

WOMEN'S PROPERTY RIGHTS IN THE MENA REGION: AN OVERVIEW

LOS DERECHOS DE PROPIEDAD DE LA MUJER EN LA REGIÓN MENA

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Recibido: octubre de 2018
Aceptado: diciembre de 2018

Palabras clave: derechos de propiedad, Mujer, propiedad de uno mismo, obstáculos jurídicos, MENA.

Key words: property rights, women, self-property, legal barriers, MENA

Resumen: El presente artículo se propone analizar la situación de los derechos de propiedad de las mujeres en la región MENA con base en una definición global de los derechos de propiedad. Pone de relieve los obstáculos, principalmente jurídicos, que limitan el acceso de la mujer a la propiedad, reflexiona sobre la manera a través de la cual dichos obstáculos interaccionan entre sí y propone acciones de mejora.

Abstract: The present article is aimed at analyzing the situation of women's property rights in the MENA region on the basis of a "comprehensive" definition of property rights. It identifies and illustrates the obstacles that undermine women's access to property, especially from a legal perspective, how they interplay with one another, and suggests possible venues for change.

1. Introduction

Strong systems of property rights are synonymous of economic growth and prosperity. It comes as no surprise then that the most prosperous countries top the ranking of the Fraser's Legal System & Property Rights indicator (one of the five areas measured under the Economic Freedom Index). Finland, Norway, New Zealand, Switzerland occupy respectively the first four places. Iceland comes fifth followed by Luxembourg, Sweden and Singapore. (Fraser Institute 2017, pp. 13-17)

The Fraser's Economic Freedom of the World report notes that "Countries with major deficiencies in this area [Legal System & Property Rights] are unlikely to prosper regardless of their policies in the other four areas [Size of Government; Access to Sound Money; Freedom to Trade Internationally; Regulation of Credit, Labor, and Business]." The report adds that "security of property rights, protected by the rule of law, provides

the foundation for both economic freedom and the efficient operation of markets.” (Fraser Institute 2014, p. 5)

Many studies have made the case for the positive relationship between protection of property and wealth creation¹. Why is a strong system of property rights particularly important for women in the Middle East & North Africa (MENA)? Women in this region have less ability than men to own and control property due to a set of social and legal constraints. Insecure property rights in most of the MENA countries undermine women’s empowerment, prevent them from participating in the economic and political spheres, and from being free and autonomous.

Women’s property rights are most insecure in MENA, South Asia and Sub-Saharan Africa (Rockefeller 2013, p. 2). Women in the MENA (as well as in the other regions mentioned) lack secure property rights for three major reasons summarized by the Rockefeller Foundation as follows:

Lack of formal legal property rights: an estimated number of 25 million urban women in the MENA are affected by the lack of equal constitutional and statutory property rights.

Lack of the ability to exercise existing property rights: women in MENA (along with women in Sub-Saharan Africa and South Asia) are

1. “on average, GDP per capita, measured in terms of purchasing power parity, is twice as high in nations with the strongest protection of property (\$23,769) than in those providing only fairly good protection (\$13,027). Once the protection of property shows clear signs of deterioration (moderate protection), even without a totally corrupt judicial environment, GDP per capita drops to a fifth of that in countries with the strongest protection (\$4,963).” (O’Driscoll Jr & Hoskins 2003, p. 9)

the most affected by limited access to formal land tenure, with less than 25% having official title to land. The rate of active formal savings among women is lowest in MENA, 4% of urban women. Access to loans among women-owned formal small and medium enterprises (SMEs) is also lowest in MENA with less than 6%.

Lack of property rights due to customary laws and cultural norms: despite the existence of laws, women are prohibited from exercising their legal property rights through social pressure and threats. (Rockefeller Foundation 2013, p. 10)

The present essay is aimed at analyzing the situation of women’s property rights in the MENA region on the basis of a “comprehensive” definition of property rights. It identifies and illustrates the obstacles that limit women’s access to property, discusses how they interplay with one another, and suggests possible venues for change.

