



# Secularism *on the* Edge

Rethinking Church-State Relations in  
the United States, France, and Israel

*Edited by*

Jacques Berlinerblau,  
Sarah Fainberg, & Aurora Nou



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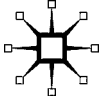
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## CHAPTER SIXTEEN

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### *Secular Portraits and Religious Shadows: An Empirical Study of Religious Women in France*

PASCALE FOURNIER★

#### **Introduction: Of Religion, Women, and the Legal Landscape**

Of the three countries covered by this book, France is certainly the one in which secularism has spawned the most enduring and high-profile debates regarding church–state boundaries. *Laïcité*, the French word for secularism, has been incessantly invoked and mobilized by mandarins and public intellectuals from across the political spectrum to justify controversial legal and political projects. Specifically, *laïcité* has been at the core of two intertwined debates: the place of religion in a secular state and the impact of religious norms on women’s equality. My intervention, based on socio-legal fieldwork among Jewish and Muslim women who have gone through religious and civil divorce in France, addresses both topics.

*Laïcité* is minimally defined as entailing the religious neutrality of the state and the nonestablishment of religion,<sup>1</sup> a trait it shares with what is referred to as “secularism” in other countries.<sup>2</sup> However, over the course of the past decades, *laïcité* has been held to encompass a more extensive relegation of religion to a private sphere of personal belief, out of the neutral and universal “public sphere.”<sup>3</sup> Under this radical approach to secularism, religious beliefs are (and must be) subjective

and private, while citizenship and law are the universal and objective glue that holds individuals together.<sup>4</sup> *Laïcité* thus revolves around the idea that religion must precisely not take the form of social norms or rules that are recognized and legitimized by the state.

Civil law, in turn, is said to yield positive results for women by leading to gender equality and liberation from religious laws held to systematically disempower women.<sup>5</sup> Hence, the reduction of religion to individual belief and the radical refusal of any legal or relational role for religion are rooted in a twofold concern for women's welfare and for defining the appropriate place of religion in a secular state.

The concrete legal implications of this approach are manifold. For instance, the French state purports to give its civil law a monopoly over the regulation of the practices of marriage and divorce,<sup>6</sup> which are the subject of this chapter. This monopoly is reinforced by Article 433–21 of the French *Code pénal* (Criminal Code), which makes it a criminal offense for a religious official to “habitually” conduct religious marriage ceremonies before a civil marriage has taken place, a rule that many politicians worry may be ignored in Muslim communities throughout France.<sup>7</sup>

Interestingly, the “public” manifestations of religion, which proponents of *laïcité* purport to distinguish from private religious belief, have sometimes been given an extensive and slippery definition. This tendency was manifest with regard to three distinct legal cases where the interpretation of a civil law doctrine was presented by proponents of *laïcité* as an illegitimate influence of religious law on French soil. The first example involves a decision from a Lille court, which annulled the marriage of two French Muslims because the husband complained that his wife was not the virgin she had claimed to be, hence lying about an important element of the marriage contract and vitiating the husband's consent.<sup>8</sup> For proponents of *laïcité*, the Lille court's (questionable) application of the secular institution of nullity of marriage for mistake was depicted as an integration of “religious laws” into the “secular laws of the Republic.”<sup>9</sup>

In the second case, the now famous “Baby Loup” decision, the French *Cour de cassation* (a last-resort appellate court) found that the firing of a headscarf-wearing daycare employee was discriminatory.<sup>10</sup> Here, proponents of *laïcité* claimed that a particular interpretation of the principles of nondiscrimination and religious freedom amounted to an acceptance of “Muslim law” by secular authorities.<sup>11</sup>

The third case is illustrated by the 2004 law banning the Islamic headscarf (along with all “ostentatious” religious symbols) from public

schools.<sup>12</sup> Prominent intellectuals in the *laïcité* camp justified the 2004 legislation by arguing that it accounts for the fact that French Muslims “are subjected to the Civil Code and still can refer to the Koran as a moral and religious code,”<sup>13</sup> effectively analogizing the wearing of religious symbols in schools to an illegitimate influence of religious law that runs counter to *laïcité*.<sup>14</sup>

Thus, proponents of *laïcité* often take for granted that the best policy choice is to repress and ignore whatever is framed as religious “law” in a particular dispute. Of course, this radical version of secularism, which may be the dominant approach among French politicians, media pundits, and academics alike, is also contested. Indeed, a number of French intellectuals attempted to reframe particular invocations of *laïcité* as more permissive of certain religious practices. More specifically, these actors claim that the application of *laïcité*’s civil law norms—for instance, the French doctrine of religious freedom—should lead, as a matter of correct legal interpretation, to consideration for, or acceptance of, a given religious practice.<sup>15</sup> However, all seem to agree that religion should not exit the sphere of private, individual belief.

