

Article

State Fragility and Structural Gender Inequality in Family Law: An Empirical Investigation

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Abstract: In this paper we examine the linkage of male-dominant family law systems and levels of nation-state security and stability. We expect such societies to be predisposed to parasitical rent-seeking and inefficiency, combined with coercive conflict resolution, resulting in higher levels of violence within the society. We demonstrate empirically that states with inequitable family law also exhibit higher levels of state fragility. Using standard indicators of state stability and security, our empirical results show that the ability to predict levels of state stability and security is significantly enhanced by examining a measure of Inequity in Family Law in addition to more conventional explanatory variables such as literacy rate, level of democracy, and civilizational influence.

Keywords: Inequitable family law; security; state stability; peacefulness; state fragility; male-dominant

1. Introduction

Over the last two decades, there has been a growing awareness that in a very real fashion, the relationship between the two halves of humanity within a given society sets the horizon of possibility for nations in terms of their peace, security, prosperity, health, and governance [1,2]. Like the foundation of a building, unseen and yet determinative, gender relations underpin all macro-level phenomena within a society. We argue that family law codes play an often ignored role in establishing that foundation. To the extent that these differ across countries, overall levels of national stability and security will differ as well. In this article we single out the role of family law and ask whether law that governs women's place in the family indeed helps us account for cross-national variation in stability and security.

The idea that women's situation and security is linked to the situation and security of nations is gaining ground in international discourse. Recently, we have seen several Western nations increasingly highlight issues of women's status in interstate relations. For example, tensions between Sweden's Foreign Minister Margot Wallström and the Kingdom of Saudi Arabia exploded in 2015 following Wallström's condemnation of the Saudi human rights record, with particular reference to women's human rights in a speech to the Swedish parliament [3]. While speaking in the US, Wallström further stated that "striving toward gender equality is not only a goal in itself but also a precondition for achieving our wider foreign, development, and security policy objectives" [4]. In turn, Saudi Arabia withdrew their ambassador. Relations have since improved, but the price was a quasi-apology from Wallström, indicating a new crux of contention between nations has developed over these issues [5].

In countries such as Afghanistan, Iraq and Saudi Arabia, there has been strong resistance to linking women's status and human rights with peace and democratization. This is due to the strong tie between women's status in the family as reflected in local community values, and the national family or personal status code which enshrines traditional values in law. As a result, criticism such as Wallström's become interpreted as criticism of nationality and religion. Saudi Arabia viewed Wallström's mention of the subordinate status of women in Saudi society as a criticism of Islam, the constitutionally-decreed foundation of the Saudi state, and specifically sharia law which serves as both the law of the state and the law of Islam. The Saudi response escalated a foreign policy question regarding human rights to an attack on a religion of almost 1.6 billion followers, indicating that Wallström's argument struck deeply at core values of the Saudi nation. The sensitivity of these issues leads to some important questions: to what extent may family law that discriminates against women affect prospects for state stability and security? While the Saudis may say there is no such relationship, influential public figures like Wallström insist that the community of nations has a justified stake in the treatment of women in families because of the linkages they see.

In this paper we present a case for the linkage of male-dominant family law systems and the insecurity and instability of nation-states. We develop a theoretical framework suggesting that societies legally encoding male dominance will be prone to instability and insecurity, being predisposed to parasitical rent-seeking and inefficiency, and will emphasize coercive conflict resolution resulting in higher levels of violence within the society. We then demonstrate empirically that states employing systems of family law that are inherently inequitable also exhibit significantly higher levels of state fragility and lower levels of state peacefulness. In other words, inequitable family law proves to be a strong predictor of state insecurity.

We argue that indicators such as female labor force participation, and even female government participation, are not as useful in assessing the status of women as an examination of their standing under family law. To develop this argument in a theoretical sense, it is useful to start with a case study highlighting the importance of inequitable family law in ascertaining the status of women. Afghanistan is a good case in point: despite progress for women in several areas since the overthrow of the Taliban, including government representation and labor force participation [6], we would argue that the situation and security of women remains precarious because of lack of change in family law.

2. The Case of Afghanistan

Over the past four and half decades, Afghan women have faced disastrous conditions resulting from the collision of the competition for state power, on the one hand, and legal and customary expectations of women's role in families and communities, on the other. Let us trace the arc of Afghan family law over the last hundred years as a first step in exploring that relationship.

Before he was unseated in 1973, King Mohammed Zahir Shah had followed a policy of gradual reform of the customary practices of Afghan tribal groups which restricted women's education, rights in marriage, economic participation, and involvement in public affairs. Family law in Afghanistan was first codified in the 1920s, and then stipulations on marriage were further delineated in 1961 and in the Civil Code of 1977. The latter set the legal age of marriage for girls at 16 (for boys at 18), continued to allow guardians to consent to marriage rather than the bride, required registration of marriage, supported the practice of *tamkin* (obedience) of the wife, and unequal inheritance. Polygamy was left unrestricted. However, the government introduced limited contractual access of women to divorce that many groups resisted vigorously. In addition, the law qualified constitutional rights guaranteed to women by requiring women to seek permission from their husbands if they wished to practice any of their rights granted in the law [7]!

The Soviet puppet government established in 1973 under Prime Minister Daoud Khan set up what in retrospect was the most progressive situation for Afghan women under the law until the present. A 1978 counter coup by the People's Democratic Party of Afghanistan assassinated Khan and his family, giving rise to civil war between the Soviet-backed forces and anti-communist warlords. Indeed, the rebel leaders gave three main reasons why they wanted to drive the Soviets out: under Soviet rule, "girls were permitted to go to school; girls and women could no longer be married off without their consent; and women were being invited to political meetings" ([8], p. 8). Notice, that among the key issues for insurgents of all stripes were those surrounding women's status under the Soviets.

