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Labor Standards and Labor Market Flexibility in the Middle East: Free Trade and Freer Unions?

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Abstract This paper examines how two, potentially opposing trends—pressure to adhere to international labor standards and movement toward greater labor market flexibility—have affected labor market characteristics in the Middle East. Focusing on 13 countries, the paper presents indices of de jure and de facto labor flexibility and standards in the region. The paper makes two main contributions. First, it develops a typology of post-independence Middle Eastern political economies based on oil dependence and political regime type (including oil monarchies, low-income republics, and low-income monarchies) to explain widely divergent sub-regional trends in labor flexibility and standards. Second, it argues that different actors have spurred changes in labor flexibility and standards in distinct sub-regional political economy groupings. In the low-income countries, the state and domestic business were most instrumental in driving increased flexibility, although unions were able to win concessions in countries where the political system permitted some voice for labor. In the oil monarchies, international pressure, particularly through negotiations over trade agreements with the USA, spurred a trend toward increased labor standards, while domestic programs to indigenize the workforce account for a trend toward decreased flexibility.

Keywords Labor standards · Flexibility · Labor reform · Middle East

Introduction

On January 5, 2008, protests erupted in the southern region of Gafsa in Tunisia after the state-owned phosphate company announced the results of a recruitment

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competition, which were widely viewed as fraudulent. Job candidates who failed to secure employment at the factory as well as representatives from the national labor union, the Union Générale des Travailleurs Tunisiens (UGTT), claimed that the firm's selection process was opaque and nepotistic. The demonstrations rapidly spread to include local residents, who protested against unemployment, poverty, increased living costs, and corruption, as well as relatives of miners injured or killed while working at the company. As the protests continued, the government brutally cracked down, leading to the deaths of two protestors and the imprisonment and torture of 300 others. In late 2008, 38 trade unionists and supporters were sentenced, while families of activists reported harassment by the authorities (Amnesty International 2009).

Tunisia is among the more repressive regimes in the Middle East, but the Gafsa protests are indicative of restrictions on labor organization throughout the region. Indeed, some Middle Eastern countries in the Gulf do not even have formal labor rights such as the right to strike or form unions. While the Middle East is not unique in its suppression of workers' rights, the region's robust authoritarian regimes make restrictions on labor organization particularly severe by comparison to other regions in this project.

In recent decades, developing countries have confronted two, potentially opposing trends: pressure to adhere to international labor standards and movement toward greater labor market flexibility. How have these trends affected labor market characteristics in the Middle East?[1] The general authoritarian political context certainly restricts the mobilizational capacity of workers and underlies the response of domestic forces to global pressures for labor reform. Within the Middle East, however, trajectories of change vary in response to the twin pressures of labor standards and flexibility. One group of countries, the wealthy, oil-rich monarchies of the Gulf, has significantly improved de jure labor standards for citizens—although de facto standards remain low and foreign guest workers face poor job insecurity and poor working conditions. The lower-income countries in the region have also marginally improved de jure labor standards but simultaneously increased flexibility by loosening restrictions on hiring and firing conditions. Among the oil-poor countries, we distinguish between the non-oil monarchies, which are more tolerant of labor activism, and single-party authoritarian systems, which grant labor fewer rights.

Thus, the Middle East encompasses three broad sub-regional groupings with different responses to labor standards and flexibility—the oil monarchies, non-oil monarchies, and single-party regimes. We argue that resource endowments and patterns of state–labor relations, which tend to vary according to authoritarian regime type, largely explain these divergent trends within the region. In general, domestic actors, such as pro-reform political elites and export-oriented entrepre-

[1] We focus on Arab countries in the Middle East and use the terms "Arab world" and "Middle East" interchangeably, although non-Arab countries such as Iran and sometimes Israel and Turkey are considered part of the region. Based on membership in the Arab League, the Arab world includes countries ranging from Mauritania to the west and to Iraq in the east and from Syria and Iraq in the North to Yemen and the Sudan in the south. We cover North Africa only as far west as Morocco and also exclude the Horn of Africa which is not normally considered part of the Middle East. Palestine, Sudan, and Iraq are not covered here because of their internal strife and/or occupied status.

neurs, have been the key drivers of change. But international actors also played a role. In the lower-income countries, international financial institutions (IFIs) pressed for greater flexibility, while in the oil monarchies and in at least one non-oil monarchy, Morocco, the USA compelled some countries to boost labor standards as part of free trade agreement (FTA) negotiations.

At first blush, structural economic factors such as per capita GDP and oil wealth explain variation in labor regimes in the Middle East. After all, the countries that did the most to improve de jure labor standards are exclusively composed of the oil monarchies, which are at the top half of the regional per capita income scale, while countries that flexibilized labor contracts tend to lie at the bottom half of the regional income average.

Nonetheless, structural economic factors are not the sole determinants of national responses to demands for labor flexibility and standards. Patterns of state–labor relations, which generally differ across single-party regimes and monarchies, also influence cross-national variation in responses to globalization. Furthermore, even within the categories of Middle Eastern political economies presented above, there is notable variation. Countries with more formidable traditions of labor activism and organization, often dating back to the colonial era, have witnessed more robust resistance to flexibility in the contemporary period. Thus, a combination of economic endowments and institutionalized patterns of labor organization accounts for variable levels of labor protection in the Middle East.

The next section of the paper develops a more complete picture of the three types of political economies in the region. "Measuring Labor Protection in the Middle East" assesses labor flexibility and standards, including the ratification of international labor conventions, within and across the three sub-regional political groupings. Drawing on examples of specific countries, "Changing Labor Standards in the Middle East" and "The Evolution of Labor Flexibility in the Middle East" trace the distinct dynamics of labor reform in the oil-rich monarchies, oil-poor monarchies, and single-party regimes to identify both international and domestic sources of change in labor standards and flexibility. "Labor Standards Versus Flexibility in the Middle East" discusses the relationship between the labor standards and flexibility indices. The conclusion summarizes our findings and offers tentative predictions about future developments in the Middle East.

Labor Regimes in the Middle East

Two primary factors distinguish the political economies of Middle Eastern countries—their economic profiles, including oil dependence and related levels of industrialization, and authoritarian regime type.

Economic Profiles: Natural Resource Endowments and Levels of Industrialization

Standard classifications of Middle Eastern economies differentiate countries by per capita GDP (Richards and Waterbury 2007). By this measure, most countries in the region fall into the upper- or lower-middle income categories. As Table 1 shows, oil wealth is a key point of differentiation. All high-income countries—Bahrain,

Table 1 Economic and political summary data for the Middle East

Category/country	GNI per capita (US $)	Population (millions)	Oil dependency
High income			
Qatar	33,558	0.8	High
UAE	26,270	4.4	Moderate
Kuwait	38,420	2.7	High
Bahrain	17,390	0.8	High
Saudi Arabia	15,500	24.2	High
Oman	12,270	2.6	High
Upper middle income			
Libya	9,010	6.2	High
Lebanon	6,190	4.1	Low
Lower middle income			
Tunisia	3,210	10.2	Low
Jordan	2,960	5.7	Low
Egypt	1,500	75.5	Moderate
Algeria	3,610	33.9	High
Morocco	2,290	30.9	Low
Syria	1,740	19.9	NA
Low income			
Yemen	950	22.4	High

Source: *World Development Indicators* (2007 or the most recent year available); in 2008, the World Bank defined high income as more than $11,455 per capita, upper middle income as $3,706 to $11,455, lower middle income as $936 to $3,705, and low income as $935 or less; we define high oil dependency as a ratio of fuel exports to total exports of more than 66%, moderate dependency as 34% to 65%, and low dependency as <33%

Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE)—have high levels of oil dependence.[2] Algeria, which is also highly dependent on oil exports, falls in the lower-middle income group thanks to its large population of over 30 million. The remaining lower-middle income countries export a relatively low volume of hydrocarbons or none at all. In short, oil dependence and domestic market size are key axes of differentiation among Middle Eastern economies.

The Oil Monarchies Oil wealth—and the absence thereof—has implications for development trajectories and, hence, labor regimes. In the Gulf monarchies, the discovery of oil during the first part of the twentieth century shaped their economies and hindered the development of other sectors and of an industrial working class.[3] These countries established large state sectors, dominated by the production of oil and its derivatives, and extended comprehensive subsidies and social protections to

[2] The UAE recently shifted to "moderate" oil dependence, which largely reflects the growing importance of financial services and other related sectors in the Federation's economies.

[3] The negative economic and political effects associated with oil dependence, including stunted industrial development and authoritarian rule, are not inevitable (Hill 1992; Luong and Weinthal 2010; Smith 2007).

their citizens (Crystal 1995; Chaudhry 1997). After the oil price boom of 1974, the Gulf states were able to do so with increasing generosity using the civil service to provide jobs to educated citizens (Gause 1994: 45). Labor laws were enacted which, if more flexible than those in the oil-poor countries regarding hiring and firing provisions, nevertheless specified severance pay, limited work hours, and guaranteed vacations and sick leave.

