
IMT Institute for Advanced Studies, Lucca

Lucca, Italy

**Political Rights and Representation for Women
in Egypt**

**PhD Program in Political System and Institutional Change
XX Cycle**

**By
Erika Conti**

2008

The dissertation of Erika Conti is approved.

Programme Coordinator: Victor Zaslavsky, LUISS

Supervisor: Valentina Colombo, IMT

The dissertation of Erika Conti has been reviewed by:

Valentina Colombo

IMT Institute for Advanced Studies, Lucca

2008

Tables of contents

TABLE OF CONTENTS.....	v
ACKNOWLEDGEMENTS.....	viii
VITA AND PUBLICATIONS.....	ix
ABSTRACT.....	x
1. INTRODUCTION.....	1
2. OBJECTIVES.....	2
FIRST PART: tools for the analysis	
3. AUTHORITARIANISM IN THE ARAB WORLD: THE THEORETICAL FRAMEWORK.....	
3.1 The Arab region in Political Science	
3.2 The Arab exceptionalism	
3.3 The importance of Elections.....	
3.4 The studies on women's political rights	
3.5 A contribution for the methodology.....	
4. CONSTITUTION AND POLITICAL RIGHTS IN THE ARAB WORLD	
4.1 Representation in the Arab Political System	
4.2 Constitutions and constitutionalism.....	
4.3 Women and Law	
4.4 The case of Egypt: its constitutional evolution	
5. WOMEN: INTERNATIONAL STANDARDS ON POLITICAL RIGHTS	
5.1 Human Rights Law and its evolution	
5.2 Protection of women in the Human Right Law	
5.3 The Convention on the Elimination of All Forms of Discrimination against Women	
5.4 Mechanisms for enhancing women's status	
5.5 The International Community in the Arab region	
5.6 Egypt and International Law	

SECOND PART: the case study

6. EGYPT: THE JURIDICAL AND POLITICAL FRAMEWORK
 - 6.1 The 1971 Constitution and legislation on Political Rights and Electoral System
 - 6.2 Political openness under Mubarak
 - 6.3 The normalisation of the emergency law
 - 6.4 The role of the Supreme Constitutional Court
7. EGYPT: WOMEN AND THEIR EXERCISE OF POLITICAL RIGHTS
 - 7.1 History of women's movement
 - 7.2 Women and personal Status Law
 - 7.3 Mubarak's politics
 - 7.4 Elections: violence and corruption
 - 7.5 Women as voters and candidates
 - 7.6 The role of Political Culture
8. CONCLUSION
9. REFERENCES

List of Tables

Table I) Equal Rights in the Constitution - World Bank – Gender and Development 2004

Table II) Year Arab women received right to vote, right to stand for election and were elected UNDP-Pogar - Human Development Report (2002)

TABLE III) Equal Constitutional Rights Freedom of Movement, and Marriage - World Bank Gender and Development (2004)

Table IV) Women in national parliaments: regional differences - Inter-at 30th September 2004 - InterParliamentary Union

Table V) Status of Ratification of the CEDAW - World Bank Gender and Development 2004

Table VI) Voter turnout in legislative elections 1990-2005 – Soliman (2006)

Table VII) Number of Female Candidates out of the Total Number of Candidates at the Parliamentary Elections - Soliman (2006)

Table VIII) Number of Women MoP (elected and nominated) in Parliamentary - Soliman (2006)

Table IX) Women MoP nominated by Presidents in Egyptian Parliamentary History - Soliman (2006)

Table X) Female representation in local councils from 1983 to 1997: Source: The Egyptian Centre for Women's Rights 2005

Acknowledgements page

Vita and publications

VITA

- | | |
|---------------|---|
| 26 June, 1979 | Born, Quattordio (AL), Italy |
| 2003 | Degree in International and Diplomatic Science
Final marks: 110/110
Università degli Studi di Genova
Genova, Italy |
| 2003-2005 | Fellow at the Italian Embassy in Morocco,
Cooperation Office,
Rabat, Morocco |
| 2006-2007 | Fellow Researcher at the American University in
Cairo, Institute for Gender and Women Studies,
Cairo, Egypt |

PUBLICATIONS

- E. Conti (2007) *La cittadinanza e le riforme politiche in Egitto: il ruolo delle donne* published on Pace e Diritti Umani vol. III 2007.
- E. Conti (2008) *The Referendum for Self-determination: is it still a solution? The never-ending dispute over Western Sahara* published in the African Journal of International and Comparative Law. Vol. II 2008.
- E. Conti (2007) *Cronache: riforme costituzionali in Egitto* published in the Italian Review of European and Comparative Law, Vol. III 2007 Giuffrè Editore, Italy.

PRESENTATIONS

E. Conti (2007) *Political Reform in Egypt between rhetoric and reality: the role of women* presented at the Gender 2007: East meets West - University of York, UK.

E. Conti (2007) *Citizenship and Political Reform in Egypt: Which role for Women?* Presented at the Conference of European Society of International Relations in Turin, Italy.

E. Conti (2007) *Riforme Costituzionali in Egitto: verso uno Stato di Diritto?* Presented at the Annual Conference of the Italian Society of Political Science at the University of Catania, Italy.

Since their independence, Arab countries have experienced several periods of political openness based firstly on the establishing and then the strengthening of democratic institutions: universal suffrage, elections, representative assemblies, the system of checks and balance to foster rule of law. By the Nineties, a wave of potentially deep-reaching political changes seemed to be underway in the Arab region in general and the North Africa in particular. In Egypt, Mubarak launched a new period of political liberalisation with even more vigour with the starting of the XXI century. The first multi-party presidential elections held after the approval of a constitutional amendment was the most optimistic sign of this shifting period. Probably triggered by international organization, Mubarak continued seeking for a public support of its political reform. The government officially claims higher participation of all citizens and promises concrete actions in favour of under-represented groups, such as women. A deeper analysis reveals some discrepancies between government's rhetorical discourse and actions. Restriction on political rights and freedom with the maintenance of the emergency law questioned seriously the reversal trend toward authoritarianism. Is the real government's engagement towards the rule of law? Is it effectively involved in the construction of a more inclusive system where all fragments of the society are represented? The present research is intended to provide some answers by a twofold structure: some general tools for analysis and, afterwards, the case-study focused on the exercise of women's political rights.

Chapter 1

Introduction

This work grew out of my strong interest in Arab countries and studies concerning their political development. Since my University period, I have been concerned with developing countries and in particular with North African region. Experiences in the field along with the knowledge of the language allowed me to better understand of political system starting from local habits, culture and religion.

In order to take advantage of my multi-disciplined background (both academic and practical), I considered particularly favourable to go ahead in such direction and conduct a research project on Arab countries posing attention on the recent political change undertaken by local authorities.

I was in particular fascinated by attempts of building a peaceful and democratic Arab region. In particular, I focused on local states engaged formally in political reform by analysing free and fair elections and women's rights from a rule of law perspective. My interest arose when the involvement of the international community arose in the region. On 11 September 2001, the terrorist attack to New York and Washington D.C and the war on terror which United States subsequently launched revived a new Western preoccupation with democracy in North Africa and Middle East.

Since their independence, Arab countries have experienced several periods of political openness based firstly on the establishing and then the strengthening of democratic institutions: universal suffrage, elections, representative assemblies (both direct and indirect), the system of checks and balance to foster rule of law. Despite of decades of efforts, states have not convincingly demonstrated so far their ability to create neither a system strongly based on rule of law or a genuine relationship with their citizens, based on equality and justice. This makes to a certain extent peculiar political development in Arab countries.

In literature, Political Science and Constitutional Comparative Law until very recent time have produced a tiny number of consistent and

authoritative studies on the region. Certainly, one explanation finds its root in the peculiarity of those systems. The whole Arab region has been out of any classical categorisation for long. Italian academic context as well has lacked of fresh studies beyond the domain of History and Literature.

In recent time, main American and French scholars, have signed a reversal by demonstrating a strong interest in North Africa and Middle East region, probably triggered by the new international scenario appeared after the end of the U.R.S.S and, ultimately, after the terrorist attacks occurred on 11 September 2001.

Moreover, domestic political life in those countries has been apparently shaken by a new round of revitalising actions. By the late 1987, a wave of potentially deep-reaching political changes seemed to be underway in the Arab region in general and the North Africa in particular. Firstly, in Tunisia the president Habib Bouguiba, was ousted after more than thirty years in power. Secondly, in Palestine and Israel where, even more dramatically, in December 1987, the long standing episodic civil resistance to Israeli occupation of the West Bank and Gaza, the so-called Palestinian *Intifada*, crystallised into an escalating opposition. Shortly thereafter a number of Arab regimes, manifestly incapable of coping with rising problems, namely debts, unemployment and corruption, appeared to begin a new era of more political freedoms. Algeria, Jordan, Yemen and Morocco all witnessed political openings, although at different levels and some more evidently significant than others. However, all local authorities pledged changes that would have lessen repression and open the way for greater political participation.

No revolution happened. Nevertheless, the opening up of the political systems offered, at least initially, the opportunity for a variety of opposition groups to enter the political realm as legal participants. Groups banned in the past and often with a strong base in religious values entered the political fray with a part of their programme aimed at instituting more conservative social policies and some of them some threatened to constrain women's activities and rights.

In a few cases, the guardian of the Constitution (Supreme Constitutional Court for those countries following the European model or *Conseil Constitutionnel* for those following the French one) which proved to be pliant in the past issued courageously foremost sentences in favour of a just participation in political life with respect to active and passive participation in elections.

My research focused on one single country: Egypt and its national political development since the 1990s to the present day with a special attention to international initiatives in electoral promotion.

At the outset of my work, I was seriously intended to give a contribution both academic and practical to the debate on democracy and authoritarianism in the Arab region. By using the key of political rights (considering women as the focus-group), I propose an analysis of constitutional and political reform from a rule of law perspective. The period of reference for my states goes from the Nineties, period of the new era Mubarak characterised by political liberalisation till the present time. Special attention has been reserved to elections. Indeed, elections served as a yardstick by which effective exercise of women's political rights is gauged.

By focusing my attention on recent years, I attempt to participate in the wider discussion which goes beyond the academic field and, often, involves current domestic and international politics. I am intentioned to provide an overview as consistent and objective as possible in the analysis on political and juridical system of Arab countries.

From a theoretical perspective, the ambitious and ultimate goal of the research was to adopt the specific angle of political rights in favour of women (as voters, candidates and political activists) to build a benchmark, not yet widely considered at the academic level, for building a connection with the authoritarian regime whose political reforms are highly questionable due to the maintenance of a strong gap between rhetoric and reality.

In such context, elections became a democratic tool increasingly adopted by local government as a major sign of the democratisation process undertaken. In fact, the Arab leaders represent in practice an impressive continuity with the past. It does not mean that elections have never taken place in their countries. The issue is rather that democratic, free, and fair elections, which implies the choice of the local population to participate and be represented by its leaders in a system that should guarantee a certain periodical turnover at the governmental and parliamentary level as well as a general government accountability. Among others, Egypt certainly represents a model for the all region because it has early introduced constitutional text, representation bodies and universal suffrage. In short, it has been traditionally characterised by liberal traits or increasingly firmly engaged on the path of democratisation with period in the past of

effective political openness where women played to a certain extent a vital role (the feminist movement in the region was born in Cairo).

Rights in favour of women have received as well a deeper attention in more recent years both for the growing number of immigrants coming to Europe from Arab countries and for a rising strategic interest of foreign policies in the region.

Since the very beginning, it is important to stress that conducting a research in the field on Arab political system means to challenge some obstacles which are sometimes unexpected. First, I faced a general shortage of country-studies and information, especially as far as women's affairs are concerned. First-hand sources are hardly reachable and even in case, they are not complete and exhaustive for the sake of an academic analysis. My qualitative research failed to collect complete quantitative data on political participation with a gender approach. As a consequence, I had to turn on a more qualitative analysis focused on interviews with politicians, bureaucrats, activists and common women who help me to better understand of the social, political and cultural context.

In addition, it is to be said that each Arab country differs from its neighbours according to its own experience. Palestine, for instance, presents different specificities due to the conflict with Israel and the ongoing struggles, characterise a great deal of the political dynamics within the territories. It is not the purpose of this research to deal with all of these countries and to present Egypt as an explanatory case for the whole region.

For such work to be realised, I conducted a long research period in the field. I have spent one academic year at the American University in Cairo where I met professors, researchers and students directly involved to which I am profoundly indebted. The experience has then been enriched by my talk, interviews and meeting with local people: female political activists, members of political parties, NGOs, intellectuals, journalists, bloggers and common people from the street. All of them help me a lot to collect documents, data and, in particular to better understand social and political life in Egypt for choosing the specific lens of reading.

Chapter 2

Objectives

My research has been triggered by the need for a better comprehension of a region geographically not far from us although we have generally a superficial. This need inspired the structure of the Thesis which aims at providing some general tools borrowed from different fields (Political Science, Constitutional and International Law) and, afterwards focused on the case study. Consequently, the first part is to be considered the theoretical framework necessary for conducting the analysis illustrated in the second part.

My intentions was to study the authoritarian trend of Egypt using the concept of elections and women's right from a rule of law perspective. Studying a country like Egypt where the emergency law is still in act and there is not turnover in representative bodies and in governments, rule of law constitutes the more appropriate approach to shed light on a system where laws should be public knowledge, everyone should be embedded in a legal framework, international standards should be respected, elections should guarantee participation and turnover and government should seek to be law-abiding. In Egypt, political change are currently in act and authorities' engagement, at least at the rhetorical level, seems to go in the direction of strengthening the rule of law. After a first period of merely economic reform, President Mubarak embarked Egypt with huge political shift: electoral system, multi-candidate elections, constitutional amendments and emergency law. How is the real government's engagement towards the rule of law? I attempted to provide some answers by using the exercise of women's political rights. Why? Political rights is a crucial element to evaluate rule of law. Generally, they bring to mind two level of comprehension, which may be summed up in: the legal level (theory) and the participation level (practice). First, citizens are granted a set of political rights (to vote and run for election) and political freedom (mainly freedom of expression, association and press). Second, citizens are entitled by virtue of this status to actively

take part in public affairs of their political community by exercising their political rights directly or through their representatives.

The focus on women appears quite innovative since women's rights are usually referred as an indicator to verify the degree of respect for human rights and democracy. In my research women are used to verify the persistence of an authoritarian regime because they are a crucial point of local politics which is particularly useful to stress the discrepancy still existent between rhetoric and reality.

The first chapter has been dedicated to the general overview of literature in Political Science about authoritarian countries in the Arab world. I summarised the main scholars who sought to theorise Arab countries. The theoretical framework as drafted pose attention on specific elements which became very common in most authoritative studies: the variable "elections" as an indicator gauging the degree of a democracy and which has been more recently adopted in foreign policy (especially U.S. foreign policy). In the attempt to explain major theoretical concept used further, I introduced briefly the women's issue: why have they turned to be so important for political development? Are they really a driving force for democracy or, more modestly, are they eligible as a yardstick for authoritarianism?

The second chapter consider the evolution of constitutionalism with special attention on representativeness and political rights in order to better understand to which point they are exported product, how they are enshrined in the management of public affairs and ultimately in the political culture. Finally, measures, at constitutional, legal and political level to promote homogeneous representations facilitating the inclusion of groups traditionally marginalised, as women (quota system), A first approach on Egypt has been reserved.

The third chapter talked international standards on women's political rights by analysing measures providing by the Human Rights Law in favour of women with a focus on initiative in the region both from local authorities (by the ratification of international documents) and from the international community (by providing electoral assistance).

Then, the second part can start where I broached the case-study. The forth chapter focused on political and legal context were the evolution of Egyptian movement claiming for female representation in public sphere of life is described along with electoral system and the

role of Supreme Constitutional Court as the ultimate guardian of political rights guaranteed by the Constitution.

The fifth part focused on electoral behaviour and results from the Nineties and in particular women's participation as voters and candidates as well as female activist in informal politics which is equally important in the political life of the country at the moment due to the restriction to the access in politics.

Chapter 3

Authoritarianism in the Arab World: the theoretical framework

3.1. The Arab region in Political Science

In Political Science, a weak attention has been dedicated to the Arab region until very recently. Beyond the process of a general political change started at the fall of authoritarian regimes in the Iberian Peninsula in the 1970s, identified by Samuel Huntington as the “third wave of democracy”¹, the end of the Cold War and the collapse of socialist ideology, contributed to a new surprising growth in numbers of states committing themselves to some form of democratic system². Freedom House³ calculated that since 187 the percentage of states embracing electoral democracy has passed from 40 to 63 with the result that by the end of 2003, 121 electoral democracies were counted

¹ Samuel P. Huntington 1991. *The third wave: Democratization in the Late Twentieth Century*. University of Oklahoma Press.

² I will define shortly the meaning of democracy adopted in this research.

³ Freedom House is a non profit and non-partisan American NGO created by Eleanor Roosevelt and Wendell Wilkie after the Second World War with the goal of promoting liberal-democratic values. Currently, it provides global surveys by using a scale of index to measure individual rights and freedom. According to Freedom House, democracy is “a political system in which the people choose their authoritative leaders freely from among competing groups and individuals who were not designated by the government”.

out of a total of 192 sovereign states⁴. While Eastern Europe embraced democracy at the end, it seems that the Arab region escaped the general trend of adopting the model of the modern state based on the two main pillars of representative democratic system and sovereignty of people. When I am arguing about the Arab region, I consider the area from the Atlantic Ocean in the West to the Arabian Gulf and Indian Ocean in the east comprising ²² states that are currently members of the League: Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, Syria, Yemen, Libya, Sudan, Morocco, Tunisia, Kuwait, Algeria, UEA, Bahrain, Qatar, Oman, Mauritania, Somalia, Palestine, Djibouti and Comoros⁵.

It is hard to generalise about political change in the whole region, as several distinct patterns have emerged producing different institutional setting, strategies of the regime and opposition elites. However, it is broadly recognised that Arab countries have faced by now a non inclusive model where citizens are little room for action. In recent years, picking up on a general trend of political change which actually originated in the mid-twentieth century, Arab countries have launched a new series of reforms: amendments concerning constitutions to rebalance the separation of power and personal status to guarantee more rights to women in family's affairs occurred in countries like Algeria, Lebanon, Morocco, Tunisia, Bahrain, Kuwait. Almost every government has by now formally committed itself to the concept of reform [UNDP, 2005], undertaking constitutional re-engineering plans and policies intended to create democratic institutions. A good example is elections, considered a common feature of the political landscape [Ehteshami, 1999:201]. Nevertheless, such

⁴ Data from *Tracking Electoral Democracy: Number of Elected Democracies and Percentage of Electoral Democracy*. In *Freedom House in 2008: selected data from Freedom House's Annual Global Survey of Political Rights and Civil Liberties*. 5.

⁵ A different concept is what has been traditionally called *dar al-Islam* (literally, the house of the Islam) which has changed throughout history. At the time of maximum expansion, it was the region which today covers the Arabic Peninsula where Islam was born; the so-called Fertile Crescent, a region including Syria; *Jazira* (Ancient Mesopotamia and current Iraq), Egypt, Maghreb (North Africa and, *al-Andalus*); Anatolia; European provinces of the Ottoman Empire and Caucasus; Iran and lands placed at the west of Indo river; Central Asia; Indian subcontinent, peripheral areas such as Indonesia, China, Sub-saharian Africa. The description made it clear the variety of people, history and culture lying under the same bloc. Vercellin G. 1996. *Istituzioni del mondo musulmano*. Einaudi. 47.

attempt of political openness has not been able so far but to ensure the status quo which would guarantee their hold on power and maintain a legitimisation from the constituency in front of Western countries [Owen, 2000:93].

In the general context of political liberalisation, essentially, Southern Europe and, then, Eastern Europe and Latin America have experimented representative democracy, the Arab region proved to differ in its path of development. Quoting Ghassan Salamé's words, "the region from Tehran to Marrakesh has not even had the opportunity to experience this process since it witnessed the uninterrupted rule of authoritarian leaders" [Salamé: 1994:1]. Scholars started to pay more attention to the Arab world for a better understanding of the region because it was also for the easier access to information about the domestic political systems. In his book, *Democracy without Democrats?*, Salamé argued widely about the Arab exception which still is to be explained despite of several attempts done in literature. In particular, he went over thesis explaining the reason in terms of religion (such as the groups of culturalist focusing on the peculiarity of Islam) culture or military.

On 11 September 2001, the terrorist attack to New York and Washington D.C and the war on terror which United States subsequently launched revived a new Western preoccupation with democracy in North Africa and Middle East. First of all, academic and political circles made it clear in their debate that a deeper comprehension of democracy and local development was needed in order to re-define strategies in foreign policy. Policy experts, scholars and intellectuals shed light on the lack of democracy and in the Middle East as one of potential causes of the rise of violent, anti-Western Islamic radicalism in the wider perspective of international peace and security. Carothers and Ottaway talked about "the new democratic imperative" to describe the new Western preoccupation about democracy and the search for a new approach in foreign policy as the one sought especially by United States [Carothers and Ottaway, 2005:3].

In this first chapter, I pretend to give a general overview of the literature concerned with authoritarianism with reference to the case of Arab countries. Hitherto, I do not have used the exact terminology when referring to the actors (states). For the moment, I preferred to

maintain the generic concept of countries. Starting from the next paragraph, I will use the more specific term of state as a twofold concept. On the one hand, the concept is to be with a set of administrative, judicial and rule-making settings. On the other hand, it is a political entity with international recognition. As anticipated in the Introduction, the starting point of my research has been the need for a better understanding of the Arab domestic politics. In particular I will copy with main studies focused what I can now generally call the Arab exceptionalism (but, as soon described the phenomenon received several titles). In particular, I will took into consideration studies which used rule of law, elections and women as a paradigm. They constitute the three main theoretical tools for my research. I will conceptualised them shortly. Afterwards, I will introduce the specific theme of women' political rights, a further issues that did received a huge attention in literature but recently. By broaching women's issue, I will focus on two main political institutions: universal suffrage and representative bodies via elections.

3.2. The Arab Exceptionalism

Since their independence, Arab countries have experienced several periods of political openness based firstly on the establishing and then the strengthening of democratic institutions: universal suffrage, elections, representative assemblies (both direct and indirect), the system of checks and balance and the rule of law. In the whole set of institutional change, relevant actions have come through ordinary politics since they have involved extraordinary experiments with constitutional engineering. Looking at the case-study of Egypt, the country should have acquired a strong confidence with democratic institutions, say rule of law, parliament, elections and citizenship. Firstly, changes in judicial system were launched even before the British occupation which occurred in 1882. To face the growing presence of Europeans and privileges they claimed in name of their European citizenship, Egypt embarked with legal reforms⁶. Secondly,

⁶ For a more detailed study about the building of a legal system in Egypt: Brown N. *Law and Imperialism: Egypt in Comparative Perspective in Law & Society*

in 1882 a constitutional text was approved to rule political life in the country⁷. Ultimately, Egypt experienced the longest experience of parliamentarism all around the Arab world, with first elections held in 1923. Furthermore, on 23rd July 1952, the military coup abolished definitely the monarchy. Despite of this evolution, nowadays, it is hard to talk about a mature democracy for Egypt and, in addition, too many sights make it easy to talk about a strong persistence of authoritarian tendency [Kassem, 2004:197]. After promising period of liberalisation, Egypt turned to be a more disturbing case Egypt in the region since its promising advances toward a greater political openness and a more dynamic political system have been quickly reversed [Ottaway, 2008:1].

In a more general perspective, almost all countries, at the end of the twentieth century, adopted constitutional texts, such as happened for Saudi Arabia in 1992 with the fundamental statute (*nizam asasi li-lhukm*)⁸ aimed at organising the form of government and the role of the Consultative Body (*majlis al-shura*); for Tunisia, which approved constitutional reform in 2002 to allow the renewal of the presidential mandate; Bahrain which in the same year changed the emirate into the monarchy, established parliamentarism and allowed political rights to women and, ultimately, Kuwait which vested women with political rights in 2005 by an amendment to the electoral law⁹. Despite of the adoption of constitutional texts and some important measures at the legislative level, it is questionable the use of constitutional instruments since till the present time the region has not developed a strong belief in constitutional values [Brown, 2002:5-7]. Several critics have been raised against constitutional texts charged of being merely “façade” documents and legal orders often charged of operated under the disguise of a democratic terminology institution. Indeed, some ambiguities stand out.

Review. Vol. 29. No. 1 1995. 103-126; *The Rule of Law in the Arab World: Courts in Egypt and the Gulf*. Cambridge University Press. New York. 1997. 23-60.

⁷ The first constitution was called *al-la’iha al-asasiyya*. Brown N.J. *Constitutions in a Nonconstitutional Word, Arab Basic Laws and the Prospects for Accountable Government*. 2002. State University of New York Press, 26-29.

⁸ It has been adopted with Royal Decree signed by King Fahd in March 1992.

⁹ Libya remains the only country which has not a constitution or similar text. Libya has, however, approved, several texts where dealing with the organization of power. The 1977 Declaration which returns power in the hand of the people can be considered as the most authoritative text.

First, in Egypt and Syria, the emergency status has been used for decades to override constitutional guarantees of citizens' rights. Indeed, laws issued under emergency confer powers of censorship and arbitrary arrest and detention, and authorize the use of special security courts whose verdicts are not subject to appeal [Amnesty International, 2000]. Presidential plebiscites or legislative elections held under these laws cannot be free or fair. Second most of the countries in the Arab Region accepted the broader tendency which considers constitutionalism the foremost prerequisite for democracy such as by the adoption of judicial review. Brown pointed out in one of its several authoritative works, "Judicial Review and the Arab World", that such a commitment emerged in Algeria, Bahrain, Egypt Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Somalia, Sudan Syria, Tunisia, the United Arab emirates and Yemen [Brown, 1998: 87]. Third, when compared to the development undertaken by European Countries¹⁰, constitutional history in Arab countries shows that mechanism partly different have been created and specialised bodies charged of judicial review have not been worked with strong effectiveness as it could be expected theoretically. After the Second World War, defeated country from the Axis, say Germany, Italy and Japan adopted judicial review and Austria re-instated it in order to prevent the tyranny of the executive power and in general, authoritarianism. The role of the judges and constitutional courts would have been expected to guarantee democracy. Starting with the last decade of the twentieth century, new efforts from the constitutional judiciaries have been deployed to foster what I will explain soon, the rule of law by an independent judiciary and constitutional court, also facing openly the executive power. In Egypt for example constitutional body claimed for unconstitutionality of electoral laws, obtained change for the text and declared irregularity for parliamentary elections.

In the spirit of constitutionalism, Arab countries have demonstrated to be not only reluctant to the democratisation process but capable of consolidating their authoritarian regimes and, therefore, determining definitively an alternative development path. Hence, scholars coping with the region were forced to coin new models. The analysis provided by one of the main referee for the new discipline of

¹⁰ I am referring to European countries for the comparison because Arab countries adopted mainly models form the European constitutional experience in judicial review.

transitology, Thomas Carothers, appears to be appropriate for Arab countries “Many countries that policy makers and aid practitioners persist in calling transitional are not in transition to democracy, and of the democratic transitions that are under way, more than a few are not following the model” [Carothers, 2002:5-21]. Referring at the general situation all around the world, and not specifically to North Africa and Middle East, he announced the failure of the transition paradigm¹¹ and the consequent abandon of it for the democracy-promotion community.

He explained the points that turned to be inappropriate such as the one which argued “all countries that moving away from authoritarianism tend to follow a three-part process of democratization consisting of opening, breakthrough, and consolidation of democracy” and even more important, for the sake of my analysis, the one which considered that the establishment of regular, genuine elections will not only give new governments democratic legitimacy but they will foster a longer term deepening of democratic participation and accountability. The majority of the “third wave” countries do not seem to be going forward the democratic process as it has been recommended by political scientists. This happened although some regimes introduced rules typically belonging to a democratic political life: a liberal constitution which guarantees some basic civil and political freedom, a limited political space for opposition parties and a limited development of civil society and, finally periodical elections. When scholars started to consider the Arab region for their academic studies, they found it hard to define local regimes according to the classical model used by that moment. Consequently, scholars began considering new terminology of which I will summarise the most relevant.

Carothers introduced the expression “*gray zone*” while Schedler talks about “the foggy zone” to describe regimes that are neither clearly

¹¹ In his view, Carothers described the transition paradigm referring to 5 main points: 1) every regime escaping the dictatorship can be consider in transition toward democracy; 2) the process follows a set of steps: opening, breakthrough, consolidation; 3) the equation that elections means democracy; 4) the underlying conditions in transitional countries, say their economic level, political history, institutional legacies, ethnic make-up, socio-cultural traditions, or other structural features. It will not be major factors in either the onset or the outcome of the transition process and 5) the process of democratization means including a redesign of state institutions, such as new electoral institutions, parliamentary reform, and judicial reform.

democratic nor fully authoritarian. Both considered elections as a paradigm of analysis in their studies. Schedler, in particular, by referring to authoritarian regimes, considered elections the crucial political moment but highly manipulated for the maintenance of the ruling elite strictly anchored to the power. He did not mean that elections are meaningless and that international actors should have not continued to push for free and fair elections. However, in his opinion, international actors should reduce their expectations. It is useful to mention also some reflections by Guillermo O'Donnell because he made it clear the definition of democracy as a political system and its connection to popular participation via elections. In his work, O'Donnell suggested a detailed definition of democracy (starting from the minimalist definition of Schumpeter) which takes into consideration not only the meaningful and extensive competition among individuals and organised groups (especially political parties) for gaining positions of governmental power. Aside the importance of political election, he used the concept of political citizenship and he connected it to the concept of political culture and a more effective participation of people into the political process [O'Donnell, 2001:7.36]. According to his analysis, only if states guarantee a basic framework of civil and political freedoms both formally (in a constitution) and practically (in the daily political life) a political system is likely to reach a good level of democracy.

Elections represent a litmus test of political openness. Hence, elections are important not for the competition *per se* but for their capacity to show the real degree of civil and political liberties allowed in the country, the right of association by forming competing political rights and the rule of law which should regulate the legal system. Consequently, democracy promoters should focus their energy and encouraging the development of a real and effective sense of citizenry and reliance on the political competition in the grassroots ground rather than pushing for quick elections. Only a general legitimacy, trust in the state machine and the awareness of their vote-power by local people can produce a change of power and, consequently, a more democratic society. In such perspective, elections have to be analysed when dealing with Arab countries. Indeed, with respect to the Arab electoral experience, it is appropriate the assumption that elections represent a critical step toward democracy albeit it does not mean that the mere celebration of a competition for power is sufficient. Although

widely practiced elections in the Arab countries, they did not produce necessarily a democratic system with broad popular participation and pluralism. Thus, their evolution, sometimes justified with the malfunction of the society, the political rigidity or the cultural determinism, put away every attempt of categorisation that transition studies previously have built. In the recent time, Daniel Brumberg coined the new definition of “hybrid regimes” where leaded pluralism, controlled elections and selective repression are the main elements favouring the strategy for survival and, I could say, for creating a new political system far from the traditional democratic evolution experimented by European countries¹². The definition has been provided initially by Diamond and, afterwards retaken by Brumberg. Diamond accurately distinguished among “competitive authoritarian systems”, “hegemonic-party systems” and “hybrid regimes”. In his classification published in 2001, he fit Egypt among cases of “hegemonic electoral authoritarianism”¹³. In the same way, others scholars abandoned classical models classifying authoritarian regimes in favour of a new category, what has been called “foggy zone” [Schedler, 2002:36] for those countries where democratic institutions have been established by law but in practice they have been clearly violated or eluded by political game [Schedler, 2002:36-50]. For the sake of my analysis, it is not imperative to illustrate review the whole literature, but rather, to focus my attention on a specific theme often considered the specific angle of the rule of law. My starting point is a minimalist definition of democracy as a political procedure where participation in the government by citizens is an “essential characteristic of democracy”, quoting Hens Kelsen¹⁴. Democracy is based on the competition between individuals and organised groups,

¹² Brumberg is referring to the case of Egypt, Jordan, Morocco, Algeria and Kuwait to describe systems non only focused on their survival but also systems which has “disobeyed to the linear pattern of democratisation”. Brumberg, *op.cit.* 56.

¹³ L. Diamond, *Elections without democracy: Thinking about hybrid regimes*, in *Journal of Democracy*, vol. 13 n.2, 2002, 31. D. Brumberg, *Democratization in the Arab World? The trap of liberalized autocracy*, in *Journal of Democracy*, vol. 13 n. 4, 2002, 56-68.

¹⁴ Kelsen argued largely about “democracy”, as a term coined in the political theory of ancient Greece (*Demos*=people and *Kratein*= govern). Kelsen H. *Foundation of Democracy*. Ethics – an international journal of social, political and legal philosophy. Vol LXVI. No. 1 Part II. October 1955. 1

political participation in public affairs conventionally realised via free, fair and competitive elections with universal suffrage for adults along with the recognition of main political freedoms (freedom of expression, press and association)¹⁵. However, the concept of democracy is currently often misunderstood and highly questionable in terms of values although it is profoundly connected with democracy. Rule of law is much more specific it reminds to a system where laws are public knowledge, everyone is embedded in a legal framework and government seeks to be law-abiding [Carothers, 1998:96]. Rule of law¹⁶ is referred to the legal order granting individuals rights, in order to face any attempt of the political power to action arbitrarily¹⁷. In particular, rule of law implies the supremacy of the law, international and national rules which are considered *erga omnes*; no corruption in political, administrative or judicial apparatus; a civic, competent, efficient bureaucracy aimed at the enforcement of the law and, eventually, the existence of a police body respectful of rights and liberties exists and effectively guaranteed¹⁸.

¹⁵ Such definition follows faithfully the definition of democracy given by the prestigious study of Diamond, Linz and Lipset. Afterwards it has been used by O'Donnell as well. L. Diamond, J. Linz e M. Lipset, in *Introduction: comparing experiences with democracy*, 1-38 in *Politics in developing countries: comparing experiences*, Boulder (CO), Lynne Rienner Publishers Cit. in G. O'Donnell, *Democracy, Law, and Comparative Politics*, in *Studies in comparative International Development* Vol. 36, 2001, 11.

¹⁶ Diamond and Morlino have widely developed the concept of quality of democracy. In their theory, rule of law is one of the five procedural dimensions. The authors have taken into account the analysis of O'Donnell who considered the concept of democratic rule of law as a main point of democracy. Cfr. L. Diamond e L. Morlino, *The quality of democracy: an overview*, in *Journal of Democracy*, vol. 15 n.4, 2004, 23 e G. O'Donnell, *The quality of democracy: why the rule of law matters*, in *Journal of Democracy*, vol. 15 n.4, 2004, 32-46.

¹⁷ The definition has been taken from Zolo in, *Teoria e critica dello stato di diritto*, in P. Costa e D. Zolo (edited by), *Lo stato di diritto: storia, teoria, critica*, Feltrinelli, Milano, 2002, 33. It appears to be particularly appropriate for the present work which wants to stress the abuse of power which causes negative effects on the traditional separation of power.

¹⁸ Similar points have been used afterwards by Morlino. For the sake of the present analysis, it is important to quote Morlino since he considers a rather broad but detailed definition of rule of law, although he is referring originally to a study on "good democracy" and, consequently, where democracy has been already established. Indeed, in his theory he does not consider hybrid regimes.

