SUMMARY

Clitoridectomy, or the practice of removing or irreparably damaging the clitoris along with other portions of the female genitalia, is primarily practiced in Islamic Northeastern Africa, though it is also found in scattered pockets of the Middle East. While the practice exists amongst a number of Christian, Jewish and Pagan/Animist tribes, clitoridectomy is most prevalent within Muslim societies.

In regards to the potential causes of clitoridectomy, much of the previous literature has primarily focused on the spiritual and religious beliefs of the practice’s proponents. For over 30 years, various African legislatures and grassroots organizations have drawn on this literature in an ongoing attempt to eliminate clitoridectomy through informational campaigns and laws banning the practice. However, most of these efforts have overwhelmingly failed. In countries such as Egypt and the Sudan, clitoridectomy rates continue to remain close to 90%.

This article breaks from previous literature by considering the potential legal and economic motivations behind clitoridectomy. The basic thesis presented is that clitoridectomy may be understood as an informal – or extra-legal – means by which men cope with, and parents capitalize on, the economic risks created by the Islamic Marriage and Divorce System (“IMDS”).

Part I discusses the basic economic and legal problems faced by all marriage and divorce systems, including the American Marriage and Divorce System (“AMDS”), and establishes the link between the IMDS and clitoridectomy from an economic perspective. Part II refines the basic theory outlined in Part I by creating a falsifiable model regarding the relative prevalence and severity of clitoridectomy practices in a given Muslim society. Part II then tests this model against empirical data regarding the clitoridectomy practices of approximately 20 tribes in Islamic Northeastern Africa and the Arabian Peninsula, and by comparing divorce and clitoridectomy rates in nine Egyptian governorates. We then conclude with a brief discussion of some of the normative issues associated with both eliminating the practice and the practice itself.

PART I: TERMS AND BASIC THEORY

Terms and Classifications

As many scholars have pointed out, even though they are frequently used interchangeably, the terms “clitoridectomy,” “female circumcision,” “Female Genital Mutilation” (FGM), or “Female Genital Cutting” (FGC) can refer to a wide variety of practices.1 Sometimes the practice involves removal only

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1 Esther K. Hicks, Infibulation at 15 (1996)
of the clitoral hood, or poking the clitoris with a needle. Other times, the practice involves removal of the labia minora, labia majora, and the stitching together of the roughened (partially amputated) remnants of the labia majora.

Unfortunately, much of the literature on the topic does very little to separate the different forms of these practices in terms of their relative severity and instead has attempted to create categories based on regional custom and medical typologies. Unfortunately, as noted by a number of scholars, this has led to widespread confusion over terms.²

In the context of this article, “clitoridectomy” will refer to all practices that substantially reduce the degree of, or ease by which, female pleasure may be derived from sexual activity by removing or irreparably damaging the clitoris along with other sexual organs. Practices that may be reasonably intended to increase clitoral stimulation during sex, such as piercing with jewelry, are not included. Similarly, practices that do not involve permanent harm to the clitoris, such as poking with a needle, are also excluded.

“Excision” refers to removal of the clitoris along with the labia minora. Specifically, in the context of this article, excision will be used to differentiate those societies that practice clitoridectomy through removal of the clitoris, but do not practice infibulation.

“Infibulation” refers to the stitching together or narrowing of the vaginal opening in order to make intercourse painful for the woman. While infibulation does not necessarily include excision, in practice, infibulation almost always accompanies removal of the clitoris as well. Consequently, when a tribe or society is referred to as practicing infibulation, the practice also includes excision. Thus, in the context of this article, the practice of infibulation represents the most severe form of clitoridectomy.

Therefore, in terms of their relative severity, the clitoridectomy practices of the societies presented within this article should be understood as falling under a 3-tiered classification system. The highest tier being infibulation, the next highest tier being excision, and the third tier representing no clitoridectomy practices whatsoever.

Law & Economics and Rational Choice Theory

Previous attempts to analyze the causes of clitoridectomy have nearly exclusively focused on the nature of the beliefs and cultural tastes of those individuals who engage in the practice. Opponents

² This confusion in terminology and difficulty in creating typologies is partially attributable to the high-degree of intra-regional variance and private nature of these procedures, which makes garnering reliable data to create specific medical typologies almost impossible. Additionally, the politically charged atmosphere dominating much of the literature on the subject has also significantly contributed to the difficulty in developing consistent and specific terms and typologies for describing the practice. See Id.
of clitoridectomy tend to view these beliefs as inherently irrational or emblematic of a patriarchal society and power structure. Defenders of the practice tend to argue that clitoridectomy is either required by their religious teachings, or is a matter of personal tastes and cultural aesthetics akin to breast enlargement surgeries in the West, and consider attempts to eliminate the practice to constitute a type of cultural imperialism.3

While analyzing the nature of the beliefs surrounding clitoridectomy has represented a central focus for much of the previous literature, in the realm of law and economics, the personal beliefs of individuals regarding the causes of their behavior are mostly considered irrelevant. The primary concern of economics is to predict how individuals will respond when presented with a given choice or how their behavior will change when their incentives are altered – not how they choose to personally explain or rationalize their behavior ex post.4

To the extent that economics does consider the internal workings of individuals, the sole assumption made by traditional economics is that individuals are “rational maximizers.” Put simply, individuals will tend to make choices that minimize their costs and maximize their benefits. Therefore, traditional economic theory suggests that an otherwise costly custom will not be adopted on a widespread basis in a society unless the custom provides some set of individuals in that society a benefit.

However, even though a costly custom generally will not be adopted in a society unless it provides individuals in that society a benefit – it is important to note that the benefits from a practice do not have to run to the same group of individuals who incur the majority of that practice’s cost. For example, in the case of slavery, one group benefits at another’s cost. Nonetheless, as a general rule,

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3 See FEMALE CIRCUMCISION (Rogaia Mustafa Abusharaf ed., 2006)
4 A frequent misconception about economic theory is that because individuals are “rational” maximizers they must be conscious or aware of the motivations behind their behavior. This is inaccurate. Rational choice theory, which provides the theoretical basis for traditional economics, simply states that individuals will make choices that maximize their benefits and minimize their costs given the environmental constraints facing them. “Rationality” is simply in reference to the idea that individuals will not make choices that maximize their costs and minimize their benefits. The process by which these choices are made does not have to be conscious. The behavior of a cockroach following the scent of food in a kitchen, while avoiding lighted areas where it can be seen and killed, can be said to be acting rationally. However, the cockroach is unlikely to have any “beliefs” regarding its behavior or the nature of the incentives controlling it. Similarly, individuals do not have to be aware of the incentives controlling their behavior in order to behave rationally. Refraining from incest is a good example.

Individuals who choose not to engage in sexual relations with immediate family members are less likely to have mentally or physically impaired offspring. Consequently, the choice found across a wide variety of societies throughout history to avoid incest due to religious reasons is, in effect, rational – regardless of the multiplicity of beliefs regarding why that prohibition exists. In other words, it does not matter if an individual believes that incest is banned because the gods cursed Oedipus, or because Amnon was killed by Absalom, or because God finds the act abhorrent – from the perspective of rational choice theory, the specific nature or veracity of the belief is unimportant. What is important is that the belief that one should not engage in incest with immediate family members is passed on because the belief produces a material benefit to its adherents in the form of reducing the some of the risks and costs of reproduction.
in order for a custom to exist on any significant level there must first be some set of individuals who benefit from its practice. In short, where there is smoke, there is fire – and where there is high cost being actively incurred, there is likely to be a corresponding benefit. Thus, when considering the cause of clitoridectomy, the first question from an economic perspective is to ask is who benefits from custom’s practice. Or, to use the ancient Latin legal adage: *cui bono?*

From an economic perspective, the most direct beneficiaries of clitoridectomy practices are the medical practitioners who supply infibulation and excision services. However, exempting economic theories of capture and coercion, one of the laws of economics is that supply follows demand. Demand generally does not follow supply. Accordingly, medical practitioners are unlikely to be a significant cause of clitoridectomy, since their benefit is entirely dependent upon the existence of an underlying demand for the practice. In other words, while medical practitioners have an economic incentive to supply clitoridectomy practices – that economic incentive has little to do with why parents choose to have their girls excised or infibulated in the first place.

In order to determine who benefits from the practice of clitoridectomy, an analysis into 1) the costs of practice, and 2) its relative prevalence, provides a good starting point. Specifically, if clitoridectomy is both very costly and highly prevalent in a given society, economic theory suggests that the market demand for that custom is also likely to be extremely high. The degree of demand in a society for a custom is useful to consider since the demand for clitoridectomy can be understood as a function of the size of the group and the benefits those individuals are likely to receive from the practice. The greater the benefits and the size of the group – the greater the aggregate demand for the practice will be. Consequently, if clitoridectomy is both costly and prevalent in a given societies, then economic theory suggests that the demand for the custom is likely to originate with a substantially sized group of individuals in that society who are also likely to receive a significant benefit from the practice.

### The Costs & Prevalence of Clitoridectomy and Male-Demand for the Practice

In both medical and financial terms, clitoridectomy is a costly procedure. Families who choose to have their daughters excised or infibulated frequently pay a professional to perform the procedure. Moreover, even when performed by a doctor, the procedure includes the immediate risk of death, sterilization, and – particularly in regards to women who subsequently go through childbirth – frequently causes severe long-term medical problems.\(^5\) The costs of clitoridectomy also increase with the severity of the practice. For instance, the risk of death of the baby at childbirth is approximately 30% higher.

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\(^5\) Wikipedia, article on Female Circumcision, available at: wikipedia.com
amongst excised women, and 55% higher amongst infibulated women, than it is amongst women who have not had a clitoridectomy.\(^6\)

Clitoridectomy is primarily practiced in Islamic Northeastern Africa, though it is also found in scattered pockets of the Middle East.\(^7\) While it is not an Islamic custom per se, clitoridectomy is found mostly in Muslim societies, where the practice is often highly-prevalent. For instance, according to the US State Department, in Egypt and the Sudan, clitoridectomy rates are over 90%.\(^8\) However, it is important to note that clitoridectomy is not just an exclusively regional or Muslim custom. In Libya, which neighbors Egypt and uses a legal system based on Islamic law, clitoridectomy is not practiced at all. Similarly within Egypt and Ethiopia, both Coptic Christians and Ethiopian Jews (the Falasha) are known to practice clitoridectomy as do a number of Pagan/Animist tribes throughout Africa.\(^9\)

The high costs of clitoridectomy in the societies where it is heavily practiced suggest that demand for the custom is likely to originate with a substantially large group of individuals in those societies with a strong preference for the practice. According to the observations of many scholars and doctors within these societies, demand for the practice appears to originate with the marital choices of men. Simply put, the perception of many of these scholars and doctors is that men in these societies will not marry a woman who has not been infibulated or excised.\(^10\)

In terms of shaping demand, and assuming their preference for excised or infibulated brides is strong enough, men represent a sufficiently large enough group to account for the frequently high rates of clitoridectomy found in the societies where it is practiced. However, because economics is an empirical science, self-reported data and anecdotal reports alone are insufficient to prove that clitoridectomy originates with the marital choices of men. Specifically, before the nature of the benefits that the men in these societies receive from the practice can be determined, empirical data must first demonstrate whether, and to what extent, these men have what economists call a “revealed-preference” for excised or infibulated brides. In short, in the world of economics, the actual choices and actions of individuals speak louder than their words. As will be demonstrated, empirical evidence


\(^7\) Nicholas Birch, “Female circumcision surfaces in Iraq”, CHRISTIAN SCIENCE MONITOR (August 10, 2005).

\(^8\) Office of the Senior Coordinator for International Women’s Issues, Female Genital Mutilation: Country Reports, U.S. DEPARTMENT OF STATE REPORT (June 1, 2001). Available at: http://www.state.gov/g/wi/rls/repcfgm/.

\(^9\) Id.

\(^10\) “What is quite sure is the fact that very few men would marry a girl who has not been excised and infibulated.” Hicks, INFIBULATION at 17 (2006). See also, “Whatever is decided in terms of legislation, the pressure for female circumcision to continue remains strong. As one prominent Egyptian doctor was reported as saying, ‘If my daughter is not circumcised no man is going to marry her.’” Peter Kandela, Egypt Sees U-Turn on Female Circumcision, BMJ 310, 312 (January 7, 1995)
suggests that not only does a preference for excised and infibulated brides appear to exist amongst the men in societies where clitoridectomy is most prevalent, but that it can also be quite high.

In Egypt, approximately 78% of women between the ages of 11 and 19 years of age have had a clitoridectomy. However, 97% of married women have undergone the procedure. Taken alone, these facts are unlikely to indicate a strong male-preference for excised or infibulated brides – except that most women in Egypt who receive a clitoridectomy have the procedure performed between 7 and 11 years of age. In other words, women who undergo clitoridectomy marry at a far higher rate than women who have not. Specifically, women who have had a clitoridectomy are a little under 10 times likelier to get married than those women with physically intact genitalia. This fact indicates a strong preference amongst Egyptian men for brides who have undergone some type of clitoridectomy.