The goal of this chapter is not to dispute the soundness of these republican objectives as a matter of political philosophy. Rather, it is to shed light on the *actual* role of religious rules in social life. To that end, I present data from fieldwork and interviews with Jewish and Muslim women carried out in France from 2011 to 2012. My argument is articulated around two findings. The first finding, presented in part I, is that notwithstanding official nonrecognition, family religious norms often play a role that is normative and “legal,” in that they regulate the interaction of individuals and are experienced by them as a binding force. This influence materializes itself in the existence of quasi-judicial divorce procedures before religious authorities and in the regulatory importance of religious rules in everyday life.

The second finding, presented in part II, is that social bonds present in religion does not inevitably and unambiguously lead to the disempowerment of women. I thus present instances in which religion, often in interaction with the civil law, has provided women with solace, socioeconomic emancipation, and avenues by which to question the meaning and content of religious rules. By underlining the informal and contestable nature of religious norms, I provide a counter-narrative to the idea that religious law systematically oppresses women. I then conclude this chapter with thoughts on how the hypotheses suggested by my fieldwork might affect the policy agenda related to women, *laïcité*, and religion.

### Religion's Regulatory Power in the Republic

The next two parts present the results of my fieldwork among religious women in France. The bulk of this fieldwork consisted of interviews with nine Jewish and Muslim women who had gone through religious and civil divorce. I have translated all the excerpts presented later from French, the language in which the interviews were conducted. The women were contacted indirectly, through religious officials, non-governmental organizations, and connections among religious communities, a method approved by the University of Ottawa's Office of Research Ethics and Integrity.

The interviews focused on two legal institutions: the Jewish *get* and the Islamic *talaq* or repudiation, religious divorces that can only be granted by the husband according to Jewish and Islamic family law.<sup>16</sup> The interviews lasted about an hour and a half each and incorporated questions on *inter alia* the religious and civil marriage and/or divorce, their impact on women's welfare, the intervention of the religious community, and the strategies adopted by women to influence religious and civil outcomes. This fieldwork is qualitative and is meant to help elaborate hypotheses as to the nature of the relationship between religion and civil law. Given the size of my sample, I do not claim to have reached conclusions relevant from a quantitative point of view. Nevertheless, my interviews reveal many phenomena unaccounted for in the mainstream normative discourse of *laïcité* that should be further explored.

For the participants involved in my project, religion has an impact that goes beyond the mere individual and spiritual domain. Indeed, it often plays a regulatory, "legal" role in the lives of women. This seemed to be the case for the participants who were most religious as well as for those who were less pious and more estranged from their religious communities. The more religious women were adamant in their belief that religious marriage and divorce are more important than their civil equivalents and that civil marriage is a mere bureaucratic requirement, the more they valued obtaining a religious divorce:

*Participant 1:*

I wanted both [civil and religious divorce], obviously, on paper. But the most important is religious marriage. Now I am free. [...] Civil divorce was more...to see it on the paperwork that I am really divorced; if I want to marry after I have the right to do it. But what counted the most was religious divorce.

*Participant 3:*

[Religious marriage means a lot to me], because I am a Muslim, so it's normal, you know. [...] It's like any religious person who marries. [It was important to get the civil marriage as well], because we are obligated to do it.

Even the more secular women suggested that obtaining a religious divorce and its attendant procedures was an important part of their lives. This belief prevailed in spite of the fact that they had the possibility of ignoring the religious community, like participant 4, a French Catholic woman who had converted to Islam and had no ties to the Muslim community through her birth family, and participant 5, a Jewish self-described nonbeliever, and of the fact that some were very critical of religious law, like participant 2. Even though these participants had reservations about religion, the social bonds it created in their family and community lives rendered religious divorce highly valuable:

*Participant 2:*

For me what's important anyway is the civil divorce, as I said. [...] Well, it's true that [not divorcing religiously] would have been bad. [...] The fact that he [pronounced the *talaq* divorce] relieved me because it's still very important in religion that a man say, you know, "I don't want you anymore." That way, in my head, I'll be happy. I would want to be divorced religiously and civilly.

