

RELIGIOUS POWER, THE STATE, WOMEN'S RIGHTS, AND FAMILY LAW*

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Abstract

Sex discrimination in property rights, marriage and divorce, inheritance, and parenting thwarts women's quest for equal rights, violates international conventions, and contradicts many national constitutions. While many countries have reformed family and personal status laws to promote equality, dozens continue to enforce discriminatory provisions. What explains variation in the degree of sex equality in family law? Analyzing an original dataset on the characteristics of family law in 70 countries between 1975 and 2005, we show that the political institutionalization of religious authority is powerfully associated with the degree to which family law discriminates against women. State involvement in religion offers a better account of variation in sex equality in family law than a wide variety of religious and non-religious factors such political parties, women in parliament, democratization, and economic development.

Introduction

Family law is an essential dimension of women's citizenship in the modern state. The rights established in family law shape women's agency and autonomy; they also regulate access to basic resources—such as land, income, and education—that determine a citizen's ability independently to earn a living among other life chances (World Bank 2012; Deere and León 2001; Agarwal 1994; Kabeer 1994; Okin 1989). Yet family law is a notorious site of sex inequality, historically and in the present. Equal rights enjoyed by women in national constitutions are often contradicted by family and civil codes that subordinate women to the decisions of their husbands and fathers. In the early 21st century, family law in a significant number of countries discriminated against women, denying them the rights held by men and contributing to their disadvantaged social positions.

Why do some countries have family laws that protect women's rights, while others do not? This paper analyzes an original dataset of family law provisions in 70 countries to provide some answers to this question. Though some scholars have analyzed variation in women's rights in family law in select groups of countries (see, e.g., Glendon 1987, 1989; Charrad 2001; Htun 2003; Moghadam 2003; WLUML 2006; Musawah 2009; Kang 2010), little previous research has attempted a global analysis of the political, social, and historical conditions associated with more and less egalitarian family laws.¹

¹ Studies of family law have come mostly from comparative legal studies (see, e.g. Glendon 1987, 1989; Tucker 2008; Esposito and deLong-Bas 2001), a small but growing number of works concerned with women's rights in restrictive family law regimes of the Global South (e.g. Charrad 2001; Htun 2003; Kang 2010; Moghadam 2009; Blofield 2006; Williams 2006; Kandiyoti 1991b), and historical analyses (e.g. Cott 2000; Kerber 1998; Fuess 2004; Phillips 1988). Other works have analyzed more limited aspects of family law in global comparative perspective. Cherif (2010), for example, conducted a global analysis of determinants of equality in inheritance and nationality law based on coding of U.S. State Department Human Rights Report and the *Citizenship Laws of the World* manual; Hudson, Bowen, and Nielsen (2011)

We show that the state's approach to religion is a major factor shaping the degree of sex equality in family law.² Though many other scholars of gender and politics have emphasized the role that religion plays in family law (and women's rights more generally) (see, e.g., Charrad 2001; Htun 2003; Kang 2010; Moghadam 2003, 2009; Blofield 2006; Williams 2006; Razavi and Jenichen 2010), there is less consensus about *what it is about religion* that matters, and why and how it matters. Some scholars working with a broad cross-national perspective focus on particular religions, such as Islam or Catholicism (Fish 2002; Donno and Russett 2004; Castles 1998; Alexander and Welzel 2009; Cherif 2010, 1154); others connect gender equality to the degree of religiosity of a society (Inglehart and Norris 2003). We emphasize the importance of the institutionalized relations between state and religion, which vary considerably across countries. Some states deny religion any official role, while others institutionalize its public presence through constitutional establishment, funding, and enforcement of religious legislation, among other measures (Fox 2008, 2013).

Our analysis reveals a strong association between the political institutionalization of religious authority and sex equality in family law. In countries where political and ecclesiastical power are tightly linked, family law tends to discriminate against women. In the context of a separation of secular and religious institutions, family law tends to be more egalitarian. When religion is institutionalized, patriarchal interpretations—and interpreters—of family law gain greater authority, more immunity to contestation, increasingly insulated from external influences, and more closely linked to the public status of religion. Challenges to particular versions of

analyzed the relationship between inequitable family law and violence against women using the Womanstats database (see fn. 17 below).

² Other factors are also important, including the experience of communism, Western overseas colonialism, and strong feminist movements, and we consider them at length elsewhere (Authors 2011). Since the space limitations of this paper preclude full consideration of all the variables associated with the degree of sex equality in family law, we focus here on religious factors.

family law are seen as challenges to the entire Church-state relationship. These findings affirm the importance of examining the relationship between religion and political institutions (e.g. Katznelson and Stedman Jones 2010; Gill 1998; Gryzmala-Busse 2012), and demonstrate that church-state relations help to shape key political outcomes such as party systems, the development of the welfare state, and the extent and nature of social provision (e.g. Lipset and Rokkan 1967; Kalyvas 1996; Esping-Andersen 1990; Castles 1998; Minkenberg 2002, 2003; Morgan 2006; Kersbergen and Manow 2009).

We do not argue that any and all religions are patriarchal. Religions are best understood as “multivocal” (Stepan 2001): doctrinal interpretations of women’s rights vary within faiths and over time. For example, though state officials and conservative clerics often invoke Islam to defend patriarchal laws, most contemporary movements for egalitarian family law in the Muslim world also present their claims within a religious framework (Mir-Hosseini 1999, 2006; Singerman 2005; Abu-Odeh 2004; Badran 2009; Balchin 2009; Othman, Anwar, and Kasim 2005).³ People have justified practices of sex discrimination *and* legitimized projects of gender equality in the name of religion. As this suggests, religious doctrine is not a thing; it is a site of struggle (Bayat 2007, 4; see also Hajjar 2004; Mir-Hosseini 2006). We show in this paper that the political institutionalization of religious authority—not the hegemony of a particular religion, the strength of religious beliefs, or the assertion of spiritual values by a political party—is the key religious factor associated with differences in discriminatory outcomes across countries.

Theoretical Foundations: Family, the State, and Family Law

The family is foundational to politics. By families, we refer to “social units created by biological or affective ties among people who commonly contribute to one another’s economic,

³ Scholars of Islamic constitutionalism claim that pluralism originates in earlier traditions, but that citizen contestation over religious law was stymied by the state (Quraishi 2008, 2012).

moral, and psychological well being” (Minow 1987, 959-60). The earliest political institutions grew out of family and kin networks (Weber 1978; Adams 2005), and family relations historically supplied normative models of political authority (Cott 2000).⁴ At the same time, politics constitutes the family. Its definition and boundaries--not to mention the roles, relations, and identities of its members--are constituted by political processes and especially by the modern state (see, e.g., Olsen 1985; Nicholson 1998; Okin 1989; Rhode 1989). Families do not exist prior to politics; rather, notions of the family as primordial and prepolitical are the result of politics.⁵ Diverse political actors invoke the family to advance their political agendas and it is the site of ideological and distributional battles (Minow 1987; Strach 2006; Mohamad 2009; Thomas 2011).

Family law consists of legal norms governing the formation and internal relations of these social units. These includes rules about marriage and its dissolution; the respective rights, obligations and capacities of spouses; the relationship between parents and children; marital property; child custody or guardianship; and inheritance. These rules are usually—but not always—codified in national civil or family codes and expressed in judicial decisions. We exclude from consideration the myriad other ways that modern states affect women and families, including but not limited to the domain of “family policy.” Family policy—including paid maternity and parental leave, child care provision, and family allowances administered through the apparatus of the welfare state--has been the subject of considerable scholarship, particularly

⁴ To be sure, not all political theorists have argued for the alignment of familial and political authority. This was the subject of Locke’s classic response to Filmer’s identification of monarchical and patriarchal authority (Locke 1988). Still, many political, legal, and philosophical discourses identify the family as the basic unit of social and political organization and the primary arena for the moral development and education of citizens (Hegel 1999; Rawls 1971; Okin 1989).

⁵ As Butler argues with regard to the subject, it is “perhaps *most* political at the point in which it is claimed to be prior to politics itself” (1995, 47).

in OECD countries (see, e.g., O'Connor, Orloff, and Shaver 1999; Morgan 2003; Gornick and Meyers 2003; Esping-Andersen 2009), but is conceptually and politically distinct from the family laws codified in civil codes and court decisions.⁶

By the early in the 20th century, family law in most places had come to uphold male dominance and enforce women's subordination and dependence. Official codification of social norms and practices tended to produce patriarchal homogeneity in contexts where a diversity of family forms and even women's freedoms had flourished (Ahmed 1992; Dore 2000; Tucker 2008; Glendon 1989). Even the liberal, democratic states that emerged after the U.S. War of Independence and the French Revolution explicitly placed women under the authority of their husbands through institutions such as coverture in the Anglo-American World and *puissance maritale* in the Napoleonic Code (Landes 1988; Kerber 1998; Glendon 1989; Cott 2000; Vogel 1998). During the last third of the twentieth century, many states began to modify these old patriarchal models,⁷ but the process has been uneven. In the first years of the 21st century, discriminatory provisions persisted in a significant number of countries. Why do some legal regimes disadvantage women across many areas, while others treat women and men relatively equally across all, and still others uphold a mix of provisions?

⁶ Questions of family support and social policy are wrapped up in discourses about state spending in a way that family law is not, while family law tends to raise questions of legal reform and other principles less directly implied by family policy. We focus on family law here in order to isolate questions of legal reform from questions of state budgets and labor politics, a distinction that is well-established in the gender and politics and public policy literatures (e.g. Htun and Weldon 2010; Blofield and Haas 2005; Lowi 1964). Consideration of the similarities and differences between these issue types is a priority for future research but is beyond the scope of the present paper.

⁷ Some states adopted egalitarian reforms earlier, including Sweden in the 1920s and Japan in the 1940s (Morgan 2006; Schmidt 2005).

