expiration date on the marriage contract and determining the length of time the couple would be married. This second form of marriage thus provided an additional aspect of male dominance, and is understood here to be as, if not more, destabilising to the familial structure than polygamy.

7.4.1 Polygamous Relations

Defined as the taking of more than one wife, with the maximum permitted being four (NWRO, n.d.: 60), polygamy was an unregulated area of marriage in Egypt, except in Article 11 of Law No. 25/1929 which translates as:

A woman whose husband has taken another wife may petition for divorce from him if she had been inflicted with physical or moral harm whereby continuation of cohabitation become impossible, even if she did not set forth a condition in her marriage contract to the effect that the husband may not take another wife. In the case the judge failed to reconcile between them, he shall award her a single irrevocable divorce. The wife’s right to petition for divorce for this reason shall drop if one year has elapsed after her knowledge of the second marriage of her husband, or if she had accepted this situation implicitly or explicitly. Her right to petition for divorce shall be renewed each time the husband takes another wife. In case the new wife had not been aware that he is married to another woman which had been the case, she is entitled to request divorce as well. (NWRO, n.d.: 60)

This indicates leniency towards women and the right to petition for divorce. However, the restrictions which are indicated, such as the stipulated one year period from her point of knowledge of the marriage, and the role of the qadi in reconciliation, indicates strong patriarchal overtones upon which female divorce was based. Evidence of irreconcilable damage caused by supplementary marriages was to be provided by the wife and this did not guarantee her request for a divorce (Talhami, 1996: 115). Primarily, this new law introduced a more ‘equal’ grounding for divorce, so far as it permitted women to request one.
Limitations remained however, with male authority being responsible for determining the validity of the claim and whether a divorce would be granted; therefore emphasising the patriarchal power structure of the family as reproducer of such formations.

Similarly, under Iranian law the conditions which permit men to have numerous wives, but no more than four, according to Naqvi (1967: 245) were not explicitly stated in the Marriage Act, Civil Code, or other Iranian Acts. Section 1119 of the Civil Code did however, state that stipulations which did not contravene the essence of marriage may be included in the contract. These included the wife’s right to divorce herself on her husband’s behalf should he fail to maintain her, create an environment which resulted in cohabitation becoming intolerable through maltreatment, threaten her life, or take another wife\(^4\) (Naqvi, 1968a: 157–158; Taleghany, 1995: 163). Whilst this provided women with a means for achieving divorce, should the dissolution of the marriage contract transpire, it occurred on the husband’s behalf and must have been taken to a judge for approval prior to its enactment. This reinforces the patriarchal nature of family law and divorce as a male jurisdiction, thus speaking to Urry’s (2011: 104–105) assertion that the family reflects social order and reinforces social structures which are influenced and limited by social norms.

Betrothed men were required to inform the woman of any wives he may already have and have it recorded in the ‘marriage deed’ (Section 6 in Naqvi, 1968a: 159). Should he be dishonest then he faced legal prosecution if the wife files a grievance (Section 7, Marriage Act in Naqvi, 1968a: 159). Should it be known that the man was already married, it was possible for the woman to insist that the first marriage be dissolved (Colliver-Rice, 1923: 121), as has been evidenced by Huda’s experience. Moreover, Colliver-Rice (1923: 51) observed that numerous wives was generally detrimental for the familial structure and resulted in an atmosphere of uncertainty amongst wives as to the stability of the marriage.

Whilst stipulations pertaining to subsequent marriages were not embedded in Egyptian law, concerns were evident of the status of non-Egyptian women who entered into mixed marriages, and the rights they had or the stress they might endure due to the polygamous nature of the relationship. In 1931, a letter was sent from the Society for the overseas

\(^4\) The words ‘whenever a husband marries another woman’ were removed from Section 4 of the Marriage Act, thus revoking the woman’s right to divorce her husband should the relationship become polygamous as was previously afforded to her in the Civil Code (Naqvi, 1968a: 131).
settlement of British women querying the validity of stipulations within the marriage contract:

5/1/31

Dear Sir,

I was interested to see in Saturday’s “Times” the enclosed paragraph. I shall be interested to know whether you can find out if it really is law that a wife can stipulate in marriage contract that the man should not marry anyone else.

In paragraph 21 of the enclosed with regard to marriage laws, it does not give information, and in interviewing any woman who is bent on marrying a Mohammedan, we could advise her to get this kind of contract if it really would be legal in Egypt.

Yours Faithfully

E.S. Nicholas

(TNA, FO 141/792)

The language used indicates the author’s perception of Egyptians and women. First, ‘really is law’ expresses disbelief that such stipulations would be possible, especially with regard to marriage (in Egypt). Second, ‘interviewing’ reinforces business connotations, with ‘bent’ suggesting determination or stubbornness. The use of ‘man’ in the first paragraph, rather than husband, indicates that sex and gendered divisions were more prominent than the marriage. Third, ‘...we could advise her...’ indicates a form of intervention and control over the marital process and maintaining a form of influence throughout the marriage suggesting that protection of British women was intended. The letter ends in the same manner as it began, ‘if it really would be legal in Egypt’ denoting surprise and disbelief that women could make such stipulations. It is arguable that this disengaged understanding of marital rights and law, is due to the perception that marriage under Islamic law represented a different and inferior institution to that of English or Christian tradition because of its polygamous nature (TNA, FO 141/792/4).

Whilst negative connotations accompanied polygamy and the detrimental effects it was understood to have on familial relations; Sattareh (1993) recalls a more positive environment, justifying her father’s polygamous relations with his religious devoutness, noting that when his wife Ezzatdoleh

could no longer bear children or offer him his conjugal rights even if she wanted to, and he would thus be morally as well as legally justified in taking a new wife. Furthermore, since
Shazdeh was a pious Moslem and believed strongly that marriage was the proper context for sexual relations, he would probably do just that. (Farman Farmaian, 1993: 54)

Not only does this reiterate the ease with which men could marry, but it also indicates the strong religious currents which coursed through the expansion of the family through multiple marriages. Whilst this is understood as problematic and was heavily criticised by the emerging feminist movement in Iran, Sattareh indicated positive relations between her father and his wives, as well as between the wives themselves (Farman Farmaian, 1993: 15-16; 19).

The number of wives, whilst usually limited to four in Islamic Law, was disregarded in this case. However, this is potentially due to the prominent social position of Sattareh’s family and her father’s wealth. Therefore linking to Coulson and Hinchcliffe’s (1978: 40) notion that the financial and emotional capabilities of a man to treat numerous wives equally is at his own discretion and not a judicial matter. Moreover, those following Ithnā ʿAshari Shi’ism do not have to obtain permission to contract another marriage from current wives, and there are no restrictions on the number of temporary wives (Coulson & Hinchcliffe, 1978: 40).

Polygamy has been the referent point for much criticism, especially from Western actors. Despite criticisms of Islam and its advocation of polygamous relations, Hatem (1989: 186) argues that this tradition was not inspired by the Qur’an, rather, it existed in the pre-Islamic era. Responding to this new law was a debate voiced by Islamists and legalists, contending that polygamy could not be considered detrimental to the first wife due to its permission by Shari’a law (Talhami, 1996: 115).

If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hand possess. That will be more suitable, to prevent you from doing injustice. (Sūrah 4:3 Ali, 2000: 60)

This indicates the Qur’an’s permissiveness toward polygamy, but states that should unequal treatment be likely to prevail, that men should limit themselves to one wife. Correlations between Egyptian law of 1929 and religious teachings are thus visible as the former permitted women to request divorce based on the notion of inequality between the two wives and the detrimental impact she perceived this to have had on her marriage. Despite
this, the ultimate decision pertaining to divorce remained a male jurisdiction and the only right women appeared to have was that of making a request.

Prior to the introduction of Law 25/1929, the EFU became staunch advocates of gender equality in the public and private spheres. Some of the more difficult reforms they sought related to restrictions on easy divorce for men and the elimination of polygamy (Talhami, 1996: 11). Whilst the latter was not eradicated, it is arguable that the inclusion of a single article which gave women grounds to request a divorce based on the injurious nature of a subsequent marriage, was a response to the demands being made. The focus on polygamy and divorce also stemmed from experiences of some of the women involved. Hatem (1989: 185) notes Huda’s experience with arranged marriage, stipulations and separation, as well as the experiences of Nasif. Both ‘submitted to family arranged marriages and eventually had to contend with polygamous husbands’. Similar voices were also emerging across Iran, however, Reza Khan did not abolish the practice, rather minor reforms were made and repeatedly altered between 1926 and 1940 (Sanasarian, 1982: 61). The failure of Reza Khan to abolish polygamy and the token changes which were made to marriage and divorce laws reinforces the notion of the creation of an illusion to the outside world whilst maintaining rigid patriarchal power structures within the state.

7.4.2 An Expiration Date

Marriage, according to Walters (2011: 18) is amongst those institutions which exemplify patriarchy’s organisational powers. This is evidenced by mut’a (temporary marriage), which in reference to this thesis, was only permitted in Iran. Ferdows (1985:22) posits that this was common practice of both sexes during pre-Islamic times. This form of marriage permitted men and women to determine their partners and contract a marriage without paternal interferences; whilst this can be perceived as more liberal than permanent contracts with regard to its establishment, abuses resulted in it being viewed as little more than prostitution (Ferdows, 1985:22). Shi’i Islam understands mut’a as legal and a means of preventing illicit practices such as adultery (Ferdows, 1985:22). Conversely, Sunni Islam rejects it due to the argument that Sura 4:25 was revoked ‘by a tradition recorded in Muslim’s Sahih’ (Ferdows, 1985: 23), therefore providing insight into its continued legality in Iran between 1920 and 1939, and its absence in Egypt. Subsequently, interpretational
differentials emerge between the two Islamic schools and cultural divergences arise as the ‘suitability’ of practices comes under scrutiny.

