

# Islam and Women's Reproductive and Sexual Rights in the MENA Region

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## Islam and Women's Reproductive and Sexual Rights in the MENA Region

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BETH SPEAKE, SEP 11 2012

### What is the Role of Islam in Relation to Women's Reproductive and Sexual Rights in the Middle East and North Africa Region?

#### Introduction

*'The vexing relationship between feminism and religion is perhaps most manifest in discussions of Islam'* (Mahmood, 2005, p.1)

Muslim women are frequently portrayed as the victims of an oppressive, patriarchal religion (Bartelink and Buitelaar, 2006, p.352), and there exists a popular belief in the Western world that Islam is inherently 'bad' for women. Indeed, in recent years, the 'plight' of women in the Muslim world has been used by some political actors as a justification (sometimes retrospectively) for military intervention in countries such as Afghanistan. Given this context, it might be assumed that women's sexual and reproductive rights are not compatible with Islam. However, Islam is a very diverse religion, and its interpretation differs across the Muslim world (Hessini, 2007; Marcotte, 2003), from country to country, between Sunni and Shi'a, between different schools of Islamic law, and indeed, within communities themselves. This essay will focus on the Muslim countries of the Middle East and North Africa (MENA) region[1], looking primarily at the influence of Islam on women's reproductive rights, with particular reference to the right to legal and safe abortion. However, issues of reproductive rights cannot be entirely separated from the wider context of sexual rights and attitudes towards women's sexuality, therefore the essay will also make reference to these issues, and practices such as female genital mutilation (FGM).

Though, like all major world religions, Islam has a strong patriarchal element, the way it is practised and experienced varies greatly across the MENA region, and is influenced by a great number of factors independent of religion (Hilsdon and Rosario, 2006, p.332). This essay will therefore consider the other factors which impact on women's reproductive and sexual rights, in particular, the political, cultural and socioeconomic context, and examine the interplay between these factors and Islam in the MENA region.

#### Definitions

##### *Reproductive Rights*

Reproductive rights, as defined by the World Health Organisation, are based on the recognition of the basic right of all couples to 'decide freely and responsibly the number, spacing and timing of their children' (WHO, 2007). This includes having the relevant information and education to make these decisions, health services to facilitate the decision, and the right to make these decisions free from discrimination, coercion or violence. The definition of reproductive rights may include the following: the right to legal and safe abortion; the right to birth control, the right to reproductive education, and the right to quality reproductive healthcare (WHO, 2007). The concept has been broadly used since the 1990's across the world, especially after the International Conference on Population and Development in Cairo, 1994 (El Hamri, 2010). However, the Arabic translation of the phrase 'reproductive rights', which is *AI-*

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*Hoqouq El-Ingabeya*, literally means 'rights associated with giving birth' (El Dawla, 2000, p.46). This demonstrates in some ways the difficulty inherent in making understood and relevant concepts which are not necessarily self-explanatory in all languages: indeed, it can be argued that the lack of appropriate terminology in Arabic to translate the concept of 'reproductive rights' suggests that the concept itself is not widely understood.

## 'Islam' and 'Muslim'

It is necessary here to make a distinction between these two different concepts which may often be conflated. As Hélie-Lucas (2001) states, *Islam* is a concept which does not exist anywhere in the material world, and which can be analysed as a religion or an ideology. *Muslim*, on the other hand, is a description of those people, globally, who attempt to practice and interpret the religion of Islam (Hélie-Lucas, 2001, p.24). Though obviously closely related and intertwined, one should not fail to differentiate between the two: the actions and beliefs of Muslim women and men do not necessarily represent Islam as a religion. Furthermore, the absence of a central authority or hierarchy in Islam provides for immense diversity and a wide range of interpretations within the religion. Moreover, Islam is mediated by the divergent geographical, political, economic and cultural contexts in which it is located. Thus, any discussion of the role of Islam in relation to women's rights must be qualified with respect to these differences, and an acknowledgement of the opinion, espoused by numerous Muslim feminists and scholars, that often what is presented as religious doctrine is, in fact, a result of 'the combination of historical, political, social and economic constructs' (Amado, 2003, p.8). Therefore, many would argue that the constraints that exist on women's reproductive and sexual rights in Muslim countries are not inherently Islamic (Obermeyer, 1995, p.44).