As the Gulf countries became wealthier in the 1970s and early 1980s, their citizens became inured to the benefits of oil rents and reluctant to engage in blue collar labor. Instead, low-wage workers were imported first from the poorer Arab countries and then increasingly from South and Southeast Asia. These workers were generally denied the protection of the labor laws—if not officially, then by the use of temporary work contracts. In addition, their passports were often confiscated by employers upon entry into the country and returned only if they were dismissed or when they had completed their contracts, effectively granting employers complete authority over their assignments, working hours, and pay. Since the 1980s, human rights organizations have routinely castigated the Gulf regimes for the widespread and systematic abuse of migrant labor.

The Lower-Income Economies Lower-income countries in the Middle East followed a different trajectory than their wealthier neighbors in the Gulf. Both high-population oil exporters and countries that were not major hydrocarbon producers saw the development of working class movements during the era of European colonialism when European industries brought with them a blue collar workforce that intermingled with indigenous workers and spread ideas in favor of trade unions.

After independence, a combination of economic necessity and nationalist ideologies led the low-income economies to promote industrialization, at first through protectionist trade policies designed to promote national industries and later through export-oriented policies.[4] These policies spurred the rise of an indigenous labor force, which gained in the first few decades of independence from import-substitution industrialization policies and relatively generous benefits for employees of state-owned enterprises and civil servants. During the 1950s and 1960s, governments of these countries enacted labor legislation that required the hiring of citizens to be carried out through written contract. Work contracts could be permanent or temporary, but in most cases, the latter were time-restricted and automatically made permanent upon renewal. The laws guaranteed social insurance to permanent, full-time workers and rendered dismissals difficult. In addition, to varying degrees among the lower-income economies, state-led development strategies called for the creation of large public sectors. In some countries, college and even high school graduates were guaranteed public sector or civil service jobs as a way to encourage education, with benefits including pensions, health, and accident insurance, and, in some cases, access to public housing. Over time, students and their families came to view government jobs as an entitlement. The other side of this "social contract" was acceptance of authoritarian government, including cooptation

[4] Until recently, Jordan was less industrialized than the other non-oil and low-income economies. In comparison with Morocco, the other non-oil monarchy in the region that has a much longer history of industrialization dating back to the colonial period, the union movement is relatively docile in Jordan.

of labor organizations (see inter alia Posusney 1997; World Bank 2004; Richards and Waterbury 2007).

Political Regimes and Historical Legacies of State–Labor Relations

Structural economic factors alone do not account for variation in labor protection across the Arab world. Institutionalized patterns of state–labor relations, which were influenced by colonial era legacies of labor organization in some countries, also helped shape these outcomes.[5] Politically, all of the Arab countries are characterized by relatively unchecked power in the executive branch and varying degrees of restriction on political expression and civil liberties (Posusney et al. 2005). Virtually all are either monarchies or presidential republics dominated by a single party,[6] but these distinct regime types are associated with different patterns of labor representation.

The Oil Monarchies The Gulf oil monarchies are virtually all characterized by dynastic rule in which ruling families maintain firm control over all state institutions (Herb 1999). These governments instituted the weakest formal protection for foreign workers who constituted an increasingly important component of the domestic workforce, particularly after the oil boom in the early 1970s. During the colonial era, all of the Gulf principalities apart from Saudi Arabia became British protectorates, ruled only nominally by their traditional tribal sheikhs. Nonetheless, the nationalist fervor that swept the other Arab countries was weaker in the Gulf, and the sheikhs were able to consolidate power as their countries modernized and gained independence between 1961 and 1971. The conservative monarchies that arose outlawed strikes, a provision that originally affected only oil workers but later was extended to their expanding civil services as well. Except for Kuwait, which has a history of political pluralism, the Gulf states also banned unions (Crystal 2007).

The Non-Oil Monarchies and Single-Party Regimes In the non-oil monarchies and single-party republics, labor representation evolved in distinct ways, with consequences for labor mobilization. The single-party republics all have single trade union confederations linked to the dominant party, facilitating maximum government control over labor (Posusney 1997; Alexander 2001). Even in countries such as Tunisia, where formidable traditions of labor activism date back to the colonial period, single-party rule led to the gradual suppression of an independent voice for labor. Despite populist ideologies and strategies of legitimation, which entailed relatively extensive entitlements for formal sector workers, single-party republics prioritized social control over respect for labor protection. The classic features of state corporatism resulted. In addition to government interference in union leadership selection, the confederations in these countries were subjected to registration

[5] See Botero et al. (2004) on the importance of colonial legacies on labor legislation in post-independence developing countries.

[6] The two major exceptions are Lebanon, the only quasi-democracy in the region, and Libya, which is based on Muammar Qaddafi's peculiar brand of personalistic rule. Given their deviant status, we do not include these countries in this analysis.

requirements and government monitoring of their finances, among other controls. With the wave of post-colonial nationalizations and the establishment of state-owned enterprises, civil service and parastatal workers gained job security and a range of social protections, but they were expected to be politically docile. Accordingly, strikes were discouraged, if not prohibited, by post-colonial labor laws, and collective bargaining rights were limited. Moreover, the provisions of the labor codes that provided for job security as well as social insurance were not necessarily enforced outside of the public sector.[7] The labor markets in these countries therefore became segmented between parastatal workers and civil servants, who enjoyed legal protections codified in law, and private sector workers, who did not.

In the non-oil monarchies, Jordan and Morocco, greater tolerance for pluralism permitted more scope for independent labor organization and competitive unions. By positioning themselves above the fray of political competition while maintaining ultimate authority over key decisions and policies, monarchs could permit the emergence of livelier civil society organizations, including unions, without endangering their hold on power (Zartman 1997; Lust-Okar 2005). Labor representation, however, varies substantially in the two non-oil monarchies. From the 1960s onward, both Jordan and Morocco permitted the establishment of unions with collective bargaining rights and legalized the right to strike, albeit subject to various restrictions, but labor representation diverged in the two countries. In Jordan, the monarchy banned political parties in 1957 and only re-legalized them in 1992. Jordan's single confederation, therefore, evolved without any linkages to political parties, denying labor the opportunity to exert direct pressure on political institutions. Although political contestation was carefully controlled, Morocco allowed multi-party electoral competition throughout the post-colonial era and developed competitive unionism with the two largest confederations linked to political parties that were in opposition to the monarchy through the mid-1900s. The resultant pattern of competitive unionism has afforded Moroccan workers the greatest freedom in the region.[8] Direct ties between Moroccan and French trade unions also helped establish a tradition of labor activism dating back to the colonial era (Ayache 1993).

Despite the variation between Jordan and Morocco, different regime types correspond to distinct patterns of labor organization in the region. With the notable exceptions of Morocco and, more recently, Oman, union competition is virtually non-existent throughout the region. But the absence of union competition arose for different reasons in countries with distinct regime types. In most oil-rich monarchies, unions simply did not exist until recently, whereas the single-party regimes have

[7] Authors' interviews with a number of trade unionists between 1987 and 2000 in Egypt, Jordan, Morocco, and Tunisia revealed that employers commonly forced workers to sign blank resignation letters at the time of hiring, falsely stating that they had received their severance entitlements, in order to evade labor regulations. Employers were also known to bribe labor inspectors to underreport the number of employees at their firms, reducing their mandatory insurance contributions and impeding unionization where the law specified a minimum workforce size for the establishment of a union.

[8] Nonetheless, the extent of political freedoms in the non-oil monarchies should not be exaggerated. In both countries, governments had to rely on interference and repression, rather than a loyalist party–union symbiosis, to achieve the control they desired, and they did so extensively prior to political liberalization in the early 1990s. Furthermore, the Jordanian and Moroccan monarchies retained the power to ignore legislative decisions, dismiss the assembly, and/or issue important policies by decree.

crushed independent social mobilization and established state corporatist unions (Collier and Collier 1979).

Measuring Labor Protection in the Middle East

How do Middle Eastern countries fare with respect to labor standards and flexibility, and how do the sub-regional groupings of Middle Eastern political economies compare to each other in the contemporary period? As a first cut to answer these questions, we rely on indices of labor standards—which measure collective labor rights such as freedom of association, collective bargaining, and the right to strike—and labor market flexibility—which indicates the ease with which employers can hire, fire, and adjust working hours.[9] Table 2 depicts the average scores of de jure and de facto labor standards and flexibility indicators by sub-regional group, comparing them to the regional and world averages. The table shows that the Middle East as a whole has the lowest levels of labor protection in the world. But these sub-groupings of political economies and individual countries within them exhibit wide variation on these measures. The non-oil monarchies have slightly higher levels of protection than the world average, while the Gulf oil monarchies have particularly low levels of protection—pulling the regional average down—despite improvements in recent years.

