



Courting women in the Gulf monarchies: State power, gender and judging

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Abstract

The article highlights the appointment of women as adjudicators in court in the Gulf monarchies between 2005–2020. The main question addressed is: What are the driving forces behind the inclusion of women in the judiciary in these overtly conservative societies? Two circumstances are explored: First, the rise in the number of female lawyers along with the appointment of professional women in law as deputy public prosecutors. This question responds to *how* Gulf women have entered positions of judicial litigation and decision-making. Secondly, the inclusion of women as adjudicators in court. This part addresses questions related to *why* Gulf women have obtained positions as prosecutors and judges in courts. Kuwait and Saudi Arabia provide case studies in addition to a general review of women's access to judgeship in the six Gulf monarchies.

Key words

Gulf monarchies; Gulf women; female lawyers; women judges; public prosecutors; court

Resumen

El artículo destaca el nombramiento de mujeres como juezas de los tribunales de las monarquías del Golfo entre 2005 y 2020. La principal pregunta que se aborda es la siguiente: ¿Cuáles son las fuerzas que motivan la inclusión de mujeres en la profesión judicial en esas sociedades abiertamente conservadoras? Se exploran dos circunstancias: primero, el aumento en el número de abogadas, junto con el nombramiento de profesionales mujeres en el derecho como fiscales adjuntas. Aquí se responde a *cómo*, en los países del Golfo, las mujeres han alcanzado cargos de litigación judicial y toma de decisiones. En segundo lugar, la inclusión de mujeres como magistradas en los tribunales. Esta parte aborda *por qué* las mujeres de los países del Golfo han conseguido

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cargos como fiscales y juezas. Kuwait y Arabia Saudí son casos de estudio. Además, se hace una revisión general del acceso de las mujeres a la judicatura en las seis monarquías del Golfo.

Palabras clave

Monarquías del Golfo; mujeres de los países del Golfo; abogadas; juezas; fiscalas; tribunal

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1. Introduction

Rulers in Gulf monarchies are courting women in the sense that they are opening the doors of courts for female citizens to be appointed as judges and public prosecutors. In 2006, King Hamad of Bahrain issued a decree which saw the appointment of Muna Al Kawari as the first woman judge in a member state of the Gulf Cooperation Council (GCC).¹ Roughly a decade later, female citizens with a law degree were admitted as prosecutors and appointed as judges in five of the six Gulf monarchies.

Courts are powerful arenas of arbitration and decision-making in a state. They represent core institutions of mediation, conciliation and access to justice that are closely related to the exercise and dispersion of state power. Seen in terms of female citizenship, appointing women to high-ranking positions in the state apparatus reflects a visible and powerful acknowledgment of the expansion of female citizens' legal capacity and judicial autonomy in the public sphere (Maktabi 2021c).

Appointing women in judicial positions in overtly conservative societies such as the Gulf monarchies reflects furthermore the long-term impact of these states' investment in women's higher education. Notably, authorities in the Gulf monarchies are more eager and willing to include professional women in core functions of the state apparatus. At the personal level, the position of a woman judge or a public prosecutor who disperses justice either by issuing rulings or raising cases on behalf of the state, exhibits the expansion of female decision-making capability and authority in administrating and adjudicating public affairs.

Since the turn of the millennium, the entry of female citizens into the field of law in the Gulf monarchies – as lawyers, legal consultants, prosecutors and most recently, as judges – is a striking feature of a broader state agency agenda where ruling authorities seek to include women as advisors and adjudicators in courts.² After Bahrain appointed the first woman judge in the Gulf in 2006, other GCC-states followed suit. In the UAE, Qatar and Saudi Arabia, women were appointed as judges and arbitrators in court in 2008, 2010 and 2016 respectively. Most recently, Kuwaiti authorities announced on 30th June 2020 the appointment of eight female judges (Alhewail 2021). In contrast to the other monarchies where female judges were selected to their positions without significant political tension, Kuwaiti female lawyers raised several cases against the Ministry of Justice after 2009 to be able to enter positions as trainees to the public prosecutor's office. Training positions offered to law graduates at the Kuwait Institute for Judicial and Legal Studies (KIJLS) which is the only path through which law graduates can be trained as

¹ The six Gulf monarchies – Saudi Arabia, Kuwait, Oman, Qatar, the United Arab Emirates (UAE) and Bahrain – established the Gulf Cooperation Council (GCC) in 1981. Notably, the term “monarchy” is here used as a generic term to denote the six states in the Persian Gulf who share a hereditary form of dynastic political order. The term “kingdom” applies more precisely to the kingdoms of Saudi Arabia and Bahrain (since 2002). Kuwait, Qatar and the UAE are emirates (meaning “princedom” in Arabic), while Oman is a sultanate.

² When the term “female lawyer” or “female judge” is used in this paper, denotes most often, though not always, women who have nationality in one of the six Gulf monarchies. In Oman, for instance, the nationality of female lawyer Sadaf Buchanan who was celebrated as “Oman woman of the year in 2018” is not rendered. Buchanan may or may not have Omani nationality, or she may have dual nationality, but this information is not rendered on Dentons webpages where she is partner (see section 3.5. in this article).

public prosecutors and thereafter be able to become judges.³ After five years of pressure, the Ministry of Justice announced in 2014 that 22 female lawyers were admitted to entry-level positions at the KIJLS which would eventually allow them to become public prosecutors and judges.

How, when and why are professional women in the field of law included, selected and appointed as judges or prosecutors by state authorities in the Gulf monarchies? This article presents empirical observations of the inclusion of women in the judiciary in the six Gulf monarchies. By “inclusion” I mean how female law graduates were recruited to positions of judgeship, and the ways some encountered barriers in their efforts to join the bench while others were supported and appointed as judges without experiencing obstacles. The cases of Kuwait and Saudi Arabia represent examples of female law graduates who had to raise cases against the state in order to become attorneys (Kuwait) and engage in campaigns in order to be able to practice their profession after graduation (Saudi Arabia). By contrast, in Bahrain, the UAE and Qatar, women judges were not only eager to become judges, but were appointed as such with the blessings of rulers without facing complications. The discussion probes into the driving forces behind the appointment of women as judges and prosecutors, and the potential impact of state policies that empower women with decision-making powers in the legal sphere. Importantly, how female judges fare in their position as judges is not addressed. The main objective of this article is rather to explore the social and political context that surround the selection and entry of female judges into positions of judicial power. Types of cases that female judges in the Gulf monarchies have handled, the rulings they have issued, or how they have functioned in their role as judges remain questions for future research.

The methodological approach applied is empirically founded and relies on three main sources. First, a search in Arabic media outlets through the Internet using the keywords “first female judge” (*awwal qadiya imra'a*) for each of the six monarchies. The search gave hit results on the keyword as well as digitalized articles from the daily press authored by proponents and opponents of women’s entry to the position of judgeship in the Gulf monarchies.⁴ Secondly, interviews with more than fifteen female lawyers in Kuwait between 2012 and 2015 provide insights into the struggle of women into the position of judge (Maktabi 2016b, 2021b). Thirdly, the digitalized archives of the Women’s Cultural and Social Society (est. 1963, hereafter the WCSS) – Kuwait’s biggest women’s association – represents a third avenue for information on women judges in the Gulf. During a fieldwork in Kuwait in February 2018, I got access to documents gathered at the WCSS on the subject of female judges. In 2016 and 2017, the WCSS organized conferences on the subject of women and the judiciary in the Arab world and invited speakers –including women judges from the Gulf and other Arab states. The proceedings and booklets published after these two conferences gave valuable information on the experiences of Arab women judges as expressed by themselves. In addition to these three sources, a UN publication on women’s entry to the judiciary in

³ The Arabic title of the Kuwait Institute for Judicial and Legal Studies (KIJLS) is *Ma'had al-kuwait lil-dirāsāt al-qadā'iyya wal-qānuniyya*, [معهد الكويت للدراسات القضائية والقانونية], see <https://www.kijls.moj.gov.kw/AR/Pages/default.aspx>.

⁴ For a good firsthand overview over women lawyers and judges in the Middle East, see *List of first women lawyers and judges in Asia*, 2021.

IMAGE 1



Image 1. Kuwaiti professor in law Badria Al Awadhi (b. 1944) is among the first women in the Gulf to study law. She attended Cairo University (1963–1966), and later became Dean at the Faculty of Law at Kuwait University (1979–1982).

the Middle East provided a comparative study to the situation in other Arab states such as Jordan, Lebanon, Palestine, Sudan and Tunisia (Economic and Social Commission for Western Asia – ESCWA – 2019). Notably, the publication pointed out that the presence of women in judicial institutions in the Gulf has been more limited than in other Arab states, lending evidence to a knowledge lacuna in studies on women’s access to judgeship in the oil-rich monarchies (*Ibid.*, 7).