What makes the Arab experience atypical is, first of all, the use of legal instruments to control a process of political liberalisation along with the adoption of concepts notoriously connected with the definition of democracy: rule of law, pluralism, citizenship and elections. On the one hand, those concepts are widely used in the official propaganda for feeding political programs. On the other hand, they are only able to be used for the maintenance of the status quo, in a dimension completely deprived of their substantial meaning. In short, the legal framework supports the authoritarian willingness by granting juridical legitimacy. The most interesting aspect to point out is Arab regimes endured and still they are likely to last for a long time in the future. Hicham Ben Abdallah Al Alaoui had to argue “monarchy or republic: the authoritarian state survives by showing a grand attitude to adaptation”¹⁹.

The Italian academia offers as well some contribution to the debate, starting with the relationship between constitutionalism and decolonisation which Giuseppe de Vergottini tackled in his work, *Le transizioni costituzionali*, where constitutional analysis distinguish between legal order adopting authoritarian or democratic forms. Another Italian scholar, Luca Mezzetti approached to a certain extent the issues, in *Transizioni costituzionali e Consolidamento democratico negli ordinamenti islamici*, where the author, in a wider framework of representative democracy, argued about the peculiarity of the North African and Middle East constitutional evolution of legal system by using the term “*the anomalia arabo-islamica*”. Even more detailed, it has been the work carried out by Francesco Castro, in *Il Costituzionalismo dei Paesi Arabi*, which talked from a very juridical perspective constitutional evolution towards constitutionalism and democracy.

Nevertheless, the special angle use is likely to be very useful for Arab countries to be studied. Cfr. L. Morlino, *Democrazie e democratizzazioni*, Bologna, Il Mulino, 2003, 232-233.

¹⁹ Hicham Ben Abdallah Al Alaoui, cousin of King Mohammed VI of Morocco, specify: “Il s’agit d’une mise en scène, d’une rationalisation limitée de l’ordre politique. L’Etat autoritaire, n’a pas été transformé par la démocratisation, el s’est affublé de ses accessoires. On pourrait, par dérision, le nommer Autoritarisme 2.0 ” in Les régimes arabes modernisent...l’autoritarisme. Le Monde Diplomatique, April 2008.

3.3. The importance of Elections

To broach the evolution and consequent impact of democratic institutions such as suffrage and representative bodies, it is rights and proper to collect data for research by using general elections. Firstly, elections are increasingly considered as a main benchmark for measuring the performance of political rights. Secondly elections, in terms of voters' turnout and candidates, are likely to provide data and information which can be submitted to a real qualitative analysis. It means that electoral results support theoretical assumptions.

It is clear from the theoretical framework above described that scholars have widely considered elections as foremost step on the path towards a democratic system. Apart from the authoritative studies mentioned, Nazih N. Ayubi, in his huge collection, *Over-stating the Arab State*, when launching the core question: whether democracy is possible in the region or not, he started by what he identified as "some formal manifestations of democracy", say elections [Ayubi, 1995: 396-446].

In 2002, the *Journal of Democracy* dedicated a whole section to the issue, *Elections Without Democracy* composed of foremost works of which some have been already mentioned: Larry Diamond in *Thinking About Hybrid Regimes*; Schedler Andreas in *The Menu of Manipulation* to mention a few. For the first time, it entailed comprehensive research countries from the Arab Region. As far as such hybrid regimes are concerned, they proved that democratic institutions as political elections can be hold in a non-democratic regime and, moreover, help the regime to live longer without turning into a full democratic country. Although typical features of a democracy, elections can be misused in order to reach secondary purposes such as to favourite authoritarian regimes and enhance the same regime's legitimacy, either with the domestic audience or international actors.

In such countries, indeed, although periodical elections are celebrated, political competition is characterised by the distribution of patronage, the presence of weak parties, a very limited opposition, and, as consequence, a low turnover of ruling elite as well as a restricted function of the Parliament considered very often as a "rubber stamp". The primary goal of elections is not to manage the turnover, nor is to

determine critical issues. Authoritarian incumbents spent their efforts to guarantee the *status quo* without the risks of democratic uncertainty, as remembers Andreas Schedler who specified: “rather than quit the political scene, authoritarian rulers opted for entering the electoral arena themselves. But turned into candidates, authoritarian incumbents contaminate their electoral contests. Since they stand for election onto to lose power but to legitimate their continuity in office, they commonly try to distort and control the electoral process in order to minimize the risk of defeat”²⁰. To reach their aim, they elaborate the façade of free and fair elections means by which they could secure the exclusion of competitors they don’t like. According to the survey developed by Ellen Lust-Okar, Elections under authoritarianism and democracy promotion in the MENA focused on latest Jordan political life, it seems clear that candidates run in elections for very personal interests and none of them believe in the Parliamentary power to counterbalance the executive branch. She argues that “elections under authoritarianism provide an important arena for competition over access to a pool of state resources”²¹.

Thus, the role of the representative body is seriously questioned. As long as state elites continue to control enough resources to distribute, elections in authoritarian regimes (where expectations for elite turnover and policymaking prerogatives of the legislature are limited) intrinsically promote very fragile legislature. Member of Parliaments and their supporters become increasingly invested in using parliament as an arena of patronage distribution, not for promoting democracy or making policies. Within the region as well, such topic became a core part of democratic debate by experts, politicians and scholars. The American University in Cairo published a collection of papers, *Elections in the Middle East: What do they mean?*, where scholars largely dealt with elections exploring the relationship between elections

²⁰ Cfr. Andreas Schedler. *The nested Game of Democratization by Elections*. 2002. International Political Science Review. Vol. 23, No. 1, 103-122.

²¹ She presented the results of her research at the Seventh Mediterranean Social and Political Research meeting, Florence and Montecatini Terme, March 2006 organized by European University Institute. Lust-Okar Ellen, *Elections under Authoritarianism and Democracy Promotion in the MENA*.

and democratisation ²². The above mentioned analysis, focused on some very important ambiguities in the Middle East countries political development, has strong implications in current international politics. Although some change partially happened and international actors became more aware of the issue, such analysis suggests rethinking their roles and politics of Middle East elections. An international actor engaged in promoting democracy, the United States, have been putting a big emphasis on elections in their efforts. Nevertheless, even countries witnessing an higher degree of competition in the political arena, proved that elections results can be unexpected and, sometimes, they do not agree with American interests. Nearly two thirds of candidates elected to the new Iraqi parliament in December 2005 won on platforms that explicitly called for a greater role for Islam in politics [Ben Nefissa and Al-din Arafat, 2006:35]. In Egypt's parliamentary elections in November and December 2005, the Egyptian Muslim Brotherhood won 88 seats, 20 percent of the 444 elected seats despite progressively greater government interference over the three round of balloting. In January 2006, Palestinian parliamentary elections, Hamas won a spectacular victory against the long dominant party of Fatah, the Palestinian nationalist movement founded by Yasi Arafat. Hamas carried 56 percent of the seats against Fatah's ³⁴ percent.

To a certain extent, it seems that paradoxically non democratic regimes (that are generally supportive of U.S. policy goals, such as the monarchies in Morocco, Jordan and the Arabian Peninsula) can serve as much more useful regime to guarantee the regional stability. As far as the Arab world is concerned, elections have become throughout the time even more important for local political life than usually do in countries all around the world because they are strictly connected to the democratisation process still in act. Considering Egypt, for example, elections have turned to be the benchmark of the agenda of national and international democratisation. In 2005, also Saudi Arabia, which has been traditionally hostile to the adoption of mechanisms of representation in the political system, held local elections for the first time. In the Sixties, Seventies and Eighties, elections have rarely represented a political independent variable for both a real representation and a participative system [Ehteshami, 1999: 201].

²² Iman A. Hamdy (edited by). Elections in the Middle East: What do they mean?. Cairo Papers in Social Science - The American University in Cairo Press. Vol. 25 No. 1/2 2004.

Elections, when held, remained for long time strongly piloted by local governments since their intention was to build a fictitious popular support in front of the international community [Owen, 2004:92]. Recent success registered by Hamas in Palestine and Muslim Brotherhoods in Egypt let experts suppose that probably governments start to lose their control on electoral results. While not debating the reason of this success, such episodes confirm that electoral moment represents a crucial litmus test for evaluating political openness based on rule of law, pluralism and citizens' participation. Indeed, two main actors are involved apart from the governmental authorities: on the one hand, citizens who are expected to exercise their political rights in conformity of constitutional provisions and, judiciary power, and in particular, the Constitutional Court, which is the supreme guardian of the Constitution and elections.

3.4. The studies on women's political rights

Some preliminary assumptions need to be done at the dawn of this research projects and they are strictly connected with women's issues. First, the focus on women as a marginalised group allows a peculiar angle of analysis for relations between state and its citizens. They are central issues in the local process in act that can consist of reforms, nation-building, modernisation, westernisation and more recently globalisation [Roussillon, 2006:6]. Since the publication of the first *Arab Human Development Report* in 2002, which revealed the high deficit in the Arab region with respect to female conditions, the international community have paid more attention to women. Second, some standpoints consider religion and culture in Arab countries (Islam) as the root that explain the low women's political exercise of their political rights. On the contrary, the present work welcomes the position adopted by many scholars who are convinced that it is not only culture or religion that impacts on women's political participation, but a whole host of other factors combined together render the situation as it is. Valentine Moghadam rightly stated that Islam and culture are not the sole determinant of women's status. A few studies, studying in details the holy texts, which are the main reference for an Islamic believers, argued that they did not envisage any inequality in rights between men and women. along the history, a system of norms, both juridical and

moral have been developed by assuming traits profoundly misogynous, as argued Leila Ahmed who is currently one of the most authoritative scholars concerned with women's rights in Islam²³. Even when considering different theories arguing that the holy texts were to a certain extent male-oriented, most of them are convinced that they need to be re-contextualised and interpreted according to the current time. Moreover, at a better glance of every single domestic situation, Arab countries present several differences, sometimes even controversial, such as the example of Tunisia where the most progressive Personal Status Code in favour of women has been adopted.

It appears right and proper for describing such contradictory image to use an example reported in *Arab Women: between defiance and restraint*, edited by Suha Sabbagh. With reference to the Nineties the following situation characterised the Arab world: "on the one hand, Hanna Ashrawi²⁴ appears as the sophisticated, articulate spokesperson for the Palestinian delegation to the peace talks, on the other, male politicians of the Islamic Salvation Front (FIS) in Algeria speak of women as subordinates who should not be allowed to work outside the home, let alone participate in politics"²⁵.

In this general review of main works on women's issue with respect to the political power, Fatema Mernissi provided a strong contribution. When Benazir Bhutto became prime minister of Pakistan in 1988, many claimed that it was a blasphemous attack to Islamic tradition since major politics; such as the Nawas Sharif in the country

²³ Cfr. Leila Ahmed. *Women and Gender in Islam: historical roots and a Modern Debate*.

²⁴ Hanan Mikhail Ashrawi, born to Palestinian Christian parents in the West Bank, was an important leader during the First Intifada, served as the official spokesperson for the Palestinian Delegation to the Middle East peace process, and has been elected numerous times to the Palestinian Legislative Council. She has served for a couple of years (1996-98) as Minister of Higher Education and Research. Nevertheless, she preferred to resign the post as a sign of protest against political corruption. Suha Sabbagh. *Palestine's Hanan Mikhail Ashrawi: an Interview*. In Suha Sabbagh (edited by). *Arab Women: between defiance and restraint*. 1996. Olive Branch Press. New York. 3

²⁵ Graham-Brwon Sarah. *Women and Politics in the Middle East*. In Suha Sabbagh (edited by). *Arab Women: between defiance and restraint*. 1996. Olive Branch Press. New York. 3.

claimed that no Muslim state had ever been governed by a woman. Fatima Mernissi, a prominent sociologist originally from Morocco, started her investigation over fifteen centuries of Islamic history and discovered, as revealed in the book, *Forgotten Queens of Islam*, that some critics were wrong²⁶. Recovering the stories of fifteen Islamic queens, this remarkable exploration tells how they ascended the throne, how they governed and exercised their power, and how their forgotten reigns influence the ways in which politics is practiced in Islam today. Apparently more important for my analysis, it has been the focus on public institution with respect to women's matters. An illustrative starting point, both for my theoretical and methodological background, was represented by Deniz Kandiyoti. He investigated the relationship between Islam, the nature of state projects, and the position of women in the modern nation states of the Middle East and South Asia arguing that Islam is not unique in its application across Muslim societies [Kandiyoti, 1991: 3-7]²⁷. What has been innovative in his work, was the focus the public politics and in particular, on the effects of the political projects of states on the lives of women. By realising that the women's issues has been treated exclusively and for a long time in its relations to Islam, he pretended to examine political projects of those states, such as Turkey or Egypt that have a long history of modernisation of the state machine and the concept of citizenship [Kandiyoti, 1991: 3]. For the sake of my analysis, I will attempt to maintain the same perspective by putting together the theoretical concepts illustrated so far.

Third, I will consider women's political rights by adopting the concept of citizenship. It is clear that the right to vote implies citizenship. It is not a right which pertains to every human being but is reserved for the citizens of the State. Thus aliens are excluded from the enjoying this right. And, I will detail shortly the connection with women. At this point it is important to clarify the meaning of citizenship?

Over the last decades, the study of citizenship in Arab countries has been challenged as a pioneering approach for observing the state

²⁶ Cfr the original text, Mernissi Fatima, *Les Sultanes Oubliées Femmes chefs d'état en Islam*, Albin Michel, Paris, 1990.

²⁷ Cfr. Kandiyoti Deniz (edited by). *Women, Islam and the State*. Macmillan 1991. Press Ltd. Hong Kong.

and evaluating its performance in the path toward democracy [Kandiyoti, 2000:xiii-xv].

Citizenship has been generally defined as a social status which secures equal rights and opportunities for all individuals, regarding not only gender, included in a given political entity (the citizens), vis-à-vis the state. It also implies full membership in a political community, guaranteeing equal civil, political and social rights or responsibilities. It implies a legal and direct relationship between the individuals and the state where the latter is expected to play a leading role for the construction of the concept²⁸. Such contractual perspective has contributed to the debate on politics in the Arab World and capacities of the single Arab states to allow or enable their members to participate actively in the political process [Joseph, 1996:4].

It appears even more appealing when considering recent years. The concept of citizenship, in fact, has been increasingly invoked, in its political dimension, by states in their official propaganda in order to reinforce their political authority by a renewed and vigorous approval of political reforms from the constituency. While reforms do not really go beyond the level of propaganda, visibly no real and substantial results have occurred in the direction of a political system based on equality and justice and, hence, citizenship. This failure has happened despite a vital rise in pressures coming from either minority movements (i.e. women's movements) or initiatives undertaken by the international community.

Where are its relations to political rights? Simply, political rights are one of the main components of the concept of citizenship. Looking at the main literature, the relations can be summarised with the definition of political citizenship which has been originally formulated by Marshall, in what can be considered the basic work for citizenship studies; *Citizenship and Social Class* [Marshall, 1950].

In this book, political citizenship has been conceptualised as the third dimension in the full definition. Afterwards, it has been widely studied in literature in strict connection with the criteria of

²⁸ For a complete research on citizenship applied to the Arab political system, see, Nils A. Butenschon., Uri Davis, Manuel SHassassian (edited by) 2000. *Citizenship and the State in the Middle East: Approaches and Applications*. Syracuse, New York. Syracuse University Press.

inclusion/exclusion of a group within a political community²⁹, despite of the tiny number of scholars who grappled with women in particular.

Some scholars investigated the issues of female suffrage in details since the very beginning; say 1893 when women received for the first time the right to vote in New Zealand, followed by Australia in 1902: throughout the twentieth century franchise rights proliferated rapidly for both men and women [Ramirez, Soysal and Shanahan, 1997: 735-745].

More recently, scholars contributed to the deficit in the definition of democracy: some of them were accused to be narrow and restricted for not mentioning of women, as Georgina Wailen³⁰ or Patrixia Paxton³¹, for example, accused traditional studies on measuring democracy often do not include women as political participants. While not dealing specifically on Arab political system, shed carried out a huge research project focused on the importance of female suffrage. Instead, studies on democracy commonly use male suffrage as the sole indicator of a country's transition to democracy [Paxton, 2000: 92]. Nevertheless, major studies produced in the past may be useful for this analysis on women since they are based on two main components underlying the political reform: primary political rights and fair and free elections [O'Donnell, 2001:7-36]. A "highly inclusive" level of political participation has to be guaranteed, at least through regular and fair elections, "such that no major adult social group is excluded" along with a level of civil and political liberties in order to reach a political system based on equality and justice. Basically, political rights bring to mind two level of comprehension, which may be summed up in: the legal level (theory) and the participation level (practice). First, citizens are formally granted a juridical set of political rights (to vote and run for election) and political freedom (mainly freedom of expression, association and press). Second, citizens are entitled by virtue of this

²⁹ The definition has been used by Bryan S. Turner in *Islam, Civil Society and Citizenship: reflections on th sociology of citizenship and Islamic studies in Nils A. Butenschon., Uri Davis, Manuel S. Hassassian, op. cit.* 28-48.

³⁰ Cfr. Georgina Wailen *Women and Democratization: conceptualizing gender relations in transition politics. World Politics.* 1994. 327-354. She focused on popular movements as a first basis of the politicisation of their social role.

³¹ Cfr. Pamela Paxton 2000. *Women's Suffrage in the Measurement of Democracy: Problems of Operationalization.* Studies in Comparative International Development. Vol. 35, No. 3. 92-111.

status to actively take part in public affairs of their political community by exercising their political rights directly or through their representatives.

In short, political rights in the dynamic perspective of political citizenship mean more than a formal definition of political membership since it reminds the active involvement of the actors. It is not only concerned with a formal guarantee by virtue of a constitution and a law but also with the practice developed in daily life by the governance capacity of formal and informal institutions and the ability of citizens (both men and women) to involve themselves in the political arena. Such distinction make it clear that at a deep analysis the nature of political rights is twofold as confirmed if I turned to the legal studies in International Law. I will detail it later, in chapter III, but it is worth mentioning hereby that such twofold nature has been adopted by the art. 25 of the Covenant on Civil and Political Rights which codified “the right and the opportunity” to take part in the conduct of public affairs, and to vote and to be elected at genuine period elections³². Consequently, political rights, and in particular the right to vote which can be considered the quintessential political rights, are potentially useful to draw those elements which contribute clarify, define, limit or favour citizenship in a wider perspective.

3.5. A contribute for the methodology

In the previous paragraphs, I have copied with a set of concepts borrowed by Social Science and in particular Political Science. I have mentioned main studies on authoritarianism with respect to the Arab region where the definition assumes a meaning in the recent history as nuanced as the seeming transitional process embarked on a reversal path that it is not plainly leading to a democratic system. Indeed, the Arab region has been so far hardly fit into one of the classical model of political development as it was the case for Southern and Eastern Europe and Latin America. In short, despite recent analysis on the Arab

³² For a detailed analysis of the theoretical and legal foundations of democratic elections on the Mediterranean area, Georgios Kostakos (edited by). *Democratic Elections and the Mediterranean*. 1999. European Union MEDA Programme for Democracy and Hellenic Foundation for European and Foreign Policy. Athens.

world, a new interest and attention has been captured in the area, probably triggered by the international conjuncture as the one appeared after 11th September 2001 and the war on terror launched by United States. Exploring such theories allowed me to shed light on the importance of the electoral moment since it represents a constant paradigm for a transitional process towards democracy.

Ultimately, I have introduced the study-groups which will play the core role in my personal research analysis: women. As already stated in the presentation of my study, indeed, the ultimate goal is to focus on the connection between a regime with authoritarian tendency, using my definition as much neutral as possible, and women's political rights in their legal recognition and enforcement procedure. To complete my theoretical framework borrowed by Social Science, I have presented in general terms, main studies on women with respect to Arab countries and to universal suffrage and democracy. *Per converso*, it seems that studies on women with respect to political rights in the Arab world still are not explored deeply. So far, only the international organisation have been demonstrated a certain interest while at the academic level, the subject would deserve more attention.

In this context, say the one of authoritarianism, I pretend to fit my personal PhD thesis in order to fill the *vacuum* in studies connecting such, Arab country, political rights and women. In essence, I understood that electoral democracy is not sufficient to create a system based on democracy in its minimalist definition. Arab countries proved that local government can play the electoral game in their favour, say to maintain the *status quo* and legitimated even further their power. For their goal to be reached, they use juridical tools so they can easily and legally manipulate procedures. Although presented as free and fair, elections in Arab countries have so far hidden unclear mechanism where. They are not fair, they do not oversee a real application of the application of alternate government, they do not allow oppositional party to enter into the real game. Moreover, they are often marred by violence and unsafe environment. Nevertheless, it is possible that it is straightening the concept of citizenship. A deep analysis could reveal indirect and unexpected questions. In other words, my topic question underlying the research is: does election help in given women citizenship's rights?

Chapter 4

Constitution and Political Rights in the Arab World

4.1. Representation in Arab Political System

On their independence, most of Arab states embarked on constitutional arrangements as it had never happened before. Local authorities worked to include in written text those rights, liberties, and regular mechanisms (i.e. general elections) to choose political rulers which have not fully guaranteed so far. New nationalist politicians mainly westernised intellectuals and educated in Europe, with the support of retiring colonial administrators, drafted constitutions similar to the colonial countries. To a certain extent they emulated the Western political system which became increasingly appealing despite of its numerous critics [Vatikiotis, 1969:126]. Some scholars, like Zubaida, when copying with the adoption of the model of state by Arab post-independence political community, dared to consider it like the “the compulsory model”³³. Surely, the colonial period allowed Arab

³³ Zubaida described the “modern state system” as a compulsory model to be adopted for recent established states. Cfr. Zubaida Z. *Islam: the people and the*

countries to come closer to the European model of state composed of people, territory and power, where the running of public affairs were characterised by the balance of the three branches of power, legislative, executive and juridical (the so-called check and balance system) and where citizens were granted fundamental rights to participate into a political life based on pluralism. Indeed, the concept of state based on the three pillars was alien to the in tradition and history of the region. It does not mean that Arab people by tradition were not politically organised. In Arab region, political community immediately recalls the definition of *umma* which, however, did not consider the modern model of state and, ultimately, ignored the borders currently defining division of states in the region.

In their studies, political scientists have largely ignored constitutions, representative bodies and, ultimately, political participation as element of the process for building the legal order when referring to the Arab world [Baaklini, Denoeux and Springborg, 1999:1]. Certainly, the evolution of legal order in the region has often left doubt about the real use of constitutional and institutional tools within the domestic borders of those young established states. The persistence of authoritarianism throughout decades, although in different and nuanced forms (as described in chapter I) has contributed to the general understanding of a region where such elements did not reached a mature level of application. To describe the deficit, many scholars used to refer to the lack of the concept of representation and citizenship in the political history of the region. Legislature, citizens' status, political participations have been frequently described as imported products of governmental machinery artificially transferred by Western colonial power to the region. Those concepts date back to the French revolution which we, in Europe, learnt to be the main starting point of the process leading to the supremacy of the law and the legitimacy of a system strongly based on equality, popular representation and sovereignty of the people who were called by the suffrage to participate directly or indirectly into the running of the public affairs. The base of this European perspective is composed of the constitution as the foremost protection against an arbitrary and despotic power. Are such concepts valid for the Arab region as well?

state. 1989. Routledge. London. 121-122 quoted in Goldberg E., Kasaba R., Migdal J.S. *Rules and Rights in the Middle East: Democracy, Law, and Society*. 1993. University of Washington Press. Washington D.C. 18

Are they merely imported products or are they part of a process similar to the constitutionalism developed in the European countries? An historical perspective will prove some stereotyped assumptions wrong.

In the next chapter, I will focus on the international level where throughout the century and in particular the twentieth century concepts connected with Human Rights received a political and juridical relevance turning into international standards widely recognised. Notwithstanding, for international standards to receive application at the domestic level, they need to be adopted by national legal orders. Hence, it is worth clarifying the juridical framework, as evolved generally in the region and particularly in Egypt in order to reach a better understanding of the adoption and the subsequent enforcement of concepts, namely participation and elections representation within internal borders. Eventually, the chapter will shed light on the female hemisphere of the population and the real dynamic of their participation into politics by suffrage and positive measures (mainly quotas). The concept of representation finds its roots in the region at the time of the Ottoman Empire, during the nineteenth century when the practice of consultation started to be increasingly utilised. Truly, the practice of consultation is enshrined in the historic, social and political context and strictly linked to the juristic theory of the caliphate. To a certain extent the concept of consultation as a method adopted by what today we consider the executive power was not alien to Muslim community [Vatikiotis, 1969:126]. According to the Muslim tradition, the idea of the pact goes beyond the relationship between God and men: it implied the assumption of power of the local chief of the community (*khalifa* or *iman*, who were leaders of believers). Therefore, their power was submitted to the consensus of the community. As for consultation, the concept of *shura* (inner consultation) is to be considered with the concept of *'aqd* (ruler-ruled contract) and *bay'a* (oath of allegiance). The former concept is quite interesting since it can be considered as a form of primordial elections in the pre-modern state in the Arab region. It used to be referred to the stipulation of a contract between two persons, and, moving to the political realm, between the governor and the ruled. *Per inciso*, such formal act used by people to recognise their sovereign survived till the present time. Indeed, it is currently used in Saudi Arabia and Morocco [Vercellin, 1996:9]. The concept of *shura* has been recently reconsidered in the wide debate of the compatibility of Islam and

Democracy. Some thinkers have propagated the concept of “shuracracy” to refer to the Islamic political system. What is important to know is that discussing publicly with people (ruled) for taking decision in favour of the political community (*umma*) [Ayubi Nazih, 1991:222]. It is an ancient practice which finds its roots in the tradition and habits of Arab people. Thus, a first form of consultative body, although not completely representative, was established when it emerged the idea that major social groups of the society needed a sort of representation through their involvement in the law-making process³⁴. Actually, Egypt knew about French Revolution principle very early because of the invasion led by Napoleon Bonaparte in 1789 [Samir Khalil Samir, 2000:49]. Although brief, the French presence had a first but considerable impact on the Egyptian culture [Branca, 2000: 10-25].

In the nineteenth century, remarkable events occurred in several parts of the Middle East such as the issue of constitutional documents containing promises, although limited of constitutional government representative assemblies and fundamental rights. They represented a formula to strengthen the authority of the state and, in particular, to face internal problems, fiscal crisis and foreign penetration. Three main constitutions have been promulgated: in Tunisia, the Ottoman Empire and Egypt³⁵. Later, at the time of the mandate period of the years between the First and Second War, the whole region already made some important progress in the direction of a political system based on democratic institutions, parliaments, elections and individual rights. Indeed, the colonial powers, namely Britain and France, created assemblies and held elections which persisted after independence. Starting with the twentieth century, some countries went even ahead. Especially during the 1920s and 30s, leading countries such as Egypt, Syria and Iraq (and later Lebanon) attempted to turn formal institutions into fully substantial ones. Although parliaments were still not constitutionally strong (they were bodies with weak prerogatives) in

³⁴ Ozbudum E. as quoted in Baaklini A., Denoeux G. and Springborg R 1999. *Legislative Politics in the Arab World: the Resurgence of Democratic Institutions*. Lynne Rienner Publisher. Boulder. 12-13.

³⁵The first constitution was called *al-la’iha al-asasiyya*. Brown N.J. 2002. *Constitutions in a Nonconstitutional Word, Arab Basic Laws and the Prospects for Accountable Government*. State University of New York Press, 26-29.

terms of influence on the decision-making process and of complete popular representation, local authorities in those countries started to develop parliamentary politics.

Since 1882 parliament started to play a significant political role. It was the case of Syria in the period 1916-54 and 1961-3, Iraq during 1932-58, Egypt in 1936-52 and Lebanon in 1946-54. They could be considered only partial democracy and based on a very limited constituency. In Egypt, Iraq and Syria, the post-independence state was combined with strong urban-based, land-owning and merchant classes and often combined with the continuing indirect pressure of the colonial powers and political and economic power which was largely in the hands of notables. Notables were the real dominant politicians of the country and they used malpractices, clientelism and mainly patronage to gain vote and support from tribes, peasants and urban workers [Baaklini, Denoeux and Springborg, 1999: 14]. In short, clients performed labour services and provided political support for their patrons. This meant that elected assemblies existed but they were dominated by notables or their representatives and that executive power which in any case was nowhere effectively unanswerable to a legislature, embodied as well notable power. Notable dominance, electoral malpractice and a population basically rural and illiterate made the organization of liberal democratic politics remarkably difficult [Owen, 1993:17-40]. Before the Second World War, the typical pattern was a combination of male suffrage and two-stage election which provided full scope for notable manipulation. At the end, however, parliaments played an important role shaping to a certain extent the public debate. After the war, liberal democratic practice extending and universal manhood suffrage became closer to be achieved³⁶. Indeed, female suffrage was allowed, special privileges for minorities were abolished and secret ballots were introduced. Despite these advances, organised political activity remained limited and pluralism practically not allowed. Space for parties in the political arena remained minimal: parties appeared sporadically and, to be precise, only in time of elections. They had the thinness of their mass political base and, internally, showed little democratic organisation [Owen, 1993:17-40].

³⁶ According to Vatikiotis, during the *Siqti* Constitution in Egypt (1931-1935) 80% of the adult population was disenfranchised.

A focus on citizenship is worth to be mentioned. The concept which implies membership guaranteeing equal civil, political and social rights or responsibilities took form early in Arab political communities due to the status of minority groups (such as Christians) to be tackled. Historically, it can be traced back to the elections under colonial period as the case of Iraq and Syria; the end of the two-tier electoral system in Iraq in 1952 and, then the expansion of the franchise in favour of women in Syria in 1947, Lebanon 1952 and Iraq in 1953. As Roger Owen illustrated in his thorough analysis, battles were organised to obtain more equality in the electoral system such as for example effort to make fairer elections by the introduction of ballot box in Lebanon in 1952 and Syria in 1954 and to move away excessive landowner and government influence in the rural areas.

As for the political parties, they still were not deep-rooted at the grassroots level. Most of the parties were merely created at the time of elections and just in a few cases; they had a cohesive and capillary organisation outside the most-urbanised zones of the capital. Consequently, they were not able to play a real and effective intermediate role between citizens and the state. In addition, most of the system did not consider at that time pluralism and, in any case, it was unworkable. It is right in this period that Arab legislatures witnessed their worse decline since executives gained soon a dominant role in decision-making policies [Baaklin, Denoeux and Springborg, 1999:19].

Dealing with political rights and representation in democratic institutions means firstly to understand the role played by the constitution (mainly written constitution) where such rights are claimed: what are the main reasons triggering the adoption of written constitutions? Since such states continued to be ruled under the umbrella of a constitution all along the twentieth century, what is the importance given to the text? Have Arab countries developed a sort of constitutionalism? Do such constitutions guarantee individual rights and freedoms on the base of justice and equality for all the citizens? Is the text an integral part of the process leading to what we commonly consider constitutionalism? To those questions and others I will seek an answer before focusing on any specific case-study and its recent history. Indeed, when looking at the evolution of constitutionalism in the region, two controversial actions make Arab process so peculiar. On the one hand written constitutions have been widely referred for the

running of legal order. On the other hand, the reality of despotic, even tyrannical rule makes political activities and ordinary citizens convinced that constitutional texts and relative principles established remain worthless papers written to hide a different running of public affairs.

Hereby, I will attempt to give a panorama over the use of constitution as a tool for democracy and its connection with respect to the concept of constitutionalism. When I argue about constitutionalism I am essentially referring to the definition provided by Giovanni Sartori and his theory based on the limit political power. In his works, he stressed some features, such a constitution (written or not); judicial review; an independent judiciary; due process of law. In short, it emphasised the "rule of law" as part of liberal constitutionalism [Sartori, 1987:221] and I will attempt to adopt the same approach.

4.2. Constitutions and constitutionalism

Although difference of historical experience, socioeconomic development and political and cultural inheritance have to be considered, I will oversimplify and shed a light on common features surrounded the Arab constitutional architecture, from the beginning of the process to the present time. As stated by Nathan Brown in what I consider one of the most enlightening works for my research, constitutions in the Arab world have generally been considered "façade" constitutional documents [Brown, 2002:842-843] because they are viewed as hypocritical documents: elegant texts with ambitious expectations which are eventually ignored in practice³⁷. According to

³⁷ On the one hand, most of the countries in the Arab Region accept constitutionalism as a prerequisite for democracy and the adoption of judicial review. Brown pointed out in one of its several authoritative works, *Judicial Review and the Arab World*, that this commitment emerged in Algeria, Bahrain, Egypt Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Somalia, Sudan Syria, Tunisia, the United Arab emirates and Yemen. On the other hand, when compared to the development path undertaken by European Countries, constitutional history in Arab countries shows that mechanisms partly different have been created and specialised bodies charged with judicial review have not worked with as strong effectiveness as was theoretically expected. After the Second World War, defeated countries from the Axis, such as Germany, Italy

the scholar, the history of Arab constitutional documents can be split into three main periods: 1) in the late nineteenth century when incumbent regimes experimented with written documents in response to fiscal and international crisis; 2) first half of twenty century when Arab States were created and they issued their constitutions in order to affirm their sovereignty; 3) after the independence, new constitutions were issued to play a role as ideological manifesto [Brown, 2003: 33-52].

First constitutions represented attempts by some members of the governing elite to find a formula for more accountable and effective government. The scholar has identified three main reasons at the root of the process: the proclamation of new ideological orientation, the search for a rise in political authority and the attempt to face internal and external challenge. Anyway, first efforts to fit political life in a constitutional framework are very ambitious since they attempted to build political systems that were more efficient, seriously responsible and better ordered with an embryo stage of establishing representation mechanism.

The first written constitution in the Arab world was established in 1861 in Tunisia: *qanun al-dawla al-tunisiyya* (law of the Tunisian state or dynasty). Tunisia, at that time, formed a virtually independent province within the Ottoman Empire but it followed loosely the Ottoman *Tanzimat* (Nineteenth-century political reform program). Despite of the intention revealed from the central power, the administrative structure of the empire was rudimentary and it could not work evenly. In addition, foreign powers, namely Britain and France, started to show their interests in the region and made the challenging program even more unfeasible. The Tunisian constitution assumed to a certain extent some European concept and usage. At the same time, it maintained foremost references to Islamic terminology, first above others the *Grand Conseil de notables* which was composed of people and uncharged of supporting the Bey by legislative, administrative, fiscal and juridical prerogatives. During that period, the *Grand Conseil* operated as intended, as a body combining legislative, administrative, fiscal and judicial functions. In such regard, it is

and Japan adopted judicial review and Austria re-instated it in order to prevent the tyranny of the executive power and in general, authoritarianism. The role of the judges and constitutional courts would have been expected to guarantee democracy. Brown N. 1998. *Judicial Review in the Arab World*. Journal of Democracy. Vol. 9 No. 4. 85-99.

important to remind Khayr al-Din al-Tunisi³⁸, one of the writers of the constitution because he revealed himself to be a very architect of the state institution as Counsellor, Minister and thinker probably thanks to his journeys abroad and several contacts with European states.