*Participant 4:*

[I needed the religious divorce], because I needed our relationship to be over in every way.

*Participant 5:*

[S]ymbolically, [religious divorce] is very important given the place it took in our marriage, given that it was, you know, the *sine qua non* [of our marriage]. [...] I want it to be very clear, in my head, in his, and in that of my children. We must undo all the ties that bind us, including the religious. [...] [If he had refused to give the *get*], I would have experienced that as an act of war.

Other participants suggested that the "private" nature of religious marriage ceremonies and divorce procedures and the fact that they are not recognized by the state do not detract from their significance as social institutions. Moreover, they illustrated the importance of



religious family law not only as a matter of individual identity, but also as an adjudicatory process, with semiformal procedures that mimic the functioning of a public court, before an imam for Muslims and a *beit din* for Jews:<sup>17</sup>

*Participant 6:*

Marriage before God is even more important than civil marriage, you know. [...] [When it occurs before civil marriage], religious marriage is not done in an official manner, because without a civil marriage it's illegal. The imam takes risks by doing it, so obviously it's not a spectacular ceremony at the mosque [...]. It's done in a private setting, in a more informal way, but, you know, the result is the same; it's a marriage before God.

*Participant 9:*

He wasn't bent on [religious principles], and neither was I. But I had a conscience problem, I told myself: "I can't do this to God," you know! [...] So we went to what they call a rabbinical court, where there are many rabbis. [...] We had to have the *get*. It is a very important element for the woman to be freed from the husband and eventually remarry religiously.

Other participants illustrated that religion assumes a legal and regulatory role during marriage. Indeed, religious women often refer to the religious norms that influence their lives as rules of a legal nature. Moreover, when they try to contest these rules, they sometimes do it from a legal perspective, researching religious doctrine and contradicting their husbands' arguments *as a matter of law*. This is illustrated by the following examples pertaining to the contractual duties stemming from the Muslim marriage contract, and specifically the duty of the wife to obey her husband and ask for permission to exit the family home,<sup>18</sup> as well as to the religious validity of the Islamic *talaq* divorce through mere extra-judicial verbal repudiation.<sup>19</sup> In both cases, participants approached religious law as a process requiring research, interpretation, and even contestation:

*Participant 6:*

In religion, and I didn't know that at the time, as soon as the husband says he wants to separate from the woman, the divorce is enacted... [...] But at the time it wasn't necessarily that clear that this was enough, so I asked around, after we got divorced,

to know whether the divorce had really taken place. [...] I asked people who had a religious sensibility similar to mine, with whom I spoke a lot about spirituality and religion [...]. And it confirmed that everything was okay, you know.

*Participant 4:*

I had to be the housewife who doesn't go out, and he wanted to be the man of the house. And I didn't like that because I had an active life. [...] It was an abuse of religion, too extreme. [...] For instance, I wanted to visit my family, and he did not want me to go because they served alcohol at the table. [...] And when you discuss this, you discover that it's true that a Muslim doesn't drink alcohol, but that doesn't mean you're going to neglect your family, not visit them because there is a bottle of wine at the table. It's false. [...] Before initiating divorce I did my research, and everything I heard did not correspond at all with what he was telling me. I was reassured that I was right [*dans mes droits*], that what I was living was not normal. That he didn't have the right to impose certain things on me.

We see that religion is present in the form of rules and norms that exert a regulatory influence not only at the time of divorce, but also during the marriage, in potentially all aspects of daily life. This may explain why participants adamantly believed that religious marriage creates complex social ties that need to be undone through appropriate religious procedures. Such a view of the pervasive regulatory role of legal norms is obviously not limited to religion and has been noted with regard to civil family law by several generations of scholars, including those inspired by American legal realism<sup>20</sup> and legal pluralism.<sup>21</sup> However, it is worth highlighting this complexity in the religious context, as tenants of *laïcité* tend to obscure the phenomenon by placing heavy emphasis on the normative goal of evacuating religion from social life. Thus, this section has sought to bring to the fore the regulatory function of religious law, well alive and present even as civil law purports to ignore and marginalize it.