The article is divided in six sections. After the introduction, the second section presents the rise of women in the legal sphere along with the increase in the number of female lawyers. The third section renders an overview of the

appointment of female judges and prosecutors in each of the six Gulf monarchies. The fourth section looks into factors that shed light on the inclusion of women into the judiciary such as the extension of women’s voting rights and representation in political and administrative positions on equal terms with males; legal mobilization of female lawyers to gain access to positions as prosecutors; and the promotion of a human rights’ discourse as part of rulers’ engagement in international relations, including branding politics. The fifth section asks, “why are Gulf monarchies courting women?” and sets forth two main explanations behind policies that empower women in judicial positions: First, governance strategies that include alliance-building with female citizens as means to harden the core of those privileged with citizenship in states where noncitizens constitute the majority of the population. Secondly, authorities in the Gulf seek to upgrade authoritarian rule through policies that embed and enforce rule of law principles in new ways after 2011. In section six I point out implications of women in judicial positions, and suggest that ruling authorities in the Gulf monarchies perceive female citizens as important allies in bolstering and legitimizing their rule (Tripp 2019).

1.1. *The rise of women in the legal sphere in the Gulf monarchies*

Empirical evidence of the rise of women in the field of law show clear signs that the number of female citizens who study law has increased dramatically in all GCC states over the past decade. Kuwait and Qatar may serve as two cases that illustrate the increase in the number of female law graduates and the rise of female lawyers.

In both states, female law graduates from law faculties at public universities constitute roughly around 60–70 per cent of total number of graduates (Maktabi 2016a, 26–27, 2017c). This trend reflects a global phenomenon where the number of female law graduates surpasses the number of male law graduates, particularly in law faculties at public universities (Schultz 2003).

Women’s entry into the field of law has come gradually. Kuwait pioneered in the early 1960s where first-time female students, such as Badria Al Awadhi, studied at Cairo University (Maktabi 2021b). In the 1970s, around twenty women were registered as law

students at the Faculty of Law at Kuwait University. By 1999, a gendered change occurred where female law students started catching up with male law students.⁵ Data for the academic year 2014/2015 indicates that 62 per cent of registered law students were women: out of 2,626 students, 1,635 were female and 991 were male (Central Statistical Bureau 2014). In addition, there were students at the private law school, Kuwait International Law School (KILAW), where women comprised half of the approximately 1,800 students in 2015. One particularly noticeable consequence of the rapid rise in the number of female law students is the 30 per cent ratio of female to male lawyers in Kuwait which is among the highest in the Arab world.⁶

The number of professional female lawyers has risen at a noticeable rate not only in Kuwait, but in all Gulf states since 2000, including Saudi Arabia where women were admitted at law schools in public universities in 2005.

Women in the Gulf are definitely reaping the fruits of state investment in higher education since the 1960s. They enter law faculties based on competitive attributes such as high grades rather than the financial capability of parents to pay for tuition in private schools. Also, Gulf women are less likely to travel abroad and enroll at universities outside their country compared to male students due to conservative ideals of young women being “on their own”. Therefore, if and when women compete with men on equal grounds to enter public universities, female students enter based on merit rather than financial capability and freedom of movement. Female students in the Gulf seem to perform better and have become sharper competitors to male students when applying to enter public universities, including those that offer law studies.⁷

Yet another reason for the rise of the number of women in law is that women who graduate from law faculties are trained into a profession which is in demand, and they are finding employment opportunities. Salaries for professional lawyers in the private sector are substantially higher than for legal practitioners in the public sector because lawyers receive state sponsored benefits as part of nationalization policies.⁸ Another benefit which female and male Kuwaiti citizens enjoy as graduates from law schools is the conditionality of citizenship as requirement to raise cases in Kuwaiti courts.⁹ Possessing nationality as condition to present cases in court contributes significantly to enlarging the number of Kuwaiti women who are able to obtain and maintain jobs in competition with noncitizen lawyers who often get lower-paid jobs as legal consultants to lawyers who have Kuwaiti citizenship.

⁵ Personal communication with professor Badria Al Awadhi, 22 April 2012 and 24 April 2016, and lawyer Shaikha Al Julaibi, 15 April 2012 who was a law student at Kuwait University in the 1990s.

⁶ Estimated 2010 figures for female lawyers and total number of lawyers in brackets: Kuwait 1,291 (4,319); Lebanon 1,597 (5,595); and Morocco 4,640 (20,715) (Michelson 2013).

⁷ Conversations with Dean of the College of Law at Qatar University, Dr. Hassan Okour, May 2012, and Associate Professor Magdalena Karolak at Zayed University in the UAE, July 2019.

⁸ In the case of Kuwait, the financial benefit amounts per month come on top of what the individual lawyers receives based on the number of cases raised. This additional financial benefit is part of the nationalization program through which the state supports the Kuwaitization of the private sector.

⁹ Non-citizen lawyers can work and obtain positions within the legal and judicial system as notaries, advisors, and judges in Kuwait. However, only lawyers who are registered as members of the Kuwait Society of Lawyers (*jam'iyat al-muhamiyyin al-kuwaitiyya*, est. 1963) are allowed to present cases in court. In other words, one of the conditions to become a member of the Kuwaiti Lawyers' Society is Kuwaiti citizenship.

2. From lawyers to prosecutors and judges

Female citizens who study and graduate in law in the Gulf monarchies have mainly three professional avenues. First, they can get jobs in the public sector as legal advisors in the state administration. Second, a substantial and growing number of young women prefer to work in the private sector as lawyers raising cases in court on behalf of clients. A third minor group of female professionals has over the past decade been admitted to positions where they adjudicate on behalf of the state as trainees and prosecutors at the Public Prosecutor's Office (PPO) (*al-niyāba al-`amma*). On a parallel track, some of these women have been appointed as first-time judges after a specific training period as prosecutors.

The position of prosecutor – usually known as *wakīl niyāba* (male) or *wakīlat niyāba* (female) – and the position of judge – *qāḍi* (male) or *qāḍiya* (female) – are two types of legal decision-making occupations that are intimately related to the distribution of power in the state. A prosecutor raises all types of cases in court on behalf of the state. A judge adjudicates and rules according to the state's laws and regulations. Theoretically and judicially, these two positions do not overlap. Judges rule according to principles of separation of power and judicial autonomy. They make judicial decisions and issue rulings based on explicitly written laws, or take into consideration precedence – i.e. rules that have been made previously in similar cases. By contrast, prosecutors represent state authorities. Their mandate is to take legal action and bring to court persons who are accused of breaking the law so that a judge may adjudicate and come out with a verdict. Prosecutors have also the authority to raise cases of principle character if and when perpetrators breach public law and order as defined by ruling authorities.

In general, only one person holds the position of General Public Prosecutor (*mudda`ī `ām*, GPP), as the case is in Kuwait. There, the GPP is appointed and dismissed by the ruler of Kuwait. Prosecutors – more precisely known as Deputies to the Public Prosecutor and usually called *nā`ib mudda`ī `ām* or *wakīl niyāba* – are thus appointed to raise cases in court on behalf the GPP and thereby on behalf of state authorities. In the case of Gulf monarchies, the GPP is selected to that position by each state's Judicial Council whose members are usually appointed and dismissed by ruling authorities. Each year, the GPP and the Judicial Council appoint batches of prosecutors who have undergone specific training periods at the state's judicial and legal studies institute (ESCWA 2019, 16–21).¹⁰ Appointed prosecutors are then spread in courts in all governorates throughout the state.

The organizational link between the position of prosecutor and the position of judge is that judgeship is often obtained *after* a training period as prosecutor, usually stretching between at least three years and up to ten years or more. In other words, in order to become a judge, a person with a law degree has to go through a training program which

¹⁰ In Kuwait, for instance, female PPs constituted 22 out of the 62 candidates who were enrolled candidates in 2013 at the Kuwait Institute of Legal and Judiciary Studies (KILJS) (Alhewail 2021, 14). For more on the KILJS as public administrative organ that caters for the training and recruiting of Kuwait's legal experts, prosecutors and judges, see Maktabi 2020, 384–388).

overlaps with being trained as a prosecutor.¹¹ In some cases, a judge is appointed without having worked as a prosecutor.

This rather technical introduction that presents differences and similarities pertaining to the position of prosecutors and judges is important for two reasons:

First, it seeks to make clear that a judge and a prosecutor are, institutionally and theoretically, positions that represent two different authorities. Prosecutors are representatives of political authority. Sometimes, though not always, they raise cases on behalf of rulers who have particular motivations and want to reach specific political objectives. Public prosecutors are thus the extended arms of rulers in the state's judicial sphere. Prosecutors have, in other words, a politically informed position when they raise cases in court. Judges, by contrast, are representatives of judicial autonomy and non-partisanship. In theory, the job of a judge is to trespass political considerations and issue rulings based on existing laws. The profession of judgeship is adjudication of cases through which justice is reached by upholding rule of law principles. The allegiance presumed in the two positions of judges and prosecutors differs substantially. The allegiance of prosecutors is to rulers and to securing rulers' interests in the sake of safeguarding public law and order as defined by political rulers at any given time. By contrast, judges represent justice as defined in explicitly stated laws and regulations. Their allegiance is to rule of law principles of transparency, equal treatment of claimants, and judicial judgement based on previous rulings that seek to accommodate fairness, impartiality and disinterestedness when issuing rulings.