Religion⁸

Understanding global variation in family law requires a close examination of the role of religion. Religious traditions and groups have long been invested in provisions on marriage, inheritance, and parenting. A central component of most ecclesiastical doctrines, these rules are used to demarcate the present and future membership of cultural communities. Sexuality in general, and women's sexuality in particular, features prominently: by regulating how, when, and with whom women and men bear children, family law determines who can become a member of the group and who is responsible for maintaining its values and ways of life (Shachar 2001). Family law connects the status of individual women to the construction and maintenance of group cultural identity (Shachar 2001, 2008; Okin 1999; Razavi and Jenichen 2010).

Religion has the potential to influence family law in myriad ways. Which aspects matter most? Our primary hypothesis is that state-religion relations are the most crucial, though we also test for factors identified in existing scholarship on religion and public policy, such as religiosity, confessional/denominational type, and religious parties (see, e.g. Esping-Andersen 1990; Minkenberg 2002, 2003; Manow 2004; Kahl 2005; Castles 1998; Scheve and Stasavage 2006a,b; Manow and Kersbergen 2009; Stadelmann-Steffen and Traunmüller 2011; Hagopian 2009).

Religion-state relations. Contemporary relations between the state and religion reflect historical patterns of state building. In many countries, new political authorities attempted to usurp or co-opt the social control exercised by religious organizations and other sub-national groups. These struggles produced different outcomes. Some institutional arrangements centralized and imposed secular authority, marginalizing religious doctrines and leaders from

⁸ In this paper, we define religion as “a system of beliefs and practices oriented toward the sacred or supernatural, through which the life experiences of groups of people are given meaning and direction” (Smith, quoted in Gill 2001, 120). This encompasses the world's major faiths as well as the spiritual traditions upheld by smaller cultural groups.

public life. Other states did the opposite: they crafted a special role for religion, codified ecclesiastical law, and granted privileges to religious authorities. Still others chose an intermediate route by incorporating ecclesiastical principles into systems of otherwise secular governance (Charrad 2001; see also Glendon 1989; Kandiyoti 1991b; Joseph 1991; Williams 2006). The legacy of these institutionalized relations between state and religion continue to influence family law, and are crucial to understanding why the degree of equality differs across countries.

Today, there is significant variation in the extent to which state power grants public status to religious doctrines, symbols, and ideas, with configurations ranging from virtual fusion (Saudi Arabia) to complete separation (United States).⁹ Most states lie between these two extremes, producing variation in what we call the *political institutionalization of religious authority*. At one end of the spectrum, the state enforces religious education, holidays, and practices, provides funding for religious institutions, and names ecclesiastical officials, among other measures (Fox 2008). The public legitimacy of religion in such contexts tends to promote “sacralization,” a process in which “the primary aspects of life from family to politics, are suffused with religious rhetoric, symbols, and rituals” (Stark and Iannaccone 1994, 234). Religious doctrine, rather than public or universal reasons, serves as the normative basis of lawmaking (cf. Weber 1978, 226).

⁹ Many scholars of religion and politics disaggregate two dimensions of state-religion relations: restriction and favoritism. The former refers to limitations on the practice of religion and religious organizations; the latter to privileges and subsidies to a particular religion or group of religions (Grim and Finke 2006; Fox 2008; Driessen 2010; Traunmüller and Freitag 2011). As will be discussed below, our measure is closer to the favoritism dimension.

At the other, secular¹⁰ end of the spectrum, the state maintains a normative basis that is at least formally independent of religious institutions and doctrine. Public reasons, not particular religious beliefs, supply the rationale for political decisions (Creppell 2010, 24-35; Rawls 1993).

Though religious doctrine is not *necessarily* patriarchal, it was *historically* so. Religions can and do change, but the state affects the timing and pace of this process. State institutionalization of ecclesiastical doctrine tends to freeze patriarchal interpretations and connect them to the public status of religion more generally. State intervention enhances the authority of certain religious interpretations--and interpreters, rendering them less liable to contestation and less exposed to broader societal influences. Political institutionalization reduces religious pluralism, suppressing currents of religious thought that are more supportive of sex equality.¹¹

It can be hard to reform family law in these contexts. Challenges to the religious interpretations supported by state law come to be seen as challenges to the entire institutional configuration whereby state power reinforces religious authority (and vice versa). Family law becomes a referendum on the role of religion in the polity and on the public and legitimizing character of religious doctrines. To uphold patriarchal family law is to defend religion's role; to favor egalitarian reforms is to challenge the historic bargain between Church and state. As a

¹⁰ Our understanding of secular here is a political one. We refer not to the intensity and pervasiveness of religious beliefs and practices but to the political separation of the state from religion. As many scholars since Marx and Tocqueville have pointed out, political secularization is compatible with a religious society (Casanova 1994; Gill 2001; Jelen and Wilcox 2002; Stark and Iannaccone 1994; Katznelson and Stedman-Jones 2010).

¹¹ Political institutionalization tends to create religious monopolies. Religious officials authorized by the state seek to protect their position from external and internal challengers. Such monopolies tend to make religions top heavy and resistant to change, posing a barrier to reformers seeking to update religious doctrines. This may be why some scholars have found that state involvement depresses religious vitality (Iannaccone 1991; Stark and Iannaccone 1994; Iannaccone, Finke, and Stark 1997; Chaves and Cann 1992; Gill 1998).

result, critics of family law (and other elements of state power) are often branded as heretics. The greater the degree of political institutionalization of religion, the more likely it is that criticism will be suppressed and critics maligned.

For example, Egyptian women who protested sex discrimination in family law were branded as Western and immoral (Singerman 2005). Opponents of legal divorce in Brazil in the 1970s criticized proposals for reform as sinful, and Roman Catholic bishops declared to legislators that “no good Catholic” could vote for the bill (Htun 2003). In Israel, egalitarian reform to orthodox Jewish law has been deemed “inconceivable” for its perceived challenge to the foundations of the polity and the construction of Jewish identity (Halperin-Kaddari 2003, 228). Malaysian feminists who defended women’s rights in the name of Islam were called “traitors,” accused of insulting Islam, and deemed “not qualified enough” to discuss religious topics (Neo 2003, 70; Moustafa 2012; Mohamad 2009). Zainah Anwar, founder of Sisters in Islam in Malaysia, opined that the debate over family law is not so much about women’s rights but “about the place of Islam in the public space and the place of Islam as a source of law and public policy.”¹²

Since political institutionalization links patriarchal family law to the public status of religion more generally, reforms are difficult, and family law will remain discriminatory. We propose that:

H1: In countries with official state religions, family law will be less egalitarian than in polities without official religions.

H2: Family law will be less egalitarian in countries in which the government endorses religious practices and principles in law.

¹² Interview, Petaling Jaya, Malaysia, April 26, 2011.

Institutionalized state-religion relations may not have the same effect across all contexts, as they are shaped by beliefs and practices in society. Since previous research has suggested that the degree of societal religiosity is related to support for women's rights, it is worth exploring its relationship to the degree of sex inequality in family law. Do religious beliefs of citizens play into the impact of institutionalized religion?

Religion-state relations and religiosity. Inglehart and Norris (2003) found a negative association between religiosity—measured by beliefs in God and attendance at religious services, among other factors—and beliefs about gender equality. This suggests that citizens and politicians may prefer laws that reflect conservative religious doctrines on women's family roles. It is not implausible that religiosity will have some effect on sex inequality in family law, namely, that:

H3: Countries with higher degrees of religiosity have less egalitarian family law.

However, we anticipate that on its own, religiosity will not be as consequential for women's rights as is in the context of the fusion of church and state. The main impact of religiosity may come in the way that it conditions the effect of state-religion relations on women's rights. In countries where everyone is a believer, official religious institutions and doctrinal interpretations are widely perceived as legitimate (Hagopian 2009; Htun 2009). In societies where no one believes in God, institutionalized religion has less influence over public policy (Minkenberg 2002). This may be why some studies of family policy and abortion in Europe argue that religion-state relations have the opposite effect of the one we describe here. For example, Scandinavian countries with public, official religions, but very low religiosity, preside over Europe's most expansive family policies, most liberal abortion regimes, and were early liberalizers of patriarchal family laws. In the Netherlands, where Church and state are

institutionally separated but religiosity is higher, family policies and abortion laws have historically been more conservative than in Nordic countries (Morgan 2006; Minkenberg 2002, 2003). This suggests that:

H4: High degrees of political institutionalization of religious authority interact with high degrees of religiosity to produce sex inequality in family law.

In our approach, church-state relations are the primary way that religion is associated with family law. Below, we explain why it is even more powerful than other avenues of influence charted by scholars, such as particular religious types and religious parties.

Confessional/denominational type. Several studies link particular religions to women's low status. For example, Muslim-majority countries, particularly in the Middle East and North African (MENA) region, have attitudes that are relatively unsupportive of gender equality, fewer women in positions of power, lower rates of female labor force participation, and discriminatory laws on citizenship and nationality (Inglehart and Norris 2003, 2004; Fish 2002; Donno and Russett 2004; Ross 2008; Cherif 2010; Alexander and Welzel 2009). Some scholarship has associated Catholic countries of Europe with less feminist policy outcomes in social welfare and abortion policy (Esping-Andersen 1990; Castles 1998; Minkenberg 2003). Government officials seeking to defend sexist laws and practices have invoked Islam, Judaism, Hinduism, Catholicism, and indigenous African customs.¹³

In light of the variation in the interpretation and use of religion, it is difficult to attribute causal power to the singular doctrines of "Islam," "Catholicism," or "Hinduism." Once institutionalized and codified by state power, certain versions of religion may be patriarchal, but

¹³ For example, Israel referenced respect for religious traditions in its reservations to article 16 of CEDAW (Womenwatch 2013). India also introduced reservations to CEDAW for similar reasons (Sezgin 2009, 2011). In Kenya and Uganda, traditionalists opposed family law reform as inconsistent with local custom (Tripp et. al. 2009; Baraza 2009).

this owes to contingent historical factors, not the nature of religion. In fact, countries dominated by the same religion show varied patterns of family law. Consider the difference in timing in the legalization of divorce in Catholic countries in Europe (France (1884), and Ireland (2002)) and in Latin America, with Mexico legalizing in 1917 while Chile waited until 2004. Even in 2013, women in Chile lacked equal rights to marital property. Laws vary across Muslim-majority countries as well: though many countries remain conservative, Tunisia, Turkey, and Morocco have embraced egalitarian approaches, while others such as Iran and Indonesia have become more discriminatory. We therefore propose that:

H5: The political institutionalization of religious authority is more powerfully associated with discriminatory family law than confessional/denominational type.

