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# Women, Property Rights, and Islam

*Benjamin G. Bishin and Feryal M. Cherif*

What accounts for the persistence of gender inequality in Muslim majority countries?<sup>1</sup> While religion and patriarchal culture are often described as the primary barriers to equality, women's rights advocacy and the cultivation of core rights are believed to challenge discriminatory laws and practices. Overlooked, however, is the fact that scholars tend to examine aspects of women's rights (e.g., political rights) in which two of the key causal processes—religion and patriarchal culture—produce observationally equivalent outcomes.<sup>2</sup>

While largely neglected, the study of property rights helps overcome this limitation because while Islamic law limits women's right to inherit, it prescribes equality in women's ability to own, manage, and dispose of property. Muslim women enjoyed property rights centuries before women in the West, even in countries regarded as paragons of gender equality today. Studying property rights therefore provides traction in examining the extent to which states conform to Islamic tenets when they conflict with the cues provided by patriarchal actors. Consequently, examining the degree to which Muslim states extend equal property rights to women allows us to differentiate between religious and cultural accounts of gender inequality.

The right to own property is profoundly important. Property rights are central to women's economic advancement as well as their full incorporation in the polity. Property provides a mechanism for women to build wealth, leverage, and autonomy. Owning land, for instance, can provide a source of income that may help offset barriers to women's participation in the labor force. The resources that property confers also help to improve women's status in families, communities, and states.<sup>3</sup>

Typically, one of four explanations is offered to explain the status of women's rights in developing countries. Advocacy-based arguments hold that women's rights advance when international organizations and activists work to publicize discriminatory behavior and promote values and policy that favor gender equality.<sup>4</sup> The core rights perspective argues that giving women skills and opportunities—by increasing female labor force participation and education levels—provides a host of ancillary benefits that advance women's rights.<sup>5</sup> Cultural accounts explain why women's rights in Muslim countries continue to lag by pointing to political bargains that nurture the rise of

patriarchal institutions and practices.<sup>6,7</sup> Religious arguments, in contrast, identify the privileged position accorded religious norms, owing to citizens' religiosity or the degree to which a state affords a public status to religion, as a primary impediment to advancing gender equality.<sup>8</sup>

This article examines whether and under what circumstances women get the rights that Islam affords. We examine the degree to which explanations of women's rights in developing countries explain women's ability to own property in Muslim countries. We find that Muslim countries are more likely to conform to religious dictates when Islam prescribes discriminatory outcomes, but that state practices vary widely when Islam calls for gender equality.

### **How, Where, and Why Women's Rights Advance**

Two perspectives are typically advanced to explain why women's rights improve in some places but not others: women's rights advocacy and core rights.<sup>9</sup> Explanations emphasizing women's rights advocacy contend that transnational activism initiates a norms-building process wherein international norms spread across states. Advocates draw on the power of principled ideas, like gender equality, and the degree to which states value their reputations to press for changes in state behavior. Similarly, the core rights framework argues that advances in women's education and their entry into the workforce spur normative and behavioral shifts that enable the development of strong political interests.

**Women's Rights Advocacy** While patriarchal culture and religion are presented as the main barriers to gender equality, women's rights advocacy is seen as the primary strategy for challenging discriminatory practices. Activists promote the diffusion of new norms by serving as agenda setters, publicizing states' practices, and mobilizing and cultivating support around an issue.

Women's rights advocacy brings attention to new issues, elevates them to global forums (e.g., world conferences or institutions), and facilitates their recognition in international law.<sup>10</sup> Advocates pressure states to conform to international norms by promoting the validity of new ideas. By providing information about issues and framing issues as "right" and "wrong," they persuade governments to reform.<sup>11</sup> Activists expose the practices of states that refuse to comply and may shame them for failing to conform to international norms. Where possible, they may offer a combination of incentives and sanctions to encourage change.<sup>12</sup> Because activists' strategies overwhelmingly rely on soft power, they are most likely to be effective in states that value their reputations, or are more dependent on foreign trade and assistance.<sup>13</sup>

A long history of successful challenges to state discrimination lends support for the advocacy-based approach. Beginning in the mid-nineteenth century, women's movements advanced married women's property rights, leading to independent women's rights to acquire and manage property.<sup>14</sup> Activists today increasingly employ

strategic litigation to raise awareness about gender inequities to enhance respect for women's property rights. In *Ephrahim v. Pastory* (1990), for example, the High Court of Tanzania ruled that Haya customary law, which precluded women but not men from selling clan land, violated the Bill of Rights. More broadly, the UN has designated unequal access to resources as an area of critical concern and has developed the Huairou Commission to enable women greater opportunities to own land and housing.<sup>15</sup> Despite this, relatively little is known about the extent to which women's rights advocacy has influenced the extension of property rights.

**Core Rights Explanations** Core rights explanations contend that increasing female education and labor force participation elevates women's status. By fostering agency and the ability to organize politically, core rights facilitate the acquisition of other rights (e.g., those pertaining to citizenship and inheritance).<sup>16</sup> Specifically, core rights empower women to contest circumscriptions of other rights by enhancing their status, resources, and social capital. While socioeconomic explanations primarily focus on individual empowerment, the core rights framework emphasizes that higher education and labor force participation also enable increased political representation by spurring the growth of women's rights constituencies.

Cultivating women's core rights enhances autonomy and endows women with stronger bargaining rights. For example, Bina Agarwal argues that a woman's land rights depend on literacy, rights awareness, and access to support systems outside of potential claimants (e.g., family members).<sup>17</sup> Investing in female education helps women develop skills that facilitate outside employment, while labor force participation exposes women to networks and support systems outside of kin.<sup>18</sup> With more financial independence and broader social networks, women are in a stronger position to defend their rights.