## Diversity in Islam

Unlike, for example, the Catholic Church, Islam does not have a hierarchy of organised clergy, or a central authority which instructs Muslims in one single interpretation of the faith (Obermeyer, 1994, p.42). On the contrary, different Muslim communities exist within the religion, including Sunni and Shi'a Muslims, which in turn are differentiated by the different schools of Islamic law to which they adhere. Therefore, no generalised account of the religion should be attempted, since:

*'a totalistichistory of Islamic society or, for that matter, of Islamic law, only obliterates the real and distinct historical, cultural, political, economic and religious particularities that have shaped and continue to shape various Muslim societies. There is no such thing as a monolithic Islamic law.'* (Marcotte, 2003, p.154)

*Fatwa* (singular) or *fatāwa* (plural), are non-binding religious edicts or pronouncements which are issued by well known and respected religious jurists or *muftis* (Hessini, 2007, p.76). It is through these *fatāwa* that medical ethics in the Islamic world, including those surrounding reproductive rights, are often formulated, being publicised through newspapers, television and radio (Rispler-Chaim, 1999, p.132). Contemporary *fatāwa* have been issued on the subject of abortion in a number of countries, often supporting the right to abortion in cases of rape, or foetal impairment (for example, in Algeria in 1998, and in Egypt, Iran and Saudi Arabia in recent years). However, *fatāwa* issued from different *muftis* are often contradictory. Furthermore, they are often not translated into law, creating a 'climate of moral confusion' surrounding the issue of abortion. Moreover, in Muslim countries throughout the MENA region, Islamic Law often co-exists and conflicts with secular constitutional principles, and colonial laws (Corréa, Petchesky and Parker, 2008, pp.57-58). Thus, the variety of interpretation that exists within Islam must be understood in the context of different countries, cultures and communities, especially in relation to women's sexual and reproductive rights. A key result of this ambiguity and confusion is the prevalence of clandestine and unsafe abortion (El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.75) with The World Health Organisation (WHO) estimating that in 2003, 1.5 million women underwent unsafe abortions in the MENA region, with life threatening consequences (WHO, 2007).

## Religious Context

The emergence of Islam in Arabia over fourteen centuries ago is widely believed to have initially improved women's status in the region (Obermeyer, 1995, p.371). The Prophet Muhammad has been described as a 'proto-feminist',

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reportedly having introduced reforms banning female infanticide, and granting women a series of rights such as allowing them to follow his teachings, to participate in political matters, and to inherit property and wealth (Zaidi et al., 2009, p.154). The Qur'an also makes specific reference to women's right to sexual enjoyment within marriage (Obermeyer, 1994, p.43), and the act of sexual intercourse is not generally considered sinful or shameful. Muslim feminists and many Muslim scholars have consistently argued that Islamic doctrine lends itself to an egalitarian interpretation, and hence that:

*'those statements in the scriptures that stress the equality of believers before God are the authentic message of Islam, while those suggesting discrimination against women are merely reflections of the temporal conditions in which the religion developed and a distortion of its inherent egalitarianism.'* (Obermeyer, 1995, p.376)

Arguably, this 'inherent egalitarianism' is frequently ignored or denied by many political actors, religious clerics and Muslim men and women throughout the MENA region, with human rights abuses and discrimination against women commonplace (Nazir, 2005). However, many Muslim scholars and feminists argue that customary tribal practices and laws which pre-date Islam have had a deep and continuing influence on women's status, and that violations of women's human rights are often tied to those harmful pre-Islamic practices (Amado, 2003, pp. 5-6) as opposed to Islam. Furthermore, a number of the countries in the MENA region retain colonial-era laws, many of them pertaining to abortion. As Hessini (2007; 2008) has argued, restrictive abortion laws are often based on archaic colonial texts, not on Shari'a law. For example, Saudi Arabia's Islamic code is more liberal than Libya's Italian-derived law (Hessini, 2007, p.80). Thus, it can be argued that many of the existing discriminatory laws, practices and attitudes which affect women in the MENA region are a result of factors outside of the Islamic religion and tradition. Nevertheless, the dominant tradition in Islam, as in the majority of major world religions, has been one with strongly patriarchal values, and this is expressed in Islamic law in many parts of the MENA region.