Labor Standards

Table 2 and Fig. 1 show that the oil monarchies have by far the lowest legal standards of labor protection in the region, ranging from the virtual absence of de jure rights in Saudi Arabia and the UAE[10] to relatively high levels that even exceed some of the post-communist countries of Eastern Europe and the former Soviet Union, which boast the highest average levels in the developing world. The non-oil monarchies have the highest scores of all the regional political economy types, with significantly higher levels of legal protections in Morocco than in Jordan. Thanks to post-independence populist social contracts, which promised (although did not always deliver) social rights to the poor and, especially, public sector employees, the single-party republics have levels of de jure labor standards that exceed the regional average, although their measures fall short of the global average.

On average, the oil monarchies have the lowest levels of de jure labor standards, but this grouping encompasses wide variation. Bahrain, Oman, and Qatar have labor standards on par with the lower-income countries in the region, while Saudi Arabia, Kuwait, and the UAE have low or nearly absent formal legal protection for labor standards. This variation is due to recent developments. As the discussion below explains, the implementation of de jure labor standards in some oil monarchies is driven in large part by external pressure for compliance with international labor

[9] For a description of how these indices are constructed, see Stallings (this volume).

[10] In practice, Saudi and Emirati citizens enjoy greater social protection than labor laws suggest given access to extensive welfare entitlements from the state.

Table 2 De jure and de facto labor standards and flexibility scores in the Middle East (2006)

Category/country	De jure labor standards	De facto labor standards	De jure flexibility	De facto flexibility
Oil monarchies	42.7	31.4	62.5	66.2
Bahrain	68.6	48.0	75.3	76.9
Kuwait	47.9	32.8	57.7	62.0
Oman	72.9	50.6	72.8	74.6
Qatar	67.1	56.8	51.7	56.8
Saudi Arabia	0.0	0.0	60.5	65.4
UAE	0.0	0.0	57.1	61.6
Single-party states	66.9	38.1	51.5	60.7
Algeria	78.6	51.5	52.3	61.8
Egypt	53.6	26.8	46.4	56.6
Syria	61.4	27.2	47.0	59.0
Tunisia	84.3	55.7	51.8	58.5
Yemen	56.4	29.5	59.8	67.5
Non-oil monarchies	78.2	51.4	51.9	61.1
Jordan	71.4	45.3	71.8	74.0
Morocco	85.0	57.5	32.0	48.2
Regional average	58.6	37.1	57.1	63.7
World average	72.2	45.7	52.2	60.9

Calculated according to methods explained in text and appendix of Stallings (this volume; world average is the average of the four regions analyzed in this project

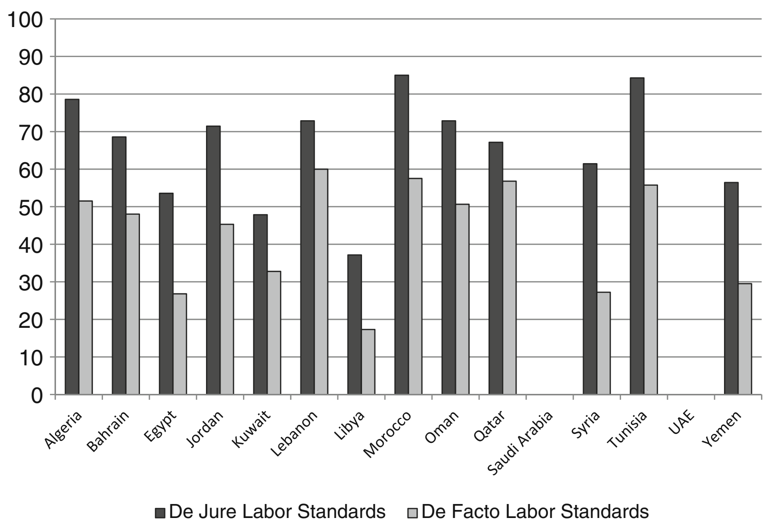

Fig. 1 De jure and de facto labor standards in the Middle East (based on Table 2)

standards combined with growing recognition of the need to indigenize the workforce. It is important to emphasize, however, that improved labor standards apply only to indigenous labor, qualifying the extent and substantive meaning of these reforms.

In all three political economy groupings in the Middle East, de jure rights far surpass de facto experiences of these rights. The non-oil monarchies and single-party republics, which enshrine a comparatively wide array of labor rights on paper, exhibit a much larger gap between formal and actual standards than their oil-rich counterparts. The spread is approximately 26 percentage points in both groups of lower-income countries and about 11 points in the oil monarchies. Not surprisingly, the gap is highest in countries with more extensive formal labor standards, indicating a widespread lack of compliance with official regulations in the non-oil monarchies and single-party regimes. The oil monarchies exhibit less disparity between legal standards and enforcement simply because they have fewer legal protections. Nonetheless, within the Gulf oil states, countries that have improved labor standards, notably Bahrain, Oman, and, to a lesser degree, Qatar, also exhibit a substantial gap between de facto and de jure rights.

ILO Core Labor Standards

The ratification of the core labor standards of the International Labor Organization (ILO) provides another measure of labor protection in the region—at least on a symbolic level. The internationally recognized core labor standards address child labor, forced labor, non-discrimination, and freedom of association and organizing rights, with two conventions per topic. Table 3 shows the dates of convention ratifications, or lack thereof, for the Arab countries.

A cursory look at the table reveals that the wealthier Gulf oil countries have been much more hesitant to ratify the core conventions, especially those related to freedom of association. The oil states have also been the slowest to adopt the conventions that they chose to sign, with ratification only decades after their initial proclamation by the ILO. The single-party regimes, however, adopted all conventions, often shortly after their creation, while the non-oil monarchies signed all but the convention on freedom of association, generally with little delay.

Convention ratification, of course, does not necessarily correlate with either law or actual practice in a given country. For example, neither Jordan nor Bahrain has ratified Convention 87 on freedom of association, but trade unions have operated legally in Jordan since the 1950s. Bahrain, which outlawed unions in the early 1970s, recently permitted their establishment, and a seemingly vibrant labor movement has emerged. On the other hand, ratification does not guarantee adherence to the standards embodied in these conventions. Both Syria and Egypt were early signatories to Convention 87, but both allow for only one trade union confederation to represent workers, a clear violation of the accord. Tunisian and Jordanian unions are also non-competitive in practice, although the Tunisian government has at times experimented with sponsoring a rival confederation when the extant organization appeared to threaten to the regime.[11]

[11] Cammett interviews: Former UGTT representative and director of a non-governmental association, Tunis, July 13, 2000; Officials, UGTT, Tunis, July 17, 2000.

Table 3 ILO core standards: ratifications by political economy type, country, and year in the Middle East

Category/country	Child labor		Forced labor		Non-discrimination		Freedom of association	
	#138	#182	#29	#105	#100	#111	#87	#98
Single-party states								
Algeria	1984	2001	1962	1969	1962	1969	1962	1962
Egypt	1999	2002	1955	1958	1960	1960	1957	1954
Syria	2001	2003	1960	1958	1957	1960	1960	1957
Tunisia	1995	2000	1962	1959	1968	1959	1957	1957
Yemen	2000	2000	1969	1969	1976	1969	1976	1969
Non-oil monarchies								
Jordan	1998	2000	1966	1958	1966	1963	n.r.	1968
Morocco	2000	2001	1957	1966	1979	1963	n.r.	1957
Oil monarchies								
Bahrain	n.r.	2001	1981	1998	n.r.	2000	n.r.	n.r.
Kuwait	1999	2000	1968	1961	n.r.	1966	1961	2007
Oman	2005	2001	1998	2005	n.r.	n.r.	n.r.	n.r.
Qatar	2006	2000	1998	2007	n.r.	1976	n.r.	n.r.
Saudi	n.r.	2001	1978	1978	1978	1978	n.r.	n.r.
UAE	n.r.	2001	1982	1997	1997	2001	n.r.	n.r.

Source: International Labor Organization (http://webfusion.ilo.org/public/db/standards/normes/appl/appl-byCtry. cfm?hdroff=1&CTYCHOICE=0020&Lang=EN)

n.r. not ratified

It does not follow, however, that the same actors and interests will be involved in the political dynamics of the different categories of standards. For example, in authoritarian countries in the Middle East and other regions, governments may be especially reluctant to grant freedom of association and collective bargaining rights not because of economic pressures from employers but simply for fear of sanctioning any large, independent civil society organizations.