Core rights also encourage gender consciousness among women. Though scholars disagree about whether these changes are due to exposure to new ideas, a desire to adopt attitudes that reflect one's lifestyle, or self-interest, there is considerable evidence that a woman's educational and employment status increases her support for feminism.<sup>19</sup> College-educated women, for example, are more aware of and dissatisfied with inequalities and perceive gender to be driving their disadvantage.<sup>20</sup> By increasing demands for gender equality and encouraging group identification, core rights foster women's rights constituencies.

Investments in core rights reduce coordination problems. The workplace is often a focal point for the discussion and organization of (women's) political interests.<sup>21</sup> Similarly, people who are better educated tend to be more politically engaged as they are more likely to turn out to vote and participate in civic and political groups.<sup>22</sup> Finally, women's educational and professional advances also increase social capital and, by extension, the resources that activists may use to pressure elites for policy change.<sup>23</sup>

Women's property rights are typically violated either by states that are reluctant to enforce gender-neutral legislation or family members that usurp women's rights. The extension of core rights decreases these violations by empowering women to stand up

for themselves and by encouraging elites to pursue reform. Cultivating independence strengthens a woman's position in the home, making her less reliant on kin. Similarly, in society more broadly, increased core rights enable group formation, political organization, and socioeconomic development, which create incentives for political elites to advocate changes in women's rights in order to obtain the support of these newly empowered women. In their examination of women's property rights in the United States between 1850 and 1920, for instance, Rick Geddes and Dean Lueck find that female schooling leads to the extension of independent property rights for women.<sup>24</sup> In the Americas, elite and working women tended to opt out of restrictive marital property regimes, when possible, and were among the first to demand change.<sup>25</sup>

### **What Explains Gender Inequality in Muslim Majority Countries?**

Women's unequal status in Muslim majority countries is typically seen as a product of the prominence of religion or patriarchal structures.<sup>26</sup> Though some explanations of women's unequal status rely on essentialist claims about Islam or patriarchal culture, we focus on more sophisticated accounts that explain why religious or patriarchal norms, values, and institutions persist. While the mechanisms driving inequality may not be solely religious or cultural, these terms allow us to discuss two broad sets of accounts that explain why religious or patriarchal norms, values, and institutions are privileged relative to others.

One line of scholarship posits that religion, specifically religious norms, explains the persistence of gender inequality in Muslim countries. Prevailing interpretations of Islam emphasize traditional gender roles and prescribe different treatment for men and women.<sup>27</sup> Islamic law (Shari'a), for example, affords women limited rights to initiate divorce and restricts female inheritance, child custody, and, in some places, freedom of movement. Whether by tenet or practice, religious norms are also thought to exclude women from political office.

Some reason that religious norms are a powerful impediment to women's rights advancement because of high levels of religiosity in Muslim countries.<sup>28</sup> In more religious societies, prevailing interpretations often enjoy wide legitimacy, such that levels of religiosity coupled with conservative understandings of Islam impede advances in women's rights. Research by Ronald Inglehart and Pippa Norris corroborates this perspective by linking Islamic culture to discriminatory attitudes and, in turn, to gender inequities in education, economic activity, and political participation.<sup>29</sup>

Others suggest that high levels of religious institutionalization—the degree to which political structures incorporate or are organized around religion—in Muslim societies best explain gender inequality. Mala Htun and Laurel Weldon, for example, contend that the nature of the religion-state relationship, rather than norms emanating from specific faiths, better accounts for variation in the degree of discrimination in family law across countries.<sup>30</sup> Recognizing a state religion, establishing religious

institutions (e.g., courts or ministries), or teaching religion in schools elevates the status of religious symbols, elites, and authority such that they become central components of state power, identity, and legitimacy (e.g., in Greece, Israel, or Egypt).<sup>31</sup>

State establishment of religion is thought to increase resistance to women's rights reform, especially in areas like family law where religious doctrine dictates which rights women enjoy. The politicization of religion, particularly the recognition of a state religion, creates additional barriers to reform. Religious monopolies reduce competition, leaving less space for alternative interpretations to emerge and challenge conservative laws (e.g., in Israel where the recognition of Orthodox Judaism has created high barriers to marriage and divorce reform).<sup>32</sup> Affording religion a public status politicizes religious elites by incentivizing them to participate in politics in order to protect their influence and resources.<sup>33</sup> Some also argue that state recognition confers additional legitimacy to religious symbols, interpretations, and actors, making religion-based laws more difficult to change.<sup>34</sup> Ultimately, because women's rights reforms contest the status of religion in the polity, they are seen as undermining the identity of the state and, by extension, its citizens.<sup>35</sup> In many Muslim societies, family law is framed as the "keystone of Islamic identity."<sup>36</sup>

A second perspective attributes gender inequality in Muslim societies to the ascendance, intensification, or persistence of patriarchal norms and structures. We use the term patriarchy in its classical sense to mean a system of social relations governed by patrilocal-patrilineal institutions and draw on the concept of neopatriarchal states in our discussion of the codification of male rule in state laws.<sup>37</sup> Though accounts vary, many of these explanations contend that state policy on women's rights is tied to the economic and political needs of the state.<sup>38</sup>

Scholars of this tradition contend that the persistence of patriarchal institutions at the national level is tied to post-colonial state-building projects wherein (new) leaders seek to consolidate power and cultivate legitimacy. Following independence, weak states often made alliances with strong clans or tribes, privileging these patriarchal kinship networks and their preferences.<sup>39</sup> By contrast, where states were able to develop and govern without the assistance of these groups, women's rights policy was often delegated to civil authorities that tended to limit the power of kinship networks, such that patriarchal norms became codified into the laws of some states but not others.<sup>40</sup> More recently, the need to appease Islamists, the principal opposition, has led many leaders to trade women's rights policy for political security.<sup>41</sup>