The Ottoman constitution adopted in 1876 was triggered by the more general need for change in administrative centralisation and rationalisation: internal rebellions broke out in Bosnia, Montenegro, Herzegovina (1875) and, eventually, in Bulgaria (1876) and they demanded some strong action to be put down. In truth, the adoption of the constitution was even more ambitious since it pretended to be an attempt to reach European power. Indeed, the text claimed the inviolability of the territory, affirmed equality of people beyond the

³⁸ Some important thinkers of juridical and political reforms were born in Tunisia. The first was Ibn Khaldūn (1333-1406) who is considered the precursor of modern science and sociology. The second one was the diplomat and reformer Khayr al-Din, also a precursor with regard to the political thought of Arabic-Muslim world and the relationship between his region and the West. Khayr al-Din al-Tunisi, Mameluke Circassian, born in the Caucasus around the 1820, arrived soon as a slave in Constantinople where he was trained by a religious notable who introduced him to the French language. In 1839-1840 he was recruited to serve Ahmad Bey (1837-1850) in Tunis where I could learn Arabic along with the study of religion. At the end of 1846 he was a member of the delegation that accompanied the Bey in France. After studies he undertook military career that led him in 1853 to the rank of general of division. His exceptional talent enjoyed the Bey who sent him to Paris where he stayed for four years. Even before his return in 1857, he was appointed Minister of the Navy from Bey Muhammad. He run the Ministry with innovative methods borrowed by the French administration and in 1860, the time of Muhammad al-Sādiq (1859-1862), he was a member of the committee responsible for drafting the constitution of Tunisia. However, the failure of his mission to the Sublime Porte together with the constitutional reform forced him to leave the political arena. In this period he wrote: "The right path in knowledge of the conditions of the states" (*Aqwām al-masālik fī ahwāl al-mamālik*) published for the first time in Tunis in 1867 and afterwards in French, "*Essai sur les réformes nécessaires aux états musulmans*" in 1868. Khayr al-Din had repeated contacts with the European continent and its institutions. Once arrived in Tunis, he was involved by Bey Ahmad in the modernisation of the army and for this reason came into contact with some military advisers in Europe. Valentina Colombo. *L'Europa e la Tunisia nel XIX secolo Il percorso più giusto nella conoscenza delle condizioni degli stati di Khayr al-Din al-Tunisi*.

confessional divisions, prevented non Muslim people to join juridical privileges and immunities. It provided for a representative body, the Chambers of Deputies, which was quite representative of religious, ethnic, linguistic minority groups. It was uncharged of the legislative power. The state at that time had to face too many crisis, such as bankruptcy, internal disputes, European diplomatic influence. Notwithstanding, an assembly was established as a measure of accountability and it represented the base for subsequent experiment in constitutional engineering all around the territory of the former Ottoman Empire. The constitution and the parliament as well were reinstated by the Young Turks and lasted till the end of the empire occurred in 1920.

Finally, the latest constitution of the nineteenth century in the Arab region was the Egyptian constitution promulgated in 1882. The Prime Minister, Sharif drafted a first text to introduce some measure of parliamentarism, accountability and khedive's authority. The khedive, who was the hereditary governor and, in substance, effective ruler of the country had to face the Council of Delegates, a consultative body, which claimed against European presence in the country and in the local politics. Indeed, an economical crisis shook Egypt and Europe put more control on Egyptian affairs starting with imposing two European ministers.

Those examples show that the quest for representative institutions is deep-rooted in the political history of the region and it has been triggered by both internal and international factors which made constitution and parliaments not a simple pattern passively imported from Western political systems. The first experiment in constitutionalism were focused to control, balance and make power more responsible in front people, to be it domestic or external.

In the period between the two wars, the Arab region and in particular Egypt, Syria and Iraq continued their constitutional experiment with even more vitality. Literature in such issues has been sometimes superficial when presenting parliament as institutions with no real influence in decision-making and not at all representative of the population since it lived mostly in rural areas without any consciousness of the voting up and public affairs [Baaklini, Denoeux, Springborg, 1999:14]. Though the increased centrality of representative bodies in the region will arrive later, countries like Egypt experimented

what has nowadays considered the longest experience of parliamentarism all around the Arab world dating back to 1866 and with first elections held in 1923.

After the Second World War, most of the countries became independent. It was the case of Tunisia, Morocco, Kuwait, Algeria, Qatar, Sudan, Algeria, Qatar, Sudan, Libya, Bahrain and the United Arab Emirates. All of them adopted a constitutions to proclaim their independence (the only ones which escaped the trend were Saudi Arabia and Oman) despite the text was hardly representative of the popular voice. Indeed, any constituent assembly has been established in favour of a small elite (only in Kuwait it was to a certain extent more comprehensive) drafting the text far from the public scrutiny [Brown, 2002: 38].

The third period of constitutional history occurred when new constitutions were issued with the intention of playing the role as ideological manifesto. In such context, Arab representative bodies, say legislatures, gained more relevance thanks to the new efforts deployed by several Arab regimes since the 1980s to open up their political system by giving more importance to political life. Indeed, the new prominence derives from the growing need for Arab regimes to strengthen their popular base and, eventually, increase their internal and international legitimacy. On the one hand, growing demands for political participation needed to be challenged. On the other hand, a new liberated image had to be given to the outside world.

Brown, recently, envisaged a new period for constitutional evolution in the region: "the global resurgence of liberalism, the desire to allow for sharply controlled democratic openings, the need to parry opposition as regimes jettison welfare commitments and confront fiscal crisis and the exigencies of political succession have inspired some constitutional experimentation". Indeed, also the Gulf countries of the Arabian Peninsula, traditionally more reluctant to the concept of constitutionalism, have finally started a process and adopted representativeness mechanisms in the political system. During the 1990s, they embarked with extraordinary reforms in constitutional terms. In the rest of the Arab Word, a general decline of revolutionary and socialist ideologies has been coupled with a controlled experimentation of political liberalisation which, however, never led to reach a full democratic system as constitutional texts testify. Ruling

regimes in Morocco, Algeria, Tunisia, Egypt, Jordan deemed to reduce their authoritarian characters by using constitutional mechanism, say elections. The main goal, Brown said was “*to show a friendlier face while ensuring that the basic contours of the regime remain unchanged*” [Brown, 2003:44].

At the present time, every country in the Arab world has provided for a written text to organise political system although it took different names: it has been called constitution (*dustur*) in the case Algeria, Bahrain, Egypt United Arab Emirates, Iraq, Jordan, Kuwait, Lebanon, Morocco, Mauritania, Sudan, Syria, Tunisia and Yemen or basic law (*nizam asasi*) in Saudi Arabia, Oman and Qatar. Saudi Arabia adopted the fundamental statute (*nizam asasi li-l-hukm*)³⁹ which included the *Shura* council. At the same time, the United Arab Emirates made its constitutional permanent by removing the word “temporary” from the title. Kuwait restored parliament in 1992 while Bahrain made it in 2002. Ultimately Yemen, the unique republic on the Arabic Peninsula, drafted a new constitution in 1991.

At the end of the last century, moreover, several states, especially in North Africa, embarked on the path of further constitutional reforms: Algeria in 1989 and 1996, Lebanon in 1990, Morocco in 1992 and 1996 and Tunisia in 1996.

In 2002, further reforms were recorded: the Tunisian constitutional was revised in May 2002 in order to allow the renewal of the presidential mandate and the Constitution of Bahrain in February 2002, to re-establish the monarchy, restore parliament, as stated above, to create elective local councils and ultimately, allow women right of eligibility.

So far, Libya remains the only country which has not a constitution or similar text. Libya has, however, approved, several texts where dealing with the organization of power. The 1977 Declaration which returns power in the hand of the people can be considered as the most authoritative text [Bernard Maugiron and Ferrié, 2005:8].

Hitherto, I explored rapidly the evolution of constitution with the wider perspective of a process leading theoretically to the strengthening of constitutionalism and, thus, fundamental rights. Even more important, for the sake of the present analysis, it is legitimately

³⁹ It has been adopted with Royal Decree signed by King Fahd in March 1992.

questionable: what are rights protected by such constitutions? Are all people living the country recognised as citizens? What does it mean such status? Does it is discriminatory against some categorised of people, like can be the case of women?

Table I) reports schematically essential text from the article claiming citizen's status and the principle of equality included in constitutions in act at the moment in each of Arab countries. it is interesting to note that most of the Constitution recognised formally equal rights with no discrimination on the ground of gender, origin, religion, belief or language.

Table I) Equal Rights in the Constitution

Country	Description
Algeria	"All citizens are equal before the law.No discrimination shall prevail because of bind [kin], race, sex, opinion, or any other personal or social condition or circumstance." (Constitution, 1996, chapter IV, article 29.)
Bahrain	"All persons shall be equal in human dignity, and all citizens shall be equal before the law in regard to their rights and obligations without discrimination among them on the grounds of race, origin, language, religion, or belief." (Constitution, 1973.)
Djibouti	"All citizens are equal before the law in rights and duties. There is no discrimination between them on the grounds of sex, origin, language, religion, or creed." (National Charter, 2001, chapter 1.)
Egypt, Arab Rep. of	"Equality assured to all without regard to language, origin, race, gender, or religion." (Constitution, 1997, article 1.) "All citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion, or creed." (Constitution, 1980 Amendment, chapter III, article 40.) "The State shall guarantee the proper coordination between the duties of woman towards the family and her work in the society, considering her equal with man in the fields of political, social, cultural, and economic life without violation of the rules of Islamic jurisprudence. (Constitution, 1980 Amendment, article 11.)
Iran, Islamic Rep. of	"All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria." (Constitution, 1989, chapter III, article 20.)
Iraq	"Citizens are equal before the law, without discrimination because of sex, blood, language, social origin, or religion." (Interim Constitution, 1990.) In addition, Law 191/1975 provides for equality of women with men as regards rights and financial advantages.
Jordan	"Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language, or religion." (Constitution, 1952, chapter II, article 6.)
Kuwait	"All people are equal in human dignity and public rights and duties before the law, without distinction to race, origin, language, or religion." (Constitution, 1962, article 29.)
Lebanon	"All Lebanese are equal before the law. They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction." (Constitution, 1990, chapter II, article 7.)
Libya	"All citizens are equal before the law." (Constitution, 1969, article 5.) "The members of the Jamahiriyyan society, men or women, are equal in everything that is human. The distinction between men and women is a flagrant injustice which nothing justifies." (Human Rights Charter, 1988, principle 21.)
Morocco	"All Moroccans are equal before law." (Constitution, 1992, article 5.)
Oman	"All citizens are equal before the law and are equal in public rights and duties. There shall be no discrimination between them on the grounds of gender, origin, color, language, religion, sect, domicile, or social status." (Constitution, 1966, article 17.)
Qatar	"Equality among Qataris irrespective of race, sex, or religion." (Provisional Constitution, 1970.)
Saudi Arabia	"Equality in accordance with Islamic Shari'a." (Constitution, 1992, article 8.) "The State protects human rights in accordance with the Islamic Shari'a." (Constitution, 1992, article 26.)
Syrian Arab Rep.	"The citizens are equal before the law in their rights and duties." (Constitution, 1973, article 25/3.) "The State ensures the principle of equal opportunities for all citizens." (Constitution, 1973, article 25/4.)
Tunisia	"All citizens have the same rights and the same duties. They are equal before the law." (Constitution, 1991, chapter I, article 6.)
United Arab Emirates	"Equality, justice, safety, security, and equal opportunity to all citizens are the pillars of society." (Constitution, 1996, article 14.)
Yemen, Rep. of	"The state shall guarantee, to all its citizens, equal political, economic, social, and cultural opportunities and, to that effect, shall enact all the required laws." (Constitution, 1991, chapter II, article 19.)
Sources: For Bahrain, Djibouti, Iraq, Kuwait, Libya, Oman, Qatar, Saudi Arabia, and the Syrian Arab Republic, the source is Hjjab, El-Solh, and Ebadi 2003. For Algeria, the Islamic Republic of Iran, Lebanon, Morocco, Tunisia, and the Republic of Yemen, the source is the International Constitutional Law Web site (http://www.oefre.unibe.ch/law/icl/home.html). For Egypt, the source is http://www.sis.gov.eg . For Jordan, the source is the Web site of King Hussein (http://www.kinghussein.gov.jo). For the United Arab Emirates, the source is the Federal National Council Web site (http://www.almajles.gov.ae), which includes an unofficial translation of the Arabic version.	

Source: World Bank – Gender and Development – 2004

4.3. Women and Law

The participation of women in politics has been traditionally low all around the world and in particular the female presence in decision-making institutions. Following the 1995 Beijing Platform for Action⁴⁰, the low representation of women in general political arena and in particular in representative bodies has been increasingly considered as a discriminatory attitude and practices to be removed. The unbalanced representation of women which in some cases is a real exclusion of women in political institution and prevention from obtaining an equal share of political position turned to be a general problem connected with the political development.

As far as Arab countries are concerned, public law is not the main domain where women have been witnessing discrimination. Civil law and in particular Familiar Law has been enforced by a fairly more unequal interpretation to the detriment of women. The main reasons lay down in the local legal order which has regulated for century human being life in the region. It is the Islamic Law which throughout the centuries has been adopted in distinct contexts and periods. Broadly speaking, it is based on the revealed law, the so-called *Sharia*, as the main source, composed of the Curan, Sunna of the Prophet, and the consent of the doctors (*ijmaâ*) and reasoning by analogy (*qiyas*). The *Sharia* regulated in principle all aspects of human being's life: religious, social, economical and political. Thus, the *Sharia* entailed family's law, heritance, propriety and obligations, say all legal issues that a believers is likely to face during his/her life (*mu'amalat*), beyond norms regulating ritual practices of every believer (*i'badat*). The *Sharia* tackled with both private and public life. However, the revealed law did not regulate constitutional and administrative issues leaving the secular power uncharged of normative prerogatives (*qanun*) [Vercellin, 1999:301-302],

The increasing relationship with the West, led Arab legal to adopt codes of European origins in civil and penal domain. As far family's issues and personal status are concerned, the norms maintained their reference to the *Sharia*. Some practices, especially in the domain of

⁴⁰ I will detailed in the next chapter the international documents in favour

marriage, polygamy, divorce and heritance, were discriminatory against women. Generally speaking, women have been considered under the male tutorage (their father, big brother and lately their husband). In tradition, women are out of the public sphere (and therefore political sphere). Women had to be only concerned with the female domain that is the internal and familiar space, the territory of peace opposed to the male domain, says the public sphere, the domain of war [Mernissi, 1992:7]. Looking at the public law, political rights, among others, constituted a section which reached relatively early a formal equality in the female citizen's status although still recently women had to fight to have their own right granted by law.

A new period of particular attention for women's issues launched a refreshed debate (the first real debate was launched at the time of the independence) which stimulated states to grant political rights to women. The Kuwaiti case is explanatory: on 16 May 1999 Kuwaiti prince issued a decree to grant women the full political rights. For the first time, the prince faced the status of female citizens, say their right to vote and stand for an office as the occasion of the coming council elections to be held in 2000. Nevertheless, the Kuwaiti legislature composed of a strong conservatory wing which was traditionally reluctant to involve women in the political debate, rejected the decree. Finally, in 2005 parliament approved full political rights for women⁴¹.

*Table II) Year Arab women received right to vote, right to stand for election and were elected**

⁴¹ Cfr. Wehbe A. *Legislative Functions of the Arab Parliaments: Comparative Study. The Kuwaiti Case: The Decree on Women's Political Rights as Part of The Political struggle between the Parliament and the Government*, available at the website: <http://www.pogar.org/publications/legislature/wahby1/section4c.html> [accessed on 23 February 2008].

Arab Countries	Year women received right to vote	Year women received right to stand for election	Year first woman elected (E) or appointed (A) to parliament
Algeria	1962	1962	1962A
Bahrain	1973	1973	
Comoros			
Iraq			
Egypt	1956	1956	1957E
Jordan	1974	1974	1989A
Kuwait			
Lebanon	1952	1952	1991A
Libya	1964	1964	
Mauritania			
Morocco	1963	1963	1993E
Oman			
Palestine	1995	1995	1996
Qatar			
Somalia			
Saudi Arabia			
Sudan	1964	1964	1964E
Syria	1949, 1953	1953	1973E
Tunisia	1957, 1959	1957, 1959	1959E
United Arab Emirates			
Yemen	1967	1967	1990E

Source: UNDP-Pogar - Human Development Report - 2002

***The table is not complete. However, by the present time, only Saudi Arabia does not allow women the right to vote.**

Since the overthrow of Saddam Hussein's regime in April 2003, women in Iraq have organised some movements and protests to claim major respect for their rights demand a more effective role in leadership structures in Iraq. In the aftermath of Operation Iraqi Freedom, the Coalition Provisional Authority (CPA) did not reserve considerable attention to women's rights and representation in the post-war process. It is telling the case of the rally held in Nasiriyah among the opposition groups active in the country in April 2003. They met to discuss self-rule and only four women, all former exiles, were

among the approximately 120 delegates⁴². *Per converso*, respect for diversity and the role of women were among the thirteen principles established for the creation of a new Iraqi government, as argued in international fora⁴³. In 2002, Bahrain staged the first democratic vote in the Gulf with women casting ballots and standing in national elections for the first time. It was in the occasion of the Kingdom's first parliament in nearly 30 years. The country opted for a constitutional monarchy with Sheikh Hamad bin 'Isa Al K halifa as king since 1999.

The Beijing Platform has been the first and more ambitious attempt to promote women in the political realm. The text stated for positive measure able to produce a more favourable environment for women to join political realm. Making the environment which encourage female participation implies not only a focus on formal actions like a quota system. The state can undertake actions at the constitutional and legal level measures to reduce and, eventually, dismantle formal discriminatory obstacles. The first step of the process launched with the international conference on women's issue was to bear on national legal order for reaching a more equitable system in terms of citizen's rights. In the practice, states developed mechanisms to reach artificially a sort of equilibrium which the political system by nature is not able to achieve. Certainly, the most common measure adopted all around the world is the quota system. Here, it is useful to relate to a study realised by the World Bank, entitled Gender and Development in the MENA Region which grappled with women in the public sphere:

TABLE III) *Equal Constitutional Rights Freedom of Movement, and Marriage*

⁴² Woodrow Wilson International Centre for Scholars. Middle East Program. 2005. *Building a new Iraq: ensuring women's rights*.

http://www.wilsoncenter.org/topics/pubs/empoweringwomen_4.pdf [accessed on 15 March 2008].

⁴³ United Nations, in their handbook for international activities, argued that "Include women as members of delegations to peace negotiations and in bodies created for the implementation of peace accords, including those responsible for the development of new electoral processes"... *Women and Elections: guide to promoting the participation of women in elections*. 2005. United Nations 17.

Country	Constitutions that stipulate equal rights and duties for all citizens under the law (both men and women)	Freedom of mobility: right for a woman to travel or obtain a passport without husband's or guardian's permission signature ^a	Marriage		
			Minimum legal age	Right for women to conclude their own marriage contract	Right for women to get a divorce by the court ^b
Algeria	Yes	Yes	Females—18; males—20	No	Yes
Bahrain	Yes	Yes	None	Yes and no ^c	Yes
Djibouti	Yes	Yes	Females and males—18	Yes	Yes
Egypt, Arab Rep.	Yes	Yes (as of 2000)	Females—16; males—18	Yes	Yes
Iran, Islamic Rep. of	No ^d	No	Females—13; males—15	No	Yes
Iraq	Yes	No	Females—17; males—18	No	Yes
Jordan	Yes	Yes (as of 2003)	Females and males—18	No	Yes
Kuwait	Yes	No	Females—15; males—17	Yes	Yes
Lebanon	Yes	Yes	Females—17; males—18	Yes	Yes ^e
Libya	Yes	Yes	Females and males—20	Yes	Yes
Morocco	Yes	Yes	Females—15; males—18	No	Yes
Oman	Yes	No	None	Yes and no ^c	Yes
Qatar	Yes	No	None	No	Yes
Saudi Arabia	n.a. ^f	No	None	No	Yes
Syrian Arab Rep.	No	Yes ^g	Females—17; males—18	Yes	Yes
Tunisia	Yes	Yes	Females—17; males—20	Yes	Yes
United Arab Emirates	Yes	Yes	None	No	Yes
West Bank and Gaza	n.a.	Yes (as of 2003)	Females and males—18	Yes	Yes
Yemen, Rep. of	Yes	Yes	Females and males—15	No	Yes

n.a. Not applicable.

a. Some countries have recently made amendments to laws that restrict women's rights to mobility; however, it will take some time before the effects of these changes can be measured.

b. In all MENA countries, women have the right to be granted a divorce under special circumstances, such as if the husband is imprisoned, if he is unjustifiably absent, or if he unjustifiably fails to pay maintenance. However, in certain cases (nonpayment of maintenance or physical and mental abuse), the burden of proof is entirely on the woman and, in practice, it is very difficult to get the court to approve the divorce. All countries allow women to be granted divorce through *Khul'u*, whereby a woman, for any reason she deems justifiable, can be granted a divorce as long as she pays back the dowry to the husband and renounces any marital financial rights. Many women report that even obtaining *Khul'u* is a frustrating and long procedure. Some countries require the husband's signature even in a *Khul'u* divorce.

c. Two legal systems are followed and are based on two Islamic schools: *Maliki* (women must have their male guardian represent them in marriage and no woman can execute her own contract) and *Ja'afari* (any adult man or woman of sane mental capacity can execute his or her own marriage contract).

d. In the Islamic Republic of Iran, the 20th amendment to the Constitution gives men and women equal protection under the law but does not accord them equal rights.

e. In Lebanon, women can seek a divorce pertaining to their particular religion.

f. Article 26 of the Saudi Arabian 1992 Basic Law and Constitution states, "The State protects human rights in accordance with the Islamic Shari'a."

g. A husband or male guardian can obtain a letter from the minister of interior to be presented to Immigration Control to prevent a wife or female relative from leaving the country.

Sources: Hijab, El-Solh, and Ebadi 2003. Information in columns 2 and 3 is from U.S. Central Intelligence Agency 2002. For Algeria, Bahrain, Djibouti, Iraq, Libya, Oman, Qatar, Tunisia, and the United Arab Emirates, information in column 4 is also from U.S. Central Intelligence Agency 2002. For Lebanon, the information in column 4 is from <http://www.law.emory.edu/IFL/legal/lebanon.htm>.

Source: World Bank Gender and Development - 2004

The table demonstrates clearly that current constitutions stipulated equal rights and duties for all citizens under the law (both men and

women). Nevertheless, some discrepancies still exist and it is connected with the freedom of mobility and marriage. As for Egypt, an update is to be done with respect to the table above. During the fall of 2000, Egyptian courts struck down statutes that prohibited women from obtaining passports or travelling without permission from their fathers or husbands⁴⁴.

Once explored the principle of equality in the constitutional and legal framework, I can consider such actions aimed at the enforcement in the political life of those rights formally recognised. Certainly, the quota system represents a strategic response as an artificial mechanism able to challenge the exclusion of women. indeed, the quota system forced the political system, as I will detailed soon, to reach a balance the political system is not able to reach or is reaching at a very slow speed in consideration of the resources deployed and recently along with the electoral quota system in favour of women adopted in a remarkable number of countries. It is the case of Western European countries: in Italy or France it is a widely used practice with the form of voluntary party quotas. In Africa, the Balkans, Latin America and South Asia as well. In the Arab world quota for minority groups, such as religious or ethnic groups (Lebanon is the most telling case) are not aliens to the political dynamics. They have been widely used and, in the recent time, applied also to the minority group of women for them to be included in parliament. In such regards, international organizations and their frequent statements recommending the introduction of quota make domestic discourse more sensitive but probably were not sufficient. Looking the regional differences, it is clear that still in 2004 women in national legislature in Arab countries were under-represented (the lowest percentage with 6 per cent) and further efforts need to be deployed:

Table IV) Women in national parliaments: regional differences

⁴⁴ Data from UNDP-POGAR, Programme on Governance in the Arab Region. The United Nations Development Programme (UNDP), Regional Bureau for Arab States (RBAS) launched the Programme on Governance in the Arab Region (POGAR) in early 2000. POGAR was developed at the request of Arab governments, and therefore specifically addresses national needs and concerns.

Region	Percentage of Women participation in lower houses
Nordic countries	39.7%
North and South America	18.5%
Europe/Members states of the Organization for Security and Co-operation in Europe (OSCE) excluding the Nordic countries	16.25%
Asia	15.1%
Sub-Saharan Africa	14.6%
Pacific	11.1%
Arab states	6.0%

Source: Inter-Parliamentary Union, www.ipu.org, updated at 30th September 2004.

What does it mean quota system? How is it enforced in to practice? The main assumption when treating quota system is connected with the existence of barriers which prevent women from entering the realm of politics with several nuances according to the single society. As long as such impediments persist, the adoption of a quota system ca not is seen as discriminating against men. Indeed, it has to be considered as a temporary measure that will be no longer necessary when the balance is reached. To be precise, the balance in a gender perspective considers effective equality in access opportunity into politics.

Quota systems are of three broad types⁴⁵. The reserve seats system, a system that allocates a certain number of parliamentary seats to particular minority groups. It can be mandated by constitution, as for the case of Burkina Faso, Nepal, Philippines and Uganda. Reservation can be envisaged as well by the ordinary law requiring a certain percentage of women on party lists. Cases of electoral laws with quota system can be found in several Latin American countries, as well as in Belgium Bosnia and Herzegovina, Egypt (during the period 1979-1986), Jordan, Serbia and Sudan. As for the third case of party quotas at the voluntary level, a system that is traditionally used in Europe. It has been adopted in Algeria, Bolivia, Ecuador, Germany, Italy, Norway, Tunisia and Sweden⁴⁶. As far as Jordan is concerned, it is worth mentioning that a mixed system was introduced at the occasion of elections held in June 2003. Indeed, it combined the reserved seat system with the usual quota system. In details, Electoral Law No. 11 of 2003 guaranteed a number of reserved seats at the lower house (six out of the 110 total numbers of seats).

4.4. The case of Egypt: its constitutional evolution

In this paragraph, while continuing the constitutional evolution in a more historical perspective, I will start focusing on my case-study of reference: Egypt. After a short attempt of establishing an assembly created at the time of Napoleon (1789-1801) and the Advisory Council (*majlis al-mashwara*) established by Muhammad Ali in 1829, the first

⁴⁵ Cfr. IDEA and Stockholm University. *Global Database of Quotas for women*, available at www.quotaproject.org. Dahlerup D. *From a Small to a Large Majority: Women in Scandinavian Politics*, in *Scandinavian Political Studies*, Vol. 11, No.4, 1998, .275-298; Dahlerup D. *Using Quotas to Increase Women's Political Representation*. in Azza Karam, Ed. *Women in Parliament: Beyond Numbers*, Stockholm: International IDEA 1998, .91-108; World Bank. *The Gender Policy Agenda to meet demographic and economic needs*, in *Gender and Development in the Middle East and North Africa, Women in Public Sphere*. MENA Development report. 2004. The International Bank for Reconstruction and Development/ The World Bank. Washington D.C. 129-147.

⁴⁶ Dahlerup D. *Gender Balance in Politics: goals and strategies in a global perspective*. In IDEA (in collaboration with UNDP Cairo, UNIFEM Arab States and National Council for Women in Egypt). *The Arab Quota Report: selected case studies*. Quota Report Series. Cairo. 2004. 23-24.

model of representation body dated back to the 1866, when Khedive Isma'il, governor responsible in front of the Ottoman sultan formally but practically independent, convened a Consultative Assembly of Delegates (*majlis shura al-nuwwab*). It was a representative assembly of seventy-five members elected indirectly for a three-year mandated following upon a system of indirect elections [Vatikiotis, 1969: 129]. While his intentions were concerned essentially with a group of notables approving Khedive's action, the body grew surprisingly in power and in the late 1870's turned to be a leading reference for the mobilisation demanding greater popular representation and governmental accountability and less Western interference [Brown and Amit 1994: 184].

English occupation reduced but not eliminated the trend toward constitutionalism [Baaklini, Denoeux and Springborg, 1999:23]. Indeed, in 1913 a wider participation from Egyptian people was allowed in the political sphere thanks to the creation of a legislative assembly. Such a body had the right to pose a veto in financial and tax issues. Nevertheless, the most important step forward was the composition of the body since almost 80% of its members were elected [De Gayffier-Bonneville, 2005:38]. In May 1885, a new law passed providing for two partially elected bodies. In the meantime, a nationalist uprising forced Great Britain to proclaim formal independence for Egypt. Four years later, King Fu'ad promulgated the first constitution of the country at the end of a negotiating process among the monarch, the British and the nationalist movement, the Wafd Party⁴⁷. According to the constitutional text, which sought a Western emulation, the system had to be composed of a bicameral legislature, a Senate and a Chamber of Deputies. The two-chambers parliament was constituted with members elected through universal male suffrage, aside from two fifths of the senate reserved for direct appointment first by King Fuad (1913-1936) and then by his son King Faruk (1936-1952). Actually, the monarch abused largely of his power, by manipulating the executive to his own advantage, and, hence, undermining the image and credibility of the parliament which continued to be labelled even later as insignificant institution. Indeed, it seemed that periodically the monarch unseated

⁴⁷ The Wafd Party (*Hiszb al-Wafd a-Gadid*) was born as a delegation guided by Sa'z Zaglul, who debated in London the withdrawal of the British army from Egypt. It had a secular approach (many members were Copts) and pursued an anti-British politic.

nationalist prime ministers and replaced them with undesirable palace favourites [Botman, 1999:22]. Indeed, still throughout the Nasser's period (1952-1970) the parliament will appear completely unable to play a significant role in domestic politics. At the time of the national revolution, women joined the rebellion and men who were already engaged in politics endorsed a limited female participation during the liberation struggle. Once gained independence, male attitude turned to dominate the public sphere. Using the comments from Botman, *"while liberalism and early feminism did provide affluent women limited space and legitimacy in which to engage in nationalist politics, help the poor through voluntary social service projects and enter the literary arena, the vast majority of women remained outside public life and held no rights of citizenship"*.

Throughout the so-called Egyptian liberal age, the political system remained actually widely urban-based, colonially imposed and unrepresentative for the masses in society. Botman talked about gender asymmetry to refer the phenomenon of women, in their traditional role of wives and mothers but who were denied of demanding citizenship (right to vote and stand for election included) or responsibilities in public life [Botman, 1999:24]. Nevertheless, a few tiny groups of women started to be seriously engaged in public activity as a telling sign of their strong determination despite they were denied legal rights. It is in this period, in fact, that they created female organization and social activities along with literary careers. At the time of the two World Wars, a debate started in the country also within the religious community. Actually the debate on women's foremost role in national progress dated back even before the liberal period and it was supported by intellectuals, such as Shayky Ahmad Rifai, Rifaa al Tahtawi. One scholar is important to mention. He is Qasim Amin, who followed his mentor, Muhammad Abduh (1849-1905), in his enlightened opinions expressed in *The Liberation of Women* (1899) and later *The New Woman* (1901) where Amin explained the decadence of the Islamic society by the low status recognised to women, in particular related to education.

In 1952, a coup d'état took place on 23 July due to the Free Officers movements determined to overthrow the King. Finally, the group of young army officers succeeded: they abolished the constitutional monarch and established the republican system in the country. For a few years, however, democratic institute such as parliament and political parties had been suspended.

Gamal Abdel Nasser, soon imposed its predominance and became the president of the new Republic of Egypt. In 1956 a new constitution was promulgated and it substituted the presidential for a parliamentary system of government where the president was responsible for appointing and dismissing ministers. Furthermore, the constitution allowed a unique political party which was also the one vested with the task of approving candidates for parliament. The Assembly was uncharged of making laws and approving the budget, and as in Britain, cabinet ministers were relied in front of the Assembly. Actually, even after the constitution some events caused delays in the enforcement of the text. It was the time of the Suez crises in 1956. The first Member of Parliament meeting was held in 1957. The National Assembly composed of 350 elective members, two from each of 175 districts. Gamal Abdel Nasser deployed all his efforts to strengthen the concept of pan-Arabism and socialist state. During Nasser regime, women received a new attention. They were given the right to vote and a wider range of educational and professional chances. To be precise, he legitimised women's working outside the family and he encouraged women to become involved in the political sphere. Conversely, he did not copy with marriage, divorce and personal status. In short, citizenship rights remained outside of the private sphere. Family matters remained untouched. The 1956 landmark constitution did provide universal suffrage rights to women as the third country in the region after Lebanon (1952) and Syria (1953).; it did declare that all Egyptians were equal before the law and that no discriminations on account of gender, racial origin, language or creed were allowed (art. 31). Moreover, it authorized a fair treatment of all employees in term of work hours, benefits, vacation and equal opportunities for all Egyptians (art. 8). And, even more important, the new text engaged the state to support women's efforts to merge public work with family obligations.

The constitution gave the president the right to appoint ten members (the others 350 elected). Among elected members, two of the successful candidates were women: one from Cairo, Rawya Attia, and the other from Alexandria, Amina Shoukry [Earl Sullivan, 1989:39]. The new constitution represented an extraordinary advance for women. However, in practice, progress has been tempered by authoritarianism attitude in running politics and conservatism in social relations.

Despite of their recognition via constitution, for political rights to be exercised women and men as well were require some precise bureaucratic *iter* to be followed. According to Law No. 73 of 1956 on the exercise of political rights⁴⁸, any Egyptian, male or female, on attaining the age of eighteen solar years, may express his or her independent opinion by voting in referenda and electing members of the People's Assembly (*majlis al Shab*), the Consultative Council (*majlis al Shura*) and the local popular councils (*majlis al Majallat*). Nevertheless, citizens had to register in the roster usually at the local police office for practically exercising political rights. Such a duty has been optional for women until 1979. Indeed, statistics confirm women had a very tiny affection towards election and politics in general which remained essentially a male activity. The participation rate remained low. In 1957, for example, out of 5.5 million men registered to the list, only 144,000 women opted of the registration. By 1965 women's name in the list reached 250,000 and by 1967 it arouse to 1 million.

Finally the complicated process of turning passive women into vigour civic participant in public life obscured benefits of Nasser formal politics based on promoting a female active citizenry. In conclusion, however, Nasser was the first one and probably the most wise to launch an unprecedented public attention to women in politics. Moreover, looking at the general dynamics of the main representative body, it was still clear that popular affection toward political sphere was questionable because of its narrow importance. Indeed, the People's Assembly had a limited role in the legislative activities since most of the law were originated by the government and then, ultimately approved by the full Assembly. One important prerogative of the parliamentarians was the involvement into the selection of the president of the republic. It was uncharged of the selection of a single candidate to be submitted for approval by the people of Egypt in a referendum. Furthermore, Nasser perseverated in the creation of a state-run mass organization (the first was in 1953 with the establishment of the Liberation Rally and, then, in 1957 the National Union). For such a goal to be reached, political groups had to be prohibited from functioning autonomously.

⁴⁸ Art. 1, Law No. 73 of 1956 on the Exercising of Political Rights. The Law was substituted by a new one with the same provision, Law No. 173 of 2005 regulating the practice of political rights.