This loss of central authority and the fighting between rival ethnic and geographical groups posed extreme danger for women who were raped and attacked as collateral of war. Following the withdrawal of Soviet forces in 1989, the Taliban ultimately established rule over the entire country, driving back rival factional leaders. Initially, the Taliban were welcomed as forces of law and order; however, Taliban governance did not ensure peaceful development but in short time spurred additional conflict. While Taliban rule, imposed by force, lessened the chaos of the civil war initially, their rule also ushered in a reactionary interpretation of law and cultural norms that severely subordinated women [9]. Following reports of Taliban exclusion of women from educational opportunities and extreme subordination in all

other spheres, the U.S. included empowerment for Afghan women as part of the U.S. rationale for attacking the Taliban regime [9].

After the American invasion, significant advances in the empowerment of women took place. The 2004 Constitution guaranteed equal rights to men and women, not to just “citizens”, and a quota of 25% parliamentary seats was reserved for women. Afghanistan also signed on to the CRC, CEDAW and the ICC—which is noteworthy because the American government has refused to adopt any of these three international treaties. In the case of CEDAW, Afghanistan signed, quite remarkably, without any formal reservations such as have been used by other Islamic countries to assert that anything in CEDAW that would contravene sharia law will not be accepted. In addition, the new Afghan government also established a Ministry of Women’s Affairs (MOWA). Women also initially headed several other ministries, including public health, labor, social affairs, and the ministry for the disabled [10].

Afghan women have eagerly taken on the challenge of public service. Habiba Sarobi was appointed governor of Bamiyan Province in 2005 and also ran for vice president in the 2014 election. Sahera Shekeib won election as the first female district governor in the country in 2013 on an anti-corruption platform [11]. The central administration has an explicit goal to have women make up 30 percent of the civil service by 2018. Observers note an impressive growth of women in the police force: 1974 women police officers in 2013, compared to less than 500 in 2007. Equally important is the increase of women in the legal field, which boasted 150 female judges in 2012, and 300 female defense lawyers and 250 female prosecutors in 2013 ([12], p. 10). These women have been elected and appointed amidst the implementation of a new program to select officials for skills rather than connections and appoint officials dedicated to limiting corruption [11].

Other indicators of women’s status have improved, and the well-being of the nation has advanced in tandem. From women’s nearly complete exclusion from the labor force under the Taliban, recent figures put female labor force participation in Afghanistan at 16%. ([13,14]; [15], pp. 33–35). Infant mortality has decreased by 23 percent since 2001. Maternal mortality has dropped from the highs during the civil wars. The World Bank estimates that the rate has been reduced to 327 deaths per 100,000 live births in 2013, down from 1600 deaths per 100,000 live births in 2001. Though Afghanistan ranks at the all-but-bottom worldwide in maternal mortality, the improvement is noteworthy and badly needed ([12], p. 11). The numbers of girls in school have improved. Ashraf Haidari notes, “Of nearly 5 million children in grades one through six, 36.6 percent are girls. The number of girls in high school almost doubled from 2007 to 2008, from 67,900 to 136,621 students. Some 8944 university students graduated in Afghanistan in 2008. Of them, 1734 were female students. These numbers have continued to rise in 2009, 2010, 2011, and 2012” [10].

However, one notable exception to this overall picture of progress for Afghan women was in the area of family law. No substantive changes to codified family law—for example, in consent in marriage, in divorce law, in custody rights, inheritance, *etc*—took place after the American invasion.

And thus what happened in subsequent years is of little surprise. The share of female-headed ministries fell precipitously under the Karzai government over time. And in May 2013, attempting to have parliament fully “instate” the presidential decree of the Elimination of Violence Against Women law (EVAW) so that a new president in 2014 could not reverse it, female MP Fawzia Koofi brought the legislation before parliament. Two hours of contentious debate ensued, during which male MPs attempted to strip the law of provisions that curbed polygamy, early marriage, forced marriage, domestic

violence, rape, and so on, on the ground that these provisions are “un-Islamic” [16]. The Karzai administration shelved the bill, sending it back into committee before parliament could vote on it, predicting—correctly—that it would be eviscerated otherwise. Under the recently elected president, Ashraf Ghani, no progress has been made towards making EVAW part of codified law.

To add insult to injury, the Afghan parliament voted in February 2014 to ban all testimony from family members, doctors, and lawyers in domestic abuse cases. Even the victim herself will be banned from testifying. This is a startling reversal that will offer impunity to those who abuse family members [17].

We see, then, that while more surface indicators changed dramatically, the deeper issue of family law has proven far thornier than any other issue for Afghan women. And this was an issue that was engaged at the very outset: soon after the U.S. invasion, activists raised questions of amending family law. However, local groups immediately voiced resistance to these programs. Afghan Islamists (conservative but non-Taliban) argued that equality-based family law was closely related to feminist beliefs and thus was inherently anti-Islamic. These religious leaders claimed that codifying the rights of women would result in the collapse of families. So, for example, they asserted that any reforms to interpretations of sharia where unrestricted rights of divorce such as men have were to be guaranteed to women would decimate Afghan families [7].