Whether due to the incorporation of kinship networks, Islamists, or other patriarchal actors, there is broad agreement that political elites use the status of women to serve broader interests. Women are often portrayed as "repositories of religious, national, and cultural identity," placing women's rights at the center of debates about the status of religion and national identity.<sup>42</sup> Accordingly, scholars of gender in Muslim societies conclude that women's rights reform has been slowed by the elevation of patriarchal norms and the conservative interpretations of Islam that often accompany them.<sup>43</sup>

Though religious and cultural arguments are distinct, they often predict identical outcomes. With respect to family law, for instance, both predict that women's rights will be circumscribed in Muslim societies. With respect to property rights, however, religion and culture predict different outcomes and hence research in this area may help advance our understanding of how, where, and why gender equality improves.

### **Women's Property Rights in Islam**

In popular thinking, Islam is renowned for its unequal treatment of women. Women's limited rights to freedom of movement, divorce, child custody, and other areas of family law, as well as the persistence of low levels of female political representation, education, and labor force participation are widely referenced.<sup>44</sup> Less appreciated, however, is that Islamic law extends women greater protections in some areas than do other religious traditions. Of particular importance, prevailing and historical interpretations of Islamic law afford women unfettered property rights.<sup>45</sup>

In contrast to many other areas of Islamic law, jurists do not differentiate between the sexes in terms of buying, selling, investing, or lending, and make no distinctions between types of property (e.g. land, real estate, or money).<sup>46</sup> Regardless of marital status, Muslim women have enjoyed an autonomous legal identity and separate property rights since the seventh century. Citing portions of the Quran, which read "if you perceive in them right judgment, deliver to them their property," prevailing legal interpretations hold that men and women are endowed with equal rights to acquire, manage, and dispose of property.<sup>47</sup>

That religious doctrine confers Muslim women strong property rights speaks little to whether they are able to exercise these rights. Though religious elites are emphatic about women's rights to property, respect for these rights is mixed.<sup>48</sup> Archival research from the Ottoman Empire reveals a large number of property disputes in which men tried to disinherit women.<sup>49</sup> Men might disinherit their daughters by, for example, providing their sons with gifts prior to their death.<sup>50</sup> Women are less likely to inherit family land and, over time, have become less likely to control their dowries due to misappropriations by male kin.<sup>51</sup>

Complicating matters, Islam draws an important distinction between the rights to (separate) property and inheritance. Despite unambiguous support for women's rights to property, prevailing interpretations of Islamic law stipulate that women inherit half as much as men.<sup>52</sup> These disparities have a profound effect on women's ability to develop comparable wealth and power to men, tempering to some extent the enthusiasm we might attach to the extension of independent property rights.

Despite these limitations, there is considerable evidence that many women enjoyed effective property rights. Women were active in buying and selling real estate in the Ottoman Empire and in some places were charged with heading trusts.<sup>53</sup> Courts routinely upheld a woman's right to property and inheritance when women challenged male circumscriptions of their rights.<sup>54</sup> In places with strong legal systems, the number

of women property owners could be nearly comparable to men.<sup>55</sup> Islam's respect for women's property rights was so widely known in Ottoman times that Christian and Jewish women often pursued inheritance rights through Islamic courts, as their own religious laws granted no comparable rights.<sup>56</sup>

While what is known about the status of women's property rights is based on historical studies from a handful of countries, several conclusions are clear. First, Muslim women played an active role in acquiring and managing property, though at times male kin appropriated their property. Second, courts, and by extension the state, generally upheld women's property rights. Third, despite religious dictates, Muslim countries vary in the degree to which they extend women equal property rights.

The inconsistent extension of property rights across Muslim countries demands further examination. That women enjoyed the rights to acquire and manage property speaks to conformity between religious tenets and behavior, but the lack of uniform respect for these rights also suggests that other factors are almost certainly at play. This variation in the extension of property rights across states presents an opportunity to examine respect for religious norms across issue areas that have favorable (property rights) and unfavorable (inheritance rights) outcomes for women, permitting additional insights into the strength of religious explanations.

### **What Explains Women's Property Rights in Muslim Majority Countries?**

Research examining how, where, and why states extend women equal rights focuses on issues like nationality, political, and labor rights. While these issues are crucially important, for purposes of understanding the factors that drive gender inequality, these issues share a common limitation. In many cases, the implications that follow from religious and cultural accounts produce observationally equivalent outcomes (e.g., both predict discrimination in nationality law, low levels of political representation in office). Specifically, because religious explanations of property rights predict increased equality, while cultural accounts predict reduced equality, the case of property rights presents a unique opportunity to differentiate between two competing narratives about why gender inequality persists: religion and patriarchal institutions.

**Expectations and Hypotheses** Most of the research on gender inequality in Muslim societies focuses on issues on which the salience of religion and the persistence of patriarchal institutions produce identical expectations about discrimination. On property rights, however, Islamic law assures women equal footing with men. Consequently, we expect that if religion strongly shapes behavior in Muslim countries, then laws and practice should conform to Islamic tenets. While property rights are uncontested, Islamic law prescribes different rights in inheritance for men and women. Consequently, we expect that Muslim countries should foster equal rights to acquire and manage property while also exhibiting a stronger propensity to discriminate against women in inheritance law.



Religious explanations also hold that where religious norms are strong, either due to citizens' religiosity or the political institutionalization of religion, we should observe few distinctions between the *de jure* and *de facto* rights that Islam dictates, such that in Muslim countries where religion is accorded a more prominent role, women's property rights should be more equitable, while inheritance rights should be more discriminatory.

