

AN ISLAMIC FEMINISM?  
COMPETING UNDERSTANDINGS OF WOMEN'S RIGHTS IN MOROCCO

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AN ISLAMIC FEMINISM?  
COMPETING UNDERSTANDINGS OF WOMEN'S RIGHTS IN MOROCCO

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## GLOSSARY

The following words have been transliterated from the original Arabic word. In all instances, I have attempted to most closely approximate the English equivalent:

- Allah:* The Arabic word for "God", the supreme being who revealed the Word to the Prophet Mohammed.
- Bid'a:* Any act which is forbidden within the Qur'an, the holy text of Islam.
- Hadith:* Literally translated, "he said", the hadith are the collective sayings of the Prophet Mohammed.
- Ijtihad:* Loosely translated as "interpretation", ijtihad are held as officially recognized interpretations of Qur'anic passages
- Moudawana:* The personal status codes that govern women in Morocco.
- Qur'an:* The holy text of Islam in which the revelations of Allah are recorded
- Shari'a:* Islamic law derived from the Qur'an, the hadith and the Sunna.
- Sunna:* A collection of the supposed acts of the Prophet Mohammed, used in conjunction with the hadith as a tool to facilitate the interpretation of the Qur'an.
- Ulema:* Islamic religious representatives.

## ABSTRACT

The central challenge facing women's human rights activists is the resistance of societies that claim religious and cultural relativism. The literature on this topic is vast as many scholars have considered the competing ideas of universalism and relativism, and the consequent implications on the identification, implementation, and enforcement of women's human rights. Prolific as they may be, these debates have failed to produce a practical path to the understanding and utilization of competing perspectives. The present work attempts to address this void, bridging the gap between theory and practice with the idea of the essentially contested concept, developed by W.B. Gallie. A case study of the women's movement in Morocco is presented as an illustration of women's human rights as an essentially contested concept. The moderate success of the movement in Morocco is evidence that such concepts, though widely disputed, maintain utility.

## INTRODUCTION

In the wake of the Beijing Conference for Women's Rights of 1995 a league of women's groups emerged with the explicit goal of promoting the rights of women globally. These groups, mostly international institutions and western non-governmental organizations (NGOs), advocate women's rights as human rights, and promote their universal application. Despite the support of international legal conventions, the efforts of these activists are commonly challenged, often by governments that claim cultural or religious priorities. This resistance is a particularly formidable obstacle in the Islamic countries of the Middle East and North Africa (MENA). As such, the central question facing these right's activists is how to arrive at an understanding of women's rights that would guarantee a sustainable implementation of women's human rights in the MENA region.

The question of women's human rights has been of great concern within the philosophical and political literature. Numerous debates have arisen concerning the source and definition of women's human rights, as well as their universality. Moreover, placed within the context of the Islamic world, debates have surfaced as to the proper methods to implement these rights.

The debates have had a number of positive affects. They have stimulated NGOs to consider more culturally sensitive approaches, and encouraged international institutions to re-examine positions for possible biases. Unfortunately, the dialogue has failed to produce a clear path or approach to understanding women's human rights. More precisely, there is a problematic lack of literature concerning how to approach and apply the competing perspectives.

To address this void, the present work relies on the essentially contestable concept originally formulated by William B. Gallie.<sup>1</sup> In short, Gallie's thesis holds that there are certain concepts for which there is disagreement concerning the proper use. According to Gallie, contestation itself serves a purpose in that continued debate over the proper use of a term will further develop the concept.

The present work offers data on how such concepts function to create political space. Using the criteria outlined by Gallie, I will show that women's human rights is an internally complex and fundamentally contested term which has value despite its' varying interpretations.

The methodological approach adopted by this work is a case study of the women's movement in Morocco. The data is an overview of the efforts of women's rights NGOs, the government, and religious representatives. These efforts, under close observation, display the complex and variously understood notion of women's rights in Morocco.

To illustrate the utility of women's human rights as an essentially contestable concept, the analysis of current efforts will be followed by an overview of concrete developments in the Moroccan understanding of women's human rights. Developments will be measured by actions such as the adoption of international women's conventions, improvements in domestic codes affecting women, and rhetorical shifts in the State's position concerning women's human rights.

The data itself is a product of personal fieldwork in Morocco. Interviews with NGOs and local women's groups have provided critical information regarding various voices in the Moroccan women's movement. The taxonomy reveals a number of competing interpretations of women's human rights. While larger and more prominent

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<sup>1</sup> William B. Gallie, Philosophy and the Historical Understanding (New York: Schocken Books, 1968) 32.



NGOs have proclaimed their alignment with the Western norm of rights, smaller women's groups have adopted an Islamic referent in their understanding of women's rights. At the far end of the spectrum, Islamist party members and religious representatives have rejected the idea of women's equality as suppressive of Islamic principles.

The paper concludes with an overview of the implications that can be drawn from the developments in Morocco. Certainly, the primary conclusion concerns the incorporation of dialogue into efforts to introduce, implement and enforce human rights. As the case study reveals, dialogue has served to de-polarize oppositional parties and has opened up a once static concept.

## TRANSCENDING THE THEORETICAL: MOVING TOWARDS AN ISLAMIC FEMINISM

The literature concerning human rights, and more specifically women's human rights, has been most prolific in recent years. A number of central debates can be identified within this canon. The present review will examine three of the most prominent, and interrelated, debates.

The most essential dialogue concerns the location and identification of human rights. One side of this discussion holds that human rights are a product of Western tradition and cannot be located in, or translated to, other cultures. Highly relevant to this discussion, is the dialogue on the universality of rights. Universal rights advocates contend that human rights are not distinct to the Western world, but universal in source and application. Human rights, as enshrined in international conventions such as the Universal Declaration on Human Rights (UDHR), reflect a certain understanding of rights. Many scholars have opposed this bias, claiming that human rights are relative to each culture. Finally, there are debates concerning the implementation of rights. To this effect, many scholars have challenged the proclaimed efficacy of international tools such as United Nation's conventions. These scholars hold that such tools are ineffective in non-Western societies, and claim that the only viable approach to human rights is an internal one.

### *Section I: Human Rights, A Western Tradition?*

A review of the current literature must begin with an overview of the debate on the source of human rights. Briefly, the contest is whether or not human rights are a Western concept. In other words, if the concept is Western, can it be located and

identified in other cultures? Jack Donnelly has argued that certain non-Western cultural and traditional practices are devoid of the concept of human rights. He states, "as a matter of historical fact, the concept of human rights is an artifact of modern Western civilization."<sup>2</sup> To this end, he defines human rights as rights, "not benefits, duties, privileges, or some other perhaps related practice."<sup>3</sup> Furthermore, people are *entitled* to rights, "they [human rights] are neither granted by the state nor are they the result of one's actions."<sup>4</sup> Finally, Donnelly argues, human rights, held by individuals, take precedence over group rights, or the society as a whole. This definition has manifested in Donnelly's Universal Declaration Model. In this model, Donnelly recognizes that a clear majority of states have endorsed the Universal Declaration of Human Rights (UDHR). As such, he argues, the rights enshrined in the UDHR represent a set of consensual rights, or a 'model' of human rights. Thus for Donnelly, "'human rights' means roughly 'what is in the Universal Declaration of Human Rights.'"<sup>5</sup>

Donnelly applies this rigid definition to both Islamic and African societies, and concludes that human rights are not a recognized concept in these cultures. Similarly, human rights scholar, Rhoda Howard has claimed, "although all non-Western cultures have their own concepts of justice, none articulate this as equal rights for all human beings regardless of their status."<sup>6</sup> If indeed the philosophical and legal understanding of human rights outlined by Donnelly originated in the West, we must carefully consider whether or not this confirms his claims that the practice of human rights is therefore limited.

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<sup>2</sup> Jack Donnelly, "Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights," The American Political Science Review 76.2 (1982): 305.

<sup>3</sup> Donnelly 304.