Thus, despite interpretations of sharia law allowing for certain rights for women to divorce as found in India, Egypt, Pakistan and most other Muslim countries, any codification and implementation of these rights in Afghanistan is currently unacceptable to religious leaders. Moderate voices within the country countered this prohibition and argued that the Qur’an, hadith and Islamic principles were compatible with increased rights for women in the family and society [7]. At the same time, traditional tribal customs existed which allowed families to exchange their women relatives in compensation for male relatives’ criminal acts, complicating the matter [7]. As Afghan Family Law expert Abdulwahed Zia Moballegh states, “Access to justice is limited for Afghan women. Traditionally women are supposed to tolerate all kinds of suffering caused by discriminative attitudes and an inferior position” [7]. It is clear that Afghani opinion leaders are deeply divided over the question of rights for women, especially rights that affect the position of women in the family.

We see from this case study that even while notable progress for Afghan women has taken place, the question of family law encoding male dominance remains intractable or at least strongly resisted on a popular level at this time. The issue of gender rights will remain a flash point for years to come.

What we argue in this paper is that inequitable family law encoding male dominance undercuts more than women’s security—it also undercuts state stability and security. Before we outline our theoretical framework, it is useful to note that the relationship between women’s security and state stability and security has been recognized by international policy-making bodies. Indeed, it arguably underlies the Women, Peace, and Security agenda of the United Nations, beginning with UNSCR 1325 in 2000. Concerns over the insecurity of women in conflict situations has led to policy initiatives designed to integrate women into security deliberations and to signal that the well-being of women in families is part and parcel of state security and stability. UNSCR 1325, in turn, is rooted within the framework of CEDAW (the Convention to Eliminate All Forms of Discrimination against Women), adopted in 1979. CEDAW’s significance lies both in its establishment of expectations and the fact that it is legally binding on all signatory nations whether or not each has ratified it or responded with reservations. While CEDAW defines and seeks to incentivize states to elimination discrimination against women, it can only recommend

and has no enforcement power. The Convention defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” [18].

We put forward the thesis that family law codes are ground zero for establishing expectations for relations of family members, particularly husbands, wives, and their extended families, and that these relations establish patterns of equity or dominance, and asymmetry within the larger society.

Why Look at Family Law?

We argue in this paper that an important mediator of the relationship between women’s security and state security is to be found in the family law codes of each country. “Family law” refers to the statutory and customary law that regulates marriage and parenthood, and to a great extent it speaks to how a given state or society views the relations between men and women and subsequently, the families that form from their union. It establishes the legal order which defines how individuals and kin-based groups, whether families or tribes, relate to each other and the rights they hold as part of a family under the state. A state’s legal authority establishes practices that reproduce and govern family entities, but it is also true that social, community, and religious practices set up norms which govern family relations as well. There is a back-and-forth relationship between these two sources: while norms influence laws, laws also indisputably have an impact on norms ([19], p. 2).

A major division between two major categories of family law systems is between those that grant individuals rights within the family and those that restrict individual rights to augment the success of the family unit. Henry Sumner Maine, the most eminent legal historian of the Victorian age, labels the former a “contract society” and the latter a “status society” ([20], p. 12). While contract societies posit a binding agreement between the individual and the state and work to respect and develop the potential of individuals, the latter emphasizes the standing of a family and are often associated with concepts of honor and shame such as in Afghanistan ([20], p. 12). In status societies, a person is regarded first as a family member, while in contract societies a person is regarded as an individual in her own standing.

We suggest that this distinction has special import for women. Whatever other rights a citizen has in law—to vote or to run for office—if she may not consent to her own marriage or obtain a divorce or gain custody of underage children, then ultimately what standing as an individual does a woman really have? Maine himself was once asked what caused the great divergence in historical trajectory between those societies that adopted variants of Roman law and those that did not. His answer was remarkable for its time:

“If we were asked why the two societies with which we have been concerned this evening—the Hindus on the one hand, and the Romans and all the races to which they have bequeathed their institutions on the other—have had so widely different a history, no reply can be very confidently given, so difficult is it, among the vast variety of influences acting on great assemblages of men, to single out any one or any definite number of them, and to be sure that these have operated more powerfully than the rest. Yet, if it were absolutely necessary to give an answer, it would consist in pointing to the difference in their social history which has been the subject of this lecture, and in observing that one steadily carried forward, while

the other recoiled from, the series of changes which put an end to the seclusion and degradation of an entire sex” ([21], pp. 340–41).

With Maine, we emphasize that the impact of family law extends far beyond individual families and impacts state activities. As sociologist Mounira Charrad states, “Family law raises questions that are at the intersection of kinship and state” ([22], p. 5).

Broadly speaking, the history of family structure is a story of historical inequality between the sexes, where men’s rights prevail over those of women in their marriages and families. Specifically, main differences center on whether women are considered full and autonomous persons in the legal sense, with meaningful right to consent to marriage, to inherit equally, and to contract a divorce with rights equal to a man.

Early states were built upon a male dominant societal framework of inequitable family law. For example, some of the earliest extent documents record the shift of family relations from a private kinship matter to the sphere of the state. The Code of Hammurabi (1772 BCE) grants power within families to males in areas including sanctions against women’s adultery (but not for men). The Hammurabi code as well as other law codes from the same period, Hittite laws and the Hebrew Bible, also emphasize restrictions on women within the family ([23], p. 102). Men demonstrated their control of their family (including household slaves and servants) by legally incorporating their family into their male person. A striking example was men’s ability to substitute members of their family for the father in case of state punishment of the father ([23], p. 104). At the time of Hammurabi, the state legitimized patrilineal control of families as a means of social control. Historian Gerda Lerner states that “the control of male family heads over their female kin and minor sons was as important to the existence of the state as was the control of the king over his soldiers” ([23], p. 216). Similarly, in Greece from the fifth through the eighth century, women in Athens were perpetual minors under the guardianship of a male. This second class status excluded women, like slaves, from participation in the political life of the city [24,25].