Abortion is not explicitly mentioned in the Qur'an (Mehryar, Ahmad-Nia and Kazemipour, 2007). However, one aspect of Islam which has direct impact on women's reproductive rights is the concept of 'Ensoulement' (how long after conception the foetus is endowed with a soul). Different schools of Islamic thought disagree over the question of 'Ensoulement'. Unlike the Roman Catholic Church, which states that the embryo is endowed with a soul at the moment of conception (Bowen, 2003), in Islam, 'Ensoulement' is said to happen at 40, 90 or 120 days, depending on the school of thought (Hessini, 2007, p.77). As a result, within Islam there are differing opinions on the subject of abortion, and it is a complex subject in Islamic law (Rispler-Chaim, 1999, p.134). Several schools of Islam, for example, *Malek* and *Ibn Hambal*, allow abortion before 'Ensoulement' takes place (El Dawla, 2000, p.52), most commonly thought to occur after the first three months of pregnancy. Therefore, a major trend in Islamic *doctrine* allows for termination of pregnancy within these first three months (El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.75). However, *laws* in many of the countries in the MENA region are based on the most conservative possible interpretation of Islamic religious texts (El Dawla, 2000, pp.51-52). The prohibition of abortion by Islamic jurists is mostly justified on the grounds of protecting the foetus, and opponents of abortion often refer to the Qur'an, which contains injunctions against infanticide, to argue against the legalisation of abortion (Mehryar, Ahmad-Nia and Kazemipour, 2007, p.357). However, many Muslim scholars argue (and it is said to be historically acknowledged in Islamic texts) that the life of the pregnant woman, and the lives of any existing children who may be affected by the birth, should take precedence over the life of the foetus (Hessini, 2008, p.23). The impact of this (comparatively liberal) religious stance on abortion on the experience of women in the MENA region is examined below.

## Permissive and Restrictive Legislation

The diversity to be found in the relation between Islam and women's sexual and reproductive rights can be illustrated with reference to abortion laws across the MENA region. Every country in the MENA region includes saving the life of the pregnant woman as a legal indication for abortion (Hessini, 2007, p.78). In a number of countries, this is the only reason which the Islamic law allows for legal abortion (as in Libya, Iraq, Oman, Lebanon, Syria, the United Arab Emirates and Yemen[2]). However, in Turkey and Tunisia, abortion is legal under Islamic law without restriction as to reason up to 10-12 weeks of gestation (Boland and Katzive, 2008, p.111), and neither country's law requires the woman to be married, and if she is, do not require spousal or parental consent. The laws in Tunisia and Turkey are therefore based on a progressive interpretation of Islamic principles and beliefs (Hessini, 2007, p.79), and Tunisia is

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considered unique in the MENA region for its leading work considering the linkages between women's status, reproductive rights and abortion. Furthermore, the abortion rate in Tunisia is the lowest of all the MENA countries (Hessini, 2008, pp.20-24), demonstrating the typical inverse correlation between permissive abortion laws and the abortion rate.

The example of Iran is particularly interesting. Iran is a theocratic country, where the Shiite rule of the jurist was established in the Iranian Revolution of 1979, and the Muslim clergy or *Ulama* are involved in policy making and legislation (Mehryar, Ahmad-Nia and Kazemipour, 2007, p.353). In 1977, before the Revolution, abortion was made available on request provided it was prescribed by a qualified doctor, and the government was involved in an active family planning programme which had been established since 1967. This law was annulled by the new state immediately after the Revolution (Mehryar, Ahmad-Nia and Kazemipour, 2007, p.357), abortion was outlawed except to save the woman's life, and sterilisation was banned. The official national family planning programme was abandoned, and the regime under the Grand Ayatollah Khomeini became overtly pronatalist, with procreation (within marriage) and fertility being extolled as key Islamic values (Boonstra, 2001, p.5). Over the next few years, the fertility rate in Iran increased dramatically (Obermeyer, 1994, p.46). However, attributing this change in policy purely to the triumph of Islamic values is misleading. In fact, in early 1980, when the revolution had ended, the Ministry of Health obtained *fatāwa* from the Grand Ayatollah Khomeini and other respected ayatollahs stating that Iranian couples' use of modern contraceptives was not contrary to Islamic principles (Mehryar, Ahmad-Nia and Kazemipour, 2007, p.354). Furthermore, though high fertility rates had been encouraged in response to heavy casualties during the war with Iraq between 1980 - 1988, by the late 1980's, the negative effects of the war became apparent and worsening economic conditions, combined with a rapidly increasing population, obliged the leaders of the Islamic Republic to 're-evaluate its ideological stance with respect to population issues' (Obermeyer, 1994, pp.46-47). Thus, a reproductive health and family planning programme was re-introduced in 1988 and now provides a wide range of contraception. Moreover, in April 2005 the Iranian parliament, despite opposition from the Islamic Guardian Council, approved a law which permits abortion in the first four months of gestation if the foetus is 'physically or mentally handicapped' (Hessini, 2007, p.80). Additionally, the law in Iran (along with only Tunisia and Turkey) allows for vasectomy procedures and tubal ligation[3] (Boonstra, 2001, p.5).