Secondly, contrasting aspects related to the role of prosecutors and the role of judges reflect variations in how female lawyers in different Gulf states have obtained positions of decision-making in the legal sphere. Differences in appointment processes shed light on organizational nuances in each state. In other words, whether and how women are appointed as judges or as public prosecutors reflect varying political contexts that surround the entry of female lawyers to the judiciary in each Gulf monarchy. These are subject matters discussed in the next section.

3. How are Gulf monarchies courting women?

How are rulers in the Gulf Monarchies empowering female citizens in positions of judicial decision-making? What is specific about the Gulf experience in terms of including women as prosecutors and judges? As of 2020, women have been appointed as judges in five of six Gulf monarchies, and in each monarchy, they have achieved positions of judgeship in diverse ways.

¹¹ In GCC states, a candidate can obtain a degree in law after around 3–4 years of academic study for a BA-diploma, or 5–6 years for an MA-diploma at the Faculty of Law. Most practicing lawyers have a BA-degree in law. In addition, some states – such as Kuwait and Qatar (after 2003) – candidates with degrees from the Faculty of Shari'a are able to obtain degrees in civil law and practice as judges in civil courts on equal terms with candidates who have graduated from the Faculty of Law, provided they take necessary courses.

3.1. Bahrain: Pioneering in the Gulf

Bahrain was first in appointing judge Muna Al Kawari in 2006 as the first woman judge in a GCC state.¹² Three years earlier, in 2003, she was admitted to the Public Prosecutor's Office (WCSS 2017, 25–26).

IMAGE 2



Image 2. Bahraini judge Muna Al Kawari who was appointed as the first female judge in the Gulf received almost all her education at the Faculty of Law and Political Science at Beirut Arab University. She began her studies in 2000, had an MA in 2006 and a PhD in 2012–2013 in criminal law (*qanun jana'i*). She started her career as prosecutor (2003–2006), then as judge at the juvenile court (2006–2010) before becoming leader of the Court of Cassation (2014–2016). In 2016, Al Kawari was appointed as member of the Constitutional Court for a five-year period (Al-Watan 2019).

Al Kawari's appointment as judge to the civil courts in Bahrain in 2006 came in the form of a decree issued by King Hamad. When Bahrain became the first Gulf state to break the male monopoly in the judiciary, Al Kawari stated that "this nomination does not surprise me because his majesty has been encouraging women since the launch of reforms" (Al Jazeera 2006). She referred to the referendum in 2001 which turned Bahrain into a constitutional monarchy and, in 2002, extended the franchise to women, empowering them with voting and representation rights to an elected parliament.¹³ Judge Al Kawari's entry into the judiciary came in other words shortly after women in Bahrain gained political rights, indicating a relationship between enfranchised women and women gaining more prominent positions as decision-makers in the judiciary.

In April 2016, ten years after her appointment as judge, Al Kawari was assigned by Emiri Decree as member in the Constitutional Court for a period of five years.¹⁴ She serves with six other male members. Five of these are judges, while the sixth – Sheikh Khalifa Bin Rashed Bin Abdallah Al Khalifa – has a license in law from Kuwait University (1979), is a member of the ruling family, and leader of the Constitutional Court.

¹² Iraqi judge Zakia Haqqi was the first woman to be appointed as judge in the Arab world in 1959, followed by the appointment of a woman judge in Morocco in 1961, and in 1966 in Lebanon and Tunisia (ESCWA 2019, 35).

¹³ 31 Bahraini women stood as candidates in municipal and parliamentary elections in 2002, but none were elected (Naar 2018).

¹⁴ In 2016, another woman judge, Fatma Fysal Habil who occupied the position of Deputy at the Civil Court, was appointed to the 12-member Supreme Judicial Council in Bahrain (ESCWA 2019, 36).

Al Kawari is a profiled judge. She was keynote speaker at a conference in March 2016 entitled *The Woman and the Judiciary: The Experience of the Arab Woman in the Judiciary* organized by Kuwait's largest women's organization, the Women's Cultural and Social Society (WCSS) in association with the transnational organization Women and the Judiciary Conference. Al Kawari pointed out that women and men in Bahrain entered the Public Prosecutor's office on equal terms in 2003 because such an office did not exist before. She emphasized that she was proud to have received her training at the Kuwait Institute for Judicial and Legal Studies. At the time, Kuwaiti women had not yet been appointed as judges, and Al Kawari stated: "I wish to have Kuwaiti female colleagues because Kuwait has been at the forefront, we used to seek refuge at her universities before we got our own" (WCSS 2017, 23).

Bahrain is investing in appointing more women judges. Since 2014, the Supreme Judicial Council in partnership with the University of Bahrain and the Judicial Institute offer a training program called "Judges of the Future" which trains female and male law graduates to prepare them for judicial positions. By 2016, female judges in Bahrain comprised 14 per cent of the general prosecution, and 27 per cent of prosecution in cases related to family and children and different public bodies. With women lawyers comprising more than half of all lawyers, and more than a third of employees at the Ministry of Justice and Islamic Affairs, Bahrain has a significant pool of potential female candidates to boost the number of women in future judgeship positions (Alghata 2016, ESCWA 2019, 35–53).

3.2. *The United Arab Emirates (UAE): Female judges on the march in lower courts*

The second Gulf monarchy to appoint a female judge was the UAE when judge Khulood Al Dhaheri was selected in 2008 (Al Bayan 2008). Al Dhaheri had worked as legal consultant in commerce law and as lawyer in criminal cases as well as in shar'ia related cases.

IMAGE 3



Image 3. The United Arab Emirates (UAE): Judge Khouloud Al Dhaheri: First woman judge appointed in the UAE in 2008 (Al-Shamali 2015).

She then headed a law firm before being appointed as judge at the Abu Dhabi court. In an interview, she informed that she grew up in a sympathetic environment – a family that supported her choices and a husband who gave her moral strength to do her job. Also important was her uncle, Dr. Hatef Jou'an Al Dhaheri, who had served as Emirati Minister of Justice (Qisas 2018).

In the UAE, articles 18 and 58 of Federal Law n° 3 of 1983 prohibits women from becoming judges and prosecutors at the federal level. Therefore, women judges are found only at local courts in the two main emirates: the capital Abu Dhabi, and Dubai, the UAE's commercial center. By 2015, there were 12 women judges in the local judicial systems – nine in Abu Dhabi and three in Dubai. As for the number of prosecutors, a total of 35 women served as public prosecutors – 8 in Abu Dhabi and 17 in Dubai (Knaul 2015b, 14).

3.3. Qatar: Expansion through dynastic means

Bahrain and the UAE chose to appoint a judge outside the ruling family. By contrast, Qatar, the third Gulf monarchy to select a female judge in 2010, appointed Maha Al Thani – member of the ruling Al Thani dynasty – in 2010. “There is no connection between my relationship to the ruling family and my appointment as judge”, she pointed out when she was assigned as judge (Al-Raya 2010). Empirical evidence, however, substantiate other conclusions. Maha Al Thani graduated from the Faculty of Law at Qatar University with a BA-degree in law in 2009 and was appointed as judge a year later. Asked who inspired her, she replied that the idea of becoming a judge grew slowly while she was studying.



Image 4. Qatar: Sheikha Maha Al Thani: First woman appointed to the judiciary in Qatar in 2010 (Mawsou'a 2013).

In an interview she gave upon her appointment as judge in 2010, Al Thani said that she had visited many courts as part of the study program and she learnt that there are no obstacles against women becoming judges. “When I got my BA-degree in law in 2009, I presented my papers to concerned parties (*al-jiha al-mukhtassa*) at the Higher Council for Judicial Affairs (المجلس الأعلى للقضاء / *majlis al-a'la lil-qadā'*) and they agreed to my application.” (*Ibid.*). Asked whether she was supported by others in her family, judge Al Thani replied: “no one in my family works in the field of law (...) the decision was mine and comes from a personal conviction and my love to work in that field (...) I was almost 90 per cent positive that my application would be accepted” (*Ibid.*).

Although Maha Al Thani was appointed as judge, she was entitled more precisely as “assistant judge” (مساعد قاض). She clarified that she will work as assistant judge for the period of three years before she can take the responsibility of leading a court. This means that although she received the formal title of judge, she was explicitly a judge-in-training at the time of her appointment.¹⁵

Another interesting factor connected with Maha Al Thani's appointment as judge is the context around which she was nominated. Promoting a human rights' agenda was, apparently, an important part of assigning Al Thani as judge. Her vow of allegiance to

¹⁵ As of February 2020, judge Maha Al Thani still served as judge; see YouTube interview with her dated 29 February 2020 (Al-Thani 2020).

the legal profession (اليمين القانونية) was, for instance, made under the auspices of Fahd Mohammadi, deputy to legal affairs at the National Council for Human Rights (National Human Rights Committee, Qatar 2010). Two weeks before Al Thani's nomination, Deputy Mohammadi declared at a press conference on the 5th Arab and European Human Rights that the appointment of a female judge "will soon be announced" (Al-Bayan 2010).