<sup>4</sup> Donnelly 305.

<sup>5</sup> Jack Donnelly, "The Universal Declaration Model," Universal Human Rights in Theory and Practice (New York: Cornell University Press, 2002) 22.

<sup>6</sup> Rhoda Howard, "Universal Human Rights," Speech given at McMaster University, Ontario, 12 Nov. 2001.

The eminent Pakistani jurist, Khalid Ishaque admits that the understanding of human rights, as Donnelly has narrowly defined it, cannot be translated into the language of the Islamic holy works. However, Ishaque argues, the concept remains at the core of the Islamic doctrine.<sup>7</sup> The question to consider then, is if in Islam, human rights are formulated as duties rather than rights, are they no longer valid?

Donnelly recognizes that “the social and political precepts of Islam reflect a strong concern for human good and human dignity,”<sup>8</sup> but argues that this is no insurance or acknowledgement of human rights. He emphasizes that “there are important practical consequences to the ways in which we think and talk about human rights.”<sup>9</sup> Donnelly warns that should the international community permit alternative conceptions of human rights, and accept them in lieu of the universal, it will serve to enable and facilitate human rights violations. For Donnelly, “some level of exclusivity is integral to the fundamental nature and function of normative systems.”<sup>10</sup> As we shall see in later discussions, this strict adherence to a narrow definition of human rights that is only partially accepted is of minimal utility.

## *Section II: Relativism and Human Rights*

Donnelly’s dismissal of Islamic human rights is a clear illustration of the dominance of Western values in the international human rights discourse. Surya Sinha addresses this dominance in “Human Rights: A Non-Western Viewpoint” wherein he enumerates the most prominent Western biases: (1) the emphasis on the individual over the community, (2) the primacy of rights over duties, and (3) the implementation of

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<sup>7</sup> Khalid Ishaque, “Human Rights in Islamic Law,” Review of the International Commission of Jurists 12.3 (1979): 3.

<sup>8</sup> Donnelly 198.

<sup>9</sup> Donnelly 197.

<sup>10</sup> Donnelly 194.

rights through law, rather than “reconciliation, repentance, or education.”<sup>11</sup> The concerns enumerated by Sinha and others, are of critical importance. It is this perception of human rights as both a product of Western tradition as well as a tool of those governments that has been a central factor in the rising claims of relativism.

Ruth Benedict, a world renowned American anthropologist, was an early supporter of the theory of cultural relativism. Cultural relativism states that no single culture can be viewed as being better than any other culture. Each culture is distinct and different in its own right and each culture will attempt to solve the problems of its people the best way it knows how. As such, cultural understandings of, or sets of, human rights, must be respected for what they are.<sup>12</sup> The dangers of relativism vis-à-vis human rights are outlined by Alison Renteln in “The Unanswered Challenge of Relativism and the Consequences for Human Rights”. Relativism, she warns, may condone repressive practices and pose a serious threat to the legitimacy of the human rights movement. In an effort to resolve the problems presented by relativism, Renteln turns to a concept of comparable notions or “homeomorphic equivalents,”<sup>13</sup> first formulated by human rights scholar Raimon Panikkar. The basic theory behind the search for homeomorphic equivalents is that a “commitment to the basic principle [of human rights] may not be...articulated” in Western terms, as Donnelly has advocated, however an in depth examination of “traditional beliefs and practices” will uncover underlying notions of human rights.<sup>14</sup> Some critics have dismissed this approach, claiming that it is methodologically unsound. This may be a valid claim. In many societies, human rights traditions - be they cultural or religious - may conflict with one another. Renteln herself,

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<sup>11</sup> Surya Sinha, “Human Rights: A Non-Western Viewpoint,” *ARSP* 76 (1981): 145.

<sup>12</sup> Ruth Benedict, *Patterns of Culture* (New York: Mariner Books, 1989) 32.

<sup>13</sup> Alison Renteln, “The Unanswered Challenge of Relativism and the Consequences for Human Rights,” *Human Rights Quarterly* 7.4 (1985): 520.

<sup>14</sup> Renteln 520.

in exploring the presence of human rights principles in Islam, concludes that there is "conflicting evidence."<sup>15</sup>

Susan Miller Okin issues a more unforgiving challenge to cultural relativism. Okin acknowledges the explicit challenge that relativism poses to women's rights activists, and holds that the tension between women's rights and group or cultural rights is not easily reconciled. Group rights, she points out, often imply the negation of individual or other group rights. In the case at hand, the right of Islamic countries to adhere to traditional culture has trumped the rights of women as a group. Okin further contends that sometimes "culture or traditions are so closely linked with the control of women that they are virtually equated."<sup>16</sup> She hints that the logic of relativists would be more vehemently opposed if applied to any group other than women. When applied to race, for example, in the Civil War South, the weakness of the argument is readily apparent. Her simple but powerful critique has remained unanswered by proponents of relativism.

From the review thus far, I would contend that the presence of human rights concepts, no matter how vague or abstract, is necessary to the establishment of international human rights. Departing from the assumption that human rights concepts, in one form or another, are present throughout the world, it is now critical to review the literature that explores *how* these concepts translate into respect for international human rights.

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<sup>15</sup> Renteln 521.

<sup>16</sup> Susan Miller Okin, Is Multiculturalism Bad for Women? (New Jersey: Princeton University Press: 1999) 18.

### *Section III: The Implementation of Human Rights- Local and International Strategies Towards Social Change*

Debates concerning the proper approach to human rights are prolific. In regards to human rights in the Islamic world, many scholars have advocated reliance on international conventions and the work of international institutions, while others have promoted an internal reformation.

The most vocal advocates of international efforts have been feminist legal scholars such as Susan Bazilli and Hilary Charlesworth. These scholars have pointed to the efficacy of international legal tools, namely the United Nation's Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). They argue that such documents are necessary as they create certain minimal standards for governments to adhere to. Other scholars contribute to this position, arguing that international institutions and non-governmental organizations are distinctly qualified to implement women's human rights across the world. The argument is that these groups possess the funding, expertise and authority to address violations of women's human rights that local groups often lack. In sum, these advocates hold that the oppression of women is a global problem, which requires global solutions. This position is often qualified with the caveat that international law is insufficient without correlative societal transformations and active civil sectors.

Internal reform has been promoted as a more legitimate approach. The primary justification of this view is that internal plans have more resonance and authority within local populations. Those who advocate internal reform do so by varying degrees. Some authors have stressed the importance of international support for internal reform while

others claim that Western participation, in any form, would delegitimize the human rights project.

In considering how to approach human rights in Islamic societies Abdullahi An-Na'im and Mahnaz Afkhami propose an internal reformation with support from the West. Abdullahi An-Na'im, professor of Islam and human rights at Emory University, proposes throughout his work a program of internal dialogue. The key to this human rights program, he emphasizes, is the credibility of the rights advocates. In an internal movement, advocates may be able to "draw on the symbols of their own culture and history, speak the 'language' of their own peoples, know and respect their concerns and priorities."<sup>17</sup> His argument for internal dialogue is compelling. However, An-Na'im clearly establishes a role for the international community, writing: "outsiders can assist such an internal discourse by supporting the right of all Muslims insiders to engage in it."<sup>18</sup> Mahnaz Afkhami, Iranian feminist and scholar, has advocated a similar process of Islamic reformation. In her work, she urges the "self-authentication" of Muslim women through Islamic and human rights education. In *Faith and Freedom*, Afkhami acknowledges that women's rights discourse has been dominated by feminists and activists of the North, to the exclusion of women in Third World societies. She encourages the West to adopt a role of support, stating: "women from the North can help by mobilizing international support for Muslim women's struggle, particularly through the use of the media...and the international community."<sup>19</sup>

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<sup>17</sup> Abdullahi An-Na'im, "Towards an Islamic Hermeneutics for Human Rights," in Human Rights and Religious Values (Michigan: William B. Eerdmann's Publishing Co., 1995) 240.