These ancient practices can still be found in some societies to this very day. (See map (Figure 1), for a global view). For example, in Saudi Arabia, women are minors first to their fathers, and then upon marriage, to their husbands. They may not travel or become employed without their guardian’s formal permission. Saudi women have voted for the first time—in municipal elections—in 2015. Saudi husbands may practice polygyny. A Saudi husband may divorce his wife at will, without even appearing before a judge, but a Saudi wife would have to prove one of several situations to obtain a divorce, such as seven years’ worth of abandonment, or insanity or criminality of their spouse in order to divorce. Custody of the children devolves to the father and his family at age 7 for boys and 9 for girls. For many Muslim states such as Saudi Arabia, family law became the final bastion of Islam as other areas such as education became secularized and put under the purview of the state. For traditionalists, family law, based as it is on sharia law, becomes a religious imperative.

The line of battles over secularism and modernization versus religious dictates became passionate political issues when questions of family law are debated. A case in point is Yemen. Over 25 percent of Yemeni girls are given in marriage before age 15, and it is disputed whether there is even a legal minimum age of marriage in the country. While the average age at first marriage for Yemeni women is over 22, cases of girls married at 12, or even at 8 years have received international media attention [26]. Respected Muslim leaders issued a religious decree calling on the state to make it illegal for girls to

marry before 17, and the legislature passed a law in 2009 to do just that, only to have the law cancelled the very next day on procedural grounds. Indeed, reconsideration of legislative action in 2010 led to a situation where “members of parliament from different political parties jumped at each other with sticks and shoes during a heated debate on the minimum age of marriage” [27]. To add to the tumult, a cleric closely associated with al-Qaeda, Abdul Majeed al-Zindani, swore to collect a million signatures and contest any proposed change in marriage age [28].

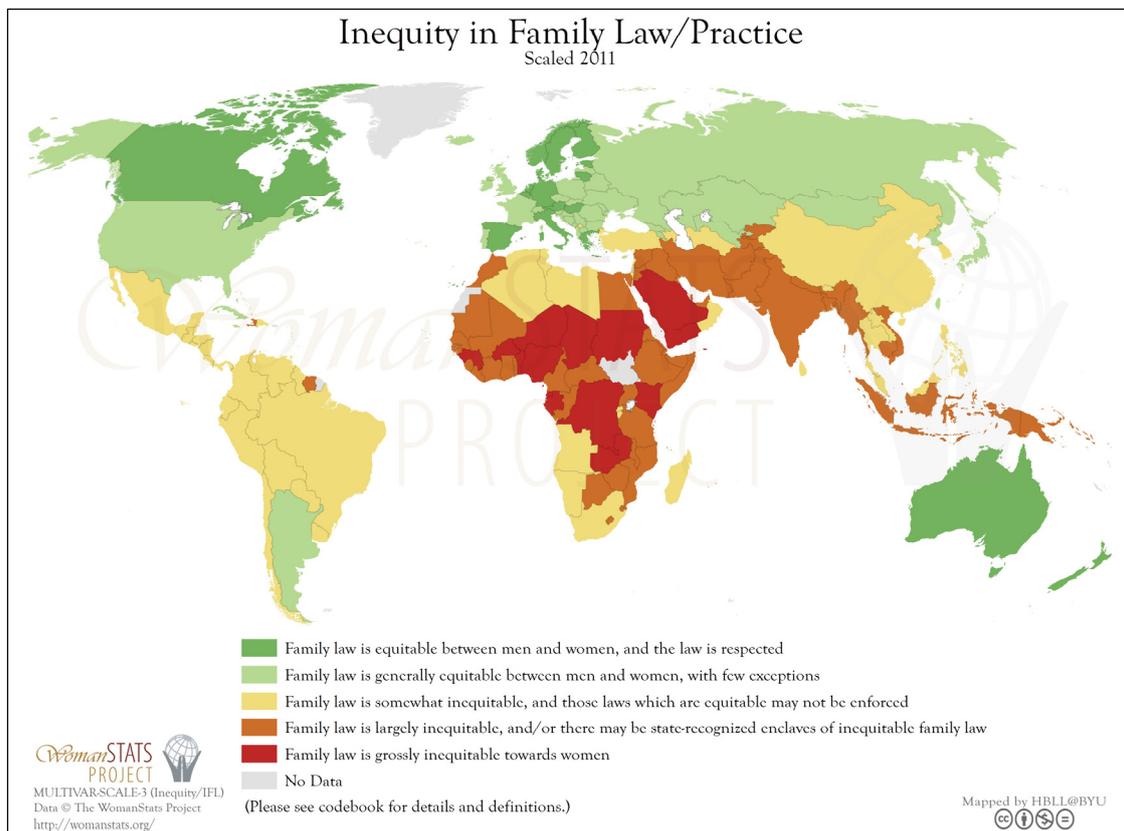


Figure 1. Inequity in Family Law/Practice Map [29].

In the twenty-first century, family law systems differ fairly substantially across human societies. While some states enshrine relatively equitable family law, others, as we have seen, do not. The situation is ever-changing. In most cases, the direction is towards greater equity and safeguards for women in marriage and family matters. For example, in 2004 Botswana passed amendments to the Marital Power Act, ensuring equality of ownership of common property between husband and wife. Due to the very high rate of AIDS infection in Botswana, many widows and their children were being ordered to leave home and property by the husband’s family following his death; these amendments were intended to prevent such privations. On the other hand, we also see instances where the change is not in the direction of greater equity or safeguards: several Central Asian republics, such as Kyrgyzstan and Tajikistan, are considering reintroducing legalized polygyny, which practice was forbidden under Soviet law.