While patriarchal institutions have not eroded *de jure* rights in many Muslim societies, these social norms provide a common explanation of why women may be denied effective property rights. Scholars of gender in Muslim societies suggest that patriarchal norms often become privileged as a product of political bargains.<sup>57</sup> Patriarchal norms are institutionalized when the leaders of weak states coopt extended kinship networks or Islamists to consolidate power.<sup>58</sup> Specifically, cultural accounts suggest that states that privilege patriarchal norms will exhibit low respect for women's property rights and more discriminatory inheritance laws.

While religious and cultural explanations reflect the prevailing understanding of women's status in Muslim countries, women's rights advocacy and core rights accounts are often advanced to explain respect for women's rights across countries. Explanations emphasizing women's rights advocacy suggest that a country's willingness to instantiate international norms is a function of their acceptance of global standards, integration into the global community, and the strength of civil society actors. While these explanations delineate several paths through which women's rights organizations and international institutions influence state policy, we focus on the role of activists. Consistent with these explanations, we expect that in states with dense networks of (transnational) women's rights organizations, there is likely to be greater pressure on states to conform to international norms and greater respect for women's property and inheritance rights.

Core rights explanations, in contrast, describe a process of norms-building and political mobilization that develops by facilitating independence, gender consciousness, and political organization. Core rights position women to challenge family and state-based violations of their rights, such that in states with higher rates of female labor force participation and educational attainment, women enjoy more equitable property and inheritance rights.

**Data and Methods** We evaluate whether conformity to religious norms is more likely when Islam prescribes discrimination rather than equality. To test these hypotheses across Muslim and non-Muslim majority countries, we examine data on women's property rights from the OECD's Social Institutions and Gender Index (SIGI), which canvasses property laws and practices across developing countries in 2009. In order to assess respect for various tenets of Islamic law, we examine three aspects of property rights: the right to inherit, to own (general) property, and to own land. Because prevailing interpretations of Islam treat inheritance differently from other property rights and historically land rights have been subject to more predation, examining these different aspects of property rights allows us to investigate the nuances underlying the hypothesized effects of Islam.

We measure *de jure* and *de facto* rights using the SIGI data as they gauge women's actual status. For each variable, higher scores indicate that a state extends women greater equality.<sup>59</sup> *Inheritance* rights assess the degree to which widows and daughters have equal rights to men in succession. Similarly, *Land Rights* measures women's access to agricultural land, whereas general *Property Rights* evaluates a woman's ability to acquire, manage, and dispose of property and evaluates *de facto* rights to any forms of property except agricultural land.

To operationalize religion-based arguments, we use two measures. When comparing Muslim countries to other developing nations, we employ a simple dichotomous measure indicating whether 50 percent or more of a country's population is Muslim. *Muslim Majority* countries, however, vary considerably in the degree to which they incorporate religion-based laws, institutionalize religious authority, and, more generally, privilege religious norms. In the sample of Muslim countries, we distinguish between more- and less-religious states by examining whether there is an established *State Religion*. Where there is an official religion, there is less religious competition, alternate interpretations are marginalized, and women's rights reform often triggers broader debates about the identity of the state and its citizens.<sup>60</sup>

To account for the influence of patriarchal structures, we assess the degree to which a country's prevailing social norms and state laws embrace *Patrilineal Institutions*.<sup>61</sup> In deeply patriarchal societies, laws usually permit only men to confer nationality to children, affirming traditional conceptions of the family and patrilineal descent. Higher scores correspond to societies that have more fully embraced patriarchal institutions.

To examine claims about rights advocacy, we examine how the number of *Women's Rights Organizations* operating within a country affects the status of women's property rights. These accounts suggest that as activism increases, states are subjected to more intense pressure to conform to global standards and thereby extend equal rights to women.

Core rights accounts, on the other hand, imply that investments in women's education and their participation in the labor market foster improvements in women's rights by encouraging individual-level empowerment and the development of stronger women's rights constituencies. These are operationalized using data on the percentage of women in the *Labor Force* and enrolled in secondary *Education*.

Lastly, we account for arguments about economic development. Economic development may influence the quality of women's property rights in three ways. First, modernization arguments credit economic development with leading to increases in industrialization, urban living, and education, all of which are correlated with more egalitarian attitudes that privilege the adoption of more progressive legislation.<sup>62</sup> Second, economic growth produces higher market wages that increase the value of non-household labor and facilitate women's entrance to the labor force.<sup>63</sup> Third, with economic development, incomes rise and resources increase. With less resource scarcity and more opportunity, male kin may have less motivation to usurp women's property or oppose equality. Per capita *GDP* measures economic development.

Though economic development is generally thought to improve gender equality, increasingly it is recognized that some forms of development may inhibit advances in women's rights. Natural resource abundance, particularly oil, may limit female economic activity by shrinking the sectors that typically employ women and reducing the need for dual incomes because of government subsidies and higher male wages.<sup>64</sup> Limited female labor force participation, in turn, leads to lower levels of political participation and ultimately impedes empowerment, such that we expect oil economies to restrict women's property rights.<sup>65</sup> We capture this using a dichotomous variable for countries with *Oil*-based economies.

### Women's Property Rights in Developing Countries

We begin by examining the question of whether Muslim countries extend equal property rights to women. We evaluate the influence of Islamic culture on women's property rights, controlling for the level of patrilineality, core rights, women's rights advocacy, and economic development. As our dependent variables have three categories, we employ ordered logit to estimate these models. Recall that Islamic tenets prescribe discriminatory treatment in inheritance rights, but extend men and women equal rights to own and manage their wealth. Table 1 depicts the results of these analyses.

