

# ISLAMIC FEMINISM AND GENDER JUSTICE IN MOROCCO

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## INTRODUCTION

Islamic feminist knowledge offers critical interpretations and perspectives on Islamic scriptures that challenge legislative gender inequalities and societal practices sustaining them. In Morocco, such practices include underage marriages and violence against women among others. Presently, a unique opportunity has emerged to enhance the awareness and influence of Islamic feminist perspectives in advancing gender justice in the country. Since the 1990s, religion-based trends have played an increasingly significant role in Moroccan public life. Between 2011 and September 2021, Morocco was governed by two successive coalition governments led by the Party of Justice and Development (PJD), a conservative Islamic party rooted in the Islamist organization *Islah wa At-Tawhid* (Reform and Unity). While *moderate* in its approach, the PJD does not challenge Morocco's established power structures, including the King's religious and temporal authority. However, the PJD faced a significant political setback in the July 2022 elections, resulting in a new coalition government led by Aziz Akhannouch, leader of the liberal National Rally of Independents party, as Prime Minister.

In his 2022 Throne Day speech, King Mohammed VI called for further reform of the *Mudawana* (the Moroccan Family Code), emphasizing the need to reconcile modern developments with religious values to advance women's rights. Following this announcement, the government initiated steps toward reform, including the establishment of a committee tasked with leading the process. Throughout 2023 and 2024, this committee conducted consultative meetings with civil society networks, including women's rights organizations, to gather their recommendations. The collected recommendations were then handed by the King to the Higher Religious Council for a final decision.

Despite the relevance of Islamic feminist perspectives in addressing gender justice issues in Morocco and the broader Arab world, their influence remains limited. This limitation is due in part to the polarized political climate in many Arab countries, where secular and Islamic approaches are often seen as mutually exclusive. Additionally, resistance from established Islamic institutions and governments- concerned about the erosion of their authority- further marginalizes Islamic feminist voices. These challenges are further compounded by the limited legitimacy afforded to Islamic feminist perspectives by official religious institutions and prevailing social attitudes, which frequently dismiss them as undermining traditional interpretations of Islamic law. This marginalization curtails their ability to influence policy and public discourse, despite their potential to harmonize Islamic principles with gender equality.

In light of these obstacles, this study seeks to address the following question: What are the Islamic feminist perspectives on pressing social issues that hinder gender justice in Morocco, particularly in the areas of inheritance, violence against women, and marital rights? The findings of this inquiry aim to serve as a valuable knowledge resource for engaging stakeholders across various sectors, including religious advisors, and to contribute to the broader discourse on integrating Islamic principles with the pursuit of gender equality in Morocco.

## METHODOLOGY

This study adopts a feminist approach to research, with a specific focus on Islamic feminist perspectives, as explored in the literature review. Islamic feminism emerges as a critical framework that challenges patriarchal interpretations of Islamic texts and practices while advocating for gender justice within the framework of Islam. It critiques the exclusionary dynamics of traditional epistemologies and seeks to reclaim women's voices, agency, and experiences within religious, social, and legal contexts. By employing Islamic feminist perspectives, this research situates itself at the intersection of feminist theory and Islamic praxis, aiming to contribute to a nuanced understanding of gender dynamics in Muslim societies.

Islamic feminism shares with broader feminist methodologies the commitment to dismantling hierarchies of power and knowledge that have historically silenced marginalized voices. However, it uniquely emphasizes the reinterpretation of Islamic texts, principles, and jurisprudence through a gender-sensitive lens. This involves engaging with *tafsir* (interpretation), *fiqh* (jurisprudence), and *ijtihad* (independent reasoning) to challenge patriarchal readings and uncover the egalitarian spirit embedded within Islamic teachings. The methodology draws on the rich history of Islamic scholarship while incorporating contemporary feminist principles.

Feminist approaches to knowledge production, including Islamic feminist methodologies, critique the privileging of abstract, generalized forms of knowledge that often fail to reflect the lived realities of women and other marginalized groups. Such frameworks tend to overlook the complexity, contradictions, and interconnections that define human experiences. Islamic feminism, in particular, resists reductive binaries between tradition and modernity, instead advocating for an integrated approach that honors both spiritual and social dimensions of gender justice.

Central to this methodology is the concept of *ijtihad*, which allows for dynamic and contextual interpretations of Islamic principles. By engaging with this tradition, Islamic feminism emphasizes the importance of revisiting and reinterpreting historical rulings in light of contemporary socio-economic, cultural, and political realities. This approach underscores the adaptability of Islamic thought and its capacity to address modern challenges, particularly those affecting women's rights and agency.

The study also aligns with the feminist emphasis on situated knowledge (Haraway, 1988), which recognizes that all knowledge is partial, contextual, and shaped by specific social and historical conditions. Islamic feminist methodologies, therefore, value the lived experiences of Muslim women as critical sources of insight. These experiences are understood through an intersectional lens that accounts for the interplay of gender, race, class, and religion, as well as the broader socio-political structures that influence them.