While almost all nations have ratified CEDAW, which, among other objectives, promulgates equity in family law as a universal ideal to be realized by its signatories, many nations have registered formal reservations against any provision of CEDAW that may contradict existing national family law norms. However, such reservations have come under international pressure. The UN’s Human Rights Council

has recently adopted a resolution calling on an end to discrimination against women in both legal codes and practice on the ground. UN Women, created in July 2010, has taken up the cause of inequality before the law as one of its first major areas of concern.

It is important to recognize that progress for women in areas other than family law may not be matched, or even preceded, by progress in family law. For example, consider the early twentieth century, a time of remarkable progress for women, in which they pursued and obtained the right to vote in most countries. Even so, women of that time lacked other rights that they considered much more vital to their day-to-day lives. Legal codes denied women rights to divorce, inheritance, and property rights within the family—and still do, in many countries. Even within the Western liberal tradition, where women were arguably first considered autonomous deserving of fair and impartial treatment under the law, legal sources based on patrilineal social traditions retained significant bias for a very long time. As late as the 1980s in the United States, for example, women were routinely denied access to credit in their own names; banks would only extend credit to them in their husband's name and by his formal permission.

Where family law and customs grant disproportionate power within families to men, women suffer greater inequities: they may find themselves without the right to consent to their own marriages, without the right to obtain a divorce or custody over children, and without parity in inheritance rights. This disparity of power expressed through inequitable family law codes has been empirically shown to be significantly associated with higher levels of physical violence against women [1].

Here, however, we extend the argument beyond violence against women, and ask what broader effects result from inequitable family law. In what ways might family law affect state stability and security?

3. Family Law and State Stability

“[T]he issue of gender relations within the family—which is what personal laws are all about—actually relates to the core of power in society at a broader level. Since the family is the basic unit of society, only if there is justice and democracy within the family can you possibly have justice and democracy in the wider society. In other words, the key to democratizing the whole society is to democratize its basic unit, the family, and for this legal reform is crucial” [30].

Anthropologist Ziba Mir-Hosseini touches upon an important point. In other works, we have argued that the treatment of women—the first and foremost Other for men—which is on open display for every young member of the society to see in the form of the interaction between their mother and father as well as between men and women generally within their household, establishes broad parameters of all societal interaction [31].

We have posited previously [1,2] that patterns of male dominance are rooted deep in human societies. Whether they are best explained by evolutionary theory ([32], p. 583), by social development of distinct cultures as anthropologists suggest ([33], p. 6), or stem from other causes, the history of male female relations attests to the fact that the majority percent of human societies favor male dominance rather than its reverse, which is not a system of not female dominance, but rather diarchy, a male-female system of “shared powers and oscillations in control, structured by a doctrine of interdependence and mutuality” [34,35]. Sanday describes diarchy as “equal capacity” for each sex to “do good” ([33], p. 17). Male dominant societies are characterized by segregation between sexes in daily life and the degree to

which decision making power is vested in only the male sex. The evidence of whether a given society employs a male dominant system or a diarchic system is primarily to be found in its code of family law.

Male dominance is a system with observable consequences for national security and stability. According to anthropologist Peggy Reeves Sanday, the consequences of a male-dominant society include: values that enshrine continual bloodshed and war ([33], pp. 34–35); an economic system based on raiding and rent-seeking ([33], p. 146); sexual segregation that leads to a lack of understanding between men and women ([33], p. 109); the physical environment being viewed as dangerous and threatening with the only remedy being control ([33], p. 68); neutralizing or stealing any power women hold in order to make it clear that women are the conquered and men are the conquerors ([33], p. 49). Note, that this array of characteristics not only point to male-dominant family patterns, but are also characteristic of dysfunctional and insecure states. In a survey of 156 primitive cultures, Sanday finds a strong association between levels of male dominance and levels of group insecurity and instability [33].

The structure of relations between men and women in any society is thus critical to examine: the character of these relations either normalizes cooperation and equal capacity between men and women at the most basic level in society and thereafter in social institutions if diarchy is chosen, or it normalizes inequity, violence, and a parasitical and monopolistic rent-based economy if male dominance is chosen [31]. And the clearest way to “see” the structure of relations between men and women, we argue, is to examine family law and customs.

4. Family Law and State Stability: An Exploratory Empirical Analysis

If our theoretical framework is valid, then societies choosing the male-dominant framework of inequitable family law and custom should also prove more fragile and less stable.

More specifically, we would expect such societies to be predisposed to parasitical rent-seeking and inefficient monopolistic behavior, combined with coercive conflict resolution resulting in higher levels of violence within the society. If this hypothesis proves correct, then attention to inequitable family law will prove to be one of the most potentially powerful policy agendas for the eventual stabilization of fragile societies.