Chapter 5

Women: international standards on political rights

5.1. Human Rights Law and its evolution

A comprehensive analysis, especially when focused on contemporary phenomena, can not leave the growing intertwined world out of consideration. Nowadays, even when dealing with a single specific reality (state), and in my case it will be Egypt, it is crucial to adopt a wider perspective since states belong to the international community and are growingly influenced by it. Hence, for the sake of the a more comprehensive understanding in state behaviour, some tools from international community are to be detailed in the general perspective of International Law and in more particular of Human Rights Law. After the atrocities Second World War, human rights standards proliferated at the international level in the attempt to preserve people all around the world from the threat of a new war. This period has seen a remarkable development in the recognition of a new approach for International Law. Practically, the international community elaborated a number of important instruments whose volume and scope has become nowadays quite extensive⁴⁹. Certainly, one main aspect of such evolution has involved primary subjects targeted by International Law. Traditional International Law as the law of the community of states addressed notoriously to states considered as legal subjects vested with rights and duties. *Per converso*, national legal systems targeted mainly individuals in conformity with the

⁴⁹ Cfr. Byrnes A. *Toward more effective enforcement of women's human rights through the use of international human rights law and procedures*. In Cook. J. *Human rights of women: national and international perspectives*. Philadelphia. University of Pennsylvania Press. 1994. 189-227.

principle of exclusive jurisdiction of the State towards their citizens that did not allow any kind of interference from other external actors. States were the only ones legitimated to deal with individuals as citizens of that country. An increasing interest for guaranteeing rights of individuals favoured a shift in favour of a major inclusion of other poles of interests and activities whose status gained international relevance and, among others, individuals as subjects of International Law received more attention [Cassese, 2005: 71]. The recognition of international status to new subjects constitutes the most important feature of the modern international law where, steadily, took form a completely distinctive strand destined to foster tension and conflict among States [Cassese, 2005: 375] because it is likely to undermine domestic legal order. Just as gross violation occurred during the Second World War so the international community promoted, under the auspices of the United Nations an effective respect for the dignity of human beings. Preventing the return to the horrors of Nazi aggression and other atrocities perpetrated during the war, United Nations issued a process of international protection of individuals considered no more as members of groups but as single human beings. It is the creation of a main separate branch of International Law, which has been called Human Right Law. It has gradually come through the traditional principle of non-interference by undermining the national legal systems. In addition to the development of norms, many agencies and procedures have been created to favour the implementation of the same norms. Certainly, the European Convention system started earlier to introduce enforcement procedures (in the sense of quasi-judicial complaint procedures resulting form binding or quasi-binding adjudications in contentious cases) along with the International Labour Organisation (which actually was activated even earlier). Nevertheless, the United Nations was the main institution embarking with massive human rights machinery. Besides, Inter-governmental organisations and non-governmental organization (NGOs) and some single states devoted vigorously to the cause of making standards effective with enforcement and implementation mechanisms.

The turning point is the Universal Declaration of Human Rights signed on 10th December 1948 in Paris. Despite not legally binding, it is the first attempt widely encouraged by the whole community of states (Western countries as well as developing countries upholding differing culture, tradition and religion) to draw up an international document

on human rights with the clear intention of making it acceptable to all states. It is simply a recommendation to states but it is the base possessing moral and political force for subsequent declarations adopted both at the universal level and at the regional level. Similar assumptions could appear well-known and even off topic. Nevertheless, it is extremely relevant for the ultimate purpose of the present chapter. Indeed, it pretend to give a precise picture of the engagement undertaken by Egypt in favour of human rights and in particular women's rights at the international level and the subsequent role of the international community to advocate for the enforcement of standards theoretically accepted. Egypt, as a state, has participated to the production of international documents in human rights and democracy, through its acceptance. However, a simple signature is not enough when a state undertakes obligation in Human Rights Law should consider such obligation apply to individuals subject to their jurisdiction in its own territory. The natural evolution of Human Rights Law obligation is destined to acquiring an extraterritorial scope (Cassese, 2001: 385). Notwithstanding, for Human Rights Law to be applied at the domestic level, it required national law since it is not automatic the application of its provision in the internal legal order. Hence, what commitment has Egypt as an Arab country undertaken to women's rights, fully competitive, free and fair elections and rule of law? Besides, how has the international community intervened and consequently promoted the enforcement of international standards? Adopting an approach from general to specific, I will outline a general overview of general standards fixed at the international level with special emphasis on women's political rights, elections and participation in public affairs. In the same paragraph, I will illustrate the set of main instruments implemented for scrutinising compliance of states with such standards. Once drafted the general juridical framework, I will consider first the general situation within the Arab region and then the advocacy and promotion coming from the international community. Afterwards, I will focus on my case-study by the definition of the international legal framework where I will fit the more specific analysis on domestic measures at the juridical and political level.

The starting point is the original text of the Universal Declaration of Human Rights and, in particular, some provisions:

Article 2

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”;

Article 7

“All are equal before the law and are entitled without any discrimination to equal protection of the law”;

Article 21.1

“Everyone has the right to take part in the government of his country, directly or through freely chosen representatives”;

Article 21.3

“The will of the people shall be the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”.

Once fixed documents of general scope covering broadly the whole range of human rights, treaties were to be worked out in order to deal with specific areas. At the universal level, it was the case of the International Covenant on Civil and Political Rights, with an Optional Protocol and the International Covenant on Economic, Social and Cultural Rights signed in 1966. From the first one, a few articles stand out:

Article 3

“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant”;

Article 25

“Every citizen shall have the right and opportunity: 1. to take part in the conduct of public affairs, directly or through freely chosen representatives; 2. to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”;

Article 26

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law”.

Starting dealing the more specific issue of women, a pioneer declaration: the Covenant of women’s political rights issued in 1952⁵⁰ which bestow everyone the right to take part in the government of his country directly (as candidate in elections) or indirectly (through free selection of his/her representatives) along with the right to equal access to public service in his/her country, making unequivocal the right desiring to equalise the status of both men and women in their enjoyment and exercise of political rights.

5.2. Protection of Women in the Human Right Law

Women’s rights received an explosive attention during the Nineties probably triggered by the engagement deployed at the global level by United Nations and in particular by those agencies uncharged of human rights’ issues. Such efforts have produced some positive results: the current sensitiveness and attention towards female condition all

⁵⁰ The Convention on the Political Rights of Women has been opened for signature and ratification by General Assembly resolution 640(VII) of 20 December 1952 entry into force 7 July 1954, in accordance with article VI.

around the world along with the codification produced at the international level as part of the so-called *Soft law*⁵¹.

Moreover, new efforts attempted to extend the gender approach to the monitoring activities of human rights and define new instrument to face violation of rights were women are mainly targeted. In general, the traditional function of creating more normative spaces to guarantee at the substantial level fundamental rights has been coupled with a function of promoting such rights. Women have certainly been one of the main subjects of such tendency which oriented towards a multiplication and specification of rights such process represented a chance for them to be guaranteed as it has not been the case in the past when women were excluded from every sort of recognition and protection⁵². In such a context, the machinery of monitoring policies undertaken by states play a crucial role because it allowed international community and in particular United Nations to identify misconducts, not to say crimes as well as public politics were states failed or lacked to put into practice with supportive strategies in a dialectic perspective.

In such regard, the machinery of monitoring has a double importance. On the one hand similar procedures have implied relations with governments which to a certain extent have to deal with those obligations stated by international treaties on human rights. On the other hands, they strengthened such instruments activated principally by the UN by the production of expert's reports on a specific country.

The Committee on Human Rights, the Under-commission for the promotion and protection of human rights and, as far as women are concerned, the Commission on the Status of Women⁵³ had deployed so far a severe activity of scrutiny by the institution of both thematic working groups and Special Reporters (in a specific issue or country). Besides those bodies have produced studies, discussion and promoted the adoption of resolution as well as the elaboration of declaration of covenant for ECOSOC and the General Assembly.

⁵¹ Degani P. Nazioni Unite e "genere": il sistema di protezione internazionale dei diritti umani delle donne.

⁵² It is telling the case of the Universal Declaration of Human and Citizens (1789) which addressed to male citizens excluding women.

⁵³ The United Nations Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights.

Let's start with the normative framework which is mainly composed of international documents legally binding along with a series of declarations usually preparatory for further international agreements. Historical UN activities in favour of women have been collected in a sort of international code⁵⁴ in the attempt of offering rules and imposing the adoption of measures to states. In the framework of Customary International Law, a few general agreements have been issued, as quoted above. Afterwards, a quite solid set of thematic covenants have been created. Although not a source for International Law and, hence, not binding, such declaration fit into what has been called soft law, to define the set of agreements adopted in occasions such as international conferences which provide for a contribution to the definition of a juridical rule but they represent merely obligation at the political level and, therefore not compulsory.

As far as international protection of women's rights, in March 2000, the Committee on Human Rights overseen by the International Covenant for Civil and Political Rights released a General Comment⁵⁵ on the art. 3 ICCPR confirming one more time the importance of the principle of equality between men and women as state in 1981 when the Committed shed light on positive measures to be undertaken by states and, afterwards in 1989 when a further General Comment talked the substantial level of equality between sexes:

"the Committee also wishes to point out that the principle of equality sometimes requires State to take affirmative action in order to diminish or eliminate conditions which cause of help to perpetuate discrimination..."

The role of the Committee on Human Rights goes even further. During the 55th session, the body claimed for a systematic adoption of a gender perspective. Actually, from 1997, a gender perspective have been assumed in UN politics and programs, starting with the Meeting organised by ECOSOC, called *Gender Mainstreaming* aimed at the launching of a process entailing gender issues in the political agenda, providing systematic analysis on gender on the basis of data

⁵⁴ The United Nations and the Advancement of Women, 1945-1995. The United Nations Blue Books Series, Volume VI, Rev. Ed. (New York, 1996).

disaggregated per sex, defining preparatory studies on specific sectors where the female condition can truly emerge. Indeed, *Gender Mainstreaming* is to be considered as a comprehensive strategy, introduced after previous attempt (Gender Empowerment and Women in Development) which failed to embrace several aspects. Its main goal is a greater gender equality to be attended by the integration of a gender perspective into existing institution and sector of public intervention. It is worth mentioning the definition UN definition given at the time of its adoption in 1997:

*“the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated”*⁵⁶.

The Committee on Human Rights⁵⁷, under suggestion received from the Commission on the Status of Women⁵⁸, has moreover posed the Gender Mainstreaming question in relation to the initiative of the Office of High Commissioner for Human Rights (OHCHR)⁵⁹. The office, along with the Division of the Enhancement of Women, drafted a working plan in the attempt of strengthening cooperation among agencies concerned with women’s issues and, consequently, introduce the gender perspective in their activities⁶⁰. This represented a very important engagement in the protection and advocacy for women’s rights as human rights. In 1999, arguments such as women’s integration in the UN human rights machinery, OHCHR, along with UNIFEM and DAW, launched workshop and experts meetings in the

⁵⁶ ECOSOC Agreed Conclusion 1997/2 and a/52/3 Chapter IV par. 4 and the *Report of the Economic and Social Council for 1997*. United Nations, 1997. Cfr. for further explanation, Dolata Nadja (edited by) *Gender Mainstreaming in Practice*, a handbook published by UNDP in Slovak Republic. 2007.

⁵⁷ Res. 1997/43.

⁵⁸ CSW, Res. 39/5, 1995.

⁵⁹ Ibidem.

⁶⁰ E/Cn.4/2000/118, E/Cn.6/2000/8.

attempt of drafting a complete framework of goals achieved and specific sector of intervention. One for all is worth to be mentioned: the Expert Group Meeting held in Zagreb in November 2000 where a wide range of women's matters (human traffic, discrimination, violence) have been talked and, *inter alia*, the enjoyment of full economic, social and political rights⁶¹.

Nowadays, the principle which prevents discrimination against women has been adopted by a conspicuous number of international treaties as part of the customary law and to be fit among the general principle of law surrounding the human rights machinery. For a complete framework, the principle of equality is stated by the Convention against discrimination in education adopted by UNESCO, and, at the regional level, in the American Convention on Human Rights (art. 1), by the African charter on Human Rights and People (art. 2) and by the European Convention of Human Rights (art. 14).

The Arab world as well produced a series of international documents affirming the wider concept of human rights, such as: the Universal Islamic Declaration of Human Rights (UIDHR, 1981) and the Cairo Declaration of Human Rights in Islam (CDHRI, 1990) which also influenced the Arab Charter of Human Rights (ARCHR, 1994, 2004). They are a first attempt of adopting human rights, especially in the ethic of culture and tradition: they are presented as a part of Islamic ethics and the *sharia* is mentioned as the source of the law. Ann Elizabeth Mayer argued how the UIDHR does not comply with international standards with respect to the principle of equality. According to her analysis, the text of UIDHR permits discrimination against women, especially in relations to the rights to marriage and family since it does not pledge equality for members of minorities (especially religious groups) and freedom of thought, conscience and religion. A further text is that of the CDHRI which contemplates the possibility of corporal punishment and it appears ambiguous with regards to gender equality. The 1994 ARCHR mentioning the CDHRI as a source, it reflects as well some inconsistencies with international standards⁶².

⁶¹ Gender and Racial Discrimination Report of the Export Group Meeting, 21-24 November 2000, Zagreb, Croatia.

⁶² Cfr. Mayer A. E. Restrictions on the rights and freedom of women in Islam and Human Rights, tradition and politics (forth edition), Westview, Oxford, 2007, 113-146.

5.3. The Convention on the Elimination of All Forms of Discrimination Against Women

The most important instrument produced by the UN human rights machinery has certainly been the Convention on the Elimination of All Forms of Discrimination against Women. It represents the fundamental treaty not to say the unique legal instruments⁶³ entailing, as far as women's issues are concerned, a global perspective toward discrimination which turns to benefit, by this treaty, of protection. It becomes even more important when thinking at the subsequent instruments and agreements produced in the UN system and others. A first text entitled: the Declaration for the Elimination of all form of discrimination against women, elaborated by the Committee on Human Rights, was adopted by the General Assembly in 1967⁶⁴. It dealt with women's issues broadly without imposing any juridical obligations for states. Nevertheless, it has launched the work of the Commission on the Status of Women which debated women's issues until 1976.

Finally, on 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations General Assembly and it entered into force as an international treaty on 3 September 1981⁶⁵. The preparatory debate shed light on the different approach and orientations among states towards the recognition and protection of women's rights but, ultimately, it was able to highlight those areas in which women are denied equality with men.

These efforts have then resulted in several declarations and treaties, of which the Convention on the Elimination of All Forms of

⁶³ Cfr. for the debate on the significance of the CEDAW as international treaty: Cook R.J. *State Accountability under the Convention on the Elimination of All Forms of Discrimination against women*, in R.J. cook (edited by), *Human Rights of Women: National and International Perspectives*, Philadelphia, University of Pennsylvania Press, 1994

⁶⁴ Res. 2263 (XXII).

⁶⁵ Res. 34/180.

Discrimination against Women is the essential and most comprehensive document. Moreover it represented a revolutionary document since it exceeds the simple principle of equality. While acknowledging that still cases of discrimination against women exist, it pretended to fit "*the female half of humanity into the focus of human rights concerns*"⁶⁶ by entailing the whole set of instruments of protection generated till that moment on women's issues by the normative machinery. The real innovative point of the convention was its concrete approach since it asked for states to put an end to all form of discrimination, and, in particular, offered, for the first time, a set of politics and measure to be carried out by states to make such rights substantive. All states, by their signature, committed formally to the accomplishment of the equality between men and women both in the public (legal status) and in the private sphere (family). For the goal to be reached, the CEDAW invited states to adopt temporary and concrete measures, the so-called positive measures. The text is composed of six parties. The first four chapters was dedicated to the definition of rights and connected measures aimed at the removal of discriminatory obstacles while the two remaining parts deal with the procedures of monitoring for women's rights and instruments concerning ratification and acceptance. A Committee was overseen (art. 17-22) whose composition was made up of 23 independent experts on women's issues from around the world, chosen by a list of candidates designated by states and whose mandate lasts 4 years. The Committee, established in 1982, was uncharged of it monitoring over the progress for women made in those countries that are the states parties to the 1979 Convention. Since its creation, it examines periodical reports submitted by states parties describing all adopted national measures at legislative, judicial, administrative level to fulfil the obligation of the Convention and connected obstacles encountered and to be removed. Reports submitted by states are, then, examined at the time of the general session, planned twice annually. In 1983, the Committee drafted *General*

⁶⁶ Introduction. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The full text is available on the United Nation website:

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#intro>
[accessed on 26 December 2007].

Guidelines to assist the drafting procedure required to states⁶⁷. In addition, the Committee is legitimate to make recommendations on any issue affecting women to which it believes states parties should dedicate more attention. In details, the most important articles:

Article 2

“ States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”

Article 7

“ States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country”

Since that present time, 185 states ratified the document, although some of them with reservations⁶⁸. Among the Arab region, the latest countries to become party to the Convention have been: Oman on 7th February 2006 and United Arab Emirates on 6th October 2004.

⁶⁷ General Guidelines regarding the form and content of reports received from States parties under article 18 of the Convention. Adopted by the Committee at its 24th meeting on 11 August 1983 (CEDAW/C/7).

⁶⁸ <http://www.un.org/womenwatch/daw/cedaw/states.htm>

Furthermore, Arab countries, are the ones which submitted more reservations with respect to nationality, marriage and family affairs are concerned (art. 2, art. 9.2, art. 15.4, art. 16 and art. 29)⁶⁹. The next step forward has been the Beijing Platform for Action. In September 1995, thousands of women and men from around the world met in Beijing for the Fourth World Conference on Women to measure changes on women's lives over the past decade and take further steps to keep issues of concern to women high on the international agenda. The meeting in Beijing was intended to create the so-called Platform for Action let to the launching of an agenda for women's empowerment, as a following step of the Nairobi Forward-looking Strategies for the Advancement of Women. It continues the engagement previously stated by the CEDAW of

“removing all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making. This means that the principle of shared power and responsibility should be established between women and men at home, in the workplace and in the wider national and international communities. Equality between women and men is a matter of human rights and a condition for social justice and is also a necessary and fundamental prerequisite for equality, development and peace. A transformed partnership based on equality between women and men is a condition for people-centred sustainable development. A sustained and long-term commitment is essential, so that women and men can work together for themselves, for their children and for society to meet the challenges of the twenty-first century”⁷⁰.

As for the main objective:

“Achieving the goal of equal participation of women and men in decision-making will provide a balance that more accurately reflects the composition of society and is needed in order to strengthen democracy and promote its proper functioning. Equality in political decision-making performs a leverage

⁶⁹ For further details see Declarations, reservations, objections and notifications of withdrawal of reservations relating to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/SP/2006/2.

⁷⁰ The United Nations Fourth World Conference on Women Beijing, China. Action for Equality, Development and Peace. *Mission Statement*. Platform for Action. September 1995.

function without which it is highly unlikely that a real integration of the equality dimension in government policy-making is feasible. In this respect, women's equal participation in political life plays a pivotal role in the general process of the advancement of women. Women's equal participation in decision-making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account. Without the active participation of women and the incorporation of women's perspective at all levels of decision-making, the goals of equality, development and peace cannot be achieved".

A special chapter has been devoted to Women in Power and Decision-Making with the clear intention of engaging states to take measures to ensure women's equal access to and full participation in power structures and decision-making.

By acknowledging the low representation of women at the governmental level, especially in legislative, ministerial and other executive bodies, the Platform suggests the following measures:

1) For Governments:

"Commit themselves to establishing the goal of gender balance in governmental bodies and committees, as well as in public administrative entities, and in the judiciary, including, inter alia, setting specific targets and implementing measures to substantially increase the number of women with a view to achieving equal representation of women and men, if necessary through positive action, in all governmental and public administration positions; take measures, including, where appropriate, in electoral systems that encourage political parties to integrate women in elective and non-elective public positions in the same proportion and at the same levels as men; protect and promote the equal rights of women and men to engage in political activities and to freedom of association, including membership in political parties and trade unions; review the differential impact of electoral systems on the political representation of women in elected bodies and consider, where appropriate, the adjustment or reform of those systems; monitor and evaluate progress in the representation of women through the regular collection, analysis and dissemination of quantitative and qualitative data on women and men at all levels in various decision-making positions in the public and private sectors, and disseminate data on the number of women and men employed at various levels in Governments on a yearly basis; ensure that women and men have equal access to the full range of public appointments and set up

mechanisms within governmental structures for monitoring progress in this field; support non-governmental organizations and research institutes that conduct studies on women's participation in and impact on decision-making and the decision-making environment; encourage greater involvement of indigenous women in decision-making at all levels; encourage and, where appropriate, ensure that government-funded organizations adopt non-discriminatory policies and practices in order to increase the number and raise the position of women in their organizations; recognize that shared work and parental responsibilities between women and men promote women's increased participation in public life, and take appropriate measures to achieve this, including measures to reconcile family and professional life; aim at gender balance in the lists of national candidates nominated for election or appointment to United Nations bodies, specialized agencies and other autonomous organizations of the United Nations system, particularly for posts at the senior level".

2) For political parties:

"Consider examining party structures and procedures to remove all barriers that directly or indirectly discriminate against the participation of women; consider developing initiatives that allow women to participate fully in all internal policy-making structures and appointive and electoral nominating processes; consider incorporating gender issues in their political agenda, taking measures to ensure that women can participate in the leadership of political parties on an equal basis with men".

3) For Governments, national bodies, the private sector, political parties, trade unions, employers' organizations, research and academic institutions, subregional and regional bodies and non-governmental and international organizations:

"take positive action to build a critical mass of women leaders, executives and managers in strategic decision-making positions; create or strengthen, as appropriate, mechanisms to monitor women's access to senior levels of decision-making; review the criteria for recruitment and appointment to advisory and decision-making bodies and promotion to senior positions to ensure that such criteria are relevant and do not discriminate against women; encourage efforts by non-governmental organizations, trade unions and the private sector to achieve equality between women and men in their ranks, including equal participation in their decision-making bodies and in negotiations in all areas and at all levels; develop communications strategies to promote public debate on the new roles of men and women in society, and in the family as defined in paragraph 29; restructure recruitment and career-

development programmes to ensure that all women, especially young women, have equal access to managerial, entrepreneurial, technical and leadership training, including on-the-job training; develop career advancement programmes for women of all ages that include career planning, tracking, mentoring, coaching, training and retraining; encourage and support the participation of women's non-governmental organizations in United Nations conferences and their preparatory processes; aim at and support gender balance in the composition of delegations to the United Nations and other international forums”.

4) For the United Nations:

“implement existing and adopt new employment policies and measures in order to achieve overall gender equality, particularly at the Professional level and above, by the year 2000, with due regard to the importance of recruiting staff on as wide a geographical basis as possible, in conformity with Article 101, paragraph 3, of the Charter of the United Nations; develop mechanisms to nominate women candidates for appointment to senior posts in the United Nations, the specialized agencies and other organizations and bodies of the United Nations system; continue to collect and disseminate quantitative and qualitative data on women and men in decision-making and analyse their differential impact on decision-making and monitor progress towards achieving the Secretary-General's target of having women hold fifty per cent of managerial and decision-making positions by the year 2000”.

5) For women's organizations, non-governmental organizations, trade unions, social partners, producers, and industrial and professional organizations:

“build and strengthen solidarity among women through information, education and sensitization activities; advocate at all levels to enable women to influence political, economic and social decisions, processes and systems, and work towards seeking accountability from elected representatives on their commitment to gender concerns; establish, consistent with data protection legislation, databases on women and their qualification for use in appointing women to senior decision-making and advisory positions, for dissemination to Governments, regional and international organizations and private enterprise, political parties and other relevant bodies”⁷¹.

⁷¹ For the full text, see the text available at the website: <http://www.un.org/womenwatch/daw/beijing/platform/index.html>.

Table V) Status of Ratification of the CEDAW

Country	Date of ratification and accession to CEDAW	Does the country have reservations?					
		Article 2 on nondiscrimination measures	Article 7 on political and public life	Article 9 on nationality	Article 15 on law	Article 16 on marriage and family life	Article 29 on arbitration
Algeria	May 1996	Yes	No reservation	Yes, para. 2	Yes, para. 4	Yes	Yes
Bahrain	June 2002	Yes	No reservation	Yes, para. 2	Yes, para. 4	Yes ^a	Yes, para. 1
Djibouti	December 1998	No reservation	No reservation	No reservation	No reservation	No reservation	No reservation
Egypt, Arab Rep.	September 1981	Yes	No reservation	Yes, para. 2	No reservation	Yes	Yes, para. 2
Iran, Islamic Rep. of	—	—	—	—	—	—	—
Iraq	August 1986	Yes, points c and g	No reservation	Yes, para. 2	No reservation	Yes	Yes, para. 1
Jordan	July 1992	No reservation	No reservation	Yes, para. 2	Yes, para. 4	Yes, points c, g, and h	No reservation
Kuwait	May 1996	No reservation	Yes, point a	Yes, para. 2	—	Yes, point f	Yes, para. 1
Lebanon	April 1997	No reservation	No reservation	Yes, para. 2	No reservation	Yes, points c, d, f, and g	Yes, para. 1
Libya	May 1989	No reservation	No reservation	No reservation	No reservation	Yes, points c and d	No reservation
Morocco	May 1993	Yes	No reservation	Yes, para. 2	Yes, para. 4	Yes	Yes
Oman	—	—	—	—	—	—	—
Qatar	—	—	—	—	—	—	—
Saudi Arabia ^b	September 2000	No reservation	No reservation	Yes, para. 2	No reservation	No reservation	Yes, para. 1
Syrian Arab Rep.	—	—	—	—	—	—	—
Tunisia	September 1985	No reservation	No reservation	Yes, para. 2	Yes, para. 4	Yes, points c, d, f, g, and h	Yes, para. 1
United Arab Emirates	—	—	—	—	—	—	—
West Bank and Gaza	—	—	—	—	—	—	—
Yemen, Rep. of	May 1984	No reservation	No reservation	No reservation	No reservation	No reservation	Yes, para. 1

— Denotes that the country has not ratified or acceded to the convention.

Notes: The following are excerpted from CEDAW:

- *Article 2.* Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, and, to this end, undertake:
(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization, or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 7. Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.

Article 9.

Paragraph 2. Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 15.

Paragraph 4. Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16.

Paragraph 1. Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women,

- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship, and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession, and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property, whether free of charge or for a valuable consideration.

Article 29.

Paragraph 1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

Paragraph 2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

¹⁵so far as it is incompatible with Islamic Sharī'a.

audi Arabia has an overall reservation that "In case of contradiction between any term of the convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the convention."

IRCE: CEDAW.

Source: World Bank – Gender and Development

Preparatory works were crucial for the general outcomes of the initiatives as well. Before the general meeting, indeed, several regional debates were organised. As far as the Arab region is concerned, some

relevant initiatives are worth to be mentioned. The association *Collectif '95 Maghreb Egalité*⁷², with the support of the Foundation Friedrich Ebert and UNESCO, organised a round table to present a document entitled “one hundreds measures and provisions for an egalitarian Maghreb code on personal status and family affairs”⁷³. In short, women drafted three main observations: by a return to the Muhammad’s word, the Curan can be reinterpreted as a step forward for women’s status since it provides fro equality between sex; Islam is able to be contextualised according to the presence social and cultural environment; religion and society have to be separated and consequently concepts of identity and citizenship.

After Beijing Conference, two international conferences focusing on governance were held in 1997. A conference organised by the Inter-Parliamentary Union (IPU) entitled: ‘Towards Partnership between men and Women in Politics’. It was an international meeting held in New Delhi in February 1997 which was attended by parliamentary delegations to strengthen the importance of women in the political sphere⁷⁴. Later, in July, the United Nations Development Programme (UNDP) held an international conference in New York on ‘Governance and Sustainable Equity’ which had women’s political participation on its agenda as well. In its constant work, via special bodies as above widely described, the United Nations perseverated in their struggle for a better representation of women in politics. The Millennium Declaration and the Millennium Development Goals⁷⁵ (MDGs)

⁷² It is a local association whose activity is focused on the promotion of the women’s status in Morocco, Algeria and Tunisia and, ultimately on the consolidation of the feminist movement in the region.

⁷³ Sixty women from Malaysia, Bangladesh, Pakistan, India, Iran, Afghanistan, Mali, Algeria, Tunisia, Lebanon, Syria, Jordan, Egypt, Palestine, participated in the event.

www.dirittiumani.donne.aidos.it/bibl_2_testi/d_impegni_pol_internaz/a_con_f_mondiali_onu/b_conf_pechino/c_finestra_3/d_pechino_islam.html.

⁷⁴For a detailed list of issues talked during the conference, Cfr. <http://www.ipu.org/wmn-e/nd-conf.htm>

⁷⁵ The Millennium Development Goals is a blueprint agreed to by all the world’s countries and all the world’s leading development institutions. It is composed of the eight goals which from halving extreme poverty to halting the spread of HIV/AIDS and providing universal primary education, all by the target date of 2015. Cfr. <http://www.un.org/millenniumgoals/>; United Nations Development Programme. Gender Equality. 2002.

recognized, *inter alia*, gender equality and women's empowerment as central, cross-cutting goals. Promoting gender equality and women's empowerment is the third goal in the list but also more general women's perspectives must be included into all of the other seven goals⁷⁶. Assuming that the main channel of access and, ultimately participation into is through elections, it is worth mentioning UN efforts to make free and fair elections base on a wide inclusion of citizens by voting and running for an elective office. In 1992, Boutros Boutros -Ghali, at the time Secretary-General of the United Nations, exposed his view on the paper, *An Agenda for Peace*, with a very undaunted attitude, he referred to election monitoring, strengthening institution an promoting political participation with particular emphasis on democracy within nations and respect for human rights and fundamental freedom⁷⁷. According to his statement:

*"Democracy requires a deeper understanding and respect for the rights of minorities and for the needs of the more vulnerable groups of society, especially women and children"*⁷⁸.

In this context, the Inter-parliamentary Union (IPU), within the international community, has given a strong contribution in translating into a unique and harmonious *vade mecum* the whole set of rules and practices ad principal related to the electoral moment to support the technical assistance provided by United National, regional organizations and especially non-governmental organizations. Since 2000, the IPU has, moreover, taken a special attention on the status of women and gender in public life by planning several initiatives for women to be included in representative bodies, in particular parliaments. In addition, the institution combined a continued monitoring activity over the progress of women in politics⁷⁹.

The United Nations Division for the Advancement of Women (DAW), in collaboration with the United Nations Economic Commission for Africa (ECA) and the Inter-Parliamentary Union (IPU) held in 2005 an

⁷⁶ UNIFEM. Progress of Arab Women. Cairo. United Nations. 2004. 272.

⁷⁷ Boutros-Ghali B. *An Agenda for Peace*. New York. United Nations. 2nd edn. 1995. para. 11.

⁷⁸ UN doc. S/23500, 31st January 1992.

⁷⁹ Cfr. Activities of the IPU in 2001 and 2003. Annual Report of the Secretary General. 107th Conference, Marrakesh, March 2002, 41; Annual Report of the Secretary General. 110th Assembly, Mexico City, April 2004, 19-23, 27-9.

Expert Group Meeting (EGM) on “Equal participation of women and men in decision-making processes, with particular emphasis on political participation and leadership”. The document resulted from the meeting is extremely important because it represent an analytical attempt to face the problem from a twofold perspective. Both a descriptive (quantitative) and substantive (qualitative) perspective, indeed, need to be considered for a comprehensive analysis. The descriptive perspective regards the counting of how many women are in political office but such data do not measure the influence of women in their work environment. The substantive perspective goes beyond the numbers. Using the word of the report, “*in more concrete terms, substantive representation is about the impact of women in decision-making positions on policy formulation and implementation*”⁸⁰. Furthermore, the meeting makes reference to a theoretical model for evaluating the qualitative aspect of women in politics: a Triangle of Women’s Empowerment (TOWE), to stress how women, both covering a political positions (both elected and appointed) work with national machineries for the advancement of women. The Triangle of Women’s Empowerment has been developed by Vargas and Wieringa (1998) focuses on the relationship between only two actors, the organization and the community. The triangular model allows for more actors to be analysed, and incorporates multiple levels of analysis, in focusing on the dynamics between these actors. A specific attention has, than been given to public policies and, in this framework, the creation of women’s policy agency as state-based agency, at all level of government or type of organ aimed at the promotion of the advancement of women and gender equality⁸¹.

Ultimately, in 2004 a handbook has been published jointly by the Office of the Special Adviser on Gender Issues and Advancement of (OSAGI) and the Electoral Assistance Division of the Department of Political Affairs (EAD), It was launched to present a reference guide for the assistance of actors from the United Nations, governments and civil

⁸⁰ <http://www.un.org/womenwatch/daw/egm/eql-men/FinalReport.pdf>

⁸¹ Mazur Amy. *The Impact of Women’s Participation and Leadership on Policy Outcomes: A Focus on Women’s Policy Machineries*. Presented at the Expert Group Meeting on Equal participation of women and men in decision-making processes, with particular emphasis on political participation and leadership. 24.-27 October 2005.

society working to promote greater participation of women in electoral processes in post-conflict countries (Women & Elections)⁸².

5.4. Mechanisms for enhancing women's status

Apart from a few exceptions, most of the countries in the regions allowed formally women full political rights since the time of the independence as proved by the date of female suffrage⁸³.

Despite of the formal recognitions, women in the region have not acquired a respectful position in the political arena. At the time of the decolonization and civic movements, women were asked to participate in the struggle for independence and they showed a strong spirit of self-sacrifice. Once gained independence, domestic politics in such countries was characterises by a male-dominant running of political affairs. Women were generally relegated to the private sphere and family in particular while not having real opportunities of playing relevant role in the wider public sphere.

In recent years (starting with the nineties), picking up on a general trend of political change which actually originated in the mid-twentieth century, Arab countries have launched a new series of reforms: amendments concerning constitutions to rebalance the separation of power and personal status to guarantee more rights to women in family's affairs occurred in countries like Algeria, Lebanon, Morocco, Tunisia, Bahrain, Kuwait. Almost every government has by now formally committed itself to the concept of reform [UNDP, 2005], undertaking constitutional re-engineering and policies intended to create democratic institutions. A good example is elections, considered a common feature of the political landscape. They have also ensured that the status quo would guarantee their hold on power and maintain a legitimisation from the constituency in front of Western countries.

As far as women are concerned, several States have made advances in the area of political rights laws: recognition of women's political rights (the latest country to do so was Kuwait in 2006) in the

⁸² The full title of the handbook is *Women & Elections, Guide to promoting the participation of women in elections*. New York. United Nations. 2004

⁸³ See Table II) Year Arab women received right to vote, right to stand for election and were elected in Chapter II.

constitution and/or via laws which enshrine their right to participate in politics and public affairs on an equal footing; training to enable women to exercise those rights; quota systems and, in some cases, affirmative action mechanisms in national assemblies.