The Shi’i Fiqh, and subsequently Iranian law, did not impose restrictions on the number of temporary wives a man may take providing that he was in a suitable economic and physical condition to treat them equally (Naqvi, 1967: 245–246). Whilst polygamous restrictions were not in place with regard to the number of marriages which may be contracted at any one time, the financial and emotional considerations were still a requirement, thus indicating some similarities between polygamous and temporary marriages.

Specificities pertaining to temporary marriages were outlined in sections 1075-1077 of the Civil Code. It stated that a marriage was only considered temporary when the contract was clearly stipulated as valid for a specified period of time. The length of a temporary marriage was determined by the parties involved, with it lasting ‘anywhere from an hour to ninety years’, however, only men can have more than one temporary spouse (Sanasarian, 1982: 13). The restriction on women to one temporary husband reinforces similarities between polygamous and temporary marriages; therefore reiterating the prominence of patriarchy in the establishment of a marriage. It also indicates the absence of gender equality within this aspect of family law, with it being interpreted here that women were viewed as disposable depending on the situation.

With regard to inheritance and dower, it was stated that the conditions were stipulated in the relevant sections (see section 7.5) (Naqvi, 1968a: 153). Ferdows (1985: 23) notes however, that neither party was entitled to inherit from the other and the husband was not responsible for the maintenance of the wife once the contract had expired. Contrastingly, children born into a temporary marriage were entitled to the same financial rights, such as support or inheritance, as those born into a permanent marriage (Ferdows, 1985: 22).

Another issue which arose from temporary marriages, was the social status of the women who were embroiled in such contracts. Whilst they were legally viewed as a ‘real wife’, their status was not too dissimilar to that of a slave concubine, with her ‘idda being the same period of time which was half of that of a woman leaving a permanent marriage (Ferdows, 1985: 23). Not only are there discrepancies regarding interpretation and implementation of
temporary marriages, but the manner in which they impacted on women’s lives afterwards. The primary issues appears to be the ease of male marriage for unspecified periods of time.

7.5 Financial Concerns: Maintenance, Alimony and Inheritance

The family as a patriarchal power structure extends beyond the realms of marriage and gender roles into the ‘private’ economic sphere. The financial responsibilities of the family ultimately lay with the husband; his wealth determined *mahr* as well as maintenance of the wife and children. It was also on this basis that his financial strength to accommodate a polygamous relationship was determined. Due to the patriarchal nature of family laws and the prominence of finances in areas such as maintenance and dower, this section analyses women’s financial rights with regard to the dissolution of a marriage, whether it be through divorce or death.

7.5.1 Maintenance and Alimony

When divorce occurred, women were entitled to claim any unpaid *mahr*. If her husband did not provide it, she had to file a civil suit to obtain it. Additionally, she was entitled to continued maintenance, but only during her ‘*idda*, and had no right to apply for additional financial support after it ended (Coulson & Hinchcliffe, 1978: 43). The various schools of Islam are in agreement that should divorce be revocable, then a woman’s right to maintenance extends beyond her ‘*idda*, with it being less clear as to the various stances adopted with regard to irrevocable divorces. Of the schools, *Hanafī* is the only one to permit this in all cases, with the others reserving this right for pregnant women only (Coulson & Hinchcliffe, 1978: 43).

Under *Shiʿi* law however, *faskh* and *khul* divorce do not carry the same financial conditions. *Khul* grants women the right to seek divorce due to married life becoming intolerable, requires the woman to relinquish any outstanding payments owed to her, and her husband is not required to pay maintenance during her ‘*idda* (Ferdows, 1985: 26). Divergently, *faskh* is revocable, thus permitting the husband to take her back should he wish to. Predominantly, *Shiʿi* scholars are of the opinion that ‘divorce is a natural right of man’ and the enforced patriarchal nature of this aspect of family law is because of women’s perceived weakness and the need to protect the family (Ferdows, 1985: 27).
There are four different areas of financial concern which relate to marriage, and subsequently divorce. The first, *mahr* has been discussed in chapter six (see section 6.5), the other three relate to maintenance, alimony and inheritance. According to Kholoussy (2010: 93), Law 25/1920 provided additional grounds for divorce due to the legislators drawing on aspects of the more liberal *Maliki Shafi'i* school. These clauses related to the husband’s failure to provide financial support, his absence and illness; thus providing a more permissive tone in this area of Egyptian law. This law also determined that the waiting period of an ex-wife, who was not breastfeeding or expecting a child could not exceed a twelve month period, even if her menstrual cycle did not return (Kholoussy, 2010: 89).

Chapter five (*The Egyptian Gazette* 12th March 1929: 4) pertained directly to alimony and *ʿidda*. Alimony payments were calculated on the husband’s financial status, irrespective of the wife’s financial situation, with a period of one year being the maximum time frame for alimony claims (Articles 16 & 17). This indicates the financial responsibilities of the husband to his ex-wife during *ʿidda*, and his continued financial duty to her in spite of *talaq*. Moreover, the introduction of other Sunni schools into divorce legislation indicates recognition of the rigid structure and conditions of the *Hanafi* school, thus acknowledging the more liberal, and the potentially equal nature of the other schools.

The Iranian Civil Code stated that in a permanent marriage, women were entitled to maintenance from their husband, including clothing, food, accommodation, and household items in accordance to her status, along with a servant should she be used to one or require one due to personal illness (Sections 1106 & 1107 in Naqvi, 1968a: 156; Taleghany, 1995: 161). Should a wife refuse her duties with no legal justification then her husband may revoke her maintenance, he was also excused from this duty following her *ʿidda* unless she was pregnant. However, she was not entitled to maintenance during *ʿidda* if she was widowed (Sections 1108 - 1110 in Naqvi, 1968a: 156).

Should men fail to provide maintenance whilst married, the wife may take him to court; however, maintenance was not a requirement in a temporary marriage unless stated in the contract or the contract was formed on this basis (Sections 1111 & 1113 in Naqvi, 1968a: 156-157). Accommodation provided by the husband was to be chosen by him unless he delegated the decision to his wife, should the husband behave in a manner considered to be
threatening by the wife, then she was entitled to a separate house, and providing the fear was proven a court would not force her to return to her husband’s dwellings. Should there be disagreement between the couple as to appropriate accommodation for her, a court would decide for them (Sections 1114 - 1116 in Naqvi, 1968a: 157).

Following the implementation of the Marriage Act, section 9 removed the words ‘in a permanent marriage’, thus extending the husband’s responsibility of maintenance to temporary as well as permanent wives. Alterations also resulted in the ability of a court to give ‘a religious sanction’ for divorce should the husband have failed to maintain his wife (Section 1112 in Naqvi, 1968a: 131–132).

The ninth book addressed responsibilities of maintenance. Section 1199 outlined the father’s responsibility of the maintenance of his children and its reallocation to the paternal grandfather should he have died or be unable to meet the requirements. If there were no immediate paternal relatives then the responsibility fell to the mother or maternal grandparents (Naqvi, 1968b: 282). If there were individuals other than the wife who were entitled to maintenance she took priority, and any of these individuals may have demanded this through a court. Should the man be proven financially incapable of paying maintenance the wife took priority over other claimants and she was able to demand back payments for any outstanding amounts whereas other claimants may have only demanded future payments (Sections 1203, 1205-1206 in Naqvi, 1968b: 283).

With regard to the responsibilities of children born following a divorce, section 1159 (Naqvi, 1968b: 284) stated that the child would be affiliated to the ex-husband providing the period following the divorce in which the child was born did not extend beyond ten months and she had not remarried, or that there was less than six or more than ten months between intercourse and the birth of the child. These rules were also applicable (Section 1160) should she have remarried and this would be established based on the necessary time frames (Naqvi, 1968b: 284). The patriarchal nature of the family and the financial onus placed on the husband to support his family are thus reinforced, therefore indicating that gendered laws hindered both men and women due to female seclusion and an inability to contribute financially.
7.5.2 Inheritance

Inheritance laws are an area where gender inequality is most prominent, with the value of a woman’s inheritance being substantially less than her male relatives. Ferdows (1985: 24) argues that these laws were amongst the most distinctive aspects of Ithnā ʿAshari Shiʿi and Sunni laws, with the former basing them on blood relations and the latter on paternal lineage. Subsequently female relations were excluded from inheritance rights under Sunni law; reinforcing the patriarchal nature of family law.

Inheritance in Shiʿi law is determined through the segregation of all heirs by ‘levels of entitlement’ which is established by their relationship to the individual. The first includes parents, grandparents and children; the second encompasses siblings, nieces and nephews, and grandparents; the final one includes aunts, uncles and cousins on either side of the family. However, should there be any surviving relatives in the first class, then those in the lower classes are excluded; should there not be anyone then it moves to the next class until a surviving relative is found (Ferdows, 1985: 24; Naqvi, 1968c: 362).