In this paper, we attempt an exploratory empirical analysis of the proposition that countries with highly inequitable family law disfavoring women will have significantly higher levels of state instability. In analyzing the relationship between inequity in family law and state fragility, we will also examine other variables that conventional International Relations (IR) theory indicates may contribute to fragility, as well. These variables include level of wealth, level of democracy and influence of civilization as defined by Samuel Huntington [36] who posited that conflict between nation states in the twenty-first century would become primarily based on cultural differences rather than ideological and economic determinants. In his research, Huntington identified several civilizational blocs (*i.e.*, Western, Orthodox, Islamic, African, Latin American, Chinese, Hindu, Buddhist, Japanese), noting how the boundaries between these blocs might create a zone of conflict. If Huntington is correct, and civilizational identification produces instability, then we would expect to see civilization become a significant variable in our analysis. Poorer nations may be more fragile and less stable than wealthy ones; more autocratic nations may also be more fragile and less stable than more democratic ones. Huntington added to this

mix the idea that certain civilizations might be more prone towards instability, also, and his operationalization of this variable adds an interesting regional dimension to the investigation.

Does knowledge of the degree of inequity in family law within a society add to our ability to explain and predict state fragility with these more conventional explanatory variables? Our empirical hypothesis, then, is that greater inequity in family law is significantly associated with lower levels of state stability and peacefulness after controlling for the effects of level of wealth, level of democracy, and civilizational influence.

5. Operationalization of Variables

Independent Variable: Inequity in Family Law Index (IFL 2011). This scale was developed by Rose McDermott and utilizes the information provided by the WomanStats database concerning the status of women in the world, coding for more than 360 variables for 175 countries [37]. McDermott examined law and practice concerning age of marriage, polygyny, consent in marriage, abortion, divorce, whether marital rape is recognized as a crime, and inheritance law and practices. She scaled these variables along a five-point ordinal scale, ranging from 0 to 4, with 0 representing equitable family law/practice and 4 representing highly inequitable family law/practice.

Control Variables: The three other explanatory variables specified in our empirical hypothesis, which serve as control variables for the analysis, are:

- *Overall literacy rate 2013.* These rates were taken from the CIA World Factbook, and serve as an overall measure of economic development. Nation-states with higher levels of economic development may be more stable and less fragile than poorer states. Because GDP is a subcomponent of our two dependent variables, we could not use GDP as a predictor variable. Instead we used Literacy rate which, while highly correlated with GDP, avoids endogeneity. Furthermore, elsewhere we have argued that literacy rates might actually be a more sensitive measure of the degree of state development than level of wealth, especially if the focus of the research is the situation and status of women [38].
- *Freedom in the world 2013.* An annual survey and report by Freedom House since 1973, this scale measures the degree of civil liberties and political rights in every nation and disputed territories around the world. It uses a seven-scale rating for political rights and civil liberties and the average of these two ratings is known as Freedom Rating [39]. It has often been argued that democratic governance promotes state stability, and so we include it as a control variable.
- *Huntington's 1998 classification of civilizations.* As previously mentioned, Samuel Huntington posited that certain civilizations were more prone to instability than others. As a result of our preliminary analysis showing that two of his civilizational blocs were not large enough to be statistically viable, we are using four rather than eight civilizations for our analysis, combining those with the fewest countries. See Table 1 for the categories used.

Dependent Variables: There are several indicators of state stability and security, but the ones that align best with our theoretical purposes are:

- *Fragile States Index 2014.* Created by the Fund for Peace, and originally called the Failed States Index, the Fragile States Index attempts to distinguish those nations for which internal and external pressures such as resource scarcity and conflict have led them to the point of disaster. It

incorporates twelve primary social, economic and political indicators, uneven economic development, poverty and economic decline, state legitimacy, public services, human rights and rule of law [40]. Literacy is generally associated with wealthy liberal democracies. Because GDP is one of the indicators used in the index, we substitute literacy rates as a proxy for GDP.

- *Global Peace Index 2014*. Created by the Institute for Economics and Peace, GPI ranks 161 countries according to their peacefulness. The index incorporates twenty-two indicators, qualitative and quantitative, which examine the internal stability and peacefulness of nation-states, including variables such as Number of external and internal conflicts fought, Level of organized internal conflict, Relations with neighboring countries, Political instability, Level of violent crime, Likelihood of violent demonstrations, and others [41]. Again, because GDP is a subcomponent of this index, we use literacy rates as a proxy for GDP.

Table 1. Description of the variables in the study.

	Variables	Description	Distribution
<i>Dependent variables</i>	Fragile States Index 2014 (FSI)	Created by Fund for Peace; GDP is a sub-component	n = 170 Mean = 70.738 Minimum = 18.7 (least fragile: e.g., Finland) Maximum = 113.90 (most fragile: e.g., Somalia)
	Global Peace Index 2014 (GPI)	Created by the Institute for Economics and Peace; GDP is a sub-component	n = 161 Mean = 2.066 Minimum = 1.189 (most peaceful: e.g., Iceland) Maximum = 3.65 (least peaceful: e.g., Afghanistan)
<i>Independent variable</i>	Inequity in Family Law coded by McDermott, 2011 (IFL)	0 = Very Equitable 1 = Equitable 2 3 = Inequitable 4 = Very Inequitable	n = 174 0: 9.83% 1: 22.54% 2: 28.32% 3: 30.21% 4: 8.09%
<i>Control variables</i>	Freedom Rating or Level of Democracy: Freedom House 2013 (DEM7)		n = 174 Mean = 3.55 Minimum = 1.0 (most free) Maximum = 7.0 (least free)
	Literacy Rates: CIA World Factbook 2013		n = 169 Mean = 0.84 Minimum = 0.00 Maximum = 1.00
	Civilizational Influence: Huntington collapsed (CIV)		n = 171 West/Orthodox/Latin: 45.03% Muslim: 23.39 African: 22.22% Hindu/Sinic/Buddhist: 9.36%

Note: n = number of countries.