Labor Flexibility

Within the Middle East, variation in flexibility is less pronounced than seen with respect to labor standards, but comparable sub-regional patterns hold (see Table 2 and Fig. 2). The oil monarchies feature slightly higher levels of de jure flexibility, while the single-party regimes have less flexible legal conditions for labor contracts. The two cases of non-oil monarchies, however, differ substantially, with far more de jure flexibility in Jordan (nearly 72 points) than in Morocco (32 points). Again, this gap is due to historical legacies of union organization and labor mobilization, which are in turn result from the longer and more extensive industrialization experience, the institutionalization of a competitive union structure and the influence of French trade unionists in Morocco. Nonetheless, the region as a whole exhibits the highest levels of de jure flexibility in the world regardless of sub-regional political economy type.

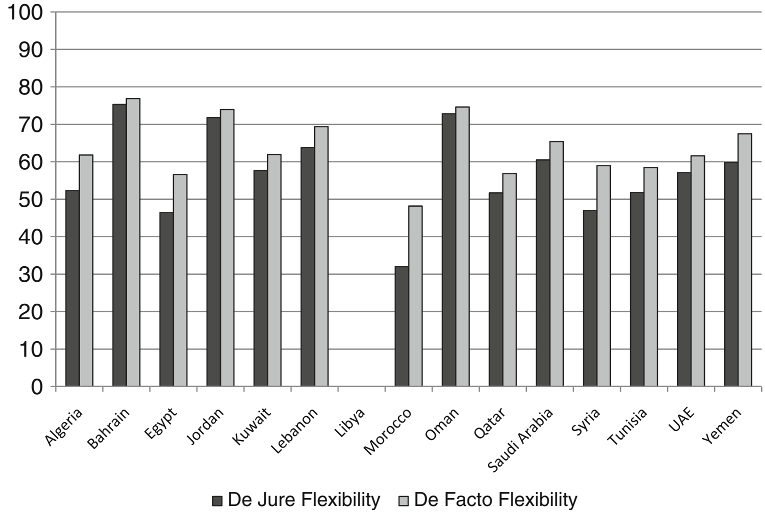

Fig. 2 De jure and de facto labor flexibility in the Middle East (based on Table 2)

Similar sub-regional patterns apply with respect to the actual enforcement of hiring and firing conditions. The gap between de jure and de facto flexibility is higher in the non-oil monarchies and single-party regimes (about nine points) and lower in the oil monarchies (less than four points) because the former sets of countries established more extensive legal rights on paper than the latter, leading to greater room for discrepancies. Characterized by established labor movements and populist regimes, the single-party republics instituted relatively rigid labor contracts designed to protect workers, but in practice, the conditions of these contracts are routinely ignored or circumvented. Furthermore, significant portions of the workforce are effectively excluded from such contracts, which only applied to formal sector labor.

With their heavy reliance on imported labor, the oil monarchies historically favored more flexible labor contracts, both de jure and de facto. As we will see, however, in the past few years, economic diversification efforts and increased pressure to adopt international labor standards have compelled some Gulf oil monarchies to enact restrictions on the terms of hiring and firing workers as they seek to indigenize their labor forces. In other words, de jure flexibility has decreased, at least for citizens—unlike the situation in most parts of the world. As with de jure flexibility, the two non-oil monarchies diverge with respect to de facto flexibility, with a larger gap between law and reality in Morocco than in Jordan. With much higher de jure scores, Moroccan has more room for inconsistencies between de jure and de facto flexibility than Jordan.

An overview of de jure and de facto labor standards and flexibility as well as ratifications of ILO conventions reveals divergent patterns of labor protection in the Arab world. In general, the wealthy Gulf oil monarchies have adopted lower labor standards and higher levels of flexibility and have ratified fewer international labor conventions. The non-oil monarchies have afforded the most rights to workers and have ratified all international conventions, with the notable exception of Convention 87 that protects freedom of association. Finally, given their populist legitimating ideologies, the single-party regimes grant relatively high levels of de jure protection to workers, as reflected in domestic laws and the ratification of international conventions, except with regard to freedom of association and collective bargaining. In all countries, the gap between de jure and de facto rights is substantial but is lowest in the Gulf oil monarchies, which did not implement extensive protection for workers with a few recent exceptions. Durable authoritarianism and associated restrictions on the mobilizational capacity of labor throughout the region ensure that workers have little ability to defend their rights in practice.

Changing Labor Standards in the Middle East

Based largely on indicators measured in 2006 to 2008, the data on labor standards and flexibility presented above provide a snapshot of the recent situation. It is equally important to take a longer-term view since labor regimes in the three sub-regional country groupings have evolved in the decades after most Middle Eastern countries were created or gained independence in the mid-twentieth century. What roles have international versus domestic influences played in driving these changes? The two sections trace the evolution of labor standards and flexibility, respectively, in the region, drawing on examples from specific countries that represent the three different political economy types. We focus on the drivers of change and persistence in labor regimes, including international organizations, Western governments, and domestic actors.

Both oil-rich and oil-poor countries have witnessed moves toward improved labor standards in the past decade, but the dynamics and sources of reform vary. The changes have been most pronounced in the wealthy oil monarchies where the driving forces of change have been trade negotiations with the USA as well as state-led initiatives to indigenize the workforce as part of economic diversification efforts. By contrast, in the lower-income Arab states, long-standing de jure labor standards have been enhanced in the past decade as unionists fought for (and sometimes won) compensation for ceding job security in domestic negotiations over new labor laws. In practice, however, labor standards are not upheld. Firms continue to dismiss workers for union activity, while single-union confederations do not always protect the rights of workers, particularly in the private sector.

The Oil Monarchies

Periodic downturns in the oil market since the mid-1980s have made the Gulf countries aware of the need to diversify their economies. In particular, the smaller countries recognize that they must prepare for the eventual depletion of their hydrocarbon reserves. At the same time, burgeoning populations have recently made it difficult for the wealthy oil exporters to sustain their generous social welfare programs and to provide government employment for new entrants to the labor force.[12]

[12] The effect was particularly noticeable in Saudi Arabia where per capita GDP (current US dollars) fell from $17,108 in 1980—then among the world's highest—to around US$7,321 in 1998, temporarily dropping it into the upper-middle income category (World Development Indicators).

In the late 1990s, the Gulf oil monarchies also launched efforts to expand private sector job opportunities for citizens. Referred to as "Saudization," "Omanization," and so forth, these programs offered incentives to businesses for the hiring of nationals and/or set up quotas on the proportion of expatriate labor that businesses can employ. Still, if they were to be attractive to native job seekers, the new employment opportunities had to provide decent working conditions at relatively high wages. In short, nationals would expect labor laws to be observed. Thus, to the degree that these indigenization programs succeed in displacing migrant labor with citizens, employers will face more, rather than less, regulation. In this sense, indigenization efforts appear to support the enactment of and even actual adherence to improved labor standards.

The real push to adopt improved labor standards has come from abroad. In the last 5 years, some Gulf oil monarchies—notably Bahrain, Oman, and Qatar—have instituted markedly improved de jure labor standards.[13] In Bahrain and Oman, these reforms can be traced directly to the signing of FTAs with the USA, which has required adherence to international labor standards in such agreements as a result of congressional pressure. Under the Bush administration, the USA began to seek expanded trade relations with Middle Eastern countries, officially as part of broader efforts to encourage economic and political reforms in the area. In 2000, Jordan was the first Arab country to sign a US FTA, which took effect in 2001. Accords with Morocco and Bahrain were announced in 2004 and with Egypt in 2007. An agreement with the United Arab Emirates is in process. Saudi Arabia, Egypt, Kuwait, Qatar, Tunisia, and Yemen have signed Trade and Investment Framework Agreements (TIFAs) with the USA, which could serve as a prelude to FTAs and indicate future interest in establishing deepened trade relations through a full-scale free trade arrangement (USTR 2004a, b). Given the region-wide interest in establishing FTAs with the USA, the prospect of signing an agreement can compel some preemptive improvements in de jure labor standards even for those countries that have not yet signed an accord.

The US FTAs differ markedly from agreements signed with the European Union (EU), the Middle East's largest trading partner for non-oil exports. In the 1990s, the EU undertook an initiative to liberalize trade relations with, and investment in, the Middle East. The Euro-Mediterranean Partnership, commonly known as Euromed, was signed in 1995, followed by individual association agreements with the participating Middle Eastern countries. Today, the partnership includes seven Arab countries—Algeria, Egypt, Jordan, Lebanon, Morocco, Syria, and Tunisia—as well as the Palestinian Authority and the Gulf Cooperation Council, a trade bloc that comprises Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE (EFTA n.d., European Free Trade Agreements; www.efta.int/content/free-trade/fta-countries). While the EU agreements include requirements that the participating countries respect human rights, they do not specify adherence to core labor standards, and there is no evidence that the EU has pressured its Euromed partners to reform policies that contravene these standards, engendering criticism from within the EU itself (Martin and Byrne 2004).