Thus, a country ruled by some of the most conservative Muslim clerics has, in relation to other countries of the MENA region, a fairly permissive approach to abortion and family planning (Hessini, 2008, p.82). DeJong, Jawad, Mortagy and Shepard (2005), therefore argue that: 'Iran's efforts to address reproductive health issues in consonance with religious values in an important model for other Muslim countries' (DeJong et al., 2005, p.50). From a more cynical perspective, it can be argued that the leaders in Iran, as well as being religious clerics, are also a 'pragmatic political elite' who to some extent recognise the importance of co-opting women's support to ensure the survival of the government regime (Marcotte, 2003, p.162). Crucially, it must be recognised that the economic and political considerations of the different governments have motivated them to respond in different ways to issues of reproductive rights. Thus, while the present government in Iran refers to the Islamic religious tradition to justify its more permissive policies in relation to abortion and reproductive rights, previously, more restrictive policies had also been legitimated with reference to Islamic principles (Obermeyer, 1994, p.47). As Obermeyer (1994) states:

*'(T)he impact of Islam on gender and reproduction is largely a function of the political context in which these issues are defined'* (Obermeyer, 1994, p.41)

It is interesting at this point to compare the influence of Islam legislation pertaining to reproductive rights in the MENA countries, as described above, with the influence of the Catholic Church in Central and South America. To cover the doctrine and dogma of the Catholic Church on abortion and reproductive rights in any depth is outside the scope of this essay. However, the position of the Catholic Church is encapsulated in the key Catholic text, the 'Catechism', which states that:

*'Human life must be respected and protected absolutely from the moment of conception. From the first moment of existence, a human being must be recognised as having the rights of a person – among which is the inviolable right of every innocent being to life.'* (quoted in Ellison, Echevarría and Smith, 2005, p.194)

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The Catholic Church, therefore, equates abortion with the murder of an innocent human being (Petchesky, 1985), eliminating the distinction between the unborn child and its mother, and in fact placing the unborn child before the mother, owing to its 'innocence'. Thus, unlike Islam, the Catholic Church does not recognise a 'graduated hierarchy of life' (Bowen, 2003, p.71) whereby the health and rights of the pregnant woman are placed before the foetus. This has been demonstrated by the Catholic Church's significant influence on abortion legislation in Central and Latin America[4], where they have been instrumental in campaigns which have led to complete bans on abortion (including to save the life of the pregnant woman) in Chile, El Salvador and Nicaragua (Moloney, 2009), as well as opposing contraceptive programmes run by governments in the region.

The uncompromising position of the Catholic Church, therefore, can be usefully contrasted with the relatively more permissive attitudes towards abortion and family planning which are espoused by many Muslim scholars and leaders. As detailed above, every country in the MENA region includes saving the life of the pregnant woman as a legal indication for abortion, and many religious leaders have issued *fatāwa* supporting the right to legal abortion for women in various situations. Moreover, unlike in the Catholic Church, the notion of family planning is also overwhelmingly sanctioned as compatible with the teachings of Islam, and many Muslim leaders assert that family planning is permitted and encouraged by Islamic law (Boonstra, 2001, p.6).

However, the apparently relatively permissive approach in Islam masks the reality that for women living in 13 out of the 21 countries in the MENA region, abortion is only legally permitted to save their life (Hessini, 2007, p.76). Furthermore, while religious support for abortion is important, the impetus behind such support is not necessarily to further the cause of women's rights: as detailed above, Iran's abortion legislation is evidently more tied to concerns over population control; and the Grand *Mufti* of Egypt, when advocating for women who had been raped to be given access to abortion, argued his point with reference to preserving 'female marriageability' (Hessini, 2007, p.78). Furthermore, abuses of women's reproductive rights still occur where the law is not properly enforced (Marcotte, 2003).