Further, as many scholars have noted, legislative attempts to directly outlaw clitoridectomy have had little effect in reducing the practice other than simply moving it underground. Thus, demand for clitoridectomy appears to be relatively inelastic, which also tends to indicate an extremely high level of demand for excised and infibulated brides in the society as a whole.

From an economic perspective, this high and relatively inelastic level of demand raises significant questions about why the men in these societies where clitoridectomy is most prevalent appear to have such a strong preference for excised or infibulated brides. To wit, is there something particularly unique about these men that would so narrowly constrict their choices in marital partners or makes infibulated or excised women so much more attractive to them than women who have not undergone these procedures? Beyond the medical risks facing their wives and dangers of losing a higher proportion of their children during childbirth, why would these men choose to enter into marriages with potentially high sexual costs? Or, as a female friend of mine once put it, from a western perspective, “Don’t the men in these societies think that they might have more – and better – sex if their wives are likelier to enjoy it more as well?”

Previous Explanations for Male-Demand

When it comes to the root causes of the male preference for excised or infibulated brides, much of the previous literature on clitoridectomy has regarded the practice as a product of religious belief or cultural aesthetics. For instance, in terms of the latter, as one scholar has argued:

12 Id.
13 Id.
[Clitoridectomy] can appropriately be compared with breast enlargement in America. In the American context, cultural analysts maintain, this practice of surgical bodily alteration is promoted primarily through popular culture, which socializes women to feel good about themselves and increase their value by displaying their breasts as objects for male viewing.15

While cultural concepts of beauty may, in part, explain some of the demand for excised or infibulated brides amongst men, when prevalence rates are considered, such an explanation becomes highly unsatisfactory. To the extent there may be a purely aesthetic motivation behind the preferences of men for excised or infibulated brides, it seems unlikely that rates of over 90% would occur unless there were more concrete, or economic, motivations at play. Consequently, the preference for excised or infibulated brides amongst the men in the societies where clitoridectomy is practiced cannot simply be dismissed as question of personal taste, or cultural aesthetics, to the same extent that the preference of American men for large-breasted women can in producing breast-enlargement. Moreover, considering the frequent, and often intentional, effect that clitoridectomy has in reducing the sexual pleasure of women – clitoridectomy practices would appear to be more than just a question of cultural concepts of beauty.

In addition to cultural aesthetics, because the practice is primarily found in Muslim societies, the male demand for excised or infibulated brides is frequently attributed to religious belief. Individuals who espouse this view tend to assert that Islam teaches Muslim men that the sole purpose of women and marriage is procreation. Specifically, that female sexual satisfaction is somehow sinful and, so, men should only marry women who have been excised or infibulated in some way.16 In short, the religious teachings of Islam are supposedly highly anti-sex and the men in these societies are so controlled by their religion that the normal rates of variance found in measuring other areas of marital choice (e.g. age, education, body type, etc.) are nearly eliminated.

Regardless of whether one believes that religion, any religion for that matter, would have the ability to so control marital choice to the degree at which over 90% of a given society’s women would have a clitoridectomy – neither the Qu’ran nor the Hadith (sayings of the Prophet) nor Islamic law is anti-sex, treats the sexual satisfaction of women as inherently sinful, or perceives the role of women or marriage to be purely procreational.17 Unlike the American Marriage and Divorce System (AMDS),

16 A common sentiment amongst proponents of the practice who assert that the custom is a product of religious belief is that “[C]ircumcision of females releases them from their bondage to sex, and enables them to fulfill their real destiny, as mothers.” See Hicks, INFIBULATION at 17 (1996).
where procreation historically represented the basis of the marital contract, the historical basis of the Islamic marital contract is recreational sex. In fact, during the Classical period of Islamic law, and in some Muslim countries now, either marriage partner can sue for dissolution of the marriage, based on a lack of sexual satisfaction from their partner. Thus, from the perspective of Islamic law, wives have a right to maximize the sexual satisfaction they receive from marriage. Moreover, under the default inheritance rules within the Qu’ran, women have a distinct incentive NOT to reproduce. Specifically, according to the Qu’ran, a wife is entitled to inherit a fourth of her husband’s estate, unless the husband left behind children, in which case the wife’s inheritance is cut in half.

Even assuming, arguendo, that there were possible religious reasons for why the men in these countries have a higher demand for excised or infibulated brides, that explanation would do relatively little in explaining the high degree of variance in clitoridectomy rates found across the Muslim world or why clitoridectomy is found in non-Muslim societies as well. Simply attributing clitoridectomy to the vague category of “religious belief” is unlikely to provide much of an explanation with any degree of depth or specificity as to why the custom exists and is unlikely to serve much of a purpose other than to reinforce ethnocentric stereotypes of Muslims.

Given that neither the formal religious teachings, nor cultural aesthetics, of Islam seem to explain the relative prevalence or severity of clitoridectomy practices in the Muslim world, previous attempts to study clitoridectomy on an empirical level have produced relatively few or meaningful correlations. The only correlation appears to be that the practice appears more frequently in rural than cosmopolitan districts. As a result, it is easy to dismiss the practice as emerging out of backward, less educated areas. However, numerous studies have repeatedly confirmed that neither education nor literacy levels have any significant effect on clitoridectomy rates. Moreover, the only three Muslim tribes in the Sudan known not to practice any type of clitoridectomy are all from the rural and less

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19 It may be confusing that wives under Islamic law have a right to maximize their sexual satisfaction in a society where clitoridectomy also occurs. Such confusion is likely to arise out of a legal realist conception of the law as being contemporaneously based upon the values and norms of the society where those laws are found. In regards to Islamic law, this is highly inaccurate. Islamic jurisprudence and the rules found in Islamic law reach back over a thousand years. Consequently, the fact that clitoridectomy exists in Muslim society today has little to do with Islamic doctrine or the formal rules found within Islamic law. As will be discussed, the practice of clitoridectomy is a reaction to the economic incentives created by Islamic law – it is not a part of Islamic law or Islam itself. In fact, given the general stance of Islamic law regarding sex during the Classical period, clitoridectomy is a highly un-Islamic practice.
20 Surah 4:12.
22 “The incidence of these procedures among the women varies very little by age, religion or level of education.” Office of the Senior Coordinator for International Women’s Issues, *Female Genital Mutilation: Country Reports, Mali*, U.S. DEPARTMENT OF STATE REPORT (June 1, 2001). Available at: http://www.state.gov/g/wrls/rep/cfgm/
developed Darfur region, where one of those tribes, the Masalit, is one of the poorest ethnic groups in the country. Additionally, attempts by activists and governments to eliminate clitoridectomy through advertising campaigns and grassroots activism have also produced few tangible results. In countries such as Sudan and Egypt, where these campaigns have existed for decades, clitoridectomy rates still exceed 90%. In short, clitoridectomy appears to be more than a product of individual religious beliefs or “uneducated” superstitions, since attempts to re-educate and alter the beliefs of those engaging in the practice have overwhelmingly failed.  

The fact that attempts to reduce clitoridectomy by altering the beliefs of individuals in these societies have mostly failed tends to suggest that the primary cause of clitoridectomy is economic. Specifically, if the cause of clitoridectomy is economic, then attempts to re-educate individuals towards a particular way of thinking are unlikely to have much of an effect. When individuals have a sizeable economic interest in maintaining and continuing a set of beliefs, those beliefs will be highly resistant to change. Assuming that individuals are rational maximizers, when given a sufficient incentive, they will continue to follow whatever set of beliefs that will allow them to benefit themselves at the lowest possible cost. In other words, they will adopt whatever set of beliefs that allow them to continue their behavior with the least amount of guilt or regret.

As this article will demonstrate, previous attempts to eliminate clitoridectomy have failed because the relative prevalence and severity of clitoridectomy practices is a function of the sizeable economic incentives facing the parents and men in the societies where it is practiced. Specifically, the relative prevalence and severity of clitoridectomy practices is a function of 1) the degree of economic risk facing men under the IMDS, and 2) the legal ability of parents to materially profit from the performance of clitoridectomy on their daughters.

However, before these incentives can be adequately discussed, it is necessary to first explain the operation of the IMDS from a comparative perspective to gain a better understanding of the nature of the IMDS’s legal rules and why those rules exist from an economic perspective.

23 Granted, while the Masalit, FUR and Tungur are all primarily from the Darfur and Northern Darfur regions of Sudan, this does suggest that the non-practice of any type of clitoridectomy is a “regional” custom that has simply been passed on from one tribe to another. The same region is also home the Zagahawa, Mahamid, Baggara, Berti, Danagala, Bisharin, Rubatab, Mahas, and Sukkot tribes – all of whom practice infibulation. Insofar as regional differences may explain why all three non-clitoridectomy practicing tribes exist there, Darfur has the lowest marrying age for women of any of the regions of the Sudan due to the high rate of early marriage practices for women (i.e. child-brides) found there. As will be discussed in more detail later in this paper, lowering the marrying age for women by increasing the prevalence of child-brides in a society increases the quantity of available women relative to the demand for them. Therefore, dowers will tend to be far lower in this region of the Sudan than anywhere else. Consequently, there will be less of a demand for excised or infibulated brides amongst the men in those societies. See Lindy Williams and Teresa Sobieszczyk, Attitudes Surrounding the Continuation of Female Circumcision in the Sudan, 59 Journal of Marriage and the Family 975 (1997).
The Problem with Marriage

Like any partnership, marriage can be understood from an economic perspective as producing efficiency gains through the specialization and division of labor between partners. By allowing one person to specialize in market production (i.e. work in the formal marketplace) while the other specializes in domestic production (household work, child rearing, etc.), both parties stand to produce more utility (i.e. satisfaction or happiness) for themselves than they would if they worked independently. In other words, an individual who is forced to split her time working between the home and the office is unlikely to earn as much as an individual who can simply focus on his or her job. However, as noted by a number of economists, while marriage produces gains in efficiency, most of those gains are typically absorbed by men.24

To illustrate this point, imagine that Sally and Bob get married and decide to have children. However, due to the lower salary that Sally is likely to make in the formal market,25 Sally stays at home and raises the children while Bob works in the formal marketplace for the next 20 years. Because he no longer has to divide his time between home and work, Bob is able to work more, and so he acquires more job skills, experience, and so forth, and his earning potential increases at, say, a real rate of 2% per year. On the other hand, Sally’s earning potential in the formal market does not increase, regardless of how good a mother or housewife she is. Even assuming that Bob and Sally started off with relatively similar earning potentials, after 20 years, Bob can still be expected to earn approximately 48% more than Sally in the formal market. Thus, if Bob divorces Sally, Bob’s economic quality of life will increase immensely while Sally’s will plummet.26 In short, Bob will have a strong economic incentive to seek termination of the marriage, much to the disadvantage of Sally, who will now be faced with the prospect of having to find a job after being out of the formal workforce for two decades.

Given these issues, marriage and divorce law has traditionally been seen as a method by which societies transfer capital and income from husbands to wives or, as some scholars have put it,  


25 From an economic perspective, women are less likely to earn as much as men because women bear children and typically must take at least some time off work to do so. Employers take that fact into account and, subsequently, discount the value of female workers by offering to pay them less than their male counterparts. In turn, when the choice between a couple emerges as who will be the spouse to stay at home and engage in domestic production while the other one stays in the formal workforce, women typically opt to be the ones to stay at home. In response, the market discounts the value of married women as workers even further, since now it is even more likely that if an employer is to hire a married woman, she’ll quit if she decides to have a child. Thus, more women choose to stay at home and the average earning potential of married women spirals down further. Consequently, one of the few methods women have to signal to an employer that they will not leave work and rear children is to refuse to get married.

26 For empirical evidence that this occurs, see Lenore J. Weitzman, THE DIVORCE REVOLUTION (1985).
the means by which societies convince women to engage in child-rearing and domestic production against their long-term economic interests.\footnote{See June Carbone and Margaret F. Brinig, \textit{Rethinking Marriage}, 65 \textit{Tulane L. Rev.} 953 (1991).}

For instance, under California state law, the “married woman’s special presumption” which considered any property given to a wife as a gift to be her separate property, but any property given to a husband to be community property to be divided equally amongst the spouses, existed until the 1970’s as a means of redistributing wealth towards wives.\footnote{See generally, Grace Blumberg, \textit{Community Property in California} 168-174 (2003).}

Similarly, also until the mid-70’s, the prohibition on no-fault divorce in many U.S. states (and many European and Latin American countries currently) existed as a means by which wives could protect themselves from the financial implications of divorce by providing them a type of property right in the marriage. Proving “fault” in a court of law is a long, arduous, and expensive process. Consequently, if one party wants out of the marriage, in order to avoid this process they will have to provide the other party an incentive to accept fault. Thus, if Bob reacts to his incentive to divorce his wife after 20 years of marriage, he would typically have to “buy out” his wife in order to obtain such a divorce. Otherwise, Sally could conceivably hold out almost indefinitely. In short, the fault-system prevented husbands from garnering the majority of the economic windfall from marriage by, essentially, placing the power of divorce into the hands of their wives.