[13] Little scholarly research addresses the renegotiation of social contracts in the Gulf oil monarchies, preventing a more comprehensive treatment of variation in the evolving labor regimes of these countries.

Unlike the EU accords, the US agreements specify adherence to international labor standards. Although this injunction does not compel the signatories to overhaul their labor legislation,[14] the US FTAs appear to have advanced freedom of association in the oil monarchies. Prior to the FTA talks, the Gulf monarchies historically prohibited unionization, with the exception of Kuwait which has a long tradition of political contestation (Herb 1999). Instead, some Gulf countries permitted a form of workplace organization but not actual unions. For example, Bahrain had a small but active trade union movement at the time of the British departure, and although they were outlawed in the early 1970s, unions retained an underground presence. Beginning in the 1980s, the government fostered joint labor–management committees (JLC) in which workers were allowed to select their representatives, mainly in the public sector. The Ministry of the Interior retained the right to exclude candidates deemed a threat to national security, but the JLC elections were considered fair by outside observers. Although the committees were empowered to discuss wages, working conditions, and labor disputes, they did not constitute independent labor organizations and lacked the right to bargain collectively on their members' behalf. The 1974 Security Law, which forbids actions deemed detrimental to the "existing relationship" between employers and employees or to "the economic health of the State," was understood to prohibit striking. Nonetheless, some instances of minor job actions did occur without government interference and won some improvements for workers (US State Dept., Bahrain, various years).

De jure labor standards have made significant advances in Bahrain and Oman, which signed FTAs with the USA, as well as in Qatar, which signed a TIFA. Concomitant with their US talks, the three countries undertook limited political liberalization agendas, and labor law reforms occurred as part of these processes. New labor codes were issued in Bahrain in 2002, Oman in 2003, and Qatar in 2005. These three countries recently legalized unions, while Saudi Arabia and the UAE now permit independent committees to represent workers in limited ways in individual establishments. The Bahraini labor reform of 2002 expanded freedom of association, albeit falling well short of full adherence to international standards. Workers are now allowed to join unions, which are explicitly empowered to bargain collectively, within a single confederation (USTR 2004a, b; US Department of State 2003, 2005). Freedom of association has advanced even further in Oman where a 2006 reform gave workers the right to unionize and permitted a competitive union structure (ITUC-CSI Reports 2007–2009; Natlex 2007–2009). In some countries, even non-national workers have gained some limited rights, but most Gulf countries only permit nationals to join unions or workers' committees. Oman no longer restricts union participation by nationality, while Qatar permits foreign workers to take part in joint labor–management committees.

[14] The actual language of the agreements calls on countries only to enforce existing labor laws. Where the laws are in conflict with ILO standards, there is no formal requirement for the countries to change either the letter of the law or the practice. Mechanisms exist for consultation over discrepancies, but it is not clear that the USA has the political will to challenge friendly regimes with these provisions. Moreover, domestic organizations such as unions are not permitted to file complaints about non-compliance as part of these arrangements. Thus, labor activists who might seek to promote competitive unionism cannot challenge monopolistic union structures through the FTA mechanisms.

Strikes are explicitly legalized in the new Bahraini law, but restrictions similar to those in the single-party republics countries are imposed. The law requires that three quarters of a union's members approve a strike decision and that unions give the employer and the government two weeks' notice before striking. It also forbids strikes in "vital" sectors including security, civil defense, airports, ports, hospitals, communications, telecommunications, electricity, and water (Lee 2005). In Oman, the 2003 labor law did not explicitly outlaw strikes, which appeared to increase labor unrest. The 2005 US State Department Human Rights report for Oman records four job actions in 2004 (US Dept. of State, Oman 2006), whereas previous years' reports note their absence (US Dept. of State, Oman 1996, 2001). In 2006, further labor reform legalized "peaceful" strike actions in Oman (ITUC-CSI 2007).

In each case, the office of the USTR has hailed the labor reforms, but international labor organizations remain critical. The new FTAs obligate each signatory to abide by both international labor standards and its own labor laws, but only the latter provisions are enforceable through a dispute settlement mechanism, allowing violations of the standards to go unchallenged (Labor Advisory Committee 2005). The ILO standards on non-discrimination call for equal treatment of workers in hiring, wages, and working conditions regardless of gender, ethnicity, or citizenship. Gender discrimination remains a problem throughout the Middle East.[15] For the oil monarchies in particular, the exclusion of migrant laborers from the full protection of labor laws is an added dimension of non-compliance with these standards. Although the US FTAs depart from the ILO by failing to specify non-discrimination (Polaski and Vyborny 2004: 98), two of the Gulf signatories to the accords recently modified legislation on the treatment of migrant workers. In Bahrain, regulations introduced in 2008 and 2009 prevent employers from holding the passports and limiting the movement of foreign workers, while a 2006 royal decree in Oman no longer requires union members to speak Arabic (ITUC CSI 2007–2009; Natlex 2007–2009). Modifying these restrictions and bringing migrant workers into the leadership of the new workers' organizations will be crucial next steps.

The Non-Oil Monarchies and Single-Party Regimes

In the lower-income Middle Eastern countries, whether monarchies or single-party regimes, economic crisis and the consequent adoption of economic reform programs under the direction of the IFIs, coupled with pressure from domestic business interests, have had a more palpable effect on labor reform than in the oil-rich states, while the influence of FTA negotiations is mixed. In Morocco, pressure from the USA prior to the signing of the FTA supplemented the demands of domestic labor groups for reform. For example, the US House Committee charged with monitoring Morocco's labor practices in association with the FTA sought assurance that the Moroccan government would honor the pledge it made during negotiations over the new labor law not to use the penal code to prosecute strikers (US Dept. of Labor

[15] Recent studies indicate that the Middle East lags behind all other world regions in female labor force participation, and various human rights reports document cultural and legal barriers to female employment (Kelly and Breslin 2010; Ross 2008; Tzannatos and Kaur 2003; Nazir and Tomppert 2005).

2004). In Jordan, however, the negotiations had little effect prior to the establishment of the FTA, although some post hoc changes may have resulted from US pressure (GAO 2009). The agreements do not appear to have prompted any significant additional progress toward adherence to labor standards. In fact, even after signing FTAs with the USA, neither Jordan nor Morocco has ratified ILO Convention 87 on Freedom of Association and Protection of the Right to Organize.

During the late 1980s and 1990s, the lower-income Middle Eastern countries suffered economic downturns and worsening balance of payments, consequences not only of their import substitution strategies but also of an oil market downturn that adversely affected any hydrocarbon export earnings as well as transfers and worker remittances from the wealthier Arab states. Although oil-poor and/or high population, the economies of these countries were linked to the wealthy oil exporters both through aid receipts and, following the 1974 oil price boom, by significant worker migration to the Arab Gulf states.

Between 1994 and 2003, both the single-party regimes—including Algeria, Egypt, Jordan, Tunisia, and Yemen—and the non-oil monarchies—Jordan and Morocco—enacted new labor codes, while Syria modified its legislation on work conditions and the minimum wage for certain occupational categories. In all cases, the negotiations over the new laws initially involved representatives from labor unions, business organizations, and the government. In some cases, such as Egypt and Morocco, the negotiations also included local legal experts and even ILO advisors. In Jordan, however, labor union representatives withdrew from the committee shortly before the bill was submitted to parliament, which approved it without their support.[16]

Domestic negotiations over labor reform centered on the flexibility of hiring and firing, but bargains struck between labor representatives, the state, and in some cases business groups had important implications for labor standards. In exchange for accepting more flexible labor contracts, union officials insisted upon the institution of improved standards. In some single-party regimes and the non-oil monarchies, union leaders prioritized the protection of organizing rights.

Although the right to unionize is guaranteed in Tunisia's Constitution, the country's single union confederation (the UGTT) charged that domestic private sector employers wrongfully dismiss workers for union activity, while some foreign firms prohibit unions in their factories. Morocco's old labor laws did not provide any specific guarantees against the persecution of union activists. Union organizers in the private sector routinely faced harassment and arbitrary dismissals, while repression of organizers was common in some areas, such as the Salé Free Trade Zone, and widespread in the informal sector. In both countries, unionists won specific prohibitions again anti-union discrimination by employers in the recent labor laws, although UGTT complaints that Tunisian labor organizers are subjective to harassment did not recede after the reforms (Icon Group 2000: 53–54; ICFTU, Morocco 2003; US State Dept., Morocco 2004; US State Dept., Tunisia 2006).