## Abuses of Women's Rights

Further, despite wide variations in legislation and policies relating to women's reproductive rights, and their rights more generally, the fact remains that women's rights are frequently abused in countries throughout the MENA region. The wider context in which women are discriminated against must be linked to their ability to exercise their reproductive and sexual rights. According to Islamic jurisprudence, males are entitled to twice the share of inheritance of females, meaning that son preference prevails in much of the MENA region, as they are often considered economic assets, in contrast to daughters (El Dawla, 2000, p.49). In Iran, the system of paying 'blood money' as a punishment for murder is also gender-based – thus the murder of a female foetus, girl or a woman demands half the amount that would be due for the murder of a male foetus, boy or man (Tan, 2004, p.159). The *Qur'an* prohibits menstruating women and girls from touching the *Qur'an*, and from praying, on the grounds that during menstruation they are unclean and 'polluting' (El Dawla, 2000, p.48). According to a number of surveys carried out across the region, abortion remains, generally, a taboo subject and a source of stigma, even in countries with permissive laws such as Tunisia (DeJong et al., 2005, p.55). Perhaps most crucially, girls and women are often seen and portrayed in Muslim culture as the bearers of family honour, which is closely linked to their 'virtue' and virginity (Abdel-Halim, 2001, p.205). Therefore, they also constitute a threat to the family honour. The pressure and constraints which this places on girls and women and their mental health can arguably be demonstrated with reference to 'honour killings' and suicides: El Dawla states that the main causes of suicide among unmarried adolescent girls (aged 14 – 19) in Egypt and Iran are the loss of virginity and unplanned pregnancies (Douki et al., 2007, p.180).

Female Genital Mutilation[5] (FGM), which directly impacts on women's reproductive, physical and mental health, is one of the most contentious issues relating to women's reproductive and sexual rights in Muslim countries. Once again, there is a number of conflicting positions within Islam on the issue of FGM. Advocates of FGM invoke religion to encourage the tradition, whilst most Islamic jurists state that it is optional (El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.84), and Saudi-Arabia, in some respects the centre of the Islamic world, and often one of the most conservative countries, actually condemns the practice and denounces it as Un-Islamic. Opponents of the practice

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state that FGM is a tribal African custom which pre-dates Islam and is not sanctioned by it (Zaidi et al., 2009, p.155). However, there is a common belief that the practice is religiously mandated, and *fatāwa* have been issued by Muslim scholars in different countries throughout the MENA region stating that it is indeed a practice required in the Islamic tradition, related to the notion that female sexuality is dangerous and must be contained (Abdel-Halim, 2001, pp.204-206). Incidence of FGM in Egypt is particularly high, but it also believed to occur in Yemen and Oman (WHO, 2007). FGM is justified, even when recognised by mothers and family members as a harmful cultural practice, to 'contain the sexuality and protect the marriageability' of female children in the context of societies where virtue and honour are presented as the most important female traits (El Dawla, 2000, p.49).

Whether or not any or all of these abuses can be attributed to Islam, then, is a source of much contentious debate. Certainly, Islam is by no means the only religion which threatens women's rights and makes representations against the concept of reproductive and sexual rights. However, it must be recognised that Islam is frequently invoked by Islamic leaders, as well as individual Muslims, as a justification for abuses of women's rights, and thus must in some way share culpability, especially in light of the popular opinion that:

*'(P)ronouncements made in the name of religion carry an additional force that makes their consequences for gender equality especially burdensome. Religiously inspired principles regarding the sanctity of marriage and the sanctity of life have weighed heavily on women, because it is women who are most likely to be trapped in violent or abusive marriages, and women whose bodies bear the consequences of multiple pregnancies.'* (Casanova and Phillips, 2009, p.39)

## Fundamentalisms

However, it is the resurgence of radical or fundamentalist Islamist thought and politics over the last three or four decades that is arguably the main source constituting a threat to women's human rights in the Muslim countries of North Africa and the Middle East (Afkhani, 2001, p.68). Women's bodies are often conceived of as belonging to society and the family, and women are seen as the bearers and reproducers of culture and tradition. In Islam, the collective and the community are emphasised as the centre of moral authority and value (Obermeyer, 1995, p.371). As a result, 'the control of women can come to symbolise the means to cure a whole range of society's political, economic and cultural problems' (Feldman and Clark, 1996, p.16). Fundamentalist agendas, correspondingly, are often characterised by a key concern: the control of women (Feldman and Clark, 1996, p.13). More specifically, fundamentalisms often seek to gain control over women's bodies – their dress, their sexuality and their reproductive capacities and choices (Berer and Sundari-Ravindran, 1996, p.7). This view can limit women's ownership of their own bodies and thus is an obvious barrier to women exercising their sexual and reproductive rights (Amado, 2003, p.6).