### **The Impact of Religious Law on Women**

This section illustrates my findings as to the impact of religious law on Jewish and Muslim women in France. It does not present an exhaustive

account, but rather a counter-narrative to the mainstream idea that religious law is systematically oppressive toward women. Thus, it emphasizes the enabling effect of religion. This section builds on the previous one by looking for empowerment in the manifestation of religion as law, norms, and rules. After highlighting the emotional support religion can provide, I describe the contestability of substantive religious norms and focus on the boundaries of the religious normative order, more precisely its relationship to civil law. I then turn to the contractual logic of religious law, viewed by participants as empowering and used by them to enforce beneficial religious commitments from their husbands.

The first way in which religion can be emboldening is as psychosocial support for women. Given the unequal nature of religious rules and the significant emotional turmoil likely to ensue from going through two distinct divorce procedures at once (civil and religious), the role of religion as a source of psychological and relational well-being is not to be neglected. Several participants underlined such a positive role, which is also well documented in the scientific literature:<sup>22</sup>

*Participant 1:*

Well, religion really helped me endure these difficult moments. Otherwise, I don't know what I would have... [...], suicide would have been the easiest thing and the least stressful. But now I am good.

*Participant 4:*

I have to say there was something that helped me make it through, even though I had ups and downs with Islam, it is nevertheless my faith. My faith and my prayers. That saved me.

While religion seems to provide support on the psychological level, it also sometimes benefits women from a social, legal, and institutional standpoint. This may occur, my fieldwork suggests, because of the contestable nature of religious rules and norms. Indeed, classical religious law, which unfolds independently of national law and is often "frozen" in time,<sup>23</sup> can be set aside to give legitimacy to new, innovative religious practices born on French soil.

The case of Islamic divorce exemplifies this phenomenon. Under classical Islamic law, a woman cannot obtain divorce by her own will alone, except for the *faskh* divorce, which is decreed by an Islamic court

on certain specific grounds such as *inter alia* mental or physical abuse, lack of piety, or impotence.<sup>24</sup> The only other possibilities are *khul* and *talaq* divorces, for which the consent of the husband is required.<sup>25</sup> In spite of this, two Muslim participants were able to secure a pronouncement of divorce from imams against the respective husband's will, absent the grounds required for a *faskh* divorce:

*Participant 4:*

[If the man refuses the divorce], you can go back to the person [...] who married you, and the woman exposes her problem. And the imam who married them has the right to divorce her from this man. Even if [the man] doesn't want to, he says, "I divorce you from him" and she is divorced. [...] And I didn't know that at the time.

*Participant 1:*

At first he refused [to give the religious divorce], and it was the imam who told him [...]: "You are wrong to treat her that way," and so on. "Now she wants a divorce." At first he did not accept, and then he said: "I have many wives, I am not holding on to her. If she hands me back the keys to my apartment, I give her the divorce." [...] So I gave the keys to the imam [...]. When [the imam] gave him the keys, he told him: "Sign a paper that says you have received the keys." He refused to sign, and the imam did not let him keep the keys. So he went and filed a complaint that I had given the keys to others and that I wanted to steal from him. And the imam saw that he was a dangerous person, so he gave me the divorce.

These developments may be attributable to the influence of more liberal interpretations of Islamic divorce in countries such as Algeria,<sup>26</sup> Tunisia,<sup>27</sup> and, to a lesser extent, Morocco.<sup>28</sup> It may also be a sign that French imams are sensitive to gender equality concerns and try to adapt the unequal rules of classical Islamic law to Western civil law, in which a wife has the right to obtain divorce without the consent of her husband. Or it may simply be that the imams wish to reform the more conservative interpretations of religious law by opening the doors to *ijtihad*.<sup>29</sup> In any case, this liberalization of the classical religious rules of divorce is striking and underlines the contestable nature of religion as a social institution. It also indicates that interpretive flexibility, as

opposed to rigidity, is a significant factor in the sociological study of religion.

The respective spheres of influence of religious and civil law represent another point of contestation. Some participants mentioned that religious adjudicators recognize the civil divorce as a replacement for the religious divorce, effectively surrendering their authority to the civil sphere. This can be analogized to a decision of private international law, whereby authorities in one legal system recognize and uphold the decisions of another system through a procedure called *exequatur*.<sup>30</sup> Participants also noted that religious authorities had an inconsistent practice when it came to the religious validity of civil marriage, echoing the academic literature.<sup>31</sup> This inconsistency is no doubt due in part to the diversity of the religious sources on which adjudicators rely to justify their decisions. This leaves many fertile bargaining avenues for women who wish to obtain a religious divorce quickly and easily:

*Participant 4:*

There are certain imams who say that when you divorce civilly, automatically you are divorced religiously. [...] Some [imams] approve, some don't.