Additionally, legal obligations such as alimony, which requires the economically advantaged spouse, such as Bob, to provide payment to the former spouse, i.e. Sally, while the latter seeks work, is another means by which marriage and divorce regimes throughout the world frequently attempt to mitigate the uneven distribution of wealth between spouses.

From an economic perspective, most of the aforementioned rules, which were symptomatic of the traditional approaches of U.S., Latin American, and European marriage and divorce systems, are highly inefficient. Because alimony rules frequently create an incentive on both spouses to hide income and work less, recurrent law suits by both parties regarding the size of these payments well after the divorce has been concluded were a frequent result. Consequently, the more a particular divorce regime relies on the granting of alimony as a means of distributing wealth from marriage, the greater the level of inefficiency is likely to be. Similarly, because fault regimes also provided an incentive to and, to a certain extent, require both parties to drag the other through court airing their proverbial “dirty laundry” for an extended period of time, fault-divorce frequently produces a “long-term crisis,” resulting in, as noted by psychologist Judith S. Wallerstein, the infliction of permanent psychological damage on
the children of divorcing couples.\textsuperscript{29} Put differently, no one wants to put a child on the stand to testify as to, say, how daddy is sleeping with his secretary and mommy is an alcoholic. Additionally, as noted by a number of scholars some 50 years prior to its eventual repeal in the 1970’s, in addition to a myriad of other problems, the Married Woman’s Special Presumption increased the likelihood of fraud and, consequently, the fact-finding and settlement costs facing the courts.\textsuperscript{30}

Given the problems with these rules, in the view of a number of scholars, the modern AMDS has been heavily shaped by Rational Choice Theory (RCT) and an economic view of marriage where both parties have either “equal” or “equitable” rights in the gains created by the marriage.\textsuperscript{31} Thus, the relative prevalence of most of the above rules has been substantially reduced. For instance, most states have adopted no-fault divorce and the Married Woman’s Special Presumption was discarded by the California legislature in the 1970’s.

In turn, the modern AMDS has primarily attempted to mitigate the unequal consequences that marriage and child-rearing tend to impose on women through the increased use of legal presumptions that either 1) divide the economic gains created by the marriage to the spouses equally as community property or 2) provide for “an equitable distribution” of the economic gains created by the marriage based on a judicial finding concerning the relative contribution and needs of each spouse.\textsuperscript{32}

Regardless of which regime is used, as I have written about more extensively in other articles, the modern AMDS is still not particularly efficient from a traditional, or neoclassical, economic perspective.\textsuperscript{33} Negotiations regarding the division of property primarily occur at the end of the marriage – after the couple is likely to have spent a considerable amount of time intermingling property and when the incentives for both parties to engage in cooperative bargaining and reduce transaction and information costs are lower. Thus, the nature of divorce under the AMDS is such that it produces inefficient results due to its relatively high transaction and information costs.

Put differently, because bargaining occurs at the end of marriage, divorce in America typically entails heavy involvement by third-party paid professionals such as lawyers, mediators, arbitrators, courts, psychiatrists, counselors – or all of the above – before settlements can be reached. Additionally, as pointed out by noted economist Lloyd Cohen, because women have fewer

\textsuperscript{29} See Wallerstein, Judith S.; Julia M. Lewis, Sandra Blakeslee, \textit{The Unexpected Legacy of Divorce: The 25 Year Landmark Study} (2000).
\textsuperscript{30} W. P. Marks, \textit{Effect of Married Women’s Acts upon the Presumption against the Bona Fides of a Conveyance by a Third Person to the Wife of a Debtor}, 2 \textit{The Virginia Law Register} 690-692 (Jan., 1917).
opportunities for remarriage than men following a divorce, they tend to lose more from divorce than
their husbands beyond what any court can be expected to calculate on a case-by-case basis or any
equitable or community property division of the marital property can provide compensation for.\textsuperscript{34} Thus, women must personally engage in or, more specifically, hire lawyers to engage in, what negotiation theorists refer to as “hard bargaining” to avoid being systematically disadvantaged by the AMDS. Accordingly, states operating under the modern AMDS are likely to face high transaction costs unless the state takes steps to somehow reduce the use of hard bargaining tactics or the use of lawyers in divorce settlements.

Consequently, some states have attempted to reduce transaction costs associated with hard bargaining under the AMDS by encouraging arbitration and mediation between divorcing spouses without the use of lawyers to protect their interests. In these states, divorcing spouses are encouraged to represent themselves. However, as pointed out by other scholars, these attempts to lower transaction costs tend to produce settlement results that disadvantage women.\textsuperscript{35} Put simply, because men tend to have more experience in the market and with formal negotiation, women are far better off when they have professional representation than they would if they were to simply attempt to negotiate their divorce settlements alone.

Depending on the state’s positions towards protecting what Lloyd Cohen refers to as “appropriation of the wife’s quasi-rents” by the husband late in the marriage, the AMDS is likely to result in increased reliance on third-party professionals in divorce settlements or is likely to provide women inadequate incentives to marry.\textsuperscript{36} By placing negotiation over the value of divorce at the end of the marriage, the AMDS inherently produces results where either 1) high transaction costs are incurred through the increased used of third-parties and hard bargaining in negotiating settlements, or 2) the rate of marriage is likely to be reduced and, thus, so are the efficiency gains that marriage brings. Either way, by leaving bargaining over divorce to occur at the end of the marriage – the result produced by the AMDS is inherently inefficient.

Unlike the AMDS, in the IMDS, bargaining over the value of divorce occurs at the beginning of the marriage. Under the IMDS, in order for a marriage to be valid, a dower must be paid by the husband to the wife as part of the terms of the marital contract. The amount of the dower is stipulated as part of the contract and is negotiated between the wife’s wali, or “guardian” (typically the father or an elder male relative), and the husband. Under most schools of Islamic Jurisprudence, or Schools of

\textsuperscript{34} See Lloyd Cohen, \textit{I Gave Him the Best Years of My Life}, 16 J. LEGAL STUD. 267, 278 (1987).
\textsuperscript{36} See Lloyd Cohen, \textit{I Gave Him the Best Years of My Life}, 16 J. LEGAL STUD. 267, 278 (1987)
Fiqh ("SOF"), the dower is the wife’s separate property, which vests into her exclusive managerial control upon the occurrence of a divorce by her husband.\textsuperscript{37}

Unlike the AMDS, where divisions of property must occur at the end of the marriage amidst fact-based inquiries, vague standards regarding equity, and considerable uncertainty regarding the value of divorce – all a judge must do under IMDS is simply look at the marital contract to determine what the wife is entitled to. Ostensibly then, from a traditional economic perspective, the IMDS is likely to produce more efficient results than the AMDS due to the higher degree of certainty regarding the value of divorce and its lower transaction and information costs. Thus, the IMDS should produce more efficient results, since the expected value of a divorce is considered at a point in time before the spouses have intermingled their property and when both have an incentive to behave cooperatively. In other words, in the IMDS, one would expect more efficient results since bargaining over divorce occurs before the spouses have forgotten who owned what and the love of newlyweds has been replaced by frequent spite and the bitterness of divorce.

However, from an economic perspective, a significant problem of uncertainty within the IMDS still exists. Specifically, even though the nature of the dower system increases the degree of certainty regarding the division of the marital property following a divorce, it does not increase the degree of certainty regarding the period of time the marriage will last. Marriages have been known to last anywhere from a few minutes to 85 years.\textsuperscript{38} Given the degree of variance involved, and the fact that no one appears to have yet determined what makes for a successful marriage, averages are unlikely to be particularly useful in predicting how long a given marriage will last. Consequently, predicting how long a marriage will last is effectively impossible for anyone to calculate and, thus, a high degree of uncertainty still exists in regards to the marital contract.

As a result, the nature of the dower system produces a substantial risk of opportunism by wives or, at minimum, contrary incentives between husbands and wives regarding the length of the marriage. All other things being equal, the effect of the dower system will be that men will have a preference for longer marriages and women will have a preference for shorter ones. As will be discussed further, especially when placed in the context of additional legal rules found within the IMDS, the effect of these contrary incentives can help to substantially predict and explain the relative prevalence and severity of clitoridectomy practices in the Muslim world.


The IMDS and the Dower System:

In the 1985 landmark California case of *The Marriage of Noghrey*, an Iranian couple formed a marriage contract whereby the husband gave his wife a $500,000 house in Sunnyvale, California as a dower – only to have his wife file for a no-fault divorce seven months later. As the judge stated in his ruling; “[the wife] for her part is encouraged by the very terms of the agreement to seek a dissolution, and with all deliberate speed, lest the husband suffer an untimely demise, nullifying the contract, and the wife’s right to the money and property.” Consequently, the judge granted the divorce, but invalidated the dower contract.

Regardless of whether one believes that the wife in Noghrey entered the marriage with the sole intent of simply receiving her dower and leaving, as the case clearly illustrates, the dower system produces contrary incentives for husbands and wives regarding the length of the marriage due to the fact that, over time, most dowers will decrease in value. During the early stages of the marriage, the wife has an incentive to end the marriage as quickly as possible, while her opportunities for remarriage, and the size of the dowers she is likely to receive from those future marriages, remain relatively high. In comparison, men have an incentive to extend the duration of the marriage until its later stages when the dower has fallen in value.

To use a personal example, one of the authors of this paper is half-Palestinian and half-Lebanese. Her parents were married in Lebanon in 1980. The dower stipulated in their marriage contract was approximately 20,000 Lire, which, in 1980 Lebanon, was a considerable amount of money. However, in today’s terms and converted into U.S. dollars, that exact same dower would be worth approximately $12. Granted, this is an extreme example of devaluation, which can be partially attributed to the destruction of the country’s infrastructure from Lebanon’s civil war and subsequent Israeli invasions of the country. However, the point here is still valid. As inflation and the average husband’s earning power increases, the relative value of the wife’s dower will decrease over time.

Given that men profit from longer marriages, whereas women profit from early dissolution, men therefore have an incentive to deter women from seeking a divorce early in the marriage. The size of this incentive increases depending on the present value of the dower to the husband. In short, the larger the dower is, the greater the husband’s incentive to prolong the marriage and the wife’s incentive to shorten it. 

Unfortunately for men, under the formal legal rules of the IMDS itself, there are few ways in which men can protect themselves from the – seemingly opportunistic – type of behavior exemplified by

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the wife in Noghrey. Moreover, the IMDS provides numerous advantages for women when it comes to formation of the initial marital contract. Consequently, as will be discussed in greater detail, the result is a legal system that produces a high degree of economic risk for men.

Economic Risk and Formal Protections Facing Men under the IMDS

Under the formal rules of the IMDS, men tend to face a high degree of economic risk. For instance, as we have discussed more extensively in other articles, because the IMDS allows men to have up to four wives, the number of available women will always be lower than that of men. In other words, polygamy increases the scarcity of women relative to men. Consequently, women occupy a superior bargaining position when it comes to negotiating the initial marital contract.

Additionally, the Wali-system, which assigns a guardian to negotiate on behalf of the wife, but assigns none to husbands, places women in a better position to take full advantage of their superior bargaining position than men. Thus, the initial marriage contract will typically heavily advantage wives, an advantage that usually expresses itself in the form of high dowers.

Moreover, despite the fact that men are, ostensibly, given the sole legal authority to initiate a divorce under the IMDS and cause a wife's right to the dower to vest, in fact, women have a considerable number of options that, essentially, allow them to end the marriage without their husbands consent. For instance, under most SOF, all that is required to effectuate a divorce is a simple oral utterance regardless of the husband’s intent. Consequently, under these SOF, all a wife needs to do in order to elicit a divorce from her husband is simply cajole him into stating “I divorce you” in front of one or two witness. Additionally, the wife may simply have the unrestricted right to divorce her husband at will, if the right was negotiated into her initial marital contract – which is a fairly common occurrence given that, as previously discussed, most initial marriage contracts will tend to heavily advantage wives over husbands.