Apart from these actions, what remains crucial is the electoral system. Although not adopting quota, a few arrangements can be done to help the system making access more equal. According to the International IDEA Handbook on Electoral Systems Design (1997), which realised a quite complete map of electoral system all around the world, most of the Arab region tends to have varieties of plurality-majority systems. It is the case of Morocco, Sudan, Yemen, Lebanon, Syria, Egypt, Iraq, Kuwait, and Palestine. Nevertheless, many scholars stated that similar forms of electoral systems have hardly led to high numbers of women in national legislatures while proportional system may be theoretically more useful for the purpose. At the moment, only Algeria, Jordan and Tunisia adopted proportional system. Nevertheless, such theory can not be considered a universal assumption as statistical data about women in representative bodies support.

Further national machinery for the advancement of women is represented by women's policy agencies, say formal institution, usually under the direct supervision of the government vested with women's issues. It has been widely backed up by the United Nations in their policy since the Seventies⁸⁴.

Afterwards, several others actions can be undertaken. the above mentioned can be considered the more structuralised and efficient when local authorities are strongly motivated to deploy their efforts for a long-term program.

For example, it is remarkable that in 1990, eight Arab states had female ministers (ranging between one and two ministers) as follows: Algeria, Comoros, Egypt, Jordan, Mauritania, Sudan, Syria, and

⁸⁴ See EGM/EPWD/2005/EP.5. Mazur Amy. The impact of women's participation and leadership on policy outcomes: a focus on women's' policy machineries. Presented at the "Equal participation of women and men in decision making processes, with particular emphasis on political participation and leadership" 24-27 October 2005. and Rai, S. (ed.), 2003, *Mainstreaming gender, democratizing the state? Institutional mechanism for the advancement of women*, Published for and on behalf of the United Nations, Manchester: Manchester University Press.

Tunisia. Starting with the new century, governments committed more seriously both at the political and the legal level.

Bahrain has lately granted women the right to vote and run for elections. Sheikh Hamad Ben Eissa Al Khalifa, the king of the country included into his 2000 reform a number of women gaining membership to the Supreme National Committee, a body whose mandate was to draft the National Charter for Action which has been, eventually, voted by all citizens via referendum. The Charter stated that:

“citizens, men and women alike, have the right to participate in public affairs and political rights including suffrage and the right to contest as prescribed by law” (art.7).

The decade dedicated to women by United Nations (1975-1985) and the subsequent conferences where women's issues were dealt for the first time, the adoption of the CEDAW and a more general sensitiveness to let women's right enter not only into the global agenda but also into domestic politics and discourse in the region. An internal movement composed of new women's organization arose thanks to the legitimacy and support they could now benefit from the international framework.

In Egypt, President Mubarak in his attempt of strengthening the concept of citizenship, undertook concrete actions in favour of the political empowerment of Women, such as for the landmark decision in 2003 to allow Egyptian women to pass their nationality onto their children. Moreover, in its fourth annual conference in March 2004, the National Council for Women put forth a number of recommendations in its efforts to enhance women's political participation, including implementation of Article 4 of CEDAW calling for special measures aimed at reaching de facto equality between men and women.

In Saudi Arabia, women, despite being prevented from full political rights⁸⁵ are allowed to participate for the first time in the National Dialogue and the Global Economic Forum 2004. As far as female ministers are concerned, by 2003 the number has increased to 11 states including also countries traditionally more reluctant to women in public office, such as Oman, Yemen (a Minister of Human Rights), and Qatar (Minister of Education).

⁸⁵ Saudi Arabia still does not recognize right to vote for women.

In the Occupied Palestinian Territories two women ministers out of a total of twenty-five have been appointed in the cabinet, and a Ministry of Women's Affairs has been created. However, there is still a long way to go before Arab women hold the same number of seats or occupy offices at the highest levels, such as presidents or prime ministers.

In Qatar, since 1999 women have been allowed to vote and stand for elections. And, for the first time a woman was appointed as Dean of the Faculty of Sharia Law and Islamic Studies, and as the President of the University of Qatar.

In the judiciary system, though the percentage of women judges does not exceed 15 from among the total number of judges in the Arab region, statistics show that the percentage of women judges in Morocco is 50%, in Tunisia 22.5%, Syria 11%, and in Lebanon is 5%. Recently, Egypt appointed the first woman judge within the Supreme Constitutional Court. In Sudan there are 76 women judges, in Yemen, 35, and in Jordan, 14.

At the regional level, it is still important to mention a further landmark initiative. In March 2004, members of the civil society in the Arab world organized in the Bibliotheca Alexandrina the first regional summit on political, social, and economic reform in the Arab region. The Alexandria Statement, Issues of reform in the Arab World, called for the inclusion of women in public life along with the separation of power, free and fair elections and alternanza of government.

Yet if in theory progress has been made, things on the ground appear rather different. A gap still persists between policies, resources; efforts invested in remove obstacles for favouring Arab women's role in politics and the actual results. Hence, it may be posed some questions about what has been really done and what are the intention of the governments towards women?

5.5. The International Community in the Arab Region

Since the publication of the first *Arab Human Development Report* in 2002⁸⁶, the international community gained more awareness about the human rights and democracy and started paying more attention on the region. According to the United Nations Development Programme (UNDP) the Arab region is the second-lowest region in the world on the Gender Empowerment Measure (GEM values)⁸⁷, and the Inter-Parliamentary Union (IPU) as the lowest region in terms of percentage of women in parliaments. The political status of Arab women plays therefore a critical role in the wider debate of democracy in the region. Women's empowerment has been considered, the third major deficit in the region along with freedom and knowledge:

*"The shortcomings of current social and economic arrangements with respect to the status of women represent a major issue for Arab countries. Women remain severely marginalized in Arab political systems and broadly discriminated against in both law and custom. Women need to be politically empowered by far greater participation. In addition, a timetable to eliminate legal discrimination should be established and followed"*⁸⁸.

As stressed, in the first chapter, the Arab region has been traditionally cut off the main theoretical studies for the limited content of information experts were able to reach. The growing process of globalisation allowed an unprecedented access to information which make scholars more acquainted with the reality in those countries and, consequently, more concerned for women that needed to be studied without the tradition stereotypes. Hence, a new challenge emerged in the attempt to empower women via concrete initiatives. Actually, the first claim dated back the 1990s when international conferences focused vigorously attention on women's' human rights.

⁸⁶ United Nations Development Programme (UNDP), 2002. *Arab Human Development Report 2002: Creating Opportunities for Future Generations*. New York: UNDP, 2.

⁸⁷ Gender Empowerment Measure (GEM) is an index which measure inequalities in economic participation and related decision-making, political participation and related decision-making.

⁸⁸ UNDP. *Arab Human Development Report 2002*. op. cit. 27.

Nevertheless, it is with the launch of the US-Middle East Partnership Initiative (MEPI) at the end of 2002 and, later, the announcement of the Greater Middle East Initiatives submitted to the Group of Eight industrialised countries (G8) Summit that the international community seriously made the concern turned into real actions. As a response, Arab countries showed that they were able to carry out such reforms from within and in May 2004 they organised the Tunis Summit. In that occasion, they committed themselves “to promote the role of women, consolidate their rights, and encourage their effective participation in development and their role in the political, economic, social and cultural field”. Such actions were progressively fit under the democracy assistance.

The main reference for starting an overview of initiatives undertaken by the international community in the region is certainly the handbook edited by UNIFEM, “Progress of Arab Women”. The importance of this work is twofold. It represents probably the first and more comprehensive collection about women’s issue in the Arab world and it uses an approach I have adopted for my research: argues that women are not active in politics because politics is not a safe and secure domain for them to participate in. This is the key problem that needs to be solved.

The International Institute for Democracy and electoral Assistance committed has started a huge set of activities in this regard. The institute committed to providing comprehensive information based on data coming from the Arab countries, suggesting strategies and measures to be adopted along with proposing actions in the field for the promotion of participation and representation of women in political life. Hitherto, the main important effect of the interest of the international community for the region has certainly been the legitimacy which has been gradually bestowed to women’s movements. Indeed, they represent at the moment the strongest women’s voice in politics when politics needs to be considered, as stated in the first chapter, in a wider sense. As long as a scholar pretend to study deeply how women exercise their political rights in the Arab region, it is imperative to shed light on different forms of politics that women are able to undertake: it means both formal domains and non-governmental for (the set of parliaments, heads of state, foreign policy and such institutions).

Within formal politics some “gender differences” can be perceived as well. It means that considering the existing and establishes public institutions in formal politics (mainly parliaments and local councils), it is easy to distinguish between soft politics (more compatible to women) and hard politics where the former implies maternity and children⁸⁹.

5.6. Egypt and International Law

Egypt enjoyed the international community early since it adopted the Universal Declaration of Human Rights in 1948 and consequently, formally recognised the principle of equality and non-discrimination in its first two articles (art. 1 and 2) and, hence, the civil and political rights such as the right to hold public office, the right to vote and the right to run (art.21).

Afterwards, Egypt ratified the International Covenant on Civil and Political Rights, and the Convention on the Elimination of Discrimination against Women which are the most prominent documents in the protection of political rights and dignities of women as individuals vested with duties and rights.

As stated before, international rules to be applied by states within their own legal systems generally need to be incorporated into national law. Indeed, the same constitution highlights such process: “*treaties shall have the force of law after their conclusion, ratification and publication according to the established procedure*” (art. 151 Const.) while considering women, the Egyptian constitution makes provisions for their political rights to turn effective in accordance to international conventions. However, obligations taken by Egypt have not finished.

During the 80s, to face feminist moment at the domestic level, Egypt started a search for measures to “transform the political balance, moving women from the margins of power to positions where they can

⁸⁹ A deeper analysis has been conducted by Azza Karam in Women Parliamentarians in the Arab World: challenges and options. The full text is available at the website of POGAR: <http://www.pogar.org/publications/gender/karam1/karama.pdf> [accessed on 20 February 2008].

participate in society's important decision-making" [Sullivan, 1986: 21]. First of all, in 1981 Egypt ratified the Convention on the Political Rights of Women, an international treaty opened for signature and ratification by United Nations General Assembly Resolution 640 (VII) in 1953 and entered into force on 7 July 1954, in accordance with the article VI of the UN Charter.

The right to participate in political affairs has been reaffirmed and emphasised in the International Covenant for Civil and Political Rights which Egypt signed in 1982 and adopted into the national legal order by Republican Decree No. 345 of 1981.

Besides, Egypt has already introduced, via Republican Decree No. 434 of 1981, the CEDAW Convention to give a more comprehensive image of the government engagement at the international law level in favour of women's human rights.

Retaking the issue of incorporation by domestic rules, certain obligations have been adopted but with reservation, such as for the two International Covenants on Civil and Political Rights; on Economic, Social and Cultural Rights: upon accession to the covenants Egypt issued a statement proclaiming its adherence to all provisions as long as they do not contradict the provisions of the *Sharia*. Besides, reservation have make on the International Convention on the Elimination of All Forms of Racial Discrimination, art. 22 on referring any dispute over implementing or interpreting the convention to the International Court of Justice; a general reservation on art. 2 concerning any contradiction between its provisions and *Sharia*; on art. 9.2 on granting women equal rights in their children's citizenship; on art. 16 pertaining to equality of women and men in marriage and family affairs during marriage and upon its dissolution, on condition that this equality does not violate such rights as stipulated by *Sharia*, on art. 29.2 concerning referring any dispute over interpreting or implementing the convention to an arbitration authority.

More recently, initiatives in this direction continued. Egypt was a signatory state of the Declaration of the Community of Democracies as the final document set out from the Warsaw meeting held in 2000. Later, in 2004, it participated in the Sa'na Declaration and Alexandrina.

SECOND PART - the case study -

Chapter 6

Egypt: the juridical and political Framework

4.1. The 1971 Constitution and Legislation on Political Rights and Electoral System

Nasser died in September 1970. His successor, Sadat, took office in 1971 and he moved to the adoption of a new democratic constitution promising more freedoms, a return of a more sound parliamentary life and correct democratic practice [Earl Sullivan, 1989: 174]. In practice, he used parliament to legitimate and to some extent even to organize his so-called corrective revolution of May 1971.

In a couple of months, a new constitution was approved and it remained into force till 2007. Following the previous text the 1971 constitution concentrated power in the presidency by allowing him the right to rule by decree and to disband the legislature, the People's Assembly. Besides, the president was uncharged of the appointment and dismissing of ministers and the vice president. In practice, the parliamentary prerogative turned to be even weaker than earlier.

Although launched officially, Sadat made it difficult the creation of a multiparty political system. He left the parliament discussing about a new law for the creation and operations of parties. Indeed, members of parliament from the independent and left area submitted their drafts but, finally, the Law No. 40 of 1977 was adopted. It is substantially still into effect albeit many provisions have been modified by judicial

decision⁹⁰. In particular the law created overwhelming obstacles for the foundation of new parties such as the procedure of the Committee for Political Parties (*lajna shu'un al-ahzab al-syasiyya*), an administrative body composed of members of the executive, the ruling party and the judiciary. In response, Sadat, via parliamentary law (Law No. 36 of 1979) banned all parties that opposed the peace with Israel. Moreover, he dissolved the People's Assembly and convened new elections. It has been amended eleven times, most recently by Law No. 167 of 2000. A new text was discussed in May 2007 by the People's Assembly and the Consultative Council.

In the same period, Sadat went to Jerusalem (November 1977) and the subsequent negotiations resulted in a peace treaty signed in March 1979. In that occasion several MPs expressed their criticism and they were deprived of their immunity and then of their membership.

The 1971 constitution was conceived as conservative since it emphasised women's role in the family. However, it reaffirmed political rights of women. The text theoretically granted them equal political rights; it reaffirmed the equality of all citizens before the law (art. 40 Const.) and the State's commitment to guarantee the balance between a woman's duties towards her family and her work in society (art. 11 Const.)⁹¹. It also stressed the importance of participation as a "national duty" (art. 62 Const.)⁹².

As far as representation is concerned, it is foremost to stress peculiar reservation in parliamentary to guarantee representation of weaker groups. Since 1964, it was stipulated in the constitution that at least half of the members had to be peasants or workers (art. 87 Const). In practice, a seat was reserved in each district for peasant and worker candidates. Later, the Law No. 38 of 1972 was aligned to the constitutional provisions by the approval of the new Law No. 109 of

⁹⁰ Law No. 40 of 1977 on political parties afterwards amended in 1979 and 1980.

⁹¹ Art. 11 reconfirms the concept of equality, stating that "the State shall guarantee coordination between woman's duties towards her family and her work in the society, considering her equal to man in the political, social, cultural and economic spheres without detriment to the rules of Islamic jurisprudence (*Sharia*)".

⁹² Art. 62: "Citizens shall have the right to vote, nominate and express their opinions in referenda according to the provisions of the law. Their participation in public life is a national duty".

1979 which defined peasants as every individual whose unique job was to be in the agricultural field and the main financial source lay on the rural area.

Even more important, the president was allowed to appoint ten members among individuals of distinction from non-political world. The president will use such prerogative to appoint members from the under-represented groups of society, namely Coptic and later, women.

In 1976, a significant political development occurred in Egypt when it shifted to the multi-party system. In 1977, a law was passed for ruling activities of political parties. It stimulated political groups and activated a number of popular forces. Such a change coincided with a more favourable atmosphere worldwide where democratic system were expanding and covenants were organized in the framework of the modern international law. It was the time for women as well. It has been the main topic for Chapter III but it is important to remember how in that period a number of international conferences on the status of women have been held (between 1975 and 1995) producing recommendations on the inclusion of women in politics globally. Such factors affected women's movements in a number of countries, starting the connection between international and national legal order. Finally, in 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was agreed. The Convention envisaged, *inter alia*, the adoption of positive measures to make political rights effective in the domestic system. In addition, at that time, the political leadership was keen to enhance its international relations, to improve its image and to eliminate areas that diminish human rights, especially when Egypt began to lean towards the Western bloc⁹³.

Despite of such progressive provisions, Sadat passed some law highly considered discriminatory. For example, Law No. 33 of 1978 on the protection of the domestic front and the social peace (proposed by the president in the framework of his prerogatives established by art. 64 and to be adopted by popular referendum) envisaged to deny the

⁹³ Abou-Zeid G. *Introducing Quotas in Africa: Discourse in Egypt*. A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference on The Implementation of Quotas: African Experiences. Pretoria, South Africa, 11th – 12th November 2003.

right to participate in the political life all those people considered unworthy of such right. In details, art. 4 deprived from political rights Egyptians who had been involved in the "corruption" (*ifsad*) of the domestic political life before the 1952 Revolution⁹⁴.

In 1979, the constitution was amended and a new chamber was introduced, although with merely consultative powers (*Majlis al-Shura*). The body, composed of 210 members, appeared like a body between the Britain's House of Lords and America's Senate with some reminiscence from the pre-Revolutionary parliament, the lower Egyptian house [Earl Sullivan, 1989: 42]. Despite of its consultative powers, it acquired a crucial position when considering its supervision on the forth power of the country. Indeed, *Majlis al-Shura* was unchanged of the press issues in the country which made it extremely relevant in the balance of powers.

By law, voting is mandatory (since 1979 for women), but not all qualified adults are registered to vote and the obligation only applies to citizens included in the election roster⁹⁵. In fact, since the 1952 Revolution, Egypt has established a set method for registering the names of eligible voters. Current Law No. 73 requires voters to satisfy certain conditions, first of all that they hold citizen status. That obviously implies that men and women be recognised by the State as legal entities. As we will see later in greater detail, this continues to represent a serious obstacle to the guarantee of women's enforcement of their political rights.

Thank to the Law No. 41 of 1979, still under Sadat, the legal order made the political rights as incumbent of all citizens entitled to exercise such rights. Whether male or female, they had to enrol themselves in the electoral registers which states that:

⁹⁴ The articles, coping with the recognition of political rights, were then evaluated discriminatory by the Supreme Constitutional Court for some citizens in contrast with art. 62 Const. arguing that participation to public affairs is a national duty. Afterwards, the Court declared unconstitutional art. 5 for similar reasons.

⁹⁵ The law in fact stipulates that any person whose name is listed on the election rosters but fails without excuse to cast his/her vote in the election or referendum shall be penalised with a fine not exceeding L.E. 100.

“Art. 41 of the Law amends Act no. 73 of 1956, concerning the exercise of political rights making it mandatory for both male and female citizens to register to vote, on reaching the legal age. Previously, registration of women had been optional. Penalties are imposed on those who fail to vote without good reason, or deliberately do not register” (Arts. 1,4,39 and 40).

The enrolment of women was no longer an optional choice as it was the case before, under the application of 1956 law.

Apparently, it seemed that no legislative obstacles would have impeded women’s access to elections. Law No. 38 of 1972 on the People’s Assembly was drafted in conformity with the principle of equality as well. Accordingly, the law sets rules about the eligibility, as follows:

- 1) a candidate must enjoy an original Egyptian citizenship/nationality;
- 2) prior to establishing the right to nomination, the candidate must secure the right to vote;
- 3) a candidate must be at least thirty years of age on the date of the election;
- 4) a candidate must possess the ability read and write;
- 5) a candidate must have completed the required military service or have acquired an exemption from the service;
- 6) a candidate must not have been previously disqualified from the People’s Assembly.

After the legislative amendment envisaged in the Law No. 109 of 1976, for a candidate to run for elections it is no longer mandatory, to belong to the Arab Socialist Union⁹⁶.

The year 1979 becomes even more important when thinking at the quota system in favour of women. Firstly, the Law No. 43 of 1979 guaranteed an allocation of women between 10 per cent and 20 per cent of seats in local council⁹⁷. Then, the previous quoted Law No. 32 of 1972

⁹⁶ A complete overview over the legislature on voter’s and candidate’s rights can be found in Bernard-Maugiron N. *La politique à l’épreuve du judiciaire: la justice constitutionnelle en Egypte*, Bruylant et Cedej, Bruxelles. 2003. 210.

⁹⁷ In terms of quantitative results, the application of a quota system revealed to be extremely useful and fruitful. The presence of women in the 1979 parliament

was amended by Law No. 21 of 1979 and Law No. 114 of 1983 on the People's Assembly. Such amendments allocated one seat for women in each constituency, for a total of 31 seats. Afterwards, the Law No. 38 of 1972 was amended by Law 114 of 1983 dealing with the allocation of seats. In particular it established that in every list presented for the 31 districts at least one female candidate has to be guaranteed. A similar decision arrived in response to request coming from the wife of President Sadat, Jihad Sadat, who was a strong supporter of women's rights. As results of first lady pressure, a minimum of female represented in parliament was assured⁹⁸.

The Law No. 120 of 1980, on the Advisory Council contained provisions that would also prevent women from standing for elections to the council and imposes only those conditions that apply to the membership of the People's Assembly. In 1986, Law No. 114 of 1983 was repealed by Law No. 188 of 1986 on electoral system for People's Assembly and by Law No. 145 of 1988 in the case of the local councils.

As stated before, Law No. 114 of 1983 stated that "each list in the 31 districts must have a female member," thereby ensuring that women would hold at least one seat in addition to any they might secure by defeating male candidates. However, the quota system was abolished by Law No. 188 (1986), the Supreme Constitutional Court having declared it unconstitutional: it conflicted with the principle of equality between men and women.

Such decision which led to the abolition of 30 seats granted for women was followed by another amendment of the electoral system, which saw the return of the majority electoral system. It was clear that it represented a loss their weak gains concerning their status in the political arena. The disappearance of quotas did not have a strong impact on female representation, which the use of a party list system helped keep high. When Resolution 201 (1990) was passed, the party lists were abolished and replaced by individual elections, restricting women's access to parliament by giving them no other option than to compete directly with men for seats. President Mubarak will justify his

amounted to a real success. At that time, 35 women (nine per cent out of the total number) became members. In 1984, 36 women became members.

⁹⁸ El Shabrawy Nouran Ezz el Din. *The marginalization of women in the political participation process in Egypt*. Thesis submitted to the Department of Law at the American University in Cairo, Egypt. December 2005. 15.

early policy of withdrawing any specific electoral support for women by claiming that women were capable of challenging men on their own right and no longer needed special legal mechanisms to guarantee their participation in politics. He was soon proven wrong.

In particular, the debate started in 1983, when the electoral law changed the electoral system from constituency elections to list nominations in the framework of a proportional system which, in theory made it easier for women to be elected. Nevertheless, the same law envisaged some restrictions on independent candidacies and non-partisan candidates. It followed a case of rejection by those independent candidates denied from the competitions. They challenged the law in front of the competent Administrative Court. In their appeal, they claimed that the law was unconstitutional on the grounds that it prohibits the nomination of those who are not running on a party ticket, thus violating political rights. Finally, the administrative judge authorized the appeal to the Supreme Constitutional court⁹⁹.

The proportional system was banned in 1987 following a case of rejection for an independent candidate. According to the decision of the Court, the law violated articles 8, 40 and 62 Const. As a consequence, a new electoral law was promulgated in 1986. The revised text provided for a mixed system with party lists where, however, every constituency reserved one seat for independent candidates. The same Law has been declared unconstitutional in 1990 since in violation of articles 8, 40 and 62 Const. Consequently, the President of the Republic, using its own special prerogative (art 174 Const), adopted the decree No. 404 to dissolve the People's Assembly (*majlis al-shab*) and, hence, call new elections to be held under a uninominal majority system with two turns¹⁰⁰.

As far as the Law on the exercise of political rights is concerned, it did not provide explicitly for a protection of constitutionality on the

⁹⁹ Law No. 48 of 1979 on Supreme Constitutional Court established a specific and *a posteriori* review (related to the entrance into force of the law), concentrated (only one body was allowed), under ordinary court proceeding (*incidenter*). As for the meaning of constitutional review models, see Bin R. and Pitruzzella G., *La Giustizia costituzionale. Diritto Costituzionale*, VI Edition. Torino. Giappichelli Editore. 2005. 401-403.

¹⁰⁰ Cfr. Bernard-Maugiron N., *op. cit.* 214 ss.

whole electoral process. Such a vacuum constituted a violation against the art. 88 of the 1971 Constitution stating that: *“The Law shall determine the conditions which members of the Assembly must fulfil as well as the rules of election and referendum, while the ballot shall be conducted under the supervision of the members of a judiciary”*. On the contrary, Law No. 73 of 1956 on the exercise of political rights tackled with the organization of elections, did not specify the presence of judiciary in the composition of both kind of offices in charged of the monitoring (one in charge of the monitoring of the polls and the other, the general office, responsible for the whole constituency, in charge of the counting of votes). Accordingly, judges were not considered among the observers staff at the polls leaving the ballot box at the mercy of fraudulent practices.

The Court specified that the control to be exercised by the judiciary power had to be real and not only formal because citizens eligible need to freely choose their representatives in a quite and safe environment.

The refreshed debate on the electoral procedures and the role played the Supreme Constitutional Court apparently seemed to be a search for that “good governance” advocated by the international community starting pressured local governments¹⁰¹. In particular, it was discussed the traditional system (individual, majority system with two rounds) which was replaced by a list-party system.

The 1984 electoral law moreover impeded common list composed of several parties to compete in order to deny rallying from the opposition movements to present candidates.

Such new decisions represented a surprised compared to the first attitude demonstrated by the new president of the Republic arrived to power in 1981, Hosni Mubarak, after the assassination of the previous president, Sadat (whose Mubarak was the vice-president). His main goal was to manage the domestic political crisis inherited by Sadat and strictly concerned with the raise in power of Islamist movements. The end of the eighties was sealed by a climate of tension entailing political class, intellectuals, Islamists, wafdistes (whose party was suspended). The tide of imprisonments started with September 1981 and the assassination of Sadat by the Jama'at al-Islamyia were certainly the major fact of the crisis. in order to face the situation, Mubarak decided

¹⁰¹ Cfr. Ben Nefissa S. and Si-din Arafat A. *Vote et démocratie dans l’Egypte contemporaine*. Paris IRD-Karthala. 2005 138.

to free the political prisoners, give legality to the Neo-Wafd Party, re-opened suspended newspapers, limited the *Infitah* launched by Sadat and, eventually, purged the staff in the National Democratic Party from the Sadat's supporters.

This first measure assured him the attention and credibility from the opposition forces whose leaders supported later the referendum for legitimate officially his presidency.

Then, he favoured reform in the economic sphere (during the Eighties and in part of the Nineties) continued partly the *Infitah* (which means openness). The economic liberalisation led to a change both in the composition of the legislature and in the clientelism system widely developed in the country. It became more and more usual the figure of the candidate-business-man determined to joint the parliament in order to merger its own personal financial interests with administration of public affairs. Beyond, one further shift signed the period: the Islamist's vote¹⁰².

Later, the *Infitah* has been then coupled with further political openness, probably triggered by the surprising success of Muslim Brotherhoods and by charges addressed to the ruling party, the National Democratic Party (NDP) accused of not pursuing any ideology. In essence, Mubarak committed himself to put into practice concepts of rule of law, equality and citizenship limited to the theoretical level until the present day. They become the base of a political platform supporting his candidacy to the 2005 elections and in general the party campaign which could also benefit from Gamal Mubarak's managerial art of renewal in party staff. As far as opposition parties are concerned, most of them are banned since they did not passed the procedure of the Committee for Political Parties (*lajna shu'un al-ahzab al-syasiyya*), an administrative body headed by the President of the Consultative Council, (*majlis al-shura*)¹⁰³, from Minister of Justice, Minister of Interior, Minister for Parliamentary Affairs and e three personalities chosen by the Head of the State. In such regards, the same Constitutional Court intervened in favour of the multi-party system recognising a fundamental role played by political parties because considered organised groups contributing to construction of the

¹⁰² *Ibid.* 141.

¹⁰³ Current President Safwat el-Sherif, is moreover the president of the National Democratic Party.

popular willingness¹⁰⁴. Nevertheless, in this case opinion of the Court did not produce expected outcomes. Because of restrictions introduced in selection criteria (before and after their institution), from 2002, seven political parties have seen their activities to be frozen out of the total number (18)¹⁰⁵. Juridical provisions about the organization of political parties make useless every reference to the multi-party system as proclaimed by the Constitution¹⁰⁶. At the same time, the President maintained the state of emergency actually into force since 1958. Originally for case of wars, catastrophes and dangerous diseases, it has been extended to the cases of terrorism and domestic violence since 1981, following Sadat's death. At that time, a new law was approved allowing wide prerogatives to the executive power in liberties and political rights issues¹⁰⁷.

4.2. Political openness under Mubarak

Egypt should have acquired a strong confidence in democratic institutions, say rule of law, parliament, elections and citizenship. Firstly, changes in the judicial system were launched even before the British occupation which occurred in 1882. To face the growing presence of Europeans and privileges they claimed in name of their European citizenship, Egypt embarked on legal reforms¹⁰⁸. Secondly, in 1882 a constitutional text was approved to rule political life in the

¹⁰⁴ Cfr. N. Bernard-Maugiron, *La politique à l'épreuve du judiciaire: la justice constitutionnelle en Egypte*, Bruylant et Cedej, Bruxelles. 2003. 234.

¹⁰⁵ A complete map has been drafted in a recent published report. Cfr. IDEA, *Building democracy in Egypt*, 2005, 50.

¹⁰⁶ Law No. 40 of 1977 on political parties afterwards amended in 1979 and 1980.

¹⁰⁷ Law No. 38 of 1958 (*qanun bishan al-tawara*) has been split into three articles: art. 1 tackling with condition for emergency law to be applied (war, catastrophes and diseases), art. 2 including procedures for declaring the emergency status and, eventually, art. 3 dealing with cases of restriction of liberties (arrests, correspondence and, in general, way of expressing opinions as well as house expropriation).

¹⁰⁸ For a more detailed study about the building of a legal system in Egypt: Brown N. *Law and Imperialism: Egypt in Comparative Perspective in Law & Society Review*. Vol. 29. No. 1 1995. 103-126; *The Rule of Law in the Arab World: Courts in Egypt and the Gulf*. Cambridge University Press. New York. 1997. 23-60.

country. Ultimately, Egypt experienced the longest experiment with parliamentarism throughout the Arab world, with first elections held in 1923. Furthermore, on 23rd July 1952, the military coup permanently abolished the monarchy. Despite this evolution, nowadays, it is hard to talk about a mature democracy in Egypt and, in addition, too many examples make it easy to talk about a strong persistence of authoritarian tendencies¹⁰⁹.

The constitution, as promulgated in 1971¹¹⁰ recognises a democratic governmental system where sovereignty belongs to the people and is the source of every power (art. 3 Const.), the primacy of the law is the basis of legal order and the state is submitted to the law (arts. 64 and 65) a multi-party system is allowed (art. 5 Const. as amended in 1980) and citizens' participation in public affairs is presented as a national duty to be exercised through the right to vote, to run for public office and to express opinion in referendum (art. 62). As far as separation of powers is concerned, the constitution overseen in its chapter five competences recognised to executive power which is exercised by the President of the Republic, the government, the local administration, national specialised councils; the legislative power recognised to the People's Assembly (legislative power) and the judiciary power where independence and autonomy is guaranteed and a special role is granted to the Supreme Constitutional Court. At first glance, it would seem that the constitution satisfies the rule of law as stated from the very beginning (preamble)¹¹¹. How important is a written constitution for Egyptian political life? Are such principles put into practice? If it is the most authoritative document, who is its real guardian?

When Mubarak came to power, the country began the so-called march to democracy¹¹². In the first part of his mandate, he favoured

¹⁰⁹ For further details about the subject it is interesting the work by Kassem, professor at the American University in Cairo who talks about the institutionalisation of an authoritarian regime in Egypt during Mubarak. Cfr. M. Kassem, *Egyptian Politics, the dynamics of authoritarian regime*, London, Lynne Rienner Publishers, 2004, 167.

¹¹⁰ The constitution has been amended only twice until 2005: in 1977 and 1980.

¹¹¹ Cfr. A. Sherif *Constitutional Law*, in N. Bernard-Maugiron e Dupret B.(edited by) *Egypt and its Law*, 2002, London. Kluwer Law, 315-324.

¹¹² Official declarations from the President are usually hold in front of both chambers at the inauguration of the working year. They are available form the governmental press *Al-Ahram*. Since 2000, they are available on the website.

reform in the economic sphere (during the Eighties and in part of the Nineties). Economic liberalisation was then coupled with political openness, probably triggered by the surprising success of Muslim Brotherhoods and by charges addressed to the ruling party, the National Democratic Party (NDP), which was accused of not pursuing any ideology. In essence, Mubarak committed himself to put into practice concepts of rule of law, equality and citizenship limited to the theoretical level until the present day. They became the base of a political platform supporting his candidacy in the 2005 elections and in general, the party's campaign, which could also benefit from Gamal Mubarak's managerial art of renewal in party staff. As far as opposition parties are concerned, most of them are banned since they did not pass the procedure of the Committee for Political Parties (*lajna shu'un al-ahzab al-syasiyya*), an administrative body headed by the President of the Consultative Council, (*majlis al-shura*)¹¹³. from Minister of Justice, Minister of Interior, Minister for Parliamentary Affairs and three personalities chosen by the Head of the State. The same Constitutional Court intervened in favour of the multi-party system recognising a fundamental role played by political parties because it viewed organised groups as contributing to the construction of the popular willingness¹¹⁴. Nevertheless, in this case the opinion of the Court did not produce the expected outcome. Because of restrictions introduced in selection criteria (before and after their institution), from 2002, seven political parties have seen their activities frozen out of the total number (18)¹¹⁵. Juridical provisions about the organization of political parties make useless every reference to the multi-party system as proclaimed by the Constitution¹¹⁶.

At the same time, the President maintained the state of emergency which was in force since 1958. Originally in place in case of wars,

<http://www.presidency.gov.eg/>. Cfr. For a detailed analysis M. Kassem, *op. cit.* 30-49.

¹¹³ Current President Safwat el-Sherif, is moreover the president of the National Democratic Party.

¹¹⁴ Cfr. N. Bernard-Maugiron, *La politique à l'épreuve du judiciaire: la justice constitutionnelle en Egypte*, Bruylant et Cedej, Bruxelles. 2003. 234.

¹¹⁵ A complete map has been drafted in a recent published report. Cfr. IDEA, *Building democracy in Egypt*, 2005, 50.

¹¹⁶ Law No. 40 of 1977 on political parties, afterwards amended in 1979 and 1980.

catastrophes and dangerous diseases, it has been extended to cases of terrorism and domestic violence since 1981, following Sadat's death. At that time, a new law was approved allowing wide prerogatives in executive power over liberties and political rights issues¹¹⁷.

As for the separation of powers, it has been partially enforced. Despite the long parliamentary experience, Egypt experienced what was practically a hegemony of the executive power and, in particular, the head of state for public affairs gained international legitimacy and organized itself as a monarchy in 1923. The Revolution of 1952 and the Nasser period closed with a system where Parliament had a dynamic role and ministries participated in support of the King in public affairs¹¹⁸. The parliament started losing its own influence and importance although in 1980, a second chamber was added with consultative prerogatives (*majlis al-shura*) to the People's Assembly (*majlis al-shab*).

4.3. The normalisation of the emergency law

As widely described above, Arab countries, and in particular Egypt developed a certain experience in constitutionalism. Since the nineteenth century the political rule has been ruled by a constitutional text, despite of different political models. Moreover, most of the systems are inspired to representative mechanisms, where constitutional tools are enforced (election, legislatures, citizen's status).