The first row in Table 1 shows that, consistent with expectations, Muslim countries appear to restrict a woman's right to inherit. The strong relationship between religious

**Table 1** Ordered Logit of Property Rights in Developing Countries

	Inheritance	General Property	Land
<i>Muslim Majority</i>	-1.79*** (0.64)	0.43 (0.63)	-0.10 (0.65)
<i>Patrilineal Institutions</i>	-0.84*** (0.31)	-0.50* (0.29)	-1.03*** (0.33)
<i>Education</i>	0.04*** (0.01)	0.02** (0.01)	0.04*** (0.01)
<i>Labor Force Participation</i>	-0.05 (0.03)	0.02 (0.03)	-0.01 (0.03)
<i>Women's Rights Orgs</i>	-0.13 (0.32)	0.25 (0.32)	0.10 (0.35)
<i>GDP</i>	-0.18 (0.30)	0.34 (0.30)	0.33 (0.31)
<i>Oil</i>	-1.32* (0.73)	-1.41** (0.71)	-1.31* (0.80)
Observations	108	109	109

Standard errors in parentheses.

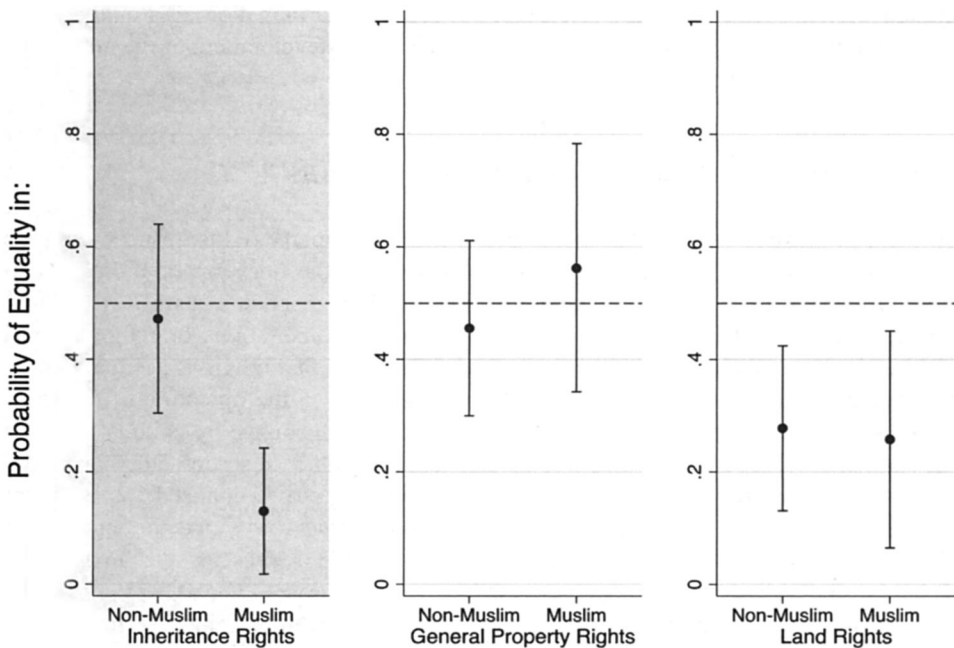
\* significant at 10%; \*\* significant at 5%; \*\*\* significant at 1%.

tenets and practice, however, appears limited to inheritance rights. Though the coefficient *Muslim Majority* is positive for general property rights, as expected, it never approaches conventional levels of significance. Similarly, we detect no evidence that women enjoy equal rights to land in Muslim societies. In contrast, we observe negative and significant effects for patrilineal institutions.

While these analyses clearly imply that Muslim countries conform to religious dictates when Islam prescribes discriminatory outcomes and vary considerably more in their practices when it calls for equal treatment, they provide little sense of the magnitude of the effect of Islamic culture. In Figure 1 we estimate predicted probabilities, based on the regression analyses displayed in Table 1, to simulate the hypothetical influence of Islam in the average developing country, while holding all other factors at their mean.

Figure 1 reveals that having an Islamic religious tradition increases the likelihood of discrimination in inheritance law by over 30 points, from 13 percent to 47 percent,

**Figure 1** The Effect of Islamic Culture on Women’s Property Rights



Note: The gray background highlights results that are statistically significant at the .10 level or higher.

when compared to other developing states. Consistent with the statistical results, however, the picture of general property and land rights differs. Specifically, Figure 1 suggests that a woman's rights to acquire, manage, and dispose of property are better respected in Muslim societies, but while these results are consistent with religious accounts, they are neither significant nor does the magnitude of the effect comport with what we would expect to observe if religion has a significant influence on behavior. There are also no meaningful differences between Muslim and other developing societies in terms of women's access to land. Though Islamic law does not distinguish between types of property, a comparison of land and general property rights in Figure 1 suggests that women are more likely to be denied access to land than other forms of property. Our results are consistent with claims that male kin often appropriate women's land rights or pressure them to forego claims in exchange for familial support (e.g., in cases of divorce).<sup>66</sup>

Overall, these results suggest that patriarchal norms rather than religiosity better explain state and individual behavior. Consistent with existing scholarship, the presence of patrilineal institutions is consistently associated with lower rates of equality across all issues. Women also have more limited property rights in oil economies. In contrast, states with higher levels of education exhibit greater respect for women's property rights (though there is no comparable effect of labor force participation).<sup>67</sup> Finally, these results evince no evidence that either a country's level of development or the number of women's rights groups lead to less discriminatory behavior.