The rise of the conservative religious right and a resurgence of fundamentalisms (worldwide as well as specifically in the MENA region), then, and the gaining of political power by such groups, has limited and constrained discussion of sexual and reproductive rights in the international arena (Amado, 2003, pp. 8-10). As DeJong et al., (2005) state:

*'Sexual and reproductive health remain a contested subject in the region for a number of reasons, including conflict over the appropriate role of religion in social policy, exacerbated by the influence of extreme religious movements in some countries.'* (DeJong et al., 2005, P.52)

Furthermore, within countries and governments, concessions to politicised Islamists have proved to be detrimental to women's status and rights, including reproductive rights (Marcotte, 2003, p.160). Women's rights are often seen as an easy target for making concessions to religious groups, such as in Egypt in 2005, when an initiative proposed by reformists in the government to legalise abortion in cases of rape, foetal impairment and risk to the physical health of the pregnant woman, was overturned after opposition from Islamists in the Shoura Council (Dejong et al., 2005, p.55)[6]. Moreover, fundamentalist Islamist *Ulama* and scholars have frequently attacked rising abortion rates worldwide and particularly in 'the West', arguing that abortion encourages sexual activity by removing the consequence of unwanted births (Bowen, 2003, p.69). They also oppose reproductive rights and family planning in MENA countries, asserting that they are part of a foreign agenda which intends to control the growth of Muslim

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populations, and that it is thus a Western imposed strategy (El Dawla, 2000, pp.46-50). This viewpoint, propagated through *fatāwa* issued in various countries in the MENA region, has contributed to the interpretation among some Muslims that the concepts of reproductive rights and family planning are Un-Islamic, or even pose a threat to the Muslim community (El Hamri, 2010, p.31). Furthermore, the increasing power of Islamist groups in the MENA region over recent years has reinforced patriarchal attitudes and discriminatory legislation, such as workplace legislation in Egypt introduced in 1998, is reinforced by Islamist rhetoric which strongly declares that a woman's 'natural place' is in the home (El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.72). Thus:

*'The emergence of extremist Islamic forces stands as a threat to gains women have achieved as well as future possibilities for reform. Even where radical forces are not influential, the politicization of Islam seriously complicates the challenge of advocating for equal rights.'* (Nazir, 2005, p.164)

## Further Barriers

Religion and cultural practices are by no means the only barriers to women exercising their reproductive and sexual rights in the MENA region. Many authors have argued that while religious influence and discriminatory laws and cultural practices are a reason for concern, the most pressing problem facing many women is severe poverty and its consequences (Bartelink and Buitelaar, 2006; El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.71). Tadros (2010) documents how the implementation of neo-liberal economic policies and structural adjustment programmes (SAPs)[7] led to the deterioration in provision of welfare and health services; impacted negatively on people already living in poverty; and exacerbated existing inequalities (Tadros, 2010, p.4). Great disparities in wealth exist both within and between countries, and thus the experience of the women in the elite and privileged sections of society can bear little comparison to those in less privileged sections (essentially, the majority) of the population (Obermeyer, 1994, p.48). As El Dawla states, despite restrictive legislation and widespread public opposition to abortion, safe abortion is easily accessible for those women in Egypt who have the money (El Dawla, 2000, p.52). Thus:

*'To what extent the considerable obstacles to better reproductive health are the outcomes of gender inequalities or are the more general consequences of socioeconomic conditions is an important question.'* (Obermeyer, 1994, p.48)

Furthermore, even in countries where abortion laws are less restrictive and family planning is encouraged, women's access to the services is affected by their educational level, marital status and economic resources, as well as an urban/rural divide in availability of services (Hessini, 2007, p.80). Women are often unaware of or misinformed about the laws pertaining to abortion and contraception, lack information about what services are available to them, and in rural areas, women may lack the resources, for example transport, to travel to a service provider. Furthermore, the gaps between legal frameworks and reality are stark, and a legal right to abortion does not guarantee access, or necessarily protect women from repercussions from family and community members, nor the authorities (Douki et al., 2007, p.188). Thus, while abortions are common across the MENA region, with one in ten pregnancies estimated to end in abortion (Hessini, 2008, p.19), the majority of the procedures are unsafe (Singh et al., 2009). Many are performed by clandestine abortion providers using traditional indigenous methods such as ingesting a range of herbs; others are performed by women themselves with dangerous methods such as beating the abdomen, ingesting dangerous chemicals, or introducing a wire into the uterus (El Dawla, 2000, p.52).