Inheritance laws and ‘categories of heirs’ were specified in sections 861-892 of the Iranian Civil Code, with ‘consanguinity and special connection’ being the two reasons for inheritance (Naqvi, 1968c: 362). Homicide of any nature revokes the right of inheritance, unless it was established that it was not ‘wilful murder’, it was self-defence or it was in lieu of a legal decree (Section 880-881 in Naqvi, 1968c: 365).

The fourth division pertained to inheritance between spouses, with each party being entitled to inherit from the other providing they were permanently married and there were no inhibitions (Section 940 in Naqvi, 1968c: 375). The share of the inheritance was prescribed as:

In all the cases mentioned in this division each of the spouses who survives the deceased spouse shall receive his/her prescribed share, which shall be one-half of the whole estate in case of the husband and one-fourth in case of the wife, provided that the deceased has left no (child, or) children or children's children, and one-fourth of the estate in case of the husband and one-eighth of it in case of the wife where the deceased has left a child (or children), or children's children, and the residue shall be divided among the other heirs according to the provisions of the preceding section. (Section 913 in Naqvi, 1968c: 370)
Divergently, the draft Egyptian law of 1929 stated that should the husband be presumed
death, inheritance would be divided amongst his surviving heirs, with no mention of the
wife’s entitlement to inherit (Article 22 in *The Egyptian Gazette*, Tuesday 12th March 1929: 4). However, Article 17 removed the divorced wife’s right to claim her portion of inheritance
if there was a dispute and divorce occurred more than twelve months prior to his death (*The
Egyptian Gazette*, Tuesday 12th March 1929: 4).

The halving of the inheritance value for women, as stipulated in Iranian law, reinforced the
perceived inferiority of women (see section 1.2) and consequently strengthened the
gendered hierarchy of the family. Should there be more than one wife inheriting from the
deceased, the amount inherited by a single wife would be divided equally amongst them.
They only inherit from each other in the case of divorce should death occur before the
wife’s *ʿidda* is complete and the divorce was revocable (Sections 942-943 in Naqvi, 1968c: 375). If the husband was sick when he divorced his wife revocably and died from the same
illness, she inherited; she also inherited if the divorce was irrevocable and she had not
remarried. Should he marry whilst sick and die from the same illness prior to consummation
she would not inherit (Sections 944-945 in Naqvi, 1968c: 375–376).

Section 946 stated that a husband would inherit all of his deceased wife’s property but the
wife’s inheritance from her deceased husband was restricted to ‘1. Movable property, of
any kind or description. 2. Buildings and trees.’ However, it was only the value of said
buildings and trees, not the items themselves (Sections 946-947 in Naqvi, 1968c: 376).
Should heirs of the deceased husband refuse to pay the wife’s portion of the inheritance,
then she was ‘entitled to recover it from the buildings and trees themselves’ (Section 948 in
Naqvi, 1968c: 376).

Gendered divisions of inheritance are also stipulated in the Qur’an (Sūrah 4:11 & 4:176 Ali,
2000: 61, 80), reinforcing perceived male superiority with men inheriting twice as much as
women, and heirs inheriting over their widowed mother. This emphasises the prominence
of religion throughout family law despite calls for increased gender equality and a more
secular approach to politics.
The legalities of inheritance reinforce the patriarchal nature of Egyptian and Iranian society, and are evidenced through the continued prominence of religion in family law. Numerous explanations exist for the absence of gender equality in inheritance laws, with two of the primary justifications pertaining to *mahr* and compulsory financial support during marriage, as well as exemptions from going to war. It is argued that it is because of the financial burden placed on the husband that he inherit twice as much as the wife; these interpretations are shared by *Sunni* and *Shi'i* laws (Ferdows, 1985: 25). Should the deceased not be Muslim, then it was stipulated in Iranian law that the ‘rules and customs of the religion professed by the deceased;...’ will be indisputably recognised (Naqvi, 1968a: 162).

7.6 Child Custody

Another issue which arose was child custody, with *Shari'a* law determining the age at which paternal custody began. During maternal custody however, the father or nearest male relative maintained guardianship of the child and thus enabled him to determine the education of the children, and contract any of them into marriage without maternal consent (Coulson & Hinchcliffe, 1978: 45). According to Harik and Marston (1996: 99), this was because children were understood to belong to the paternal family, thus reinforcing notions of gender segregation, male dominance, and ownership. Additionally, maternal custody was conditional on mental, physical and moral abilities to care for the child as well as her not remarrying, regardless of degrees of familial separation (Coulson & Hinchcliffe, 1978: 45).

The duration of maternal custody varies between schools and it is determined by the age and sex of the child. *Ithnā ʿAshari* law permits mothers to maintain custody of sons until the age of two, and daughters until seven; *Hanafi* law increases this period to the ages seven and nine respectively. *Shafi'i* law permits children to choose which parent they reside with once they are seven; and *Hanbali* law permits boys to choose, however, fathers automatically gain custody of daughters when they are seven. The most liberal school however, is *Maliki*, which emphasises the mother’s rights and permits her to maintain custody of her son until he has reached puberty and it is the same for daughters with the inclusion of marriage (Coulson & Hinchcliffe, 1978: 45). What is doubly evident here is the patriarchal nature of custody laws. First is the right in all interpretations, except the *Maliki*, of the father over the mother with regard to custodianship of the children. Second is the
manner in which the age determined by law appears to permit paternal custody of children once they are either no longer reliant on their mother for nourishment, or have learnt to be self-sufficient.

Child custody under Islamic law, has traditionally favoured fathers over mothers. Under Personal Status Laws, and more specifically chapter seven of the draft law of 1929, the end of maternal custody is legally determined. In the case of Egypt, Article 20 (*The Egyptian Gazette*, 12th March 1929: 4) enforced Hanafi law. It determined however, that ‘if it is found in the interest of the child necessitates such a measure’, a boy may reside with his mother until the age of nine and a girl until eleven (*The Egyptian Gazette*, 12th March 1929: 4). Whether continued maternal custody was in the child’s best interests was determined by a qadi, once again indicating the institutionalised reliance of women on men in determining their rights. If the mother remarried during this period, custody was automatically revoked and children resided with their father, who never lost his right to custody (Sadiqi & Ennaji, 2011: 136).

Revisions to child custody laws were justified by drafters of the 1929 Egyptian law, as a response to ‘the large number of complaints of women’ who believed their children were too young to be away from them (Kholoussy, 2010: 121). Kholoussy (2010: 121) posits that those responsible are likely to have been influenced by the familial, maternal metaphors (see for example Baron, 2005) which were adopted into the nationalist discourse. The representation of women as responsible for raising future societal participants is thus understood to have served as a ‘loophole’ within Islamic law, which is unchangeable and favours the father in custodial cases, and became practice in Islamic courtrooms (Kholoussy, 2010: 121).

Sections 1168-1170 of the Civil Code and section 15 of the Iranian Marriage Act reinforced child custody laws as determined by Ithna ‘Ashari Shi‘ism, with section 16 outlining the aforementioned conditions for women to maintain custody (Naqvi, 1968a: 160; 1968b: 285). What remains absent in this case is whether women may regain custody should men become physically, mentally or morally unfit to raise them. Moreover, silences on the issue of male remarriage indicated that custodial rights would not be affected should he choose to do so and this is supported by Bamdad (1977: 33) who noted the removal of Taj’s children
‘to live with their father’s next wife’. The absence of women’s custodial rights and its duration is evident in the above legislation. Moreover, the imposed nature of these laws gave no leniency in favour of women, as is once again emphasised by the case of Taj who experienced ‘forced separation from her daughters’ (Amanat in al-Sultana/Vanzan & Neshati, 2003: 73).

Whilst child custody was another area of family law in which feminists sought an increase in gender equality, the aforementioned stipulations were determined by religious laws and were thus understood to be an area where changes would not be made, despite the more liberal nature of the Maliki school. Another prominent issue is the limited period of maternal custody; thus emphasising the temporary nature of many aspects of the familial structure. The primary difference, other than age, between custody laws in Egypt and Iran was the increased flexibility Egyptian law appeared to show towards the need of the child with regard to the necessity of residing with their mother for longer than initially stipulated.

7.7 Conclusion: Equality in Dissolution

This chapter has sought to establish the rights of women with regard to the dissolution of marriage. Throughout the above discussions, it has been possible to determine that divorce remained firmly grounded in the patriarchal systems of Egypt and Iran. Following the raised volume of feminist demands, government concessions to increase female participation in divorce proceedings were minimalistic and ensured that it remained a male jurisdiction.

Criteria which enabled women to request divorce were more complex than the few legalities which stipulated conditions for male divorce, thus reinforcing the ease of male divorce. Furthermore, whilst stipulations under Iranian law pertaining to health concerns indicated potential grounds for divorce for both parties, the doubling of criteria men may use to divorce women emphasises the notion of a woman being half as valuable as a man.

The requirement of women to procure evidence of her husband’s inability to support her financially, his mistreatment of her, and any damages caused as a result of polygamous relations also reinforced gendered value and trustworthiness. The emergence of an Egyptian and Iranian feminist consciousness during the early twentieth century and its enactment during the 1920s and 1930s - through salons, the increased presence of women’s writing, as
well as boycotts and marches (see sections 4.5.2, 5.2, 5.3 & 6.2) - mark a significant point in their respective histories, moreover it is through this lens that parallels between the secular nature of these two states may be drawn. However, the continued prominence of religion through the maintained implementation of Shari’a over family law and the patriarchal reliance evident in the rights afforded to women in the realm of divorce indicate that secularism had a more diminished effect on family law, with minimal reforms primarily occurring in response to demands of women’s rights groups, rather than independently by the government.