<sup>18</sup> An-Na'im 241.

<sup>19</sup> Mahnaz Afkhami, Introduction, Faith and Freedom (New York: Cavendish Press, 1994) 5.



Anouar Majid and Leila Ahmed have countered such collaborative programs, proposing that “indigenous models of emancipation”<sup>20</sup> are the only effective means to approach the complex issues of women’s rights in Islamic societies.

Anouar Majid explicitly rejects Western feminist approaches, contending that they have historically portrayed an inaccurate version Islam, and demanded that Arab women “disassociate themselves from Arab men...and their culture.”<sup>21</sup> She criticizes Western feminists for adopting a reductionist approach and for failing to grasp the nuances of Islamic culture as well as the complex and heterogeneous nature of Islamic societies. Majid further rejects Western human rights discourse, claiming that Western interference in the Arab world has disrupted its political, economic and normative evolution. It is further evident, as Majid explains, that this feminism was interrupted by the colonial encounter: “colonialism has had the unintended effect of retarding the legitimate struggle of women by subsuming it in an uncritical Islamic ideology of resistance.”<sup>22</sup>

Much like An-Na’im, Majid promotes an “indigenous path to women’s emancipation” based on efforts to “reconceptualize a progressive Islam.”<sup>23</sup> Her path consists of internal dialogue “rooted in usable tradition.”<sup>24</sup> Her strategy is universal in outlook, and aims to redefine Islam without abandoning it. There is little doubt that she lays the groundwork for an effective strategy.

Leila Ahmed has assumed a similar position. In her work, *Women and Gender in Islam*, Ahmed takes the clear stance that the colonial encounter forever damaged the legitimacy of Western approaches. She writes that as the colonial powers “appropriated

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<sup>20</sup> Anouar Majid, “The Politics of Feminism in Islam”, *Signs* 23.2 (1998) 54.

<sup>21</sup> Majid 60.

<sup>22</sup> Majid 63.

<sup>23</sup> Majid 52.

<sup>24</sup> Majid 56.

the language of feminism,"<sup>25</sup> Muslim culture was attacked. This attack had, as Ahmed argues throughout her work, a profound impact on future debates over gender, power and the State. Ahmed thus concludes that any path to Muslim women's emancipation must be established internally.

My central critique is that this approach is exclusionary. It is internal to the exclusion of the external. It is rooted in tradition to the exclusion of modernity. It is universal and yet rejects global alliances. The approach is overly dependent on traditions, and assumes that they are revisable. Majid, like other revisionists, fails to adequately address the obstacles facing the reinterpretation of Islam. Moreover, her rejection of the West (while it may be completely reasonable in light of colonization, distribution of power, global wealth, and current politics) is damaging, if not destructive, to her model. The role of the West is indeed critical - the revolutions proposed by Majid and the revisionist will require backing in the form of funding, expertise, and positive laws. Her misgivings concerning the West prevent her from engaging an entire discourse and group of feminists who may offer valuable insights, tools, experience and of course funding for what she deems to be a revolution.

Furthermore, Majid equates participation of the West with acceptance of Westernization. This equation can be cited throughout the literature, and is a phenomenon that is damaging to the Islamic women's movement. There is little logic in disregarding ideologies on account of their origin. In this vein, her dismissal of Western NGOs is equally troubling. Majid echoes the sentiments of other authors, such as Ahmed and Hassan, insisting that Western actors have historically failed to identify and address the real issues facing Muslim women. She asserts that Western actors have overemphasized the issue of the veil, thereby placing Muslim women in a false debate.

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<sup>25</sup> Leila Ahmed, Women and Gender in Islam: Historical Roots of a Modern Debate, ( New Haven and London: Yale University Press, 1992) 152.

There is no denying that 'orientalist' tendencies have contributed to the misidentification of sources of oppression in the Islamic world. However, I would contend that NGOs currently organized around Muslim women, thanks to the participation of the women themselves, are much more attuned to the needs and desires of the community.

#### *Section IV: Internal Reformation and Quran'ic Interpretation*

"It is not Islam that oppresses women, but human beings  
with all their weaknesses who have failed to understand Allah's intentions"

-Amina Wadud, *Qur'an and Women*<sup>26</sup>

One of the central features of the internal approach to social change is the revision of Islam or, more specifically, *Quran'ic* exegesis. As multiple authors have demonstrated, it is clear that androcentric interpretation has had a drastic impact on the status of women. As Amina Wadud identifies, "oppressive interpretation...influenced mostly by cultural practices and values which regard women as inferior and subordinate to men" has contributed to centuries of inequality.<sup>27</sup>

The movement to issue female-centered or feminist *ijtihad*, loosely translated as "interpretation", emerged in response to these androcentric forces and is based on the foundation that Islam is not static. Members of this school assert that the contents of the *Qur'an* and *hadith* are subject to the forces of time and history, and should be interpreted as such. Mahnaz Afkhami, a vocal advocate of revision, proposes that "the original Word of God is infinite in depth and scope and hence....applicable to evolving conditions."<sup>28</sup> The validity of this claim is highly evident in the diversity of personal status

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<sup>26</sup> Amina Wadud, *Qur'an and Women: Rereading the Sacred Text from a Woman's Perspective* (Oxford: Oxford University Press, 1999) 120.

<sup>27</sup> Wadud 129.

<sup>28</sup> Afkhami 109.

laws throughout the Islamic world. Moreover, the evolution of these codes, manifested in legal reforms, testify to the mutability of the *shari'a*.

While the revisionist approach stands as one of the most legitimate responses to the quandary of women's rights in Islam, it is necessary to address the central weaknesses of this approach. The most prominent flaw is that it rests on the unrealistic notion that reinterpretations will be accepted by the Islamic community. While Riffat Hassan claims that "ijtihad is open to all who have knowledge of religious matters"<sup>29</sup> this is really a normative statement, as opposed to a social reality. As Wadud herself elaborates, each religion has its own "framework of interpretation" and "set of interpretive rules, techniques, and underlying assumptions."<sup>30</sup> Under the current Islamic framework, feminist interpretations are not considered valid or authoritative.

A secondary weakness is that these efforts have focused on fundamental principles, ignoring specific edicts. Revisionist scholars have not confronted direct passages of the *Qur'an* or the *hadith*. For example, although Azizah Al-Hibri focuses on the principle "fundamental equality" enshrined within the *Qur'an*, but she does not acknowledge or confront the existence of explicitly sexist passages and edicts within the text.<sup>31</sup> The Prophet is quoted to have said that "any change is considered innovation [in Arabic *bid'a* ], and innovation is errant behavior, *dalala*."<sup>32</sup> Furthermore, as one scholar has noted, "the traditional principle of *ijtihad* is confined to matters on which there is no clear and categorical text of the *Qur'an*."<sup>33</sup>

Finally, these interpretations have failed to garner a consensus or the collective support of the Islamic community – a *Qur'anic* imperative known as '*Ijma*. As such, the

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<sup>29</sup> Riffat Hassan, "Are Human Rights Compatible with Islam?" The Religious Consultation on Population, Reproductive Health & Ethics (Kentucky: 1994) 154.

<sup>30</sup> Wadud 130.

<sup>31</sup> Azizah Al-Hibri, "An Introduction to Muslim Women's Rights," Windows of Faith: Muslim Women Scholar Activists in North America (New York: Syracuse University Press, 2000) 54.

efforts of Wadud and her contemporaries remain outside the realm of traditional epistemology.

The problem with interpretation as the only or even central tool for women's emancipation is that, as many scholars have noted, "Islam has been used in so many contradictory ways that one cannot accept, as both orthodox and orientalist have, a monolithic definition of this religion."<sup>34</sup> Furthermore, as An-Na'im warns, while it is possible to reconcile the *Qur'an* and women's rights, it is not possible to reconcile the *shari'a* and women's rights. *Shari'a* is premised on a "fundamental distinction between the rights...of Muslim men and women"<sup>35</sup> and stands in direct opposition to the principle of equality that is the basis for all human rights. Personal status codes, derived from *shari'a* are equally problematic. The distinction between Islam and the *shari'a* is critical - the one is a religion and a value system, while the other is a man made system of codes.