Moreover, under most SOF, divorce can be effectuated by wives through the process of mutual imprecation. In this circumstance, the wife commits adultery, the husband accuses her of being

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40 I use “initial marriage contract” because, as I have argued in other papers, the IMDS can be seen as offering 3 potential opportunities for formal renegotiation of the marital contract during the marriage. See Ryan Riegg, Behavioral Economic Issues in Marriage & Divorce Law, (UCLA Law, Working Paper, 2006).
41 Id.
42 I use the term “initial” marriage contract because, as I have discussed in other papers, through its system of revocable divorce (talaq) classical IMDS creates three separate opportunities for a formal renegotiation of the marital contract during the course of the marriage. See Ryan Riegg, An Economic Analysis of the Islamic Marriage and Divorce System: Extra-Legal Gender and Marriage Customs in the Muslim World, (UCLA Law, Working Paper, 2006)
43 Under a number of SOF, a simple, or even vague, oral utterance could effectuate a divorce, regardless of intent. See Ibn Rushd, Distinguished Jurist’s Primer Volume II 89 (Imran Ahsan Khan Nyazee trans., 1996).
unfaithful in front of a judge, and the wife responds by swearing that she has not. The court then divorces the couple and provides the wife her dower, unless the husband can prove his claim. However, to prove his claim, the husband must meet the standard of evidence for proving adultery under Islamic law — which, quite frankly, is a nearly impossible standard to meet. Under some SOF, in order to prove adultery, the accuser must produce four eyewitnesses of good character who, quite literally, watched the act of penetration as it occurred.

As the distinguished scholar of Law and Economics Ronald Coase once pointed out: One cannot determine the effect of a group of laws by simply looking at the conduct those laws require, instead, one must determine how people will respond to those laws in the real world and outside the law itself. Given that men under the IMDS have an interest in deterring their wives from seeking divorce — but minimal formal means of deterring wives from doing so — it seems likely that they will develop extra-legal means of protecting their interests. In other words, the men in these societies can be expected to develop some set or level of precautions in response to their perceived level of risk. As will be demonstrated, these precautions frequently translate themselves into specific customs found in many parts of the Muslim world including clitoridectomy.

**Customs as Precautions**

Considering that the degree of economic risk facing men under the IMDS is, in large part, attributable to dower size, men could attempt to reduce their risks by taking precautions to lower dowers. However, as previously discussed, dower size is primarily a function of scarcity. The greater the quantity of available men relative to the quantity of available women, the more men will have to pay women in order to marry them. Consequently, as has been demonstrated in a number of empirical studies, polygamy tends to exert a considerable effect on increasing dower size. Put differently, the greater the rate of polygamy, the greater dowers tend to be.

In order to reduce dower sizes under the IMDS in societies where polygamy is allowed or commonly practiced, such as in Africa where polygamy rates frequently reach up to and beyond 50%.

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46 Moreover, under some SOF during the Classical Period, the witnesses were required to see the actual act of penetration (simply seeing a couple naked together would be insufficient). Additionally, failure to prove the claim of adultery would subject all testifying witnesses to a punishment of 80 lashes for slander. Consequently, in these SOF, proving adultery was practically impossible. See Abou El Fadl, *RELIGION AND THE DEATH PENALTY* at 102 (2004).
47 For example, see Walter Goldschmidt, *The Economics of Brideprice among the Sebei in East Africa*, 13 ETHNOLOGY at 320 (1974).
the number of available women relative to available men must be increased.\textsuperscript{48} One method of achieving this result is to develop early marriage practices for women. In short, increase marriage rates between older men and child-brides. The higher the quantity of child-brides in a society, the lower dowers will tend to be, and the lower the economic risk facing men from marriage.

In addition to adopting customs that lower dowers, men can also attempt to establish customs that increase the costs facing women of leaving their marriages and finding new mates. This second group of customs is the primary focus of this article. These customs include practices such as extensive veiling, seclusion practices, consanguineous marriage (i.e. marriage between cousins) and, more importantly, clitoridectomy.

From an economic perspective, most of the customs in this second category increase the costs of divorce on women by decreasing their ability and incentives to seek out new potential mates during marriage. For instance, so long as a woman is veiled extensively in public, or can be permanently secluded indoors at will by her husband, it is less likely she will be able to attract new potential mates. Consequently, the costs of divorce on such a woman will be higher as, if she leaves the marriage, she will face a greater risk regarding whether or not she will be able to find a new mate at all. In short, when wives are extensively veiled and secluded, it is less likely the woman will be able to leave her husband for another man, as finding another man during marriage is relatively difficult.

Much like veiling and seclusion, clitoridectomy can also be understood as increasing the costs of divorce on women. However, depending on the type of practice and its effects on female sexual functioning, the precise means and degree to which clitoridectomy increases the costs of divorce on women may be understood from two slightly differing, but still related, economic perspectives.

The first perspective is most applicable in cases where the maximum degree of sexual satisfaction that may be attained by a woman has been permanently and substantially reduced by the practice. In these situations, clitoridectomy can be understood as discouraging divorce by permanently and substantially reducing the non-pecuniary incentives amongst women to seek out new potential mates. Put simply, if sex is unlikely to be any better with a new potential mate than it is with your current husband because the maximum value of sex for you has been virtually reduced to zero, then it is less likely you will attempt to pursue new potential mates and seek divorce. Moreover, the likelihood that a given wife will seek a divorce through the process of mutual imprecation – which frequently involves an act of infidelity and often represents the sole method of divorce available to women in some

\textsuperscript{48} For instance, among the ethnic groups of Senegal, 55\% of Wolof, 54\% of Mandingo, 42\% of Serer, and 41\% of Poular women are in polygamous unions. See S. Ndiaye, \textit{NUPTIALITE ET FECONDITE AU SENEGAL} 59-72 (compiled by Yves Charbit, Lamine Gueye, Salif Ndiaye, 1985).
African communities – will also tend to be lower if sex is literally painful or difficult for the wife.\textsuperscript{49} However, as will be discussed, because this perspective relies on the premise that clitoridectomy permanently and substantially reduces the maximum sexual satisfaction of women, it is likely to be most applicable only in those situations where women have been infibulated through the use of non-sterile instruments (i.e. sharpened sticks, pieces of discarded glass, etc.) and does not necessarily apply to each and every case of clitoridectomy.

Unlike the first perspective, the second perspective is most applicable in cases where clitoridectomy has not permanently and substantially reduced the degree of sexual satisfaction a woman may attain, but only tends to \textit{temporarily} decrease the ease by which women may attain sexual satisfaction from each new mate. From this second perspective, clitoridectomy produces a relationship-specific investment amongst wives in their husbands and marriages which, in turn, provides a significant disincentive for divorce amongst women.

Put simply, according to many women who have had a clitoridectomy, learning how to achieve orgasm and have pleasurable sex with their mates is an extremely time-consuming process. Particularly amongst infibulated women, learning how to have sex with a new mate without causing severe vaginal damage takes a relatively long period of time and learning how to achieve orgasm takes even longer. However, once these women have been engaged in sexual activity with a particular mate for a long enough period of time, according to several studies on the topic, the degree of sexual satisfaction reported by many excised and infibulated women and women who have never received a clitoridectomy becomes relatively equal.\textsuperscript{50}

Consequently, under this second perspective, clitoridectomy only temporarily decreases the ease by which women may attain sexual satisfaction from a sexual partner. Thus, the practice may be

\textsuperscript{49} See Jerrold S. Greenberg, Clint E. Bruess, Sarah C. Conklin, Stephanie M. Chisolm, \textit{Exploring the Dimensions of Human Sexuality} at 548 (2006), stating: \textit{In patriarchal southern Sudan, as in much of Africa, only men have the right to file for divorce. The one legal loophole for Sudanese women is to commit adultery, a crime that is instant grounds for divorce. But even then, most husbands refuse because they don’t want to ask their relatives to return the dowry. In one case, a woman sat in prison for months, hoping to shame her husband into repaying her dowry and leaving her. She admitted breaking the law by committing adultery. This was the only way she had to try and get out of an abusive marital relationship.}

perceived as producing relationship-specific investments by wives in the marriage in the form of time and the acquisition of unique sexual knowledge by the spouses. The investment is relationship-specific because, outside the context of that particular marriage, the time spent and the knowledge acquired has only minimal, if any, use; i.e. the investment cannot be easily transferred to other, future, relationships. The investments made are non-recoverable because time, unlike most pecuniary investments, cannot be refunded. Consequently, wives who are excised or infibulated, but still retain the ability to substantially enjoy sex and achieve orgasm, possess a distinct disincentive in regards to divorce.\textsuperscript{51}

To illustrate this point, imagine that you are an infibulated woman and it took you and your husband several months to learn how to have sex without causing severe vaginal tearing and pain, which, according to some infibulated women, is not an abnormal period of time for this process to occur.\textsuperscript{52} Imagine further that, after finally learning how to have sex without causing you vaginal tearing, it took you and your spouse several more months to learn how to bring you to orgasm, which, again, is not abnormal period of time according to some infibulated women.\textsuperscript{53} It has therefore taken you, say, a year to begin to be able to fully enjoy sex to its, generally speaking, maximum potential. Consequently, if you choose to find another mate and leave your husband, there is a substantial risk that it may be another year before you are able to fully enjoy sex again with your new mate. Under these circumstances, it will probably be far less likely that you will want to obtain a divorce as doing so may require you to spend another year without an orgasm. Consequently, clitoridectomy can be perceived as also producing a disincentive for divorce amongst women by increasing one of the non-pecuniary costs of leaving their marriages.\textsuperscript{54}

\textsuperscript{51} Put simply, and hopefully without being crude, not all men or women are built the same or enjoy the same types of activity in the bedroom and learning what “works” sexually for both parties can be a time-consuming process - there are angles to consider, speed, depth, positions, foreplay etc. - and this process takes even longer when several of the major organs designed for enjoyment of sexual activity are permanently damaged. Consequently, assuming the self-reported data of the women in the cited reports above to be accurate, clitoridectomy does not eliminate or reduce the degree of pleasure women receive from sex, it merely increases the amount of time it takes for a woman to achieve a given level of sexual satisfaction each time she finds a new mate. Thus, in economic terms, clitoridectomy produces a relationship-specific investment amongst wives in their marriages and mates in the form of time spent by the couple learning how maximize their sexual utility, which, in turn, increases the non-pecuniary costs of divorce on women.

\textsuperscript{52} Hanny Lightfoot-Klein, \textit{The Sexual Experience and Marital Adjustment of Genitally Circumcised and Infibulated Females in The Sudan}, 26 \textit{Journal of Sex Research} 375-379, No.3 (August, 1989).

\textsuperscript{53} Id.

\textsuperscript{54} The question of which of the two perspectives discussed above is a more accurate depiction of the practice is a question of the effect a given practice will have on female sexual functioning. In rural areas, or in areas where the practice has been illegalized and forced underground, clitoridectomy is frequently conducted with non-sterilized instruments such as sharp rocks or jagged pieces of glass. In these areas, many women can be safely presumed have had their sexual functioning permanently and substantially reduced as a result of the extreme physical trauma and the medical complications that frequently accompany the procedure (e.g. infection, blood loss, etc.). Consequently, in these areas, the first perspective may provide a more accurate picture of the type of disincentive created by the practice. In situations where the ease by which sexual satisfaction may be achieved has only been temporarily reduced by the practice, the second perspective may be more appropriate. Nonetheless, regardless of which the two economic
In addition to the two purely economic perspectives presented above, clitoridectomy may also be perceived as further reducing the likelihood that wives will attempt to leave their marriages through the use of power. According to negotiation theory, power can be defined as the ability to make credible threats. As will be discussed in more detail later, by demonstrating their ability and willingness to purchase the agreement of parents to maim their daughters, the ability of husbands to make credible threats to prevent their wives from seeking termination of the marriage is significantly increased. Thus, part of the effect of clitoridectomy is that it also reduces the likelihood that women will seek divorce through the use of power.

Amongst the men who promote the practice, one of the most frequently purported rationales for clitoridectomy is that it decreases the likelihood that their wives will be unfaithful and, as a result, helps to guarantee longer marriages:

The clitoris is the basis for female masturbation… the spiritual basis of masturbation is fantasy; in fantasy a female broods on sexual images; such brooding inevitably leads a female to spiritual infidelity, since she commits adultery in her heart, and this is the first step to physical infidelity, which is the breaker of homes.

Considering that both economic and negotiation theory predict that women who undergo a clitoridectomy will be less likely to seek divorce or engage in infidelity – and that the men who marry them frequently attach this value to the practice – clitoridectomy can also be understood as providing men a means of protecting themselves from the economic risks posed to them by the IMDS and the dower system. Thus, as will be discussed in Part II, the greater the potential economic risk facing men in these societies, the more prevalent and severe clitoridectomy practices are likely to be. However, before that discussion can occur, it is important to first explain how alternative-customs – such as

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56 That part of clitoridectomy’s value to men includes an element of psychological intimidation against women can reasonably be inferred from the following three facts:

1) Unlike male circumcision, where age varies greatly depending on the tribe, clitoridectomy is mostly performed on girls between the ages of 8 and 16 – when they are old enough to remember the pain and trauma of the procedure.