2. Definition of property/property rights

There is no universal definition of ‘property rights’. However, most definitions would refer to property, in a way or another, as “that despotic dominion that one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.” (O’Driscoll Jr & Hoskins 2003, p. 4) Accordingly, “a property right is the exclusive authority to determine how a resource is used, whether that resource is owned by government or by individuals.” (Alchian, 2008). Alchian goes on providing the three basic elements of private property: “(1) exclusivity of rights

to choose the use of a resource, (2) exclusivity of rights to the services of a resource, and (3) rights to exchange the resource at mutually agreeable terms.” (Alchian, 2008) This would translate, in our specific context, to the following example: a woman’s exclusive right to choose how to make use of a land she inherited (whether to cultivate it, build on it, or to rent it out), her exclusive right to the outcomes of this usage (to the crops, income from rent, etc.), and her right to sell it, rent it out, or pass its ownership to another person, of her own free will, without being subjected to any kind of pressure or compulsion.

The concept of property rights that is generally referred to and measured in the literature, implies property in the “external things of the world”. It often, if not always, overlooks the most obvious aspect of property which is the individual’s property in his or her own person. With this aspect of property not accounted for, we fail to understand, especially as far as women are concerned, the mechanisms undermining property rights related to external things, be it estate or financial assets.

Locke puts forward this aspect in his description of property stating, “though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this nobody has any right to but himself. The labor of his body, and the work of his hands, we may say, are properly his.” (Locke, *Of Property* Book II Chapter 5, p. 1) It is of utmost importance, in the context of the MENA region, where women in certain cases are treated like property, to consider and analyze women’s property in their own selves and how it is constrained by both formal and customary laws. The use of what I call a comprehensive definition of

property rights is necessary to understand the limitations faced by many women to access and control property in MENA countries.

A woman’s property in her own self implies her freedom of movement, her freedom to make decisions affecting her own life and livelihood (decisions such as marriage, opening a bank account or getting a loan), and her freedom from violence (her bodily integrity). I identify these to be the major aspects of one’s property in her or his person. In the case of women in the MENA region, as shall be shown in the rest of this essay, the three aspects of property in one’s self interfere with and undermine the conventional property rights in the external things of the world. Any attempt to discuss property rights, women’s in particular, without this comprehensive account of the concept would be incomplete.

3. Women and land ownership in MENA

Property generally consists of immovable assets (property that cannot be moved such as land and buildings), movable assets (such as jewelry, business equipment, house appliances), and financial property (and this includes cash and monetary assets). (Rockefeller Foundation 2013, p. 3) Land is the most relevant type of property for women in the MENA region for different reasons. First, because women have legal rights to inheritance of land (among other types of property), so access to land is theoretically guaranteed by the law, which makes it less difficult than in other contexts where laws do not guarantee access. Second, because land generates wealth (could be cultivated,

rented out, used for construction), which is more likely to empower women socially and economically. Third, because land could be used as a collateral to get loans from financial institutions, which is not the case for movable assets. Land ownership is as a matter of fact the most relevant to women's property rights in that it has the greatest potential of empowering women given the status quo.

In all the MENA countries, the Shari'a² based inheritance laws guarantee women their share of all the deceased's property including land. However, a set of factors, both socio-cultural and legal, hold back women from exercising their existing rights to access their property and use it as they see fit. The prevailing customary laws in many countries, the complexity of land registration, the lack of information and the limited freedom of movement are all factors that undermine women's property rights in the MENA. Out of eight world regions, as classified by the FAO, MENA records the lowest rates of female agricultural holders.³ A rate of 0.8% of female agricultural holders is registered in Saudi Arabia, 3% in Jordan, approximately 4% in each of Algeria and Morocco, and the highest rate is recorded in Lebanon, 7.1%. For a sense of comparison, 18% is registered in Malaysia, 12.8% in India, 34.7% in Botswana and 50.7% in Cape Verde.⁴ (FAO 2018)

In some regions of Morocco for instance, (villages in the region of Tasoute, the

2. A set of laws derived from the Quran and the teachings of Prophet Mohammed.

3. "The civil or juridical person who makes the major decisions regarding resource use and exercises management control over the agricultural holding." (FAO 2015)

4. Data is collected from national censuses undertaken every 10 years.

southern region of Marrakech, and the Rif), daughters (of the deceased) cede their inheritance share to their brothers or do not claim it at all leaving it as a common property. They sometimes "chose" to do so in order to keep good relations with their brothers and maintain the family support and protection. They also sometimes feel forced to do it under social and family pressure. (COHRE 2006, p. 79) The widow (especially when she does not have children) is often denied her right to inheritance by her in-laws and could be even expelled from the matrimonial house. (FAO 2015)

