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The Nineteenth Century Discursive Roots of the Continuing  
Debate on the Social-Sexual Contract in Today's Egypt

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## **Abstract\***

This paper begins with an examination of the recent debate between active women's groups in Egypt who wanted to change the format of the marriage contract and the state functionaries who had claimed to better serve women's rights in the change of personal status laws. Next, it uses the work of Carole Pateman on the "sexual contract" in the West and its impact on the development of civil society to look back on the important Egyptian debate which took place in the 1890s and defined women's rights in modern society. The paper recovers the contributions made by `A'isha Taymur and Zaynab Fawwaz to this discussion. It also examines shaykh Abdallah al-Fayumi's polemical response to Taymur and the views of the women's journals on the subject. It also shows how Qasim Amin borrowed heavily from these women in the development of a hegemonic fraternal discourse on women's rights that survives until today.

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## INTRODUCTION

The last decade of the twentieth century witnessed an intensified debate among Egyptian feminist activists and the state's functionaries regarding the reform of the marriage/sexual contract. In 1994, feminists embraced the goal of changing the "form" of the marriage contract by listing the non-monetary rights that Islam entitled women like the right to divorce, the right to education and the right to work.<sup>1</sup> Despite extensive lobbying, the functionaries of the ministry of justice resisted the efforts of these groups in the name of what they claimed would be a more significant state effort to introduce changes in the personal status laws that govern the rights of women and men in marriage and divorce.

The revised code unveiled by the ministry in December 1999 introduced minor changes in the definition of the rights that women were to enjoy in the marriage contract. It slightly modified the exclusive right of men to divorce by reviving the old religious and legal practice of *khul`* (repudiation) which women could now use to divorce their husbands in exchange for giving up all their financial rights including the *mahr* (an upfront sum that men pay and which most women supplement to furnish the family home), the *mu'akhar* (a lump sum which women are entitled to at the end of a marriage) and the right to alimony. The new code was also supposed to allow a woman to travel without the approval of her husband. These modest concessions to women's rights triggered a heated public debate inside and outside the Peoples' Assembly, parliament, with some male members describing them as a violation of the *Shari`a* (Islamic law) which gave men the exclusive right to divorce and the control over women in the family including their travel. In face of this opposition, the Assembly appeased its members by retreating from giving women the right to travel without the husband's approval. If a husband objected to his wife's travel plans, a judge was to settle the issue. *Khul'* remained as a new right which women of means could use to divorce their husbands.<sup>2</sup>

This recent debate on the marriage contract reflected the very different understandings that men and women had of the Islamic marriage contract and the rights it offered each one of them. They echoed earlier views and approaches that were employed by men and women in a very important debate that took place in the 1890s and which used the discussion of the marriage contract to define the standing of women in a new "social contract" that was to signal the birth of a modern civil society in Egypt. I want to begin this paper with a theoretical note for those who may legitimately wonder about the applicability of the notion of the "social contract" developed by political philosophers to explain the emergence of civil society in the West to the historical evolution of modern society in the Middle East. In this regard, I have used Carole Pateman's *The Sexual Contract*, which critiqued social contract



theories' silence on the impact that the marriage contract had on the subjection of women in liberal/modern societies to offer a different way of thinking about the early Egyptian debate which presented the perspectives of women of different generations, classes and ethnic groups on the old rights of women in the family and their relationship to the development of modern society. Initially, very few men were interested in that debate until judge Qasim Amin published his book on *Tahrir al-Mar'at* (the liberation of the woman) in 1899. Even though Amin was the last to join this debate, his discursive contribution came to overshadow those of the women who preceded him and whose works influenced his. In general, women writers emphasized liberal views of the rights given to them by the Islamic sexual contract and used them to argue in favor of expanded social rights in modern society. In contrast, religious and modernist men offered a very restrictive view of the Islamic sexual contract and used it to discipline women and to expand the rights men had, as a fraternity, in the public and private arenas. The result was the development of a social-sexual contract whose discursive features continue to determine women's standing in today's Egypt.

## **A FEMINIST UNDERSTANDING OF THE SEXUAL-SOCIAL CONTRACT IN CIVIL SOCIETY**

Carole Pateman characterized social contract theories as an example of stories that human beings develop "to make sense of themselves and their social world".<sup>3</sup> The original contract was not an actual event, but a political fiction that explained why European societies should be understood as if they were contractual.<sup>4</sup> Understood as part of a conjectural history of the new political rights, it sought to explain the creation of a sphere of universal freedom. Pateman suggested that this view only constituted half of the story and that it was conspicuously silent on the sexual contract. In fact the original contrast was a "sexual-social pact" which revealed "political right as patriarchal right or sex right i.e the power that men exercised over women".<sup>5</sup>

The conventional interpretation of social contract theory represented civil society as one where all adults had the same legal standing and were able to reproduce their freedom when they enter other contracts like the employment contract. The "civil order appeared to be anti-patriarchal or post-patriarchal"<sup>6</sup> because it treated them as individuals. Yet, civil society was divided into 2 spheres that operated in distinct ways. The story of the social contract dealt with the creation of the public (civil) sphere where the new freedoms were to be enjoyed. The private sphere, where the sexual/marriage contract prevailed, treated men and women unequally, but was deemed politically irrelevant. Pateman challenged these views and argued that the sexual contract did not only institute the continuing power of

men over women in the private sphere, but also influenced how they were treated in the public arena. It shed light on the inequality of their employment contracts outside of the home. In modern societies, the power of men over women was no longer maintained through kinship and the power of the fathers. Conjugal rights provided the basis of modern contractual forms and inequalities. "Women were subordinated to men as men or to them as a fraternity".<sup>7</sup> The study of the sexual contract allowed one to examine the conception of sexual difference and how it shaped everyday life in patriarchal societies. It also explained the exclusion of women from the central category of the "individual" and which affected their standing in all contracts. Unlike men, women did not have property in themselves. Their bodies belonged to their husbands, their children and their families. Consequently, they could never be equal to men who were autonomous individuals whose standing was clearly defined and protected in all contracts.<sup>8</sup>

Pateman was clear that there was a materialist/capitalist basis of the new contractual relations that prevail in modern societies. Her interests lay, however, in the study of their social and political content. Her work debunked the notion that remained very popular in the non-Western worlds regarding the anti or post patriarchal character of modern societies. It showed that despite the many changes that have taken place in the standing of women in the marriage institution in the West, forms of conjugal subjugation continued to exist. They differed from one society to another in form, history and cultural content. Where modern societies developed, fraternal patriarchies operated in similar and different ways.