### **Women's Property Rights in Muslim Majority Countries**

Though it is commonly said that Islam grants women property rights, respect for these rights varies dramatically across countries. This raises the question of the extent to which religious or cultural explanations best explain women's status in Muslim countries. Specifically, we examine whether patriarchal institutions or religion-based accounts better explain variation in property rights. Recall that religious accounts imply that in countries where religion is accorded a larger role in the operating of the state, religious tenets are more likely to be respected. Cultural accounts, by contrast, suggest that the political incorporation of patriarchal actors leads to discriminatory laws and practices. To address this question, we employ a more nuanced measure of religiosity—whether there is an established *State Religion*—to gauge the strength of religious norms and symbols in a given country. Table 2 presents the analyses of women's property rights in Muslim countries.

Two important findings emerge from the results presented in Table 2. First, cultural rather than religious explanations better account for the status of women's property rights in Muslim countries. We find no evidence that more religious Muslim states are associated with more equitable land and general property rights or discriminatory inheritance rights. By contrast, the institutionalization of patrilineal norms is associated with limits on women's property rights, particularly inheritance and land rights.<sup>68</sup> It is

**Table 2** Ordered Logit of Women's Property Rights in Muslim Majority Countries

	Inheritance	General Property	Land
<i>Established Religion</i>	-0.28 (1.39)	0.17 (1.03)	0.07 (1.29)
<i>Patrilineal Institutions</i>	-1.26** (0.58)	-0.59 (0.45)	-0.89* (0.53)
<i>Education</i>	0.08*** (0.03)	0.03** (0.01)	0.09*** (0.03)
<i>Labor Force Participation</i>	-0.03 (0.06)	0.00 (0.04)	-0.03 (0.05)
<i>Women's Rights Orgs</i>	0.54 (0.71)	1.35** (0.56)	1.56** (0.70)
<i>Oil</i>	-1.52 (1.47)	-0.82 (0.93)	-2.28* (1.36)
Observations	41	41	41

Standard errors in parentheses.

\* significant at 10%; \*\* significant at 5%; \*\*\* significant at 1%.

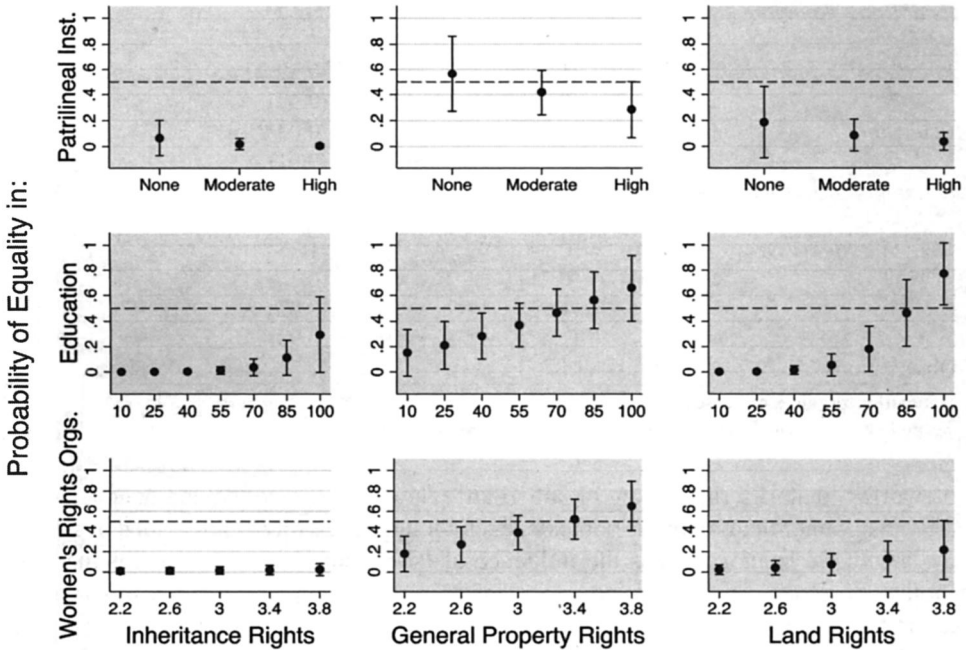
noteworthy that discrimination in inheritance law appears to be stronger in more patriarchal rather than religious contexts, even though inequality is prescribed in Islamic law. While we cannot dismiss the influence of Islam, consistent with claims made by scholars of gender in Muslim countries, discrimination appears to intensify in more patriarchal contexts.<sup>69</sup>

The results also suggest that advances in core rights and women's rights advocacy are closely related to improvements in property rights. With respect to core rights, the education variable is highly significant and correctly signed across all three issues. With respect to advocacy-based accounts, the number of women's groups is positively associated with improved property rights, though we are unable to detect a relationship with inheritance rights. Lastly, after controlling for religion and patriarchal institutions, oil economies are strongly associated with less respect for land rights.

While the statistical results convey the estimates of, and confidence in, the relationships, we assess the magnitude of these influences by calculating predicted probabilities.<sup>70</sup> Setting all other variables to their means, in Figure 2 we estimate the probability of nondiscrimination for each right across the range of values of each of the statistically significant variables in Table 2. To ensure that these simulations most closely approximate real world conditions, the predicted probabilities are estimated only for values of the independent variables actually observed. More specifically, these estimates and the 95 percent confidence intervals that surround them show (on the Y axis) the effect of patrilineal institutions, female secondary education, and number of women's rights organizations for values ranging from the 10th through 90th percentile of each variable's distribution (on the X axis).