Religious Parties. The other factor to take into consideration is the presence of religious parties. They have been important actors in debates on family law in many countries, notably including Italy, Chile, Israel, and India (Clark, Hine, and Irving 1974; Htun 2003; Hagopian 2009; Halperin-Kaddari 2003; Hasan 2010). Yet the presence of religious parties does not always correlate with the existence of religious cleavages or otherwise signal the importance of religious actors in political life (Minkenberg 2002; Kalyvas 1996). Due to the internal evolution of religious doctrine—especially among Christian churches—and the potentially moderating effects of political inclusion (e.g. Wickham 2004; Schwedler 2011), religious parties do not always oppose family law reform. We therefore believe that the relationship between religious parties and family will be more ambiguous than state-religion relations.

H6: The political institutionalization of religious authority will have a more powerful association with discriminatory family law than the presence of religious parties in government.

Analysis

In this section, we test our theoretical propositions about the role of religion. Our analysis pools four cross-sections of data (1975, 1985, 1995, 2005) into a single dataset encompassing 70 countries.¹⁴ Our dependent variable is measured using a new index of sex equality in family law (“Index”). The Index assesses formal legal equality in thirteen areas, including marriage, property, parenting, inheritance, and divorce. Values range from 0 to 13. The higher the value of the Index, the more a country’s legal regime can be judged to achieve formal equality. (For a detailed description of the components of the Index, see the supplementary materials.) Since the observations in such a dataset are not independent (for example, the observed characteristics of Hungary in 2005 may be related to those in 1995), analysts prefer to use techniques designed to take the “panel-like” structure of the dataset into account, such as the Random Effects regression analysis we employ here.¹⁵

Our analysis reveals considerable support for hypotheses regarding variation in the degree of sex equality in family law (see Table 1). The GLS results, including both within-country and between-country effects, show that our model performs better at the latter than the

¹⁴ For a list of countries included in the analysis, please see the supplementary materials. Though this set of countries was not selected randomly, there is no compelling reason to think that the findings discussed here would not be generalizable to other national settings. For those concerned about selection bias resulting from self-selection of countries, we would note that our cases are not self-selected. Data about the characteristics of the world’s countries provides some reassurance about the representativeness of this group of countries in key respects. Our findings should be widely applicable except perhaps to the handful of most despotic nations. For a discussion of these issues in panel data more generally see Woolridge 2010, and in cross-national studies see Hug 2003; Jackman 1985; Kohn 1989; Livingstone 2003; Bauer and Ameringan 2010.

¹⁵ The two main panel data analysis techniques are known as fixed effects (FE) and random effects (RE). FE models absorb the time-invariant differences and drop out those explanatory factors that do not change over time, making it inappropriate for a study like ours that aims to take into account both relatively static features (such as religious type) and more dynamic variables (such as feminist movement strength). RE models are appropriate when it seems that differences across entities have some influence on the dependent variable and they can include time invariant variables.

former, but provides insight into both types of variation. Coefficients represent the average effect of the independent variables on the Family Law Index when the variable changes both across time and across countries by one unit. Negative coefficients indicate that a variable is associated with reduced sex equality (greater discrimination) while positive coefficients indicate an association with greater equality (less discrimination).

Religious factors

Our theory expects to find a negative association between the political institutionalization of religious authority and sex equality in family law. We measured political institutionalization in two ways: through the presence of an official *State religion* and the degree to which the state upholds *Religious legislation*.¹⁶ *Religious legislation* was adapted from Jonathan Fox's Religion and the State database (Fox 2008, especially 54-5).¹⁷ Capturing the ways that political authority upholds religious principles across multiple spheres (education, diet, dress, political participation, etc.), it is a count of legislation on religious holidays, religious education, government funding for religion, blasphemy laws, religious requirements for public office, and others. The existence of religious laws in many areas evinces a significant fusion of ecclesiastical and political authority. The adapted measure covers 37 types of religious legislation, and our countries evince a wide range of variation, with Saudi Arabia scoring 31 and the United States scoring 1. The mean is 8 and the SD is 5.8. The establishment of an official *State religion* was measured as a dummy variable, available for all four time points (1975, 1985, 1995, and 2005).

¹⁶ In other analyses (not shown) we also used Fox's Government Involvement in Religion (GIR) variable, which does not perfectly map onto our conceptualization as well as the religious legislation measure. The results are mostly the same, supporting our claim that the relationships we report here are robust and not dependent on particular measures.

¹⁷ We adapted Fox's index for our purposes by excluding his elements that related to the situation of women and the family (e.g. "personal status defined by clergy," "laws on inheritance defined by religion,"). See our supplemental materials for more information.

Religious legislation was available for only 1995 and 2005. In order to capitalize on the availability of a more refined measure and also to use our entire database, we used both of these measures in our analyses¹⁸

As Figure 1 shows, countries with lower scores on *Religious legislation* (those where the government adopts fewer religious laws) tend to have higher scores on the Family Law Index (to be more egalitarian) and countries with higher scores on *Religious legislation* (where the government adopts more religious laws) tend to be less egalitarian.

Turning to the generalized least squares (GLS) regression results in Table 1, the first thing to note is that all of the coefficients for both the *State religion* and *Religious legislation* variables are negative (except for the *State religion* variable in model 5, which includes all religious variables for comparison, where some multicollinearity accounts for the reversed sign). In and of itself, this is an important indicator of the strong relationship between the political institutionalization of religious authority and sex inequality in family law. When a country has a *State religion*, our models estimated that it will have one to two fewer areas of equality in family law (out of 13 possible areas), a statistically as well as substantively significant finding (Models 1 and 2).

Religious legislation, our more refined measure of the political institutionalization of religious authority, was employed in models 3 through 10. (Since data for this variable were available only for 1995 and 2005, the N for these models is smaller.) Our model predicts that a one SD change in the score for *Religious legislation* will be associated with a change in the Family Law Index of nearly 11 additional areas of inequality, nearly the whole range of the dependent variable ($5.7 \cdot .20 = 11.4$). *No other variable we examined had such a robust,*

¹⁸ In other analyses (not shown) we imputed the missing data to see what difference missing the early years made. This only strengthened our analysis (available on request).

statistically significant, and substantively significant impact. This effect held up controlling for region (Model 4), religiosity (Models 2 -10) and for those countries where Islam was the dominant religion (Models 5-8, 10).

What about the degree of religiosity? We measured societal religiosity with Inglehart and Norris's Strength of *Religiosity Scale*. Looking at a scatterplot revealed *Religiosity Scale*, on its own, to be a poor predictor of sex inequality in family law at high levels of religiosity (not shown). As Table 1 reveals, *Religiosity Scale* was not a significant predictor of inequality on its own in any model. However, since *Religiosity Scale*, a more refined measure, was available only for a subset of our dataset, we also used a simpler measure--the World Values Survey question about "importance of God"--to explore whether examining religiosity over a larger span of time and in more countries might better reveal its effects.¹⁹ Our analysis revealed no statistically significant association between the *Importance of God* and sex inequality in family law (models 1 and 2).

We hypothesized that the effects of the political institutionalization of religious authority might vary with the degree of societal support for dominant religious institutions. To test this hypothesis, we examined the interaction between *Religiosity Scale* and *Religious legislation* and found support for our argument (models 9 and 10). Before examining marginal effects over the whole range of our independent variables, let us first examine what the coefficients of the constitutive terms tell us. Constitutive terms are the variables that are part of the interaction examined but that are also included separately in the model (as is necessary to explore interaction effects) (Brambor et al 2005). The coefficient of the constitutive term *Religiosity* in models 9 and 10 is .03 and .03, respectively, but is not significant. This suggests that when

¹⁹ We are grateful to Pippa Norris for suggesting this measure.

Religious legislation is zero, religiosity has no reliably predictive effect on sex equality in family law. Similarly, the coefficient of *Religious legislation* in models 9 and 10 is also positive but not significant (.24 and .20, respectively). This suggests that when religiosity is non-existent (equal to zero), a fusion between church and state has little predictable effect on sex equality in family law.

This is a prediction outside the range of actually existing observations, however, since no country has a complete absence of religious legislation and zero on the religiosity scale. To analyze the effects of the political institutionalization of religious authority at different levels of religiosity, we examined the adjusted predictions of increasing *Religious Legislation* at four different levels of religiosity: *Religiosity* = 10, 40, 70 and 100 (Figure 2).

Our model estimates that at the lowest levels of religiosity, religion-state fusion could produce gains in sex equality in family law, though this is not a statistically significant relationship, probably because there are so few cases at the high end (see the dark blue line in Figure 2, *Religiosity* = 10). In these circumstances, such as Norway and the U.K., it could be the case that the state, in response to democratic demands, may force reforms in religious doctrine and the ecclesiastical hierarchy. (Consider, for example, the U.K. House of Commons' approval, in 2014, of the appointment of women as bishops to the Church of England.) Yet as the political institutionalization of religious authority increases in a context of high religiosity (*Religiosity* = 100, the yellow line), the effects on equality in family law are negative and dramatic. The steep decreases in the Family Law Index suggest that the combination of Church-state fusion and a devout population is a potent mix that obstructs reform of family law to promote sex equality. Egypt, for example, has one of the highest scores on religious legislation and a 90 on the Religiosity scale. Its score on the Family Law Index is 1, one of the three lowest (least

egalitarian) in our entire sample. Even at more middling levels of religiosity (e.g., *Religiosity* = 40, the red line in figure 2), or slightly higher religiosity (e.g., *Religiosity* = 70, the green line), the effects of *Religious legislation* are slightly or even squarely negative, though less dramatic than at the highest levels.