## **THE DEVELOPMENT OF A SOCIAL -SEXUAL CONTRACT AS A BASIS FOR THE MODERNIZATION OF EGYPTIAN SOCIETY**

The concept of "social contract" is not used in the important conjectural debate about the building of a modern Egyptian society that took place in the 1890s. The "sexual" contract occupied a more prominent position. In fact, one could show that a social contract (the definition of new freedoms and rights) was subsumed in this debate on the sexual contract and the changing status of women. The family was to serve new public/social functions like the modernization of marital relations and child rearing which, in turn, established the modern credentials of the society. This entitled women to new rights (like public education and the participation in public debate) which transformed the sexual contract into a social-sexual contract.

The reasons for this distinct discursive articulation were historical. Egyptian civil society developed after British occupation of Egypt in 1882. In this context, it was difficult to speak of political rights as the product of a contractual agreement between the British and the Egyptians. British colonial power was not based on the consent of Egyptians and modernization under colonial conditions was based on the loss of political freedom to shape their society. Sir Evelyn Baring, the British consul general who later became Lord Cromer, emerged as the supreme ruler of Egypt usurping the political power of the *khedives* (the title of the local rulers) and controlling the minutiae of government. What was left for the Egyptian intelligentsia to discuss were the social freedoms associated with modernity, a project that was begun before colonial rule. The "liberation of the woman", also the title of an important book published by Qasim Amin, became a metaphor for the expanded rights women were to enjoy in a modern society and more importantly a vehicle for the development and exercise of fraternal patriarchal rights. Up until now, most students of the period paid attention to the former and not the latter. They were silent on how this debate allowed men to reassert male control of women in a modern society. Through the definition of what the "liberation of the woman" was to mean, men began the process of controlling the contours of a woman's daily life: what to wear, when and where to eat, what kind of education she should get and how to deal with her husband and children. All of this was done in the name of building a modern society that would prepare men and women for political independence.

### **A. The Perspectives of Women on Modernity and Change**

Before men appropriated the debate on the sexual contract and through it the definition of the roles of men and women in modern society, women from different generations, ethnic groups and classes were actively engaged in examining and interpreting the implications of the changes taking place in Egyptian society for women. The Egyptian `A'isha Taymur, who was a sunni member of the Ottoman-Egyptian aristocracy and Zaynab Fawwaz, a shi'i self made Lebanese-Egyptian writer, offered distinct visions that were shaped by their Islamic education. Their discussion of women's roles in contemporary Islamic societies was influenced by their interest in the development of an Islamic modernity. Their specific perspective and its contributions to this discussion has yet to gain proper attentions. The perspective of the younger generation of Syrian Christian and Jewish women (Hind Nawfal, Louisa Habbalin, Alexandra Avierino and Esther Azhour, who founded the different women's journals in the 1890s), has recently gained some attention. It led to the inaccurate assumption that the building of modern society, similar in many ways to that in the West, was the shared goal among all women of this period.

Taymur made the earliest contribution to the discussion in her fictional work titled *Nata'ij al-'Ahwal fi al-'Aqwal wa al-'Af'al* and published in 1888. She discussed how marriage was an Islamic marker of male adulthood (*al-hilm*). She mentioned that young men reached maturity at sixteen years of age. For them, marriage was both a distraction and the most desirable goal. This contributed an interesting definition of the qualities of a good wife at the elite class. Young women were expected to have mature opinions (*saddad al-ra'iy*), intelligence, good management skills as well as beauty and grace. If they were able to love and be loved by their husbands, they could also serve as a catalyst for encouraging their mates to give up bad habits (*al-nahy `an al-su'a*) and to embrace the imperative to reform (*al-`amr bi al-'islah*).<sup>9</sup>

Taymur's paradoxical characterization of marriage as a distraction to men and an important legal measure of adulthood echoed the medieval Islamic representation of the institution by Imam Abu Hamed al-Ghazali.<sup>10</sup> Unlike al-Ghazali's misogynist formulation which accused women of distracting men from their religious duties, Taymur underlined the positive contributions women made to the moral development of their husbands. Her description of the qualities of a wife, who was almost always younger than her husband, indicated that she was pressured to grow up quickly and to become an emotionally and morally mature partner. A wife did not only manage the household, but she also in guided her husband to a virtuous life. There was no evidence here of an Islamic assumption regarding the moral inferiority of women suggested by al-Ghazali or of their passivity. More interestingly, Taymur put the modern ideal of heterosexual love in the service of building virtuous Islamic families. She suggested that it could be used by wives to guide their husbands on how to live an Islamic way of life through giving up bad habits which emerged as one of the major concerns of social commentaries of this period along with reform. The original Islamic injunction had required all Muslims to observe the imperative of doing good and ceasing to engage in forbidden practices (*al-'amr bi al-ma`rouf wa al-Nahy `an al-munkar*). In response to a modernity that presented an Islamic society with many problematic practices (like drinking and gambling), Taymur reversed the order of that injunction to put giving up bad practices (*al-nahy `an al-su'*) first and then to observe the imperative of reform (*al-'amr bi al-'Islah*). Like other modernizers, Taymur saw reform as including both personal and social changes. Unlike them, she advocated that this be done by adapting the good Islamic principles to the needs of the time instead of setting aside.