Commenting on the event of appointing a Qatari female judge, former Dean of Shari'a and Law at Qatar University, Dr. Abdelhamid Al Ansari, labelled the event as historic (Al Ansari 2010). He reminded readers that people in Qatar did not accept a woman driving a car only a decade ago, and he listed three other factors that shed light on the circumstances around the appointment of Qatar's first female judge: First, the announcement comes in March while the world celebrates women's achievements as part of the International Women's Day. Secondly, this step reflects political decisions made since the turn of the millennium under the leadership of Moza Al Thani – consort to the former ruler of Qatar – which include the codification of family law in 2006, the appointment of the first female Minister in Qatar, along with the appointment of the first female Dean of Shari'a – Dr. Aisha Al Mannai – who, according to Al Ansari, is the first woman to obtain such a position in the Islamic world. Thirdly, he argued that the Salafi mind (*alfikr al-salafi*), still dominates religious and judicial institutions. This mentality does not see women capable of working outside the home, Al Ansari pointed out. He concluded that "whereas appointing a female judge in other places is common, in Qatari society it is an exceptional event that would not have occurred without an enlightened political leadership and its ability to trespass obstacles of social traditions" (*Ibid.*).

Religious clerics who oppose the appointment of women in judicial decision-making positions are among what Al Ansari refers to as "social obstacles" to women's inclusion in decision-making. Asked on her opinion of religious men (*rijal al-din*) and ordinary people who oppose women's engagement in the judiciary, judge Maha Al Thani responded:

My study was in law. Both the law and the Qatari Constitution are based on the Shari'a (*masdaruha al-shari'a*). If the Shari'a objects to women's position in the judiciary, it would have stated that. There are clerical opinions (*ara' shar'iyya*) that do not oppose that (...). I do not know the point of view of people in their reservations. Their views may build on particular concepts (*ma'arif ma'niyya*), and these do not necessarily apply to all Qatari women. (Al Thani, in Al-Raya 2010)

By 2015, two women judges had been appointed in Qatar out of a total of 198 Qatari judges. One woman worked at the family court and the other at the civil court. Additionally, one woman judge functioned as assistant judge out of a total of 14 assistant judges (Knaul 2015a, 15). According to a UN mission report to Qatar by the Human Rights Council, "professors were encouraging more female law students to pursue a judicial career and (...) more women were presenting their candidacies to become judges" (*Ibid.*, 15).

3.4. Saudi Arabia: Rapid inclusion of women in the field of law

In Saudi Arabia, the legal profession was regulated fairly late compared to the other GCC states. The right to legal representation was recognized and regulated as a

profession for the first time in 2001.¹⁶ In general, the judicial system is heavily influenced by Islamic religious doctrine, unwritten and therefore uncodified juridical norms. These are subject to political and clerical interpretation, and a complex system of litigation which since 2012 is being regulated and standardized (Salameh and Jaida 2018).

Against this background, the entry of women professionals in the field of law has occurred at a rapid rate. In 2016, Shaimaa Sadeq Al Jibrán was appointed as first female arbitrator in a commercial court (Anderson 2016). The position of arbitrator should not be conflated with being appointed as judge, although Al Jibrán presided over the adjudication process.¹⁷ Al Jibrán's appointment as adjudicator came after Bakharji, a male colleague of Al Jibrán, submitted her CV and requested that she be appointed as arbitrator in commercial law in a case concerning a company. The Administrative Court accepted the suggestion and Al Jibrán was put in charge of arbitrating the case. A professional woman's entry as legal expert and arbitrator caused immediate controversy in the Kingdom. Opposition came from "judicial sources" who urged the Ministry of Justice to reconsider permitting women to join the judiciary. However, the Administrative Appeals Court in the Eastern Province rejected the objections (Arab News 2016).

The appointment of Al Jibrán in 2016 can well be seen as one of the drivers for change towards wider manoeuvring room and public positions for women in the Kingdom. Other women-friendly reforms that occurred after the 2011 Arab revolts include allowing women to drive, move freely in public space, and engage with the state's administration without needing the permission of a male guardian.¹⁸ These openings are paradoxically complemented with harsh crackdowns, including jailing women's rights activists who have pressured for expanding women's rights in the Kingdom over the past two decades (The Independent 2018).

Roughly two years after Al-Jibrán's appointment as adjudicator in court, three members of the 150-member consultative Shura Council – of which 30 are women – recommended that Saudi women be appointed as judges. As members of the Council's Islamic Affairs and Judicial Committee, the three Council members – Faysal Al Fadhel, Lateefa Al Shaalan and Atta Al Subaiti – argued that no religious texts nor the Saudi judicial system had requirements that barred women from becoming judges. They pointed out that women who are legally and religiously qualified should be empowered to hold judgeship positions according to the recommendation of Vision 2030 which calls for investing in women's potential. Moreover, vacant positions reflected a shortage of judges, they argued, and emphasized the need to nationalize the Saudi workforce (Toumi 2018). As of January 2021, prospects for appointing women judges in Saudi Arabia were

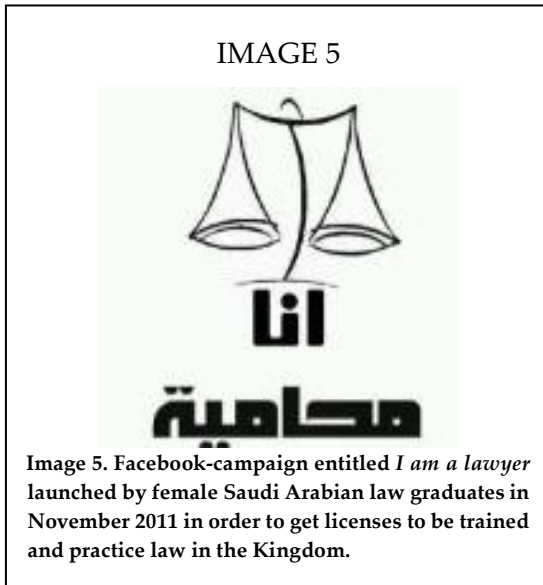
¹⁶ "The Code of Law Practice Royal Decree No (m/38) of 15 October 2001", Umm al-Qura No (3867), 2 November 2001 referred to in International Commission of Jurists (ICJ) 2014, 45–46.

¹⁷ Saudi Arabia's commercial court is considered a quasi-judicial body because rules for appointing an arbitrator in commercial disputes differ from those that regulate the appointment of judges on a regular basis. Article 14 of the Saudi Arbitration Law of 2012 specifies the rules on who can be appointed as arbitrator. These rules do not exclude women (Almulhim 2016; see also Arab News 2016).

¹⁸ The digital app Absher was introduced in 2019, freeing a woman from the condition of obtaining the permission of a male relative when she contacts the Saudi state administration; see Arab News 2019. See also Feminist architecture collaborative 2020.

strengthened through an official announcement by Hind al-Zahid, undersecretary at the Ministry of Human Resources and Social Development (Naar 2021).

Compared to the other GCC states, changes in women's entry into the field of law in Saudi Arabia have occurred over a short period of time. For instance, the profession of law was not regulated by law before 2001 (Salameh and Jaida 2018, 296). Moreover, the current College of Law and Political Science at King Saud University was officially established in 2006.¹⁹ It admitted male and female law students as of 2005. The first batch of female law students completed their studies in 2008 (Buys and Macuiba 2012). However, female law graduates were unable to exercise their profession for lack of official licenses that allowed them to be trained and practice as lawyers.



The 2011 Arab revolts appear to have played an important role in mobilizing Saudi women in demand for more rights. Campaigns pressuring the authorities to allow women to drive were those most visible internationally. At the same time, another less visible campaign was raised by female law graduates demanding that they be provided with licenses to work as lawyers (Allam 2010). A Facebook campaign entitled *ana muhamiya* launched in November 2011 aimed at raising awareness about a practical problem. Saudi women were educated in law but did not have opportunities to work as lawyers. By

December 2011, 120 Saudi women had petitioned the Ministry of Justice to get their licenses accepted.²⁰ Arwa Al Hujaili, a 2010 female law graduate, succeeded to get her registration accepted as lawyer trainee in 2013 after three years of petitioning the Ministry of Justice (Carrington 2013). Less than a year later, in January 2014, the first all-female law firm opened in Jeddah by Bayan Mahmoud Al Zahran who had recently gained her license together with three other female lawyers. At the inauguration ceremony Al Zahran pointed out: "I believe women lawyers can contribute a lot to the legal system. This law firm will make a difference in the history of court cases and female disputes in the Kingdom" (Khan 2014).

By 2014, domestic societal pressure had reached a global professional audience. The International Bar Association interviewed several of the first-ever 20 Saudi women who graduated with a law degree in 2011. Whereas law studies were offered by two Saudi

¹⁹ The current College of Law was inaugurated in 1980 as part of the Regulation's Department at King Saud's University in 1980. Another regulation Department was established at King Abdulaziz University in 1987, transforming later into a faculty of Law in 2012 (Salameh and Jaida 2018, 298).