Land has particular status and connotation in most of the MENA countries including Morocco. "Land is not regarded merely as a piece of property or as a means to satisfy material needs; rather, it is seen as requisite to confirming one's ancestry, lineage and place in the community — indeed, one's fundamental identity." (COHRE 2006, p. 79) As such, land shall remain under the ownership of a given tribe, community or lineage. Given the fact that daughters get married and widows might remarry again, they are deprived of their inheritance share that would otherwise be enjoyed by their husbands and children belonging to other lineages. Women in Morocco are likely to comply with the de facto rules, especially in rural areas where female illiteracy rate is 60.4% (HCP 2016, p. 6), which hinders to a great extent access to information. In some cases, women do claim their rights by both judicial and non-judicial means. (COHRE 2006, p. 80)

Although in Morocco obstacles preventing women from accessing their rightful share of land are mainly pertaining to customary laws and the lack of information, there are also cases where formal laws are discriminatory. In Morocco, collective or communal

lands (“owned by a group of inhabitants belonging to the same lineage”) are governed by a particular set of laws that comply with tribal traditions. The right to exploitation of these lands (a total area of 10 million acres) is only inherited by men. (COHRE 2006, p. 78) Ministerial circulars were issued in 2010 and 2012 in an attempt to reverse that rule and give women access to collective lands. (Morocco’s Ministry of the Interior, 2012) However, these circulars are not laws and hence cannot be enforced. In addition, the formal law related to “hyazat”, possession, is also discriminatory. The Islamic jurisprudence based law stipulates that any person living in or cultivating a land for a non-interrupted period of 15 years, would benefit from the right to exploitation of this land, called “hyazat” to be formalized by two notaries in the presence of witnesses. The law requires 12 witnesses to formalize the exploitation rights for men and 24 for women. (FAO 2015)

A similar context and similar discriminatory laws apply to women in other MENA countries and undermine their access to land ownership. It is also common in Jordan that women cede their inheritance rights to male relatives under social pressures. (World Bank 2012, p. 64) The same main reason applies and that is the fear of exposing the land to the control of another family through marriage. Moreover, the traditional perception of men as the family breadwinners, in Jordan and other Arab countries, is used to justify their control over assets including land. What makes the situation more alarming and women’s property rights weaker in Jordan though, is the existence of laws that restrict women’s property rights in their own selves. Indeed, laws that limit women’s mobility and autonomy render them more dependent and vulnerable. Many laws and policies related to women’s

civil rights in Jordan fall under the concept of “guardianship”. Girls and women are placed under the legal guardianship of their fathers or husbands, which prevents them for making the most basic decisions affecting their own lives. They need their guardians’ approval to get married, to file claims including divorce and to travel internationally. As mothers, they also need the approval of their children’s guardian (father or other male relative, no guardianship assigned to women including mothers) to undertake any administrative or legal transaction related to children. (World Bank 2013, p 69-70)

Associated with the concept of guardianship in Jordan is the “Family Book” (daftar al-’ailah). According to Jordan’s Civil Status Law 138, a woman’s guardianship is recorded in her father’s ‘dafter’ when she is unmarried and it is transferred to her husband’s when she gets married. (COHRE 2007, p 47). An amendment, which is still in force as of 2018, allows widowed and divorced women to have their own daftar, but the latter cannot have the names of the children; children’s names and other information would be part of the father’s dafter or any other male relative’s to whom guardianship is assigned. (World Bank 2013, p. 70) The Family Book is a vital document in Jordan; it is required in nearly every official transaction and administrative procedure including applying for personal documents, working for the public sector, registering children for school and getting access to social services and assistance. There are registered cases of women who were neither able to claim their inheritance nor to access social services because they had been denied access to the family book. (COHRE 2007, p 47) When Jordanian women are married to foreigners, their position becomes even

more unfavorable as they cannot confer their citizenship to their children who are as a matter of fact considered foreigners by the law. These women face greater difficulties when they claim their inheritance share and their claims are considered illegitimate. They cannot pass on land to their offspring if they wish to [as a lot of legal restrictions are placed on foreigners' ownership of land]. (COHRE 2007, p 48)

Denial of women's inheritance rights especially to land is a common issue in most MENA countries. While the laws in all MENA countries recognize women's share in inheritance, other laws and policies undermine women's access to their share by limiting their agency. The situation is aggravated by customary laws and socio-cultural norms as was illustrated earlier. The case of women "choosing" or being forced to renounce their land ownership is not limited to Morocco and Jordan. Women in other MENA countries with different demographics, history, economic and political systems, and above all with different levels of women's empowerment are also subject to the same practice.