Taymur also discussed the changes taking place in women's relationship to child rearing within her class synthesizing Islamic and modern views on education. She stated that the well being of children depended on education. She defined education very broadly to include the learning of good manners, culture and discipline. She made clear that the education of young boys in these important social skills assumed great importance. In fact, she stated that it represented the most serious internal struggle (*jihad*) facing Islamic societies. If left for himself, a young boy's masculinity (*rujulatu*) as well his virtue (*muru'atu*) would be undermined.

Up until the mid nineteenth century, the education of young boys was delegated to other men. This changed as women gained access to education and were increasingly expected to perform this important task. Taymur let her readers know that she drew on her own experience in this discussion. She thought that young children were malleable and could be guided in different directions by their caretakers. She viewed leniency in discipline as leading to loss just as laxness in instruction encouraged tyranny. "If you let your son determine his own actions and words, you will be encouraging him to develop a bad disposition and to embrace disgraceful behavior. He will bring great loss, shame and defeat to his parents".

In discussing how women/mothers could teach their sons about masculinity, Taymur did not treat the Islamic or modern definitions of femininity and masculinity as oppositional categories. Women's access to Islamic education enabled them to serve as catalysts for guiding their husbands to "reform" and teaching their sons about the culturally specific ideal of virtuous (*muru'a*) masculinity. Here, the marriage institution accommodated many of the old and new rules and depended on women to mediate the fit between the two.

The above discussion offered a distinct perspective on modernity. Taymur was interested in providing an Islamic framework for the changes taking place in marital relations, the division of labor within the family and the larger societal project. Her goal was to put modernity in the service of Islamic society. The resulting Islamic modernity was different from the project of building a modern Islamic society i.e one in which Islam served the process of modernity. The latter was the project most modernists were committed to. Her definition of a good Muslim wife illuminated the difference between her project and that of the modernists. A wife did not stop at learning all about the modern nation of the "management of the household" which became the cornerstone of the new domestic ideology. She was to become an active agent in the reformulation of an important Islamic injunction to suit the needs of the time (i.e to give up bad habits and to obey the imperative to reform) through influencing her husband's behavior. Equally important, a Muslim mother was to play an important role in adapting the modern

concepts of discipline to reproduce the culturally specific definition of masculinity.

In a booklet titled *Mir'at al-Ta'mul fi al-'Umur* (A Reflective Mirror on [some] Affairs) published in 1892, Taymur made an even bigger contribution to the conjectural history of modern society in Egypt. She turned her attention to matters that no other Muslim woman had dared, until then, to publically discuss. She offered her interpretation (*ijtihad*) of the contingent social/religious bases of the inequality between men and women in the marriage contract and how young Muslim men, who were influenced by modern social practices, were undermining the bases of this historical arrangement. In justifying her decision to discuss this sensitive matter, Taymur argued that in Islamic religious traditions reason enlightened faith. Up until now, God had relied on the rationalizing capacities of men to make religious truths available to the believers. Now the advantages of these skills were extended to women as well.<sup>11</sup>

Taymur stated that her seclusion did not prevent her from observing the emergence of what she described as "problematic behavior and strange social practices". She waited for these problems to sort themselves out, but they were resistant to simple solutions. In response, Taymur courageously decided to address these problems sacrificing safety for criticism and blame. What was the nature of these social problems and why did she expect her commentary to expose her to criticism and blame? The following quote described the controversial character of her social and religious concerns:

"The Qura'n explicitly identified the bases of the rights that men had over women and those that women had over men. [One important verse stated that] 'men were leaders over women by what God chose to advantage each gender and by what they spent of their money'. A man provided for the needs of his wife striving to protect and look after her. God explained his judgement regarding male privilege by citing their access to affairs/activities (*'umur*) that enhanced reason and religion. It entitled them to the rights to guardianship (*wilaya*), religious leadership (*imama*) and political rule (*al-khilafa*). Another Qur'anic verse privileged them in public testimony by stating 'if there were no 2 male witnesses, then [one should take] the testimony of one man and 2 women: if one woman was to stray, the other would remind her'. This reinforced their privileges. Finally, God instructed men on how to handle their economic advantages specifying that they should provide for women by giving them a *mahr* (a one time financial offering before marriage), (*al-maher*). They should also provide for women's food, clothing and housing in accordance with the status of the wife and the husband. Finally, Men should economically provide for their infant children so that the birth mother would not be asked to do more than she could (*la tukalif nafsn 'ila wis`aha*).

These obligations were required by Qur'anic verse (*al-nus*) and community consensus (*al-*

*ijma`*). So, it was quite odd that most young men of our time have refrained from reading these verses and pondering their latent and manifest meanings... Ignorance blinded them and led them to ignore God's injunctions. Now, it seemed that every man who pondered marriage, whether he was a person of low or high status, lazy or bright, was generally after jewelry, pots, estates and real estate- not a good family, religiosity, virtue and modesty... This has endangered the honor of nations (*umam*) and destroyed what [the national] energies had built... It reflected badly on those men who continue to uphold the ideals of masculinity (*al-futuwa*) and masculine virtue (*al-muruwa*)...

Because greed had become the primary motivation of those who seek marriage..., once one of those young men got a hold of an obedient wife and her wealth, whether she was from the lower or the upper classes, he was intent on enjoying himself and avoiding any kind of exertion or work... He spent his time in bars in the company of friends where they listened to music, gambled and drank... These excesses led each to return home in a sorry state: unable to stand up straight or to make sense. [In this situation], a wife met her husband with a great deal of disgust and took care of him with a broken heart. The waste of money made it difficult [for women] to manage the affairs of their households. Many were not able to cover their expenses or to hide the economic hardships they faced.