Other mechanisms of religious influence on law did not seem nearly as important as the religious legislation variable, especially in interaction with religiosity. The presence of a *Religious Party* was not significant (Model 5). *Muslim* accounts for a significant decrease in sex equality--the change associated with the entire range of the independent variable is at most 2.82 fewer areas of sex equality--but the coefficients in Models 5 and 6 may overstate the importance of Islam compared to other models. Yet it is important to note that the change associated with one SD of *Religious legislation* (less than even the full range) is more than three times as large, accounting for almost 11 fewer areas of sex equality (as above).

Other actors and contextual factors

Our model also assessed the association between family law and feminist movements, the ratification of CEDAW, historical experiences of communism and Western colonialism, and control variables such as level of democracy, GDP per capita, share of parliamentary seats held by women, and world region. *Feminist movement strength*, entered as a factor variable,²⁰ has a small but substantively significant effect in Model 1: a very strong feminist movement adds about one additional area of sex equality in family law. Our case studies suggested that feminist movements might produce change in family law over a longer period of time as they mobilized

²⁰ We show this variable in the table entered as a factor variable, which treats each value as a category, to show the distinct effect at different levels of feminist movement strength. Analyses treating the variable as a continuous variable (not shown), entered simply as a regular variable, similarly found a significant effect of a strong feminist movement, and a substantively important effect at the highest levels of strength.

allies, raised awareness, and built on international conventions. In order to test this idea we employed a measure that lagged *Feminist movement strength* by one time period (a decade). Even lagged, we still found that the strongest feminist movements added about one area of sex equality in law (Models 2-10), with stronger effects in earlier periods. This lagged indicator was significant in about half the analyses, but further analysis showed that these effects were stronger and more significant for earlier periods than later ones.

CEDAW ratification is not significantly associated with greater sex equality in family law, though it approaches significance (or might be considered significant by some) in later periods. We expected that communism, because it promoted an ideology of formal sex equality and marginalized religion, would create a legacy of sex equality in family law. In our analysis, the effect of *Communist* is positively and significantly associated with sex equality in all ten models. *Former colony*—a dummy variable indicating the experience of Western overseas colonialism—is associated with greater inequality in family law. The coefficient is negative across all ten models and statistically significant in more than half of them (models 1,3,4,6,7,8). We interpret this somewhat less robust finding as confirmation of the pervasiveness of efforts to build national identity around sexist family law in post-colonial societies, efforts which frequently—but not always—were inspired by the political institutionalization of religious authority (see, e.g., Kabeer 1991; Najmabadi 1991; Charrad 2001; Tucker 1998; Williams 2006; Razavi and Jenichen 2010).

We found that *Women in parliament* had a statistically significant effect on sex equality in family law that was fairly consistent in size, if very small, regardless of specification and other model variations. While women in parliament might prevent rollbacks, they tend not to be major instigators of family law reform, a finding that has also been suggested by research in other areas

of women's rights (cf. Weldon 2011). *Democracy* has a statistically significant relationship to family law when examined over three or four decades (models 1 and 2), but this effect is less robust in the analysis focusing on 1995 and 2005 (models 2-10). Region was inconsistently significant. While significant in some models (4), it faded from significance when we controlled for religion and national wealth (GDP) (models 7 and 8). Unlike some other policy issue areas where regional activist networks were very influential, such as violence against women (Htun and Weldon 2012), we found little evidence of regional effects in either the qualitative or quantitative data.

Conclusion

This paper demonstrated a powerful association between sex discrimination in family law and the political institutionalization of religious authority. When state power and religious power are fused, particularly in highly devout societies, it is difficult to reform family law toward greater equality and patriarchal norms endure. Qualitative evidence suggests that, in these contexts, patriarchal family law becomes linked to the public status of religion. Feminist movements and secular activists have a hard time demanding reform without questioning the historical arrangements between Church and state. Their challenges to patriarchal family law come to be seen as threats to the entire apparatus of state and religious authority, often reanimating older struggles over the boundaries and nature of the state-religion relationship. Ecclesiastical hierarchies defend discriminatory family law in order to protect their broader institutional privileges and normative legitimacy. Whereas international norms and transnational movements have helped compel progressive national policy making on gender issues such as violence against women, participation in decision making, and workplace equality, family law has a greater tendency to remain sealed off from political contestation and external influences.

Religion is important to understanding family law, but not the ways often depicted in scholarly literature (especially cross-national statistical analysis). Previous work has a tendency to single out Muslim-majority countries and religious societies as environments conducive to legal sex discrimination. Instead, we focused on the institutionalized fusion of religious and political authority and the rigidities this introduces into both religious and state law. The key factor associated with discriminatory family law is not any particular religion, the degree of religiosity, or the presence of religious parties, but the institutional role states have crafted for religions and the frequent presence of these structures in Muslim-majority polities.

Religion is a field of contestation. Religious beliefs can be deployed for multiple causes, and religious actors have assumed conservative and progressive stances on social issues such as family law as well as human rights, poverty, social insurance, and democratic governance (see, e.g., Gutierrez 1973; Mainwaring 1986; Casanova 1994; Scheve and Stasavage 2006b; Hagopian 2009). Depending on the institutional and political environment in which they are embedded, religious actors from the same denomination may behave in different ways. Braun's work on the role of religious rescue networks during the Holocaust in Netherlands and Belgium shows that Catholic and Protestant churches behaved in opposite ways depending on whether they were the majority or minority religion. It was not Catholicism or Protestantism *per se* that shaped the behavior of religious communities toward Jews, but their institutionalized status as religious minorities (Braun, forthcoming).

Religion can and has been repurposed as a force for sex equality in family law and other areas of social life, but this is harder to accomplish when the state props up particular religious interpretations and actors. Equality advocates should seek not to marginalize religion, or erase its influence from the polity, but to de-link religious power from state power. Though religions in

civil society are not always egalitarian or progressive, they are compelled to be responsive in order to remain relevant (Gill 1998, 2001). The state, not religion, thwarts advances in women's rights.

References

- Abu-Odeh, Lama. 2004. "Modernizing Muslim Family Law: The Case of Egypt." *Vanderbilt Journal of Transnational Law* 37 (October): 1043-1146.
- Adams, Julia. 2005. *The Familial State: Ruling Families and Merchant Capitalism in Early Modern Europe*. Ithaca: Cornell University Press.
- Agarwal, Bina. 1994. *A Field of One's Own: Gender and Land Rights in South Asia*. Cambridge: Cambridge University Press.
- Ahmed, Leila. 1992. *Women and Gender in Islam: Historical Roots of a Modern Debate*. New Haven, CT: Yale University Press.
- Alexander, Amy C., and Christian Welzel. 2009. "Islam's Patriarchal Effect: Spurious or Genuine?" August 19. <http://ssrn.com/abstract=1458000> (May 17, 2012).
- Badran, Margot. 2009. *Feminism in Islam: Secular and Religious Convergences*. Oxford: Oneworld.
- Balchin, Cassandra. 2009. "Family Law in Contemporary Muslim Contexts: Triggers and Strategies for Change." In *Wanted: Equality and Justice in the Muslim Family*, ed. Zainah Anwar. Kuala Lumpur: Musawah, 209-36.
- Baraza, Nancy. 2009. "Family Law Reforms in Kenya: An Overview." Presented at the Henrich Böll Foundation's Gender Forum in Nairobi. www.boell.or.ke.
- Bauer, David, and Carl F. Ameringer. 2010. "A Framework for Identifying Similarities Among Countries to Improve Cross-National Comparisons of Health Systems." *Health & Place* 16 (6): 1129-1135.
- Bayat, Asef. 2007. *Making Islam Democratic: Social Movements and the Post-Islamist Turn*. Stanford: Stanford University Press.
- Blofield, Merike. 2006. *The Politics of Moral Sin: Abortion and Divorce in Spain, Chile, and Argentina*. New York: Routledge.
- Blofield, Merike and Liesl Haas. 2005. "Defining a Democracy: Reforming the Laws on Women's Rights in Chile, 1990-2002." *Latin American Politics and Society* 47 (3).
- Brambor, Thomas, William Roberts Clark, & Matt Golder. 2006. "Understanding Interaction Models: Improving Empirical Analyses." *Political Analysis* 14: 63-82.
- Braun, Robert. Forthcoming. *Religious Minorities and Resistance to Genocide: The Collective Rescue of Jews During the Holocaust*. Ph.D. Dissertation, Cornell University.
- Butler, Judith. 1995. "Contingent Foundations: Feminism and the Question of 'Postmodernism'." In *Feminist Contentions*. New York: Routledge, 35-57.
- Casanova, José. 1994. *Public Religions in the Modern World*. Chicago: Univ. of Chicago Press.
- Castles, Frances G. 1998. *Comparative Public Policy: Patterns of Post-War Transformation*. Northampton, MA: Edward Elgar Publishing.
- Charrad, Mounira. 2001. *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco*. Berkeley, CA: The University of California Press.
- Chaves, Mark, and David E. Cann. 1992. "Regulation, Pluralism, and Religious Market Structure: Explaining Religions Vitality." *Rationality and Society* 4 (3): 272-290.
- Cherif, Feryal M. 2010. "Culture, Rights, and Norms: Woman's Rights Reform in Muslim Countries." *Journal of Politics* 72 (4): 1144-1160.
- Clark, Martin, David Hine, and R.E.M. Irving. 1974. "Divorce—Italian Style." *Parliamentary Affairs* 27 (June): 333-358.