In rural Egypt as in southern Tunisia, women are likely to hand over their share in land to their brothers. (FAO 2015) Many women in both countries are pressured to do so by social and cultural factors, but also because other laws and policies hold them back from claiming and accessing property. In Egypt, land registration procedures are complicated. "In many cases, the land remains registered in the names of the people who owned it at the time of the first cadastre at the start of the twentieth century." (Bush 2004, p.16) Added to this are bureaucratic delays in asserting property rights and the high cost associated with land registration. (FAO 2015) These conditions affect particularly

women because of their limited access to information. Indeed, the illiteracy rate among Egyptian women is 37% compared to 18% for men. (UNESCO 2012, pp. 14-15) Women in Tunisia are also faced with the same bureaucratic complications and delays. (FAO 2015)

Denying women their inheritance rights have severe consequences on their lives and the life of their children. Testimonies from different communities and countries reveal "the psychological trauma and dire economic straits faced by women who had been denied access to their rightful inheritance." (COHRE 2006, p. 15) They reveal how many women, especially widows, were forced to live under extreme poverty because they had been deprived of their property that would otherwise have provided for their personal and economic autonomy and well-being.

"When my cousin Maha refused to give up her inheritance, her mother was the first to rebuke her, saying that she would destroy her brothers' livelihoods by dividing the land between them. The land would also go out of the hands of the family and clan and become the property of the opposing tribe of her husband, she reprimanded. Maha insisted, but she was subjected to systematic harassment, bullying and beating – then finally they held a gun to her head and she signed away the deeds. Maha's husband was not impressed and decided to get married to another woman. Maha decided to roam the mountains until people said that she had gone mad. Last time I saw Maha, she was totally broken."

4. Women's limited ownership and control of financial assets

In the patriarchal societies of the MENA region, man is generally assigned, by both cultural and religious norms, the role of breadwinner. Even when men fail to fulfill this role and women contribute greatly to the household income, everything would be done to maintain an image that would satisfy the social expectations. Men in some cases would centralize the ownership and usage of all the household assets including women's own earnings. Women in those cases have no control over the money they earn and are obliged to put it under the control of their husbands.

Reported statistics show the limited scope of this issue. However, its existence (although in relatively low percentages) is reflective of a context that is not favorable to women's property rights. The issue denotes and results in less economic and social autonomy especially for poor women as the percentage of women not having control over their earnings gets higher amongst the poorest households. Husbands tend to have more control over their wives' earnings as the household income gets lower.

In Turkey, "only 2% of married women in the richest fifth of the population have no control over earned cash income, a proportion that swells to 28% in the poorest fifth." (World Bank 2012, p. 82) Younger women in Turkey tend to have less control over their earnings (26.2 % of the 15-19 year old group); the same goes for women with lower education and residing in rural areas especially in the East. (Hacettepe University 2003, p.39) In Morocco, the percentage of women who have no control

over their earnings is also lower amongst the richest households, 2%, and reaches almost 15% within the poorest quintile. (World Bank 2012, p. 82) Findings from Jordan show that percentages are between 8.8% in the poorest quintile and 2.8% in the richest, with the majority of women falling under the "joint decision category" (control over earnings exercised by both husband and wife). Findings also show that young women who reside in rural areas and have low levels of education, are less likely to make decisions on how to spend their earnings. (Department of Statistics 2013, pp.186-187) In Egypt, rates range from 4% for the wealthiest quintile to 12 % for the poorest. (World Bank 2012, p. 82). In Yemen, the rate ranges from 1.8% to 12.8 %, and is also correlated with the level of wealth, education, and whether women live in urban or rural areas. Age is also a determining factor; older women are more likely to make independent decisions as how to use their own earnings. (MOPHP 2015, p. 176)