What is immediately clear from the debates outlined within the preceding pages is that different parties have ascribed to different views on women's human rights. At a fundamental level, each party has a justifiable and rational perspective. The theoretical debates have thus arrived at a critical impasse. This is, I contend, the crucial void in the present literature. Scholars have yet to devise a practical approach to transcend theoretical debates. In the following chapters I will argue that this void is most aptly corrected by the application of William B. Gallie's thesis of essentially contested concepts.

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<sup>32</sup> Fatima Mernissi, *Doing Daily Battle: Interviews with Moroccan Women* (New Jersey: Rutgers University Press, 1989) 52.

<sup>33</sup> An-Na'im 120.

<sup>34</sup> Majid 130.

<sup>35</sup> An-Na'im 130.

## WOMEN'S HUMAN RIGHTS AS AN ESSENTIALLY CONTESTED CONCEPT

The theory of essentially contested concepts was first developed by William B. Gallie in *Philosophy and Historical Understanding*. The central premise of this thesis is that certain concepts are inherently subject to debate. Gallie proposes that these concepts have value and utility in the very fact that they are contested.

The criteria for identifying such concepts are outlined by Gallie as five-fold.<sup>36</sup> First the concept must be appraisive; it must represent "a valued achievement."<sup>37</sup> Second, this concept must be internally complex. Third, the value of the concept must consist of variously interpreted factors. In Gallie's words, "the accredited achievement must be variously describable."<sup>38</sup> Fourth, the concept must be "open in character," that is to say; it must be malleable under the forces of changing circumstances. Lastly, the parties that use this concept must recognize that the term is used by others in varying and oppositional ways. To this extent, Gallie argues that contested concepts must be used "both aggressively and defensively."<sup>39</sup>

In his original work, Gallie exemplifies three concepts as essentially contested. These examples include art, religion and democracy. He holds that "any number of subordinate or more specific concepts falling under the concepts of art, religion, democracy, etc. can be shown to be themselves essentially contested."<sup>40</sup> Thus, in the following pages I will apply the criteria established by Gallie to the concept of women's human rights.

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<sup>36</sup> Gallie 159.

<sup>37</sup> Gallie 159.

<sup>38</sup> Gallie 160.

<sup>39</sup> Gallie 161.

<sup>40</sup> Gallie 167.

The first criterion, to reiterate, holds that the concept must be appraisive. Women's human rights, as a form of social protection, most assuredly represent a "valued achievement."<sup>41</sup> As to the second criterion, it is immediately apparent that the term is internally complex. In respect to this requirement, Gallie states, "it seems to me...that any valuable forms of action or thought or feeling are internally complex."<sup>42</sup> Thus by its very nature of having value, women's rights are defined as internally complex.

The third criterion, "the variously describable character of the achievement"<sup>43</sup> is also met by women's human rights. The factors that contribute to this concept are manifold and variously interpreted. As was clearly illustrated in the literature review, debates surround the source of these rights, the holders of these rights, and the enforcement of these rights. Furthermore, differing weights are attributed to these factors by the respective parties. To this effect, societies throughout the world have ascribed various importances to respective groups of rights. In the West, political and civil rights are commonly a priority. In contrast, non-Western societies often value economic and cultural rights above all others.

Moreover, the "open character" of the concept, the fourth of Gallie's five criteria, is easily established. The evolution of women's human rights under changing circumstances offers direct evidence of this. Throughout the world, as conditions vary from favorable to unfavorable, the notion of women's human rights changes. As to the final criterion, that the concept be recognized by its users as contested, this is surely affirmative as well. From international institutions and non-governmental organizations, to scholars and governments, the notion of women's rights has been used both aggressively and defensively. The concept's utility as a political tool has been both an advantage and disadvantage to the ultimate realization of female equality.

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<sup>41</sup> Gallie 172.

<sup>42</sup> Gallie 174.

To review, women's human rights, with its normative goal of female equality, multiple dimensions, and debatable nature, constitutes an essentially contested concept. Thus, for some, women's rights translate to complete equality between the sexes, while for others the concept implies the social protection of the female. The fact that there is no consensus should in no way limit the utility of the concept. As Gallie emphasizes, irresolvable debates should not result in the dismissal of the contesting parties.

By establishing women's human rights as an essentially contestable topic, my goal is to address the debates over women's human rights. As essentially contested concepts develop an idea towards an optimum, these debates stand as useful processes. As William Connolly elaborates in *The Terms of Political Discourse*, the public can adopt the partial use of wholly consensual concepts or the "diverse use of partly shared concepts."<sup>44</sup> In establishing the utility of 'partly shared concepts', I hope to illustrate the benefits of open debate and constructive dialogue.

Support for this project can be extracted from the works of several scholars including Abdullahi An-Na'im, Riffat Hassan, and Ebrahim Moosa. Abdullahi An-Na'im has testified that "an internal commitment to a normative regime from one point of view need not and should not be exclusive of the other."<sup>45</sup> In other words, human rights do not need to be separated or removed from religious, cultural, or traditional frameworks. An-Na'im rejects "the illusion of neutrality", or the concept that human rights must be understood and embraced separately of religious, traditional and cultural values. He asserts that the pursuit of a neutral set of rights, which requires individuals to choose between value systems, jeopardizes the human rights project. Thus he recommends a process of internal transformation. Through this process scholars can arrive at "an Islamic hermeneutics for human rights" and will conclude that "one can be fully

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<sup>43</sup> Gallie 170.

<sup>44</sup> William Connolly, *The Terms of Political Discourse* (London: Oxford University Press, 1969) 32.



committed to a certain religion...while also being fully committed to another normative system.”<sup>46</sup> I believe that An-Na'im's process is not wholly distinct from the essentially contested concept.

Riffat Hassan provides further support, emphasizing the dangers of dismissing contested concepts. She contends that as long as human rights are presented in a secular framework, dismissing all religious understandings, Muslim women will be unable to locate themselves in the discourse. To elaborate, Muslim women are unable to identify with the oppressive society in which they often live, and simultaneously unable to abandon their religion and embrace human rights that are wholly secular. This quandary is defined by Hassan as follows:

Muslim women of today are struggling to maintain their religious identity and personal autonomy in the face of the intransigence of Muslim culture, on the one hand, and the imperialism of Western, secular culture on the other<sup>47</sup>

The thesis holds that if these oppositional approaches are allowed to contest one another, and the debate develops naturally, Muslim women will not be forced to choose between their religion and a belief in women's human rights.

Finally, Ebrahim Moosa, author of “The Dilemma of Islamic Rights Schemes,” writes that “the gulf in perception between Islamic and secular perspectives over the meaning of human rights is growing.”<sup>48</sup> However, he contends that there is nothing about the Islamic or secular human rights traditions that makes them incompatible. To illustrate this claim, Moosa offers an in-depth review of the two traditions. He concludes that “western human rights can function within non-Western social, moral and political

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<sup>45</sup> An-Na'im 182.

<sup>46</sup> An-Na'im 184.

<sup>47</sup> An-Na'im 134.

systems”<sup>49</sup>, but for this to happen, human rights must be understood as a “cumulative struggle.”<sup>50</sup> To understand human rights in the MENA region, he says, participants must adopt approaches in which they can “find a common language and a modicum of compatibility between Islamic rights and secular rights systems.”<sup>51</sup> Compatibility, reconciliation, and the success of Islamic human rights theories “depends on the extent to which modern Islamic thought is open to a revisionist or reconstructionist approach in philosophy and ethical orientation.”<sup>52</sup> In other words, if the concept is open to dialogue and is of an “open character” reconciliation between the various understandings is possible.