As women resolved to take over the responsibilities of their households, authority passed to the wives as the goddesses of management and the source of utility. Men gave up their leadership position that entitled them to respect and dignity and wore the veils of surrender, shame and defeat... A Qur'anic verse clearly specified the rights that a woman had in marriage. 'They had [rights] just as they owed others in kindness'. A husband was required to provide for his wife and to protect her interests. She, in turn, was obliged to obey him and to respect his wishes/commands. When the situation was reversed, then he owed her loyalty. How could she not throw away the bonds that tied her to the household and the veil that made her modest?<sup>12</sup>

Women responded [to the above] in diverse ways. Some of the virtuous secluded women dealt patiently with these developments. They closed their eyes to the ugly behavior before them and tried to hide the details of their misfortunes... Their husband seemed largely unappreciative of their efforts and oblivious of the problems they were creating for their families. Those who were strong faced ruin alone. Those with weaker constitutions met an early death. Women with sharper tongues and weaker natures took another venue. They verbally blamed their husbands for their woes and quarreled with them. The heated exchanges were loud and took place in the morning and at night. They were heard by everybody whether friend or foe. Women refused to obey their husbands. The kind relations that were expected to prevail between spouses were replaced by discordant ones. A man caught in this situation could no longer discipline his wife... [If he tried to divorce her], he would face financial ruin. Not only will he lose access to her remaining wealth, but he would be expected to provide her with her economic rights [alimony]. And so these men accepted their loss of status. Their unhappy wives sought solace outside their homes: visiting their neighbors to share their problems and sometimes going out alone to the different parks or to the shops".<sup>13</sup>

The above described the decline of the older Islamic definition of the marriage

contract which maintained harmony and order in many families. The collapse of the existing social consensus regarding the roles that men and women were to play in the family was a result of modernization which contributed to a new materialism and new consumption patterns among men of different classes. Many marriages were based on greed. New social practices associated with modernity like drinking, gambling and frequenting the night spots contributed to the quick financial ruin of these families. The result was a high level of marital discord.

This undermined the old bases of the marriage contract that gave men leadership in exchange for economic support. Here, Taymur implied that the leadership position enjoyed by men in the family was not absolute, but contingent on their fulfillment of their marital obligations. Failure to fulfill them triggered the refusal of women to obey these husbands and the reversal of the power relations within the family justifying the transfer of authority from the husband to the wife. According to Taymur, this was the way Egyptian women interpreted and understood the Islamic marriage contract. It explained the change in their behavior and the redefinition of their relations with their husbands.

Taymur was critical of these new practices and the change of power relations within the marriage contract. She supported the older understanding of the marriage contract and the order it brought to the relations between men and women. She was alarmed by the level of discord that the new practices brought to family life especially those of the upper classes. Finally, Taymur felt ambivalent about the new liberties that women have taken in response to this situation and was not at all sure that they served the interest of female virtue.

There was no direct way to measure the impact of Taymur's booklet and its social commentary on the reading public. Taymur had already published her fictional work, *Nata'ij al-'Ahwal fi al-'Aqwal wa al-'Ahwal* in 1888, which established her standing as a literary writer and a pioneering woman. Her social commentary must have attracted public attention especially its presentation of women's perspectives on what is going on in Egyptian families. It explained the publication of a response by shaykh Abdallah al-Fayumi to her *Mir'at al-Ta'mul fi al-'Umur*. This response and its publication provided additional indications of the good reception of Taymur's commentary. It made little sense to take time to comment on views that were either not well received or not widely discussed. Capitalizing on public interest in this topic, *Al-Nil* newspaper published shaykh Fayumi's response first in the form of a series of articles and later on collected these articles and published them in a booklet titled *Lisan al-Jumhur `ala Mir'at al-Ta'mul fi al-'Umur*. By addressing the views of Taymur who was a well known woman writer in a topic that was of great interest to the reading public, *Al-Nil* sought to use



the articles and the booklet to increase its circulation which was a primary concern for many of the newspapers during this period.

Shaykh Abdallah al-Fayumi was a member of the ulema at al-Azhar and also a teacher in one of the state's modern schools.<sup>14</sup> The specific school was not identified. His dual location in a religious and a modern institution shed interesting light on his counter characterization of the Islamic marriage contract. He sought to rebut different aspects of Taymur's argument. What was striking about the title he chose for his booklet was that it represented his views as those of the general public (*al-jumhur*). This was a strategy designed to put Taymur and her views in opposition to that public. Taymur's booklet and al-Fayumi's rebuttal, published in a prominent newspaper, represented the earliest polemic triggered by the writings of a woman on the important topic of women's rights. The exchange had serious implications for women and the public's acceptance of women's right to participate in the analysis of their familial problems and/or the social problems facing their society.