The different statistics reported above reveal a general trend across the MENA region with regard to the profile of women who have limited or no rights "to choose the use of a resource", the first basic element that defines property rights (as explained in the first section of the essay). These women tend to be generally poor, young, with low levels of education and residing in rural areas. All these characteristics reflect a low level of agency maintained by an economic and social dependency, fostered in its turn by a lack of property rights in one's earnings. An adult man from West Bank, illustrating the vicious circle of limited agency, attests that "some women don't even know how much they get paid for their job because their husbands cash their salary for them." (World Bank 2012, p.82)

In some cases, it is the state that fosters women's limited agency and limited control over financial assets, through policies hindering their access to provisions and pensions that men access more easily. In Jordan for instance, men have control over family related benefits because they are included in their salaries or pensions. Women would need to go through complicated administrative procedures if they wish to receive those benefits. "Access to inherited pensions becomes restricted if a woman marries or a widow remarries, though such restrictions are not placed on men. Upon retirement, additional funds are made available to male employees as family/dependency allowances. For women to receive such allowances, they must demonstrate eligibility through complicated procedures proving that they, and not male relatives are providing financial maintenance to the family or dependents." (World Bank 2013a, p. 65)

Women's ownership of financial assets in the MENA is also limited by the low rate of financial inclusion in the region, the lowest in the world. According to Findex⁵, only 18% of MENA adults have accounts at formal financial institutions compared to an average of 43% in developing countries. Both men and women in the region are affected by financial exclusion. Women however remain more affected. A look at the desegregated data reveals that the percentage of adults having a bank account in the MENA is 23 % among men and 13% among women. (MFW4A, 2018) MENA also records the world's lowest rates of urban women's savings accounts, 4%, and of access to bank

5. "a comprehensive database measuring how people save, borrow, and manage risk in 148 countries" (World Bank 2014).

loans by women-owned formal SMEs, less than 6%. (Rockefeller 2013, p. 10) Women's restricted property rights in their own earnings and in immovable assets, especially land, explain both figures.

Savings accounts act as a form of insurance enabling individual to preserve the value of an asset and utilize it in the case of emergency or simply when needed. (Rockefeller 2013, p. 5) Without savings, women are more likely to be vulnerable and dependent especially when they have been expropriated from their inheritance, namely land. Nevertheless, women in many MENA countries have to face many restrictions, that do not apply to men, in order to open a bank account or to have a loan.

Restrictions placed on women wishing to open a bank account in certain MENA countries include the requirement of a husband's or male relative's permission. The lack of financial education has also been proven to be a significant barrier. (World Bank 2014) In some countries, women cannot open a bank account without the permission of their legal guardians. Even when the law does not mandate such a requirement, a male signature is still needed by the law to issue other documents necessary for opening an account, such as an ID or a passport. Women face either situation in Saudi Arabia, Iran, Oman, Jordan and United Arab Emirates. (Women, Business & the Law 2018)

The lack of basic financial education - information about how to open and use an account and how to get a loan- among poor women and women with low levels of education do also limit their access to financial services. Additionally, this specific population of women is faced with cultural barriers that limit their mobility. They are concerned about their husbands'

and in laws' reactions, along with the risk of losing control over the account, if they know about it. Financial institutions in the MENA region do not necessarily take into consideration such context and constraints. Their products and services remain thus limited in responding to some women's specific needs. Savings accounts could be a solution for women to have more control over their earnings, to cumulate assets and to eventually be able to invest in starting income generating activities. Savings accounts could also be the entry point to explore further financial services such as loans.

Accessing loans becomes a more critical issue for female entrepreneurs in the MENA region. Compared to their male counterparts, female SME owners face more constraints, including sometimes legal ones, to access finance. Indeed, the husband's co-signature is needed in some MENA countries for women to obtain loans, in order to make sure their requests have been approved by their husbands. (MFW4A, 2018) In addition to this are other barriers that limit women's access to loans in the region. A survey of women entrepreneurs in five countries (Bahrain, Jordan, Lebanon, Tunisia, and the United Arab Emirates) showed that "50–75 percent of women had applied for external financing for their businesses, but the majority was not successful. The difficulties included high interest rates, collateral requirements, lack of track record, and complexity of the application process." (World Bank 2013b, p.138)

Women's access to their own assets, especially land, is generally limited as explained earlier, which undermines their ability to fulfill bank collateral requirements. "In many cases, they are

prevented from using their property as collateral for loans, limiting their ability to participate as independent agents in private-sector activity." (World Bank 2012, p.13) The guardianship laws still existing in some MENA countries undermine women's autonomy and their freedom to manage their own assets even when they have access to them. Even when property rights are at best guaranteed by the law, they are still undermined by other laws limiting women's property rights in their own selves.