The first row of Figure 2 shows that there are moderate differences between respect for women's property rights in the least and most patriarchal contexts and small

**Figure 2** The Effects of Patrilineal Institutions, Core Rights, and Women’s Rights Advocacy on Property Rights



Note: The gray background highlights results that are statistically significant at the .10 level or higher.

differences in inheritance and land rights.<sup>71</sup> By contrast, the graphs displayed in the second and third rows of Figure 2 show that female education and women’s rights advocacy have a very large influence on women’s property rights. In each area, women’s education appears to reduce the probability of discrimination by between 30 and 75 points. In the case of general property rights, for example, the probability of nondiscrimination rises from .15 to .66 as female education increases from its minimum to full enrollment in secondary schools. This is comparable to seeing women in Afghanistan, where education levels and respect for property rights are low, become comparable to countries like Kuwait, Qatar, and Libya, where education levels are high and property rights are typically respected. While education may mitigate discrimination in inheritance rights, even in those societies that invest in women’s education, the probability of nondiscrimination does not exceed the .5 threshold, or the point at which states are just as likely to extend equality as to discriminate.

Women living in Muslim countries also appear to enjoy stronger property rights in states with dense networks of women’s rights activists. Though the effects are somewhat weaker and less consistent than for education, norms-building by women’s

rights groups appears to reduce discrimination against property rights. As the number of women's rights groups increases from the lowest to highest levels, the probability that women enjoy the rights to acquire, manage, and dispose of property increases from .18 to .65. By contrast, advocacy appears to have a more modest influence on land rights. Though discrimination may decrease by about 20 points, even when states are subject to intense pressure from women's rights groups, the probability of nondiscrimination is only .22. Finally, the nearly flat slope of the estimates for inheritance rights suggests that advocacy efforts have little effect on women's status in this area.

These results indicate that the state of women's education and women's rights advocacy are closely associated with increased gender equality. Women's property rights are best respected in societies where women are more aware of their rights, are positioned to challenge misappropriations by kin, and are better able to hold politicians accountable, owing both to the ancillary benefits of advances in core rights and the strength of women's rights groups.

Our investigation of women's property rights in Muslim countries evinces important results. While religious and cultural accounts find some support, they are weaker than the conventional wisdom predicts. Muslim countries appear to follow religious norms when they dictate inequality but lack a comparable level of commitment to Islam's calls for gender equality. Within Muslim countries, however, the persistence of patriarchal institutions rather than religion appears to be a more influential predictor of state behavior. Nevertheless, core rights and, to a lesser degree, women's rights advocacy both appear to be more significant determinants of women's property rights overall. Finally, though religious norms appear relatively weak, it is noteworthy that the influence of education and feminist activism appears least effectual over inheritance rights, an area where Islamic law stipulates unequal treatment.

## **Conclusion**

This article began by asking what drives gender inequality in Muslim majority countries. Conventional explanations argue that either religion or the persistence of patriarchal structures best explain gender inequality. Disentangling these influences has proven difficult, however, as they suggest similar inequitable outcomes across the wide range of rights typically examined. By examining women's property rights, we identify an area where Islamic law guarantees equality while patriarchal practices prescribe discrimination.

Examining a sample of over 100 developing countries, we find that some Muslim countries afford women equal property rights, while others do not. Conformity between religious dictates and state policy is strongest on issues where Islam prescribes discrimination and considerably weaker when it extends equality. Moreover, we find no evidence that more religious Muslim states are more likely to afford women equal property rights. Taken together, these findings suggest that religious influences appear to be weaker predictors of state behavior than the persistence and intensification of patriarchal norms. Consistent with what many anthropologists and sociologists have



long said about women's status, our results suggest that patriarchal structures are the main barrier to gender equality. The relative fragility of religious norms may seem like a cause for optimism, because religion is often regarded as sacrosanct; however, the resilience of patriarchal institutions also bespeaks the strength of these forces.

These findings have important implications both for how we think about women's rights in Muslim countries, as well as strategies of reform. Activists and scholars debate whether women's rights are best advanced through traditional feminist activism or Islamic feminism, which, while thought to be more firmly rooted in local culture, relies on the idea that religion is a primary determinant of behavior. With respect to property rights, however, our results suggest that practices appear to be driven more by non-religious (patriarchal) norms. Our results suggest, for example, that consistent with Islamic tenets close to 90 percent of Muslim countries deny women equal inheritance rights, but that only 26 percent and 56 percent of them extend land and other property rights, respectively. Consequently, our research communicates a very clear message: effective property rights are likely to accompany increases in women's education and advocacy by women's right groups, which serve to increase women's agency, rights awareness, and political representation.

## NOTES

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1. We use the terms Muslim country and Muslim majority country interchangeably. The term does not imply that a state, its leader, or citizens are religious.

2. While some suggest that religion causes inequality, others argue that patriarchal actors instantiate more conservative interpretations of Islam. For semantic ease we use the terms patriarchal institutions, structures, norms, and actors throughout the article to refer non-religious sources.

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4. Clair Apodaca, "The Whole World Could Be Watching, Human Rights and the Media," *Journal of Human Rights*, 6 (June 2007), 147–64; Heather Smith-Cannoy, *Insincere Commitments: Human Rights Treaties, Abusive States and Citizen Activism* (Washington, D.C.: Georgetown University Press, 2012); Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998).

5. Feryal M. Cherif, "Culture, Rights, and Norms: Woman's Rights Reform in Muslim Countries," *Journal of Politics*, 72 (October 2010), 1144–60; Feryal M. Cherif, *Myths about Women's Rights: How, Where, and Why Rights Advance* (New York: Oxford University Press, 2015); Torben Iversen and Frances Rosenbluth, *Women, Work, and Politics: The Political Economy of Gender Inequality* (New Haven: Yale University Press, 2010); Michael L. Ross, "Oil, Islam and Women," *American Political Science Review*, 102 (February 2008), 107–23; Virginia Sapiro, "Research Frontier Essay: When Are Interests Interesting? The Problem of Political Representation of Women," *American Political Science Review*, 75 (September 1981), 701–16.