Al-Fayumi started off by recognizing the rights of literary and religious writers, like Taymur, to advise the Islamic nation with regard to the general good. Then, he proceeded to attack Taymur for daring to discuss religious matters that were the legitimate concerns of men and specifically the ulema (the learned men of Islam).<sup>15</sup> He accused her of ignorance of the contextual meaning of the Qur'anic verses she cited. Despite her good knowledge of the Arabic language, she lacked other skills with which to interpret the divine text. He cast doubts on her motives for tackling this subject and suggested that she was not interested in the general good, but in adding to her literary fame.<sup>16</sup>

Al-Fayumi's rebuttal was at least double the length of Taymur's booklet and in smaller print which indicated that he used his it to establish his own reputation and authority in that important area. He employed several discursive strategies to belittle Taymur's interpretation and to firmly close the door to any other *ijtihad* (religious interpretation) by a woman or a man who were not members of the ulema. The latter monopolized the interpretation of religious matters. His rebuttal was written in a specialized language that was designed to intimidate the ordinary and even the informed reader. In addition, he challenged the basic concepts that Taymur used to construct her argument even when they had legitimacy. For example, he challenged the notion that the word "right" appeared in the Qur'an. Then, he conceded that such a concept could be deduced from it. After arguing that the concept of *al-quwama* (leadership) only offered an explanation of the inequality between men and women in inheritance, he suggested that it could be one of the rights that men derived from the economic support of women. According to his reading, the only right that women had in marriage was that of obedience! Economic

rights were only relevant in the limited case of divorce! As such, Taymur's religious interpretation (*ijtihad*) was not in line with the general good established by the long line of distinguished male interpreters (*salaf*), but was an example of the evil associated with innovation (*bida'*) that breaks with tradition.<sup>17</sup>

Next, al-Fayumi proceeded to offer an extremely masculine reading of the Qur'anic verses and the prophetic tradition that justified the abuse of the marriage contract by men of the younger generation which Taymur had criticized. He denied that men had any obligations vis a vis women in marriage. If women consent, their husbands do not have to pay them any *mahr*. Men do not have to support their wives if it was understood from the very beginning that they did not have the capacity to do so. A marriage contract based on greed was not desirable, but was nevertheless legally valid! A man/husband's inability to bear economic responsibility did not make a woman/wife equal. If she was unhappy with the marriage contract, she could file for divorce, but she could not usurp his leadership right. Leadership was not linked to what men were able to deliver, but it was a function of their being men.<sup>18</sup>

The severity of the rebuttal and its religious justification of a new conservative status quo served to discourage women's future participation in the discussion of religious matters even when they directly affected them. It also discouraged men from a discussion of the religious interpretations of marital relations. Seven years later, Qasim Amin discussed the same topic without any reference to Qur'anic verses and their interpretations in his landmark book. It should be mentioned here that Al-Fayumi's interpretations clashed with legal practice. The nineteenth century religious court system (*al-Mahakem al-Shar'iya*) emphasized the view that a wife had the right to expect financial support from her husband. Male inability or refusal to provide economic support served as sufficient ground for dissolving a marriage by granting a woman a divorce.<sup>19</sup>

Al-Fayumi's claim that male leadership was not linked to what they were able to deliver but was a masculine attribute represented a transition to a modern definition of masculinity as fraternal privilege. This last point was an extremely important one for it introduced into the system of Islamic interpretation a modernist view of male privilege. Al-Fayumi's incorporation of this modern notion in Islamic religious interpretation was explained by his dual position as a member of the ulema and a teacher in one of the state's modern schools.

The publication of Zaynab Fawwaz's biographical dictionary of women in 1896, titled *al-Durr al-Manthur fi Tabaqat Rabat al-Khudur* (the Abundant Prose on Women's Biographical Dictionary), moved the discussion of women's rights beyond the discussion of religious/legal definitions. The dictionary offered another

story about Islamic modernity that put the social and political history of Islamic societies in the service of an expanded definition of women's rights in the larger Arabo-Islamic community. Fawwaz located her dictionary in the emerging interest in comparative history. It compared the pre-Islamic and Islamic history of Arab societies under the Ummayyads, the Abbasids and the Ottomans. As such, it sought to compensate for the absence of any discussion of women in the study of Egyptian national history.

Her interest in the role that women have historically played in the larger Arabo-Islamic community reflected her desire as a Syrian/Lebanese Shii Muslim woman residing in Egypt to synthesize the histories of these two national communities. In her formulation of the history of the Arabo-Islamic community, she brought to the discussion the way the religiously diverse Lebanon employed Arabic as the linguistic national bond among its Muslims, Christians and Jews. In privileging language instead of religion as basis of membership in the community, members of different religious minorities, including the Shiites, could enjoy the same social standing in society. At the same time, the fact that Arabic was the language of Islam meant that the history of that language could not escape the special and long historical association with the Islamic religion.

Fawwaz offered biographies of "virtuous" (secluded) Arabic speaking women who were princesses, queens, poets and religious figure in pre-Islamic societies. With the advent of Islam, women became companions of the prophet, interpreters of the prophetic tradition, sufis, poets, singers, writers and political actors who defended the grandchildren of the prophet against the Ummayyad caliphs. These figures represented 72% of the biographies included in the dictionary. In her discussion of their lives, she showed that contrary to widespread belief they were not restricted to the mundane affairs of the household. Despite seclusion, they were actively engaged in the literary, religious and political affairs of their communities. Fawwaz used this history of involvement in support of an expanded rights and roles for women in modern Islamic societies.

In the above construction, Fawwaz agreed with Taymur that women had important rights within and outside their own families and which the modern fraternal histories ignored. In the introduction to the dictionary, she explicitly stated that her goal was to counter the conservative Islamic and modern representations of women which made them invisible. Her dictionary offered historical role models who were clearly more than mothers and housewives.