These authors have all maintained that the tension between Islamic and Western interpretations of women’s human rights must be addressed. They have further implied that a dialogue of sorts is the most legitimate approach. To this effect, the application of the essentially contested concepts theory will ultimately have a profound impact on the process by which women’s rights are formulated and implemented. The present study will show that the implications of such dialogue reach beyond the context of Morocco or even the Islamic world.

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<sup>48</sup> Ebrahim Moosa, “The Dilemma of Islamic Rights Schemes,” The Journal of Law and Religion 15.1 (2001): 185.

<sup>49</sup> Moosa 180.

<sup>50</sup> Moosa 182.

<sup>51</sup> Moosa 179.

<sup>52</sup> Moosa 172.

## A CASE STUDY: THE WOMEN'S MOVEMENT IN MOROCCO

To explore the implications of Gallie's thesis to the evolution of women's rights, I will offer a case study of the feminist movement in Morocco. The study is intended to illustrate that women's rights is indeed an essentially contested concept. Moreover, I intend to show that the interaction of contested understandings of women's rights has functioned to further the rights dialogue within the country.

Morocco is an ideal case study. As an Islamic nation, under a constitutional monarchy, with an active civil sector- the country is both representative and unique. To the extent that Morocco is an Islamic nation with a history of colonialism, the country represents several others in the region. However, the nation's active civil sector, modernizing King, and highly developed relations with the West, distinguishes it from neighboring countries such as Algeria or Tunisia. The primary feature of concern is the civil sector. Morocco is host to a variety of both independent and active organizations that have been in force since Independence (1956). The activities within this sector have facilitated the identification and monitoring of contested concepts.

In detail, this study assesses the current debates triggered by accession to the United Nation's Convention for the Elimination of All forms of Discrimination Against Women (CEDAW) and consequent reforms to the *Moudawana*. The *Moudawana*, or personal status codes, govern the affairs of the family in such matters as marriage, custody, divorce, and inheritance. The codes are informed by Islamic law, or *shari'a*, and are in direct opposition to the principle of equality enshrined within CEDAW.

The actors which will be of most interest to this study are those who contribute to the process of defining women's human rights. As such, I have documented the activities of NGOs and women's groups, grassroots organizations, Islamist party

members and religious representatives. The study also takes great lengths to emphasize the importance of local women's voices.

To this effect, the study combines the use of several forms of evidence. The primary source is personal fieldwork in Morocco. The fieldwork was comprised of interviews with several women's rights NGOs, as well as observation of programs conducted by these groups. The fieldwork is central to the contribution of this study. Scholars continuously emphasize the need for direct knowledge of the goals and purposes of NGOs. The fieldwork responds to these claims, holding that the voices of Moroccan women are much clearer when not distorted through the prism of political parties, or second hand accounts.

Other forms of evidence incorporated by the study include NGO reports, the texts of CEDAW and national codes such as the *Moudawana*.

The empirical analysis concludes with an assessment of the relationship between dialogue and development.

## CHARTING THE EFFICACY OF CONTESTED CONCEPTS: THE MOROCCAN FEMINIST DIALOGUE

Women's human rights are an essentially contested topic throughout the world. However, as I have suggested, this concept is heavily debated in the Islamic countries of the Middle East and North Africa. Below, I will present data that confirms the contested nature of women's rights in Morocco. The data is presented as an overview of the women's movement in Morocco. Analysis of selected efforts will show that, despite varying interpretations, the essentially contested concept has functioned to further the human rights culture in Morocco.

At the formal level, a number of divergent feminist perspectives can be identified. The large majority of NGOs have espoused a clear belief that women's rights are human rights, and that Moroccan women possess a set of universal human rights, consistent with those set forth by the United Nations. However, a significant number of women's groups have rejected the notion of a universal right – and have set out to identify a set of rights relative to Moroccan women. Finally, the Islamist parties and religious *ulema*, have proclaimed the idea of universal women's rights to be inconsistent with Islam. From this perspective, women's rights are those rights literally transferred by the *Qur'an*, the *hadith* or the *Sunna*. The following section offers a review of the efforts and views of these actors.

### *Section 1: Women's Human Rights as a Universal Norm*

The primary position of Moroccan women's rights NGO's and feminist leaders is that women's rights are universal and Moroccan laws concerning the status of women should conform to international conventions such as CEDAW. In general, these groups have embraced Western human rights discourse with its emphasis on formal rights and

complete equality between men and women. Among these organizations are local groups such as the Democratic Association of Moroccan Women, *L'Association Démocratique des Femmes du Maroc* (ADFM) and the Union of Feminine Action, *L' Union de l'Action Féminine* (UAF) and western NGOs including the International Human Rights Law Group (IHLRG) and the National Democratic Institute (NDI). In the following pages I will establish how the words and actions of these organizations display their respective understanding of women's human rights.

The *Association Democratique des Femmes du Maroc* (ADFM) was founded in 1985, and is one of the largest and most influential women's groups in Morocco. It is an independent organization with the explicit objective to work against all forms of discrimination against women. To this effect, the organization has concentrated its efforts to reform Moroccan family law and ensure that domestic codes are in harmony with international legal conventions.

ADFM's Center for Women's Leadership was inaugurated in 1992 with the understanding that "women's participation in politics is a key that opens the door to other rights."<sup>53</sup> According to Amina Lemrini, vice-president of ADFM, the center aims to enhance women's leadership positions and participation in the political arena. This effort represents the belief of ADFM that women's political and civil equality are a prominent feature of women's human rights.

In 1996, the ADFM began an initiative to coordinate alternative or "shadow" reports to the CEDAW Committee. According to Lemrini, the release of this report "was an opportunity to provide an update on the issues addressed in the report and inform the public about the CEDAW Committee's recommendations."<sup>54</sup>

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<sup>53</sup> Amina Lemrini, personal interview, 15 July 2003.

<sup>54</sup> Amina Lemrini, personal interview, 15 July 2003.

Much like the ADFM, the *Union de l'Action Féminine* (UAF) has determined that the *Moudawana* is the most significant barrier to women's equality in Morocco. In an attempt to address this challenge, the UAF launched the One Million Signatures Campaign, one of the most prominent campaigns within the Moroccan women's movement. As part of the 1990 campaign, the UAF, in collaboration with several local NGOs set out to gather signatures and presented a petition to the King demanding major reforms to the *Moudawana*. This effort reflects the NGOs understanding that Moroccan women's human rights must correspond to those set forth in CEDAW.

Latifa Jbabdi, President of UAF, has called for continued debates on the personal status codes in order to adapt it to the international conventions signed by Morocco. She explains that the legal status of Moroccan women, who are considered by the law as minors throughout their life, represents a significant disparity between Morocco's drive towards modernity and the social reality. Jbabdi concedes that some progress was achieved by the 1993 revision of the personal status codes, citing that women can no longer be 'repudiated' without their knowledge. However, she emphasizes that there is still a long way to go before women enjoy the same rights as men.<sup>55</sup>

The International Human Rights Law Group, an international NGO, opened its Rabat office in 2000 with the objectives to promote legal awareness among women, to develop networks among Moroccan NGOs, and to facilitate access to information.

A central project of IHRLG-Morocco is a legal literacy training program. Under the auspices of this project, the organization has developed the "Legal Literacy Working Group". This network, comprised of 15 NGOs, includes larger organizations such as ADFM as well as smaller groups like Association Amna in Tangier. The program has been designed for semi-literate and illiterate women. All programmatic materials are

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<sup>55</sup> Latifa Jbabdi, personal interview, 20 July 2003.

available in French, Arabic and Berber. As yet another part of the legal programming, IHRLG- Morocco offers a training program for activists and lawyers “on analyzing existing contradictions between national laws and international human rights conventions.”<sup>56</sup> Saida Kouzzi, a lawyer with IHRLG-Morocco relates that “there is a limited curriculum on international conventions and human rights law within the legal education system in Morocco.”<sup>57</sup> As such, she points out, “Moroccan women’s rights activists need training such as that offered by the Strategic Lawyering program.”<sup>58</sup> The activities of IHRLG reflect the feminist perspective of this organization. The emphasis on legal equality and reliance on international human rights law shows that IHRLG understands women’s human rights as a universal norm, codified in international law.