- Cott, Nancy F. 2000. *Public Vows: A History of Marriage and the Nation*. Cambridge: Harvard University Press
- Creppell, Ingrid. 2010. "Secularization: Religion and the Roots of Innovation in the Political Sphere." In *Religion and the Political Imagination*, eds. Ira Katznelson and Gareth Stedman Jones. New York: Cambridge University Press, 23-45.
- Deere, Carmen Diana, and Magdalena León. 2001. *Empowering Women: Land and Property Rights in Latin America*. Pittsburgh: University of Pittsburgh Press.
- Donno, Daniela, and Bruce Russett. 2004. "Islam, Authoritarianism, and Female Empowerment: What are the Linkages?" *World Politics* 56 (4): 582-607.
- Dore, Elizabeth. 2000. "One Step Forward, Two Steps Back: Gender and the State in the Long Nineteenth Century." In *Hidden Histories of Gender and the State in Latin America*, eds. Elizabeth Dore and Maxine Molyneux. Durham, NC: Duke University Press.
- Driessen, Michael D. 2010. "Religion, State, and Democracy: Analyzing Two Dimensions of Church-State Arrangements." *Politics and Religion* 3 (1): 55-80.
- Esping-Andersen, Gøsta. 1990. *The Three Worlds of Welfare Capitalism*. Princeton: Princeton University Press.
- Esping-Andersen, Gøsta. 2009. *Incomplete Revolution: Adapting Welfare States to Women's New Roles*. Cambridge, UK: Polity Press.
- Esposito, John L., and Natana DeLong-Bas. 2001. *Women in Muslim Family Law*. 2nd Edition. Syracuse, NY: Syracuse University Press.
- Fish, M. Steven. 2002. "Islam and Authoritarianism." *World Politics* 55 (1): 4-37.
- Fox, Jonathan. 2008. *A World Survey of Religion and the State*. New York: Cambridge University Press.
- Fox, Jonathan. 2013. *An Introduction to Religion and Politics*. New York: Routledge.
- Fuess, Harald. 2004. *Divorce in Japan: Family, Gender and the State 1600-2000*. Palo Alto, CA: Stanford University Press.
- Gill, Anthony. 1998. *Rendering Unto Caesar: The Catholic Church and the State in Latin America*. Chicago: University of Chicago Press.
- Gill, Anthony. 2001. "Religion and Comparative Politics." *Annual Review of Political Science* 4: 17-138.
- Glendon, Mary Ann. 1987. *Abortion and Divorce in Western Law*. Boston, MA: Harvard University Press.
- Glendon, Mary Ann. 1989. *The Transformation of Family Law*. Chicago, IL: University of Chicago Press.
- Gornick, Janet C., and Marcia K. Meyers. 2003. *Families that Work: Policies for Reconciling Parenthood and Employment*. New York: Russell Sage.
- Grim, Brian J., and Roger Finke. 2006. "International Religion Indices: Government Regulation, Government Favoritism, and Social Regulation of Religion." *Interdisciplinary Journal of Research on Religion* 2(1): 1-40.
- Gryzmala-Busse, Anna. 2012. "Why Comparative Politics Should Take Religion (More) Seriously." *Annual Review of Political Science* 15: 421-442.
- Gutierrez, Gustavo. 1973. *A Theology of Liberation: History, Politics, and Salvation*. New York: Orbis Books.
- Hagopian, Frances. 2009. "Social Justice, Moral Values, or Institutional Interests? Church Responses to the Democratic Challenge in Latin America." In *Religious Pluralism*,

- Democracy, and the Catholic Church in Latin America*, ed. Frances Hagopian. Notre Dame, IN: University of Notre Dame, 257-332.
- Hajjar, Lisa. 2004. "Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis." *Law & Social Inquiry* 29, no. 1 (Winter): 1-38.
- Halperin-Kaddari, Ruth. 2003. *Women in Israel: A State of Their Own*. Philadelphia: University of Pennsylvania Press.
- Hasan, Zoya. 2010. "Gender, Religion, and Democratic Politics in India." *Third World Quarterly* 31 (6): 939-954.
- Hegel, G.W.F. 1999. *Elements of the Philosophy of Right*. Ed. Allen W. Wood. Cambridge: Cambridge University Press.
- Htun, Mala. 2003. *Sex and the State: Abortion, Divorce and the Family Under Latin American Dictatorships and Democracy*. New York: Cambridge University Press.
- Htun, Mala. 2009. "Life, Liberty and Family Values: Church and State in the Struggle Over Abortion in Latin America." In *Contemporary Catholicism, Religious Pluralism, and Democracy in Latin America*, ed. Frances Hagopian. Notre Dame: University of Notre Dame Press.
- Htun, Mala and S. Laurel Weldon. 2010. "When do Governments Promote Women's Rights? A Framework for the Comparative Analysis of Sex Equality Policy," *Perspectives on Politics* 8, 1: 207-216.
- Htun, Mala, and S. Laurel Weldon. 2012. "The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective." *American Political Science Review* 106, 3: 548-569.
- Hudson, Valerie M., Donna Lee Bowen, and Perpetua Lynne Nielsen. 2011. "What is the Relationship between Inequality in Family Law and Violence against Women? Approaching the Issue of Legal Enclaves." *Politics and Gender* 7 (4): 453-492.
- Hug, Simon. 2003. "Selection Bias in Comparative Research: The Case of Incomplete Data Sets." *Political Analysis* 11 (3): 255-274.
- Iannaccone, Laurence R. 1991. "The Consequences of Religious Market Regulation: Adam Smith and the Economics of Religion." *Rationality and Society* 3 (2): 156-177.
- Iannaccone, Laurence R., Roger Finke, and Rodney Stark. 1997. "Deregulating Religion: The Economics of Church and State." *Economic Inquiry* 35 (2): 350-364.
- Inglehart, Ronald, and Pippa Norris. 2003. *Rising Tide: Gender Equality and Cultural Change Around the World*. New York: Cambridge University Press.
- Inglehart, Ronald, and Pippa Norris. 2004. *Sacred and Secular: Religion and Politics Worldwide*. New York: Cambridge University Press.
- Jackman, Robert W. 1985. "Cross-national Statistical Research and the Study of Comparative Politics." *American Journal of Political Science* 29 (1): 161-182.
- Jelen, Ted Gerard, and Clyde Wilcox. 2002. "Religion: The One, The Few, and the Many." In *Religion and Politics in Comparative Perspective: The One, The Few, and The Many*, eds. Ted Gerard Jelen and Clyde Wilcox. Cambridge: Cambridge University Press: 1-26.
- Joseph, Suad. 1991. "Elite Strategies for State Building: Women, Family, Religion and State in Iraq and Lebanon," in Kandiyoti, ed. 1991. *Women, Islam and the State*. Temple University Press.
- Kabeer, Naila. 1991. "The Quest for National Identity: Women, Islam, and the State in Bangladesh," in Kandiyoti, ed. 1991. *Women, Islam and the State*. Temple Univ. Press.

- Kabeer, Naila. 1994. *Reversed Realities: Gender Hierarchies in Development Thought*. London: Verso.
- Kahl, Sigrun. 2005. "The Religious Roots of Modern Poverty Policy: Catholic, Lutheran and Reformed Protestant Traditions Compared." *European Journal of Sociology* 46 (1): 91-126.
- Kalyvas, Stathis. 1996. *The Rise of Christian Democracy in Europe*. Ithaca: Cornell Univ. Press.
- Kandiyoti, Deniz. 1991a. "End of Empire: Islam, Nationalism and Women in Turkey." In *Women, Islam and the State*, ed. Deniz Kandiyoti. Philadelphia: Temple University Press, 22-47.
- Kandiyoti, Deniz. 1991b. "Introduction." In *Women, Islam and the State*, ed. Deniz Kandiyoti. Philadelphia: Temple University Press, 1-21.
- Kang, Alice J. 2010. "Bargaining with Islam: Of Rule, Religion and Women in Niger." Ph.D. diss. University of Wisconsin-Madison.
- Katznelson, Ira, and Gareth Stedman-Jones. 2010. "Introduction: Multiple Secularities." In: *Religion and the Political Imagination*. Cambridge: Cambridge University Press.
- Kerber, Linda J. 1998. *No Constitutional Rights to be Ladies: Women and the Obligations of Citizenship*. New York: Hill and Wang.
- Kersbergen, Kees van, and Philip Manow, eds. 2009. *Religion, Class Coalitions, and Welfare States*. New York: Cambridge University Press.
- Kohn, Melvin L., ed. 1989. *Cross-National Research in Sociology*. Newbury Park: Sage.
- Landes, Joan B. 1988. *Women and the Public Sphere in the Age of the French Revolution*. Ithaca, NY: Cornell University Press.
- Lipset, Seymour Martin and Stein Rokkan. 1967. "Cleavage Structures, Party Systems, and Voter Alignments: An Introduction," in Lipset and Rokkan, eds., *Party Systems and Voter Alignments: Cross-National Perspectives*: New York: The Free Press, pp. 1-64.
- Livingstone, Sonia. 2003. "On the Challenges of Cross-National Comparative Media Research." *European Journal of Communication*, 18 (4): 477-500.
- Locke, John. 1988. *Two Treaties of Government*, ed. Peter Laslett. Cambridge: Cambridge University Press.
- Lowi, Theodore. 1964. "American Business, Public Policy, Case-Studies, and Political Theory," *World Politics* 16(4): 677-715.
- Mainwaring, Scott. 1986. *The Catholic Church and Politics in Brazil, 1916-1985*. Stanford, CA: Stanford University Press.
- Minkenberg, Michael. 2002. "Religion and Public Policy," *Comparative Political Studies* 35, no. 2 (March): 221-247.
- Minkenberg, Michael. 2003. "The Policy Impact of Church-State Relations: Family Policy and Abortion in Britain, France, and Germany." *West European Politics* 26 (1): 195-217.
- Minow, Martha. 1987. "We, the Family: Constitutional Rights and American Families." *The Journal of American History* 74 (3): 959-983.
- Mir-Hosseini, Ziba. 1999. *Islam and Gender: The Religious Debate in Contemporary Iran*. Princeton, NJ: Princeton University Press.
- Mir-Hosseini, Ziba. 2006. "Muslim Women's Quest for Equality: Between Islamic Law and Feminism." *Critical Inquiry* 32, no. 4 (Summer): 629-645.
- Moghadam, Valentine. 2003. *Modernizing Women: Gender and Social Change in the Middle East*. 2nd Ed. Boulder: Westview.