In contrast, the women's journals that began to appear in the 1890s announced, through their titles and content, the emergence of a new generation of

women writers who had a different perspective on modernization. Their education in American/English convent schools influenced their discussion of the roles that women should play in a modern Islamic society. As editors of these journals published in Cairo and Alexandria, they supported the building of a modern society that was not that much different from those in the West. Their discussions were silent about the fact that the societies they wanted to modernize were predominantly Islamic. They substituted the concept of Islamic society with a new concept i.e that of the "Orient" (*al-Shaq*). This concept has often been translated as the generic "East", but considering that these women were educated in American, English and French schools, it was probable that the concept that they were exposed to was part of the growing literature on "Orientalism". Students in these schools, whether they were Christian, Muslim or Jewish, were offered a degraded view of Oriental/Islamic societies. As a result, the editors of these early women's journals, who initially were Christian and Jewish, came to think of Islam as antithetical to modernity. The modernization of Islamic society required the marginalization of Islam and the development of societies like those in the West. The idea of putting modernity in the service of Islam, which Taymur and Fawwaz advocated, was perplexing to them and not very desirable. Their primary concern was how to modernize the "oriental" woman whether she was Muslim, Christian or Jewish. As members of both religious and national (Syrian) minorities in Egypt, they feared that the project of Islamic modernity would continue their marginal status. They avoided the discussion of religious difference and used the homogeneous essentialist category of "woman" which was identified with the role that any member of their gender played in the family. The construct became the basis of a very loosely constructed sisterhood that de-emphasized class, religion and nationality that divided them.

The journals consciously developed a shared modern domestic ideology that served as a basis for modernization. *Al-Fatat* (Young Woman) published from 1892 to 1894, carried columns and articles on "the management of the household" (*tadbeer al-manzil*) that sought to teach its readers the new domestic ideals.<sup>20</sup> *Al-Fardus* (Paradise), published from 1896-8, also discussed household management and child rearing.<sup>21</sup> *Anis al-Jalis* (the intimate companion), published in 1898, hoped to "disseminate new ideas aimed at improving the situation of woman and her noble cause".<sup>22</sup> Finally, *al-'A'ilah* (the family), published from 1899-1904, mixed domestic and literary subjects.<sup>23</sup>

## **B. THE HEGEMONIC DISCOURSE OF QASIM AMIN**

The above voices of women were ignored by the modern construction of Egyptian national history which focused on the work of Qasim Amin which was seen as an extension of that done by shaykh Rifa'a al-Tahtawi who died in 1878 after writing a book in support of the education of women. Both men were upheld as important

architects of the enlightenment project who were committed to the cause of the liberation of the "woman" (*Tahrir al-Mar'at*). Modernist/nationalist history preferred to present Amin as though he operated in a historical/intellectual vacuum rather than discuss his intellectual debt to some of the women writers who identified important social problems and developed conjectural stories to explain them in the 1890s. For example, Amin addressed some of the same set of social problems that Taymur addressed 7 years earlier. Whereas Taymur saw these problems as part of a new materialism that accompanied modernization and undermined the social consensus regarding the Islamic sexual contract and the definition of power relations within the family, Amin embraced the Orientalist view which blamed these problems on the backwardness of Islamic society. In this way, Amin shared the important story that the editors and some of the authors of the women's journals offered about the backwardness of Oriental societies and the progressiveness of modern ones. Amin's important book, *Tahrir al-Mar'at* (the liberation of the woman), used this discourse, its concepts and assumptions to develop a devastating Orientalist critique of Islamic society by a Muslim writer. He saw modern domesticity as the solution of the problems facing women in Islamic society. His views were different from those expressed in the women's journals in its conscious development of a fraternal framework for discussion.

In what follows, I will rely on extensive quotes from Amin's book to support some of these contentions.

"I call upon every lover of truth to examine condition of the Egyptian woman and I am certain that he will arrive at my conclusion i.e the need for its reform... The history of nations is filled with discussions, polemics and wars that were designed to make one school of thought prevail over others. Sometimes truth won and at other times falsity prevailed. [The resulting dynamism] characterized Islamic nations during the early centuries through the middle ages. In Western countries, [this kind of ferment] continues and its life can be described as a constant *jihad* (struggle) between truth and falsity and right and wrong. There is an internal struggle among its members in all branches of knowledge, the arts and industry. There is also an external *jihad* among the different states who pursue these goals...

No one has chosen complacency except people like us. We have neglected the service of our minds until they have become like fallow land where no plant will grow. Laziness has led us to oppose every form of reformist thought which people of our time equate to being modern, because it is not familiar to our prophetic traditions (*sunan*) or the old ways of serving our interests... The lazy and those with weak arguments make false claims to reject manifest truths. [For example, they will say], this [view] is an innovation in Islam ... To those I reply, yes I have brought an innovation, but it is not in Islam, but in the customs and the way people deal with one another (*al-mu'amalat*) where the quest for perfection is praised".<sup>24</sup>

Amin's opening sentence offered a revealing enframing device for this discussion. In asking other [male] lovers of truth to join him in this discussion of the status of women, Amin was attempting to announce the emergence of a modern form of patriarchy. Instead of the older form of patriarchy where the discussion of women and their affairs were the business of their male kin (father, uncles, husband and brothers), the new patriarchy was fraternal in character. Men, unrelated to women and broadly interested in issues like truth, were to discuss the status of women and the details of their lives as part of the development of a modern society. Any man could participate in this discussion by virtue of being a member of this fraternity. Women were not asked to join this discussion and only served as its object. The views of many Egyptian women, already present in the public arena through the newspapers, journals and books, were ignored. Despite the title of the book, *The liberation of the Woman*, its manifest goal was less important than the attempt to rally men to exercise a new form of power over women through the production of a new discourse that claimed to liberate them in the family and in modern society.

Amin's analysis of the problems facing Egyptian women began with the discussion of the backward status of women and suggested that agreement on this issue led to the deeper acknowledgment of the backwardness of Islamic society. Amin described nineteenth century Islamic societies as lacking in the kind of intellectual dynamism. The intellectual ferment that characterized their early history disappeared by the end of the middle ages. From then on, a more dynamic Europe took center stage. Implied in this statement was the claim that the development of Islamic societies had stopped since the middle ages and that Western societies were making better use of Islamic principles of organization. The latter were engaging in internal struggles (*jihad dakhili*) in the search for truth and competed with other states (*jihad Kharaji*) in the dogged pursuit of progress.