*Participant 6:*

Q: Some participants have told me that even if the man does not consent to religious divorce, if they divorce civilly, then they were considered divorced religiously.

A: Yes, that's also what I heard [...]. I heard that for marriage as well.

Perhaps because of the flexible nature of religious law, many participants claimed that both civil and religious family laws were present in their lives as contractual mechanisms. This hints at the inadequacy of the family/market dichotomy, whereby the family is constructed as the opposite of the contractual market and as emotional, identity-based, coerced, and/or driven by status, not contract.<sup>32</sup> While the literature on civil, Western family law has seen the development of the concept of "relational contract," which bridges the gap between strictly status or contract-based conceptions of marriage,<sup>33</sup> religious family law is still very often depicted as irrigated by identity concerns and derived from fixed and revealed religious doctrine. In other

words, religious family law, the historical focal point of the family/market dichotomy, is still often understood as status and not contract.<sup>34</sup> However, some participants described their relationship to religious law by emphasizing the ethos of self-reliance, agency, and individualism often associated with civil contract law.<sup>35</sup> For these participants, religion cannot be reduced to status and submission, but is instead ripe with contractual recourses and avenues for private ordering and negotiation:

*Participant 7:*

A: I don't see major differences in the way marriage is treated by religion and the way marriage is treated by civil society [*la société civile*]. [...]

Q: And if your husband had refused the *get*...

A: You can get your divorce nowadays; there is no refusal that will hold. It takes a little longer, that's all. After I don't know how many years [...], he is obliged to give it to you, and that's it.

*Participant 4:*

You have to know your religion. You have to know your rights. You have to know what this religion is, what you must do in it. [...] And if there are problems, what are the avenues, what... It's like in a contract, like when you take up a new job: "Okay, what are my schedules, what if I have a problem?" There are articles and all that; you have to look into it.

In accordance with the idea of a wholly *legal* contractual regime, participants thus highlighted the existence of religious recourses, procedures, and rules, and not merely revealed and imposed religious norms. These participants indeed illustrated the fact that both Islamic marriage<sup>36</sup> and Jewish marriage<sup>37</sup> have a deeply contractual nature and are, in fact, structured around negotiation, bargaining, and enforcement mechanisms.<sup>38</sup> Consequently, participants also sometimes employed the strategy of giving religious norms the form of a civil contract, binding the husband to perform certain religious duties such as the giving of the Jewish *get* or the payment of *mahr*, a sum of money owed by the Muslim husband to the wife first upon marriage and again upon divorce. Through this process, religion acquires an even more official, "public" nature. For these participants, religious law did not need to be enforced by the civil courts in order to be persuasive to their husbands.

Mere formalization in a contract seemed to suffice to gain bargaining power and translate religion into a socio-legal entitlement:

*Participant 3:*

*A:* You get a religious marriage as soon as you sign a contract [...]. So I did a contract and signed [...]. [The imam was present.] [...]. There were witnesses, my father was there, and he also had to sign the contract. [...]. I remember [my husband] gave [me] money.

*Q:* Was that the dowry?

*A:* Yes. [...] With that money, I can organize a marriage or buy whatever I want, you know.

*Participant 5:*

It was something we had written between us, a contract, before going to the notary, [...] because we had each taken our own lawyer. We weren't on good terms at that point. [...] So we did a little negotiation. And in this negotiation, we wrote a document [...] that bound us morally. It was mostly to not forget things. [...] In that paper we had put, you know: "I will not oppose the obtaining of the *get*."

These private contractual processes are legitimated by French civil law, which has recognized that both the Islamic *mahr* and the Jewish *get* give rise to civil obligations. French civil courts have enforced *mahr* by virtue of the doctrine of "contractual condition of marriage"<sup>39</sup> and have held that refusal to give the *get* can constitute *une faute*, a tort that triggers civil liability and leads to the payment of damages.<sup>40</sup> Thus, even though the participants did not raise religious norms in civil procedures, the social existence of religious law was legitimated by the civil law. This legal interplay was quite advantageous for the participants, as was the socio-legal contractualization of religion deployed in the shadow of the civil law. My fieldwork thus suggests that religion is not systematically oppressive to women in all circumstances, but that it creates myriad bargaining endowments in context-specific interactions with the civil sphere and the social dynamics of community life in France. Civil law, in turn, offers these women more negotiating power in the religious realm.