6. Methods and Results

Of the 171 countries that were rated by McDermott on her Inequity in Family Law scale, 32.37% were classified as having, overall, equitable family laws and 38.3% as having, overall, inequitable family laws, with 28.32% having a mix of equitable and inequitable laws. Of the 171 countries categorized by Huntington's civilizational influences, 45% were classified as Western/Orthodox and Latin, 23.39% as Muslim, 22.22% as African and 9.36% as Hindu/Sinic/Buddhist.

Since our two dependent variables are quantitative in nature, we ran an analysis of covariance (ANCOVA) for each of the predictor variables. Inequity in family law, Freedom Rating, and Literacy Rates were used as covariates and Civilizational influence was treated as a fixed factor. First, we investigated the relationship between Inequity in Family Law and our two indicators of state fragility and instability. Then we ran a full factorial of all the control and independent variables and compared how well this model predicted our two dependent variables. We searched for the model that best fit our data by using the following criteria for model selection: highest R-squared adjusted and lowest AIC and BIC values (low values minimize the information loss). After the best models for each dependent variable were identified, the linearity and equal variance assumptions were verified using residual plots and the normality assumption using Q-Q normal probability plots. We looked at the Variance Inflation Factors (VIF) for Literacy Rate, Level of democracy, and Inequitable Family Law scale to test for multi-collinearity. The values ranged from 1.191 to 2.465 indicating that multi-collinearity among the quantitative independent variables is not an issue. Table 2 summarizes the results of these analyses.

Table 2. R-squared of different models for each indicator of state fragility.

Dependent Variable	Specified Models	Adjusted R ²	n **
Global Peace Index 2014 (GPI)	GPI = IFL	0.296	
	GPI = Dem7 + IFL + Literacy + CIV	0.461	
	GPI = Dem7 + IFL *	0.435 *	162
	GPI = Dem7 + IFL + Literacy	0.429	
Fragile State Index 2014 (FSI)	FSI = IFL	0.570	
	FSI = Dem7 + Literacy + IFL + CIV	0.735	
	FSI = Dem7 + Literacy + IFL *	0.725 *	164
	FSI = Dem7 + Literacy	0.683	

Notes: Independent variables listed in descending order of significance; *best model with all parameter estimates significant at $\alpha = 0.05$; **sample size for best model.

These results show that Inequity in family law, on its own, is a useful and significant predictor of state fragility and instability: it explains 30% of the variability in the Global Peace Index, and 57% of the variability in the Fragile State Index. When the full factorial model was specified for each of the two dependent variables, the effect of Huntington's Civilizational Influence was found to be not significant at the 5% level, so it was dropped from the model. Assumptions for the specified models excluding Civilizational influence were verified. These models account for 43% of the variability in the Global Peace Index and at least 72% of the variability in the Fragile State Index. The most useful predictor of state stability and security is Freedom Rating followed by Literacy rate and Inequity in Family Law. Taken overall, these results are noteworthy for an exploratory empirical analyses with no causal inference

implied. One’s ability to predict level of state fragility and instability is significantly enhanced by examining Inequity in Family Law in addition to more conventional explanatory variables.

Figures 2 and 3 display in clearer detail, the relationship between Inequity in Family Law and our two indicators of state fragility and instability. Figure 2 shows that countries with very inequitable family laws are the least peaceful and therefore unstable, and Figure 3 shows that countries with very equitable family laws are the least fragile.

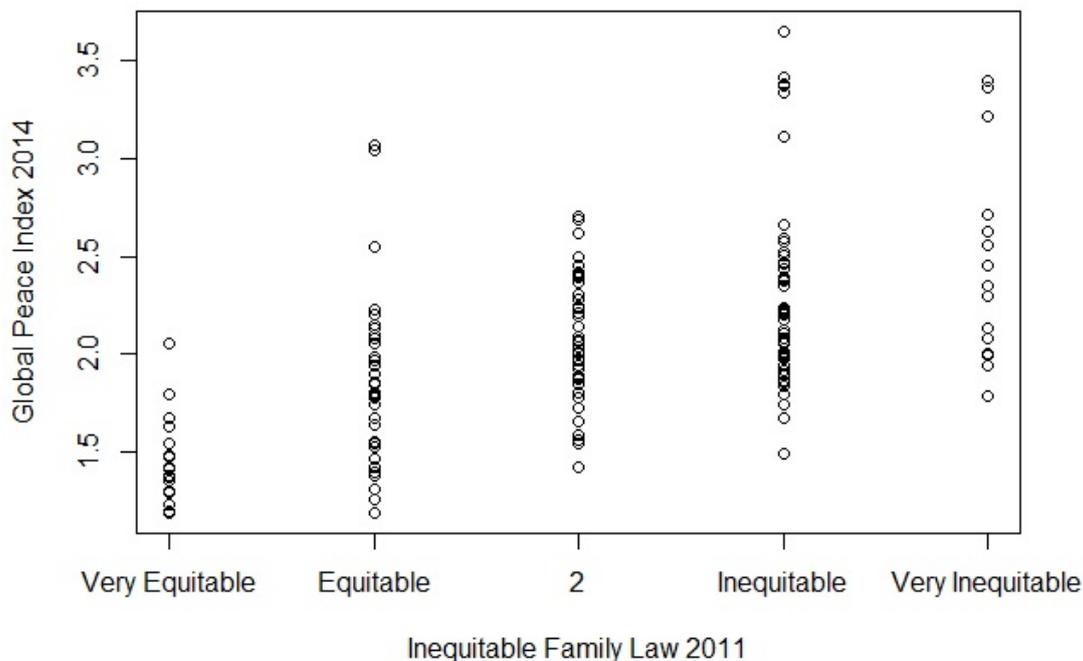


Figure 2. Plot of the relationship between Inequitable Family Law 2011 and Global Peace Index 2014. Y axis ranges from most peaceful [1] to least peaceful [4] states.