Both Egypt and Jordan already had laws explicitly prohibiting the persecution of union organizers, and this did not become a focus of talks in either country. In practice, however, freedom of association is not safeguarded. In Egypt, the leadership of the Egyptian Trade Union Federation (ETUF) has been slow to organize in the private sector

[16] Posusney interview: Labor union representative, Amman, Jordan, July 2003.

where the need for protecting workers' rights is greatest, and rank and file workers seeking to establish new union locals face persecution. In Jordan, the International Confederation of Free Trade Unions (ICFTU) alleges that the 1996 law does not sufficiently protect unions from acts of interference by employers or government officials and reports that the government has dismissed public sector employees for political reasons. In both countries, the new laws also require a minimum of 50 members for the establishment of a new union local, which the ILO considers a violation of Convention 87 (Solidarity Center 2005). This barrier will become increasingly salient to the degree that future employment generation strategies rely on small- and medium-sized enterprises.

Prior to labor reforms, both Tunisia and Morocco had constitutional guarantees of collective bargaining rights, although the practice was more extensive in Tunisia than in Morocco where the provisions in the labor code were weak. Morocco's unions won firmer protections for collective bargaining in the 2004 labor law, which also enhances the status of unions through provisions mandating their participation in both plant-level and national policy consultations. In Tunisia, a requirement for government approval of collective agreements was maintained, but no cases of official rejection of such accords have been reported.

In Egypt, the old labor law did not preclude collective bargaining, but in practice, this right was not exercised because the bulk of union membership was in the public sector where the government sets wages, benefits, and job classifications. Unionized private sector firms generally adhered to the same regulations and often set wages higher in order to attract the best employees away from government employment. The new Egyptian law explicitly grants collective bargaining rights but specifies annual wages increases for workers and periodic reviews of the minimum wage, thus reducing the scope for collective agreements (Economist Intelligence Unit, Egypt 2002 and 2005; ICFTU, Egypt 2005; US Department of State, Egypt, various years, www.eiu.com/index.asp?rf=0).

Recent labor reforms in the poorer countries have generally incorporated some expansion of the right to strike. The effect was most dramatic in Egypt where work stoppages had been effectively blocked since shortly after the military came to power in 1952. Thereafter, although work stoppages did occur, they were generally organized by rank and file dissidents rather than union leaders, and security forces routinely arrested and sometimes tortured strikers (Posusney 1997). The new law contains provisions for legalizing strikes, but severely restricts the possibility to hold permissible work stoppages by requiring two thirds of the federation's leadership to endorse a walkout at individual plants, thereby denying decision-making power to the locals where militants have been most successful at gaining influence. In addition, strikes are still prohibited while contracts are in effect, during mediation and arbitration, and in vital services that are defined broadly (ICFTU, Egypt 2004; US Dept. of State, Egypt 2004).

In Tunisia, strikes were permitted before the labor law reform but required the approval of the UGTT central office with 10 days' advance notice and granted the government the right to order binding arbitration. In negotiations over the new law, the government agreed to limit this prerogative to essential services, but the list of services to which it applies has not been published, leaving the provision open to abuse. The new law retains advance notice and central approval restrictions on striking (Alexander 2001: 109–118; ICFTU, Tunisia 2004).

Jordan saw the least official change, although there has been some improvement in labor standards in practice. The new labor code retains prior provisions prohibiting work stoppages during arbitration, effectively requiring unions to obtain official permission for strikes since the government has the prerogative to order arbitration for any industrial dispute. The law also retains a requirement that workers provide 2 weeks' notice to employers before striking, increased to 28 days for public service employees. Even these limited freedoms can be suspended because the Ministry of Labor can seek a court order to disband a union if it is involved in an illegal work stoppage, sit-in, or demonstration. The law also specifies fines for workers engaged in illegal strikes, which were increased over the previous law. Since the late 1990s, however, unions have at times been able to strike without following these laws, and on occasion, the government has even protected workers who were dismissed for participation in unsanctioned work stoppages (Jordan Ministry of Labor 1997/1998: 10, 12, 35, 40; US State Dept., Jordan 1999; El-Mikawy and Posusney 2001: 56–60).

Under Morocco's old labor laws, work stoppages were not illegal, except in some state-run services. Indeed, where public sector strikes were permitted, workers were legally entitled to be paid during job actions. In some sectors, such as railways, workers could also be penalized if the strike had <40% participation, requiring coordination among rival unions for strikes to succeed.[17] The old law also mandated compulsory arbitration of disputes, and strikers were often prosecuted. Unions won several victories in this area in negotiations over the new code, which eliminates the employer's prerogative to initiate criminal proceedings against striking workers. Employers also failed to win their demand for a requirement that two thirds of a union's membership must approve a strike, and they promised to limit the prosecution of strikers.

This brief overview of the evolution of labor standards has indicated the relative importance of international actors, notably the USA, in improving labor standards in the Gulf oil countries. In the non-oil monarchies and single-party republics, however, domestic factors have been more decisive. In exchange for concessions regarding the terms of labor contracts, union leaders were able to push for improved labor standards in a variety of domains. Once again, the empirical record reveals the relative improvement of labor standards in Morocco where competitive unionism has enabled greater representation of workers' interests. Although the IFIs favored labor reform in general, they prioritized labor flexibility over labor standards. The reform of labor standards legislation was largely the result of negotiations among domestic business and labor groups with the state.

The Evolution of Labor Flexibility in the Middle East

As with labor standards, distinct trajectories of change also emerge across the oil and non-oil/high population countries with respect to flexibility. The oil monarchies have always had flexible labor systems. In the oil-poor monarchies and single-party republics, flexibility has increased due to economic crises and the resultant pressure

[17] Posusney interviews: Labor union representatives, Rabat, Morocco, June 2002; Economist, Rabat, Morocco, June 14, 2002.

for flexibilization initiated by IFIs, but championed by domestic business groups with the support of the state.

The Oil Monarchies

The Gulf oil monarchies represent an unusual situation with respect to the flexibility of labor markets. On the one hand, these countries have had flexible hiring and firing conditions for decades due to the segmented nature of the work force, which is split between nationals and high numbers of foreign workers. Because of their great wealth, especially after the oil boom in the 1970s, jobs considered undesirable were carried out by foreign workers from the poorer Middle Eastern countries and from Asian neighbors.[18] Data on the number of migrant workers in the Gulf states are sparse, but recent estimates indicate that foreign labor constitutes a high percentage of the workforce in most Gulf states. The proportion of migrant workers ranges from 57% in Bahrain, 65% in Saudi Arabia, 77% in Oman, 85% Kuwait, to over 92% in Qatar and the UAE (UAE 2005; Kapiszewski 2006; Dito 2007; Shah 2007; Das and Ghokale 2009; ILO 2010).[19] The Gulf countries represent an extreme form of dualism in the labor market (Piore 1979: 9). Foreign workers enter the Gulf countries through the *kafala* or sponsorship system in which a sponsor–employer assumes full economic and legal responsibility for migrant workers. These workers face highly flexible hiring and firing conditions and, thanks to the threat of deportation, often do not report violations of their contracts (Sassanpour et al. 1997: 33–34; Longva 1999: 21).

Citizens, on the other hand, enjoy job security, particularly in the government sector, as well as far less flexible labor contracts. For example, limits are placed on working hours, severance pay is required, and vacation and sick leave are guaranteed. Oil wealth also enabled the Gulf monarchies to provide substantial subsidies to their citizens so that many did not have to work outside the privileged state sector, which offered family, housing, and transportation allowances and, in some cases, included pensions that did not require contributions during the period of employment. In terms of monetary value, these benefits generally equaled or even exceeded wages. Some countries, such as Bahrain, Oman, and Saudi Arabia, stipulated pensions for nationals in private sector jobs as well. Throughout the Gulf, nationals received preferential access to and benefits in public sector jobs and, in some countries such as Kuwait and the UAE, over 90% of nationals were employed in government agencies. Furthermore, citizenship laws gave nationals exclusive or preferential access to government services such as free or subsidized education, health care, water,

[18] A smaller group of foreign workers occupy positions requiring higher skills and technical training beyond the expertise and educational background of most nationals. In practice, however, high-skilled labor migrants enjoy much better working conditions than low-skilled imported labor (Vora 2009: 20).

[19] In the 2000s, the percentage of migrant workers appears to have increased substantially in all Gulf countries. Based on estimates from the 1990s, Longva (1999) reports that foreign workers accounted for 61% of the workforce in Kuwait, 75% in Qatar, 76% in the UAE, 32% in Bahrain, and 27% in Oman and Saudi Arabia.

electricity, and telecommunications (Crystal 1990: 10–11, 78–79; Sassanpour et al. 1997: 33–35).

