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Towards Gender Equality: Understanding Bahrain's Unified Family Law

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Beyond extending political and economic rights, women empowerment is also based on the status of their civil and social rights. And, in those countries where women are at the forefront of society, or leadership positions, there typically exists legislation to protect and defend the rights of women socially, politically and in the context of family affairs. Because of this direct correlation, we believe it to be extremely important to address the latest reforms to family law in the Kingdom of Bahrain as a cog in our unfolding Women in the Gulf research project. By presenting and analysing such development, we open a transversal window on the efforts to improve women's rights in Bahrain.

On 19 July 2017, Bahrain's King Hamad bin Isa Al-Khalifa, ratified the new Unified Family Law after it was unanimously approved by the Kingdom's upper chamber of its bicameral parliament (Shura Council)—the final step in the constitutional process to promulgate a law. King Hamad described the new law as a 'milestone in our comprehensive development and a landmark legal chapter that protects the family entity.' He also commended the role of the Supreme Council for Women (SCW) for advocating and supporting the promulgation of the law—an instrument to promote the role of women in society.

Bahrain's Unified Family Law is an important step forward for a small country in a complex region not typically noted for its political modernisation. And it is therefore necessary to dissect it and its implications.

The law consists of 141 articles dealing with the provisions of engagement, marriage, custody, alms, alimony, and divorce. It is a watershed piece of legislation as it guarantees, for the first time, that all of these matters be treated according to the civil law, based on principles of absolute equality between genders. The Family Law bolsters Bahrain's judiciary and strengthens guarantees that protect litigators' rights and preserve the Bahraini family cohesion. The intent of the law

would be to reinforce the status of the state and consolidate the rule of law over family matters, a sphere traditionally dominated by religious institutions.

The main novelty of the law is that it applies to both the main religious sects in Bahrain — Sunni and Shia — after, in May 2009, a codified family law was adopted only by the Sunni sect due to prolonged protests from Shia groups. Indeed, the theme has been controversial in the country since the government announced its intention to pass a similar law in 2005. Bahrain witnessed, on 10 November 2005, protests led by Sheikh Isa Qassim, in which thousands of Shia took part in condemning the government's decision. Subsequently, Shia MPs refused to endorse or even discuss the draft law—prompting the government to withdraw the proposed legislation in 2009. According to some Shia clerics at that time, the parliament was not qualified to debate or decide on family matters rooted in religious jurisprudence. That year the family law was constructed for application only to Sunni citizens of Bahrain or those Shia who chose to marry in Sunni courts.

Since then, Shia women's rights activists together with an assortment of NGOs — including, for example, the Bahrain Women's Society — have been calling for a common family law that would affirm the civil status of the Kingdom regardless of the opposition of some religious groups. After years of deliberation, in order to pass the new Unified Family Law, this year the government has engaged a religious committee set up by King Hamad and compromising religious scholars from both the Sunni and Shia sects who provided a series of recommendations to lawmakers and helped ensure that the new legislation would not contradict religious precepts, thus strengthening its sustainability.

Following the promulgation of this law, the reactions have been quite diverse across the spectrum and telling in their diversity. Several women activists expressed deep satisfaction. One lawmaker, Jameela Al Sammak MP, noted that this 'is a new birth for Bahraini women and a grand chance to preserve their dignity and protect their rights fully.' Shura Council Member, Nancy Khedhour (one of the leaders of Bahrain's Jewish community) suggested that the law would help women secure more rights: 'It will help with the progress of women and society in general.' She went on to suggest that 'it will elevate all women in Bahrain to their rightful levels, giving them all their rights as the law will address all loopholes.'

Yet, alternately, some more orthodox Shia clerics, such as Sayed Abdullah Al-Ghuraifi, Sheikh Abdulhussein Al-Sitri, Sheikh Mohammad Saleh Al-Rabie and Sheikh Mohammad Sanqour signed a statement arguing that the opinion of clerics and scholars will not change after passing the family law—considered an impingement on (Shia) doctrinal specificities, and that the law itself violates the sect's views and provisions in the realm of family affairs.

While the journey to full equality for women in Bahrain still faces a few obstacles tied to a mixture of traditional costumes and an *ad literam* interpretation of religious texts by some religious authorities. However, it is clear that with the approval of this law, Bahrain has taken a concrete step in the right direction.