2) In many of the societies where both men and women undergo “circumcision” later in life and in public, women are encouraged to scream out in pain as much as possible during the procedure, while boys are encouraged to stay silent and pretend that the procedure does not hurt. Presumably, the effect of such a practice sends a strong signal of intimidation to the female onlookers, which also socializes women into believing that they are less physically and mentally powerful than men, and thus must be obedient.

3) Even in those societies where actual excision is no longer or only occasionally practiced, symbolic gestures such as placing and holding a knife between the girl’s legs, or pricking the clitoris with a sharp object, remain. Presumably, the psychological value of brandishing a weapon is to demonstrate an ability or intent to use it. In other words, to provide a credible threat to the girl that she must obey the norms of the society including obedience to her husband.

57 Esther K. Hicks, Infibulation 17 (1996)
consanguineous marriage, child-brides and extensive veiling and seclusion practices – operate within the legal systems of a number of Muslim countries to create what can be best understood as “market substitutes” to the practice of clitoridectomy and negatively effect the relative prevalence of the practice in individual societies.

Clitoridectomy and Market Substitutes:

Even though all of the customs previously discussed (i.e. consanguineous marriage, clitoridectomy, child-brides, extensive veiling and seclusion practices) arise frequently in the Muslim world, it is important to pause here and explain that none of these customs should be considered “Islamic” or a part of the IMDS per se since, 1) historical evidence indicates that nearly all of these practices predated or originated outside of the Muslim societies they are now practiced in, 2) these practices have scant support in either the Qu’ran or Hadith and 3) none of the Classical Jurists considered any of these customs to be required by Islamic law.58

However, even though these customs are clearly outside the scope of the IMDS, in the contemporary period, these customs are often given the force of law in a variety of Muslim countries where they are also encouraged and reinforced by additional legal rules.59 Specifically, in countries such as Saudi Arabia and Iran, seclusion practices by husbands seeking to keep their wives indoors are given the force of law and female veiling is legally mandatory.60

Similarly, consanguineous marriage practices are reinforced in a number of countries by allowing the minimum or “proper” dower to be waived or significantly reduced if the marriage is between cousins.61 Under a number of SOF, a minimum or proper dower must be paid in order for a marriage to be valid.62 If the dower is not stipulated, the judge will assign one based on the market rates for a similar union based on age, class, geographic region etc.63 However, in a number of Muslim countries – particularly in Egypt – determining an accurate market rate for assigning a dower is nearly impossible. Most couples will frequently register a high dower amount in the official marriage contract, called the mahr al-sum’a, “dower of reputation,” or mahr al-alaniyya, “public dower,” while the actual dower, which is far lower, is kept secret.64

59 See generally, Abou Fadl, SPEAKING IN GOD’S NAME (2005).
60 Id.
61 Ron Shaham, FAMILY AND THE COURTS IN MODERN EGYPT 29-42 (1997)
62 Id. See also, David Pearl and Werner Menski, MUSLIM FAMILY LAW (1998)
63 Id.
64 Ron Shaham, FAMILY AND THE COURTS IN MODERN EGYPT 29-42 (1997).
Given that the information regarding dower sizes for an exogamous marriage (i.e. a marriage between unrelated spouses) in a number of Muslim countries is frequently, if not always, inflated and unreliable, a considerable incentive is generated for individuals to engage in consanguineous marriage in countries where the law allows the dower to be waived or drastically reduced when the union is between cousins. By reducing the amount of capital and uncertainty involved in the exchange in consanguineous marriages, negotiations over the marriage contract are likely to move faster and more efficiently than they are in exogamous marriages. Specifically, while a prospective husband seeking an exogamous marriage will need to engage in extensive pre-marital negotiation with his prospective wife’s wali to protect himself against the risk of having a judge assign an inflated dower based on the public dowers in the area, he will not need to take the same level of precaution when it comes to a consanguineous marriage. Thus, the rule creates a strong incentive for husbands to seek consanguineous marriages over exogamous marriages due to the former’s lower transaction and dower costs. Moreover, legal rules and customs encouraging consanguineous marriage also provide a degree of protection for husbands by preventing money and property from leaking out of the overall family unit. In other words, even after the occurrence of a divorce, a husband who marries his cousin will continue to have some degree of access to the dower he paid to his former wife through the overall family unit. Thus, from the potential husband’s perspective, a consanguineous marriage possesses less economic risk than an exogamous marriage.

From the perspective of the wife, by increasing the costs associated with exogamous marriages, and consequently strengthening the incentive for men to seek consanguineous marriages, the ability of women to find mates outside of their family unit is reduced. Accordingly, in addition to lowering the risks facing men by lowering their dower and transaction costs, legal rules that encourage consanguineous marriage can therefore also be understood as increasing the reputational constraints on the ability of wives to divorce and remarry and their ability to profit from the dower system. Consequently, an additional economic value to men from legal rules encouraging first cousin marriage is that reputational deterrents to the type of opportunistic behavior exemplified by the wife in Noghrey become more effective.65

65 To wit, news travels much faster between members of a family unit than it does between strangers. If a woman behaves opportunistically in a consanguineous marriage, the information is likely to become readily available to the family fairly quickly. Therefore, in a legal environment where the mandatory dower is waived or substantially reduced in a consanguineous marriage over an exogamous one, the shunning of that woman by the family unit will become that much more effective as the ability of the woman to marry a new husband will be significantly reduced. Because such a woman will likely be unable to marry another member of her family, she will need to find a new, exogamous, mate who does not know of her reputation. However, because men have a strong economic incentive to seek consanguineous marriages over exogamous ones due to the former’s lower costs, the woman will find her opportunities for remarriage greatly diminished. In short, because the transaction costs associated with exogamous marriages are
These customs are important to note as when they are given the force of law, or are directly encouraged by formal legal rules, these customs provide strong market substitutes to clitoridectomy. Thus, a high presence of these substitutes in a given Muslim society can be expected to subsequently lower the relative prevalence and/or level of severity of clitoridectomy.

Put differently, in a country where men have legal authority, backed by the force of the State, to seclude and veil their wives extensively, their need to counter their wives’ incentives for divorce through extra-legal customs such as clitoridectomy is diminished. Similarly, when consanguineous marriage is encouraged by the legal rules of a country to the point at which remarriage for wives is made immensely difficult, men will, again, have less of a need to seek excised or infibulated brides. Consequently, in countries such as Saudi Arabia, where veiling and seclusion practices are supported and strictly enforced by the state – and consanguineous marriage rates are among the highest in the Middle East – clitoridectomy is less likely to be practiced.\footnote{See Ryan Riegg, An Economic Analysis of the Islamic Marriage and Divorce System: Extra-Legal Gender and Marriage Customs in the Muslim World, (UCLA Law, Working Paper, 2006)}

Given these considerations, it is now possible to create a preliminary predictive hypothesis regarding the relative prevalence and severity of clitoridectomy in a given Muslim society. Specifically, under the IMDS, when dower size and the divorce rate is high, and remarriage for women following a divorce is easy or frequent, men will perceive themselves as facing a high degree of risk and will take a correspondingly high level of precaution.

Conversely, when dowers and the divorce rate are low, and/or remarriage for women following a divorce is difficult, men will perceive themselves as facing relatively little risk and will take a lower level of precaution. As will be demonstrated, in the absence of market substitutes (i.e. legally enforced or encouraged veiling, seclusion, child-brides, or consanguineous marriage practices) the level of precaution taken translates itself into the relative prevalence and severity of clitoridectomy practices found in a given society. In short, the higher the level of risk, the likelier it is that members of a Muslim society or tribe will practice clitoridectomy in its most severe form (infibulation), while the lower the risk, the likelier it is the tribe will not perform any type of clitoridectomy at all.
PART II: EMPIRICAL ANALYSIS

Male Risk and Clitoridectomy at the Tribal Level

For the reasons outlined in Part I, depending on the relative absence of market substitutes, the prevalence and severity of clitoridectomy practices found in a given Muslim society will correlate heavily with dower size, and the divorce and remarriage rate amongst divorced women in that society.

Methodology and Results

With the exception of the authoritative study on infibulation amongst the tribes of Islamic Northeastern Africa by Esther K. Hicks (“Hicks”), most empirical studies on clitoridectomy only measure clitoridectomy on the national level in terms of the practice’s relative prevalence, and not in terms of severity or type, and do not provide any data regarding dower size, or divorce and remarriage rates. Therefore, initial empirical research was limited exclusively to the tribes in Hicks’ study due to practical constraints and in order to ensure methodological consistency in data-gathering.67

Using Hicks’ study, a list of 20 different tribes from the Middle East and Africa were compiled for which relevant data existed. The criteria for inclusion on the list was 1) each tribe had to be Islamic, 2) data existed about whether the tribe had high dowers or not, 3) data existed about whether the tribe had high divorce and remarriage rates amongst women and 4) whether the vast majority of the tribe was known to engage in either the practice of infibulation or excision, or, conversely, was known not to practice any form of clitoridectomy whatsoever. Entries where data was omitted or listed as “variable” by Hicks, and could not be further clarified through additional sources, were considered unreliable and were not used.68

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67 Hicks, INFIBULATION 133-138 (1996)
68 Research was limited to Islamic tribes despite the facts that 1) a number of Pagan, Christian and Jewish tribes in Africa are known to practice clitoridectomy to varying extents, and 2) the relative prevalence and severity of clitoridectomy practices amongst these tribes also appear to increase with dower size. Nonetheless, because the specific nature of dower payments and property rights are relatively unknown or are highly variable among these non-Islamic tribes, they have been excluded from this study. For instance, amongst the pagan Nuba, who practice excision, the dower does not vest until the couple has children. Developing a model that takes this type of partial-vesting issue into account would be an extremely arduous task. Therefore, in the interests of preserving concision and clarity, Pagan, Christian and Jewish tribes have been omitted from this study, even though inclusion of these tribes appears to support the model proposed by this article that dower size and divorce rates heavily contribute to whether or not a tribe practices clitoridectomy.

In addition to excluding non-Islamic tribes, the following Table (Table A) does not formally measure or include clitoridectomy prevalence-rates in measuring Response as no data at the tribal level regarding prevalence currently exists – even though the graph is designed to eventually combine both severity and prevalence rates into account when that date becomes available.

At first glance, this absence in the data regarding prevalence rates may seem to be a significant flaw. Just as Risk is a measurement of magnitude (i.e. the potential size of the loss) and frequency (i.e. the likelihood of that loss occurring), so is Response. Specifically, Response is a measurement of magnitude (i.e. the severity of clitoridectomy practiced) and frequency (i.e. the relative prevalence of that practice). Put differently, just because 50% of Society A
Based on the above criteria, a table was created (Table A) demonstrating the correlation between dower-size and the rates of divorce & remarriage amongst women in a given tribe on one hand and the type of clitoridectomy practiced by that tribe.

As Table A illustrates, all 12 infibulating tribes of the 20 tribes studied have high dowers, high rates of divorce and easy remarriage for women. In contrast, of the seven tribes that do not practice any type of clitoridectomy whatsoever, three have low dowers and low rates of divorce or, as in the case of the Masalit, have extremely low remarriage rates for divorced women. In between these two extremes lie the Meidob, who have low dowers but a high rate of divorce and, accordingly, only practice excision. Consequently, these findings tend to strongly support the model presented in this article.

Nonetheless, there are four tribes that do not appear to perfectly follow the correlation between dower-size and rates of divorce and remarriage found in the other tribes. Accordingly, these four tribes – the Rwala and AlMurrah of Saudi Arabia, the Fulani of Nigeria, and the Somali/Ogaden – require a more extensive discussion.

Tribal Exceptions: The Rwala and AlMurrah

Under the model presented here, the Rwala and AlMurrah both have sufficiently high levels of Risk that should result in the tribe practicing infibulation. Specifically, in both tribes, dowers are high, divorce is frequent, and no known bars to remarriage by divorced women appear to exist. However, what makes both tribes unique is their location. Both tribes are located in Saudi Arabia, which as previously discussed, gives the force of law to a number of customs designed to reduce the ability of women to find new potential mates. Specifically, veiling is mandatory in Saudi Arabia, and the ability of husbands to seclude their wives is strictly enforced. Additionally, Saudi Arabia is also home to one of the highest rates of consanguineous marriage in the Middle East.

practices infibulation and 50% practices no type of clitoridectomy whatsoever, while 80% of Society B practices excision while 20% practices no type of clitoridectomy, that does not mean that Society A’s Response is any higher than Society B’s. (In this case, they may very well be considered equal despite the fact that both societies engage in different types of clitoridectomy practices.)