In the past decade, flexibility has actually been decreasing in the oil monarchies, albeit at enormous cost to migrant labor. As mentioned earlier, two interrelated causal trends are at play. First, there is a perceived need to diversify the economies away from their heavy dependence on oil. Second, economic and political difficulties have led to policies of "indigenization" or the substitution to some extent of foreign by local workers (Kapiszewski 2006: Chapter 10). Oil price drops and a regional recession in the 1980s led to growing concern about unemployment of nationals and the recognition that governments could not act as employers of last resort indefinitely, spurring them to institute policies promoting employment of nationals at the expense of imported labor. In 1988, Bahrain was the first to encourage citizen employment through its Bahranization program. Throughout the 1990s, other Gulf states, including Kuwait, Oman, Saudi Arabia, and the UAE, followed suit (Sassanpour et al. 1997: 36).[20] Thanks to indigenization policies, there is a new demand for greater regulation not just in terms of labor standards as already discussed but also for wages and working conditions for nationals. For low-skilled foreign workers, this trend comes at heavy transitional costs in the form of deportation or dismissal.

The overall trend toward decreased flexibilization does not necessarily mean that hiring and firing conditions are becoming less flexible for citizens of Gulf oil monarchies. At a minimum, job security for nationals has been steady, and private sector layoffs—even of nationals—as well as shrinking bureaucracies suggest that de facto flexibility for citizen employees may have increased marginally in some Gulf states.[21] On a net basis, however, these countervailing trends result in decreased labor flexibility because indigenization calls for the replacement of non-native workers, who face highly flexible working conditions, with natives, who still enjoy relatively high job security.

The trend toward decreased flexibilization and other labor market shifts did not originate from external actors since the oil monarchies had sufficient financial reserves to render assistance from the IFIs unnecessary. Rather, the changes were largely promoted by the governments of the respective countries.

Non-Oil Monarchies and Single-Party Regimes

The increased flexibility of labor contracts in the non-oil monarchies and single-party regimes has followed a pattern similar to that observed with respect to changes in flexibility in other regions. In all countries but Morocco, which retained more de jure limits on the flexibility of labor contracts than other countries, hiring and firing conditions in the non-oil monarchies and single-party

[20] Little research addresses the renegotiation of social contracts between Gulf governments and nationals in the past decade. For an overview of labor market restructuring in the Gulf states from the 1970s through the 1990s, see Kapiszewski (2006). In general, countries with more limited petroleum reserves, such as Bahrain and Oman, were quicker to adopt indigenization policies.

[21] The non-replacement of retired civil servants is the main reason why some bureaucracies in the Gulf state have decreased (Howell 2009; Kapiszewski (2006): 228).

regimes became more flexible. Again, Moroccan exceptionalism reflects that country's long history of competitive unionism.

In the non-oil monarchies and single-party regimes, new labor laws generally eased dismissals of permanent workers and facilitated the use of temporary work contracts, thereby giving employers another means of surmounting any remaining obstacles to downsizing a permanent workforce. Egypt went the furthest by removing the old stipulation that temporary contracts automatically become permanent upon renewal, rendering it unlikely that any new employees will be hired on a permanent contract. Tunisia's new law places a 4-year limit on the length of permanent contracts, effectively facilitating termination of workers after that period, while Jordan places no limit on the length of temporary contracts. Morocco enacted the most restrictive provisions for temporary contracts, permitting only one renewal of the 1-year temporary work contract before it becomes permanent.

Changes in the specific infractions that justify terminating an employee's temporary contract before its expiration exhibit the same pattern, with the most protection for workers found in Morocco. Jordan denies severance pay to workers who are fired for cause; Tunisia lowered the fines employers must pay for abusive dismissals and set ceilings on severance pay obligations; and Egypt modified the legal appeals process for claims of unjust dismissals in a manner that labor activists say disadvantages workers. In Morocco, however, the labor reform did not ease the process of dismissing workers, and severance pay for dismissal without just cause was increased.

The IFIs greatly influenced hiring and firing conditions in the lower-income economies which faced serious budget crises that compelled them to seek international financial assistance. All of the poorer Arab countries except Syria turned to the IMF and World Bank for assistance and entered into structural adjustment agreements that called for trade liberalization, privatization, and reform of their labor laws. In particular, the IFIs cited restrictions on hiring and firing as obstacles to private sector development and employment generation, but also to the privatization of state-owned enterprises which were seen as a source of distorted competition, fiscal deficits, and poor product quality in these countries. Throughout the 1990s and 2000s, the reports of Article IV Consultations between the IMF and the non-oil countries attest to IFI pressure for labor flexibility.[22] IMF documents repeatedly urged Egypt, Jordan, Morocco, and Tunisia to "eliminate [labor market] rigidities," "adapt labor market regulations to the needs of a more flexible labor market," and "enhance the flexibility of labor markets." At the same time, these reports generally neglect the issue of labor standards (IMF Article Four Consultations, Egypt: 2005, 2006, 2007; Jordan: IMF 2006; Morocco: IMF 1998, 1999, 2000, 2001, 2003, 2004, 2005; Tunisia: IMF 1998, 2000, 2002). As in other regions, the conditionality on the IFI loans exerted an influence on the policies of the countries seeking them.

[22] Among other things, Article IV of the IMF Articles of Agreement stipulates that the Fund can oversee the compliance of countries with the obligations they incur as recipients of support (IMF n.d.).

Nonetheless, while the IFIs played a key role in fostering greater flexibility, it would be an oversimplification to trace the phenomenon exclusively to IFI pressures. The governments of these countries faced pressing economic imperatives, in particular the growing inability to provide employment opportunities for high school and college graduates. Although there were few alternatives, turning to multilateral lenders and following their recommendations was nevertheless a policy choice, as illustrated by the Syrian refusal to do so.[23] Nor can it be assumed that government officials necessarily disagreed with the "Washington consensus." In fact, key economic policymakers in each country were trained in Western institutions and supported these policy prescriptions. While they occasionally complained about the pace of reform demanded by the IFIs and expressed fears about the potential for social dislocation, they did not question the underlying philosophy behind the demand for greater flexibility.

Flexibility also had a constituency among some private sector entrepreneurs, particularly those in the export sector (Cammett 2007). The degree of support, however, appears linked to the degree of enforcement of previous labor codes. Where private sector businessmen were able to evade the old laws with impunity, they had less reason to press for reform, especially to the degree that it required bargains to enhance labor organizing rights. This is one explanation for the prolonged delays in enacting reform in Egypt, relative to Jordan and Tunisia.

Finally, although union officials entered negotiations over these laws in a relatively weak position due to repression, they were not entirely powerless. Government reliance on union leaders to minimize the labor unrest that could result from flexibilization gave labor leaders cards to play. In this regard, some cross-country variation in the outcomes of negotiations over labor reform is linked to underlying differences in union power and the nature of union–state relations. In particular, competitive unionism is a key reason for the more "worker-friendly" provisions of the new Moroccan law. Conversely, in the single-party countries and in Jordan, state-dominated union confederations contained built-in mechanisms to ensure compliance with government policy. Union leaders engaged in talks over labor code reforms were generally government loyalists, carefully screened by rulers, with no incentive to pursue limits to government interference in union affairs. Nor should senior leaders at the helm of single union confederations be expected to embrace competitive unionism, which is one of the pillars of Convention 87. For example, labor activists in Egypt charged that the new law did not substantially increase workers' organizing capabilities but rather increased the power of pro-regime unionists over the rank and file. Thus, some dissidents in the union movement

[23] Syria, which did not undergo structural adjustment, nevertheless gave employers considerable flexibility with respect to hiring and firing regulations. Its labor laws permit short- and fixed-term contracts and a wide range of causes for firing workers. While employers are required to notify a third party before dismissing a worker, there is no mandatory retraining or priority rules regarding layoffs. We were unable to determine whether Syrian labor codes have always granted this flexibility or whether these provisions reflect changes that might have occurred during or after a period of limited economic liberalization in the country during the 1980s.

have been struggling to end the ETUF's monopoly on worker representation (Abbas 2009). In Tunisia, dissidents at the lower levels of the single union confederation have adopted a different approach, favoring greater union democracy rather than seeking to establish alternative unions (Alexander 2001).[24]

Labor Standards Versus Flexibility in the Middle East

Having examined the trajectory of labor standards and labor flexibility in the Middle East, it remains to consider the relationship between the two within the region. The other three regions that have been analyzed—after eliminating countries that are outliers for various reasons—all show a significant negative relationship between de facto labor standards and flexibility. Except for Latin America, they also have negative relations between the de jure variables. That is, better labor standards are associated with less flexibility and vice versa.

In the case of the Middle East, by contrast, a positive relationship was hinted at in some cases in the preceding section, especially in the context of a bargaining trade-off in the poorer countries between better collective labor standards in return for labor's acquiescence to more flexibility. The result would be better labor standards and more flexibility in these countries. For the oil monarchies, by contrast, the opposite may be true. At least some of them have improved their labor standards (under pressure from the USA) at the same time that they have reduced flexibility (in response to the need for more reliance on citizens—rather than imported workers—in the composition of the workforce). In both cases, these relationships concern de jure labor market characteristics. In the Middle East, there is a particularly large gap between de jure and de facto scores as legal agreements are frequently disregarded in practice. Persistent authoritarianism and the related lack of labor mobilizational capacity largely explain the extent of the discrepancy.