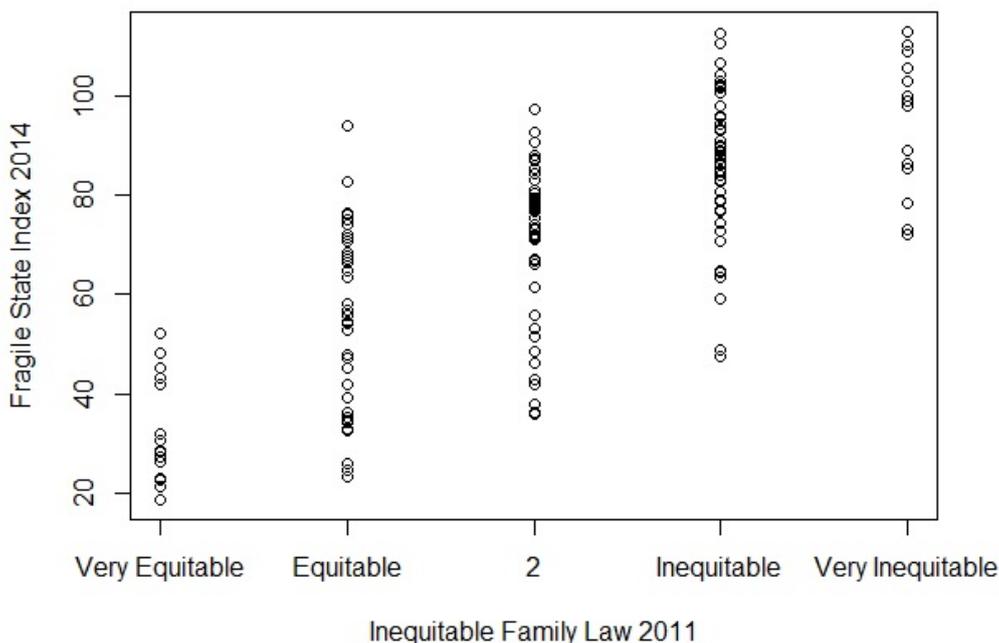


Figure 3. Plot of the relationship between Inequity in Family Law 2011 and Fragile State Index 2014, Y axis ranges from least fragile [0] to most fragile [120] states.

7. Discussion and Conclusions

In this paper, we have attempted an exploratory empirical analysis of the proposition that inequity in family law is significantly associated with higher levels of state fragility and instability. We find that it is a significant addition to the explanatory power of more conventional explanatory variables such as literacy rate and level of democracy. These findings have policy implications, suggesting that international efforts to increase female secondary and tertiary education rates, female participation in the police and the armed forces, and female participation in government, only go so far. The deeper level of inequitable family law must also be addressed for societies to escape from an endless cycle of state fragility. Our case study of Afghanistan demonstrates the difficulties in strengthening family law in a deeply tribal society where women's subordination is entrenched. Despite significant gains for women in education and even in health and representation, neither the women of Afghanistan nor their nation-state can be said to be secure. One might conclude that Afghanistan's instability makes it impossible for gains to be made in women's status. However, our research suggests it may also be true that male-dominant societies with family law that severely subordinates women in marriage tend towards state instability [31], suggesting that lasting stability in Afghanistan may be unachievable until the time that family law reflects a lower level of inequity between men and women.

Gains for women in education, employment and representation are not enough if inequitable family law continues to rule over those women—for it is family law that undergirds the real position of women in the society. At the same time, these issues are extremely sensitive ones; as we have seen, inequitable family law is the quintessential expression of the male dominance societal framework, which framework may underpin all other social arrangements. Its inequity will be guarded fiercely as a result.

Can the international community play a useful role? The Afghan case warns us that western demands for improvement in women's situation may touch only the surface level, and that the deeper foundation of inequitable family law is largely untouchable until change grows from the society itself. That said, there are still areas where progress can be made on a trans-national level. One recent example where a third party state, in this case the United States, is making a positive contribution is the growing worldwide campaign against child marriage, in which the United States is heavily involved along with the United Nations, other concerned state governments such as the UK, and a plethora of non-governmental organizations. Legalized child marriage is an important dimension of inequitable family law, and has far-reaching effects on state fragility [42]. In the 2013 provisions of the Violence Against Women Act, the U.S. Congress mandates the president “direct the secretary of state to develop and implement a plan to prevent child marriage, promote empowerment of girls at risk of early marriage, and target countries where a high prevalence of child marriage is known to occur” [43]. Furthermore, USAID has developed a “Vision for Ending Child Marriage” [44]. As a result, we have seen more international attention to this issue, as well as even more meaningful local attention. As a result, countries such as Spain and Malawi in 2015 raised marriage ages for girls. Indeed, a number of African countries have recently raised the marriage age for girls to 18, including Sierra Leone, Liberia, Kenya, Lesotho and Guinea [45].

As Ambassador Swanee Hunt has put it, the goal must “not be simply the absence of war, but a sustainable peace fostered by fundamental social changes” ([46], p. 1). The most fundamental social change imaginable, we submit, is change to inequitable family laws. If greater levels of peace and security in the interstate system are ever to be realized, national and international actors must place

greater priority on their unseen foundation: equitable family law, representing the cornerstone of peace and security between the two halves of humankind.

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Conflict of Interest

The authors declare no conflict of interest.

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