However, while differences in prevalence-rates are important to consider on the national level due to the high degree of variance between countries – for instance, Egypt’s rate of clitoridectomy is over 90%, while Libya, which is immediately adjacent to Egypt, does not practice clitoridectomy at all – at the tribal level, clitoridectomy practices are likely to be nearly universal. Generally speaking, all of a tribe’s members either engage in one type of clitoridectomy practice (i.e. either infibulation or excision) or will not practice any type of clitoridectomy whatsoever. In other words, prevalence rates are only marginally important on the tribal level because the practices are likely to be universal across all members of the tribe. Consequently, prevalence rates will only be considered later in this article’s discussions of clitoridectomy at the national and regional levels.

69 Id., See also, Dennis Tully, CULTURE AND CONTEXT IN SUDAN (1988).
70 Hicks, INFIBULATION 133-138 (1996).
Consequently, neither tribe engages in clitoridectomy, because neither tribe needs to – the men of these tribes have sufficient protection as is and do not have a strong market demand for excised or infibulated wives.

**Tribal Exceptions: The Fulani:**

According to Hicks, the Fulani have low dowers and a high rate of divorce. Consequently, under the proposed model of this article, they should practice excision. However, they do not practice any form of clitoridectomy at all. Part of this result is likely to have to do with the fact that most Fulani women are first married when they are children, prior to menstruation. Consequently, dowers amongst the Fulani are not just likely to be low – they are likely to be extremely low. Thus, the relatively high rate of divorce in Fulani society is unlikely to produce a perceivable risk to most Fulani men and, therefore, they are unlikely to have a significant market demand for excised or infibulated wives.

In other words, when dowers are extremely low, clitoridectomy as a precaution is unnecessary since the total degree of Risk facing men is relatively low.

**Tribal Exceptions: The Somali/Ogaden**

Considering that the Somali/Ogaden appear to have both a high rate of divorce, high dowers, and no source on the tribe mentions any type of bar to remarriage by divorced women, the tribe represents the one outlier in this study. Under our model, the tribe should practice infibulation, but according to Hicks the tribe only practices excision. On one hand, while it is tempting to simply assert that the Somali/Ogaden are the sole exception that proves the rule, Hicks’ categorization of the tribe may, in fact, be an error.

Specifically, the Somali/Ogaden primarily reside in the Somaliland portion of Northern Somalia and the Somali region of Ethiopia. According to the U.S. State Department, a statistical survey performed by CARE international in Somaliland found that 91 percent of Somali women undergo infibulation. Additionally, also according to the State Department, infibulation is considered common amongst all Somali groups within Ethiopia, with the Somali region of Ethiopia having a clitoridectomy

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72 Hicks, INFIBULATION 266 (1996).
73 Id.
74 Id. at 133-138
75 Office of the Senior Coordinator for International Women’s Issues, Female Genital Mutilation: Country Reports, U.S. Department of State Report (June 1, 2001). Available at: http://www.state.gov/g/wi/rls/rep/crfgm/
Clitoridectomy and the Economics of Islamic Marriage & Divorce Law
Ryan Riegg & Dana Ali (2008)

prevalence-rate of 70%.76 Taken together, these facts highly suggest that the Somali/Ogaden are extremely likely to practice infibulations and not, as Hicks asserts, just excision.

Nonetheless, while we have corrected Hicks’ data in regards to other tribes,77 we have left the Somali/Ogaden as an excision-only tribe as we were unable to find any specific research or data relating that particular tribe’s clitoridectomy practices. Consequently, they remain this study’s sole outlier, even though our personal feeling is that primary empirical research will likely reveal the Somali/Ogaden as an infibulating tribe and further confirm the model presented in this article.

Clitoridectomy and Divorce Rates in Egypt

As an economic good for which men bargain through their marital choices, the benefit of clitoridectomy is that wives will be less likely to seek divorce against their husbands’ wishes. Placed in economic terms, the choice to marry excised and infibulated brides helps to ensure that a marriage will not end until the present values of a husband’s dower has lowered to the point of no longer constituting a significant loss to him. In short, clitoridectomy provides men a benefit by guaranteeing that their marriages will not end until they wish them to.

However, the fact that clitoridectomy tends to lower the likelihood that women will seek divorce does not necessarily mean that divorce rates will always be low relative to those of other societies. Clitoridectomy only lowers the degree to which women will seek divorce – it does not necessarily affect the degree to which men will seek divorce or reduce divorce rates in general. Specifically, in regards to whether a given society’s gross divorce rate will be relatively high or low when compared to other societies, several other economic-environmental factors also play a significant role. Most notably, amongst many of the tribes in Hicks’ study, divorce is likely to be inherently high due to high-rates of male-absenteeism.

As noted by Hicks in her study, the vast majority of the tribes examined by her are primarily agro-, or nomadic, pastoralists located in the Horn of Africa where economic opportunities are extremely limited and herds must be constantly moved over large distances for purposes of grazing and trade. Consequently, the men of most of these tribes must frequently travel to other regions for work, or spend months moving their family’s herds to between various grazing sites and trade centers, while

76 Id.
77 For instance, the Berti are listed by Hicks as non-clitoridectomy practicing tribe, even though the tribe is clearly known to practice infibulation. See Abdullahi Osman El-Tom, Female circumcision and ethnic identification in Sudan with special reference to the Berti of Darfur, 46 GEOJOURNAL 163, 170 (1998).
their wives stay home to cultivate the family’s fields and raise the couple’s children.78 Thus, under these types of circumstances – and as has been noted by numerous other scholars studying pastoral tribes in the Horn – divorce is a common, if not inevitable, result.79 Simply put, it is highly unlikely that a couple will stay married for very long when they are only able to see each other for a few months a year.

Consequently, prolonged absenteeism by husbands is heavily correlated with divorce. Of the 17 Islamic tribes studied by Hicks for which data regarding male-absenteeism and divorce rates are available, all of the tribes listed as having high-rates of male-absenteeism also have high-rates of divorce, with only the Fulani and the Tuareg having a high rate of divorce despite not having a high-rate of male absenteeism.80

However, when it comes to the Fulani and Tuareg, the relatively high-rate of divorce in these tribes may be attributed to these tribes’ relatively low dowers. As noted by other scholars, higher dowers are associated with lower divorce rates.81 This correlation exists because men are far less likely to seek divorce when doing so would result in a loss of a relatively large dower. Consequently, because the Fulani and the Tuareg are likely to have, on average, lower dowers than most of the other tribes in Hicks’ study, their divorce rates are likely to be higher despite their relatively low rates of male-absenteeism.

Given these considerations, in societies where distorting factors such as male-absenteeism are relatively uncommon, divorce rates should be lower when both clitoridectomy rates and dowers are high. In other words, just as high dowers tend to reduce divorce rates by deterring men from seeking divorce, clitoridectomy should tend to lower divorce rates by deterring women from seeking divorce. Thus, in areas where both clitoridectomy rates and dowers are highest, divorce should be lowest. Preliminary evidence that this does occur may be inferred from the fact that in rural Egypt, where dowers and clitoridectomy rates are highest in the country, divorce rates are lowest; while amongst the urban poor in Egypt, where dowers and clitoridectomy rates tend to be lower, divorce rates are highest.82

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80 Hicks’ original list also included the Turkana as an “Islamic” tribe. However, that depiction is entirely inaccurate and so the Turkana have been omitted here. See Neal Sobania, Culture and Customs of Kenya at 38 (2003).
81 Jack Goody, COMPARATIVE STUDIES IN KINSHIP AT 206 (2005) (citing several scholars who all seem to indicate that a high-dower payment inhibits divorce).
However, on its own, the simple correlation above is insufficient to demonstrate that clitoridectomy does deter women from divorce. Further data is clearly required. Consequently, data on clitoridectomy rates amongst girls in different governorates of Egypt was compared with divorce rates in those governorates. As will be discussed, the results of this comparison tend to confirm that clitoridectomy greatly reduces the rate at which women seek divorce. Specifically, the higher the rate of clitoridectomy in a given governorate, the lower the rate of divorce in that governorate tends to be.

Methodology and Results

For purposes of determining clitoridectomy rates, data from a recent World Health Organization (WHO) study on clitoridectomy amongst girls in different governorates in Egypt was obtained. Using a multistage random site selection technique, WHO obtained data from nine different, randomly-selected, governorates in 5 different geographical regions of Egypt. From each of these governorates, two school districts were randomly selected, from which WHO then interviewed 38,816 females.83

The WHO study was selected for analysis since it is currently the only available study providing specific data on clitoridectomy rates between different Egyptian governorates and because of the size of its statistical sample. Data regarding clitoridectomy rates between different governorates is extremely useful as it allows for statistically meaningful comparisons to be made that otherwise might be overlooked at the national or regional level. In other words, at the governorate level, clitoridectomy rates may vary from less than 20% to almost 100%, even though, in Egypt as a whole, clitoridectomy rates are generally above 90%. Consequently, the WHO study is extremely useful for producing comparisons of divorce and clitoridectomy rates.

Divorce data on each governorate since the WHO study was conducted was obtained from Egypt’s Central Agency for Public Mobilization and Statistics (“CAPMAS”).84 Population data from each governorate was also taken based on CAPMAS’s estimates.85 The divorce rate was determined by dividing the total number of divorces in the years since the WHO study was conducted by the population of each governorate. Table B displays the results of the initial comparison between governorates based on the clitoridectomy rates found in the WHO study and the divorce data obtained from CAPMAS.

84 Available at: http://www.msrintranet.capmas.gov.eg/pls/census/spart_all?lname=FREE&lang=0
85 Available at: http://www.citypopulation.de/Egypt.html#Stadt_gross
As Table B illustrates, with the exception of the North Sinai and Luxor City, divorce and clitoridectomy rates from each governorate are strongly negatively correlated. These findings are especially compelling given that population data in regards to the North Sinai might have been affected by political unrest in Gaza and subsequent migration to and from there, and the clitoridectomy data presented by WHO in regards to Luxor seems likely to be inaccurate or highly unrepresentative of the Egyptian population.

In regards to the North Sinai, the Israeli withdrawal from Gaza in 2005 and the subsequent fighting between Hamas and the Palestinian Liberation Organization (PLO) in 2006 led to thousands of Palestinians migrating from Gaza into the North Sinai and, most notably, into its capital of Al-Arish. Given that, with a population of less than 350,000 people, the North Sinai is one of the two smallest governorates included in the WHO study (the other being Luxor) it is highly plausible that population and divorce data would have been distorted by the temporary influx of immigrants in and out of the governorate during that period.

In regards to Luxor, the findings of the WHO study appear likely to be inaccurate or highly unrepresentative of the Egyptian population. Specifically, according to the WHO study, the mean age of clitoridectomy in Luxor is 3.8 years with a standard deviation of 3.2 years. Considering that every other governorate in the WHO study has a mean age for clitoridectomy of over 10 years of age with a standard deviation of less than two years, Luxor therefore represents an extreme outlier. Especially when no other published study on clitoridectomy in Egypt mentions the practice as occurring before 4 years of age. In short, the respondents in the Luxor study seem to be highly outside the norm in the context of both the WHO study and the general literature on clitoridectomy in Egypt. Consequently, the data in the WHO study regarding clitoridectomy in Luxor seems likely to be inaccurate or, at minimum, highly unrepresentative of clitoridectomy practices in Egypt.

Consequently, when Luxor and the North Sinai are excluded, clitoridectomy and divorce rates tend to mirror each other almost perfectly. Graph A illustrates the negative correlation between the two. To demonstrate the degree of correlation, Graph B overlays the two lines representing clitoridectomy and divorce rates. As can be seen in Graph B, the two lines are extraordinarily close, which tends to confirm that clitoridectomy does have a significant negative impact on divorce rates.

Admittedly however, even though the correlation between clitoridectomy rates measured by the WHO study and divorce rates are extremely close, these findings should only be considered to be preliminary evidence of the relationship between clitoridectomy and divorce rates as the WHO study measures the prevalence of clitoridectomy rates amongst girls and not married women.
words, when considering the effect of clitoridectomy on divorce, the relevant data-set is mothers – not their daughters.

Nonetheless, the WHO study is still extremely useful as clitoridectomy rates of daughters tend to strongly mirror that of their mothers and relying on daughters as a sample-set tends to control for divorce occurring as a result of infertility. Put simply, as many scholars have pointed out, there is almost no better indicator of whether a daughter has had a clitoridectomy than whether their mother has had one and vice-versa. Consequently, until such time as a field study may be performed studying divorce and clitoridectomy rates amongst women in different governorates – the WHO study provides a good proxy and tends to support the theory that clitoridectomy does reduce the rate at which women seek divorce.

What Makes North Africa Different: Parental Incentives

Considering that clitoridectomy is mostly performed on women while they are still children, the presence of these practices in a given society requires more than a male demand for excised or infibulated brides – it also requires parental consent. That clitoridectomy fundamentally involves the participation of parents is important to note since an examination of their incentives may provide several useful insights into the practice. Specifically, an analysis of parental incentives may explain the relative prevalence of clitoridectomy at the national and regional level and, more importantly, may be the root to eliminating the existence of the custom in the Muslim world.