In practical terms, this methodology adopts a participatory and collaborative approach, engaging with participants and stakeholders as active partners in the research process. By prioritizing dialogue, mutual respect, and co-creation of knowledge, the study seeks to foster an inclusive and ethical research environment. This approach is particularly relevant to Islamic feminism, as it emphasizes the relational and intersubjective dimensions of knowledge building, reflecting the communal and dialogical nature of Islamic scholarship.

Ultimately, this research aims to produce transformational outcomes that address systemic inequities and contribute to the broader goals of Islamic feminism. By bridging feminist theory and Islamic praxis, the study seeks to advance a more inclusive, equitable, and contextually relevant understanding of gender and social justice in Muslim societies. Through this integrated approach, it aspires to not only deepen academic discourse but also inform practical efforts toward achieving gender equity within Islamic frameworks.

## **TOWARDS GENDER JUSTICE IN MOROCCO**

As Morocco approaches the first quarter of the 21st century, significant legislative gaps and deeply entrenched social practices continue to impede the realization of gender justice, notwithstanding recent legal reforms intended to enhance women's rights. Patriarchal norms and ideologies remain pervasive, perpetuating cultural practices that undermine gender equity and restrict women's access to their legal and social entitlements. Key issues obstructing progress include widespread gender-based violence coupled with persistent impunity for perpetrators, the prevalence of underage marriages- accounting for approximately 10% of all unions- discriminatory provisions in custody and inheritance laws, and the conditional legality of polygamy.

These enduring challenges starkly contrast with the Moroccan state's purported commitment to modernizing its legislative framework. Women's rights organizations and civil society actors have highlighted the partial and inconsistent implementation of progressive reforms such as the 2011 Constitution, which enshrines the principle of gender equality, and Law 103-13 of 2018, designed to combat violence against women. The aspirational goals of these legislative measures remain largely unfulfilled, as structural and procedural barriers continue to inhibit their intended outcomes.

Efforts to address these deficits include the ongoing review of the Family Code and the procedural provisions of the Penal Code. Religious scholars affiliated with the High Religious Council are widely believed to be actively examining the proposed revisions, yet the content and scope of these proposals remain unclear. This ambiguity underscores the complexities inherent in reconciling progressive legal reforms with traditional religious and cultural frameworks. As Morocco negotiates this critical juncture, the effective realization of gender justice will depend not only on the promulgation of new legal provisions but also on their systematic implementation and integration into broader societal structures.

## **FREEDOM OF RELIGION OR BELIEF**

Although historically in a controversial relationship, the right to gender equality and the right to practice one's religion or belief should not be juxtaposed or seen as an antagonistic construction (The Danish Institute of Human Rights, 2019). In Morocco, initiatives and suggestions to amend the obstacles for gender justice are continually debated amongst scholars, activists and policy makers, while the existing laws are repeatedly defended on the ground that there are limits to their flexibility, since they need to be in accordance with Islamic law. The most recent example of this practice relates to the on-going reform of the family code.

In Morocco – and elsewhere - the religious field is seldom considered in terms of women's rights alongside other areas or sectors, such as economic and marital rights. However, women's individual rights to practice, understand and interpret their own religion is a human right, covered

by the agenda of Freedom of Religion or Belief (the 1981 Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief)<sup>1</sup>. Freedom of Religion or Belief (FoRB) is addressing the rights of individuals and groups – “to have, adopt or change a religion or belief.” (Danish Institute for Human Rights, 2019:11). Backed by the agenda of FoRB, as a norm to promote religion- or belief-related concerns, Islamic feminist knowledge may have potential to solve the dilemma regarding Muslim women’s right to justice and self-determination, often jeopardized or violated by legislation or practices that are by authorities claimed to jeopardize religious rights.

FoRB means that women (and everyone) have the right to interpret religious texts, and to manifest and practice this interpretation in the Moroccan context. Based on research of scholars made available via Islamic feminist organisations and academic publications, Islamic feminism propagates the position that alternative and more egalitarian stances to classic Islamic *fiqh* are available, e.g. regarding polygamy and underage marriages. FoRB does not justify the violation of traditional harmful practices, such as underage marriages, instead Freedom of religion or belief and gender equality are mutually reinforcing (Ibid.). Morocco is a country that condones freedom of religion or belief<sup>2</sup>, meaning both freedom to practice and believe as well as to not believe, but the ‘classical’, opposing the faith-based, women’s movement of the country has insisted on freedom *from* religion, at least when it comes to the promotion of gender equality. These relatively strong CSO’s that have women’s empowerment as their objective – Association Démocratique des Femmes Marocaines (ADFM), Fédération des Ligues des Droits des Femmes (FLDF), Union de l’Action Féminine (now Féminist, UAF) and others - have historically not been willing to engage with Islamic feminist activists.<sup>3</sup>

Islamic feminist perspectives on women’s issues repeatedly surface in the media, public debates and activism. However, in accordance with the line of control over the religious field, depending on the political situation, religious authorities control or repress these perspectives.

Two examples demonstrate this line, the first being a delimitation of the freedom to interpret one’s religion, the next a statement on the fixed character of Islamic jurisprudence – in contradiction with Islamic feminist knowledge.