²⁰ Facebook-campaign *ana muhamiya*, launched 20 November 2011. The last post is dated 12 October 2012: <https://www.facebook.com/Im-a-lawyer-%D8%AD%D9%85%D9%84%D8%A9-%D8%A3%D9%86%D8%A7-%D9%85%D8%AD%D8%A7%D9%85%D9%8A%D8%A9-295675097129386/>. As of January 2021, this link was no longer active.

universities at the time (King Saud University and Prince Sultan University), five years later Saudi students could study law offered by six universities (Lowe 2014).

Al-Shalhoub studied law at Prince Sultan University, which became one of the first universities to offer a law degree to women in 2005, following pressure from the 28-year-old and her peers. She was one of 20 female law students to graduate in 2011; now six universities offer law degrees to women and around 700 graduate each year. Across the board, there are now more female university graduates (60 per cent) than male.



In 2018, 745 lawyers had been registered of which 626 were men and 119 women. In total, 5,364 were licensed lawyers in the Kingdom, including 304 women lawyers, according to the Department for lawyers at the Ministry of Justice (Abu Naja 2018). That year, the Authority of the Saudi Lawyers informed that 8,766 law graduates – 6,835 men and 1,931 women –

were currently under training, making the percentage of women roughly a third of total number of law graduates being trained in the Saudi labour market as legal practitioners. In a relatively short time of four years – between 2014 and 2018 – the Ministry of Justice had noted a 29 per cent increase in the number of Saudi female lawyers compared to 13 per cent increase for men (Saudi Gazette 2018).

The entry of women into the profession of lawyering was paralleled with Saudi women's entry into professional positions as legal investigators at the Public Prosecution Office. Although women in Saudi Arabia were not issued licenses allowing them to practice as lawyers before 2013, some women law graduates presented cases in court through power of attorney representation in 2010 (Watson 2012, International Commission of Jurists 2014, 46).

Notably, the increase in women's presence in court may well be linked to the passing of a protection law against violence in August 2013 (Human Rights Watch 2013). The law was called "The Regulation on Protection from Abuse" and it was legislated by the Council of Ministers and the Shura Council. It criminalized domestic violence, set up penalties for abusers, and was passed after an anti-domestic violence media-campaign received wide support in Saudi society (Butler 2015, 1234, 1245–46). At the time the protection law passed, Saudi Arabia had pioneered in the Arab world in signaling a

political will to address domestic abuse.²¹ Despite critique against its shortcomings, the passing of the Saudi Protection law sent an important message to the Saudi population that domestic abuse shall not be tolerated in the Kingdom.

3.5. Oman: On the road...

Little indicates at the time of writing (July 2020) that rulers in the Sultanate of Oman will appoint a female judge any time soon.



Kamilia Al Busaidy is credited to be the first Omani woman to register as lawyer in 1997 and she still practices law. Al Busaidi has a BA in law from Cairo University and became a certified as attorney in the Omani Primary Court in 1997 and at the Appeal Court in 2005 (LexisNexis Middle East 2020, Lawyers.com n.d.). Another Omani lawyer, Sahar Askalan, is referred to as the first Omani woman to set up her own law firm, Sahar Askalan Legal Advocacy and Consultancy (SAlegal), which manages a multi-million-dollar portfolio that includes cases of arbitration and international commercial law (SAlegal team n.d.). As of 2021, the team includes eight legal advisors of which one, Farah Ouraba, is a UK qualified lawyer fluent in English and Italian (*Ibid.*).

When it comes to positions in the state's legal structure, Omani women entered the field of law through the public prosecutor's office in 2004 when five female prosecutors were sworn into office along with 25 men. At the time, the appointment was explained as a means to speed up cases pending with the police (Ali 2004).

Notably, Omani women's entry into the field of law is, similar to the case in the other Gulf monarchies, spearheaded by business-oriented legal actors as significant agents of organizational and cultural change. This is particularly true when it comes to introducing new managerial professional law bureaus with global outreach such as Dentons.²²

²¹ First-time criminal laws on domestic violence were legislated in Saudi Arabia in 2013, in Lebanon in 2014 and in Morocco in 2018. See Maktabi 2021a.

²² Established by merger in 2013, Dentons is the world's second largest law firm. In 2015, it merged with Chinese law firm Dacheng resulting in Dentons presence in 48 law offices in China and 35 law offices in the USA. In MENA, Denton has 10 offices whereof six of these are in three Gulf states: Saudi Arabia (Jeddah, Riyadh), the UAE (Dubai and Abu Dhabi) and Oman (Muscat). The other offices are located in Egypt (Cairo), Morocco (Casablanca), Lebanon (Beirut) and Jordan (Amman). As of 2021, Dentons has more than 10,000 lawyers engaged in 77 states distributed over 190 offices. (See www.dentons.com).

IMAGE 8



Image 8. Oman: Lawyer Sadaf Buchanan, partner with Dentons – one of the world’s largest law firms. Here, chosen among 28 nominees and celebrated as “Woman of the year for Legal Services” in 2018. (Source: Dentons 2018).

On its homepage, Dentons identifies itself as “The Polycentric™ Law Firm”²³ explaining that “[t]he legal profession is changing rapidly” and as law firm they are “driven to challenge the status quo, delivering consistent and uncompromising quality and value to our clients in new and innovative ways.” (Dentons 2021). Indicatively, “polycentric” – defined as “Deyton is eager to include women professionals as important allies in their organizational setup in the states they operate in. For instance, in Oman, Dentons and Muscat Daily, an Omani newspaper, celebrated Dentons partner Sadaf Buchanan²⁴ as “Oman Woman of the year for Legal Services” in 2018. Four years earlier, in 2014, Buchanan co-founded Sayyidaat Dentons (“sayyidaat” is “ladies” in Arabic), the Middle East chapter of Dentons’ professional women’s network. She is credited to have worked on campaigns and with “mentoring organisations internationally to promote greater gender balance and encourage corporations to harness the benefits of inclusive leadership practices.” (Dentons 2018).

²³ The concept “polycentric” is explained in this way: “Dentons has no single headquarters and no dominant national culture. Diverse in terms of geography, language and nationalities, we proudly offer clients talent from diverse backgrounds and countries with deep experience in every legal tradition in the world” (Dentons 2021).

²⁴ It is unclear whether Sadaf Buchanan has Omani nationality. Her webpage at Dentons informs that she is a partner at Dentons and that she worked previously at a leading international bank in Edinburgh. As of 2021, Sadaf Buchanan “heads the Banking and Finance team in Muscat and has more than 15 years’ experience in restructuring and finance work. (...) She advises on security issues (...) and (...) commercial lending and borrowing and has also advised on a number of the landmark debt capital markets transactions from the Sultanate. She has broad experience in acting on both local and international deals and advising banks, businesses, shareholders and other stakeholders in relation to business restructurings and financing issues involving sectors from hotel and leisure to oil and gas as well as many international companies and financial institutions considering doing business in Oman. Sadaf also heads up the Islamic Finance initiative for the Oman office and has been awarded ‘leading individual’ status by *The Legal 500* directory for her work in Oman” (Dentons n.d.).

3.6. Kuwait: Fighting for the right to become judge

The rough review of women entering judgeship indicates that, despite some opposition, women in four of six Gulf monarchies faced little controversy when rulers appointed them as prosecutors or judges. Kuwait provides an intricate case where female lawyers had to raise cases against the state in court in order to eliminate the “male only” criteria to be able to enter the Kuwait Institute for Judicial and Legal Studies (KIJLS). As previously pointed out, the KIJLS is the institution and only path through which law graduates can be trained as public prosecutors and thereafter be appointed as judges after spending some years as prosecutors. Kuwaiti women’s struggle to be admitted as trainees at the KIJLS tells therefore a different story than the other Gulf monarchies where women’s appointment came about with less political friction than in Kuwait.

Until 2014, female law students were excluded from applying on equal terms with males to entry-level exams to positions in the Administrative Court. These positions permit lawyers to be trained as prosecutors. After a training period of at least five years, prosecutors may be appointed as judges.²⁵ Kuwaiti female lawyers had to fight their way through court in order to eliminate a “male only” condition for applying to entry-level positions as prosecutor trainees.

Kuwaiti women’s entry into the position of public prosecutors came by way of legal mobilization among female lawyers. “Legal mobilization” reflects what scholar on law and society relations Michael McCann sees as political processes whereby activists and lawyers engage in social struggles, court litigation, and social movements with the aim of transforming the terms of social relations of power and citizenship. According to him, studies on legal mobilization focus on “legal naming, blaming, and claiming” changes in the status quo (McCann 2006, 21, 25).

Legal mobilization by female lawyers in Kuwait started with a battle in court initiated by law graduate Shuruq al-Failakawi. She applied for a position announced by the Administrative Court in 2009 where she could follow studies at the KIJLS with the prospect of being trained as a public prosecutor. Her application was not accepted on the grounds that the position was open only to male candidates. The issue was widely covered in the media after al-Failakawi filed a case against the Ministry of Justice.