In contrast, Muslims were complacent. Their minds were like fallow land. They were lazy and opposed to reform and modernity. They discredited any "innovation" by misrepresenting it as an attack on Islam. While Amin denied that he was proposing "innovations in Islam", he described his book as an attempt to bring innovations to Islamic customs and social relations among Muslims. This was an interesting distinction whose political consequences could not be overlooked. It deconstructed the view of "Islam as both a religion and a way of life". In separating the religion from its social and cultural roots, it sought to diminish its influence on peoples' lives. Equally important, the discursive strategy of modernizing social relations, but not of religion, left the body of religious interpretations intact out of sync with the course of social change. Why did Amin opt for this strategy? Did he share the conservative views that argued against opening Islam up to innovation?

Was this a politically expedient decision? Did he share the orientalist view that Islam was hopelessly oppressive and therefore could not be modernized? I suspect all of these considerations partially influenced his discourse. His modern education in Egypt and France and his position as a judge in the modern court system which did not deal with Islamic law explained his willingness to accept the Orientalist interpretations of Islamic society and its treatment of women.

Amin's views of women in Islamic society were similar to those of shaykh al-Fayumi's conservative reading of the Islamic texts. Both were distinctly different from Taymur and Fawwaz's liberal interpretations of Islamic laws and their social practice. Again, let me use Amin's words in support of this point.

"Despotic [Islamic] governments have contributed to the despotism of man and his contempt for weak women... [The result was] the degradation of the woman in the family...whether as wife, mother or daughter. She was subordinate because she was a woman and a man was dominant because he was a man. She was reduced to a small part of her home. Ignorance and veiling were her lot... She was used by man for pleasure then cast aside whenever he pleases. He had education and reason and she had ignorance and folly. He had property and space and she had darkness and prison. He had the right to command and she only had the right to obey... Man's contempt for woman was reflected in polygyny and concubinage ... which ignored the religious injunction that a man act in good faith and with justice. [It was demonstrated in the way] a man divorced his wife for no reason, how he ate first and she followed, how he used a servant to watch her everywhere she went, how he imprisoned her at home...until she died and how he declared her as untrustworthy and excluded her from public life and work. Women had no opinion in general affairs and no thoughts regarding taste, art, religious beliefs or national virtue or feeling.

I do not exaggerate when I say that this was the condition of the woman in Egypt until recently. Since then, the power of men over women has lessened because [male] thinking has become more progressive and the character of those who rule over them was moderate. [As a result], we now see women going out to take care of their own shopping needs and to visit parks as a means of entertainment. Many travel with their husbands to other countries. These [enlightened] men have given women a position in family life".<sup>25</sup>

The above rendering of the social reality of nineteenth century Muslim women in Egypt was not that much different from European orientalist accounts of the time that described the absolute oppression of these women and their denial of simple rights. In this discussion, Amin offered an essentialist oppositional definition of femininity and masculinity. Subordination was synonymous with femininity and domination with masculinity. These definitions echoed al-Fayumi's views that men were entitled to leadership because they were men. Was this an accurate portrayal of the lot of women during this period? Not at all. Studies of nineteenth century court records showed that women enjoyed legal rights under the marriage contract.

Women had the right to economic support and protection from harm in exchange for obedience and acceptance of male leadership and authority.<sup>26</sup> Equally important was the view held by many nineteenth century middle and upper class families that the marriage contract was like any other contract. It could accommodate additional rights valued by women. For example, the families of Huda Sha`rawi and the wife of shaykh Rifa`a al-Tahtawi included in their marriage contract the condition that the husband should not take another wife. If he did, both women would have the right to divorce their husbands. Like al-Fayumi, Amin was silent on these liberal religious interpretations of the sexual contract and which allowed women to enhance their rights using Islamic law.

Amin's characterization of the lot of women ignored the increasing number of middle and upper class women, like `A'isha Taymur, Zaynab Fawwaz, Hind Nawfal, Louisa Habbalin, Alexandra Avierino and Esther Azhour, who either had access to Islamic education at home or in missionary or public schools. They had opinions about religion, literature, national history and public and private tastes which they published in books and journals. Despite Amin's claim to the contrary, Muslim women have historically had property.

Not only was Amin's portrayal of the family lives of women inaccurate, but he falsely claimed that the new liberties enjoyed by women, like visiting public parks and shops were given to them by enlightened men. Seven years earlier, Taymur described how women took these liberties as an expression of their rejection of the authority of their greedy and irresponsible husbands. In an equally shocking assertion, Amin attributed these changes to the "moderate character of their rulers" which was a reference to the British colonial government headed by Lord Cromer. Amin's claim that the benevolence of British occupation contributed to the benevolence of Egyptian men suggested that fraternal political ties existed between the 2 groups fostered by their belief in the liberality of British colonialism/modernization. It also showed the extent to which he internalized the superiority of the representatives of the "occident" even when they ruled over the colonies by force and usurped the rights and liberties of these populations.

What was the nature of the changes advocated by Amin in the status of women and how liberal were the new rights he promised them? Again, let me use his words to elaborate on the liberating potential of his project.