### **Conclusion: Encounters, Fieldwork, and Secular Portraits**

In this chapter, I questioned two ideas, often put forward by mainstream proponents of *laïcité*: first, that religion does not (and must not)

have any regulatory power in the public sphere and, second, that the presence of religion as laws, norms, and relational entitlements is necessarily disadvantageous to women. I have provided data from my fieldwork among Jewish and Muslim women in France to counter these two arguments.

In the first section, I have described the *actual* life of religious norms in French society by outlining how religious women of various levels of piety insisted that religious divorce was important in light of the web of social ties created by religious marriage. I then depicted religious marriage and divorce procedures as legal processes. I concluded by uncovering the regulatory power of religious rules during marriage and up to divorce. In the second section, I qualified the idea that religion always oppresses women by tracing the ways in which semi-legal manifestations of religion in France can have a positive impact on the course of options available to women. In doing so, I have touched upon the emotional strength gathered from religion, the flexibility of religious rules, and their contractual logic.

Of course, this chapter should not be taken to imply that religious rules always favor women or that civil law somehow systematically disfavors them. Even though my participants did lament the lack of resources and access to justice inherent to the civil law, they also often affirmed that the formal equality provided by the civil law was empowering to them, in terms of possible outcomes, but also as an incentive for the husband or the religious authority to advance a more progressive interpretation of religious law. Incidentally, they also mentioned that the most advantageous route was that in which civil law actually considered religious norms and incorporated or guided them in order to push toward more favorable outcomes.

The example of civil courts' acceptance of civil liability for refusal to give, for instance, the Jewish *get* came up. However, the goal of this chapter was not to present an exhaustive picture of religious women's complex and shifting relationship with religious and civil laws. Rather, it was to introduce a counter-narrative that underlines the real possibility of empowerment through religion as well as the inevitability of religion's presence as a legal entity. Such insights do not necessarily undermine the normative *goals* of secularism. Nevertheless, they do challenge the dominant portrayal of religious law among republican thinkers by inciting proponents of *laïcité* to adopt a more rigorous analysis of the distributive impact of their policy proposals.

In some cases, attentive fieldwork and policy analysis may lead to the conclusion that the best choice is an interaction between religious and civil norms or an incorporation of religious norms into civil law. To be



sure, equity may dictate that particular religious norms be completely set aside by civil law in some cases. But such a conclusion should not be reached through the application of a disincarnated policy maxim.

Fortunately, the role of sociology in highlighting how religious subjects create, react, and navigate social organizing in secular France has been significant in recent years.<sup>41</sup> Pushing the boundaries of sociology to penetrate the legal landscape, this chapter has purported to heed James Joyce's call "to encounter for the millionth time the reality of experience"<sup>42</sup> through the medium of socio-legal ethnography. Perhaps this unexplored space can help foster sound policy dialogue by bringing to the fore the impact of religious *legal* rules as they lodge themselves in the shadows of the secular portraits brandished in the name of *laïcité*.

### Notes

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6. This monopoly is only valid for French citizens. Indeed, non-nationals, no matter how long they may have been domiciled in France, will be applied foreign (often religious) laws in family disputes adjudicated by French courts. See Sami A. Aldeeb Abu-Sahlieh and Andrea Bonomi, eds., *Le Droit musulman de la famille et des successions à l'épreuve des ordres juridiques occidentaux* (Zürich: Schulthess, 1999).

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- The Temptation of Being Among One's Own* (New Brunswick, NJ: Transaction Publishers, 2010), 81] both play important adjudicatory roles in their respective communities, including for divorce matters.
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  29. *Ijtihad*, meaning "personal reasoning or interpretation," is a process of creating new legal rules to embody abstract religious principles. This concept is often put forward by liberal Islamic legal scholars who, unlike more traditionalist ones, emphasize the need for Islamic legal rules to evolve and change, albeit always in conformity with the spirit of Islamic religious sources; see Lama Abu-Odeh, "Modernizing Muslim Family Law: The Case of Egypt," *Vanderbilt Journal of Transnational Law*, 37, no. 4 (2004): 1043–146 and Muhammad Sa'id al-Ashmawi, *Islam and the Political Order* (Washington, DC: The Council for Research in Values

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