Interestingly, the case raised in court was not initiated by al-Failakawi herself, but by her female lawyer colleague al-’Unud al-Hajiri who pointed out:

I noticed that the announcement [for the positions at the Administrative Court] was only for males, but I couldn’t find any constitutional, or even legal text which regulates this profession for males and not females (...). I found a woman called Shuruq al-Failakawi who wanted to enter the field of judgeship, and she was prepared for the anticipated responses from some groups in society [*abdat isti’dad li-raddit al-fi’l al-mutawaqqi’a min qibal qita’at fil-mujtama’*]. (al-’Unud al-Hajiri, quoted in Al-Anba 2012)

Al-Failakawi and Al-Hajiri insisted that authorities annihilate the “only male” gender criteria because it was not stated as condition to perform the job as prosecutor. Al-

²⁵ According to Dr. Hasan Abdelrahim al-Sayyid, who participated at a Women and the Judiciary conference in Kuwait in 2016, Kuwait and Egypt differ from Qatar when it comes to appointments as judge. In Qatar, the Judiciary and the Public Prosecutor’s Office are two separate entities. By contrast, in Kuwait and Egypt, the two entities overlap (WCSS 2017, 52).

Failakawi's case was rejected in April 2010. The judge explained that female prosecutors were not in accordance with the *shari'a* as postulated in article 2 of the Kuwaiti Constitution which states that "The religion of the state is Islam, and shari'a shall be a main source of legislation". Islamist MPs such as Salafists Dr. Ali al-'Umeir and Dr. Walid al-Tabtaba'i, along with ex-MPs 'Ammar al-'Ajami, and 'Abdellatif al-'Umeiri argued that «this case is jurisprudential, and not political» [*al-qadiyya shar'iyya, wa laysat siyasiyya*]. The Directory of Fatwa and Legislation (*Idarat al-fatwa wal-tashri'*) disapproved also of the decision on the grounds that the entry of women violates the shari'a postulate in art. 2 of the Constitution (Al-Anba 2012).

On the other hand, Al-Hajiri was encouraged by many groups and individuals. She recalls her supporters. These include Egyptian judge Noha al-Zaini "who particularly supported me continuously in raising my case" along with

the local press, the Kuwait Bar Association, The Women's Cultural Society, The Graduate Society; the Faculty of Law [at Kuwait University] (...), Centre for the development of woman (...) Dr. Ghanim al-Najjar, Dr. Su'ad Bin Tifla, Lulu'a al-Mulla, Najla al-Naqi, Ibrahim al-Milifi, Dr. Ali al-Baghli, lawyer Mohammad al-Jasem, political activist Dahem al-Qahtani, lawyer Thukra al-Rashidi, international organizations, diplomatic bodies, among them the American Embassy. (Al-Anba 2012)

In July 2011, while al-Failakawi's case was pending in court, the Administrative Court had a new advertisement for entry level exams for studies at the KIJS. Six female law graduates applied. When their applications were rejected, all six filed separate lawsuits against the Ministry of Justice arguing that barring women from public jobs was unconstitutional.

Less than a year later, a court decision in April 2012 cancelled the Ministerial Order that excluded women from jobs at the Ministry of Justice. The decision enabled Minister of Justice, Yacoub al-Sane' to announce two years later – in May 2014 – that 22 female lawyers were admitted to entry-level positions which would eventually allow them to become public prosecutors.²⁶

In short, Kuwaiti female lawyers challenged and changed status quo by criticizing the gender-based exclusionary practice at the Kuwaiti Administrative Court that limited women's opportunities in the judicial field. By raising cases against the state, female law graduates claimed the right for employment on equal terms with male law graduates.

In June 2020, amidst the Corona 19 global pandemic, eight female public prosecutors were appointed as first-time women judges in Kuwait: Lulwa Al-Ghanim, Fatima Abdel-Moneim, Fatima Al-Kandari, Fatima Al-Farhan, Bashair Al-Rakdan, Rawa Al-Tabtabae, Sanabel Al-Houti, Bashair Abdul-Jalil. As of 2020, female prosecutors constitute 27 per cent of the total number of prosecutors (KUNA News 2019, Habib 2020).

Fatima Alhewail, professor of law at Kuwait University, points out that "the outbreak of the pandemic made it difficult for noncitizen judges who have jobs in the Kuwaiti legal administrative system to return to Kuwait on time when the judiciary started functioning on the 21st of June 2020 because flights to and from Kuwait halted." Most of these judges were Egyptian nationals with contracts at the Ministry of Justice. According

²⁶ The government was reshuffled on 6 January 2014, and al-Sane' entered the government officially on 26 October 2014. See Herb 2020.

to Alhewail, the political decision to appoint Kuwaiti women judges could well be seen within the frame of Kuwaiti authorities' Kuwaitization policy (*takweet*) where nationals are foreseen to compose 90 per cent of the judiciary by 2025. "Through the Kuwaitization policy, the government seeks to reduce unemployment rates among citizens in Kuwait", she argues (Alhewail 2021).

4. Women's inclusion to the judiciary in Gulf monarchies

The entry of women to positions as public prosecutors and judges represents a new arena where rulers in Gulf monarchies seek to forge alliances with female citizens in novel ways. Table 1 renders an overview of professional women admitted as prosecutors and judges in the Gulf monarchies since 2003, when the first woman judge was appointed in Bahrain.

TABLE 1

	Admittance as trainee to Public Prosecutor's Office (Year)	Position as Prosecutor (year)	Position as judge (year)	Women received political rights to representative legislative body / parliament ²⁷
Bahrain		Muna Al Kawari (2003)	Muna Al Kawari (2006)	2002
The UAE			Khulood Al Dhaheri (2008)	
Qatar			Maha Al Thani (2010)	
Saudi Arabia			Shaimaa Sadeq Al-Jibran. Commercial Court (2016)	
Kuwait	22 women lawyers admitted in May 2014	The 22 women admitted in 2014 got positions as public prosecutors in 2019 after five years of training	Eight women judges appointed (2020)	2005
Oman		Five women prosecutors sworn to office 2004	–	

Table 1. Overview over professional women admitted as prosecutors and judges in the Gulf monarchies.

Seen from the perspective of women's agency, Gulf women are reaping the fruits of public higher education as part of welfare schemes in all Gulf states. Moreover, some women have positioned themselves in close relations to state power as decision-makers and adjudicators. In addition to women's individual capacities, other societal and structural factors are at play in shedding light on women's inclusion in the judiciary.

First, *political enfranchisement* through the extension of political rights to women in Bahrain in 2002, and to women in Kuwait in 2005, is an important driving force for change in women's positions in public. Political voting rights to a representative

²⁷ Only Bahrain and Kuwait have legislative assemblies endowed with political decision-making powers. The other GCC-states have assemblies and councils of a consultative and administrative nature: Oman has an advisory council, Qatar an appointed consultative assembly, the UAE has a mixed system with an indirectly elected and appointed advisory council, while Saudi Arabia has an appointed advisory council. (Brynen *et al.* 2012, 175).

parliament substantiates Bahraini and Kuwaiti women's citizenship in general. At the judicial level, women's inclusion as adjudicators in courts represent a new arena through which female citizens have the opportunity to exercise decision-making on behalf of the state apparatus. Particularly Kuwait has an unparalleled historical record of political participation and a rich heritage of autonomous and semi-autonomous organizations compared to the other Gulf monarchies.²⁸

The extension of political rights of representation to larger segments of the population, most importantly female citizens, is universally perceived as a significant primal mover for political mobilization where citizens raise demands for involvement in political decision-making along with claims for more civil and social rights (Rodriguez-Ruiz and Rubio-Marín 2012). In Bahrain and Kuwait, women mobilized for wider rights after they were enfranchised. In Bahrain, for instance, women pressured for the codification of family law, and succeeded in their efforts in 2009, although codification occurred only for the Bahraini Sunni community.²⁹

Kuwaiti women were mobilized in another way after gaining political rights in 2005. Supported by four elected women MPs between 2009–2011, Kuwaiti women mobilized to access social right to public housing unmediated by the principle of male guardianship. Other women mobilized for the right to issue a passport on an independent basis without obtaining the permission of a male kin. Yet another group of mobilized Kuwaiti women demanded reforms in the 1959 Nationality Law which would allow Kuwaiti mothers to transfer nationality to their children if married to non-Kuwaitis. In 2011, for instance, Kuwaiti women formed for the first time a civil society association called Kuwaiti Women with No Limits (*Kuwaitiyyat bila hudud*). The objective was to reform the Kuwaiti nationality law which specifies that “[a]ny person born in, or outside, Kuwait whose father is [a] Kuwaiti national shall be a Kuwaiti national himself” (Kuwait - Nationality Law, 1959, Maktabi 2017b, 2017c).

Another factor that sheds light on women's inclusion in the judiciary is the legal mobilization of female lawyers in Saudi Arabia and Kuwait. In Saudi Arabia, women pressured authorities to issue licenses to female graduates from the Faculty of law so that women may be able not only study law but to practice the profession of lawyering as well. In Kuwait, female lawyers mobilized in 2009 demanding the right to access positions at the Public Prosecutor's office four years after women were politically enfranchised in 2005.