As mentioned in the introduction, clitoridectomy practices are most prevalent in Africa, where they are also practiced in their most severe form (infibulation). What makes Africa different is that, unlike the majority of the rest of the Muslim world and contrary to the legal rules established by the majority of the Classical jurists, parents in most African societies are able to receive, or are directly entitled to, a proportion of their daughter’s dower.

However, unlike the daughter who must wait until the occurrence of a divorce to receive her portion of the dower, the parents receive their payment once the marriage contract is executed. Consequently, the parents have a strong incentive to increase the size of dower as much as possible in order to enrich themselves. Amongst the majority of tribes practicing clitoridectomy, a proportion of the dower is simply given directly to the parents upon the daughter’s marriage. However, on the national level, the proportion and means by which parents receive their share of the dower differs from society to society.

For instance, in Egypt, the parent’s payment frequently occurs by means of a triangular transaction: The husband pays the wife’s guardian (usually her father or male relative) the dower, from
which the parents then purchase their daughter’s jihaz, or “trousseau,” such as silverware, clothing, and personal items. By passing the dower through the guardian instead of directly to the wife herself, the parents are given the opportunity to extract a portion of their daughter’s dower for themselves by simply purchasing a jihaz of a lesser value than the dower given to them. This type of embezzlement is easily concealable, since detection by the court would involve having to value every item of the jihaz purchased by the parents. Further, the common, legally permitted, practice of establishing “secret” and “public” dowers in Egypt makes the judicial detection of embezzlement by guardians and parents even more difficult as, in addition to ascertaining the value of the jihaz, the parents and guardian of the wife could also dispute the size of the actual dower. Moreover, considering that the wife’s claim to the dower occurs at divorce – when the husband is unlikely to have much of an incentive to act cooperatively with her – proving embezzlement by parents and guardians by the wife is likely to be costly and difficult.

As noted by the scholar Ron Shaham’s excellent study of decisions made by the Egyptian court system between 1900 and 1955, this type of embezzlement from wives by their guardians was fairly common:

Even when a dower was specified, usually in exogamous marriages, a wife often did not receive it because her guardian did not bother to involve her in the marriage arrangements and took possession of her dower. Few women consequently rebelled against this patriarchal state of affairs by demanding in court that their husbands or their guardians pay them arrears of prompt dower...[However,] few guardians admitted in court their receipt of a wife’s dower; others categorically denied it and were found by the court to be hiding the truth. [Consequently,] a guardian usually explained that according to prevailing custom he had used the dower, supplemented by an additional sum from his own resources, to purchase his ward’s jihaz.86

Similar to Egypt, in Somalia, the dower is legally the possession of the wife. However, amongst Somalia’s nomadic population, which represents 70% of the country, the husband provides the father of the bride 10 to 20 camels on average upon execution of the marriage.87 From an economic perspective, the de facto result of this type of payment is the same as if the father of the bride was legally entitled to a proportion of his daughter's dower. Simply put, the husband has a total amount he is willing to pay to obtain the daughter’s hand in marriage. The more he pays to the father, the less he will have to give to the daughter as a dower. Thus, the father can still be seen as receiving a proportion of his daughter’s potential dower. The majority of the Classical Jurists understood that

86 Ron Shaham, FAMILY AND THE COURTS IN MODERN EGYPT 29 (1997)
allowing a side-payment from the groom to the bride’s parents would have the same economic effect as allowing the parents to merely take a proportion of their daughter’s dower and discussed this issue at length. Consequently, in most of the Muslim world outside of Northern Africa and under most SOF the parents of the bride are strictly prohibited from receiving any payment or gift from the husband for the marriage. However, in those countries where clitoridectomy is practiced, fathers frequently receive a proportion of their daughter’s dower through a side-payment from the groom.

Regardless of the precise means of how their payment is received, in every society we have studied where parents are given a proportion of their daughter’s dower, clitoridectomy is found as well. From an economic perspective, by being allowed to receive a proportion of their daughter’s dower, these parents are provided an incentive to increase the size of that dower as much as possible. In turn, these parents react to that incentive by excising and infibulating their daughters. However, depending on the society, the total proportion or amount parents are able to receive from their daughters dower can be subject to a wide degree of variance. These differences are therefore important to note since, in examining clitoridectomy rates on the national or regional level, the size of the parental incentive to engage in this practice is likely to be dependant on the size of the sum, or proportion of the dower, these parents can expect to receive in exchange for excising or infibulating their daughters. The higher dowers are likely to be and/or the larger the potential proportion of that dower the parents are able to receive, the more likely it is that they will infibulate or excise their daughters. So, for example, in rural Egypt, where dowers tend to be higher than in cosmopolitan areas, clitoridectomy occurs at a higher rate. Meanwhile, in Libya, where the dower is the property of the wife and the wife alone, clitoridectomy does not occur at all.

Behavioral & Neuroeconomics and Clitoridectomy Rates

Even though we have written more extensively on the behavioral and neuroeconomics of the IMDS and the AMDS in previous work, this article has been based upon a traditional, neoclassical economic assumption that clitoridectomy is the result of the choices made by rational economic actors and occurs independently of the beliefs of those actors. However, that premise can only take us so far. Thus, a comment on how the relative degree of trust in different Muslim societies may explain some of the variance in clitoridectomy practices among them is necessary.

89 Ron Shaham, FAMILY AND THE COURTS IN MODERN EGYPT 29 (1997)
90 See Abdullahi A. An-Na‘im, ISLAMIC FAMILY LAW IN A CHANGING WORLD (1992).
As numerous neuroscience and neuroeconomic studies have demonstrated, affiliative bonding between humans involves the exchange of trust. Most relationships – marriage in particular – are built on trust. As neuroeconomists such Paul J. Zak have demonstrated, trust can be understood as a type of social currency where, the greater the level of trust between the members of a society, the lower the transaction costs of exchanging goods and services in that society and the greater its level of development is likely to be. Simply put, transactions and economies operate a lot more efficiently if individuals do not feel the need to constantly take precautions to prevent themselves from being taken advantage of.

The widespread refusal amongst the men of a given society to marry women who have not had a clitoridectomy may be partially understood as a comment upon the degree of trust men have in women and their beliefs regarding female trustworthiness. Interpersonal trust levels may then help to partially explain the relative prevalence and severity of clitoridectomy practices in different Muslim societies. The less men and women trust each other, the likelier it is that both will engage in taking a high level of precaution to protect their interests regardless of their actual level of risk. Therefore, the likelier it is men will have a strong preference for excised or infibulated brides.

In addition to interpersonal trust levels, the relative levels of trust found in a society towards its civil institutions may also help to partially explain the relative prevalence and severity of clitoridectomy in different Muslim societies. The likelier it is that individuals believe they will receive justice and protection from their legal systems, the less they will need to take extra-legal precautions to protect themselves.

Even though these factors are slightly outside the scope of this article, they represent a potential area of future research. As Table C demonstrates, based on preliminary comparison of rankings from Transparency International’s Perception of Corruption Index and clitoridectomy prevalence rates in Islamic Northeastern Africa, a weak correlation appears to exist between the two. In short, when individuals do not trust their civil institutions because they are perceived as corrupt, then it is likelier that the men in those countries will take precautions to protect their interests outside the law by seeking excised or infibulated brides.

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Evolutionary Biology and Clitoridectomy

From the perspective of Evolutionary Biology, all women should wish to be unfaithful in order to get the best possible genes while all men should wish to keep their mates to remain faithful to ensure that their own genes are propagated. From this perspective, clitoridectomy may simply be dismissed as another “mate-guarding scheme” by men over their wives. However, while a certain level of mate-guarding in the behavior is admittedly plausible, it does NOT explain why dower-size is related to the prevalence of clitoridectomy across different societies.

In other words, as Table A demonstrates, within every Islamic tribe studied by Hick’s where there are high-dowers – clitoridectomy also exists. Similarly, in rural areas of Egypt, where dowers are the highest in the country, clitoridectomy-rates are also highest.

Consequently, given the data presented in this paper, there is least as much economic calculation as gene-driven irrational jealousy when it comes to the practice of clitoridectomy.

CONCLUSION

This paper is not intended to be a conclusive study into the causes of clitoridectomy. The empirical evidence presented here, while compelling, is only meant to serve as preliminary evidence that clitoridectomy may be understood as an informal means by which men cope with, and parents capitalize on, the economic risks created by the IMDS. Our theory can be summarized as follows:

As many scholars have pointed out, all marriage and divorce systems based on property rights and voluntary choice must cope with the basic legal problem that marriage and child-rearing tend to economically disadvantage women in the long-term. Simply put, over time, husbands will have an increased incentive to leave their wives and take all of the economic gains produced by the marital partnership with them.

In the West, traditional legal rules such as the prohibition on no-fault divorce, strict limitations on prenuptial contracting, and legal presumptions that transfer earnings and property from the economically advantaged spouse to the disadvantaged spouse over time served to address this issue. Unfortunately, none of these rules are particularly efficient from a traditional, or neoclassical, economic perspective. Under many of these traditional rules, negotiations regarding the division of property still primarily occur at the end of the marriage, after the couple is likely to have spent a considerable amount of time intermingling property and when both parties have lower incentives to engage in

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94 The authors would like to thank the brilliant and generous Professor Lynn Stout for all her help and bringing this issue to our attention.

95 For scholarly examples of this theory, see the work of David Buss. Bibliography available at: http://homepage.psy.utexas.edu/HomePage/Group/BussLAB/publications.htm
cooperative bargaining or otherwise reduce transaction and information costs. Put simply, under most Western marriage and divorce systems, most of the real bargaining over the marital property and value of divorce occurs only when the love of newlyweds has been replaced by the spite and bitterness of divorcing spouses.

Unlike most Western legal systems, most of the bargaining over the value of divorce and terms of the marriage in the IMDS often occurs before the marriage begins. Even as a matter of tradition in many Muslim societies, the engagement party, which signals the end of negotiations over the terms of the marital contract, is often just as large a celebration – if not larger – than the wedding itself. At the center of these negotiations is the provision of the dower from the husband to the wife. Under the IMDS, in order for a marriage to be valid, a dower must be paid by the husband to the wife as part of the terms of the marital contract. Under most SOF, the dower is the wife’s separate property, but does not vest into her managerial control until the occurrence of a divorce by her husband.

From an economic perspective, the dower both directly and indirectly mitigates the unequal distribution of wealth that marriage and child-rearing tends to create amongst wives without many of the inefficiencies that tend to accompany most Western marriage and divorce systems – systems where divisions of property often occur at the end of the marriage amidst fact-based inquiries, vague standards regarding equity, and considerable uncertainty regarding the value of divorce. By contrast, all a judge must do in the IMDS is simply look at the spouses’ marital contract to determine what each party is entitled to receive. However, because the dower does not vest until the occurrence of a divorce, the IMDS creates a strong economic incentive for women to seek divorce against the wishes of their husbands.

The fact that the dower creates an incentive for women to seek divorce is highly problematic. Under the IMDS, most men stand to lose a great deal from divorce and have limited formal means of protecting themselves from its consequences. Further, for a variety of legal and socio-economic reasons, in many Muslim societies, the average dower is frequently far higher than the average worker in those societies will make in several years and thus, most men must incur (where they are allowed) substantial financial debts before they are able to marry. Consequently, divorce for these men frequently does not just entail the loss of a proportion of their total property to their ex-wives, but rather, literally everything they once owned.

Given that men under the IMDS have a significant interest in deterring their wives from seeking divorce – yet minimal formal means of deterring wives from doing so – it is likely that they will develop extra-legal means (or precautions) and customs designed to protect their interests. The choice by
many men under the IMDS to only marry women who have had a clitoridectomy represents one such precaution.

Women who have had a clitoridectomy are far less likely to seek divorce against their husband's wishes. Thus, because excised and infibulated women are less likely to seek divorce, many men under the IMDS have a substantial demand for wives who have undergone some type of clitoridectomy. When parents are allowed to take a proportion of the daughter's dower payment, they capitalize on this demand by excising and infibulating their daughters in order to obtain more money and property for themselves.

Our empirical research strongly confirms the model above. First, it would appear that women who have had a clitoridectomy are far less likely to seek divorce than women who have not. Based on a comparison of data between nine different governorates in Egypt, a nearly perfect negative correlation appears to exist between clitoridectomy and divorce rates. Accordingly, marrying an excised or infibulated bride provides the men in these societies a significant benefit by helping to protect them against divorce and its associated economic risks. In short, by marrying an excised or infibulated bride, men gain a greater degree of assurance that their marriages will not end until they choose to end them.

Second, clitoridectomy generally only exists in those societies where the parents are able to receive a portion of their daughter's dower upon execution of the marriage contract. Without this legal ability to profit from the practice, parents cease to perform clitoridectomy on their daughters.