Generally speaking, the majority of them and especially republican regimes, adopted representative assemblies, elected by the people (Algeria, Bahrain, Egypt Kuwait, Morocco, Syria and Tunisia) vested with the legislative power (although often limited) and some form of

¹¹⁷ Law No. 38 of 1958 (*qanun bishan al-tawara*) has been split into three articles: art. 1 tackling with condition for emergency law to be applied (war, catastrophes and diseases), art. 2 including procedures for declaring the emergency status and, eventually, art. 3 dealing with cases of restriction of liberties (arrests, correspondence and, in general, way of expressing opinions as well as house expropriation).

¹¹⁸ Cfr. E. A. Ennusi-Ghafloul, *Pouvoir exécutif et processus législatif*, in N. Bernard Maugiron e J.N. Ferrié (edited by), *Les architectures constitutionnelles des régimes politiques arabe : de l'autoritarisme à la démocratisation*, Egypte/Monde Arabe n. 2, Cairo, Cedej, 2005, 105.

control on the governmental action. In details, laws can not be put into force without the approval by the assembly and ministries are responsible in front of the parliament either individually or collectively. As for the monarchies of the Arabic Peninsula (United Arab Emirates, Oman and Qatar) and Saudi Arabia, still refuse a parliament as a full representative body while it allow simply an assembly with merely consultative mandate and whose members are appointed by the sovereign.

What appears interesting, in this section, is to stress the relationship between constitutional tools and authoritarianism, and eventually, seek some explanations. In fact, the constitutional architecture put into practices following a democratic model asked for an action within the limits of the borders fixed in the constitutions.

Hence, it is quite easy to question how it is possible for local political actors to respects an institutional system as the one drafted by the constitution and adopt an authoritarian attitude. Actually, it happened that powers instead of violating openly he constitution, preferred to suspend totally or partially the text [Bernard-Maugiron and Ferrié, 2005: 10].

In such regard, Egypt is a telling case. Moreover, what I will argue soon as the normalization of the emergency law is a blatant sign of the ruling of public affairs in the country and it is not hard to imagine that such a situation is easily translated into the political environment which turned to be suspicious and threatening.

In 2007, a new constitutional reform has been launched. It has been firstly approved by the Parliament and, after being confirmed by citizens via referendum¹¹⁹, it has been put into force with the Presidential Decree on 4th April 2007. Despite of previous official declarations about democracy and respect for rule of law, the constitutional reform presents blatant ambiguity, especially as far as human rights and political liberties are concerned. To a better glance, indeed, it signs a reversal of which judiciary control on elections is a good example.

¹¹⁹ According to the Judge's Club la political participation do not go over il 4% of citizens having rights. The Supreme Electoral Commission, on the contrary, declared that 75,9% voted YES with a turnout of 27,1%. Moreover, it is interesting having a look a the text of the referendum since it allows only the confirmation or the rejection of the full text

During the Annual Meeting of the ruling-party (the National Democratic Party) held in November 2006 introduce amendments which anticipate amendments submitted then to the Parliament as a unique and definitive text at the end of January 2007 for their approval¹²⁰.

Normally, reform should have overseen the abrogation of the emergency status, which is in practice into force since the assassination of President Sadat in 1981, thus limiting the enforcement of the constitutional text. The emergency law, in fact, allowed authorities special prerogatives to preserve national security. In the substance, it determined: arbitrary arrests, several proceedings in front of special courts (military or emergency courts) high control on public gathering as well as private conversation. Thanks to the new changes, art. 179 Cost., recognise the state as the guardian of the security for terrorist. Furthermore, it allows the President of the Republic to submit to the court every crime connected with terrorist acts. The same article oversee a specific (but ordinary) anti-terrorism law to regulate such issues¹²¹. the current anti-terrorism law will be promulgated, as affirmed by the Minister of Justice, Mufid Shehab, by 2008.

Thirty-four articles¹²² are concerned essentially with political rights, electoral system, and presidential mandate, rules for the election of the President, parliamentary prerogatives and fight against terrorism. A few articles (4, 12, 24, 30, 33 e 56) reflect the changed economic and social situation in the country compared to the Seventies, when the first text was approved. Every reference to socialism, worker class and the leading role of the state in the public field of development process, as inherit by the Nasser period, has been abolished.

It is worth drafting the general framework of reforms. Art. 5 Cost. in its original version, established that the political system was oriented to pluralism. Now it has been integrated with a clause prohibiting every political activity as well as the institution of political parties with a religious or gender/ethnic base.

Art. 62 Const. fixes that the ordinary law must provide for an

¹²⁰ The text has been approved on 19th March: members from opposition did not vote.

¹²¹ Amnesty International exposed strong critics about the new text of the Anti-Terrorism Law. *Amnesty International. Press Release*, 18th March 2007.

¹²² New text is available on <http://constitution.sis.gov.eg/en/2.htm>.

electoral system combining individual and list model. Predictably, such procedure is likely to limit in the practice access from independent candidates (targeting the ones coming from the Muslim Brotherhood, banned for its reference to the Islam). Moreover, a quota system reserving seats to women has been re-introduced, although, the ordinary law will establish the number of seats.

For the sake of my analysis, it is particularly interesting the revised art. 88 removing in practice the judiciary supervision. Previous provisions, only established by ordinary legislation, say Law No. 175 of 2005, have now been fit into a legal framework. It signed a shift of electoral supervision to an electoral commission whose composition and tasks are decided by ordinary law which can nominate either judges or public personalities. Moreover, the decision on the election in a single day, leave in practice hardly possible that only judges participate in the tasks because of the limited total number of judges in the countries. According to the international good practices, international commission is preferred to the judiciary power¹²³. Consequently, constitutions should be drafted in conformity with such tendency. However, in peculiar political context such as the Egyptian one, such practice is easily susceptible to be left at the mercy of the executive power.

New rules, introduced for the candidature of the President of the Republic, show the attempt, merely formal, of realising an effective political competition. Such disposition, already modified in 2005 when first multi-candidate Presidential elections were held in Egypt, arise the chance for oppositional parties to take part in the political game. The amendment specifies that every party legally at work for at least 5 years is legitimised to present a candidate for elections. It is to reach 3% out of the total number of elected members in both chambers or, in alternative, in one of them. Exceptionally, art. 62 Const. Provides that for elections held during the next 10 days, every party with at list one seat in one chamber, has the right to appoint a candidate. Unquestionably, latest change to the art. 76 takes into consideration the real support that Egyptian parties (not part of the ruling-party zone) have actually in the political game. Despite of the long tradition, still in 2005, they were not able to reach a minimum for the candidate,

¹²³ Such as for example the Independent Commission in Iraq or the Central Electoral Commission for elections in Palestine.

previously fixed to 5%.

In the attempt to extend parliamentary and prime Minister's prerogatives articles 115, 118, 127 and 133 allow the Parliament the right to vote single chapters of the public general balance and the right to withdraw *confidence* from the government. At the same time, the President can dissolve the Parliament without referendum, as required previously. New changes make Egypt closer to other presidential systems in the Arab world where such procedure is quite widely recognised. Also in the Egyptian case, new Constitutional text will go towards an unstable balance with easy dissolution of Parliament which, in turn will be more vulnerable and politically weak than before. Moreover, in case of immediate and serious danger, the President can undertake urgent measures after consultation with Prim Minister and Presidents of two chambers, according to the art. 74 Const. he is absolutely denied to dissolve the Parliament in such a circumstance.

Other changes have been included to amend articles 82, 84, 85 and 141, which tackle with the substitution for the President and the Vice-president's task. In case of temporary incapacity of the President, the Vice-president or the Prime Minister, are required to play the role, although they are denied to submit changes to the Constitution and dissolve Parliament or Government. It is important remind that since the beginning of his mandate, Mubarak has never appointed a Vice-president).

As far as the protection of individual freedom, changes on art. 179 arise a quite vital critic. By the analysis of the text, it is clear that the State has the right to suspend three articles bearing the traditional individual freedoms (articles 41, 44 and 45 Const.). Moreover, they allow the President the right to submit civilians charged of terrorist crime in front of special courts, violating clearly art. 68 establishing the principle of the natural judge. Also the role of the Social Public Prosecutor, initially overseen for tasks similar to the Ombudsman¹²⁴, such as references to his prerogatives, namely the protection of people's rights, security in the society and the engagement of the nation to the socialist system have been cancelled. Such a change confirms unequivocally what has been called as the normalisation of the

¹²⁴ Cfr. N. Brown, M.Dunne, A. Hamzawy, Egypt's Constitutional Amendments. Carnegie Endowment for International Peace Publications, Web Commentary, 23th March 2007.

emergency status, so far introduced only by extraordinary law.

Ultimately, the last effort to succeed in the accurate work of constitutional engineering is concerned with the introduction of a new principal which contribute in rendering the whole text even more ambiguous along with the articles above mentioned in rights and individual liberties. The revised art. 1, indeed, presents citizenship as the foremost pillar of the Arab Republic of Egypt, abolishing every reference to socialism, actually already abandoned since the time of the openness politic (*Infitah*) launched by Sadat.

It remains the reference to the Islamic law (*Sharia*), as a main legal source, which restrains a further passage to a democratic system. Currently, however, the matter of legal sources is not in the priority of the political agenda, despite of sporadic debates, since political actors from every background are spending their efforts in the debate on the emergency status in the country leaving the *Sharia* for the next future.

4.4. The role of the Supreme Constitutional Court

Constitution promulgated on 11 September 1971 has been the first text to oversee a judicial review. In reality, Egypt had already experienced a diffuse review leaving constitutional matters to ordinary judges. Then, it was substituted with centralised control: in 1969 a decree attributed the task to a special body, the Supreme Court (*al-mahkama al-'ulya*). What is imperative to know for the present analysis, is that from its first draft the 1971 Constitution provides for a role of judiciary in the electoral procedure. Law No. 48 of 1979 on Supreme Constitutional Court established a specific and *a posteriori* review (related to the entrance into force of the law), concentrated (only one body was allowed), under ordinary court proceedings (*incidenter*)¹²⁵. Members of the Courts are to be appointed from the President of the Republic by decree. At least two thirds of the members are required to belong to the judiciary body, as a common practice. Although it goes beyond the present discussion, it is worth mentioning the case of a new member in January 2003. For the first time, an external female member

¹²⁵ Cfr. R. Bin e G. Pitruzzella. *Op. cit.*, 401-403.

(she was a simple attorney), Tahany el-Gebaly¹²⁶ was appointed. Such a decision, indeed, confirms the thesis that the Constitutional Court is likely to represent an increasingly reformist and progressive room for the political process of the country.

Certainly, 2000 indicates a turning point. Initially, in this year, the first elections were held in the Arab world after the signature the Warsaw Declaration of the Community of Democracies Summit (whose Egypt was a signatory country). According to the declaration, member states should commit to the adoption of a set of “core democratic principles and practices” in favour of citizens, such as the right to choose freely their government via free and fair elections, and to participate in public affairs directly or indirectly, freedom of expression, association and press, the right to receive the due process of law and to be free from arbitrary arrest or detention¹²⁷.

Besides the formal obligation, which is relatively important considering non-binding effect of International Law, the declaration has been followed by a very committing pledge pronounced by the President and suddenly implemented with some political actions. Indeed, Egypt accepted formally the International Covenant on civil and political rights since 1982 but in practice it did not totally adopt its provisions in domestic legislation¹²⁸. In 1999, at the beginning of his fourth six-years term, Mubarak pledged to support the call for judiciary

¹²⁶ Such a decision has been taken after the publication of periodical report from the Human Rights Committee from United Nation which pointed out the issue of discrimination towards women in their access to public offices and, therefore, judiciary career.

¹²⁷ The Declaration includes rights already recognised and guaranteed by the Universal Declaration of Human Rights as well as subsequent instruments of International produced since 1948 till the present day. Quoted in Makram-Ebeid, *Elections in Egypt: rumblings for change*, in *Elections in the Middle East*, in *Elections in the Middle East: what do they mean?*, *Cairo Papers in Social Science*. vol. 23 No. 1-2. Cairo-New York. The American University in Cairo Press. 2002. 26-37 Further initiative are worth to mentioned. Among others, *The Alexandria Statement: issues of reform in the Arab World* signed in 2004.

¹²⁸ Art. 25 recognise that every citizens has the right and the real opportunity to vote and stand for election, during periodical elections, which has to be free, fair and allowing universal suffrage, secret ballot to permit a liberty of expression as freer as possible”. When evaluating Egypt in 1996, UN Human Rights Committee points out that Egyptian election are not consistent with the above mentioned article.

supervision of elections by the Constitutional Court. Consequently, he called for parliamentary elections in 2000 giving, for the first time, the supervision to the judiciary and, hence, recognising the Court as the supreme guardian of the rule of law in the country.

Besides, elections in the nineties have started a trend which continues in the present and is characterised by a very high level of violence, bribery and manipulation of votes. The phenomenon is probably connected with the increasing number of candidates from Islamic movements running for elections. There are illustrative cases of police preventing candidates and supporters of opposition parties (especially the ones from the Muslim Brotherhood) from entering the polls. Conversely, in July 2000, Constitutional Court favoured a reversal trend. It declared art. 24 of Law No. 73 of 1956 on the exercise of political rights unconstitutional.

The Court had already issued some sentences in the field of political rights: on 21st June 1986 declared the unconstitutionality of the art. 4 of Law No. 33 of 1978 on the protection of domestic front and social peace proposed by Sadat as allowed by art. 74 Const. The articles, coping with the recognition of political rights, were found discriminatory for some citizens in contrast with art. 62 Const. arguing that participation in public affairs is a national duty. Afterwards, the Court declared unconstitutional art. 5 for similar reasons. An examination of the declaration of unconstitutionality for electoral laws seems to be even more interesting: Law No. 114 of 1983, which provided for a proportional system. The proportional system was banned in 1987 following the rejection of an independent candidate. According to the decision of the Court, the law violated articles 8, 40 and 62 Const. As a consequence, a new electoral law was promulgated in 1986. The revised text provided for a mixed system with party lists where every constituency reserved one seat for independent candidates. The same Law has been declared unconstitutional in 1990 as a violation of articles 8, 40 and 62 Const. Consequently, the President of the Republic, using its own special prerogative (art 174 Const), adopted the decree No. 404 to dissolve the People's Assembly (*majlis al-shab*) and, hence, call new elections to be held under a uninominal majority system with two turns¹²⁹.

As far as the Law on the exercise of political rights is concerned, it

¹²⁹ Cfr. Bernard-Maugiron. *Op. cit.* 214 ss.

did not provide explicitly for constitutional protections of the whole electoral process. Such a vacuum constituted a violation of art. 88 of the 1971 Constitution, which states that: "The Law shall determine the conditions which members of the Assembly must fulfil as well as the rules of election and referendum, while the ballot shall be conducted under the supervision of the members of a judiciary"¹³⁰. On the contrary, Law No. 73 of 1956 on the exercise of political rights in the organization of elections did not specify the presence of the judiciary in the composition of both kind of offices in charged of the monitoring of elections (one in charge of the monitoring of the polls and the other, the general office, responsible for the whole constituency, in charge of the counting of votes). Accordingly, judges were not considered among the observation staff at the polls, leaving the ballot box at the mercy of fraudulent practices. The Court specified that the control to be exercised by the judiciary power had to be real and not only formal because citizens eligible to vote need to freely choose their representatives in a quite and safe environment. As a consequence, the Court invalidated 1990 and 1995 elections with a retroactive effect although without any legal consequence since the mandates had already been completed¹³¹. Nevertheless, the President of the Republic, in conformity with art. 147 Const. amended articles 24 and 31132 by introducing judiciary supervision over the whole voting process. All committees had to be headed by a judge¹³³. In order to face the low number of judges, the territory was split into three regions and elections were held three different days, from mid-October to mid-November 2000¹³⁴.

Thanks to the judicial jurisdiction of 2000 and 2005 elections, voting has occurred with major transparency and fairness. Citizens welcomed the Court's decision as a foremost sign of independence that they could

¹³⁰ It refers only to the People's Assembly since the Consultative Body receives different regulation.

¹³¹ Cfr. S. Sabet, *Législative hors-la-loi*, in *Hebdo al-Ahram*, 12 July 2000.

¹³² Decree-Law No. 167 of 2000 ratified by both the chambers in common session.

¹³³ Secretary continue to be chosen among public employs (art. 24 Law No. 24 of 1956).

¹³⁴ Subsequently, also Law No. 1 of 2002 has confirmed that parliamentary elections have to be held under the scrutiny of judicial power. At the same time, however, other kind of elections continues to be monitored by a President chosen among public employees.

place more trust in elections, because until that moment they were doubtful of the procedures aimed at the maintenance of the NDP majority in Parliament. Press supported the Court's decision presenting the judicial body as a vital component of the checks and balances system¹³⁵. Frankly, the real significance of the initiative appears limited as illustrated by actions during the electoral campaign and the voting course. Indeed, still several instances of fraud and corruption have been registered, along with an unclean management of electoral lists and intimidation of citizens, especially weak groups such women, to prevent them from entering into the process. Besides, some candidates have been arrested on the eve of elections. Moreover, it is worth mentioning some interesting observations which stand out from electoral results. Firstly, the number of independent candidates has risen considerably, passing from 2950 in 1995 to 4279 while the total number of the candidates presented by the ruling-party has been 444. Afterwards, in 2005 candidates representing groups which traditionally lack representation in Parliament were a tiny number: 81 Copts and 131 women¹³⁶ out of 5084.

On the one hand, the high number of independent candidates shows a clear willingness to be engaged in breaking the closed political game in Egypt, despite the hard environment in which opposition parties had to emerge¹³⁷. On the other hand, minority groups remain so widely under-represented that the President had to resort to artificial mechanisms such as the appointment of 10 members of the People's Assembly, in 2000 in order to favour a multi-faced representation in Parliament.

Ultimately, a further observation is connected with "the lack of public data" since no complete and reliable official results have been published, despite the major transparency proclaimed during the electoral campaign. The only procedure which was followed is that the

¹³⁵ To testify press enthusiasm in front of the efforts deployed by the Constitutional Court towards separation of power: N. Abdel-Fattah, *A time to judge*, in *al-Ahram Weekly*, 10 -16 August 2000 and N. Farahat, *Courting Constitutionality*, in *al-Ahram Weekly*, 31 August - 6 September 2000.

¹³⁶ For a better understanding it is worth mentioning data emerged from the most recent census, undertaken in November 2006 which states that women are half of the whole population (48, 88%). CAPMAS. <http://www.sis.gov.eg/>.

¹³⁷ Most of candidates presented as independents are close to the Muslim Brotherhood.

general committee fills out a report on elections day in three copies, one to be given to the Minister of Interior, one to the High Electoral Commission and one to the Director of Security Office. Candidates are not authorized to receive any copies. In a subsequent phase, State Information System published the final general results on the website, leaving huge gap in electoral transparency

The announcement of the first multi-candidate presidential election constituted an important anticipation of the full reform program¹³⁸. On 26 February, 2005, Mubarak proposed both the chambers to amend art. 76 Const., which detailed the election procedure for the Head of the State¹³⁹. Precisely, he proposed to substitute the referendum with a pluralist mechanism including direct universal suffrage. By this way, for the first time, Egyptian citizens gained their chance to personally choose their representative.

In addition, he provided for the constitution of a High Commission, both independent and neutral, which would be in charge of the supervision from the submission of candidates to the final results. The law, which has consequently been approved, introduced a similar commission for parliamentary elections. Law No. 73 of 1956 on the exercise of political rights and Law No. 38 of 1972 on People's Assembly both amended with Law. No. 173 and Law No. 175 of 2005 adopted the above mentioned changes in order to guarantee neutrality and reliability for parliamentary elections, elections by the institutions of a Supreme Committee for Elections, the use of phosphorous ink, and precise rules for an electoral campaign.

Indeed, the most significant change concerns the composition of

¹³⁸ Enthusiasm and scepticism emerged both from the local press and from declaration of main political actors: on the one hand it represented a good change to allow more people run for President. On the other hand, it appeared an attempt to prepare the rising to power of Mubarak's son, Gamal Mubarak. Moreover, the arrest of the main challenger, Ayman Nur (for having falsified his party list, *Hezb Al Ghad*).

¹³⁹ The decision has been subsequently ratified from a confirmative referendum where citizens were allowed to express their opinion in such a crucial political change. Date of the Referendum: 25th May 2005. Total number of voters: 17.184.902 (about 53% of citizens registered in the roster). Results revealed that the decision was approved with 82% of voters saying YES. Cfr. National Council for Human Rights Annual Report, 2005-06, Chapter 1.3. http://www.nchr.org.eg/en/annual_report.html.

those new bodies and the relative tasks assigned to them. Indeed, the committee is to be headed by the Minister of Justice, who is a representative of the executive power. Moreover, both bodies do not have to be necessarily made up of judges. The Minister of Justice, as head of the Supreme Committee for Elections, appoints members who can belong either to the judiciary body or a public personality¹⁴⁰.

Additionally, their task cannot be denied via jurisdiction, since their prerogatives, although wide, are merely consultative. In essence, the Minister of Interior again became the one who provides electoral committees and the electoral schedule¹⁴¹.

After the 2000 elections, which were held in a freer and fairer environment, due to the direct involvement of the Constitutional Court, the judiciary's action has been deeply eroded.

It is also important to point out the role played by Non Governmental Organisations (NGOs) which in 2005 gathered into a Committee for the Monitoring of Elections. In truth, they started the process of monitoring in the Nineties, but they were suddenly prevented from following through because of several and heavy charges levied against Saad Eddin Ibrahim, Director of the Ibn Kalkoun Center. He was accused of accepting funds from the international community¹⁴². Thanks to the creation of a new governmental body, the National Council for Human Rights¹⁴³, it was decided that external

¹⁴⁰ The government justified the limited power vested in judiciary as far as electoral procedure was concerned with the lack of personnel. To face the limited number, it opted for external personnel and, for election to be held in turns.

¹⁴¹ The National Council for Human Rights demonstrated its high sense of critics and to certain extent independence by giving a pungent comment. *Op. cit.* Chapter 1, 11-12.

¹⁴² The Court, on 21st March 2001, condemned Ibrahim along with other 27 suspects to 7 years of prisons. They were charged of false information, corruption and fraudulent use of funds and use of donations for the aimed at the foundation, Ibn Khaldun Centre, with no governmental permission. Cfr. *Justice finally prevailed*, in Weekly Al-Ahram, 20 -26 March 2003.

¹⁴³ It is a body created by Presidential Decree. However, from the very beginning, it demonstrated to mature a certain critical analysis against Egyptian political system as critics against the persistence of the emergency status and, as far as elections are concerned, suggested the government to introduce a system of internal and international monitoring. *Op. cit.*

observers from main NGOs involved in human and political rights, could participate and monitor the course of the voting process¹⁴⁴.

Adopting those new practices¹⁴⁵ has certainly contributed to reaching a major degree of fairness as certified by the huge number of reports published about the real ballot course: cases of violence, both direct and indirect¹⁴⁶. To attest the new critical wave, it is worth mentioning the case of two judges belonging to the Judge's Club¹⁴⁷, involved in strengthening the independence of the judiciary. The judges declared the elections illegitimate and refused to ratify them¹⁴⁸ for having registered at least 100 irregularities. Predictably, the judges were arrested and brought to trial. Nevertheless, the case is illustrative of the extraordinary network of solidarity growing as demonstrations in the streets and sit-ins were witnessed with a considerable number of

¹⁴⁴ Six NGOs worked under the umbrella of the "International Committee for the Monitoring", made it possible thanks to U.S. support of "International Republican Institute" and "Democratic National Institute". Others NGO under the umbrella of: "NGO Coalition to Monitor the Elections".

¹⁴⁵ It has been important also the use of the identity card for voting, the adoption of transparent ballot box and the ink.

¹⁴⁶ Cfr. Independent Committee for Elections Monitoring (2005), *A Testimony for History: monitoring the first Pluralistic Egyptian Presidential Elections - The Final Report* and *Monitoring the Egyptian 2005 Parliamentary Elections, Final Report*; Soliman, S. 2006. *Al-musciarika alsiasia alintikhabat al-naiaia* 2005. Cairo: Egyptian Association for Enhancement of Local Community (realized with the contribution of the European Commission); Egyptian Centre for Women's Rights. *Bodies Women on Rising, Report on Women in the 2005 Parliamentary Election*, 2006 and *Ahlaqa naqaascia haul uadah almarrah fi qanun mbasciarat alhachiq assiasiah algiadid*, May 2007; National Council for Human Rights (20005), *Report on Presidential and Parliamentary Elections*.

¹⁴⁷ Judge's club is a non governmental body which has often played as a trade union. Starting with the "slaughter of the judiciary", aside the minoritarian reformist wig, a new wig of judges oriented towards a more patronising approach took relevance. However, reformist judges succeeded in the draft law on the reform of the judiciary system submitted in 2004 challenging the executive power one more time. Cfr. Brown J.N. e Nasr H. *Egypt's judges step forward: the Judicial Election Boycott and Egyptian Reform*, Carnegie Endowment for International Peace, Washington D.C. 2005 e M. Kassem, *op. cit.* 168.

¹⁴⁸ Henry T. *Egyptian judges reject parliamentary election results*. Jurist. 28 November 2005.

Egyptians participating¹⁴⁹.

The Judge's club started its battle earlier. Its first declarations in favour of the rule of law dates back as far as 1968, when a crisis exploded for the defeat of the war against Israel (the so-called 6 days war occurred in June 1967). In 1969 a group of reformist judges reached the committee at the top of the association. Their initiative, which can be considered very critical against the regime, has been faced by President Nasser with what has been coined as "the massacre of the judiciary"¹⁵⁰.

¹⁴⁹ It is to be considered in relations to the number of citizens who usually take part in the political life of the country.

¹⁵⁰ Cfr. M. Tamir, *Law versus the State: The Judicialization of Politics in Egypt*, in *Law and Social Inquiry*, vol. 28, 2003, 889.

Chapter 7

Egypt: Women and their exercise of political rights

5.1. History of women's movement

The twentieth century was for Egypt a changing period which affected the role and status of women in Egyptian public understanding. A foremost date is clearly 1911 when Malak Hifni Nasif (1886-1918) went to the Legislative Assembly to claim ten points in favour of women. She advocated more and better education for women although, in the end, her demands were rejected. Female movements started officially in 1923 with the establishment of the Egyptian Feminist Union. It was composed of women well educated (often in school abroad) and from the upper class. The leader was Hoda Sha'rawi (1879-1947). At that time the Egyptian Constitution recognised adult male citizens as member of the nation with an apparent masculine character [Hatem, 2000:35] Hoda Sha'rawi started her activities even earlier: in 1919 demonstrated along with other women against the British decision to prevent Saad Zaghloul, the nationalist leader, from presenting the Egyptian delegation. Despite of difficulties, they started their struggle seriously for general women's rights.

In 1928, women were admitted to the Egyptian National University. Women soon entered the professions. Some of them worked as active feminists forming strictly political groups. Egyptian women undertook their own business, entered the Parliament, were appointed to cabinet posts and became increasingly visible. One of the first battles was connected with direct political participation and reform of the Personal Status law regulating marriage, divorce and child custody.

In the 1960s most of those female groups were absorbed into the unique political organisation legally allowed: the Arab Socialist Union. In 1962 the President appointed the first female minister, in 1968 the president of the Radio-television became a woman and in 1968 for the first time a woman became ambassador. Aswar Sadat who came into power after 1970s encouraged strongly women participation. The President's wife, Jihan started a trend of the first ladies involved in social and charity affairs in favour of women. In more recent history of Egypt, 1979 signed an important shift in domestic political system. When Sadat signed the Treaty of Peace with Israel, he dissolved the Parliament and proclaimed new elections. New electoral law, Law No. 21 of 1979, guaranteed a minimum representation in Parliament for women by introducing 30 reserved seats. The Law for local government entailed some positive change for women by guaranteeing from 10% to 20% of the seats on local councils to promote a multi-level political participation (both governorate and village level). Furthermore, the new Parliament ratified an emergency decree promulgated by President Sadat amending the Personal Status Laws.

The new law (Law No. 44 of 1979) included some of the demands claimed by Egyptian feminist in the previous decades. For example, the reforms granted the rights for the wife to divorce when the husband decided to marry another woman without her permission; the right to be informed in case the husband opt for the divorce; the right of the mother to have custody of children (till 10 for boy and 13 for girls); the rights to alimony; the right to remain in the matrimonial house until the woman marries again or until the end of custody of the children [Sullivan, 1986:36]. Laws introducing the reform were often called "Jihan's Laws" to stress the influence she had in his husband decision to promulgate the decree. However, six years later the 1979 amendment to the Personal Status Laws were declared unconstitutional for procedural reasons and a new law in 1985 was promulgated.

5.2. Women and Personal Status Law

I have previously introduced the Personal Status Law which still has its own reference on the Islamic Law. It is important to shed light on the family law because it is a domain where legal discrimination still

prevents women and men from being equally treated before the law. Certain laws and procedures treat women differently when they referred to family's affairs.

The Personal Status Law, or family law as it is sometimes called, is the law governing marriage, divorce, custody of children, inheritance. It is mainly base on the Islamic Law, *Sharia*. To this day, the status of women in family law remains the major problem for Egyptian women. Till the beginning of the nineteenth century, the *Sharia* ruled all aspects of life in Egypt and the *Sharia* courts were the only judicial system in existence. By the end of the nineteenth century, the legal system in Egypt had been secularised and commercial, civil and criminal codes based on the French civil code were adopted. This was true for all institutions in Egypt except family's affairs. Personal status remained the only branch of law in which Islamic Law continued to be applied.

The Personal Status Law in effect today was first enacted in 1929. Since that date some amendments have been introduced but its basic stipulations remain the same. In terms of marriage, the current laws stipulated that a marriage contract is a civil contract in which both parties can stipulated the conditions that rule their relationship.

Despite of the international documents claiming the equality of rights and responsibilities in marital relations, Muslim women are subject to some constraints¹⁵¹.

While the husband can unilaterally and without justification divorce his wife by a simple proclamation to that effect. The wife on the other hand can obtain a divorce only by a judicial ruling after providing sufficient evidence to support her case. When her husband marries a second wife a woman may be granted a divorce proving serious material and psychological damage.

A divorced woman may have custody of her children during their infancy an childhood. Such custody is limited by law only to "services" provided by the mother that relate to the child's physical needs (food, clothing, hygiene and the like). The father however, retains exclusive rights to the "custody of guidance" which covers a wider field of actions, such as education. Children can acquire Egyptian citizenship only through an Egyptian father. Recently Egypt has witnessed a vivacious debate about the law of legal procedures regarding personal

¹⁵¹ Copts women are not forced to follow family law.

status. Discussions on the new law, Law No. 1 of 2000 have been tackled in all forms of media. The law now allows women to obtain divorce in return for giving back the dowry given by the husband and exempting the husband from any further (future) financial obligations. Previously, women did not have the legal right to demand divorce. Men still have the right to obtain divorce easily. The new law also had a setback for women rights; women no longer have the right to travel abroad without the husband's consent.

Some attention requires the labour regulations. The first law regulating the employment of women was issued in 1933. The law forbade the employment of women in night work and in hard jobs such as mining, quarrying or similar jobs that required carrying, pushing or pulling heavy objects. The Labour Laws were drastically amended after the 1952 Revolution giving Egyptian women rights that they had never enjoyed before. In conformity with International Labour Organization Conventions Egyptian parliament passed laws about the minimum wages, maximum working hours and discriminations on the basis of sex.

5.3. Mubarak's politics

Mubarak continued Sadat's efforts and presented a new legislation similar to the one issued by the 1979 decree. The previous chapter describe the first period of Mubarak's mandate and his efforts to open up the political life. I will reconsider briefly major changes. It will help to better understand my construction leading to the importance of women and their exercise of political rights.

The new century was inaugurated with the creation of the National Council for Women (NCW), by Presidential Decree (No. 90 of 2000). Its purpose was that of enhancing the status of Egyptian women and, in the political field, encouraging them not only to vote but also to stand as candidates for elections. The NCW is composed of 30 members of public figures and experts concerned with women's issues is chaired by "her Excellency" Suzanne Mubarak, a non elective post. According to its mandate, the NCW was expected to work towards raising women's awareness of their rights and abilities and, eventually, guaranteeing their active participation in the political life of the country. NCW established branches in the governorates to be more connected with

local people, held periodical conferences to discuss priority issues relating to women, reviews several laws and convene workshops, seminars and training sessions [NCW Programme 2000-2005].

National Council for Women benefited from financial and technical aid provided by the United Nation Agencies (UNDP, UNIFEM, UNESCO and UNICEF), the World Bank and USAID mainly for capacity building projects in favour of the NCW staff and then of women voters, candidates and members of parliament. the European Commission mainly through the creation of a sort of Ombudsman office to help the National Council for Women obtaining first hand information on problems and constraints affecting Egyptian women.

In theory, the last seven years have taken on the appearance of progress, with a certain reactivation of Egyptian political life triggered by both international and domestic factors. At first glance, the Government has embarked on a new wave of political reform with the electoral process (promoting free and fair elections as defined by the so-called good practices established by the international community), women's rights (enforcing women's rights in order to reduce the inequalities and lack of social justice resulting from gender-based discrimination) and political parties (strengthening the role of political parties by allowing them to compete in elections and participate in a real and inclusive political debate) as the main focus of attention [IDEA, 2005].

In 2003, an external female member (she was a simple attorney), Tahany el-Gebaly was appointed. Such a decision, indeed, confirms the thesis that the Constitutional Court is likely to represent an increasingly reformist and progressive room for the political process of the country. It never happened before. Indeed, in the Arab world, Egypt has previously accused several times of preventing women from joining the career of judge as was the case of the majority of the states in the region.

On 27 February 2005, President Mubarak held a speech for the citizenry in which he outlined his vision for a new era in Egypt's political history. Surprisingly, Mubarak announced his intention to seek a change in the electoral system whereby the presidency would be decided by direct multi-candidate elections. Then, Parliament passed a number of laws to initiate the political reform process, including the presidential election law and amendments to the regulation of the law

on the exercise of political rights, to the political parties' law and to the laws pertaining to the two chambers. The government launched a new initiative to promote Egyptian citizens' awareness of the political appointment process.

The referendum on art. 76 of the Egyptian constitution allowed citizens to elect their President directly for the first time, rather than by a 2/3 majority of parliament. For the first time in September 2005, Egyptian went to the polling stations free to opt for a candidate who was not Mubarak. In total, 9 men were allowed to run for the presidential office. Predictably, in the end, Mubarak won.

On the domestic front, thus, President Mubarak had launched ambitious reforms intended to re-chart the country's political life. they started even earlier. Since 2000, indeed, Egypt has been celebrating regular parliamentary elections for the People's Assembly (*majlis al Shab*), along with referenda and elections for the consultative body (*majlis al Shura*) and the local councils (*majlis al majallia*). These elections have in theory become freer and fairer since the Egyptian government, adopting certain good practices established by the international community¹⁵², placed the election process under the supervision of the judiciary rather than the Ministry of Interior, as used to be the case. Parliamentary elections held in November 2000 were the first in the Arab World since the signing of the Warsaw Declaration of the Community of Democracies Summit (of which Egypt is a signatory State) which pledged its members to uphold a comprehensive list of "core democratic principles and practices". In addition, monitoring by NGOs under the coordination of the National Council for Human Rights¹⁵³ and the use of transparent ballot boxes were allowed.