The National Democratic Institute is an international NGO with a Moroccan branch operating out of Rabat since 1998. The primary goal of the organization is to instill and ensure the fundamental values of democracy in the nation. Their activities are thus focused on ensuring the legitimacy and freedom of national elections, and the process of representation. These objectives have informed the organization’s program for women in Morocco. The women’s programming, which has been operating since November of 2001 has targeted Moroccan women candidates.

Maryam Montague, director of women’s programming in the Rabat office, emphasizes the importance NDI places on “action learning”. As she explains, NDI has collaborated with a number of local NGOs to offer training to local women who wish to pursue careers in the political arena. As part of this initiative, NDI has established the Center for Women in Democracy, where international trainers gather with Moroccan political experts to cultivate female candidates. The training, which is founded on the

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<sup>56</sup> Building Capacity for Strategic Lawyering and Advocacy (Washington, D.C.: International Human Rights Law Group: 1999).

<sup>57</sup> Saida Kouzzi, personal interview, 23 July 2003.

<sup>58</sup> Saida Kouzzi, personal interview, 23 July 2003.



principle of “action learning”, includes leadership building, campaign advice, and fundraising skills. Other activities pioneered by NDI include a women’s parliamentary network, women’s voter education programs and focus groups.<sup>59</sup>

The activities of NDI also reflect the organization’s understanding of women’s human rights. Like the ADFM, UAF and IHRLG, NDI identifies women’s rights with legal norms and political participation. As illustrated in this example, it is clear that NDI has also linked women’s rights to democracy and modernization.

## *Section II: Women’s Human Rights as a Relative Concept*

Despite the preponderance of NGOs advocating women’s rights as universal, there is evidence that a significant number of organizations and individuals within Morocco adhere to a more relative understanding of women’s rights. In this school, there are two major, and at times, distinct claims. The first contention is that the set of rights possessed by Moroccan, or Islamic women, is different from those codified in international conventions. This position, which reflects the relativist perspective, holds that women are different than men and full and complete equality is not necessarily the goal.

The second major claim in this perspective is that women’s rights in the Islamic world need not be located in Western and international sources. More specifically these actors believe that, “Third World women seeking to bolster their status, security, and well-being need not always look to the West for alternative constructions of rights.”<sup>60</sup> This perspective may or may not result in an understanding of human rights that is universal. The key distinction is that the framework, or source, of human rights is argued

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<sup>59</sup> Maryam Montague, personal interview, 25 July 2003.

to be Islam rather than international law. Included in this group are the State as well as grassroots and religious organizations, and a spectrum of individual women.

Though the position of the State tends to vacillate, it is most often grounded in this relativist standpoint. In acceding to CEDAW in June of 1993, Morocco entered several major reservations. According to Morocco's Second Periodic Report to the CEDAW Committee these reservations are justified, as the respective provisions were "incompatible with the values of the Islamic religion."<sup>61</sup> These reservations, grounded in an Islamic referent, illustrate that the government understands Moroccan women's rights to be different than the universal set of rights embraced by the United Nations.

Princess Lalla Meriem, sister of the current King, Mohammed VI, has put voice to this understanding, and has called on Muslim women to "remain attached to [the Islamic] religion and supreme values" and not to "imitate the behavior...in some societies which are suffering from values crises and disintegration of family ties under the pretext of absolute gender equality."<sup>62</sup>

The government not only ascribes to a distinct *set* of rights, but also an Islamic *source* of rights. Recent efforts pioneered by the King indicate that the government is attempting to locate the principle of equality in Islamic texts. To this effect, the CEDAW reports states:

Government departments and agencies and the universities on the one hand, and the institutions of civil and political society on the other, have undertaken a major programme of studying the Shariah and examining its contents in order to elucidate the humanitarian values that are such a prominent feature of the Islamic faith.<sup>63</sup>

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<sup>60</sup> Sumi Colligan, "Sorting Out Voices on Women's Rights in Morocco," Journal of International Women's Studies 12.3 (1994): 194.

<sup>61</sup> "Second Periodic Report of State Parties: Morocco," CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>.

<sup>62</sup> "Princess Meriem Surveys Moroccan Women's Condition," Arabic News, 6 Mar. 2003 <<http://arabicnews.com>>

These efforts reflect the State's reluctance to locate Moroccan women's rights in international conventions and norms.

Religious and grassroots organizations echo these sentiments. In the words of the Islamist *Parti de Justice et du Developpement* (PJD), "We are opposed to the standardization of the Moroccan woman in accordance with Western values."<sup>64</sup> Fears that Morocco will relinquish its' relatively nascent independence to international dictates are accompanied by a fear of immorality perceived in the Western family. To this extent, representatives of Islamist parties concur, stating: "the destiny of Moroccan civil society should not be uniquely dictated by an international institution or world congress...We do not want to break our family unit as happened in the morally decadent West."<sup>65</sup>

Grassroots and service-based organizations have been active proponents of relativism as well. A significant feature of these grassroots organizations is that membership is more reflective of the population. Whereas rights-based advocacy organizations such as the UAF and ADFM tend to consist of mainly middle class, elite, and professional women, these worker-based organizations are comprised of less-educated and lower income workers. As the membership of these organizations is more broad-based, so too, is their definition of women's human rights.

My research in Morocco reveals that individuals, too, are strongly attached to a relativist understanding of women's human rights. As part of its political programming, NDI undertook an initiative to better understand the perceptions of the local population. This initiative manifested in a series of focus groups. One focus-group style research effort pioneered by NDI invited Moroccan women to discuss the proposed reforms to the

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<sup>63</sup> Second Periodic Report of State Parties: Morocco," CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>>.

<sup>64</sup> Imam Ghazalla, "Sculpting the Rock of Women's Rights," (Minnesota: Humphrey Institute of Public Affairs, 2001) 56.

*Moudawana*. The general consensus among the women was that the status codes were of little concern to them. These women, facing the concerns of everyday survival, defined women's human rights in economic rather than political or civil terms. As one participant emphasized, "I want to know that I can take my child to the hospital, and that I won't be robbed."<sup>66</sup> The concerns expressed here are reflective of a majority of Moroccan women.<sup>67</sup>

Moreover, it is incorrect to assume that all women are opposed to the *Moudawana*. As Sumi Colligan has pointed out, despite its inherent discrimination against women, a strong collective of both men and women in Morocco feel that the *Moudawana* is necessary. Many women strongly adhere to the notion that men and women are different, and thus should be guided by different laws.

### *Section III: The Islamist Understanding of Women's Rights*

Opposition to the reform of the *Moudawana* has been clearly expressed by the Islamists, who argue that any modifications to the codes would violate Islamic principles. This camp challenges the idea of universal women's rights- claiming that such rights in their secular and Western nature – run contrary to Islamic principles. Groups who share this opinion include religious groups, Islamist party members, and Islamic NGOs.

The Islamist understanding of women's rights is one of suspicion and fear. As Bassima al-Haqqawy of the Association of Renewal of Women's Consciousness expresses, the reforms necessitated by CEDAW pose a distinct threat to the stability of the Muslim family and the morality of the Moroccan women. To this effect, al Haqqawy

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<sup>65</sup> Second Periodic Report of State Parties: Morocco," CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>.

<sup>66</sup> Maryam Montague, personal interview, 25 July 2003.

<sup>67</sup> Maryam Montague, personal interview, 25 July 2003.

states “[CEDAW’s call for gender equality, sexual freedom and alternative definitions of the family, aims at suppressing Islamic identity.”<sup>68</sup>

In the Islamist view, the status of women in Morocco is determined by the *shari’a*. The Islamist understanding of human rights is couched in their understanding and interpretation of the religion itself. The party justifies its position with explicit references to the *hadith*, the *sunna* and the *Qur’an*.