5. Possible venues for change

The state bears responsibility for protecting women's property rights, through enacting equal property rights laws but also mechanisms and policies to make sure these rights are not infringed upon. Women in the MENA region are mostly affected by the lack of property rights in their own persons along with the lack of ability to exercise existing property rights. Governments have limited capacity to change discriminatory socio-cultural norms, but should be held accountable with regard to providing equal rights and protection to their citizens even if this goes against the established culture and traditions. By understanding and accounting for the socio-cultural context in which women live in different MENA countries, in other words by wearing the gender lens, governments would be able to make appropriate policies.

Based on the analysis presented in this article, three areas of change are necessary to guarantee equal property rights for women in the MENA:

Protect women's inheritance rights and land ownership: to face the major barriers to women's ownership of land, the first action should be to repeal discriminatory laws. Laws that allow only men to inherit the usage rights of collective lands, such as the case in Morocco and Algeria, should be reformed along with any other legal discrimination.

Measures that address social and cultural pressure on women to cede their inheritance rights should also be introduced. Such measures have been introduced in Jordan and are worth mentioning. The Jordanian Shari'a Courts issued an instruction providing "three month cooling off period after the division of inheritance rights during which heirs cannot renounce rights, except in special circumstances permitted by the Sharia Courts. If a woman would like to renounce her inheritance rights after the cooling-off period is completed, the court must first explain the impacts of the renunciation and, in the case of immovable property such as land, the property must first be registered in the name of the heirs before it can be renounced and transferred." (World Bank 2013a, p. 66) Such measures would make sure women are informed about the impact of ceding their inheritance share and would provide them with more time to deal with the social pressure. By making the process less systematic and requiring registration of immovable property in the name of the original owner before ceding it, women are guaranteed their rights and supported to formalize them, which would make it more difficult to renounce them afterwards.

Raising awareness about the issue and facilitating access to justice for women facing social pressure are also two impor-

tant measures to protect women's property rights. Sometimes, as discussed in the case of Egypt for instance, the complicated administrative procedures and high cost to register property undermine women's property rights. Facilitating the administrative procedures of property registration and reducing the related cost would benefit women, especially that they are more likely than men to be intimidated by those requirements, given their more limited education, mobility and resources.

Remove the legal barriers limiting women's property rights in their own persons: as noted in the "comprehensive" definition of property rights, central to this essay, having property rights in one's own person is an important if not the most important aspect of property rights. Without this aspect, all the other rights related to property are undermined. This point becomes obvious when we analyze women's property rights in certain MENA countries with guardianship laws. Placing an adult woman under the legal guardianship of a male relative, be it a father or a husband, with all the legal implications this situation entails, limits her property rights and turns her and what she owns into a property of her legal guardian. Guardianship provisions have a dangerous spillover effect in that they cut across and sometimes supersede several laws. The regulations related to opening a bank account for instance apply equally to men and women. Nonetheless, women in certain countries, even when they are allowed to open a bank account without the guardian's permission, still cannot obtain certain required documents without a guardian's signature.

Protect and promote women's ownership of financial assets: as discussed earlier, women's ownership of financial assets is

further undermined by a limited access to financial services. Access barriers include: regulations pertaining to guardianship, women's limited mobility, social control exercised by the husband, in-laws, or other relatives, lack of basic financial education, and bank collateral requirements accounting only for immovable assets. These conditions intimidate women and undermine their capacity to protect their financial assets, to save for future needs and emergencies, to invest, and to grow their businesses.