¹⁵² Although widely described in Chapter III, It is worth noting that Egypt had already signed, via Republican Decree No. 345 of 1981, the International Covenant of Civil and Political Rights in 1982 which claimed the right to participate in political and public affairs. As far as women are concerned, Egypt ratified in the same year another important declaration, the Convention on the Political Rights of women which was introduced in 1954. Such an instruments focus on the political participation rights of women on the basis of non-discrimination (art. 1, 2 and 3) as well as the Convention on the Elimination of All Forms of Discrimination Against Women, also ratified in 1981 (Republican Decree No. 434 of 1981).

¹⁵³ For the first time, monitoring activities were permitted in the electoral process. The rules enacted by the legislation and government policies allowed

Despite the government's formal commitment to change, the political system still appears reluctant to enforce its general principles in a real and substantial way. State's recent actions, reflecting the ambiguity at the core of the current process of political reform, stand as evidence of the contrast, like the gap, between the official rhetoric claiming citizenship and the concrete undertakings to reform political life. Elections are often unfair and marred by a growing level of violence, both direct and indirect. Political parties have no real chance to compete in the electoral game, either due to a lack of resources (human, financial and managerial) or because of the thinness of their mass political base [Ottaway, 2004].

Citizens have apparently gained more space to express themselves in the political debate and a certain amount of freely voiced opposition to the ruling government has been heard, too tiny still, however, to have led to an official government response or to measures addressing the criticism. In addition, the influence of the international community has grown through aid projects and greater awareness of Egyptian political life. Since the publication of 2002 Arab Human Development Report, which among other things exposes the deficit in women's empowerment in the whole Arab region compared to other developing parts of the world, the role of women has become a crucial issue in the debate on justice and equality in Arab countries.

In general, electoral campaigns have been characterised by increased media coverage and by a large number of advertisements and brief informational spots stressing the importance of every single citizen casting his/her vote and explaining how to do so. In particular, the 2000 election campaign promoted the participation of women to an unprecedented degree, along with that of "youth" groups, Copts and others usually under-represented groups in formal politics. Television spots invited citizens to go to the polls, with an emphasis on women voters [Boutaleb, 2004:11-25]. The advertisement sponsored by the National Council for Women supported women's national duty to vote. During the last campaign, informational spots targeting women rose.

three levels of election monitoring: by the Presidential Elections Committees, independent judges and representatives of all the candidates. Moreover, the National Council for Human Rights and a number of civil society organizations were allowed to monitor the electoral process.

More signs of this new emphasis on citizens' inclusion in the political process can be found in the recent constitutional reform approved by popular referendum on 26 March 2007 most importantly in the amended art. 1 which now states that "The Arab Republic of Egypt is a democratic State based on citizenship" (while the former art. 1 defined Egypt as "a socialist democratic State based on the working forces of the people"). These recent constitutional amendments also reinstate a quota system in favour of women. The engagement of the government goes even further: citizenship has become the basis of the ten-point programme for national work unveiled by President Mubarak, in which it appears as a substantive concept and the ways of enforcing it are defined in concrete terms. Even at the time of the latest elections, held in June, governmental sources stressed the search for enlarging the constituency participation in the process of decision making [Al Ahram, 2007].

Finally, the political parties have started to grapple with the issue of women's role in politics and included it in their campaign agenda, pledging for example a certain number of female candidates. Even the Muslim Brotherhood, which traditionally upholds a conservative viewpoint, has changed its attitude towards citizenship and women, at least in public statements [Muslim Brotherhood, 2004]. In 2000, the Brotherhood sponsored its first female candidate, and in 2005, a second woman ran for parliament under its banner. Broadly speaking, the political actors have all officially pursued policies aimed at the promotion of voter registration and at the participation of citizens both as voters and as candidates, with new and special attention paid to the role of women.

The reasons for building a constituency are multiple: the need to legitimise the role of politicians and to reinforce political authority in front of a demanding international public opinion which is increasingly well-acquainted with Egyptian domestic politics, or simply to secure a high number of voters in the search for electoral victory. Although restricted to the formal level, a similar effort to include citizens in the political reform agenda is likely to favour the construction of the first basic status of citizen so that women can also benefit from it. Indeed, political reform oriented towards a deeper consensus among citizens, as will be analysed, had a connection with the legalisation process of the status of women.

This being said, when the government argues about the concept of citizenship and political rights through greater citizen participation in the political process, what exactly does it mean? Are women really targeted? What concrete actions have been taken to support these announcements? And while the political parties talk about women's rights, what steps have they actually taken to back that up?

5.4. Elections: violence and corruption

As stated before elections have hardly developed in Arab countries and thus in Egypt a tool for peaceful change. they were characterised by malpractices, clientelism and mainly patronage to gain vote and support from tribes, peasants and urban workers. The fairness of lections and vote registrations procedure have consequently been highly questionable producing a high sense of mistrust by the population. Since 2000, the judiciary was allowed to monitor to a certain extent the polling station. Nevertheless, judge's work was extremely limited. In addition, it did not favour major confidence in electoral procedures. Since 1990s elections have been marred by old practices such as intimidation, bribery, rigged voter lists and limited places on independent election monitors. Indeed, in 1990 elections opposition parties (Neo-Wafd and Islamic coalition) started their boycott actions as a sign of protest [Ben Nefissa and Al-Din, 2005:142].

In general violence and administration interference dominated elections as the declaration of judged stating a certain number of irregularities proved.

In the 1990s elections have started a trend which continues in the present and is characterised by a very high level of violence, bribery and manipulation of votes¹⁵⁴. Following 1990, Egypt had been sinking

¹⁵⁴ Press review covering such episodes: "violence broke out on the eve of the first round of elections; left, a driver is injured at the head in Cairo; below, a death casualty in Qalyoubia". *Violence mars two*, in *Weekly Al-Ahram*, 7-13 December 1995; "in Toukh, north of Cairo, supporters of independent candidate Omar Seifeddin, angered after being denied access to polling stations, threw stones at police who *fired* live ammunition. Four people were killed and many others were injured", from *Rough riding in around three*, in

gradually into a climate of political violence. Mubarak, who was starting his third mandate in the presidential office, sought a solution to contain political instability by the National Discourse (*al-widan al-watan*). In 1993, he invited all “democratic forces” in the country to debate national problem in order to find collectively a common solution”. Such initiative was the prelude of a politics where representation and participation were inconvincibly more apparent than real compared to the effective action aimed at the restriction of positive liberties [70]. In 1990 ten deaths were recorded and an unknown number of people wounded as well. In the 1995 elections, around forty-two people were killed. In 2000, the number of death reached fifty.

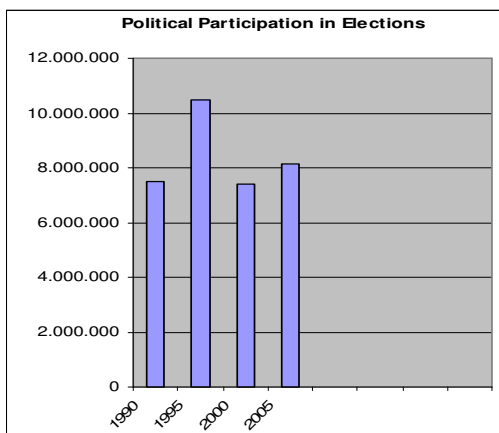
NGOs uncharged of monitoring reported consistent lack of transparency during the entire voting process the closing of polling station for up to several hours during official voting hours without explanations, vote buying, women prevented from voting, cases of violence during electoral campaign (several individuals injured), inaccuracies and inconsistencies regarding the voters’ lists. During the Election Day, violence used to intensify and even NGOs observers received violence: some of them have been beaten and harassed [Independent Committee for Election Monitoring, 2006:44]. In addition, violence from security forces against voters increased. Security forces worked to prevent supporters of the Muslim Brothers, some opposition parties and independents from reaching polling station or refused to

Weekly Al-Ahram 16-22 November 2000; “les ONG dénoncent fraudes et violences dont le taux a remarquablement augmenté par rapport aux deux phases précédentes des élections”, da *Constat eccablant*, in *Hebdo Al-Ahram*, 7th December 2005 ; “la presse revient cette semaine sur la violence qui a marqué les élections législatives, et s’interroge sur l’avenir du nouveau Parlement” da, Kiosque, *Planter la blesseures*, in *Hebdo Al-Ahram*, 14 December 2005, “les ONG dénoncent fraudes et violences dont le taux a remarquablement augmenté par rapport aux deux phases précédentes des élections”, da *Constat eccablant*, in *Hebdo Al-Ahram*, 7 December 2005 ; “fraude, violences et irrégularités en série. Tel est le lot des élections en Egypte. Et celles du Conseil consultatif n’ont pas échappé à la règle. Malgré l’absence quasi totale de l’opposition et l’exclusion des Frères musulmans, affaiblis et laminés par les campagnes d’arrestation et d’intimidation du pouvoir, la baltaga, qui semble être une tradition électorale bien établie, a fait une remarquable apparition dans ces élections”, da *Journal d’un scrutin ordinaire*, in *Hebdo Al-Ahram* 13 -18 June 2007.

¹⁵⁴ Cfr. Bernard-Maugiron. *Op. cit.* 214 ss.

intervene when fights break out between ruling party and opposition candidates to remain neutral. Such form of administrative interference at the polling stations on elections day should not be usual when elections are free and fair. Even women were target of this escalation of violence. They were harassed during street demonstrations protesting the corruption prevalent in the electoral process (like in the case of the so-called Black Referendum) or the NDP-led revision of the Press Law. These episodes of violence, intimidation and bribery have characterized elections all over Egypt since the mid-nineties. They are not sporadic or accidental occurrences. It is extremely relevant the protest against what has been called the Black Wednesday, occurred on 25th May 2005 against the referendum for the amendment to art. 76 Const. During the progress of the referendum procedure, judges called for irregularity. In that occasion several people have been injured, and a few female journalists have been harassed. Similar accident occurred the next year at the celebration of the anniversary of the Black Wednesday¹⁵⁵.

Table VI) Voter turnout in legislative elections 1990-2005



Source: Soliman 2006

¹⁵⁵ Egyptian Centre for Women Rights, *The First Anniversary of Egypt's Black Referendum Day*; H. Jailal, *Women in Black*, in Weekly Al-Ahram, 2-8 June 2005.

When the political climate is so undermined in terms of security and fairness, it is easily expected a low degree of trust in elections by population. The lack of interest is seen clearly by the electoral participation rates (voter turnout): 7.477.726 in 1990, 10.493.500 in 1995, 7.398.456 in 2000 and 8.116.931 and 2005¹⁵⁶. Comparing 1995 and 2000 elections, it appears that participation rate dropped from 50 per cent to 25 per cent (based on the numbers of registered voters)¹⁵⁷. Table VI shows the political participation rate.

It is worth noting that participation in the countryside was generally considerable than voter turnout in urban areas. This phenomenon is probably caused by the persistence of clientelism which in the rural area is by far easier to manage because it supported by sheik and family affiliation.

5.5. Women as voters and candidates

In order to vote, citizens need to be proactive and register on the voting list. Until very recently, a large number of eligible female voters were missing from that list. This was due not only to the perceived low importance of elections but also to women's lack of legal recognition through Identification Cards (ID Cards).

In 1994, for the first time, the International Conference on Population and Development, held in Cairo, shed light on the question of voter turnout and voter registration. Non Governmental Organizations (NGOs) already active in the field reported that women

¹⁵⁶ Data have been collected in the field. The most comprehensive collection has been the book I obtained after an interview with the president of the Egyptian Association for Enhancement of Local Community and the author of the book, a professor at the American University in Cairo, who gave me first hand information, Samer Soliman, collected in his work, *Al-musciarika alsiasia alintikhabat al-naiaia 2005*, Cairo, Egyptian Association for Enhancement of Local Community, 2006, produced with the contribution of European Commission. 27.

¹⁵⁷ The number of registered voters was 16,273,616 in 1990, 20,987,000 in 1995, 24,602,241 in 2000 and 31,826,285 in 2005. Data from Egypt State Information Service and Amre Hashem Rabi, *Electoral Systems and Parliamentary elections in Egypt*, IDEA 2005, 71-95. He is an expert in electoral systems at the Al-Ahram Centre for Political and Strategist studies in Cairo.

were not recognised as citizens, therefore unable to benefit from any formal rights. An NGO survey revealed that 92.6% of Egyptian women¹⁵⁸ were not registered on voting lists although at that time the government had already established the National Council for Motherhood and Childhood (it was created in 1989), as a first governmental attempt to face women's issue.

It was only in 2000 that a real drive to distribute ID and voting cards to women was launched via government and NGO programmes. At that time, a Presidential Decree (No. 90 of 2000) created the National Council for Women (NCW) with the purpose of enhancing the status of Egyptian women and, in the political field, encouraging them not only to vote but also to stand as candidates in elections. According to its mandate, the NCW was expected to work towards raising women's awareness of their rights and abilities and, eventually, guaranteeing their active participation in the political life of the country. As of November 30, 2005, the Council's "National Digital Identification Card Programme" had helped 1,504,617 women obtain their documents (NCW survey)¹⁵⁹.

Since 2000, NGOs as well have started to become seriously involved in the implementation of projects to raise women's awareness and their active participation in political life, starting with the distribution of voting cards (mostly to women living in the poorest suburbs). As a result of the governmental and NGO efforts, unofficial data suggest that currently around 38% of registered voters are women¹⁶⁰. Apart from these legal documents, NGOs have done more than any other political actor to foster a political culture at the grassroots level, by informing citizens of political changes, while at the political level they have promoted dialogue and shared agendas among political parties.

¹⁵⁸ In the 1957 Elections, when Egyptian women voter for the first time, the percentage of women voters was no more than 2.6% of the electorate, stated the National Council for Women Secretary [Farkounda, 2004].

¹⁵⁹ The latest census conducted in November 2006, the percentage of women out of the whole Egyptian population was 48.88%, Egypt State Information Service.

¹⁶⁰ During field research, I privileged the search for primary sources. However, official data which can be considered reliable and exhaustive is hardly available. In this specific case, figures come from interviews with staff from the National Council itself.

I have personally interviewed some of the responsible of major NGOs involved in the field. I have opted for four NGOs samples: three working in Cairo and one in a rural area. In particular I have personally interviewed responsible, followed activities in the field and participated into seminars of the Forum for Women's memory, the Association for Development and Enhancement (ADEW) of women and Egyptian Centre for Women's rights (ECWR) and Better Life Association for Comprehensive Development. The former is based in El-Minya in Upper Egypt where I have been and followed some classes in civic education.

NGOs have been carrying out programmes in the poorest areas of Cairo and in the countryside to make women aware of their rights. Most of the activities of awareness are included in a wider programme of literacy campaign in favour of adult women.

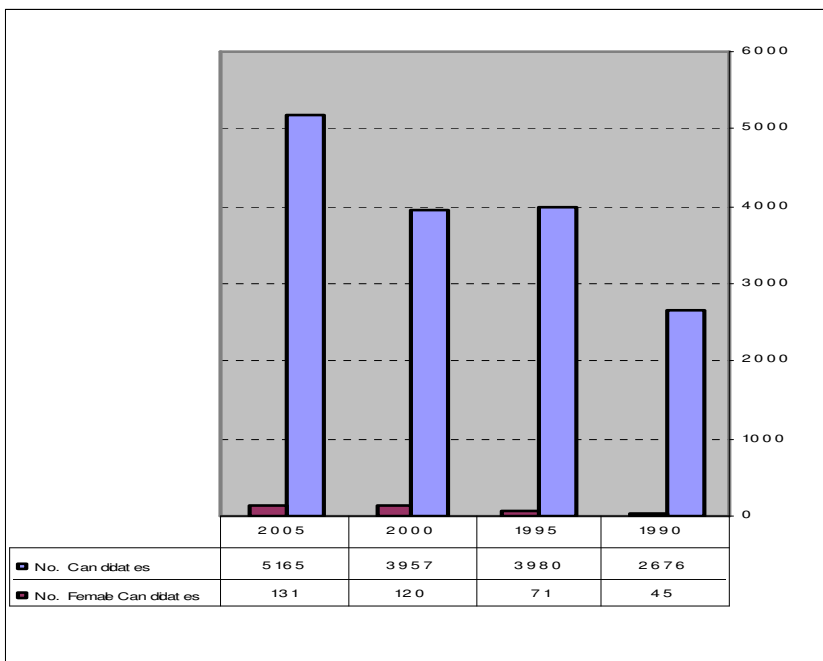
Afterwards, during the 2005 electoral period, a few NGOs active in Cairo started a series of conferences, seminars and roundtables to facilitate the debate on the issue of women in politics by inviting all the actors involved, and drafted suggestions for legal amendments addressed to the government. Before the approval of the constitutional amendments, the Egyptian Centre for Women Rights drafted a list of recommendations and at the time of the debate on the new Law on Exercising Political Rights, they gathered representatives from all the main political parties and activist movements to discuss the restricted provisions which the government intended to put into force. Although not being acknowledged, they have demonstrated a growing willingness to come from the bottom and their ability to turn themselves into a strong and organised voice. Predictably, in the near future, the government is expected to take into account suggestions from such new voices. Their involvement, indeed, has often exceeded the traditional domain of NGO action. Despite being formally outside the political arena, NGOs have in the last few years become substitutes for political parties by promoting awareness through dialogue and shared initiatives between citizens, experts, politicians and, as they are commonly referred to in the field, activists. The main factor behind this necessary political involvement has been the parties' own lack of concern, as we will see below.

As far as women candidates are concerned, their percentage has not significantly changed [NCW, 2005]. In 2000, 121 female

independent candidates ran for election (independents totalled 3036). In 2005 the overall number of female independents had fallen to 111, out of 5165 candidates; 1 ran for the Muslim Brotherhood and 3 for Ghad Party and Karama Party. Out of the three, only Ghad Party has been legally recognised as a party from the Committee of the Political Party headed by the Speaker of the Consultative Council.

As a consequence, the percentage of participants has dropped to 2.4% in 2000/2005 legislature and 1% in the Consultative Council. With the exception of years characterized by the adoption of a quota system; the average of women's representation in the legislature has ranged from 0.5% to 2.4% since 1956 until 2000 legislative elections. Indeed, out of approximately 200 women, who presented themselves as candidates for the 1979 Elections, thirty won the seats reserved for women. Furthermore, women won 3 other seats and the President of the Republic appointed 2 women as Members of Parliament.

Table VII) Number of Female Candidates out of the Total Number of Candidates at the Parliamentary Elections –Source SOLIMAN (2006)



Source: Soliman 2006

Three observations emerge from these numbers.

Firstly, while the number of female candidates has been slowly increasing, women remain a very small percentage of candidates running in 2005 -- despite the fact that the NCW was already actively involved in the field, training and supporting hundreds of female participants (according to the NCW data, almost 1,000 women were involved in the two main programmes).

Secondly, nearly all of them ran as independents, a fact which, regardless of past promises, clearly results from the lack of support from the main parties. The NDP only presented 6 women out of 444 candidates. The political programmes of all the Egyptian parties, however different their ideological orientation, advocated a suitable climate for women to exercise their rights and duties. In reality, however, the political parties have continued to back away from giving women strong support. While some did create formal committees for

women's issues, or at least gave some consideration to women in their overall agenda, women were not seriously included at election time.

The political parties have started to grapple with the issue of women's role in politics and included it in their campaign agenda, pledging for example a certain number of female candidates. Even the Muslim Brotherhood, which traditionally upholds a conservative viewpoint, has changed its attitude towards citizenship and women, at least in public statements [Muslim Brotherhood, 2004]. In 2000, the Brotherhood sponsored its first female candidate, and in 2005, a second woman ran for parliament under its banner.

Broadly speaking, the political actors have all officially pursued policies aimed at the promotion of voter registration and at the participation of citizens both as voters and as candidates, with new and special attention paid to the role of women. Nevertheless, commitment announced in political speeches to support the role of women did not go beyond mere speeches, including the parties "progressive", say Wafd, Tagammoa and the Nasserist party¹⁶¹.

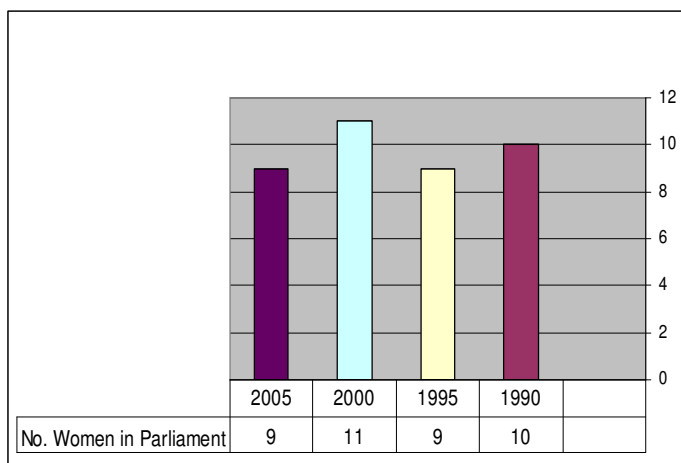
Finally, even if women do run, their chances of winning are very slim. In 2005 only 4 of them earned their seats through election. If more have joined Parliament, it is thanks to the President's constitutional prerogative (art. 87 Const.) to appoint 10 members. Remarkably, since 1995, President Mubarak has increasingly used that prerogative to nominate women.

The recent amendments provide new guarantees for women, artificially achieving a minimum of balance that natural political competition is not yet able to produce by itself (art. 62 Const.).

¹⁶¹ During the recent elections held for the renewal of the Supreme Board of Wafd party only two women out of 40 members. In Tagammoa party, there have been only three women out of 64 members elected to the general assembly. In the Central Committee of the Nasserist Party, there have been only two women elected out of 72 members. Cfr. Nehad Abul Komsan. Political and Economic Discrimination Against Women, The Egyptian Centre for Women's Rights.

As far as the Consultative Council is concerned, it is worth point out that Egypt held mid-term Elections in June and, since no women has been elected, Mubarak who had to appoint 44 members, has opted for 9 women (see Table VIII).

Table VIII) Number of Women MoP (elected and nominated) in Parliamentary



Source SOLIMAN (2006)

In the past, Egyptian women have received special consideration through the adoption of laws promoting their greater participation as a group (see Table VI). Law No. 114 of 1983 stated that “each list in the 31 districts must have a female member,” thereby ensuring that women would hold at least one seat in addition to any they might secure by defeating male candidates. However, the quota system was abolished by Law No. 188 (1986), the Supreme Constitutional Court having declared it unconstitutional: it conflicted with the principle of equality between men and women.

The governmental attitude seeking voters to reinforce their political authority has strongly contributed to the distribution of Identification

Cards, required for voting. Thanks to such documents, government and, in general, the whole society, recognised women as legal persons. Before 2000, such recognition was not so obvious since most of the female population had not documents and, consequently, was not legitimate to enjoy public services.

Besides the legal improvements, the government, along with the political parties and the NGOs, gives the impression of having undertaken substantial actions for the enforcement of political rights. Apparently, the top-down reform has been accompanied by initiatives coming from the bottom (civil society). The whole system seems to be devoted to the cause of women. Nevertheless, qualitative data seems to path an opposite direction.

Helping women get voting cards is a good step since obtaining legal documents implies their recognition as citizens, at long last. However, does holding a voting card mean using it (and complying with one's "national duty" to do so)? Are women fully aware of the importance of exercising their right of vote? And even if they are, is their choice of candidate a fully independent decision?

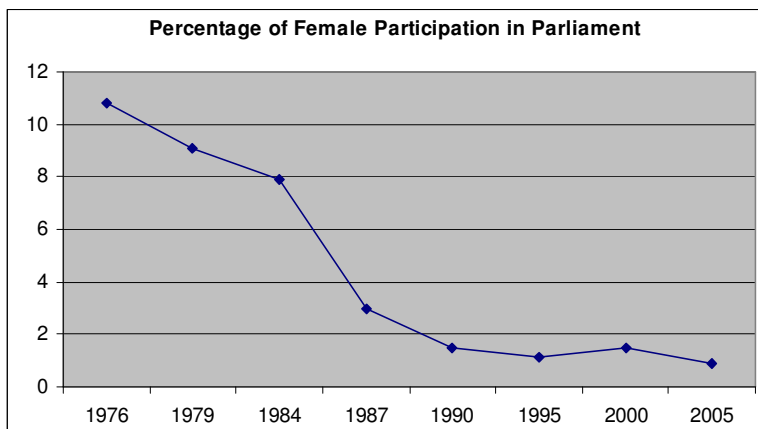
The numbers clearly demonstrate that the distribution of ID cards is not sufficient since women are not fully involved in the political process. A glance at past Egyptian political life, for example during the Nasser period (when women were first allowed to vote and encouraged to become involved in politics), makes it quite obvious that women's participation in politics has suffered a reversal of fortune under Mubarak's presidency. Many female activists have used the comparison with the past when debating the position of women in politics¹⁶².

Several respected associations assigned with monitoring the elections have extensively recorded the repeated manipulation of women's votes, even through intimidation and violence. The Egyptian Centre for Women's Rights (2005) argued about "using women for their votes" and described in its several reports the cases of women prevented from entering polling stations for voting or, at the time of the

¹⁶² Mona Makram Ebeid during an interview in April 2007. Her family contributed to the creation of the Wafd Party. She is a Western educated woman, former MPs, professor in Political Science and she fight to promote a civic education in the country with an active involvement in politics.

presidential election, women's votes being used to collect more consensus¹⁶³.

Table VI) Female Participation in Parliamentary History of Egypt



Source SOLIMAN (2006)

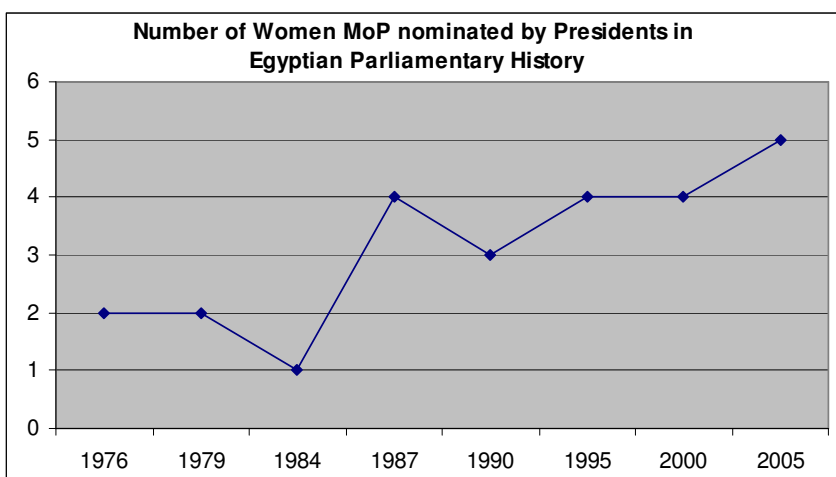
The disappearance of quotas did not have a strong impact on female representation, which the use of a party list system helped keep high. When Resolution 201 (1990) was passed, the party lists were abolished and replaced by individual elections, restricting women's access to parliament by giving them no other option than to compete directly with men for seats. President Mubarak justified his early policy of withdrawing any specific electoral support for women by claiming

¹⁶³ Several cases of violence and sexual harassment were also reported. The chain of violence which started with the 1995 elections continued in 2000 and 2005 when a woman, Soa'ad Tea'alp was run over by a car. A report by the Independent Committee for Elections Monitoring (ICEM, 2005), which was allowed to monitor the referendum amending art. 76 of the Constitution, as well as presidential and parliamentary elections, describes an escalation of violence with 15 fatalities and more than 500 injured. Finally, according to another report from the Centre for Women's Rights on the recent referendum on amending thirty-four articles of the Constitution, some women allowed to enter polling stations were forced to vote "Yes."

that women were capable of challenging men on their own right and no longer needed special legal mechanisms to guarantee their participation in politics¹⁶⁴. He was soon proven wrong.

During the last three parliamentary elections, female representation has been rather low and President Mubarak since 2000 had to use his prerogative - appointment - as Table VII) shows and, ultimately, to re-address the issue at the time of drafting a new reform (see Table B).

Table IX) Women MoP nominated by Presidents in Egyptian Parliamentary History



Source SOLIMAN (2006)

At present, by virtue of amended art. 62 of the 2007 Constitution, women must be guaranteed a minimum number of seats in both

¹⁶⁴ In figures, this participation translates as follows: from 1957 to 2000 women's representation in Parliament only rose from 0.5% to 2.4%. The only exception came in 1979 and 1984 when the figures jumped to 8.9 and 7.86 percent respectively thanks to a law instituted in 1979 which guaranteed that women would get at least 31 seats or no less than 7% of the members of Parliaments.

houses of parliament. That number, however, has yet to be established by law.

5.6. The role of Political Culture

Women's political rights cannot be examined out of context: they are tightly connected with the general legal framework, as a central topic of analysis in political citizenship studies. Political life has been ruled by an Emergency Law since 1981¹⁶⁵. In the presence of an extraordinary situation, namely terrorist threat (which one would expect to be considered temporary), it has restrained the real and effective exercise in daily life, by both men and women, of political rights and freedom of expression and association. Indeed, the Emergency Law has instituted powers of censorship and arbitrary arrest and detention, and authorised the use of special security courts whose verdicts cannot be appealed. In addition, a law targeting freedom of expression and association, and consequently political parties and every kind of public gathering, has been enacted [Human Rights Watch and International Herald Tribune, 2006]. All of which begs the following question: what are the consequences of such double-face politics claiming democratic slogans in theory and adopting this restricted legal attitude in practice?

To a better comprehension it is important to shed light on political culture and informal politics because political participation does not only running for a seat in Parliament. Firstly, local politics can provide a specific angle to analyse a multi-level participation whose Parliament is last step. Egypt political system is composed of a complex legal structure of local administration, mainly Governorate. The current Law of Local Administration, No. 43 of 1979 tackles with the formation of local administration units carving up the territory in governorates, centres, cities, districts and villages¹⁶⁶. The local level works at the very

¹⁶⁵ Actually, the Emergency Law was enacted in 1958. Originally intended for wars, catastrophes and dangerous diseases, it was later extended to situations of terrorism and internal violence. In 1981, following Sadat's assassination, a new law re-established a state of emergency, allowing the government to restrict liberties and undertake any action for the sake of national security.

¹⁶⁶ The Egyptian constitution reserves the third charter of executive authority for the local councils; the charter included three articles, 161, 162 and 163 which

bottom level (grassroots realm). So it should be distant from corrupted politics of Cairo and more encouraging for women. However, looking at recent elections (1987-88-92-97)¹⁶⁷:

Table X) Female representation in local councils from 1983 to 1997:

Local councils	1983	1988	1992	1997
Governorates	15	5.6	4.4	3.2
Central areas	15.2	1.8	4.4	1
Cities	11	2.3	1.3	1.7
Districts	10.7	4.1	3.7	4.5
Villages	5.6	.5	.5	.7
Average	9.2	1.5	1.2	1.2

Source: The Egyptian Centre for Women's Rights 2005

Further local council elections were held in 2002, say more than two years after the Parliamentary elections of November 2000 monitored for the first time by the judiciary thanks to the sentence pronounced by the Supreme Constitutional Court in July. When even at the local level women failed to join the political realm some others

provide for the division of Egypt into local units, each one enjoying its legal representation, which council created by direct elections.

¹⁶⁷ Latest Elections have been held on 8 April 2008 at the time of the writing of my PhD Thesis. Since no definitive results have been published they will not be considered.

factors need to be considered. Women are generally discouraged from taking part in the political life. In addition another phenomenon is to be consider for a wider comprehension: informal politics. Outside the formal sphere, some women are increasingly involved in political affairs: they are the so-called activists, who do not necessarily operate from within political parties or others formal institutions. Furthermore, they are not necessarily part of the government entourage, such as the President's wife, Suzanne Mubarak. These women are active in NGOs, in the press and on such new fora as political blogs. I personally met some of them. They are either journalist or simply activist: they believe either in a secular state or in a state which can find some moral and legal base in the *Sharia*. They are either veiled or not. They face different familiar situation: they are single, divorced, wives, mothers. In essence, there is no unique identikit for female activists. Nevertheless, they have some common features. Most female activists today prefer to leave the official, institutional roles to men and work behind the scene. This is the result of too many cases of violence against women widely described above. As a result, they have fed the popular view of politics as an extremely corrupt and dangerous field. Hence, women refuse to expose themselves by exercising political rights (both the right to vote and run for election)¹⁶⁸.

An atmosphere of violence permeates all aspects of political life (affecting demonstrations, gatherings, meetings and press releases), particularly the electoral process hardly encouraged new citizens to join politics. As far as women are concerned, "old mechanisms", such as the quota system, has been re-established in order to guarantee a minimum of representation in Parliament that the political competition naturally is not yet able to produce by itself. However, a few numbers of candidates have received support from parties, especially from the ruling party and, no women have been called to play substantive role in politics, such as the case of the High Committee of Elections¹⁶⁹, a new

¹⁶⁸ The qualitative research was conducted through a series of interviews with women involved in politics, either in political parties (Al Ghad Party, Al Tagammoa Party and Nasserist Party) or in politically relevant movements (Kifaya), and with journalists close to the political field. Female interviewees were selected to cover the broad spectrum of sometimes conflicting ideologies. Some of them, although activists, opted for the non-registration in the voter's list.

¹⁶⁹ The Committee membership will include: the head of Cairo Court of

body provided for by the 2007 Constitution. It does not include women in its composition.

Three possible causes can be mentioned to explain the phenomenon. In the present work I have stressed the role of a non-free political environment which in the recent past became even more restrictive in terms of political participation in Egyptian public affairs. Indeed, the first and I would say principle reason of a poor participation of citizens and in particular of women in political game is the tense political climate which is facing Egypt. Egyptian political arena is dominated by corruption and violence which prevent women and other groups traditionally marginalised (such as Copts). Political environment has not favoured trust in politics, portraying electoral events in particular as corrupt and unfair. The declining level of voter participation in elections demonstrates the current scepticism about the very value of voting, from 50% in the 1995 parliamentary elections to 25% in 2005. Furthermore, most citizens are more concerned with their personal financial problems in these painful economic times than with the “dirty political game” which they cannot influence anyway. Second, it is true that generally society whose culture and tradition does not fully promote an active role of women in public domain both for tradition which traditionally enforces women’s role to stay at home and take care of her children and house. The interview released by Mohamed Habib, deputy supreme guide of the Muslim Brotherhood published on the Al Ahram is telling. Muslim Brotherhood although a banned party, has currently 88 seats in Parliament. The issues about women and politics emerged in 2005 when Muslim Brotherhood presented a female candidate for legislative elections. Mohammed Habib commented as follows Makarem El-Deiri’s candidature: “We want to emphasise the right of women to contest elections and hold political office. We hoped to field tens of women in the elections. We have extremely qualified sisters who are competent and capable. There are geniuses, and women with great potential. Distinction didn't come to men and then stop there. But there are problems. We have a sister, for example, a university professor who is doing a great job in social work and also in syndicate work. But she has six children and recently

Appeals (Chair), the Chair of the Alexandria Court of Appeals, one representative of the Court of Cassation, one representative of the State Council, three chairs from Appeals Courts, representatives from the previous Cassation Court and four of public persons. (art. 76 and 88 Const).

gave birth to a seventh. What can we do? We wanted to support her candidacy but her husband objected because of the new born". As a commentary to the limited and ineffective female representation in the Muslim Brotherhood organisation (for example, no women entered the Guidance Bureau), he replied:

"In 1995 the MB's Consultative Council held a meeting. The police arrested 83 of them. Then the [authorities] set up military trials. Some of the detained were sentenced to five years, others got three years. We work, and continue to work, in a repressive, tyrannical climate. Look at the detentions and the torture that happen in the State Security Investigation headquarters and which lead in some cases to the death of detainees. Should we subject our women, sisters, daughters to this?" [Al-Ahram Weekly, 2-9 November, 2005].