- Moghadam, Valentine. 2009. *Globalization and Social Movements: Islamism, Feminism, and the Global Justice Movement*. Lanham, MD: Rowman & Littlefield.
- Mohamad, Maznah. 2009. "Islam and Family Legal Contests in Malaysia." Asia Research Institute Working Paper Series no. 109. National University of Singapore.
- Morgan, Kimberly. 2003. "Gender and the Welfare State: New Research on the Origins and Consequences of Social Policy Regimes." *Comparative Politics* 34 (1): 105-124.
- Morgan, Kimberly. 2006. *Working Mothers and the Welfare State*. Stanford: Stanford University Press.
- Moustafa, Tamir. 2013. "Islamic Law, Women's Rights, and Popular Legal Consciousness on Malaysia." *Law and Social Inquiry* 38, 1: 168-188.
- Musawah. 2009. *Home Truths. A Global Report on Equality in the Muslim Family*. Petaling Jaya, Malaysia: Sisters in Islam.
- Najmabadi, Afsaneh. 1991. "Hazards of Modernity and Morality: Women, State and Ideology in Contemporary Iran." In *Women, Islam, and the State* ed. Deniz Kandiyoti. Philadelphia: Temple University Press. 48-76
- Neo, Jaclyn Ling-Chien. 2003. "'Anti-God, Anti-Islam, and Anti-Quran': Expanding the Range of Participants and Parameters in Discourse over Women's Rights and Islam in Malaysia." *Pacific Basin Law Journal* 21, 29: 29-74.
- O'Connor, Julia S., Ann Shola Orloff, and Sheila Shaver. 1999. *States, Markets, Families: Gender, Liberalism, and Social Policy in Australia, Canada, Great Britain and the United States*. Cambridge: Cambridge University Press.
- Okin, Susan Moller. 1989. *Justice, Gender and the Family*. New York: Basic Books.
- Olsen, Frances E. 1985. "The Myth of State Intervention in the Family." *University of Michigan Journal of Law Reform* 18 (4): 835-843.
- Othman, Norani, Zainah Anwar, and Zaitun Mohamed Kasim. 2005. "Malaysia: Islamization, Muslim politics, and state authoritarianism." In: Norani Othman, ed. *Muslim Women and the Challenge of Islamic Extremism*. Petaling Jaya, Malaysia: Sisters in Islam.
- Phillips, Roderick. 1988. *Putting Asunder: A History of Divorce in Western Society*. New York: Cambridge University Press.
- Quraishi, Asifa. 2008. "Who Says Shari'a Demands the Stoning of Women? A Description of Islamic Law and Constitutionalism." *Berkeley J. of Middle Eastern and Islamic Law* 1, 1: 163-177.
- Quraishi, Asifa. 2012. "The Separation of Powers in the Tradition of Islamic Statehood." In Rainer Grote and Tilmann Röder, eds., *Constitutionalism in Islamic Countries*. New York: Oxford University Press.
- Rawls, John. 1971. *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- Rawls, John. 1993. *Political Liberalism*. New York: Columbia Univ. Press.
- Razavi, Shahra, and Anne Jenichen. 2010. "The Unhappy Marriage of Religion and Politics: Problems and Pitfalls for Gender Equality." *Third World Quarterly* 31 (6): 833-850.
- Rhode, Deborah L. 1989. *Justice and Gender: Sex Discrimination and the Law*. Cambridge, MA: Harvard University Press.
- Ross, Michael L. 2008. "Oil, Islam and Women." *American Political Science Review* 102 (1): 107-123.
- Shachar, Ayelet. 2001. *Multicultural Jurisdictions: Cultural Differences and Women's Rights*. New York: Cambridge University Press.

- Shachar, Ayelet. 2008. "Privatizing Diversity: A Cautionary Tale from Religious Arbitration in Family Law." *Theoretical Inquiries in Law* 9, no. 2: 573-607.
- Scheve, Kenneth, and David Stasavege. 2006a. "Religion and Preferences for Social Insurance." *Quarterly Journal of Political Science* 1 (3): 255-286.
- Scheve, Kenneth, and David Stasavege. 2006b. "The Political Economy of Religion and Social Insurance in the United States, 1910-1939." *Studies in American Political Development* 20 (Fall): 132-159.
- Schmidt, Petra. 2005. "Family Law." In *History of Law in Japan since 1868*, ed. Wilhelm Röhl. Leiden: Brill Academic Publishers, 262-304.
- Schwedler, Jillian. 2007. *Faith in Moderation: Islamist Parties in Jordan and Yemen*. New York: Cambridge University Press.
- Schwedler, Jillian. 2011. "Review Article: Can Islamists become Moderates? Rethinking the Inclusion-Moderation Hypothesis." *World Politics* 63, no. 2 (April): 347-376.
- Sezgin, Yüksel. 2009. "Legal Unification and Nation Building in the Post-colonial World: A Comparison of Israel and India." *The Journal of Comparative Asian Development* 8, no. 2 (Fall): 273-297.
- Sezgin, Yüksel. 2011. "Women's Rights in the Triangle of State, Law, and Religion: A Comparison of Egypt and India." *Emory International Law Review* 25: 1007-1028.
- Singerman, Diane. 2005. "Rewriting Divorce in Egypt." in *Remaking Muslim Politics: Pluralism, Contestation, Democratization*, ed. Robert Hefner. Princeton: Princeton University Press, 161-188.
- Stadelmann-Steffen, Isabelle, and Traunmüller, Richard. 2011. "Der religiöse Faktor in der Familienpolitik. Ein empirischer Test klassischer und neuerer Ansätze im Vergleich von 27 OECD-Ländern" *Zeitschrift für Sozialreform* 57(4): 383-408.
- Stark, Rodney, and Laurence R. Iannaccone. 1994. "A Supply-Side Reinterpretation of the 'Secularization' of Europe." *Journal for the Scientific Study of Religion* 33: 230-252.
- Stepan, Alfred. 2001. *Arguing Comparative Politics*. Oxford: Oxford University Press.
- Thomas, Gwynn. 2011. *Contesting Legitimacy in Chile: Familial Ideals, Citizenship, and Political Struggle, 1970-1990*. University Park, PA: Pennsylvania State Univ. Press.
- Traunmüller, Richard, and Markus Freitag. 2011. "State Support of Religion: Making or Breaking Faith-Based Social Capital?" *Comparative Politics* 43 (3): 253-369.
- Tripp, Aili Mari, Isabel Casimiro, Joy Kwesiga, and Alice Mungwa. 2009. *African Women's Movements: Transforming Political Landscapes*. New York: Cambridge Univ. Press.
- Tucker, Judith E. 1998. *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine*. Berkeley, CA: University of California Press.
- Tucker, Judith E. 2008. *Women, Family and Gender in Islamic Law*. Cambridge: Cambridge University Press.
- Vogel, Ursula. 1998. "The State and the Making of Gender: Some Historical Legacies." In: *Gender, Politics and the State* Ed. Vicky Randall and Georgina Waylen. New York: Routledge.
- Weber, Max. 1978. *Economy and Society*. Eds. Guenther Roth and Claus Wittich. Berkeley: University of California Press.
- Weldon, S. Laurel. 2011. *When Protest Makes Policy: How Social Movements Represent Disadvantaged Groups*. Ann Arbor, MI: University of Michigan Press.
- Wickham, Carrie Rosefsky. 2004. "The Path to Moderation: Strategy and Learning in the Formation of Egypt's Wasat Party." *Comparative Politics* 36 (2): 205-228.

- Williams, Rina Verna. 2006. *Postcolonial Politics and Personal Laws: Colonial Legal Legacies and the Indian State*. New York: Oxford University Press.
- Women Living Under Muslim Laws (WLUML). 2006. *Knowing Our Rights: Women, Family, Laws and Customs in the Muslim World*. 3rd ed. London: Women Living Under Muslim Laws.
- Womenwatch. 2013. "Declarations, Reservations, and Objections to CEDAW." <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>
- Wooldridge, Jeffrey M. 2010. *Economic Analysis of Cross Section and Panel Data*. 2nd ed. Cambridge, MA: MIT Press.
- World Bank. 2012. *World Development Report 2012: Gender Equality and Development*. Washington, D.C.: The World Bank.