The examples of Huda, Taj and Sattareh adopted in places have evidenced experiences of the various laws being discussed. Whilst each of these women were from the upper echelons of society and are therefore not representative of female experiences in either state, their incorporation does evidence diverging experiences and provide insight into some women’s experiences under patriarchal family laws.
Chapter Eight

Conclusion:

Matrimonial Equality, Secularism and Women

8.1 Introduction

This thesis has inquired how secularism affected women’s marital rights in Egypt and Iran between 1920 and 1939. The literature on gender equality, family law and secularism in the MENA region is extensive. Academics, analysts, journalists and observers alike have provided a myriad of information which continues to situate family law and women’s rights within a religious, and often orientalist milieu. Scholars such as Al-Ali (2000), Ali Agrama (2010), Badran (2005), Bahramitash and Kaziempour (2006), Halliday (2003), and Mirsepassi-Ashtiani (1994) have contributed valuably to this literature in the pre- and post-9/11 eras which has resulted in the capacious nature of this field of research; however, continued orientalist observations and homogenisations – such as the oppressive nature of the veil, the perceived need to save women, and representations of Islam as a violent and intolerant religion (see section 1.2) - alongside voluminous interpretations leave loud silences in contemporary and historical knowledge.

It is not only (non) Western observers of Islamic laws and customs contributing to scholastic disarray, but also adherents to Islam due to the multifarious interpretations which arise from each Islamic school. The dialogue which emerges with regard to gender equality, Islamic law and secularism in the MENA region thus moves beyond the imagined geographies of East and West to the national and individual levels of society. Subsequently, explanations for the continued patriarchal nature of Islamic law and the (in)compatibility of Islam and women’s rights have become increasingly convoluted as stereotypes and homogenisations dominate the public sphere through various (media) outlets. This thesis has thus sought to further clarify aspects of this field of research through a methodical analysis of women’s rights in family law in Egypt and Iran between 1920 and 1939 and the effects of secularism on them. Within a post-colonial feminist framework, it moved beyond Western-centric perceptions of gender equality and Islamic law, whilst ensuring that they remained present in the analysis due to their role in (re-)presenting religious, gendered and regional conceptualisations at a broader level; as well as Europe’s perceived prominence as
a ‘sovereign, theoretical subject of all histories...’ (Chakrabarty, 2000: 27) including those referred to as Egyptian and Iranian.

This chapter serves as a point of contact for the previous analyses and contextualisations. It will provide a systematic outline of the previous chapters and how they have contributed to further understanding the effects of secularism on women’s marital rights in Egypt and Iran between 1920 and 1939. The chapter will then address each of the research questions outlined in chapter one, before concluding that despite its continued situatedness in a religio-legal jurisdiction, family law in Egypt and Iran between 1920 and 1939 was affected by secularism and the manner in which it was introduced to each state.

8.2 Modernity, History and Secularism

Secularism, like religion, has no single meaning. Divergences in interpretation and implementation at the national and societal levels differ across states; therefore a single definition of secularism within the context of this thesis has not been possible. However, as will become apparent throughout this chapter, definitions emerge which are dependent on the state being examined and the individual being addressed.

Contemporary events outlined in chapter one reinforced prominent gaps which still exist within history. The chapter began by outlining the contribution this thesis makes to the fields of gender, political, historical and Middle Eastern studies and homogenisations of the MENA region as represented by Said (1978). The context and background of this project thus emerged from observations of 9/11, 7/7, and the Arab Spring which resulted in increased cultural, religious, geographic and historical generalisations and heightened Islamophobia.

A discussion then ensued on the multifaceted nature of Islam and the divergent schools of which it is comprised. Contemporary events such as the prominent emergence of ISIS, the imprisonment of Ghoncheh Ghavami in Iran, and the UAE Lachaux custody battle served to emphasise the continuation of debates surrounding gender equality, state sovereignty and religious laws across the MENA region. From this emerged a more nuanced discussion on the dual lensed process of ‘othering’ and its consequences; subsequently reinforcing deficits in historic understandings of Islam, the MENA region and the diverging effects of secularism.
From chapter one emerged reflections on regional observations, and generalisations pertaining to women’s social and legal rights; thus permitting this thesis’ research questions to emerge.

Discussions on family law, religion, feminism and secularism subsequently ensued as a means of situating this thesis within an academic milieu. Superficially, arguments may arise regarding the exhaustive amount of literature and data on women’s rights and Islam, and the absence of silences surrounding matrimonial equality. Moreover, arguments may arise which dismiss the effects of secularism on matrimonial equality due to the continued positioning of family law within a religio-legal jurisdiction. These discussions not only reinforced the divergent rights of women throughout the MENA region, in (non) Muslim countries; but it also (re)emphasised the multifaceted relationships individual states had with secularism.

Emerging prominently within this discussion was the rise and fall of the secular and religious state. Whilst Iran experienced longer durations as a secular or religious state, Egypt’s history appears more haphazard, with fluctuations occurring during leadership transitions as well as during their term(s) in office. Subsequently, initial conclusions about the relationship between each state and secularism can be drawn; with secularism in Iran appearing more resilient than in Egypt, potentially due to the manner in which it was implemented at the state level. Fluctuations were also evident throughout the MENA region when examining women’s marital rights and these correlated with the broader political situation at the time, with the Iran-Iraq war impacting on rights in each state.

Despite secularism being a prominent aspect of this research, the inclusion of women’s marital rights and the multifaceted experiences which arise within this topic resulted in a post-colonial feminist lens being adopted for this thesis. Chapter three thus facilitated a discussion on feminism, and more specifically post-colonial feminism in reference to this research and the chosen methodology. From the initial discussion on feminist insights (see section 3.2), continued homogenisations of women, gender and experience emerged with Western-centrism being a prominent factor. Whilst perspectives of various feminist strands were recognised, post-colonial feminism’s location at the intersection of spheres such as
class and gender, alongside experience, served to reinforce divergent experiences within each state.

Within discussions on (post-colonial) feminism emerged power structures, with colonialism, patriarchy and the family being prominent amongst them. Through an examination of the literature on these variables, different types of power emerged and permitted insight into prominent concepts such as hegemonic masculinity which subsequently linked gender and colonialism more strongly. The oppression of individuals, irrespective of sex emerged prominently through the works of Cohn (2013) and Fanon (1963); subsequently reinforcing the prominence of power structures and the necessity of de-centralising Western perspectives as a means of understanding how secularism affected women’s marital rights in Egypt and Iran. In moving towards a methodological discussion, chapter three also outlined the significance of history in challenging normative representations of women’s rights and family law in the MENA region.

Following this, chapters four and five historically situated this thesis in Egypt and Iran respectively, between 1900 and 1919. As has been evidenced in these chapters, Egypt and Iran share similar yet distinctive histories. The presence of foreign powers in both states resulted in the emergence of strong nationalist and feminist voices as liberation from oppression was sought on two levels. Additionally, during these first two decades Iran established its first constitution, both states felt the economic, social and international tug of war, the effects of other conflicts and revolutions, and the overarching ‘threat’ of Western ideals as an alternative to Islam. It is argued that this final point was felt in Egypt in the post 1919 Revolution era as ‘western liberal ideals’ were adopted by society’s elite (Al-Ali, 2000: 135). This ‘threat’ of westernisation continued throughout the 1920s and 1930s, with the 1936 Treaty being understood by Berque (1972: 561) to represent an aspect of this as Britain assumed responsibility for half of the cost of the new army barracks. Thus indicating that despite Egypt’s quasi-independent status, the threat of Britain’s continued exertion of power within the state was prominent.

Modernisation was also a prominent factor in the Egyptian state, with awareness being evident of the need to develop an independent, competitive economy, a more rigid position in the international arena, and a stronger society through social and political reforms.
However, due to their continuing history of foreign occupation and colonisation, Egypt was finding itself in an increasingly precarious position, which resulted in an enforced reliance on foreign powers. Moreover, the introduction of settlers into society is understood to have been perceived as a means by which the foundations of Egyptian society were weakened, and this occurred in several ways. In addition to the Western economic and political standpoints which were enforced throughout Egypt, the introduction of foreigners at the societal level further contributed to the increasing Westernisation of the state as social practices became common amongst Egyptian citizens. Egyptian women began adopting Western ideals as part of their campaign against oppression, and the foundations of Egyptian society were understood to have been put in jeopardy through mixed-marriages.

These characteristics and concerns were not unique to Egypt, with Iran - although not having been formally colonised or placed under British Protectorate at this time - sharing many of these experiences. Under Qajar rule, Iran’s economy was unstable, with a decentralised government contributing to the political and economic crises. The indecisive nature of this government, and the absence of representation throughout the various provinces, provided fertile grounds for the expansion of British and Russian troops throughout the country. A defining feature of this period of Iranian history however, was the establishment of the 1906 Constitution and the 1907 Supplementary Fundamental Laws. Whilst those advocating constitutionalism in Iran sought a more secularised approach to Iranian politics, disappointment was rife when prominent religious overtones remained. It is arguable however, that the impetus for the secularisation of Iranian politics through the establishment of a constitution did not emerge from the increasing influences of occupation. Instead, it can be understood to have been dramatically influenced by the defeat of the only non-constitutionalised country in the West (Russia) by the only constitutionalised nation in Asia (Japan).