Third, illiteracy still is common among women in Egypt: it is around 51%. Illiteracy limits women's political awareness and makes it difficult for them to acquire a basic knowledge on their rights. Some of women suffer from a lack of confidence in their ability. This in a way discouraged them to take part in any decision making process. According to the Egyptian Centre for Women's Rights, one of the main recommendation emerged by its several training organised with women is concerned with the need for raise women's legal and political awareness¹⁷⁰. When I interviewed staff at the ADEW, one of the local NGOs above mentioned for its active engagement, an activist revealed that during their advocacy activities at the time of the referendum campaign, some women did not know the meaning of the constitution.

As part of my research in the field, I had the chance to verify women's attitude towards their political rights in the countryside. It is recognised that a certain discrepancy exists between women living in the urban areas and women in the countryside. Former are usually more educated then the latter. Surprisingly the situation was not so different. Indeed, figures shows that even in governorate far from Cairo had a relatively high percentage of female voters. The more recent

¹⁷⁰ The Egyptian Center for Women Rights, (ECWR). Women and local elections: the beginning of the road or the end? Prepared and edited by Nigad El-Bori and Hfe Abu Seda in collaboration with the British Council.

official data have been published in 2001 the percentage of women voters increased to 35.12% of the total number of registered voters throughout the country where the maximum has been reached in the Governorate of Marsa Matruh (46.11%), in North Sinai (46.16%), in Dakahliya (43,62%) and the minimum in the Governorate of Suez (21.66%) [Farkounda, 2004:5]

Chapter 8

Conclusion

The first part of the work provided some basic tools to analyse Egypt, an Arab country which is experiencing an ambiguous path to democracy. In literature, study on Arab countries hardly defined local political system following the classical standards adopted in Political Science. Conventionally, I have considered elections and women's political rights from a rule of law perspective as widely argued in the first chapter. Afterwards, I have presented a brief excursus on constitutional history with special reference to the development of constitutionalism, representation and political right in the region and, eventually, women's suffrage. Representation and political participation via elections are not alien to Egypt and the entirely Arab region which adopted representative bodies, although with mere consultative powers since the XIX century. After its independence, Egypt bestowed full political rights to its citizens and women gained their right to vote in 1956, one of the first country in the region. Since that date, three main presidents succeeded. Mubarak, who arrived to power in 1981, launched a new period of political liberalisation.

In such context, I fit my question: How is the real government's engagement towards the rule of law? I attempted to provide some answers by using the exercise of women's political rights. In general, the political arena in terms of security changed soon and he changed suddenly his appeal for a national dialogue previously launched. His third mandate coincided with a political crisis which led Egypt to a growing climate of political violence. Such situation justified the prorogation of the state of emergency. Practically, it led to further restriction on negative liberties and, as far as popular representation was concerned, to a further erosion of the female importance in representation body. The new century witnessed afterwards some illusionary step ahead. The first multi-party presidential elections held after the approval of a constitutional amendment was the most

optimistic sign of this shifting period. Probably triggered by international organization, Mubarak continued seeking for a public support of its political reform. The government officially claims higher participation of all citizens and promises concrete actions in favour of under-represented groups, such as women. The commitment has been demonstrated by important decision such as the creation of the National Council for Women and a strong campaign aimed at the promotion of women' political rights (both right to vote and stand for election). In practice, it is reluctant to favour a passage from passive citizens into vigorous, active participants. Despite the legal guarantees, female citizens' ability to exercise their political and other important rights has not really improved because the practical attitude adopted by authority still appears contradictory. No real support for women, in particular when they decided to run for a political office. In addition, recent political shifts are considered a sort of deliberalisation process due to the normalisation of the Emergency Law and the recent amendment to the constitution. The situation let analysts questioning the real purpose of Egyptian Government with respect to wide participation and representation.

Recent erosion of political rights, say restriction on freedom of expression and association, which was justified on security grounds, has not encouraged an atmosphere of trust and openness. On the contrary, it has created a political environment in which citizens do not feel free to speak for themselves. As stated before, an atmosphere of violence permeates all aspects of political life (affecting demonstrations, gatherings, meetings and press releases), particularly the electoral process. As far as women are concerned, "old mechanisms", such as the quota system, has been re-established in order to guarantee a minimum of representation in Parliament that the political competition naturally is not yet able to produce by itself. However, a few numbers of candidates have received support from parties, especially from the ruling party and, no women have been called to play substantive role in politics, such as the case of the High Committee of Elections, a new body provided for by the 2007 Constitution. It does not include women in its composition.

Outside the formal sphere, some women are increasingly involved in political affairs: they are the so-called activists, who do not necessarily operate from within political parties or others formal institutions. This is the result of too many cases of violence against

women widely described above. As a result, they have fed the popular view of politics as an extremely corrupt and dangerous field. Hence, women refuse to expose themselves by exercising political rights (both the right to vote and run for election). In this perspective, practice makes the recent formal step undertaken fruitless. Can the fear of getting involved in an unsafe game be considered an obstacle preventing women from exercising their rights? Can the enforcing strategy produce mechanisms preventing the engagement of official promises?

An increase in women's participation requires the political will to substantiate the full "right of citizenship" which the legal framework officially provides for both men and women. It is also conditional upon the existence of active political parties capable of attracting women and seriously supporting their political participation. To a deeper analysis, it seems that the government is still contradictory in its politics and in its wake that of the political parties is far too ambiguous to effectively facilitate the substantial exercise of women's political rights. Until these changes, the opening-up of Egyptian political life to women is likely to remain a slow and tentative process in a male-dominated political system which purports to achieve justice and equality but operates from the wrong premises. The aim of my research was to use women's political right as litmus test for the deliberalisation in act in the country. Indeed, what happened so far? Rhetorical announcement and cosmetic actions seems to characterise government engagement the women's issue. A new national body, theoretically independent, actually dependent directly on the President is an apparent example. The major post inside the National Council for Women has been taken, without any democratic elections by the first lady, Susanne Mubarak. In addition, NCW location, in the same building of the National Democratic Party, the ruling party, is a second simple example of the lack of freedom in action of the body. The decreasing number of women and the lack of support at the day of elections by the National Democratic Party is the real position to be taken into consideration for the analysis. Women's political rights performance revealed two comments. First, women's issue is still not at the top of the agenda of Mubarak's government despite of pressure by the international community. Second, it can be metaphorically used to describe in general Mubarak's politics: formal openness but real negation by the permanence of obstacles. In addition, since the approval of the

constitutional amendment, his plan is even more apparent since the general political environment has witnessed a reversal tendency where no place is bestowed to political participation by excusing freedom of association, of opinion apart from the traditional right to vote and stand for election.

References

Laws and Conventions

1971 Constitution of the Arab Republic of Egypt

2007 Amendments to the Constitution

Law No. 73 of 1956 on Political Rights

Law No. 40 of 1977 on Political Parties

Law No. 88 of 1979 (the women's quota)

Law No. 114 of 1983 (the Elections Law)

Law No. 1888 of 1986

EGM/ELEC/2004/EP.1, 12 January 2004. Electoral Processes in selected countries of the Middle East: a case Study, prepared by Amal Sabbagh.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The full text is available on the United Nation website:

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#intro>

General Guidelines regarding the form and content of reports received from States parties under article 18 of the Convention. Adopted by the Committee at its 24th meeting on 11 August 1983 (CEDAW/C/7 [accessed on 26 December 2007]).

DP/DCP/EGY/1 Draft country programme document for Egypt (2007-2011).

Ecosoc Agreed Conclusion 1997/2 and a/52/3 Chapter IV par. 4 and the Report of the Economic and Social Council for 1997. United Nations, 1997.

EGM/EPWD/2005/EP.5. Mazur Amy. The impact of women's participation and leadership on policy outcomes: a focus on women's policy machineries. Presented at the "Equal participation of women and men in decision making processes, with particular emphasis on political participation and leadership" 24-27 October 2005.

Books and Articles

Hicham Ben Abdallah Al Alaoui. A la recherche d'un état de droit. Être citoyen dans le monde arabe. Le Monde Diplomatique, July 1995.

Hicham Ben Abdallah Al Alaoui. Les régimes arabes modernisent...l'autoritarisme. Le Monde Diplomatique, April 2008.

Hafez Abu Seada. The 2000 Elections: a step forward or a standstill? In A door onto the desert: the Egyptian parliamentary elections of 2000, course, dilemmas. and recommendations for the future, Friedrich Neumanne Foundation, Cairo, 2001.

Abou-Zeid G. *Introducing Quotas in Africa: Discourse in Egypt*. A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference on The Implementation of Quotas: African Experiences. Pretoria, South Africa, 11th -12th November 2003.

Leila Ahmed. Women and Gender in Islam: historical roots and a Modern Debate. Yale University Press, 1992.

Halawi J. Women in Black. Weekly Al-Ahram. 2-8 June 2005.

Al Ahram Weekly. Taking their chance by Amira Howeidy, 2 - 9 November 2005
Issue No. 767

Al-Ahram Weekly Necessary complements by Dena Rashed, 2 - 9 November 2005
Issue No. 767

Al Ahram Weekly. One year and the confrontation continues by Amira Howidy, 1-7 June 2006.

Nazih Ayubi The state and public policies in Egypt since Sadat. Reading, Berks, UK: Ithaca Press, 1991.

Nazih Ayubi. Political Islam: Religion and Politics in the Arab World. Routledge. London and New York. 1991222.

Nazih Ayubi. *Prospects fro Democracy: is the civil society striking back? In Over-stating the Arab State – Politics and Society in the Middle East*. I.B Tauris. London and New York. First printed, 1995 ,396- 446.

Association for the development and Enhancement of Women, Annual Report 2005.

Amnesty International. 2000. Article XIX. 1998. 21–24.

Amnesty International. Egypt: systematic abuses in the name of security. 11 April 2007.

Margot Badran. Competing agenda: Feminists, Islam and the State in 19th and 20th Century Egypt in Kandiyoti Deniz (edited by). Women, Islam and the State. MacMillan, London, 1991. 176-236.

A.Baaklini, G. Denoeux and R.Springborg. Legislative Politics in the Arab World: the Resurgence of Democratic Institutions. Lynne Rienner Publisher. Boulder. 1999. 1.

Dupret Baudoin. A liberal interpretation of a socialist constitution : the Egyptian Supreme Constitutional Court and Privatization of the Public Sector in Eberhard Kienly (edited by) Politics from above, politics from below, the Middle East in the age of economic reform, Saqi, London, 2003, 167-190.

Dupret Baudoin. La Shari'a comme référent législatif. Du droit positif à l'anthropologie du droit in Au nom de quel droit ? Répertoires juridiques et référence religieuse dans la société égyptienne musulmane contemporaine, LGDG / CEDEJ / Éd. de la Maison des sciences de l'Homme, Paris-Cairo, 2000, 71-111.

Dupret Baudouin. Legal pluralism, Normative Plurality and the Arab World in Baudouin Dupret, Maurits Berger and Laila al-Zwaini (eds.), *Legal Pluralism in the Arab World*, Kluwer Law International, The Hague, 1999, 29-40.

Sarah Ben Nefissa and Arafat Ala Al-Din. *Vote et démocraties dans l'Egypte contemporaine*. IRD-Karthala, Paris, 2005.

Nathalie Bernard-Maugiron and Jean-Noel Ferrié. *Les architectures constitutionnelles des régimes politiques arabe : de l'autoritarisme à la démocratisation*, Egypte/Monde Arabe n. 2. Cairo. Cedej. 2005.

Nathalie Bernard-Maugiron. *La politique à l'épreuve du judiciaire: la justice constitutionnelle en Egypte*, Bruylant et Cedej, Bruxelles. 2003. 210.

Roberto Bin and Pitruzzella G..*La Giustizia costituzionale. Diritto Costituzionale*. VI Edition. Torino. Giappichelli Editore. 2005. 401-403.

Nathan J. Brown, Michelle Dunne, Amry Hamzawy, *Egypt's Constitutional Amendments*. Carnegie Endowment for International Peace Publications, Web Commentary, 23th March 2007

Nathan J. Brown. *Constitutions in a Nonconstitutional Word, Arab Basic Laws and the Prospects for Accountable Government*. 2002. State University of New York Press, 4-7; 26-29.

Nathan J. Brown. *Law and Imperialism: Egypt in Comparative Perspective* in *Law & Society Review*. Vol. 29. No. 1 1995. 103-126.

Nathan J. Brown. *The Rule of Law in the Arab World: Courts in Egypt and the Gulf*. Cambridge University Press. New York. 1997. 23-60.

Nathan J. Brown. *Regimes Reinventing Themselves, constitutional development in the Arab World*. *International Sociology*, Vol. 18(1), 2003, 33-52.

Nathan J. Brown and Adel Omar Sherif. *Judicial Independence in the Arab World, A study presented to the program of Arab Governance of the United Nations Development Program*, UNDP.

Nathan J. Brown. Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Government in *The American Political Science Review*, Vol. 96, No. 4 (Dec., 2002), 842-843.

Nathan J. Brown and Hesham Nasr. Egypt's judges step forward, the judicial election boycott and Egyptian reform. *Policy Outlook*. Carnegie Endowment for International Peace, 2005.

Jason Brownlee. The decline of pluralism in Mubarak's Egypt in *Journal of Democracy*, Vol. 13, No. 4, 2002, 6-14.

Jason Brownlee. *Authoritarianism in an Age of Democratization*, Cambridge University press, Cambridge, 2007

Selma Botman. *Engendering Citizenship in Egypt*, Columbia University Press, New York, 1999, 22, 24.

Assia Boutaleb. The Parliamentary Elections of Year 2000 in Egypt: a lesson in political participation in *Elections in the Middle East*, Cairo Papers in Social Science, 23 (1-2), Spring-Summer 2002, 11-25.

Dylan Bowman. Egypt, Jordan slammed for press freedom repression. *Arabbusiness.com*, 17 October 2007.

Andrew Byrnes. Toward more effective enforcement of women's human rights through the use of international human rights law and procedures. In Cook. J. *Human rights of women: national and international perspectives*. Philadelphia. University of Pennsylvania Press. 1994. 189-227.

Paolo Branca, *Tradizione e modernizzazione in Egitto 1789-1998*, Franco Angeli, Milano, 2000, 7-10.

Daniel Brumberg, Democratization in the Arab World? The trap of liberalized autocracy, in *Journal of Democracy*, vol. 13 n. 4, 2002, 56-68

Nils A. Butenshon., Uri Davis, Manuel SHassassian (edited by) 2000. *Citizenship and the State in the Middle East: Approaches and Applications*. Syracuse, New York. Syracuse University Press.

Massimo Campanini. *Storia dell'Egitto contemporaneo: dalla rinascia ottocentista a Mubarak*. Edizioni Lavoro, Roma, 2005.

Antonio Cassese. *International Law*. Oxford University Press, Oxford, 2005, 71.

Thomas Carothers. The end of the transition paradigm. *Journal of Democracy*. Volume 13, Number 1 January 2002. 5-21.

Thomas Carothers. The Rule of Law Revival. *Foreign Affairs* Vol.77 No.2 1998. 95-106.

Thomas Carothers and Marina Ottaway. *Uncharted Journey: Promoting Democracy in The Middle East*. 2005. Carnegie Endowment for International Peace. Washington D.C. 5.

Francesco Cavatorta. Elezioni senza democrazia, il caso algerino in Meridione Sud e Nord nel Mondo, *Oltre la democratizzazione (II): elezioni, politica e potere nel "Grande Medio Oriente"*, Anno VI, No. 1, 2006.

Valentina Colombo. *L'Europa e la Tunisia nel XIX secolo Il percorso più giusto nella conoscenza delle condizioni degli stati di Khayr al-Din al-Tunisi*.

Valentina Colombo, Gustavo Grozzi, *Tradizioni culturali, sistemi giuridici e diritti umani nell'area del Mediterraneo*, Il Mulino Bologna, 2003.

Drude Dahlerup *From a Small to a Large Majority: Women in Scandinavian Politics*, in *Scandinavian Political Studies*, Vol. 11, No.4, 1998, .275-298;

Drude Dahlerup. *Using Quotas to Increase Women's Political Representation*. in Azza Karam, Ed. *Women in Parliament: Beyond Numbers*, Stockholm: International IDEA 1998, .91-108

Drude Dahlerup *Gender Balance in Politics: goals and strategies in a global perspective*. In IDEA (in collaboration with UNDP Cairo, UNIFEM Arab States and National Council for Women in Egypt). *The*

Arab Quota Report: selected case studies. Quota Report Series. Cairo. 2004. 23-24

Paola Degani. Nazioni Unite e “genere”: il sistema di protezione internazionale dei diritti umani delle donne.

Anne-Claire De Gayffier-Bonneville. L'arbre sans racines : la constitution égyptienne de 1923 in Florian Kohstall (edited by). L'Egypte dans l'année 2005, Égypte/Monde arabe, CEDEJ, Cairo, 2005, No. 2, 37-52.

Giuseppe de Vergottini. Le transizioni costituzionali. Il Mulino, 1998, Bologna.

Kate Dalacoura. Egypt, 1970s – 1990s in Islam, Liberalism and Human Rights: Implications for International Relations, I.B. Tauris, London, 1998 (first edition). 114-149.

Larry Diamond and Leonardo Morlino, The quality of democracy: an overview, in Journal of Democracy, vol. 15 n.4, 2004, 23.

Larry Diamond, Elections without democracy: Thinking about hybrid regimes, in Journal of Democracy, Vol. 13 No.2, 2002, 31.

Nadja Dolata (edited by) Gender Mainstreaming in Practice. UNDP in Slovak Republic. 2007.

Mona Makram-Ebeid. Political opposition in Egypt: Democratization, Myth or Reality? in The Middle East Journal, Summer 1989, Vol. 43, No. 3, pp. 424-436.

Nouran Ezz el Din El Shabrawy. The marginalization of women in the

Ahmed Eid Ghafoulou Pouvoir exécutif et processus législatif, in N. Bernard Maugiron e J.N. Ferrié (edited by), Les architectures constitutionnelles des régimes politiques arabe : de l'autoritarisme à la démocratisation, Égypte/Monde Arabe n. 2, Cairo, Cedej, 2005, 105

Marshall T. H.. 1950. Citizenship and Social Class. Cambridge University Press. New York.

Farkounda H. 2004. In depth study on women's participation in politics. Cairo. National Council for Women. 5-6.

Egypt State Information System. Shura Council Elections Video. 2007. Coverage. <http://shura.sis.gov.eg/html/video.htm>

Egyptian Centre for Women's Rights. Bodies Women on Rising, Report on Women in the 2005 Parliamentary Election, 2006.

Egyptian Centre for Women's Rights. Ah-laqa naqaascia haul uadah almarrah fi qanun mbasciarat al-haqiq as-siasiah al-jadid. (Women's Status in the New Law on the Exercise of Political Rights), May 2007.

Egyptian Centre for Women's Rights. Payment in Advance, Report form civil society monitors on women's sections in the polling places during the Egyptian presidential Elections, September, 2005.

Egyptian Centre for Women Rights, The First Anniversary of Egypt's Black Referendum Day.

Egyptian Centre for Women's Rights. Bodies Women on Rising, Report on Women in the 2005 Parliamentary Election, 2006

Egyptian Organization for Human Rights. Hala uguququ alinsan fi misr, altarqir alsanua alaham 2005 (the situation of human rights in Egypt, annual report 2005).

Egyptian Organization for Human Rights. Freedom of opinion and belief: restriction and dilemmas. Cairo, The Egyptian Organization for Human Rights, 1994.

Egyptian Organization for Human Rights. Recurrent detention. Prisoners without trial, Cairo. The Egyptian Organization for Human Rights, 1995.

Egyptian Organization for Human Rights. In defence of Human Rights, Cairo, The Egyptian Organization for Human Rights, 1995.

Egyptian Organization for Human Rights. Democracy Jeopardized: Nobody "passed" the elections: the EOHR account of the Egyptian

parliamentary elections, Cairo, The Egyptian Organization for Human Rights, 1995.

Ehteshami A., Is the Middle East democratizing?, in British Journal of Middle Eastern Studies, Vol. 26 n. 2, 1999, 201.

El Shabrawy Nouran Ezz el Din. The marginalization of women in the political participation process in Egypt. Thesis submitted to the Department of Law at the American University in Cairo, Egypt. December 2005. 15.

Freedom House. Tracking Electoral Democracy: Number of Elected Democracies and Percentage of Electoral Democracy in Freedom House in 2008: selected data from Freedom House's Annual Global Survey of Political Rights and Civil Liberties.

Sarah Graham-Brown. Women and Politics in the Middle East in Suha Sabbagh (edited by). Arab Women: between defiance and restraint. 1996. Olive Branch Press. New York. 3.

Deniz Kandiyoti, Introduction in Kandiyoti D., Women, Islam and the State. MacMillan, London, 1991. 3-7.

Deniz Kandiyoti (Foreword). Gender and Citizenship in Middle Eastern States, Syracuse University Press, New York 2002.

Azza Karam in Women Parliamentarians in the Arab World: challenges and options. The full text is available at the website of POGAR: <http://www.pogar.org/publications/gender/karam1/karama.pdf> [accessed on 20 February 2008].

Kassem Maye, Egyptian Politics, the dynamics of authoritarian regime, London, Lynne Rienner Publishers, 2004, 167, 30-49.

Guy S. Goodwin-Gill. Free and Fair Elections (new expanded edition). Inter-parliamentary Union, Geneva, 2006.

Marco Hamam. Egitto: la svolta attesa, Mubarak l'ultimo faraone, Edizioni Memori, Roma, 2005.

Iman A. Hamdy (edited by). Elections in the Middle East: What do they mean?. Cairo Papers in Social Science - The American University in Cairo Press. Vol. 25 No. 1/2 2004.

Halawi Jailal Women in Black. Weekly Al-Ahram. 2-8 June 2005.

Howdewy A. One year and the confrontation continues. Weekly Al-Ahram, 1-7 June 2006.

Institute for Democracy and Electoral Assistance (IDEA) Handbook on Electoral Systems Design (1997)

---- Building democracy in Egypt. Report date 2005.

Ann Elisabeth Mayer. Restrictions on the rights and freedom of women in Islam and Human Rights, tradition and politics (forth edition), Westview, Oxford, 2007, 113-146.

Amy Mazur. The Impact of Women's Participation and Leadership on Policy Outcomes: A Focus on Women's Policy Machineries. Presented at the Expert Group Meeting on Equal participation of women and men in decision-making processes, with particular emphasis on political participation and leadership. 24.-27 October 2005.

Mona Makram-Ebeid, Elections in Egypt: rumblings for change, in Elections in the Middle East, in Elections in the Middle East: what do they mean?, Cairo Papers in Social Science. vol. 23 No. 1-2. Cairo-New York. The American University in Cairo Press. 2002. 26-37.

Fatima Mernissi. Les Sultanes Oubliées Femmes chefs d'état en Islam, Albin Michel,. Paris, 1990.

Luca Mezzetti, Transizioni costituzionali e Consolidamento democratico negli ordinamenti islamici, in Mezzetti, Le democrazie incerte. Transizioni costituzionali e consolidamento della democrazia in Europa orientale, Africa, America Latina, Asia, Giappichelli, Torino, 2000.

Hatem F. Mervat. The pitfalls of the nationalist discourses on citizenship in Egypt, in Saud Joseph (edited by), *Gender and citizenship in the Middle East*, Syracuse University Press, 2000, 35.

Valentine Moghadam, 1952- *Modernizing women : gender and social change in the Middle East*, Boulder, L. Rienner, 1993.

Leonardo Morlino, *Democrazie e democratizzazioni*, Bologna, Il Mulino, 2003, 232-233.

National Council for Women. *Al-marrah fi al-intihabat maglis alschiaab* (The Woman in the Elections for People's Assembly) 2005. Produced in collaboration with UNIFEM and UNDP. Cairo. 2005

National Council for Human Rights (20005), *Report on Presidential and Parliamentary Elections*.

National Council for Human Rights Annual Report, 2004-05

National Council for Human Rights Annual Report, 2005-06, Chapter 1.3. http://www.nchr.org.eg/en/annual_report.html.

Hans Kelsen. *Foundation of Democracy, Ethics*, Vol. 66 No. 1 Part 2. 1995, 1-101.

Eberhard Kienle, *A grand delusion: democracy and economic reform in Egypt*. I.B. Tauris, London-New York, 2001.

Georgios Kostakos (edited by) *Democratic Elections and the Mediterranean*. 1999. European Union MEDA Programme for Democracy and Hellenic Foundation for European and Foreign Policy. Athens.

Nehad Abul Komsan. *Political and Economic Discrimination Against Women*, The Egyptian Centre for Women's Rights

Ibn Khaldun Center for Development Studies, *Civil Society and Democratization in the Arab World: the season of dissent* Vol 12, No. 143. November 2005.

Saad EddiN Ibrahim, Egypt, Islam and democracy: twelve critical essays Cairo: American University in Cairo, 1996.

Mustafa Sayyid Kamil "A civil society in Egypt" in Toward civil society in the MiddleEast?, Jillian Schwedler (ed. by), London: Lynne Rienner Publishers, 1995, 46-47.

Richard Augustus Norton. Civil society in the Middle East New York: E.J. Brill, 994-96.

Samuel P Huntington. 1991. The third wave: Democratization in the Late Twentieth Century. University of Oklahoma Press.

Guillermo A. O'Donnell. Democracy, Law, and Comparative Politics in Studies in comparative International Development Vol. 36, 2001, 7-36.

Ellen Lust-Okar. Elections under Authoritarianism and Democracy Promotion in the MENA". Paper presented at the Seventh Mediterranean Social and Political Research meeting, Florence and Montecatini Terme in March 2006 organized by European University Institute.

Guillermo O'Donnell, The quality of democracy: why the rule of law matters, in Journal of Democracy, Vol. 15 No. 4, 2004, 32-46.

Maurizio Oliviero. Costituzioni e costituzionalismo nei paesi arabi. Rivista di Diritto Pubblico costituzionale ed europeo. Fascicolo III. 2003. 1111-1136

Marzio Oliviero, Il Costituzionalismo nei paesi arabi. Volume 1. Le costituzioni del Maghreb. Con traduzione dei testi vigenti. Giuffr  Editore, 2003.

Marina Ottaway. Democracy and Constituencies in the Arab World. Carnegie Endowment Paper No. 48. Washington D. 2004. C. 7.

Marina Ottaway. Evaluating Middle East Reform: significant or cosmetic? in Ottaway M. and Choucair-Vizoso J. 2008. Beyond the fa ade: political reform in the Arab world. Carnegie Endowment for International Peace. 2008 pp 1-15.

Roger Owen. *State, Power and Politics in the Making of the Modern Middle East* (3rd Edition), Routledge, London, 2002.

Roger Owen. The practice of electoral democracy in the Arab East and North Africa, some lessons from Nearly a century's experience in Goldberg Ellis, Kasaba Resat and Migdal Joel, *Rules and rights in the Middle East, democracy law, and society*. University of Washington Press, Seattle, London, 1993, 8;17-40.

Marsha Posusney Prispstein. Multi-Party Elections in the Arab World: Institutional Engineering and Oppositional Strategies. *Studies in Comparative International Development*, Vol. 36, Nol 4, 2002, 34-42.

Alain Roussillon, Fatima-Zahara Zryouil. *Etre Femme en Egypte, au Maroc et en Jordanie*. Cedej, Cairo, 2006.

Ghassan Salamé. *Démocraties sans démocrates: politique d'ouverture dans le monde arabe et islamique*, Fayard, Paris, 1994.1.

Suha Sabbagh. Palestine's Hanan Mikhail Ashrawi: an Interview, in Suha Sabbagh (edited by) in *Arab Women: between defiance and restraint*. 1996. Olive Branch Press. New York. 3

Sherin Saadallah, Parameters for popular and Political Democratization in the Arab Mediterranean: the case of Egypt, presented at the Sixth Mediterranean Social and Political Research Meeting, European University Institute, Montecatini Terme, 16-20 March 2005.

Ibrahim, Saad Eddin. Civil Society and Electoral Politics in Egypt, in *Civil Society*, December 1995, n. 10, p. 6.

Samir Khalil Samir P. *La Campagna di Bonaparte in Egitto nell'opera di uno storico copto*, in Branca P. (edited by) *Tradizione e modernizzazione in Egitto*. 2000. Franco Angeli.

Andreas Schedler. The Menu of Manipulation. *Journal of Democracy*, Vol. 13, No. 2, 2002, 36-50.

Andreas Schedler. The nested Game of Democratization by Elections. 2002. *International Political Science Review*. Vol 23. No. 1. 103-122.

Ramirez F. O. Soysal Y. Shanahan S. 1997. The Changing Logic of Political Citizenship: Cross-National Acquisition of Women's Suffrage Rights, 1890 to 1990. *American Sociological Review*. Vol. 62, No. 5. 735-745.

Samer Soliman. 2006. Al-muscharika a-lsiasia al-intikhabat al-naiaia 2005. (Political Participation in Parliamentary Elections). Egyptian Association for Enhancement of Local Community (realised with the contribution of the European Commission). Cairo.

Earl. L Sullivan. Women in Egyptian Public Life. Syracuse: Syracuse University Press 1986, 39, 21, 36.

The Egyptian Center for Women Rights, (ECWR). Women and local elections: the beginning of the road or the end? Prepared and edited by Nigad El-Bori and Hfe Abu Seda in collaboration with the British Council.

Human Rights Watch. Egypt: Security Forces Attack Opposition Demonstrators Eyewitness Testimony of Plainclothes Police Beating Protestors. Press Released. 2 August 2006.

Independent Committee for Elections Monitoring. (2005). A Testimony for History: monitoring the first Pluralistic Egyptian Presidential Elections - The Final Report. Report date September 2005.

Suad Joseph 1986. Gender and Citizenship in Middle Eastern States. Middle East Report, 198, 4.

----- (edited by) with the foreword by Kandiyoti D. 2000. Gender and Citizenship in Middle Eastern States. New York, Syracuse University Press, xiii-xv.

Mona Makram Ebeid, Elections in Egypt: rumblings for change, in Elections in the Middle East, Elections in the Middle East: what do they mean?, Cairo Papers in Social Science, vol. 23 no. 1-2, Cairo-New York, The American University in Cairo Press, 2002, 26-37.

----- What Place for Women? Al-Ahram Weekly. 14 January 2005.

Marshall T. H.. 1950. *Citizenship and Social Class*. Cambridge University Press. New York.

Ministry of Information, 2005, *Parliamentary Elections 2005*. Arab Republic of Egypt.

Muslim Brotherhood. *Muslim Brotherhood Initiatives For Reform in Egypt*. 2006.
<http://www.muslimbrotherhood.co.uk/Home.asp?zPage=Systems&System=PressR&Press=Show&Lang=E&ID=4162>

National Democratic Party (Egypt). *Website Documents. News Vision, Citizenship Rights*.
<http://www.ndp.org.eg/en/Policies/CitizenshipRights.aspx>

Pamela Paxton 2000. *Women's Suffrage in the Measurement of Democracy: Problems of Operationalization*. *Studies in Comparative International Development*. Vol. 35, No. 3. 92-111.

Rai Shirin (ed.), 2003, *Mainstreaming gender, democratizing the state? Institutional mechanism for the advancement of women*, Published for and on behalf of the United Nations, Manchester: Manchester University Press.

Joseph Schacht, *Introduction au droit musulman. Islam d'hier et d'aujourd'hui*, édition Maisonneuve et Larose, Paris 1983, 98.

Carlo Simon Belli. *L'Egitto tra Maghreb e Machrek: Islam e democrazia, equilibri interni, ruolo regionale*. Franco Angeli Editore. Milano, 2002.

Giovanni Sartori. *The Theory of Democracy Revisited*. Chatham, New Jersey: Chatham House, 1987

Hisham. Sharabi,. *Neopatriarchy: A Theory of Distorted Change in Arab Society*. Oxford University Press, Oxford, 1988. 1-39.

Abedl Omar Sherif *Constitutional Law*, in N. Bernard-Maugiron e Dupret B.(edited by) *Egypt and its Law*, 2002, London. Kluwer Law, 315-324

Samer Soliman, *Al-musciarika alsiasia alintikhabat al-naiaia* 2005, Cairo, Egyptian Association for Enhancement of Local Community, 2006, produced with the contribution of European Commission. 27.

Moustafa Tamir, *Law versus the State: The Judicialization of Politics in Egypt*, in *Law and Social Inquiry*, vol. 28, 2003, 889.

The Associated Press. Egyptian police arrest eight activists at protest against sexual harassment of women. *International Herald Tribune*. 14 November 2006.

United Nations Development Programme (UNDP). 2002 Arab Human Development Report 2002: Creating Opportunities for Future Generations. New York: UNDP, 2.

United Nations Development Programme (UNDP). 2005 Arab Human Development Report. Toward the rise of women in the Arab World.

United Nations. *Women and Elections: guide to promoting the participation of women in elections*. 2005. United Nations 17.

United Nations and the Advancement of Women, 1945-1995. The United Nations Blue Books Series, Volume VI, Rev. Ed. (New York, 1996).

UNIFEM. *Securing politics in Progress for Arab Women*. 2004, 269-309.

P.J. Vatikiotis. *The Modern History of Egypt*. Widenfeld and Nicolson, London, 1969, 126. 129

Frédéric Volpi. *Pseudo-democracy in the Muslim world in Third World Quarterly*, Vol. 25, No. 6, 1061-1078.

Danilo Zolo. *Teoria e critica dello stato di diritto*, in P. Costa e D. Zolo (edited by), *Lo stato di diritto: storia, teoria, critica*, Feltrinelli, Milano, 2002, 33.

Azza Wehbe *Legislative Functions of the Arab Parliaments: Comparative Study*. The Kuwaiti case: The decree on women's political

rights as part of the political struggle between the Parliament and the government,
<http://www.pogar.org/publications/legislature/wahby1/section4c.html>. [accessed on 23 February 2008].

Abbas Wael. Help Our Fight for Real Democracy. Washington Post. May 27, 2007

Woodrow Wilson International Centre for Scholars. Middle East Program. 2005. Building a new Iraq: ensuring women's rights.
http://www.wilsoncenter.org/topics/pubs/empoweringwomen_4.pdf [accessed on 15 March 2008].

World Bank. The Gender Policy Agenda to meet demographic and economic needs, in Gender and Development in the Middle East and North Africa, Women in Public Sphere. MENA Development report. 2004. The International Bank for Reconstruction and Development/ The World Bank. Washington D.C. 129-147