#### *Section IV: Interaction and Dialogue*

In its efforts to craft a position on its understanding of women’s human rights the monarchy has actually served as a driving force for the exchange of these competing notions of women’s human rights. Examples of dialogue and reinterpretation are most prominent in recent years.

In 1993, following the demands of the UAF for legal reform, King Hassan II established a committee of *ulema* to review the *Moudawana*. This committee consisted of religious scholars from various schools as well as women’s rights activists. The exchange of interpretations led to the conclusion that the *Moudawana* opposed the principle of equality adopted by the King.

More recently, the Moroccan government has launched a series of dialogues on the rights of women in Islam. These sessions of the “Islamic Awakening University” have convened since 1990 - with the explicit goal of debating the topic of women in Islam. The program is designed to gather Islamic theologians and women’s rights activist to discuss issues such as “woman and Islamic law,” “woman and the new world

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<sup>68</sup> Imam Ghazalla, “Sculpting the Rock of Women’s Rights,” (Minnesota: Humphrey Institute of Public Affairs, 2001) 56.

order,” and “the Moroccan woman and the edification of a new Morocco.”<sup>69</sup> Morocco’s Minister of Habous and Islamic Affairs reiterated the sentiments of the King, expressing a sincere desire to engage in “responsible dialogue” between the *ulemas*, women’s associations and academics.<sup>70</sup> Sessions of the Islamic Awakening have been held in 1990, 1991, 1994, 1997, 1998, and most recently in 2003.

Finally, the Moroccan government’s most recent report to CEDAW cites a national “sensitization and awareness-generation campaign aimed at public opinion...in order to bring national legislation into harmony with international instruments.”<sup>71</sup>

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<sup>69</sup> “Scientific Colloquy on Women’s Rights in Islam Held in Rabat,” Arabic News, 30 Oct. 1998, <<http://www.arabicnews.com>>.

<sup>70</sup> “Scientific Colloquy on Women’s Rights in Islam Held in Rabat,” Arabic News, 30 Oct. 1998, <<http://www.arabicnews.com>>.

<sup>71</sup> Second Periodic Report of State Parties: Morocco,” CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>>.

## *Section V: Overview*

Before moving on to the specific developments prompted by the contesting understandings of women's rights, it is necessary to reiterate how the movement illustrates the essentially contested concept thesis. Condition one, which requires that the concept be appraisive, is easily established. As a measure of social protection (to what degree is debated) human rights ensure valuable guarantees. Requirement two, which holds that the concept be internally complex is clear as well. In Morocco the components which complicate the concept are most notably the set of women's human rights and the source of women's human rights. The third condition, that the concept or achievement be variously describable is evident in the competing understandings of the NGOs and Islamists. As to condition four, it is clear that under changing circumstances which include, the emergence of a civil sector (1970's), accession to CEDAW (1993), and the crowning of King Mohammed VI (1999) – the concept of women's human rights in Morocco has shown to be truly malleable. Most importantly, it is clear that the parties involved have recognized the contested nature of this concept, and no doubt have used their own interpretations “aggressively” and “defensively”, meeting the requirements of Gallie's fifth condition.

## Section VI: Concrete Developments in Legal Codes and State Rhetoric

"How can a society advance while the rights of women are squandered and they are subjected to injustice, violence and marginalization"

- King Mohamed VI<sup>72</sup>

As was indicated in the methodological overview, it is necessary to show how the interaction of competing understandings has developed the concept of women's rights in Morocco. To chart the efficacy of this exchange, I will overview significant developments in the reform of domestic codes, implementation of CEDAW and rhetoric of the monarchy. These developments are not intended to illustrate compliance with an international norm, but rather the creation of a local culture of women's human rights.

A key area in which development can be identified is domestic codification. In response to the demands of the UAF in 1990, King Hassan II issued a number of minor changes to the *Moudawana*. While limited in content, these reforms signified that the Moroccan state had recognized the legitimacy of the NGOs demands and had adopted a certain respect for the human rights agenda.

On the 14<sup>th</sup> of October, 2003, King Mohamed VI announced several more proposed reforms to the *Moudawana*. The amendments, regarding the rights of women in marriage and divorce, would represent a notable improvement in the legal status of Moroccan women. While they have still to be approved by Parliament, these reforms will make divorce easier (legally speaking) and establish the minimum age for marriage as 18 for both men and women. Polygamy will also be more difficult, as men will have to obtain their wife's permission before taking another.<sup>73</sup>

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<sup>72</sup> Abdulrazaq Treibeq, "'Revolutionary' Reforms in the Moroccan Personal Status Law," The Arab Regional Resource Center on Violence Against Women, 12 Oct. 2003  
<[http://www.amanjordan.org/english/daily\\_news/wmview.php](http://www.amanjordan.org/english/daily_news/wmview.php)>.

<sup>73</sup> Robert Graham, "Morocco reform plan welcomed," Financial Times 10 Oct., 2003: A3.



Other reforms in domestic code, such as those made through Constitutional amendment, can be traced through an analysis of CEDAW implementation. Morocco has been a party to CEDAW since 1993. The Moroccan government's Second Periodic Report to CEDAW elaborates upon those improvements that have been recorded in the status of women. I have outlined a few of the major provisions addressed by the report:

*Article 7: Equality in Political and Public Life*

The Constitution, amended in 1993 provides for universal adult suffrage. According to the report, "the right of women to vote is regarded as a fundamental right which is widely exercised in practice."<sup>74</sup> Article 12 of the Constitution holds that all citizens, regardless of gender, have the right to hold public office. Concerning the right of women to hold office, it has been noted by many that the law is far ahead of social realities. To elaborate, negative mental attitudes regarding women in politics and a general lack of political awareness have prevented women from realizing equal political participation. Even so, there are currently 35 women in Parliament. The CEDAW report credits the work of NGOs, stating: "some women's organizations have recruited women with a view to furthering their interest in directing public affairs."<sup>75</sup>

*Article 10: Equality in Education*

The right to education is enshrined in the 1993 Constitution as well as preceding Constitutions. The government of Morocco has furthered mandated the education of both boys and girls over the age of seven. According to experts, Moroccan women have played a critical role in ensuring their own access to education. As the noted Moroccan

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<sup>74</sup> Second Periodic Report of State Parties: Morocco," CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>>.

<sup>75</sup> Second Periodic Report of State Parties: Morocco," CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>>.

feminist, Fatima Mernissi notes, “the insistence of Moroccan women in demanding access to education is shown by a number of indicators, in particular their better grades than boys and their unshakeable will to continue their studies after marriage and children. Only a dozen years ago, marriage was regarded as making an end to any young wife’s educational aspirations.”<sup>76</sup>

#### *Article 11: Equality in Employment and Employment Rights*

According to the Second Periodic Report, Moroccan law guarantees women and men full equality in employment. Unfortunately, this is also a situation in which the law is far ahead of the social practice. While the government can ensure equality in public employment, it has no such authority in the private sector. As the report concedes, “legal equality...does not mean that discrimination does not exist in practice, particularly in the independent and informal sectors.”<sup>77</sup>

#### *Article 15: Equality in Civil Matters*

The following statement is extracted from Morocco’s report to CEDAW: “The reforms of 10 September 1993 dealt specifically with women’s civil rights and position within the family, as did the Code of Personal Status,”<sup>78</sup> The report contends that these amendments allowed women to enter into marriage “only with their full consent,” and that these reforms further curtailed polygamy. As shadow reports are quick to note, however, the reforms were “modest and easily circumvented.”<sup>79</sup> The following sections

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<sup>76</sup> Fatima Mernissi, Beyond the Veil: Male-Female Dynamics in Modern Muslim Society (Indiana, Indiana University Press, 1987) 56.