Table 1: Panel Regression Analysis Results (Coefficients, Standard Errors in parentheses)

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10
State Religion	-1.73*** (0.43)	-1.50** (0.50)			0.09 (0.43)					
Religious Legislation			-0.28*** (0.04)	-0.20*** (0.04)	-0.18*** (0.05)	-0.19*** (0.04)	-0.17*** (0.04)	-0.18*** (0.04)	0.24 (0.15)	0.20 (0.14)
Religiosity Scale			-0.01 (0.01)	-0.02 (0.01)	-0.00 (0.01)	0.00 (0.01)	-0.01 (0.01)	-0.01 (0.01)	0.03 (0.02)	0.03 (0.02)
Importance of God	-0.59 (0.51)	-0.14 (0.59)								
Religiosity* Religious Legislation									-0.01*** (0.00)	-0.01** (0.00)
Religious Party					0.35 (0.36)					
Muslim					-2.82*** (0.83)	-2.51** (0.78)	-1.37 (0.83)	-1.36 (0.84)		
Catholic					0.57 (0.45)	0.52 (0.42)	0.19 (0.46)	0.17 (0.47)		0.57 (0.41)
Strong Feminist Movement	0.37 (0.26)									
Strongest Feminist Movement	1.16** (0.36)									
Strong Feminist Movement (lagged)		0.63* (0.28)	0.23 (0.34)	0.49 (0.32)	0.07 (0.33)	0.16 (0.33)	0.42 (0.33)	0.41 (0.33)	0.08 (0.33)	0.00 (0.32)
Strongest Feminist Movement (lagged)		1.45*** (0.42)	0.96* (0.47)	1.09* (0.45)	0.93* (0.44)	0.85* (0.43)	0.99* (0.43)	0.98* (0.45)	0.86 (0.45)	0.81 (0.42)
CEDAW Ratification	0.32 (0.24)					1.21 (0.67)	1.08 (0.64)	1.07 (0.65)		
CEDAW Ratification (lagged)		-0.00 (0.23)	0.34 (0.34)	0.47 (0.32)	0.41 (0.33)				0.41 (0.33)	0.42 (0.31)
Communist	2.95*** (0.63)	2.73*** (0.68)	2.06*** (0.57)	1.59** (0.56)	1.87*** (0.53)	1.77*** (0.50)	1.50** (0.51)	1.52** (0.55)	1.82*** (0.53)	1.68*** (0.49)
Former Colony	-1.36** (.53)	-1.4** (.57)	-1.8* (0.57)	-2.82*** (0.79)	-0.96 (0.52)	-0.97 (0.52)	-2.36*** (0.71)	-2.32** (0.82)	-0.68 (0.54)	-0.62 (0.51)
Women In Parliament (%)	0.04** (0.01)	0.04** (0.01)	0.06*** (0.02)	0.04* (0.02)	0.05** (0.02)	0.05** (0.02)	0.04* (0.02)	0.04* (0.02)	0.04* (0.02)	0.04* (0.02)
Democracy	0.09*** (0.02)	0.10*** (0.02)	0.14*** (0.04)	0.04 (0.04)	0.08* (0.04)	0.10** (0.04)	0.05 (0.04)	0.05 (0.04)	0.13*** (0.04)	0.09* (0.04)
GDP (logged)				0.06 (0.34)				0.04 (0.34)		

Africa				1.82 (1.06)			1.50 (1.04)	1.52 (1.06)		
Asia				-2.26** (0.86)			-1.4964	-1.5225		
Latin America				2.49** (0.83)			1.79* (0.87)	1.78* (0.89)		
Middle East				-2.33** (0.76)			-1.3494	-1.3746		
cons	9.85*** (0.59)	9.68*** (0.67)	11.50*** (0.90)	12.11*** (3.27)	10.78*** (0.85)	9.94*** (0.98)	11.40*** (1.16)	11.05*** (3.29)	8.61*** (1.16)	8.70*** (1.08)
N	277	209	144	144	144	144	144	144	144	144
R-squared	0.54	0.54	0.72	0.81	0.78	0.78	0.82	0.82	0.81	0.72

Figure 1. Family Law Index and Religious Legislation

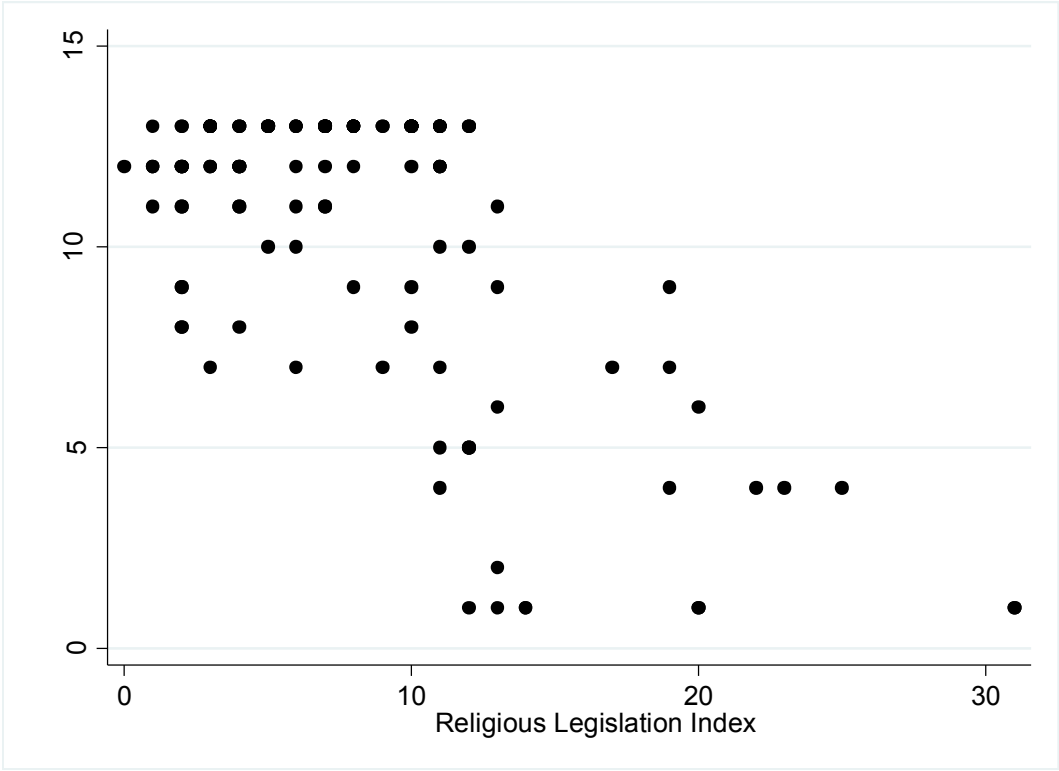
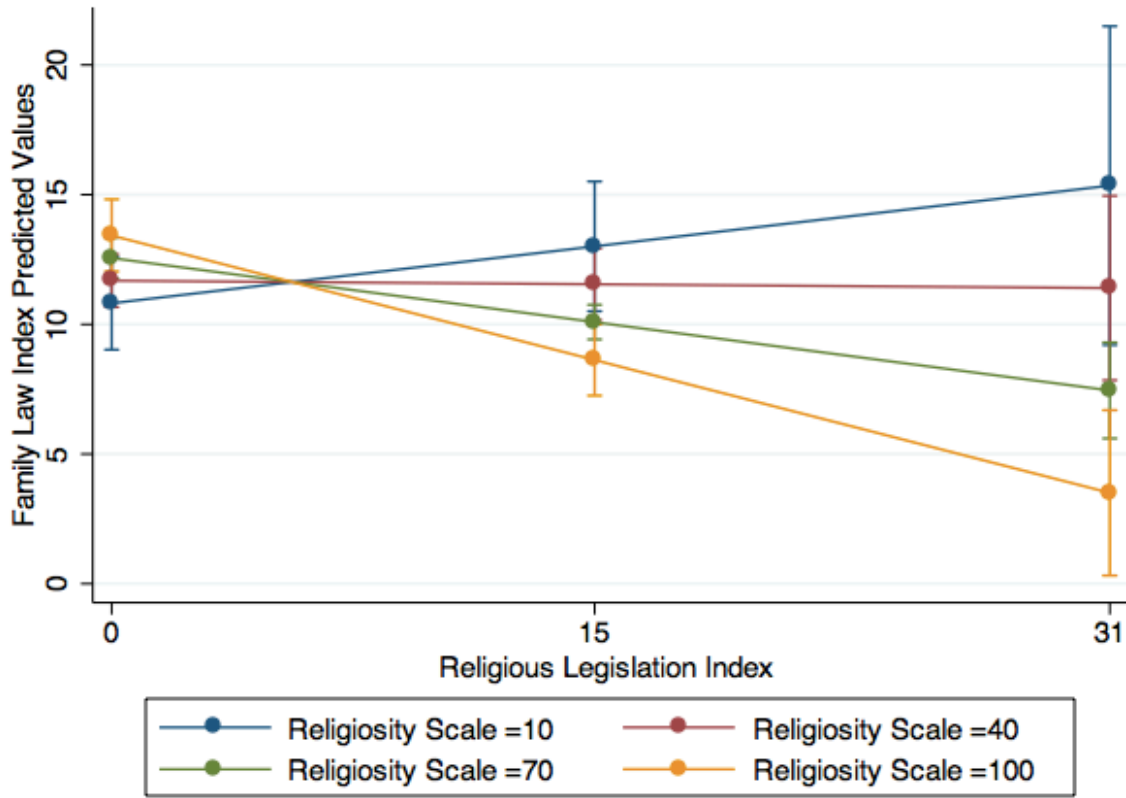


Figure 2. Adjusted Predictions of Religious Legislation at Varying Levels of Religiosity



Supplementary Materials.

I. Family Law Index

Each element of the Index is coded (0,1) to indicate whether or not the provision in question disadvantages women or promotes equal rights. The maximum score, 13, indicates that a country's family laws are free from discrimination in all thirteen areas while the minimum score (0), means that a country discriminates against women in all thirteen dimensions analyzed. Chronbach's alpha for these 13 items is .91.