²⁸ Kuwait's parliament remains a unique institution among GCC states. It is the only elected representative assembly in the region in addition to the Bahraini parliament. The latter has been partially discredited after the violent crackdown by the regime against demonstrators who predominantly, but not only, belonged to Shi'a communal background in March 2011. Demonstrators protested against what they viewed as the Bahraini Shi'a community's second-class status in Bahraini society (Alsabeegh 2018). The other GCC states do not have political representative institutions as the case is for parliaments in Kuwait and Bahrain. There, we find consultative and administrative councils. Oman has an advisory council, Qatar an appointed consultative assembly, the UAE a mixed system with an indirectly elected and appointed advisory council which is a representative body but consultative only, while Saudi Arabia has an appointed advisory council. (Brynen *et al.* 2012, 175). These four GCC-states have thus assemblies and councils of a consultative and administrative nature where women – in the cases of the UAE and Saudi Arabia – have equal rights with men in voting and representation.

²⁹ Family law among Bahraini citizens who belong to the Shi'a faith remains uncodified.

Ironically, women in Kuwait had to fight harder to get access to the judiciary than their compatriots in the other GCC-states. Their struggle is all the more puzzling since Kuwait pioneered in establishing a Faculty of Law and Shari'a already in 1967, and Kuwaiti women were sent abroad to study law in Egypt in the early 1960s (Maktabi 2021b). One reason for the barriers Kuwaiti women faced in entering the judiciary may be that Kuwaiti politics matters. Contrary to politics in other GCC-states where councils and parliaments are of a consultative nature, Kuwaiti parliamentary politics is competitive and elected MPs are able to put pressure on hereditary monarchical rule. By including women as enfranchised citizens in 2005, the Kuwaiti demos was expanded, i.e. the number of persons eligible to partake in decision-making over a wide range of issues in the polity was enlarged. Kuwaiti women gained in other words *de facto* political power, albeit under authoritarian rule.

Apparently, the Kuwaiti regime sought to counteract opposition against women judges among conservative forces in Kuwaiti society such as Salafist MPs and religious clerics by means of restraining and curtailing women's demands for wider rights – at least in the short run. Perhaps yet another sign of the vibrancy of Kuwaiti politics it that, after a period of deliberation in the Kuwaiti parliament and in court, Kuwaiti female lawyers gained access to the position of prosecutor trainees. Pushed to the edge, Kuwaiti authorities preferred to comply with rule of law governance rather than accommodate conservative forces. Therefore, the Minister of Justice annulled the Ministerial Order that had denied women to access job positions on the ground of gender specification.

A third driving force for including women in the judiciary in the Gulf monarchies is related to the perception of the "women's rights" discourse as part of the state's involvement in a wider human rights and rule of law agenda. Since the mid-2000s, authoritarian states in the Middle East have engaged in human rights discourses, sometimes though not always in selective ways. Authorities have sought to interact with external actors and agencies in part to enhance their international reputation (Gränzer 1999, van Hülen 2013). Political scientist Aili Mari Tripp has, for instance, provided an analysis of how and why Arab autocracies are increasingly adopting women's rights. She argues that rulers are enacting women-friendly policies in the North African states of Morocco, Algeria and Tunisia in order to shore up support among the state's female citizenry in order to legitimize and bolster the positions of those in power (Tripp 2019).

In the Gulf, this trend is visible among all six monarchies. Perhaps it is best exemplified by Saudi Arabia – a "worst-performing country" measured by indicators on gender equality.³⁰ Saudi Arabia secured, for instance, a seat in the UN Commission on the Status of Women in 2017 (UN Watch 2018). The monarchy is increasingly engaging with its female citizens at the collective level, amidst harsh crackdowns on individuals and activists who raise critical views about Saudi politics and the Kingdom's structurally gendered segregation policy (Al-Rasheed 2013, Aldosari 2016).

All in all, Gulf monarchies have increasingly engaged in branding politics where particularly elite women take center stage such as Qatar's Sheikha Moza and the UAE's Sheikha Lubna Al Qasimi from the ruling family. As consort to the previous ruler in

³⁰ Saudi Arabia ranks 141 out of 149 states, followed by Iran, Mali, Congo, Chad, Syria, Iraq, Pakistan and Yemen (World Economic Forum 2018, 11).

Qatar, Sheikha Moza was central in promoting higher education and lavish architectural projects as prioritized political objectives (Cooke 2014, 118–119). In an overtly stratified society sharply divided between citizens and noncitizens, Emirati Sheikha Lubna was appointed Minister of Tolerance in 2016 and tasked with representing values such as inclusion and diversity, and foster ideals of moderation in the multicultural state (Fahy 2018, 314–315).

In their endeavour to comply with international law parameters and introduce rule of law standards, hereditary monarchies in the Middle East bolster autocratic rule, according to legal scholar David Mednicoff. He argues that the politics of the rule of law embodies a two-edged dynamic in authoritarian states: “[T]he rule of law embeds diverse meanings, sometimes in mutual tension, in a way that may contribute to authoritarian politics”. In his research on rule of law parameters in four Arab monarchies – Morocco, Kuwait, Qatar and the UAE – he argues that different combinations of domestic and transnational legal forces uphold some individual rights at the same time as enforcing rule of law parameters generates political centralization consistent with autocracy (Mednicoff 2018).

In sum, three driving forces shed light on women’s entry into the judiciary in Gulf monarchies: the extension of political rights to women, legal mobilization by female lawyers, and a human rights discourse where women’s empowerment in leadership positions is part of soft-power branding politics of autocratic states. The small Gulf monarchies are carving out niches of pragmatic soft power where women are assigned political leadership roles (Kamrava 2013, Cooke 2014). Women judges and prosecutors fit well within such a rule of law-based women-friendly policy-oriented agenda.

5. Courting women: Why?

Why are rulers in the Gulf Monarchies empowering female citizens in positions of judicial decision-making? I suggest that state authorities in the Gulf monarchies are courting women, in the sense that rulers are opening up the doors of courts for female citizens to be appointed as judges, for at least three reasons:

First, the inclusion of women as part of the corpus of judges is a powerful act of governance which capacitates women as decision-makers in the state’s judicial structure. Women’s presence as decision-makers in courts marks a significant shift in approach towards women’s status and position in society, and their potential impact on social norms, rule of law, and the dispersion of justice (Lindbekk and Sonneveld 2017).

Second, courts are core institutions of state formation processes that differ from nation-building because power is executed through organizations that adjudicate law and order (Rokkan 1975, 566–567). By including women as arbiters in court, rulers extend women’s citizenship. In the Gulf monarchies the extension of female citizenship has particular specificities. In expanding women’s legal capacity to raise cases on behalf of rulers, and in adjudicating rulings in accordance with state laws, rulers will most probably not appoint rebels, i.e. professional women that are likely to challenge, reframe or transform the judicial system by issuing rulings that break with the political order or with social norms. Gulf rulers have already, and will most probably, continue to promote and authorize female citizens – daughters of Justitia, so to speak – to participate as fellow “guardians of the polity”. By strengthening the bonds and benefits of women’s

relationship to the state, political authorities harden the core of citizenship (Sater 2017, 235). Female citizens are drawn closer to those in power by expanding and extending strings of privileges which are offered only to citizens.

The endeavor of hardening the core of citizenship by bestowing women with more rights and positions in the state apparatus is particularly significant in the Gulf monarchies where demographic minority – majority political calculations are deeply embedded in the exercise of power. In the economically globalized Gulf monarchies, the proportion of labor migrants and stateless constitute roughly between 40 per cent of the population, as in Saudi Arabia, and around 85 per cent of the population, as in the UAE and Qatar. This skewed demographic composition has led monarchs in Gulf states to engage in stratification strategies where tiers of citizenship and disparate access to civil and economic goods have been carved out in order to differentiate between citizens and noncitizens (Kinninmont 2013, 47, Beaugrand 2015).

This is particularly observable in Kuwait where female citizenship expanded after 2005 when women gained political rights. During the 2011 revolts, female citizens, as well as the stateless population known as the Bidun who number more than 100,000 persons, claimed more rights from the state. State authorities responded in two contradictory ways: through women-friendly policies that granted widened socio-economic rights for the children of female citizens married to noncitizens, while at the same time revoking citizenship from those who expressed opposition against the state (Kinninmont 2013, 52–53, Maktabi 2017b, 458–461).

A third fruitful approach to understanding women's appointment as judges is that rulers in the Gulf monarchies seek to strengthen their power by justifying the exercise of authority through courts (Brown 1997). This has become particularly important after the 2011 Arab uprisings where ruling authorities throughout the Middle East and North Africa region are upgrading authoritarian rule through formal institutions in new ways in order to ensure and perpetuate their rule (Heydemann and Leenders 2011, Brynen *et al.* 2012). Ruling monarchs in the Gulf can thus be seen as re-orienting and bolstering their rule by creating a sustainable citizen basis that share compatible objectives with rulers, including maintaining political *status quo*.

In their endeavor to tighten their grip on power, female citizens are perceived by ruling authorities to be partners in governance strategies that seek to bolster the image of autocratic rulers as modernizers. As such, women judges can be seen as instrumental in upgrading authoritarian rule in Gulf monarchies.