"I do not advocate the equality between men and women in education for this is not necessary. What I request for now is that there be equality between the two in at least primary education and that their education (at that level) be as thorough as that of men. As for what some girls learn now, I consider it to be inadequate. They learn how to read



and write in Arabic and another language. In addition, they learn some sewing, embroidery and music. They do not learn enough science that could be beneficial. (The present education) led some of them to think that just because they can say good morning in French, they were better than their peers and were entitled to a high position. Some refuse to do housework and spend their (hours) reading novels that serve only to fire their imagination about a more pleasing world... Nothing could be more useful to a human being than the acquisition of a practical mind... All the disasters that afflict them come from one source and that is imagination. The more one is able to set aside fantasies and imagination, the closer one will be to happiness. Those who stray from reality were likely to find themselves far from happy".<sup>27</sup>

Amin wanted women to have a minimum level of education that helped them to develop a practical mind that accepts housework. He was very clear that the goal was not to free women's imagination, to encourage them to aspire to a higher position or to desire "a more pleasing" world. These creative imaginings were to be discouraged and women were to be pressured to accept the roles defined for them by men in the modern family. Here, men, like Amin, used their power over discourse to define the boundaries within which women were to operate and to specify the content of their changing lives. In exchange for the new right to minimum education, women were again expected to obey the new rules set by men and to accept the "new fraternal basis of authority" within and outside the family. So, Amin's advocacy of the modernization of women's role in the family did not break with the old expectation that women obey men and accept their leadership. It added to them a restrictive definition of modern society in which men discursively cemented their fraternal authority through the right to define the roles of women.

## CONCLUSION

The historically specific context of the nineteenth century debate which took place under colonial rule revealed how the sexual/marriage contract acquired larger social functions that made it a *social-sexual contract*. Shaykh al-Fayumi specialized response to Taymur's novel interpretation of the marriage contract sought to reassert the authority of the religious elite over this legal and social domain. Accepting the exclusive power that the religious establishment had over the interpretation of the sexual contract came to serve as an alibi for the Islamic character of the modernizing society and family. At the same time, Qasim Amin's advocacy of women's access to some education served to highlight the authority of the modernist elite over the definition of women's changing role in the family. It provided that elite with evidence of their commitment to modernization. This placed a double social burden on the shoulders of women whose rights in the sexual contract were often sacrificed for larger cultural and national community concerns. The loading of the marriage contract with these major social functions explained why women's effort to change

the restrictive rules that govern marital relations has been especially difficult.

Finally, the silence imposed on the debate started by Taymur's *Mir'at al-Ta'mul fi al-'Umur* with its liberal interpretation of women's rights under the Islamic sexual contract and continued by Fawwaz's attempt to offer a comparative view of the expanded social rights enjoyed by Arabic speaking women in pre-Islamic and Islamic history and society served as a harbinger of how future debates initiated by women will be handled. Just as shaykh al-Fayumi belittled Taymur's interpretation of women's rights, Qasim Amin mocked the aspirations of educated women for higher positions and their rejection of housework. In 1990, the state functionaries of the ministry of justice similarly trivialized and ignored the changes suggested by activist women for a new form for the marriage contract. Each demonstrated the fraternal privilege enjoyed by men of different ideological stripes and positions, and which gave them power over the discourse that defined the rights that men and women should have in the sexual/marriage contract.

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## ENDNOTES

1. Magda Mahmud, "*Fi Nadwa Hawl `Aqd al-Zawag: al-Ma`ash lil Mutalaqa*", *Hawa'* (July 9, 1994), pp. 14-15; Maher al-Dahabi, "'Aqd Zawag Gadid Yadhman Huquq al-Mar'at" *Nisf al-Duniya* (December 18, 1994), p. 38.
2. Hamdy Abdel Aziz and Sawsan al-Gayar, "*Zu`r al-Rigal wa Takhazul al-Nisa' fi Majlis al-Sha`b*", *Rose al-Youssef* (January 29, 2000), pp. 10-15.
3. Carole Pateman, *The Sexual Contract* (Stanford: Stanford University Press, 1988), p. 1.
4. *Ibid.*, p. 102.
5. *Ibid.*, p. 1.
6. *Ibid.*, p. 2.
7. *Ibid.*, p. 3.
8. *Ibid.*, pp. 5-6.
9. `A'isha Taymur, *Nata'ij al-'Ahwal fi al-'Aqwal wa al-'Af'al* (Cairo: Matb`at Muhmmad Effendi Mustafa, 1888), p. 26.
10. Fatima Mernissi, *Beyond the Veil, Male and Female Dynamics in a Modern Muslim Society* (New York: John Wiley and Sons, 1975), chapter 1.
11. `A'isha Taymru, *Mir'at al-Ta'mul fi al-'Umur*, (Cairo: Matba'at al-Mahrusa, 1892), p. 5.
12. *Ibid.*, pp. 4-8.
13. *Ibid.*, pp. 8-9.
14. Khayr al-Din al-Zirikli, *Al-`Alam: Qamus Tarajim*, vol. 4 (Beirut: Dar al-`Ilm lil Malayiin, 1979), p. 143.
15. Shaykh Abdallah al-Fayumi, *Lisan al-Jumhur `ala Mir'at al-Ta'mul fi al-'Umur* (Cairo: Matb'at al-Nil, 1892), p. 5.
16. *Ibid.*, p. 11.
17. *Ibid.*, p.30.
18. *Ibid.*, p. 25.
19. Judith E. Tucker, *Women in Nineteenth-Century Egypt* (Cambridge: Cambridge University Press, 1985), p. 54; Amira El-Azhary Sonbol, "Introduction", in *Women and the Family and Divorce Laws in Islamic History*, ed. Amira El-Azhary Sonbol (Syracuse: Syracuse University Press, 1996), pp. 1-20.

20. Beth Baron, *The Women's Awakening in Egypt, Culture, Society and the Press* (New Haven: Yale University Press, 1994), pp. 155, 234.

21. *Ibid.*, p. 16.

22. *Ibid.*, p. 19.

23. *Ibid.*, p. 21.

24. Qasim Amin, *Tahrir al-Mar'at wa al-Mar'at al-Jadida* (Cairo: al-Markaz al-'Arabi lil Bahth wa al-Nashr, 1984), pp. 4-6.

25. Amin, pp. 15-17.

26. Tucker, p. 54; Sonbol, pp. 1-20.

27. *Ibid.*, pp. 53-54.