To remove these barriers, MENA governments should promote competition and innovation among financial institutions in order to come up with financial services tailored to women's needs. Opening up the sector of micro-finance for instance would guarantee more adapted financial products. As of 2012, only one micro-finance institution (MFI) was able to operate in Tunisia. This MFI, ENDA, was created by a special decree issued by the government. In 2012, a law was passed to liberalize the micro-finance sector allowing the creation of more MFIs, and foreign micro-finance networks to invest in Tunisia. (World Bank 2013c, pp.5-6) This measure is aimed at providing less advantaged women with more financial options. To illustrate the extent to which the sector is limited in the MENA region, Morocco alone encompasses 80% of the region's MFI agencies and 40% of the clients for only 10% of the MENA population. Micro-finance loans in Morocco slightly go over 1% of the total bank loans. (World Bank 2013c, pp.3-5) MENA governments should make efforts to open up the micro-finance market to serve greater populations with adapted solutions. Reforming regulations to allow for the use of movable assets as collateral could improve women's access to finan-

cial services, as they are often excluded from land ownership. Lowering the minimum amounts of loans, as has been undertaken by Jordan, or abolishing it, as did the Republic of Yemen's credit bureau, is also instrumental in giving women access to loans (with amounts they can manage and afford paying back) and helping them to build credit histories. (World Bank 2013b, p.138)

In addition to reforming regulations, innovation is a requirement in enabling women to access the financial sector by responding to their specific needs and limitations. Mobile banking is an often cited solution deemed effective in providing women who are not free to move as they wish, with a viable alternative. The solution has been proven successful in many developing countries as noted by the IMF Director for the Middle East and Central Asia Department, "progress made by countries as diverse as Kenya and Bangladesh, Tanzania and Pakistan in adopting mobile payments and banking is remarkable and provides us with good examples of how technology can foster financial inclusion." (IMF 2013) Example of innovative financial products also include the smart card technology that "helps women keep their income safe from husbands who may confiscate it," and savings accounts that offer incentives to reach savings goals. (Rockefeller 2013, p. 32) Moreover, financial literacy could be an innovative aspect of financial product packages. By allowing women to access information and to learn how to budget, save and manage loans, they become empowered to benefit from the financial services offered to them. There is a growing number of financial literacy projects implemented in the region led by international cooperation agencies and local MFIs. Remarkable results have

been recorded in Morocco and Egypt for instance. (GIZ 2014) Such projects are necessary, especially given the high illiteracy rate among women in some countries and the lack of information in certain settings, namely rural areas.

6. Conclusion

To conclude, I would like to echo Hernando de Soto's thesis in *The Mystery of Capital* making the case for a strong system of property rights for the poor as the key to sustainable development. Indeed, ensuring and protecting women's property rights, especially the rights of the less wealthy, will enable them to leverage their assets to escape dependency and poverty.

Women in the MENA region face the double discrimination of the state and culture. Discriminatory laws and regulations in many countries prevent women from enjoying equal property rights as their male fellow citizens. They even contribute in some cases to turning women themselves into a property, the property of their legal guardians. Socio-cultural norms in the context of the MENA region exacerbate the situation by exercising multiple pressures on women to renounce their rights, to limit their mobility, and to remain dependent on their male relatives.

It is true that a change in mentalities and social attitudes is needed to guarantee equal and sustainable property rights for women, but a change at the state level turns out to be even more crucial. Governments in the MENA should play their role of equally protecting their citizens' rights. They should start by repealing or reforming all the laws and regulations that discriminate against women and undermine their property rights whether in their

own selves or in the "external things of the world". Governments should also open the door for the financial sector to play its role. By creating a favorable legal environment, the change in socio-cultural norms would follow progressively as a result.

Bibliography

Alchian A. (2008) *Property Rights*. Liberty Fund: Library of Economics & Libert. Retrieved from, <http://www.econlib.org/library/Enc/PropertyRights.html>

Bush R. (2004) *Civil Society and the Uncivil State Land Tenure Reform in Egypt and the Crisis of Rural Livelihoods*. United Nations Research Institute for Social Development: Switzerland

Center On Housing Rights and Evictions-COHRE (2006) *In Search of Equality. A survey of law and practice related to women's inheritance rights in the Middle East and North Africa (MENA)* Region. Geneva, Switzerland

Department of Statistics [Jordan] and ICF International (2013) *Jordan Population and Family Health Survey 2012*. Calverton, Maryland, USA: Department of Statistics and ICF International
<https://dhsprogram.com/pubs/pdf/FR282/FR282.pdf>