Table 1. Family Law Index

Element	Description	
Inheritance	Men (sons, brothers, widowers) inherit more than women of equal status	0 = yes; 1 = no
Spousal rights and duties	Men have more power over women: the law stipulates, for example, that wives must obey their husbands	0 = yes; 1 = no
Guardianship	The father holds and/or exercises parental power and/or legal guardianship over minor children	0 = yes; 1 = no
Marital Property Regime	The marital property regime discriminates against women, for example, by naming the husband as executor of community property	0 = yes; 1 = no
Right to work	Wives need their husbands' permission to work and/or husbands can legally prevent their wives from working	0 = yes; 1 = no
Name	The law requires a common marital name	0 = yes; 1 = no
Minimum marriage age	No minimum age of marriage or different minimum ages for women and men	0 = yes; 1 = no
Consent	Marital consent discriminates against women, for example by providing that the consent of people other than the spouses validates a marriage	0 = yes; 1 = no
Marriage ban	The law forbids people (or only women) from marrying certain categories or groups besides relatives	0 = yes; 1 = no
Divorce	Men and women do not have equal rights to divorce or the country does not legally permit divorce	0 = yes; 1 = no
Custody after divorce	The law gives fathers guardianship or custody of children following divorce, even if the mother has temporary custody	0 = yes; 1 = no
Property after divorce	The division of property after divorce favors the man, for example, by presuming that he will keep common property such as the marital home, even if the wife keeps her own property	0 = yes; 1 = no

Adultery	Laws on adultery are more favorable to men, for example, by defining men's adultery as different from women's	0 = yes; 1 = no
TOTAL	13 = highest sex equality score; 0 = lowest score	

Each element of the Index is weighted equally. Our measure provides a sense of the extent of equality across many areas of family law. We do not claim that each area is equally salient in all national cases. Equal weighting offers simplicity and transparency, important features of a new measure. The detailed item scores will be available on our website upon publication for those who wish to try other weighting schemes.

Our dataset contains scores for each country included in the analysis at four points in time: 1975, 1985, 1995, and 2005. The average score for the whole dataset is 10.1 and the standard deviation is 3.67.

The countries in this study include: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Botswana, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Kazakhstan, Kenya, Lithuania, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Poland, Portugal, Romania, Russia, Saudi Arabia, Slovak Republic, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Taiwan, Tanzania, Thailand, Turkey, Ukraine, United Kingdom, United States, Uruguay, Venezuela, Vietnam.

The seventy countries that comprise our dataset were selected to ensure variation in our independent variables. Our dataset includes countries with a full separation of religion and state and others where they are significantly intertwined, high and low religiosity, high and low levels of feminist mobilization, parties and non-parties to CEDAW, many and few women in parliament, and varying levels of democracy, among other factors. These countries encompass some 85 percent of the global population and include every world region.

Data for this study were gathered by a team of researchers who reviewed primary source documents (such as national family and civil codes, legislative language and preambles, and Supreme Court decisions), and secondary literature such as legal doctrine, law review articles, and studies by women's rights organizations such as Women Living Under Muslim Laws (WLUML), Musawah, and the Center for Reproductive Law and Policy.

In federal countries without national family codes, we were often able to code federal court decisions establishing parameters constraining state laws and influential laws (such as the Mexican Federal Civil Code). In countries with multiple legal systems (India, Israel, Kenya, Malaysia, Nigeria, etc.), we tended to code the law applying to the majority population (such as the Hindu Code Bill), and statutory law (as opposed to uncodified customary law).

These data were supplemented by interviews with legal and women’s rights experts from several countries (including Argentina, Brazil, Canada, Chile, China, India, Israel, Japan, and Malaysia). Two or three researchers coded each element of the Family Law Index in each country, and there was a high degree of agreement. Codes were thoroughly reviewed by the PIs. In addition, parts of the database were checked against the World Bank’s Women, Business, and the Law database (2011), confirming its validity. It took approximately five years to gather data (which were compiled between 2006 and 2010) and code family law in 70 countries, which is why the most recent year covered is 2005.

The formal equality measured by our index is important because it signals an elimination of legal sex discrimination. Some scholars are critical of those who focus on formal sex equality (Rhode 1989), and we agree with many of these critics that eliminating sex discrimination is not sufficient for the achievement of full, substantive sex equality. Nevertheless, we contend that formal equality is an important component of sex equality more generally and is more variable globally and over time than many people realize. Our Index captures the degree to which states have upheld the value of equality by eliminating the most egregious and disadvantageous sex differences in family law, setting the stage for more nuanced legislation and jurisprudence that accommodates women’s differences.

Our Index measures formal law, not its enforcement or other social practices. In many cases, there may be a gap between the law on the books and the law in action, and the countries in our study vary in the extent of their lawfulness (Kaufmann, Kraay, and Mastuzzi 2010). Even so, the law on the books remains important because we cannot measure, explain, or compare the divergence of the law from social practice without having a sense of what the law is. And the law, even when violated, constitutes a reference point for political struggles as it has great symbolic power (Habermas 1996; Glendon 1987).

Table 2. Family Law Index Scores.

Country	1975	1985	1995	2005
Algeria	1	1	1	5
Argentina	9	9	12	12
Australia	12	12	13	13
Austria	12	12	12	13
Bangladesh	4	4	5	5
Belgium	13	13	13	13
Botswana	8	8	8	13
Brazil	8	9	12	13
Bulgaria	13	13	13	13
Canada	9	11	13	13
Chile	7	7	9	12
China	12	12	12	12
Colombia	12	13	13	13
Costa Rica	13	13	13	13

Croatia	13	13	13	13
Cuba	12	12	12	12
Czech Republic	13	13	13	13
Denmark	13	13	13	13
Egypt	1	1	1	1
Estonia	13	13	13	13
Finland	13	13	13	13
France	12	13	13	13
Germany	8	12	12	12
Greece	6	13	13	13
Hungary	12	12	13	13
Iceland	12	12	13	13
India	8	8	8	9
Indonesia	8	8	6	6
Iran	5	1	1	1
Iraq	6	7	7	7
Ireland	11	11	11	12
Israel	6	6	7	9
Italy	12	13	13	13
Ivory Coast	7	7	7	8
Japan	11	11	11	11
Jordan	1	1	1	2
Kazakhstan	13	13	13	13
Kenya	7	7	7	8
Lithuania	13	13	13	13
Malaysia	4	4	4	4
Mexico	12	12	12	12
Morocco	2	2	4	10
Netherlands	13	13	13	13
New Zealand	8	11	11	11
Nigeria	9	9	9	9
Norway	13	13	13	13
Pakistan	5	4	4	4
Peru	8	13	13	13
Poland	13	13	13	13
Portugal	7	13	13	13
Romania	12	12	13	13
Russia	13	13	13	13
Saudi Arabia	1	1	1	1
Slovak Republic			13	13
Slovenia	13	13	13	13

South Africa	8	11	12	12
South Korea	5	5	9	12
Spain	8	13	13	13
Sweden	13	13	13	13
Switzerland	7	11	12	12
Taiwan	5	7	8	11
Tanzania	10	10	10	10
Thailand	7	10	10	11
Turkey	4	4	5	12
Ukraine	13	13	13	13
United Kingdom	13	13	13	13
United States	12	12	13	13
Uruguay	12	12	12	12
Venezuela	6	11	11	11
Vietnam	12	12	12	12

II. Sources of data for independent variables.

Table 3 summarizes our independent variables and sources of data for each. Unless indicated otherwise, data for our independent variables comes from the same year as data for our dependent variable (1975, 1985, 1995, 2005).

Table 3. Independent Variables: Definition and Sources of Data

Variable	Description	Data Source
State religion	Presence of an official state religion (dichotomous)	Barro and McCleary 2005
Religious legislation	Number of religious laws enforced by the state	Religion and the State Dataset, round 2 (Fox 2008, 2013)
Importance of God	Whether the average ranking of God's importance is high or low (dichotomous)	World Values Survey Association (2009) question F063 on the importance of God in one's life
Religiosity	Strength of religiosity scale (0-100)	Teorell et. al. 2011(see Inglehart and Norris 2003)
Religious party	Whether a religious party is one of the three largest parties in government and/or the party of the chief executive (dichotomous)	Database of Political Institutions from Teorell et. al. 2011
Former colony	Experience of overseas Western colonial rule (dichotomous)	Teorell et. al. 2011
Communist	Current and former communist countries (dichotomous)	Teorell et. al. 2011
Feminist movement strength	Strength of feminist movement (0-2)	Htun and Weldon 2012

CEDAW ratification	Ratification of CEDAW (dichotomous)	UN Treaty Database 2011
Women in parliament	Percent of seats occupied by women in the lower house of parliament (0-100)	Inter-Parliamentary Union 2011
Democracy	Combined Polity Score (-10 to 10)	Teorell et. al. 2011
GDP	Log of GDP per capita	Heston, Summer, and Aten 2006

III. Modifications to Existing Datasets.

State Religion. Barro and McCleary 2005. Barro and McCleary’s data on official state religions covers 1900, 1970, and 2000. We used their 1970 data for our 1975 time point and their 2000 data for our 2005 time point (after verifying and correcting for any changes in state religion in intervening years). In order to fill in our 1985 and 1995 data points, we investigated cases of change in state religion between 1970 and 2000. There were two: Ireland abandoned its state religion in 1972 and Sweden in 2001. In addition, we recoded three cases that Barro and McCleary report disagreement with their data source (Barrett’s *World Christian Encyclopedia*): Spain (1978 constitutional change disestablishing Roman Catholicism), Portugal (1976 constitution), and Italy (1984 concordat).

Religious legislation. Religion and the State Dataset Round 2 (Fox 2008, 2013). We modified the RAS index of “Specific Types of Religious Legislation.” According to the 2012 codebook, “This category refers to laws or government policies which legislate or otherwise support aspects of religion. This includes diverse laws and policies including the direct legislation of religious precepts, funding religion, religious monopolies on aspects of policy or law, and giving clergy and religious institution official powers or influence.” For our measure, we deleted laws related to family, personal status, and women’s rights to avoid endogeneity.

Religiosity. World Values Survey, question about the importance of God. To maximize the availability of comparable data across countries and years, we created a dichotomous measure that captures whether or not the average respondent reported that God was very important in her/his life (average self-reported score of 8 or greater). Any remaining missing values were estimated based on analysis of secondary sources on individual countries.