Third, dower-size has a substantial effect on the degree a society under the IMDS will engage in clitoridectomy. In every Islamic tribe that is known to have high dowers, clitoridectomy is found as well. Conversely, in those societies that have low dowers, clitoridectomy is not found at all. In other words, the greater the dowers in a society tend to be, the greater the risk men face under the IMDS and the greater the demand for parents to infibulate and excise their daughters.

This article has attempted to discuss why clitoridectomy exists from a traditional economic perspective by inquiring into which groups tend to benefit most from its practice. Men profit since their marriages are less likely to end until they wish them to. Parents profit from the proportional increase in capital and property they will likely receive from their daughters' dowers. However, whether the excised and infibulated women themselves are benefited by clitoridectomy is a more difficult question to answer.

As a number of scholars have pointed out, many excised and infibulated women believe themselves to be better off as a result of having a clitoridectomy. These scholars therefore argue that arguments by Western activists against the practice are weak and are rooted in an ethnocentric belief
that those engaging in the practice are inherently immoral simply because they engage in a practice that defies the West’s sexual norms.\textsuperscript{96} According to these scholars, arguments against the practice are, as a result, often little more than propaganda to be used by the West to justify its continued imperialism over the East.\textsuperscript{97}

As one of the authors of this paper is Palestinian and the other is half-Chinese, we are both sympathetic to the arguments of these scholars to a certain extent. We too are highly skeptical of activists who argue that the West has a right to interfere with other cultures based purely on inherently subjective judgments of those cultures’ practices. Clitoridectomy is, essentially, a type of body modification, and body modification is nothing new in the West. People in the West frequently have parts of their bodies tattooed, pierced, enlarged, reduced, removed, bleached, darkened, and inlaid with gold/platinum/diamonds – but rarely is the type of vociferous language used against clitoridectomy ever applied to these “Western” practices. Seldom does one hear of tattooing or the choice to pierce one’s penis referred to as “oppressive” or “evil.”

We agree that when discussing the practices of other cultures, all scholars need to be cognizant of potentially engaging in ethnocentrism and more importantly, that arguments against clitoridectomy based on purely subjective or moral valuations of the practice are especially prone to this type of bias. However, simply because we do not wish to condemn clitoridectomy as immoral per se does not mean that there are no economic inefficiencies associated with the practice. In fact, as economists we cannot help but see substantial problems with the practice. Specifically, from a normative economic perspective, the primary problem of clitoridectomy is that it is performed on young girls by their parents who ultimately profit at their child’s expense.\textsuperscript{98} In other words, the economic benefits of clitoridectomy do not pass to the group of individuals who bear the majority of its costs.

\textsuperscript{96} See generally, Pamela Abbott, Claire Wallace, Melissa Tyler, AN INTRODUCTION TO SOCIOLOGY: FEMINIST PERSPECTIVES 47-51 (2005) (discussing Post-Colonial and “Black” feminist critiques of the assumption by white feminists that clitoridectomy is necessarily oppressive towards women).
\textsuperscript{97} Id.
\textsuperscript{98} The practice can be described as inefficient based on two separate, but complementary, perspectives:

First, the major costs of clitoridectomy are primarily borne by the women upon whom it is practiced and not by those who receive its benefits. It is these women who experience the pain of the procedure and face the danger of death, sterilization, and long-term medical issues – not their parents or their future husbands who ultimately benefit from the practice. This suggests that the true cost of clitoridectomy is not being fully represented by the market and so the supply, or prevalence, of the custom is likely to be inefficiently high.

Second, clitoridectomy is not a product of voluntary choice. Clitoridectomy is practiced on women when they are still children and are dependant on their parents for survival. These children cannot simply choose to leave home if they do not wish to be excised or infibulated. In most of the societies where clitoridectomy is found, the choice of a child to leave home includes a substantial risk of starvation. Clitoridectomy is therefore a product of coercion. The fact that adult women, who no longer depend on their parents for support, generally do not engage in the practice (unless they are married, have children and are, thus, dependant on their husbands for survival) demonstrates that clitoridectomy is not a product of voluntary choice. If it were a product of voluntary choice, then the rates of clitoridectomy amongst adult women would presumably be as high as that amongst children.
Given these considerations, the most obvious means of eliminating clitoridectomy then is to simply correct the discrepancy in the relevant economic exchange. That is to say, parents should be prevented from obtaining a profit from the IMDS and dower system by maiming their daughters. Specifically, legal rules should be passed that consider the dower solely to be the wife’s property and prohibit any side-payments by a groom to the wife’s parents. The advantage of this approach is that it replaces the current legal rule in those countries practicing clitoridectomy with the more common, and classical, Islamic legal rule preventing parents from receiving any portion of the dower. Therefore, Muslims in countries with a high clitoridectomy rate are unlikely to consider the switch to such a rule to be particularly offensive or objectionable. In short, such a rule is likely to meet less resistance and will be far easier to enforce than current rules which illegalize the practice entirely and have overwhelmingly failed. Nonetheless, there are admittedly some potential externalities that could be created through the implementation of such a proposed solution. However, the nature of those externalities, and other potential means of eliminating clitoridectomy from an economic perspective, is the subject of a future article.

Against the fact that women in these societies do not choose to pursue clitoridectomy for themselves when they are adults, it means little that women who have already received a clitoridectomy may believe that they are better off for having received one. Rational choice theory predicts such a response. Individuals will always make choices that maximize their benefits and minimize their costs—including generally adopting whatever set of beliefs is likely to lower their non-pecuniary and emotional costs. Since there is no way to reattach their missing clitoris, many of these women are better off by adopting beliefs that minimize the emotional costs of that loss. Therefore, regardless of the self-reported beliefs of these women, because the choice of these women regarding clitoridectomy was originally a product of coercion and not voluntary choice, rational choice theory states that the practice is likely to be inefficient.

In other words, from a normative economic perspective, the major issue is whether or not those individuals who incur the greatest costs from a social practice (i.e., young girls) are also the same individuals who receive the majority of its benefits. So long as the choice is voluntarily made, there is little difference between the choice to have a clitoridectomy in a Muslim society and the choice to undergo breast-augmentation or other surgical forms of body-modification in the West. If a fully-grown woman voluntarily decides that she wishes to be excised or infibulated because, say, she wishes to procure a mate and a higher dower sooner, or she likes the way her vagina will look afterwards, or because she is a sexual masochist, traditional normative economics would simply state that it is, quite frankly, her body and her decision to make. However, when parents decide to infibulate or excise their daughters and are allowed to profit from that act as a result, a problem exists.
## Table A

<table>
<thead>
<tr>
<th>Clitoridectomy</th>
<th>Excision Only</th>
<th>Infibulation (Includes Excision)</th>
<th>Low Dower, Low Rate of Divorce &amp; Remarriage</th>
<th>Low Dower, High Rate of Divorce &amp; Remarriage</th>
<th>High Dower, High Rate of Divorce &amp; Remarriage</th>
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<tbody>
<tr>
<td>FUR</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Tungur</td>
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<td>X</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Meidob</td>
<td></td>
<td>X</td>
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<td>X</td>
<td></td>
</tr>
<tr>
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<td>X</td>
<td>X</td>
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</tr>
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<td>Hadendoa</td>
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<td>Shaquiyya</td>
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<td>Berti</td>
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<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Afar</td>
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<td></td>
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<td>Somali</td>
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<td>Esa</td>
<td>X</td>
<td></td>
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<tr>
<td>Somali/Ogaden</td>
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<tr>
<td>Rwala (Saudi A.)</td>
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<tr>
<td>Fulani (Nigeria)</td>
<td>X</td>
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</table>
Clitoridectomy and the Economics of Islamic Marriage & Divorce Law
Ryan Riegg & Dana Ali (2008)

Graph B

[Graph showing Clitoridectomy Rate and Divorce Rate for different regions: Port Said, Demiatta, Cairo, Alexandria, Dakahlyia, Bani Suif, Sharkia, Assuit. The graph shows an increasing trend in both rates as you move from Port Said to Assuit.]
Clitoridectomy and the Economics of Islamic Marriage & Divorce Law
Ryan Riegg & Dana Ali (2008)

### Table B

<table>
<thead>
<tr>
<th>Governororate</th>
<th>Clitoridectomy Rate</th>
<th>Total Divorces 2005-06</th>
<th>Population (2006 figures)</th>
<th>Divorce Rate (Divorces per Capita)</th>
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<tbody>
<tr>
<td>Suez Canal Region (Port Said)</td>
<td>17.90%</td>
<td>3907</td>
<td>570,603</td>
<td>0.006847142%</td>
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<tr>
<td>Demiatta</td>
<td>21.50%</td>
<td>3039</td>
<td>1,097,339</td>
<td>0.002769427%</td>
</tr>
<tr>
<td>Cairo</td>
<td>36.50%</td>
<td>18466</td>
<td>6,758,581</td>
<td>0.00273223%</td>
</tr>
<tr>
<td>Sinai (North Sinai)</td>
<td>25.3%</td>
<td>835</td>
<td>343,681</td>
<td>0.002429579%</td>
</tr>
<tr>
<td>Alexandria</td>
<td>39.20%</td>
<td>9597</td>
<td>4,123,869</td>
<td>0.002327184%</td>
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<tr>
<td>Dakahlia</td>
<td>49.80%</td>
<td>11409</td>
<td>4,989,997</td>
<td>0.002286374%</td>
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<tr>
<td>Bani Suif</td>
<td>73.10%</td>
<td>3400</td>
<td>2,291,618</td>
<td>0.001483668%</td>
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<tr>
<td>Sharkia</td>
<td>73.90%</td>
<td>7564</td>
<td>5,354,041</td>
<td>0.001412765%</td>
</tr>
<tr>
<td>Luxor city</td>
<td>85.5%</td>
<td>598</td>
<td>457,286</td>
<td>0.001307716%</td>
</tr>
<tr>
<td>Assuit</td>
<td>75.50%</td>
<td>3945</td>
<td>3,444,967</td>
<td>0.001145149%</td>
</tr>
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</table>

### Table C

<table>
<thead>
<tr>
<th>Countries (above 30% Prevalance)</th>
<th>Prevalence of Clitoridectomy</th>
<th>Perception of Corruption Index Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guinea</td>
<td>99%</td>
<td>1.6</td>
</tr>
<tr>
<td>Egypt</td>
<td>97%</td>
<td>2.8</td>
</tr>
<tr>
<td>Mali</td>
<td>92%</td>
<td>3.1</td>
</tr>
<tr>
<td>Sudan (North)</td>
<td>90%</td>
<td>1.6</td>
</tr>
<tr>
<td>Eritrea</td>
<td>89%</td>
<td>2.6</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>80%</td>
<td>2.6</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>77%</td>
<td>3.5</td>
</tr>
<tr>
<td>Mauritania</td>
<td>71%</td>
<td>2.8</td>
</tr>
<tr>
<td>Cote d’Ivoire</td>
<td>45%</td>
<td>2.1</td>
</tr>
<tr>
<td>Chad</td>
<td>45%</td>
<td>1.6</td>
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<tr>
<td>Central African Republic</td>
<td>36%</td>
<td>2.2</td>
</tr>
<tr>
<td>Kenya</td>
<td>32%</td>
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</table>
## Countries (below 30% Prevalance) Prevalence of Clitoridectomy Perception of Corruption Index Score

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Senegal</td>
<td>28%</td>
<td>3.4</td>
<td>3.6</td>
<td>3.3</td>
<td>3.2</td>
<td>3</td>
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<tr>
<td>Yemen</td>
<td>23%</td>
<td>2.3</td>
<td>2.5</td>
<td>2.6</td>
<td>2.7</td>
<td>2.4</td>
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<tr>
<td>Nigeria</td>
<td>19%</td>
<td>2.7</td>
<td>2.2</td>
<td>2.2</td>
<td>1.9</td>
<td>1.6</td>
<td>1.4</td>
</tr>
<tr>
<td>United Republic of Tanzania</td>
<td>18%</td>
<td>3</td>
<td>3.2</td>
<td>2.9</td>
<td>2.9</td>
<td>2.8</td>
<td>2.5</td>
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<tr>
<td>Benin</td>
<td>17%</td>
<td>3.1</td>
<td>2.7</td>
<td>2.5</td>
<td>2.9</td>
<td>3.2</td>
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<tr>
<td>Ghana</td>
<td>5%</td>
<td>3.9</td>
<td>3.7</td>
<td>3.3</td>
<td>3.5</td>
<td>3.6</td>
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<tr>
<td>Niger</td>
<td>5%</td>
<td>2.8</td>
<td>2.6</td>
<td>2.3</td>
<td>2.4</td>
<td>2.2</td>
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</table>

**Cumulative Average**

2.8