6. We use the term culture to mean the beliefs, attitudes, or social norms that characterize a group or an organization. Cultural explanations seek to explicate why patriarchal norms become privileged relative to other

values. Rather than making essentialist assumptions about the patriarchal nature of Muslim countries, scholars of this tradition examine how patriarchal interests gain political influence. Because culture is often mediated through institutions, they often label their explanations as institutional.

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9. Agarwal, 54–59; Cherif, 2015, 31–50; Keck and Sikkink, 15–55; Smith Cannoy, 37–39.

10. Keck and Sikkink, 14–16.

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13. Cardenas, 66–72; Franklin, 189–95.

14. Richard H. Chused, "Married Women's Property Law: 1800–1850," *Georgetown Law Journal*, 71 (June 1983), 1359–425.

15. Mayra Gomez and D. Hien Tran, "Women's Land and Property Rights and the Post-2015 Development Agenda," Global Initiative for Economic, Social and Cultural Rights and Landesa Center, October 2012.

16. Cherif, 2015, 49–58; Iversen and Rosenbluth, 17–24; Moghadam, 33–43, 117–21; Ross, 107–108; Sapiro, 704–107.

17. Agarwal, 54–59.

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33. *Ibid.*, 161–62.
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36. Charrad, 2011, 423.
37. Hisham Sharabi, *Neopatriarchy: A Theory of Distorted Change in Arab Society* (New York: Oxford University Press, 1988).
38. Joseph, 107; Moghadam, 151–54.
39. Amira El Azhary Sonbol, *Women of Jordan: Islam, Labor and the Law* (Syracuse: Syracuse University Press, 2003); Charrad, 2001, 17–27; Joseph, 109–15.
40. Charrad, 2001, 233–42.
41. Valentine Moghadam explains that significant social changes, such as the expansion of female education and employment, declining fertility rates, delayed marriage, and the growth of feminist movements, accompanied increased industrialization. Though these factors often weaken patriarchal structures, uneven development processes create some constituencies that seek change (e.g., upper middle class women) while others do not (e.g., the urban poor and rural communities). In response to heated culture wars, many states accommodated Islamists' preferences on women's rights policy. See Moghadam, 120–29, 152–57.
42. *Ibid.*, 165.
43. Charrad, 2001, 147–68; Joseph, 128–36; Kandiyoti, 50–52.
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46. Historically, male guardians were rarely present in matters of property, and marriage did not restrict *de jure* female property rights. See Tucker, 135–37.
47. Qur'an, 4:6; Tucker 135–37. Sunni and Shi'i law schools differ over inheritance rights. In Shi'i jurisprudence, a single surviving daughter may inherit her father's entire estate. A father may also choose to bequeath more to female kin in the discretionary parts of his estate, while Sunni *fiqh* does not permit similar allowances. Lastly, Shi'i *fiqh* prohibits widows from inheriting immovable property from their husbands while major Sunni interpretations make no distinction between property types. See Juan Ricardo Cole and Nikki R. Keddie, *Shi'ism and Social Protest* (New Haven: Yale University Press), 115; Mary F. Radford, "The Inheritance Rights of Women under Jewish and Islamic Law," *Boston College International and Comparative Law Review*, 23 (Spring 2000), 167–69.
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52. Radford, 163–70.
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57. Moors, 48–76; Peirce, 227.
58. Charrad, 2001, 147–68; Joseph, 128–36; Kandiyoti, 50–52.
59. Specific coding and the courses for all variables are seen in the Appendix.
60. For clarity, we code countries that recognize multiple religions as having no established state religion. Separate analyses, treating *State Religion* as an ordinal measure, did not evince different results. Nor do robustness checks using other measures of religiosity (e.g., the number of religion-based laws in a state, government involvement in religion (GIR), a dichotomous version of GIR, exhibit substantive differences.
61. Precluding naturalization, countries award citizenship on the basis of descent (*jus sanguinis*) or birth in the territory (*jus soli*). Even *jus soli* countries include descent-based principles to confer nationality on the children of nationals born abroad. Gender-based discrimination in nationality codes often manifests through laws defining which parent may transmit nationality to the child.
62. Inglehart and Norris, 49–72.
63. Iversen and Rosenbluth, 17–49.
64. Michael L. Ross, "Oil, Islam and Women," *American Political Science Review*, 102 (February 2008), 107–23.
65. *Ibid.*, 107–10.
66. Moors, 48–76.
67. Using refined measures of women's economic activity, such as the proportion of women in the non-agricultural labor market, labor force participation is significant and in the expected direction for general property and land rights in the samples of all developing and Muslim majority countries. This significantly increases the amount of missing data for this variable.
68. Our results remain unchanged, controlling for Middle Eastern and North African countries, except that education, while still correctly signed, loses significance in the general property model.
69. Examining property rights in Saudi Arabia, reveals how patriarchal norms may weaken religiously-based rights and exacerbate gender inequities. Until 2013, many women lacked independent identity cards that made conducting business, like buying and selling real estate, extremely cumbersome. Though Saudi law did not expressly prohibit women's involvement in property acquisition and management, without identification women were required to provide male witnesses to testify to their identity. This discouraged women from accessing their rights. See Jassim Abuzaid, "IDs a Must for Saudi Women," *Arab News*, Mar. 26, 2013; Asmaa Al-Mohamed, "Saudi Women's Rights: Stuck at a Red Light," in Al-Sayed Zaied, Ahmed Zein, Abdallah El-Tahawy, Asmaa Al-Mohamed, and Mohammed Abu Rumman, eds., *Emerging Social and Religious Trends* (United States: World Security Institute, 2008), 5–52.
70. We do not calculate predicted probabilities for variables that are not statistically significant.
71. These probabilities represent the effects of patriarchal institutions above and beyond the effects of religious institutions and oil—other traditional patriarchal structures—that typically occur together.