Following his role in the Cossacks, Reza Khan rose steadily through the political rankings, being viewed as ‘the Prime Minister-in-waiting’ by early 1922 (Ghani, 1998: 289). One of the main criticisms to arise however, was the uninspired nature of the selected cabinet ministers, with the Minister of Education, Soleiman Mirza (Eskandari), whilst believing in the need for social and economic reforms, being impeded by ‘a meagre education and being poorly read’ (Ghani, 1998: 289).
The primary objective of Reza Khan however, was the establishment of a modern state. This was to be achieved through the introduction of Western science and technology, and the adoption of European models of economics, education and administration. Of these reforms however, secular changes in the legal system and the development of a railway took priority (Ghani, 1998: 397). Education was also reformed, with the implementation of compulsory education for children between the ages of six and thirteen, as well as the adoption of the French curriculum for secondary education, with enrolment increasing six fold, and the number of girls receiving an education increasing tenfold (Ghani, 1998: 399).

With the call for the increased secularisation of Iranian politics becoming more prominent, it was believed that Reza Khan was the ‘only logical contender’ (Ghani, 1998: 299). Despite his perceived strength by the Iranian people, another prominent criticism was his lack of knowledge regarding political theories, and the absence of a solid plan to remove the secular/religious dichotomy (Ghani, 1998: 299). The outcry that writers were generating for a secular state and a fresh beginning, with acknowledgement that Reza Khan was the only logical contender to lead the nation, resulted in Iran becoming an externally facing secular state whilst remaining privately religious. The appearance of a façade when it came to modernisation policies throughout the state thus becomes more visible.

This apparent distrust of Reza Khan in achieving state modernisation, increased gender equality and a break in the secular/religious dichotomy has not only been evidenced through personal accounts, but also through political accounts of British observations. It was noted that in 1922, there appeared to be increased misgivings amongst the Iranian peoples (TNA, FO 416/112, 1932: 11), thus indicating a lack of trust in the state by the people. Moreover, the Iranian state was still feeling the effects of World War One with its legacy being that of refugees (TNA, FO 416/112, 1932: 65), therefore adding another concern to its already unstable economic climate. Additionally, Western interest in Iran grew in 1922, with the United States being drawn to the north due to potential oil deposits (TNA, FO 416/112, 1932: 19), thus adding to foreign interest and presence in Iran, this time for materialistic gains. From this it is possible to draw comparisons between the Egyptian and Iranian cases, the situation each state found itself in, and the continued external pressures which inevitably impacted on the internal situation in each state.
The main area of examination for this thesis however, has been women’s marital rights. Inseparable from this is the public emergence of a feminist consciousness in both states. Whilst matrimonial equality was a prominent issue in both states, the precarious position of women within Egypt and Iran resulted in a bottom up approach, as advocates of equality of rights and opportunity in both countries believed that the root problem was access to education.

Accompanying ignorance in the fight for increased equality were disease, superstition and illiteracy, and when compared to the feminist movement in the United States over a century before, it became apparent that education was not as rigorously opposed as it was in Iran, thus permitting them to address more general concerns (Sanasarian, 1982: 48). The analyses conducted throughout this thesis however, indicates that women in Egypt and Iran stood together in their calls for reform through increased female writings, salons, boycotts, and marches (see sections 4.5.2, 5.2, 5.3 & 6.2); with access to health care, education, restrictions on polygamy and ease of male divorce being prominent in both countries. Criticisms of these issues became more public as advocates of gender equality in both states used nationalist and gendered rhetorics to lift oppression against women and the nation. Charitable work was one area Reza Khan was amenable to due to its correlations with his perception of women’s roles (Sanasarian, 1982: 68), thus indicating how some women’s rights groups were able to exist during his reign.

This thesis is situated in an era of political and social upheaval in both the Egyptian and Iranian state; therefore it is of great significance to understand the respective environments of each state prior to and during the period of enquiry. Moreover, through understanding the political climate of each state, it is possible to further comprehend personal and political experiences. It was during this time that secularism became increasingly present in the Egyptian and Iranian states. From the analyses conducted in chapters four and five, it thus becomes arguable that external influences such as foreign occupation and behaviours contributed to the formation of a secular consciousness. Its application in each state varied however, with stronger internal (governmental) voices advocating its implementation in Iran than in Egypt; subsequently giving rise to conceptualisations of internal and external secularism (see section 1.4).
The inquiry into matrimonial equality in these two historically significant countries has resulted in the inclusion of emerging feminist voices, as well as a deeper exploration of the political history of each state, and the perceptions of those who experienced it as nationals and those who experienced or observed as occupiers. It is through these various investigations that textual analyses of the various laws has been possible. Furthermore, it is because of the social, political, and economic factors that similarities and disparities have been drawn between the histories, feminist activities and political reforms of each state respectively, which has resulted in a more nuanced understanding of power, politics and matrimony in Egypt and Iran between 1920 and 1939.

8.3 Matrimonial Equality

Marriage has been defined in this thesis as the traditional establishment of the familial structure, which forms the foundations of society through the introduction of new societal participants. Through analyses of various experiences of key Egyptian and Iranian women, it is possible to draw comparisons between their very unique encounters. The primary similarity between these women however, has emerged through the language of memory, with marriage being presented as little more than business.

The absence of women from the process of choosing a partner and establishing the contract, the political power of men, established in the form of the patriarchal system, is reinforced. It is argued that the absence of female participation is primarily due to age, with both Egyptian and Iranian fathers traditionally marrying their daughters whilst they were still children, however, the ‘duty’ of the father or a woman’s guardian to select a suitor, does not end when she reaches adulthood. Through textual analyses of Egyptian laws 25/1920, 33/1926 and 25/1929 (NWRO, n.d.), alongside the Iranian Civil Code (Taleghany, 1995) and the Marriage Act of Iran (Naqvi, 1967, 1968a, 1968b, 1968c) the marital rights of men and women have been established, alongside their shared permissions and restrictions. Moreover, it has been possible to establish independent and shared rights of Egyptian and Iranian peoples.

A total of six marital rights for Egyptian and Iranian men can be identified from the analysis of the aforementioned laws in chapter six. The first right is the right to marry, and this carries a dual meaning for men in both countries as they have the right to marry a woman
themselves and they have the right to marry a woman to someone else, thus bringing in the second right which is that of being a *wali*. This right can also be understood through a dual approach, with the first pertaining to a father’s right to marry off his daughter, and the second being a man’s appointed right as guardian in finding a suitor. In both countries, men were involved in the process of choosing their future partner, and should they be married, both countries permitted the husband to prevent non-domestic female work. In the process of establishing the contract, men were afforded the right to have their financial position taken into consideration with regard to *mahr* and maintenance; thus protecting him from overly ambitious financial demands from the bride and her family. Finally, a male right in Egypt and Iran was to engage in polygamous relationships, providing that he was able to ensure equality of treatment between all wives.

This analysis then highlighted aspects of marriage where both men and women were restricted. Again, six areas were found, with four of them only being applicable in Iran, with the other two being shared experiences. First, whilst it emerged that men were able to participate in choosing partners, should they have been married as a child, this right was removed. Boys were thus placed in the same position as girls and women; subsequently ensuring the prominence of parental rights in marrying off their children in both countries, and reinforcing the familial power structure. Another restriction shared by men and women in both countries was the requirement to obtain consent of the woman’s guardian, which if denied, acted as a preventative measure against marriage. Under Iranian law however, both men and women were restricted in the inclusion of stipulations in the marriage contract, should they refer to its revocation. Furthermore, should either party have deceived the other in the establishment or completion of the marriage contract, they faced imprisonment. Later reforms then placed restrictions on mixed-marriages, with women needing to obtain government approval and men possibly needing to obtain approval depending on their circumstances. Finally, whilst restrictions were later implemented in both countries with regard to marital age, Iranian law stipulated that men could not marry and girls could not be married if they had not yet reached puberty.

In addition to restrictions, there were marital rights which were shared by both men and women. Five of these were established from the previous analyses, with the majority of them occurring under Iranian law. Both countries permitted either party to end a betrothal,
with it being an additional requirement that any gifts be returned to the other party. However, under Iranian law it was possible to assign the role of contracting the marriage to a third party; therefore essentially removing one or both of the betrothed from the process. Iranian law however, permitted temporary marriage which was not recognised in Egypt. Whilst identifying this type of marriage as legal, Iranian law stipulated that mahr had to be established otherwise the marriage was invalid.