<sup>77</sup> Second Periodic Report of State Parties: Morocco,” CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>.

<sup>78</sup> Second Periodic Report of State Parties: Morocco,” CEDAW Country Reports 28 July, 2003 <http://www.un.org.womenwatch/daw/cedaw/reports.html>.

<sup>79</sup> NGO Shadow Reports, International Women’s Rights Action Watch, 10 Sept., 2003 <<http://iwwraw.igc.org>>.

offer a more accurate portrayal of the status of the CEDAW articles as provided by both UN and NGO reports.

### *Marriage*

Article 12 of the Personal Status Codes currently stipulates that all women must acquire the permission of a male guardian before signing a marriage contract.<sup>80</sup> If passed by the parliament, the most recent reforms would ease this restriction. According to the King the reforms would mean that an adult woman, who has no father, is free to contract her own marriage. However, societal norms remain intact. According to Mernissi, “cultural norms demand that the prospective bride, who tends to be very young (14-16) and immature, maintain a passive and almost somnambulistic attitude through the marriage and trousseau negotiations.”<sup>81</sup>

### *Polygamy*

The proposed reforms concerning polygamy will require a husband who intends on taking more wives to notify his partner. Independent NGO reports have criticized the limited nature of this reform, pointing out that even if a wife is notified of her husband's intent to take another spouse, she has “no real right to object.”<sup>82</sup> Moreover, sources indicate that “instances of men keeping second households are not uncommon.”<sup>83</sup> There is great significance in both the legal and social norms that fidelity is required from women but not men.

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<sup>80</sup> Fadela Sebt Lahrachi, Vivre Musulmane au Maroc: Guide des Droits et Obligations, (Librairie Generale des Droits et de Jurisprudence, 2003) 24.

<sup>81</sup> Amal Rassam. “Women and Domestic Power in Morocco,” IJMES 12, (1980): 171.

<sup>82</sup> NGO Shadow Reports, International Women's Rights Action Watch, 10 Sept., 2003 <<http://iwraw.igc.org>>.

## Divorce

Under current laws there are three venues in which a divorce can take place: repudiation, judicial proceedings, and *khol'e*. Repudiation is the right of a man to unilaterally terminate the marriage without judicial proceedings. The judicial proceedings, a second method are available to both men and women. Finally, *khol'e* is the traditional practice by which a woman can 'purchase' a divorce, by returning the sum of her dowry to her husband. Outside of the rare occurrence of *khol'e*, a wife "cannot initiate divorce except in a few narrowly defined cases, such as when the husband fails to provide any maintenance or abandons the family and cannot be located for more than one year."<sup>84</sup> Women's rights activists are quick to point out that these laws are easily circumvented and legal retribution is a difficult, if not impossible, endeavor. However, the most recent reforms proposed by the King would certainly make divorce a more equitable process.

Finally, developments in the rhetoric of the State may be traced through both official statements and the volume of international human rights conferences. King Mohammed VI has repeatedly voiced his commitment to women's human rights, and to the development of a human rights culture. In a recent speech, Mohammed VI said the proposed reforms were designed to "lift the iniquity weighing on women, protect children's rights and preserve the dignity of mankind."<sup>85</sup> The King further emphasized that the proposed reforms did not privy one perspective over another, "these reforms must not be seen as a victory of one camp over another but rather as advances for the benefit of all Moroccans."<sup>86</sup>

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<sup>83</sup> NGO Shadow Reports, International Women's Rights Action Watch, 10 Sept., 2003 <<http://iwwraw.igc.org>>.

<sup>84</sup> NGO Shadow Reports, International Women's Rights Action Watch, 10 Sept., 2003 <<http://iwwraw.igc.org>>.

<sup>85</sup> Stephanie Irvine, "Morocco Women Win Rights," BBC News Online, 11 Oct. 2003 <<http://news.bbc.co.uk/1/hi/world/africa.stm>>.

<sup>86</sup> Stephanie Irvine, "Morocco Women Win Rights," BBC News Online, 11 Oct. 2003 <<http://news.bbc.co.uk/1/hi/world/africa.stm>>.

In recent years Morocco has hosted a number of international women's rights conferences. In May of 2003, the Global Summit of Women was held in Marrakech, Morocco. The summit hosted some 700 business and executive women to discuss the promotion of female entrepreneurship and political participation. In February of 2004 Morocco will host the "First Ladies International Encounter on Women's Conditions". The conference will gather first ladies from Africa, Asia, the Middle East, Latin America and Europe. The agenda includes discussions on rural women and economic equality. These are just two of many examples. The high number of such international conferences indicates that the organizers feel Morocco is an ideal host, as the country has recently fostered a culture of human rights. To this extent, the United Nations has commended the country for its efforts to disseminate the human rights culture through education and training.

## CONCLUSION: THE IMPLICATIONS OF WOMEN'S HUMAN RIGHTS AND CONTESTED CONCEPTS

The purpose of this work has been to explore competing understandings of women's human rights and their impact on social change in Morocco.

The efforts of NGOs and women's groups in Morocco have articulated a feminist standpoint that women's human rights are universal. Opposing viewpoints are offered by Islamist parties who reject such universal rights as both secular and Western.

The interaction between these viewpoints, in the form of open dialogue, has contributed to the gradual development of the culture of human rights. Concrete evidence is offered through the legal reforms and rhetorical shifts that have occurred in recent years.

The implications of this work are three fold. Firstly, the study suggests that the definition of women's rights should not be narrow. Narrow definitions lead to partial solutions. The women's NGOs may contend that women's rights are universal, and that domestic law must conform to CEDAW. However, without the consent of the Islamists or the cooperation of the government, progress towards this goal will be limited.

This leads to the second implication, namely that NGOs should strive to incorporate a broader membership base. To this effect, the participation of local women in the act of defining the Moroccan feminist agenda is essential. As is illustrated in the case study, the incorporation of the voices of these women would lead (and has led) to more sound policy approaches and objectives. The additional input informs NGO projects and greatly impacts the direction of funding. As the leading Moroccan feminist author, Fatima Mernissi elaborates, the best approach for women's rights activists is "to develop our listening capacity, to be sure that we hear everything, even those things that

don't fit into our theories and pretty constructs."<sup>87</sup> She notes that this has been achieved in Morocco where "women's groups have solicited women's testimonies from all walks of life in an effort to avoid privileging one voice over another."<sup>88</sup>

Thirdly, this study confirms, to a degree, the efficacy of indigenous reform movements. From the case at hand, it is clear that Western agendas should not be forced on countries struggling to identify and formulate an individual understanding of women's human rights. As has been done in Morocco, organizations should encourage women to invoke those rights that they do adhere to. In this respect the efforts of Moroccan organizations serve as a model for others to follow. As Sumi Colligan has testified, "The strategies of human rights activists in Morocco may offer clues for generating an internal process for setting priorities for change and establishing an exchange with the outside world."<sup>89</sup>

Change cannot be realized independently of diversity. The noted feminist bell hooks has stressed this reality in her work stating that, "diversity, disagreement, and difference"<sup>90</sup> are healthy aspects of any social movement. Much like Gallie, hooks contends that such contestation leads to "'new ideas and expanded membership."<sup>91</sup> In this respect, I conclude that the feminist movement in Morocco has been successful because it has not required a high degree of consensus. The movement is, as Colligan deems a movement should be, "easily adapted to local resources, networks, needs, and meanings."<sup>92</sup> In sum, the movement in Morocco illustrates that women's human rights, when open to healthy debate, will develop towards the optimum – an authentic understanding.

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<sup>87</sup> Mernissi Beyond the Veil 135.

<sup>88</sup> Mernissi Beyond the Veil 135.

<sup>89</sup> Colligan 135.

<sup>90</sup> bell hooks, Teaching Community: A Pedagogy of Hope (New York: Routledge, 2003) 94.

<sup>91</sup> hooks 101.

<sup>92</sup> Colligan 82.

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