Deutsche Gesellschaft für Internationale Zusammenarbeit Germany -GIZ- (2014). Retrieved from, <https://www.giz.de/en/downloads/giz2014-en-regional-youth-savings-initiative.pdf>

Food and Agriculture Organization of the United Nations -FAO- (2018) *Gender and Land Rights Database*. Retrieved from, <http://www.fao.org/gender-landrights-database>

Gwartney J., Lawson R. & Hall J. (2018) *Economic Freedom of the World: 2018 Annual Report*. Canada: Fraser Institute

- Gwartney J., Lawson R. & Hall J. (2014) *Economic Freedom of the World: 2014 Annual Report*. Canada: Fraser Institute
- Hacettepe University Institute of Population Studies (2003) *Turkey Demographic and Health Survey, 2003*. Hacettepe University Institute of Population Studies, Ministry of Health General Directorate of Mother and Child Health and Family Planning, State Planning Organization and European Union. Ankara, Turkey (<http://dhsprogram.com/pubs/pdf/FR160/FR160.pdf>)
- Haut Commissariat au Plan HCP -Morocco- (2016) *La Femme Marocaine en Chiffres [Moroccan Women in Numbers]* Haut Commissariat au Plan: Rabat
- International Monetary Fund- IMF (2013), *Arab Policy Forum on Financial Inclusion: Addressing Challenges of Financial Inclusion in the Arab World- A speech by Masood Ahmed*. Retrieved from, <http://www.imf.org/external/np/speeches/2013/121013.htm>
- Locke J., Of Property, Book II Chapter 5
- Making Finance Work for Africa-MFW4A- (2018) *Gender and Finance*. Retrieved from, <http://www.mfw4a.org/gender-and-finance/gender-and-finance.html>
- Ministry of the Interior (2012) *Ethnic Collectivities and Collective Land*, Retrieved from <http://www.terrescollectives.ma/Pages/ar/question-femme.cshtml>
- Ministry of Public Health and Population (MOPHP), Central Statistical Organization (CSO) [Yemen], Pan Arab Program for Family Health (PAPFAM), and ICF International (2015). *Yemen National Health and Demographic Survey 2013*. Rockville, Maryland, USA: MOPHP, CSO, PAPFAM, and ICF International. (<https://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>)
- O'Driscoll Jr & Hoskins (2003) *Property Rights: The Key to Economic Development*. Policy Analysis No. 482, Cato Institute: Washington DC
- Property Rights Alliance (2015) *International Property Rights Index-Gender (IPRI-GE)*. Unpublished data retrieved directly from the Organization
- Rockefeller Foundation (2013) *Decision Intelligence Document Women's Insecure Property Rights*. Retrieved from, <https://www.rockefellerfoundation.org/app/uploads/Womens-Insecure-Property-Rights.pdf>
- UNESCO Institute for Statistics (2012) *Adult and Youth Literacy, 1990-2015: Analysis of data for 41 selected countries*. Canada: UNESCO Institute for Statistics
- World Bank (2011) *World Development Report 2012: Gender Equality and Development*. Washington, DC: World Bank.
- World Bank (2012) *SMEs for Job Creation in the Arab World: Access to Financial Services*. Washington, DC: World Bank.
- World Bank (2013a) *Jordan Country Gender Assessment: Economic Participation, Agency and Access to Justice in Jordan*. Report No. ACS5158. Washington, DC: The World Bank.
- World Bank (2013b) *Opening Doors: Gender Equality and Development in the Middle East and North Africa*. MENA Development Report. Washington, DC: World Bank.
- World Bank (2013c) *Projet de Renforcement de la Micro-Finance chez les Femmes et les Jeunes dans la Région MENA [Project to strengthen micro-finance for women and youth in the MENA region]* Retrieved from, http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/10/17/000333037_20131017105424/Rendered/PDF/787450PJPROP140Box0379848B00PUBLIC0.pdf

World Bank (2013d) *Jobs for Shared Prosperity: Time for Action in the Middle East and North Africa*. Washington, DC: World Bank.

World Bank (2014) *Expanding Women's Access to Financial Services*. Retrieved from, <http://www.worldbank.org/en/results/2013/04/01/banking-on-women-extending-womens-access-to-financial-services>

World Bank (2018) *Women, Business & the Law 2018*. Retrieved from, <https://wbl.worldbank.org/>