Not only has declining state provision of services led to worsening socio-economic conditions for many people across the MENA region, it has also had the effect of stimulating the growth of faith-based organisations (FBOs), which developed to fill the gap left by the withdrawal of the state. At times, this has had a negative effect on women's rights. Saudi Arabian FBOs have been particularly active throughout the region[8], and have been accused in some countries of displacing the local interpretations of Islam for what is considered by the FBOs to be a more 'authentic' version, which often involves a more 'traditional', or patriarchal, reading of women's roles (Tadros, 2010, pp.10-11).

## Individual Interpretations

Clearly, then, Islam as it is interpreted by different Muslim scholars, jurists, governments and politicians has a diverse

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effect on the understanding, support and exercise of women's reproductive and sexual rights across the MENA region. However, individual Muslim women also exercise their own agency, choice and interpretations in relation to their reproductive and sexual rights, and religion is not necessarily their most crucial point of reference when they make decisions which are relevant to and compatible with their own lives. The International Reproductive Rights Research Action Group (IRRRAG) spent four years conducting research on women's reproductive and sexual rights from 1992 – 1998. A team based in Egypt conducted interviews, group discussions and focus groups in seven locations across the country, in both urban and rural areas. From their research they concluded that while religion and Islamic law may have an effect on the options which are available to the women, religious opinions had little bearing on how women made basic decisions about their everyday lives, including those relating to their reproductive rights (El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.75). Women interviewed often believed that Islam forbids the use of contraception, and yet they continued to use it. Arguably, this serves to highlight the reality that 'when it comes to women's decisions about fertility and childbearing, their own views of practical necessity supersede either religious belief or patriarchal tradition in guiding their choices' (El Dawla, Abdel-Hadi and Abdel-Wahab, 1998, p.98). Moreover, women interviewed in Libya and Egypt also often negotiated their own interpretation of God's will as more forgiving and understanding of their everyday choices and realities, demonstrating that women might often be more pragmatic and less moralistic than current leaders or official theology (Hessini, 2007, p.81).

## 'Culture' and 'Religion'

Furthermore, Muslim feminists and reformist Muslim scholars have often pursued a strategy which rejects 'cultural' additions to the Islamic religion, differentiating these from the 'real' or genuine religious requirements (Casanova and Phillips, 2009, pp.50-52). The concept of *Ijtihad*, which allows for formulation of independent judgement or interpretation (Boonstra, 2001, p.5), is encouraged in some Islamic schools of thought. This concept has encouraged some Muslim reformists and feminists to reject some standard requirements of the religion as cultural 'accretions', with reference to the variety of interpretations of Islam across time and region, which suggests that many aspects which are presented as essential components of the religion may in fact be historical, political, contextual and cultural additions (Casanova and Phillips, 2009, p.52). However, Phillips (2009) has powerfully argued that while this strategy of differentiation has sometimes been highly effective for instigating internal reform, it is difficult to truly make a distinction between what is 'culture' and what is 'religion':

*'The separation of "real" religion from its cultural accretions is a political, therefore always contestable, act (...) religious beliefs and injunctions can only be articulated in the historically specific discourses of their day, which means they are permeated through and through by "culture". If this is the case, no amount of stripping away the cultural accretions will deliver the essential truth.'* (Casanova and Phillips, 2009, p.53)

While any essentialist reading of Islam as a religion that automatically leads to the subjugation of women is hugely flawed, the idea that Islam (and religion in general) can pose a threat to women's rights is, to many, an uncontroversial observation. Women's sexuality has been represented as a dangerously disruptive force, and women have been urged to veil themselves to protect men from distraction and temptation (Abdel-Halim, 2001, p.204). In the MENA region, sexual transgressions by women, such as adultery and sex outside of marriage, are often punishable by death (Casanova and Phillips, 2009, p.39). Furthermore, religious leaders have often been at the forefront of campaigns against reforms in discriminatory marriage, adultery, divorce and inheritance laws, and have constituted a driving force in the global campaign against the concepts of sexual and reproductive rights (Hulme, 2009)[9]. The argument used by Islamist leaders, which opposes women's reproductive rights on the grounds that they constitute a Western agenda and are not 'culturally relevant' to Muslim societies, has led to acceptance of many violations of women's reproductive rights (El Dawla, 2000, p.50). Thus, for some writers:

*"extravagant affirmations" of empowerment and agency (Moghissi, 1999) blind analysts to the often violent force of politicized religion, particularly in Islamic regimes in North Africa and the Middle East, and misrepresent as choice what is self-evidently coercion.'* (Casanova and Phillips, 2009, P.42)

## Conclusion



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To come to a definitive conclusion concerning the role of Islam in relation to women's reproductive and sexual rights in the MENA region would be to ignore the immense diversity which exists across the region, between and within countries and communities. Islam is mediated by the divergent geographical, political, economic and cultural contexts in which it is located, and as Islam has no central authority or organised hierarchy of clergy, many competing interpretations of the faith co-exist and often contradict each other. Reproductive rights and abortion are thus supported in a wide range of situations by some political leaders and *muftis*, and denounced entirely by others, a situation which is reflected in the wide range of laws pertaining to abortion across the MENA region. This tension has led a number of Muslim feminists and reformists to argue that politics and tradition, as opposed to Islamic doctrine, are the source of patriarchal restraints on women's reproductive and sexual rights:

*'Neither Islam nor the culture of Muslim peoples is per se an obstacle to women's achieving rights. Rather, Muslim women face patriarchal structures that certain men, in power or seeking political power, misrepresent as religion and culture.'* (Afkhami, 2001, p.68)

However, it is undeniable that in the MENA region there exists 'a social and political context in which religion is misused as a powerful instrument of control and sexual oppression' (CSBR, 2011, p.2). Clearly, patriarchal and discriminatory traditions and legislation, whether or not they are attributable to Islam, are not the only barriers to women exercising their reproductive and sexual rights in the MENA region: many authors argue that in the absence of economic justice and equality, reproductive rights for women will remain unachievable (El Dawla, 2000, p.53). Nonetheless, the fact that Islam is a diverse religion with the possibility for egalitarian interpretations does not negate the reality that Islam, as a religion, cannot be wholly disentangled from the actions and beliefs of Muslim leaders and communities who make pronouncements in Islam's name: in the MENA region, therefore, Islam must be recognised for the pernicious role it plays in undermining women's reproductive and sexual rights.

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[1] The countries most commonly included in the regional definition of the Middle East and North Africa are Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestinian Territories, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, Turkey, United Arab Emirates and Yemen (Hessini, 2007, p.76)

[2] Yemen does not provide an explicit legal provision for abortion to save the pregnant woman's life, but it is provided for under the 'defence of necessity' which is encoded in the Islamic Law (Hessini, 2008, p.22)

[3] A form of permanent sterilisation in which the woman's fallopian tubes are clamped or sealed

[4] In Nicaragua in 2006, the newly elected Sandinista (FSLN)[4] government, headed by Daniel Ortega, enacted a law banning all forms of abortion, including abortion to save the life of the pregnant woman (AMPDI, 2006). During the run up to the election, the Church conducted a national campaign to have abortion banned, and the move was,

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therefore, widely acknowledged as a political deal between the Church and the Sandinista party to ensure that they received the votes necessary to be elected to power (Moloney, 2009, p.677).

[5] Female Genital Mutilation is the practice of partial or total removal of the clitoris and/or labia minora, and any other cutting, piercing or cauterising of the female genitalia for non-medical purposes (WHO, 2012)

[6] This trend can also be identified in other countries worldwide, and with reference to other major world religion, most notably, the Catholic Church (see further discussion below).

[7] SAPs have been adopted by successive governments across the region since the late 1970s in response to pressures from the World Bank and the International Monetary Fund. Programmes generally include a focus on privatisation of health, education and social services; de-regulation of labour and an opening to foreign investment (for example, see El Dawla, Abdel-Hadi and Abdel-Wahab, 1998; Stiglitz, 2002)

[8] Saudi Arabian FBOs have also been active further afield in countries such as Bosnia, Kosovo and Macedonia (Tadros, 2010)

[9] As demonstrated by the small coalition formed by the Vatican, the USA and a number of conservative Islamic states such as Iran and Libya, who ensured that the term 'sexual rights' was dropped from the United Nations Declaration on the Millennium Development Goals (MDGs), and prevented 'Access to Reproductive Health Services for all by 2015' from becoming an MDG (Hulme, 2009; Amado, 2003).

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