As well as the above mentioned permissions and restrictions, there were aspects of both laws which resulted in gendered divisions and hierarchies. With regard to marital rights there were areas of law in Egypt and Iran which were only applicable to men or women. For men, as previously established, both countries permitted polygamous marriages with there being no more than four wives at any one time; they were allowed to choose partners unless they were married at a young age; and they were able to work outside of the house. Moreover, men were allowed to marry girls when they themselves were no longer children however, legal restrictions were later implemented with Egypt setting ages as sixteen and eighteen for girls and boys respectively, whilst the Iranian attempt was more vague with puberty being used as the benchmark. The final aspect of marriage which was permissible for men but not women in both states was that of mixed marriages, with it being easier and more legally accepted for men to marry foreign or non-Muslim women. It was only stated in Iranian law however, that men engaging in mixed-marriages were permitted to maintain their nationality; however, due to concerns raised by Kholoussy (2003, 2010) with regard to mixed marriage in Egypt and the increased impact of foreign husbands over foreign wives, it is possible to determine that the same was applicable in Egypt. Men were also permitted to abstain from mahr or maintenance payments should a wife not fulfil her duties; however, until 1931, men were not required to pay maintenance in a temporary marriage unless negotiated prior to the contracting of the marriage. Finally, whilst restrictions were placed on men in both countries, according to Islamic law, with regard to the number of wives they may have at any one time, under Iranian law, temporary marriages did not carry such restrictions for men.

Conversely, under Egyptian and Iranian law, women were permitted to sue their husband should he fail to pay mahr or maintenance; and once mahr had been paid, women were able to determine how it was spent. Women also had the right to be informed of any
current wives at the time of contracting the marriage, and any subsequent to it. Stipulations were also permitted in the marriage contract however, this was only legally recognised in Iran, with Egypt recognising it at the social rather than the political level due to it being entrenched in tradition. Finally, under Iranian law, girls were exempt from obtaining health certificates prior to marriage. Whether women over a certain age were required to obtain one is unclear, however, the absence of this within Iranian law is understood to represent the assumed virginity of the bride. Moreover, it is legally permitted for a woman to refuse sex with her husband without any ramifications should he have a venereal disease.

From the analyses which have occurred, it is possible to determine four marital rights of women in Egypt and Iran. Under Egyptian and Iranian law, women were entitled to *mahr*, with Egyptian brides receiving between one third and one half prior to marriage. Women also had the right to maintenance whilst married and should the husband fail to pay this or *mahr* when there were no inhibitions, she was legally permitted to sue him for it. Following feminist demands, both governments acquiesced with regard to a minimum marriage age, thus giving girls the legal right to a childhood and protection from risks associated with bearing children at a young age, however, its implementation at the societal level was more problematic. The final right which emerged from this analysis is controversial, with it being the woman’s right to be married. Whilst the traditional role of women as wife and mother is prominent throughout the analyses, this right is understood to be reversed in the sense that the marriage of women was predominantly a male domain.

From this it is possible to determine that the most significant achievement of Egyptian feminists was the legal recognition of a minimum marriage age, however, due to social pressures and financial concerns of fathers, ensuring its implementation at the societal level was far more difficult. Whilst recognition of the same calls in Iran is evident, its ambiguous nature left girls just as vulnerable as they were previously, and Naqvi (1967: 241) argues that the Iranian Civil Code and Marriage Act lacked substance in addressing the issues of Iranian society at the time. The same criticisms can be made of the Egyptian laws. Whilst a more rigid definition was provided for marital ages of both sexes, the rights afford to women in both countries with regard to the establishment of the marriage contract and life after were primarily materialistic, with no actual marital rights appearing to be afforded to them.
8.4 Equality in the Dissolution of a Marriage

The dissolution of a marriage, as evidenced in chapter seven, takes two forms. The first is that of a decision and the marital contract is dissolved through divorce; the second is a natural occurrence through the death of a spouse. Through analyses of Egyptian and Iranian laws, it has been possible to establish the rights of each spouse in the cases of divorce and death. One significant similarity which occurred through these analyses however, is the continued predominance of male rights in both cases despite amendments which were intended to provide women more rights.

From the analysis presented in chapter seven, four prominent male rights occurred in relation to the dissolution of a marriage. The first, which became a prominent feature of both the Egyptian and Iranian feminist movements, was the ease of male divorce, with the second right making significant contributions to this as they were not required to provide evidence or approach a judge. Additionally, Iranian law stated that should divorce occur before the marriage had been consummated, then the husband was entitled to a ‘refund’ on any additional amount of *mahr* which had been paid and exceeds half the value of the agreed total. Finally, should the marriage end in divorce, the ex-husband had unconditional child custody following the allocated period of maternal custody, unless she lost it. Whilst there are few rights discussed here, the overarching powers these rights carry far outweigh their scarcity.

Despite the ease of male divorce, there were aspects of the dissolution process which were restricted for both men and women. According to Egyptian law, should the woman’s father have evidence pertaining to the inferior social status of her husband, he was permitted to annul the marriage, thus removing the decision and process from both parties involved and reinforcing the significance of class in marriage. The remaining areas which were restricted were primarily applicable to men with regard to women. Under Egyptian and Iranian law, a husband’s repudiation of the wife was invalid should it happen under duress or as a result of intoxication; moreover, Iranian law prohibited conditional repudiation if it was intended to be a way of controlling the wife. Additionally, Iranian law proscribed revocable divorce should the wife be under the age of nine years old. Furthermore, divorce was considered invalid under Iranian law should a woman be menstruating, unless the husband had been...
absent and was unaware; it was also not permitted on the grounds of a health blemish if it existed at prior to or at the time of marriage and was known about. The stipulation that the blemish in the woman must have existed at the time of marriage in order for divorce to be permissible on these grounds, is thus understood to have removed blame from the husband and absolved him of any bodily harm he may have caused, which itself carried a criminal sentence.

With regard to rights afforded to men and women it was stipulated in Egyptian and Iranian law that they both have the right to initiate divorce. Under Iranian law, divorce was permitted to either party in the case of deceit by the other party in stipulations placed in the contract, or if insanity was proven in either spouse, regardless of its permanence. Divorce was also permitted to either party should the other have any of the health blemishes outlined in the Civil Code (Naqvi, 1968b: 358; Taleghany, 1995: 163-164). With regard to inheritance in Iran, both spouses were permitted to inherit from each other providing there were no lawful impediments.

As was the case with marital rights, there were legalities pertaining to divorce which were only applicable to men. As previously mentioned, men in both Egypt and Iran were permitted to repudiate or divorce their wives at will without the need to apply to a judge or provide evidence. In the case of a revocable divorce, both countries permitted men to take back their wives within a certain period of time, and have unrestricted child custody following the mother’s (loss of) custody. However, under Iranian law it was further stated that in the case of an irrevocable divorce, the husband had the right to stop maintenance payments following ʿiddah; he was also permitted to reclaim his wife’s mahār should the divorce of a consummated marriage be for any reason other than impotency. Finally, in the case of a temporary marriage, should the termination of the contract be sought prior to the agreed expiration date, the husband was permitted to relinquish the wife of any remaining time.

In the case of rights of dissolution, women were permitted in both countries to sue husbands for any outstanding mahār or maintenance, and they were permitted to apply to a court for a divorce in the case of maltreatment by the husband. As well as the right to seek a divorce, Egyptian and Iranian women were permitted to receive maintenance payments
until the end of 'iddah or the pregnancy, unless the divorce was revocable, in which case Iranian law permitted its continuance beyond the two designated time periods. Under Iranian law, should a woman consummate a marriage whilst unaware of its invalidity, she was entitled to receive Mahr al-Mithl; however, in the case of a temporary marriage, the wife was permitted to keep her mahr if she died, regardless of consummation, and if the contract ended prior to consummation and before the agreed date, then she was entitled to half. However, unlike Iranian law, Egyptian law permitted women to request an increase in their period of child custody should it be considered to be in the child’s best interests.

From this analysis it is also possible to determine five areas where women had rights with regard to the dissolution of the marital contract. The first was that under Egyptian law a marriage may be terminated when puberty was reached should she have been married prior to this. With regard to mahr, under Egyptian and Iranian law, a woman was entitled to the remaining amount when divorced, only half of the amount should divorce occur prior to consummation; and under Iranian law, the full amount should divorce occur with no amount being agreed or mentioned in the contract when it was consummated. Women were also entitled to maintenance during 'iddah, and may seek a divorce should her husband be unable to support her, was incurably ill or mistreated her. They were also entitled to their full mahr under Iranian law, should clarity in its form or an inability to own it occur. However, in each case that a woman sought to divorce her husband an application must be made and evidence provided.

With regard to women’s inheritance rights, should the husband be presumed dead due to prolonged absence, there was no mention of the wife’s entitlement (The Egyptian Gazette, Tuesday 12th March, 1929: 4); however, should they be divorced for more than one year and a dispute occurs, her right to inheritance was removed. However, under Iranian law a woman may inherit a percentage of the value of her husband’s estate, and if there was more than one wife at his time of death, the allocated percentage of one woman will be divided equally amongst them.

It is possible to establish that of the two forms of marital dissolution, rights following the death of a spouse appear to be the most restricted with regard to gender equality. However, this does not mean that divorce was any more liberal in its approach. The focal
point for women’s rights advocates in Egypt and Iran, with regard to dissolution of the marital contract was the ease with which men could achieve this. Whilst the inclusion of specific clauses pertaining to circumstances under which a divorce was (not) considered to be valid, attempts to discourage revocable divorces, and the inclusion of conditions under which women could apply for divorce could be seen as a form of advancement in balancing the equilibrium, they appeared to achieve little more than reinforce the patriarchal nature of the state and the shadow status of women within society.