6. Implications of women in judicial positions

What are the implications of women joining decision-making in the state as prosecutors and judges? One point of departure is to focus on courts as arenas of authority close to the exercise of state power. Seen from this perspective, the role of female judges in the judiciary is important for at least three reasons:

First, courts are public institutions that are separate but intimately related to the exercise of power in democratic as well as authoritarian regimes. Over the past decade, rulers in the Middle East in general, including Gulf monarchies, have appointed women as judges

at an unprecedented pace. The rate of female lawyers has increased particularly in the aftermath of the 2011 Arab Uprisings (Maktabi 2016b, 2017c).

Secondly, the fairly recent appointment of women judges in GCC-states is largely supported by rulers. In other states in the Middle East, the appointment of women judges since the 1960s reveal that women's presence in the judiciary is not a linear process of gradual inclusion. Women on the bench has met resistance and set-backs, such as in Iran after 1979 and Iraq after 2003 (Lindbekk and Sonneveld 2017). Whether there will be setbacks in the appointment of women judges in the Gulf monarchies remains to be seen, given that these appointments are fairly recent and the number of female judges comparatively small. Nonetheless, in other states in the Muslim world, researchers have elaborated on both change in terms of form and style of adjudication, as well as setbacks, particularly resistance from within the judiciary itself (Hamad 2006, Salime 2009, Dahlgren 2010, Voorhoeve 2014, Cardinal forthcoming 2021).

Thirdly, courts are sites of judicial politics reflected in contestations around the regulation, administration and enactment of gendered rules and norms that maintain or modify the impact of patriarchal state laws on the everyday-life of women. Courts embody judicial procedures that reveal disputes around what constitute "women's interests" at a given point in time and space in a GCC-state. Girls and women in the Gulf monarchies share similar limitations in patriarchal state laws as reflected in family law, criminal law and nationality law. In these laws, the principle of male guardianship limits women's autonomy and legal capacity. Female lawyers have raised women's interests in courts on behalf of litigants for more than two decades. However, the presence of women prosecutors and judges represent a change in terms of whether and how women as adjudicators and arbitrators approach women's interests and claims raised in court in cases pertaining to divorce, custody over children, familial violence, and women's legal capacity to confer citizenship to their children.

Will women judges adjudicate differently than male judges in cases concerning women's interests, or will women judges rule and issue decisions that are in conformity with *status quo*? This question remains a domain for future research.

7. In conclusion

Gulf women have entered two new bastions where legal authority is closely related to the exercise of state power. Women have been admitted as judges who adjudicate rule of law, and they have been admitted as prosecutors who raise cases on behalf of political authorities.

Roughly a decade after the first female judge was appointed in Bahrain in 2006 provides little leeway to assess substantial outcomes of women's impact on types of rulings made in court. It is therefore too early to explore whether and how women's appointment as prosecutors and judges impact social norms regarding women's autonomy as embedded in overtly patriarchal state laws where women's citizenship is curtailed by the principle of male guardianship.

Despite women's confined legal status, the societal and political context that surrounds the appointment of women as judges can nevertheless be explored through women's agency. This is reflected in political mobilization following the extension of political

rights to women in Bahrain in 2002 and in Kuwait in 2005. Women's agency is likewise reflected through female lawyers' legal mobilization in raising demands that enabled them to practice law in Saudi Arabia after 2011, and to be admitted as prosecutors in Kuwait in 2014.

The appointment of women as judges and prosecutors in court can also be approached from a structural perspective. Rulers in the Gulf monarchies have, since the turn of the millennium, sought to expand and strengthen female citizenship by forming women-friendly policies and engaging in state feminism reminiscent of the nation-building era of the 1950s and 1960s (Hatem 1992). Strategic alliances between rulers and women's groups in exchange for the latter's loyalty to the regime have been intrinsic to state-building in the Middle East since independence. These alliances have always been influenced by external factors, such as international political economy, the international women's movement, and varying Islamist ideologies.

A particular expression of state feminism under strengthened autocratic rule in the Gulf monarchies is the rise of femonationalism which combines the rhetoric of women's empowerment with exclusionary forms of nationalism and patriotism based on communal, ethnic or religious supremacy. The term "femonationalism" was introduced by Sarah Farris in her study of right-wing parties who ally with feminist groups in endorsing women's rights as core national and Western values (Farris 2017). The phenomenon of femonationalism has been observed among right-wing political parties in Europe that advance anti-immigration and xenophobic agendas (Bader and Mottier 2020, Rahbari 2020). I suggest that we can observe shades of femonationalist politics in the Middle East following the 2011 Arab revolts that have different connotations than the xenophobic Western counterpart. Post-2011 femonationalism in the Middle East is tied to eclipsing the role of religion in public policies in ways that emphasize nationalist domestic security concerns. Femonationalism has emerged as political ideology in the form of militarized autocratic regimes, particularly in states with large segments of stateless and refugee populations, as well as in states with disproportionately skewed demographic composition, as is the case in the Gulf monarchies. The war in Yemen since 2014 initiated by The UAE and Saudi Arabia, and the boycott on Qatar imposed by these two states between 2017–2021 have heralded a new securitized and conflictual era among the Gulf monarchies. For instance, the UAE introduced first-time involuntary conscription for males between 18 and 29 in 2014, and Qatar followed suit in 2015 for males between 18 and 35 years. As part of these winds of change, narratives of Spartan ideals of female citizens as guardians of the nation are being emphasized.³¹ By extension, appointing women in prestigious decision-making positions in the role of adjudicators at court fits well into branding culturally conservative societies as modernizing polities (Cooke 2014).

Ironically, the appointment of women judges and prosecutors may well be perceived as part of governance strategies that substantiate forms of empowerment in exclusionary ways. In other words, selecting female citizens in decision-making positions in Gulf

³¹ Papers presented at the 10th Gulf Research Meeting 15–18 July 2019, workshop 14: *Women, Nation Building and Modernization Projects in the Gulf: Explorations in State Instrumentalization of Women*, organized by Magdalena Karolak, Rima Sabban and Abeer AlNajjar, The Gulf Research Centre, Cambridge University.

monarchies goes hand in hand with the stratified and hierarchical dispersion of power in polities where citizens constitute a privileged minority.

Pro-women friendly governance strategies are furthermore strengthened by globalized neo-liberal economic policies in a geographical region which has been globalized since the 1940s. At the turn of the millennium, the legacy of oil and gas production – much needed in the industrialization of the global North – has been financialized into capital-intensive global investments (Tranøy 2009). The need for legal expertise has grown exponentially as reflected in the law firm Dentons concentration of six offices in the oil-rich Gulf region dispersed in Jeddah, Riyadh, Doha, Abu Dhabi, Dubai and Muscat, while the rest of the Middle East and North Africa region has a total of four local Dentons offices in Casablanca, Cairo, Beirut and Amman. Women lawyers in the Gulf are seizing the chance of professional careers as partners in legal firms such as Dentons. Women's inclusion in global companies, whether these are legal consultant, engineering or medical companies, are, I suggest, powerful locomotives for change in overtly conservative societies in ways that remain to be observed and studied in the not so far future.

The 2011 revolts represented a critical historical juncture in contemporary politics in the Middle East which has seen the upgrading of authoritarian rule in the region. Researchers at Exeter University have termed a main political repercussion of the 2011 Arab Spring as “the Gulfization of the Arab world” (Jones *et al.* 2018). The inclusion of women judges and prosecutors can well be seen through the lens of authoritarian states seeking to bolster their rule in new ways a decade after the revolts. Gulf rulers are clearly seeking to forge alliances with female citizens as decision-makers in court. The net result of the driving forces behind women's empowerment in the judiciary is the extension of female citizenship under authoritarian rule. However, women's extended citizenship is contingent on women and men abiding to fairly conservative interpretations of women's position within a patriarchal state laws as premised in family law, criminal law and nationality law.³² There, women's citizenship is, by and large, still mediated through male kin. To put it in other words, a female judge in the Gulf will have to adjudicate and rule in accordance with current state laws which emphasize the principle of male guardianship over women. In as far as judicial autonomy rests – at best – on issuing rulings in accordance with existing laws, and –at worst– determined by the will of the ruler, female judges contribute to sustaining political order and maintaining *status quo*. Perhaps what we may learn from the experience of the appointment of female judges in the Gulf monarchies is that the political development in the Gulf monarchies follows similar trajectories as other states when it comes to the gradual and, to varying degrees, conflictual inclusion of female citizens as full members of the polity in modern states.

³² In general, women's citizenship in the Middle East and North Africa region is hampered by principles of male guardianship (*wilāya*) embedded in laws sanctioned by state power in predominantly civil courts. In family law, males are custodians of female kin in matters related to marriage, divorce, alimony and child custody. In social security laws, the head of household is defined primarily as a male breadwinner, while women are perceived as caregivers and dependent household members. In criminal laws, domestic violence is seldom defined as an atrocity in legal terms, and in almost half of the 22 states in the region, patriarchal nationality laws premise that nationality be passed over to children through fathers, not mothers (Maktabi 2017a).

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