Focusing on the 2006 data, Fig. 3 shows a very weak negative relationship in terms of the de jure indices. Slightly over half of the countries are located in the upper-right quadrant, indicating high flexibility and high labor standards. The reminder are divided between the upper-left and lower-right quadrants, thus spurring the negative relationship. When violations of these de jure relationships are taken into account, however, the de facto scores cluster mainly in the bottom right quadrant and demonstrate virtually no relationship at all (see Fig. 4). This is true whether or not the Saudi and UAE outliers—with no labor rights—are included.

The weakness of the negative de jure relationship and the virtual lack of any relationship in de facto terms require an explanation in light of the situation in the other three regions we have studied. The most important causal factor is likely to be the vast differences among the political economies of the three subgroups of countries discussed in the paper, especially between the oil monarchies and all of the other countries. The wealth of the former contrasts with the poverty of the latter. Equally important is the structure of their respective economies—principally oil and services in the oil monarchies and significant industrial economies in the others. These economic structures, in turn, lead to different relationships between state and society as manifested

[24] In Egypt, too, some labor activists see single confederations as a tool that can still strengthen the workers' movement, if run democratically.

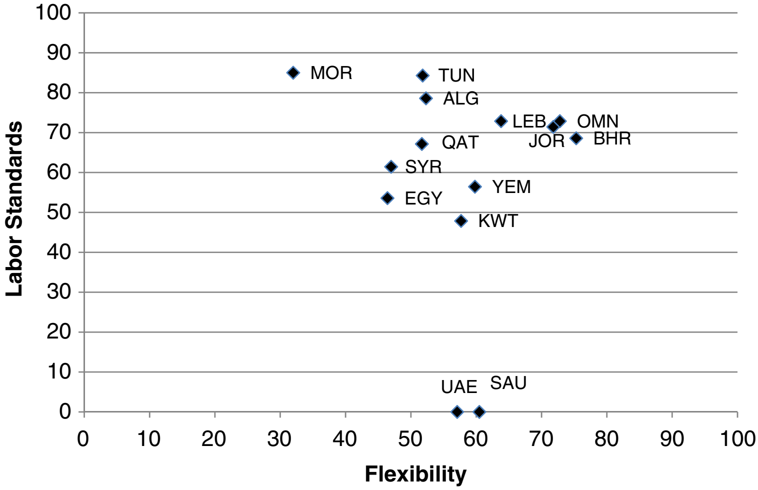

Fig. 3 De jure labor standards and flexibility in the Middle East (based on Table 2)

in the labor sector. Although all governments in the region are authoritarian, labor has traditionally had a stronger role in the non-oil monarchies and the single-party regimes.

The overall result is that these political–economic variations produce opposing relationships between labor standards and labor flexibility across the subgroups, which tend to cancel each other out at the regional level. This was especially the case in the de facto relationship where differences across individual countries in all subgroups narrowed substantially as countries with high de jure rights so frequently failed to implement them.

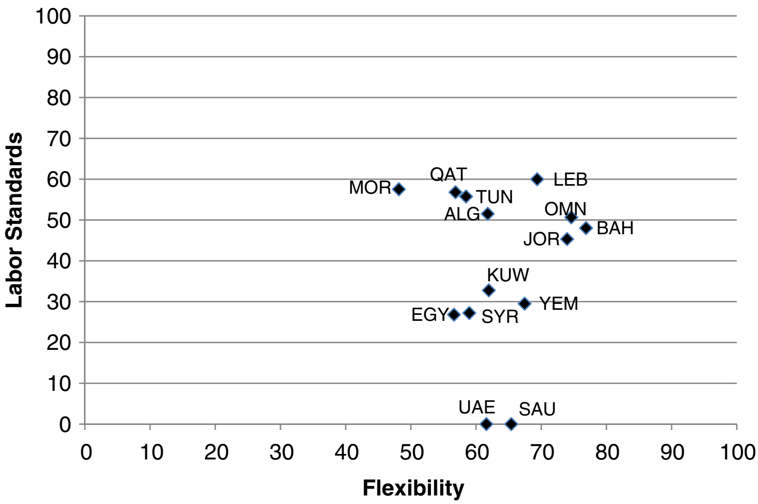

Fig. 4 De facto labor standards and flexibility in the Middle East (based on Table 2)

Conclusion

This paper traces the effects of two seemingly contradictory global trends—pressures to comply with international labor standards and labor flexibility—on labor market dynamics in the Middle East while identifying key players in reform processes. We argue that most of the major Middle Eastern countries fall into one of three categories driven by their underlying resource endowments and associated economic profiles at the start of the 1990s as well as their distinct modes of authoritarianism. The lower-income countries—those either lacking oil or spreading hydrocarbon export earnings across a large population—faced deteriorating external balances, similar to those that have plagued developing countries in other regions, and responded as many other countries did by turning to IFIs for assistance. This brought pressures for labor market flexibility, although governments and segments of business communities were most instrumental in pushing for changes in labor law, notably increased flexibility of work contracts. In negotiations over the new laws, governments and business traded expanded union organizing rights for the acquiescence of labor leaders to more flexible hiring and firing arrangements. Subsequent trade agreements with Western governments may have reinforced the gains for labor made in these talks, but were not the driving force for these reforms.

Within the non-oil, high-population countries, different modes of authoritarian rule, with varying structures of labor representation, also shaped labor reforms. In single-party regimes, which have state-dominated union confederations, populist legitimating ideologies compelled governments to institute relatively extensive de jure labor standards in the decades after independence, but emasculated unions were less able to resist the erosion of labor protection in the 1990s and 2000s. In the monarchies, greater political pluralism permitted more scope for labor organization and, hence, the protection of labor rights during reform processes, particularly in Morocco where competitive unionism has a long history.

The wealthy oil-exporting monarchies of the Gulf had sufficient financial reserves to render IFI assistance unnecessary, although they faced an actual or predicted future decline in their balance of payments positions as well as strained state budgets. For these countries, increased unemployment among the native population sparked policies designed to reduce their dependence on expatriate labor, including reforms that actually reduce the labor market flexibility available to private sector employers. Recent trade agreements, which are accompanied by increased interaction with international labor organizations, have also led to enhanced organizing rights for workers in some of the oil monarchies. It is clear from the empirical analyses presented here, however, that FTAs in and of themselves cannot be relied upon to bring the Arab countries into full compliance with the ILO's freedom of association and organizing standards even while they have led to enhanced workers' rights in some countries. As we have shown, the US FTAs are cautious in this regard, and it remains to be seen whether US administrations will be committed to enforcing even the limited provisions they contain. International labor organizations do have some influence but no mechanisms of enforcement beyond public censure.

Further progress toward workers' organizing rights will need to come from within the countries themselves. Yet the authoritarian climate throughout the region is a major constraint on workers. Though given scant attention in the literature on Middle Eastern authoritarianisms,[25] the issue of labor repression is part of the broader problematic of regime stability and change in the Arab world. To the extent that they pose any demands at all, trade unions throughout the region tend to focus on labor issues and are not active in broader movements for democratic change (Bellin 2002). General political liberalization should enhance union freedoms, and the struggle for organizing rights is intrinsically part of democratization movements (Rueschemeyer et al. 1992; Collier 2002).

Variation in the authoritarian structures of Middle Eastern countries, and related differences in union–state relations, suggests arenas where progress can be expected, at least in the short term. Thanks to both partisan competition and competitive unionism, Morocco is already furthest along in freedom of association and appears to provide the best environment for additional advancement. Indeed, Moroccan unions were able to negotiate the best deal for workers facing flexibility in the recent wave of labor reforms in the Middle East. It will be interesting to see whether Oman's relatively recent acceptance of competitive unionism will lead to similar results in the future.

Conversely, the combination of a hierarchical, monopolistic union structure with a single dominant party, as found in Egypt, Tunisia, and other single-party regimes, has made it much easier for incumbent rulers to control and pacify unions through the cooptation of confederation leaders into the ruling party. In these cases, the fight by dissident labor activists to democratize single union confederations is critical.

Jordan and Bahrain form an intermediate group where the absence of ruling parties affords greater potential for unions to defy government pressures, although their monopolistic and hierarchical structures may still stifle initiative at the base. Thus, this paper lends further support to the comparative finding that single party states appear to have the most resilient form of authoritarianism (Brownlee 2007; Geddes 1999) and suggests the intriguing possibility that some of the historically conservative monarchies of the region may ultimately prove to be the most progressive on labor rights.

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[25] See, for example, Brynen et al. (1995); Posusney et al. (2005).

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