8.5 Conclusion: Women, Secularism and the State

The politicisation of the private sphere has many faces and they have been discussed throughout this thesis, beginning with the public/private dichotomy (see section 2.3) and moving to the political reach into the private sphere (see section 6.2). From the analyses which have been conducted in chapters six and seven, along with the findings presented above, it is apparent that it was not only the private sphere which was politicised, but also the bodies of the people within it. By dictating the legalities of marriage, the roles of individuals in establishing it, the roles of spouses once married, their behavioural duties towards one another, and rights with regard to the two forms of dissolution, this thesis argues that the private sphere essentially became a secondary political sphere. Moreover, whilst the private sphere remained under religious law, its politicisation ultimately brought it into the public, increasingly secular domain.

Throughout the first two decades of the twentieth century, both Egypt and Iran experienced the public emergence of a feminist consciousness, instigated by a growing awareness amongst advocates of gender equality of the various forms of oppression being experienced by women in both the public and private realms. Despite this understanding and active efforts to improve the position of women in each of these states, there was a prominent lack of understanding with regard to the scope of female liberation in the West at the time. In her memoirs, Taj (al-Sultana/Vanzan & Neshati, n.d./2003: 201) recalled her longing to meet with the liberated women of Europe, depicting them in an ideological manner akin to her own aspirations for Iranian women. Through observations of (external) actors and the ‘enhanced’ lens through which their rights were viewed; it becomes possible to comprehend the indirect effects of secularism on matrimonial equality through the women’s movement
in Egypt and Iran. Whilst observations of Western successes influenced the women’s movements, they were not the only driving force. Rather this thesis argues that increased awareness regarding the unequal footing on which men and women stood in both states with regard to matrimonial equality can be understood to have occurred primarily due to the experiences of women and their determination to prevent younger generations falling victim to such traditions.

This was evidenced primarily through Huda (1987; Sharawi Lanfranchi, 2012) and Taj (n.d./2003) who both experienced child marriage, became mothers at a young age, and the restrictions facing them during married life. What must be noted however, is the primary difference in the types of marriage they both experienced, with Huda being married to a man much older than herself and Taj’s husband still being a child. These experiences and the impact they had on the feminist consciousness of these two women and others who had similar experiences, can in turn be understood to represent another means by which the private was internally politicised.

Throughout the first four decades of the twentieth century Egypt and Iran experienced the secularisation of the vast majority of political life, nationalist movements against foreign occupation, and the public emergence of a feminist consciousness. Al-Ali (2000: 84) posits that the 1919 Egyptian revolution, and the establishment of Egypt as a quasi-independent state (1922) are amongst many areas to be recognised as significant points in the history of the country, as well as the women’s movement.

A common thread through the various sentiments and movements which occurred in both Egypt and Iran during this period, however, is that of self-definition, with issues of ‘identity and authenticity’ (Al-Ali, 2000: 185) being prominent in both nationalist and women’s rights activities and demands. Feminist demands and achievements throughout Egypt were limited in both respects, however, it is noted that the two primary achievements of Huda Shaarawi were establishing women’s right to enrol at university, and the implementation of a minimum marriage age for both sexes, thus raising it from what it had traditionally been (Talhami, 1996: 12).
In contrast to Iran, where the focal point for reforms in gender politics were situated around the unveiling of women, in Egypt it was the feminist movement which brought this to the fore of debates, with women such as Huda Shaarawi and Safiyya Zaghoul publicly unveiling in 1924, and Doria Shafik later targeting it through *Bint al-Nil* (Daughter of the Nile), of which she was editor (Talhami, 1996: 13). Moreover, the veil was understood to represent the barrier women were battling on entering into the public domain (Talhami, 1996: 13), with Sanasarian (1982: 65–66) noting that the Iranian women’s movement felt that there were more pressing issues which needed to be addressed other than the veiled status of women. This thesis interprets these attitudes to veiling as correlating with the religious nature of the state and the people’s religious identity as demonstrated by Moaddel and Azadarmaki (2002), whereby people were less inclined to identify as religious if the state did. This pattern is evident in the case of (un)veiling as Egyptian women were stronger proponents of its removal, and the government remained staunch advocates, whilst the approach was reversed in Iran.

Within each of these women’s movements however, were aspirational differences. Established in 1910, the National Ladies Society sought Iranian independence from foreign occupation as its primary goal, with many of the women involved allocating blame to external rather than internal factors for the poor position of women in society (Sanasarian, 1985: 94). In comparison, *Jamiet Nesvan Vatankhah Iran* (1922) is understood to have had similar goals to that of the EFU, with its focus being female education, health issues and the risks of child marriage (Sanasarian, 1985: 94). Another commonality between the Egyptian and Iranian women’s movements is that the majority of those involved did not seek to criticise Islam, rather they blamed those interpreting it for the inferior status of women. *Jamiet Nesvan Vatankhah Iran* and the Association of Revolutionary Women were a few of the Iranian societies advocating the continuation of Islamic teachings whilst increasing gender equality (Sanasarian, 1985: 97), with the EFU promoting similar things.

Through the contextualisation of each case with regard to the political climate between 1900 and 1939, it has been possible to develop insights into the impact secularism had on the development of women’s marital rights. Based on the analyses conducted in chapters six and seven against the political context of 1900-1919 (chapters four and five), it can been concluded that secularism did affect women’s marital rights however, the secular nature of
the state cannot, in either case, be understood to have positively affected their development. Rather, the reforms which were implemented in both states between 1920 and 1939 as responses to feminist outcries further reinforced the patriarchal dominance of both states which provided women with token opportunities.

Within the Egyptian and Iranian contexts, the process of secularisation can be seen to have occurred at the public, state level through occupying powers in Egypt and Reza Khan’s modernising project in Iran. Contrastingly, secularism was sought at the societal level through nationalist and feminist movements in response to colonising powers, and stringent, patriarchal interpretations of religious texts. Secularisation can thus be seen to have been embedded in state-society relations through increasingly secular policies, as well as the increased presence of (women’s) literature, encounters with Western people and occupation, amongst other things. Secularism can subsequently be understood to have affected women’s marital rights by providing a framework within which power was further sought, thus emerging as internal and external within Egypt and Iran. This power emerged in two distinct ways. The first pertains to governmental power which emerged as authority over people; and the second pertains to citizens whereby power was autonomy – both for women and for the state. It is within this framework that women became aware of the dangers of child marriage, their rights in choosing a partner, and the unequal grounds upon which divorce was determined. The continued relationship with Islam also served to reinforce traditional values whilst emphasising the compatibility of Islam with women’s rights and thus female autonomy. Within both states however, irrespective of their secular nature, secularism was equated with modernisation.

The most significant achievement in Egypt is considered to be the legal implementation of a minimum age for marriage for both sexes; however, in Iran this issue was met with a superficial gesture of puberty being the benchmark for marriage. Under Iranian law, however, the inclusion of stipulations in the marriage contract providing they did not pertain to its dissolution, provided a possibility for women to be more secure in their marriage. Moreover, whilst Egyptian and Iranian law permitted women to seek divorce, the right to divorce remained solely a male jurisdiction, with the rights which were ‘afforded’ to women through the implementation of the Iranian Civil Code, Marriage Act and Egyptian laws enforcing a heightened reliance on men. Through the individual examinations of
marriage and divorce, it is also apparent that far more ‘reforms’ were made with regard to
divorce in Iran than in the other instances; however, the rights which were afforded to
women were primarily in relation to their legally determined financial reliance on men.

Whilst it is arguable that the Iranian state appeared to make increased efforts to ensure
women had more rights in this area of law, on examination the amendments made were
superficial, with women having to seek permission from male authorities. Consequently, this
thesis argues that both states were equally restrictive with regard to matrimonial equality,
and the responses which occurred were minimalistic and ensured the continuation of the
patriarchal framework in family legalities. This however, is not necessarily due to the
continuation of Shari’a law over this area. Rather it is because of the continued
implementation of such interpretations that the impact of secularism - in other areas of
politics and its perceived liberating potential – was a retreat from its implementation in the
private sphere and consequently further embedded family law within a religious
environment. It also provided a second framework within which power was sought.

Prior to the period examined in this thesis, rumblings of secularism were present
throughout both Egyptian and Iranian society. As Amanat (in al-Sultana/Vanzan & Neshati,
n.d./2003: 9) notes, insight into the life of Taj al-Sultana is limited, she has provided a
restricted lens through which the reader is allowed to view aspects of her life. However, the
brief glimpse that is permitted, portrays her as ‘a representative of the emerging secular
intelligentsia’ in the post-revolutionary era as well as ‘an ardent feminist who reflected
many of the predicaments of her culture and society in a changing age’ (Amanat in al-

As stated previously, matrimonial equality refers to the rights of men and women in the
establishment and dissolution of a marriage. Analyses have indicated minimalistic attempts
to increase gender equality in this area of law during the 1920s and 1930s in either country,
with feminist movements appearing to have been most affected by secularism, but not
necessarily the secular nature of the state. Moreover, Egypt and Iran are not only linked by
their geographic positioning in the MENA region and their shared history of foreign
occupation, but also through their similar approaches to matrimonial equality.
This is evidenced in a contemporary milieu, with increasing attention being paid to the implementation and amendment of family laws, thus questioning how this history shaped women’s marital rights in present-day Egypt and Iran. Egyptian law 25/1925 was amended in 1979, 1985, 2000 and 2004. In 1971, debates emerged in Egypt surrounding the inclusion of *Shari’a* law in the new constitution, and amendments were proposed regarding family law. In 1979, amendments to Personal Status Laws legalised divorce on the grounds of polygamy, providing women with a one year period within which they could act.

These amendments were however, reversed in 1985 as authorities ruled that they were unconstitutional due to the people’s assembly not having been in session. This resulted in women losing their automatic right to divorce if men took a second wife; they could however, petition but a *qadi* would only grant it if it were in the best interests of the family. Additionally, should divorce occur, then the *qadi* chose an appropriate residence for the wife and children. Concurrently, Iranian marriage contracts saw the inclusion of twelve stipulations providing women with the grounds to get divorce, but only if the husband signed them all (Keddie, 2001). Whilst these conditions were not as substantial as those outlined in the Family Protection Law (1967), some conditions were reinstated following its annulment in 1979. These conditions included the establishment of special courts to decide on family disputes, and later, child custody; and the permission of courts to allocate up to half the property acquired during marriage to women if they were divorced against their will (Keddie, 2001).

Despite conservative opposition to maternal custody, irrespective of remarriage, the Iranian 1985 bill also provided women with government funds to assist with the ‘upkeep of needs’ (Keddie, 2001). Later, in 1989 a bill was passed which resulted in limitations being placed on divorce with it being required that court permission had to be obtained prior to it being registered. By 1986 the average age at which women were marrying was twenty years old, with it rising to twenty-two by 1996 (Keddie, 2001), thus indicating that whilst *Shari’a* was more strictly adhered to following the establishment of the IRI, traditional child marriages were declining in areas.

Later, Article 20 of Egyptian Law 1/2000 codified *khul* divorce which was mutually agreed and women forfeited their financial rights. In Iran, a Family Protection bill was passed by
legal and judicial commissions in 2007; however, its most discriminatory provisions were met with stringent opposition in 2008, with activists in the One Million Signatures campaign being prominent in the prevention of its ratification (FIS, n.d.). By 2008, the minimum marriage age as stipulated in the Egyptian Personal Status Code was eighteen however, this was not to be the case under the new constitution (ecwronline.org, 2012).

In 2011, UN data revealed that Egypt had no official laws against marital rape or sexual harassment, but did have one against domestic violence; contrastingly, no information was available for Iran regarding laws in these areas (The Guardian, 2011). Furthermore, concerns have been vocalised regarding Iran’s Comprehensive Population and Exaltation of Family Bill (Bill 315) which proposed ‘harmful and discriminatory measures aimed at encouraging early marriage, repeated childbearing and lower divorce rates, at the risk of trapping women in abusive relationships’ (Amnesty International, 2015: 6). The current Civil Code (2006) is perceived as highly discriminatory due to restrictions on maternal custody and access to divorce; in conjunction with the lowering of women’s minimum marital age, requiring permission from husband’s to work outside of the home, and the legalisation of temporary marriages (FIS, n.d.).

Whilst the suitability of a religious framework in various legal fields is not determinable due to religion’s subjective nature, the rigidity with which it is enforced is questionable. This serves not as a means of passing judgement on specific religions or religious values, rather it serves to investigate the multifarious nature of interpretations of religious texts and their legal implementations and implications. Bill 315 also

‘entrusts multiple state bodies with developing and promoting “an Islamic-Iranian life style” rooted in “traditional” family values and gender-role stereotypes that present women’s primary role as wives and mothers, based on “guidelines” of the Supreme Leader.’

(Amnesty International, 2015: 7)

Furthering this, in 2012 Supreme Leader Ayatollah Syed Ali Khamenei condemned ‘existing policies as an imitation of Western lifestyle’ (Amnesty International, 2015: 7). This criticism reinforces perceptions of gharbzadegi and implies that strict Islamic adherence, with specific reference to the private sphere, were believed to counteract this. Simultaneously, Egypt was experiencing the aftermath (and in some areas the continuation of) its social uprisings, with the Muslim Brotherhood’s brief rise to power proving contentious due to
reports of increased sexual violence against (non) Egyptian women and attempts to reinforce a stringently gendered public/private dichotomy within Egyptian society. Whether Iranian actions during this time were a ‘response’ to the Arab Spring it is not possible to say; however, it is conceivable that the implementation of increasingly rigid laws could have been prompted by such actions.

The continued prominence of religion in Egyptian family law has however, resulted in increased numbers of urfi marriages, as customs restrict individuals from furthering their relationship prior to marriage. This not only counters regulations regarding pre-marital sex, but it has become increasingly popular due to ‘The costs of a regular marriage and the obligations that go with it...’ (Knell, 2010). Concerns regarding female security in such marriages have arisen. Whilst urfi marriages have been legally recognised in Egypt since 2000, women have struggled to prove paternity of children as was recently evidenced by the controversy surrounding actors Zeina and Ezz, their court case, and paternity results showing that he was the father of her child despite denying it (Lambert & Ramadan, 2015). Whilst not identical, urfi and temporary marriages (see section 7.4.2) share similarities regarding their gendered nature and the ease with which they can be ended.

With regard to how the history presented in this thesis shaped women’s marital rights in contemporary Egypt and Iran, the effects are multifaceted. The findings of this thesis illustrate the continued prevalence of Shari’a in family law in both Egypt and Iran between 1920 and 1939, with primary divergences being the school which is adhered to. Despite this, the effects of secularism on family law, and subsequently women’s marital rights are visible, with a prominent argument being that the increased secularisation of the public sphere resulted in family law becoming further entrenched in religious law. Consequently, this legalistic retreat indicates a protective mechanism for the private sphere, thus ensuring the continuation of Islamic traditions and the maintenance of an ‘authentically’ Islamic identity at society’s foundations.

Divergences in the secular nature of the two states also emerged as prominent factors in determining the impact of secularism on women’s marital rights. Egypt’s occupation and placement under British Protectorate resulted in more direct, external influences guiding

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45 Urfi marriage is secret, conducted with no witnesses and they are not registered with the state.
the secularisation of policies. As noted in chapter two (see section 2.2), frequent assumptions indicate colonial disinclinations to interfere with family law due to its prominence in religion (Asad, 2003: 227); however, through enforced (secularised) policies in other (industrial) areas and the economic ramifications this had, the secularisation of the public sphere ultimately impacted on the private sphere through increasing *mahrs* and financial constraints within the family. These implications were also evident in Iran despite the absence of formal occupation and British Protectorate, therefore reinforcing the impact of colonial power structures on states, irrespective of the formality of the occupation.

Whilst both states saw political resistance to foreign occupation, it was not necessarily directed against secularism, with both nationalist and women’s movements frequently opting for more secularised approaches to resistance as well as politics. Resulting from this were criticisms of groups and individuals for being Westernised. The apparently synonymous nature of secularism and Westernisation thus proved problematic in some areas due to perceptions that the result of secularism was the replacement of Islamic or national traditions with Western concepts. From the analyses conducted throughout this thesis, this perception becomes visible with specific reference to Iran and Reza Khan’s modernisation project which saw enforced Western customs and clothing within the public sphere. This is not to refute its visibility within Egypt, rather it serves to highlight the vast disparities between the implementation styles within the two states. These potentially arise from divergences regarding foreign occupation, with the formally occupied state presenting a less authoritarian methodology for its implementation.

The continuation of religious law in the private sphere and an internationally secular appearance by the Iranian state thus reinforces the notion of a façade. The rigid religious laws and superficial gestures within family law reinforce secularism’s impact on women’s martial rights within both states by further enmeshing it within a religio-legal milieu. Similarities thus emerge with regard to the continued religiosity of family law, the public presence and private effects of secularism; and differences arise with reference to the school adhered to, the strict implementation methodology, and the colonised status of each state during the early twentieth century.
As the twentieth century progressed the secular nature of the Egyptian and Iranian states appeared to alter following the establishment of the IRI and fluctuations in Egyptian secularism. Thus the effects of secularism between 1920 and 1939 on women’s marital rights in Egypt and Iran shaped the development of women’s rights in the following decades through the development of religious and non-religious women’s rights groups and governmental policy responses to increasingly secular politics. In this context, Egyptian secularism emerges as the separation of religion and politics, whilst Iranian secularism presents itself as the separation of religion and the (public) state.

The continued prevalence of patriarchal interpretations of religious law indicate that women’s rights advocacy will continue within both religious and secular frameworks. Whilst such interpretations restrict women’s rights, diverging implications do arise, with policies such as Iranian Bill 315 reinforcing the politicisation of the female body by determining roles within the private sphere, and *urf*ī marriages in Egypt providing another framework within which patriarchal power structures emerge. Previous fluctuations in the religious or secular nature of the state (see section 2.7), however, make predicting implications for the future of women in these societies difficult. This difficulty arises due to the subjective nature of religion, secularism and lived experiences and it is through this that Kedourie’s (1993: 138-139) argument of the unpredictable nature of the spread, political force and outcome of nationalism can be applied to the future religious or secular nature of states, gender equality, and women’s rights movements due to the different surrounding contexts.

This thesis has demonstrated how secularism affected women’s marital rights between 1920 and 1939 by strengthening the religious framework family law was situated in; resulting in an original contribution being made to the field of gender and MENA history. It has moved beyond traditional religious frameworks, examined the historic effects of secularism on women’s marital rights, and how this relates to the contemporary era. It has also shown why it is important to understand women’s marital rights in a historical context as a means of developing more nuanced insights into present-day family laws.
Appendix 1:
Evaluation of Possible Case Studies in the MENA Region (1920s and 1930s).

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