The Islamic feminist scholar, Asma Lamrabet, has published extensively on Islamic feminist perspectives and is well-known as the current front-runner of Islamic feminism in Morocco. As a feminist, Asma Lamrabet is also controversial, and the withdrawal in 2018 from her position as the head of the women’s studies center at the Council of Oulamas is widely understood to be a result of her outspokenness about gender equality in inheritance as being fully condoned by Islamic principles. Nevertheless, according to scholars on the issue (Eddouada & Peppicelli, 2013, Sadiqi and Outaleb 2020), the Moroccan King embraced re-interpretations of women’s rights in the

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<sup>1</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-all-forms-intolerance-and-discrimination>

<sup>2</sup> The constitution of 2011 confirms that the religion of the state is Islam, the King is the commander of the faithful, freedom of thought is guaranteed and everyone has the right to practice their religion. <https://www.state.gov/reports/2023-report-on-international-religious-freedom/morocco/#:~:text=for%20Religious%20Freedom-,Legal%20Framework,freedom%20to%20practice%20their%20religion.>

<sup>3</sup> Personal conversation with Ziba Mir-Hosseini about the difficulties that Musawah experienced when they after the Arab uprisings attempted to operate from Morocco.

family according to Islam, when the Mudawana was reformed in 2004. This was an attempt to meet the demands of the 'secularist' feminist movement and the Islamist opposition, in practice condoning Islamic feminist perspectives on marital rights and family.

The recent review of the proposal for such a reform performed by the Council of Oulama of Rabat and published on 23<sup>rd</sup> December 2024, follows a line of balancing a response to the development of the Moroccan society and Islamic principles. The King announced this line for the reform in his speech of Throne in July 2022. The council accepts a number of expansions of women's rights as in harmony with Islamic law (or the Maliki version followed by Moroccan law), e.g. equality between mother and father in custody over children after divorce and fewer exceptions to the age limit of 18 years of marriage. Alongside, certain provisions are according to these scholars *not* changeable. They include *taâsib*, or male preference in inheritance if there are no direct heir, and the rejection of using DNA tests to proof fatherhood, and finally inheritance between Muslims and non-Muslims.<sup>4</sup> The core claim of Islamic feminist scholars that re-interpretation of classic *fiqh* or jurisprudence of Islam is possible and necessary, is in other words still rejected by the religious establishment in Morocco – their claim is that they are based on 'fixed texts' that do not allow for re-interpretation. The recent proposal for reform of the Mudawana does not reject underage marriages and polygamy as such, but makes the legality of both practices more difficult (marriage of 17 year old youth is possible but made difficult), while equality in inheritance appears to be a red line. This goes against Islamic feminist knowledge that insist on the reinterpretation of *fiqh* so that the overall message about justice takes precedence. The international Islamic feminist organization, Musawah, has published extensively scholarly work based on Islamic feminist thought and interpretations of the Qur'an, arguing for a strategy that mutually reinforce women's rights and religious rights.

The case of freedom of religion or belief in Morocco seems to be a constant balancing. There is freedom in principle, in accordance with the image of a tolerant, Islamic country, favored by authorities and government (Eddouada & Peppicelli 2013, Wainscott 2017), and *de facto* delimitation on the way Islam is permitted to be understood, since Islam is the religion of the state. This balancing does not favour gender justice.

## ISLAMIC FEMINIST KNOWLEDGE

Islamic feminism seeks to challenge patriarchal interpretations of Islamic texts by advocating for gender justice within an Islamic framework. Prominent scholars such as Fatima Mernissi, Asma Lamrabet, Farida Bennani, Zainab Maadi, Aicha El Hajjami, and others across the Arab world, including Omaima Abou Bakr (Egypt) and Amel Grami, Olfa Youssef (Tunisia), have deconstructed Islamic scriptures, including Qur'anic verses, to question gendered legal practices that persist in Muslim-majority societies. A key focus of this scholarship is the re-examination of concepts like *qiwama* (male authority) and *wilaya* (guardianship), which have often been used to justify male dominance in marital and familial relationships. This body of work extends beyond these foundational concepts, addressing issues such as inheritance laws and practices arguing that such practices reflect historical circumstances rather than divine intent. Marriage contracts, too, are

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<sup>4</sup> According to the publication in Moroccan World News, <https://www.moroccoworldnews.com/2024/12/367184/approved-reforms-in-moroccos-family-code-whats-changing> - and a range of other news outlets, e.g. l'Observateur, Arab News, Atalayar.com.

revisited, with an emphasis on ensuring women's full consent and agency in these agreements. Feminists also address the controversial practice of polygamy, interpreting Qur'anic verses permitting it in light of the requirements of fairness that are often practically unachievable, thus undermining its justification.

Further, divorce rights are a major area of concern. Feminist scholars challenge the unequal power dynamics in divorce proceedings, where men can unilaterally initiate divorce (*talaq*), while women often face significant legal and social hurdles in pursuing divorce. They argue for a re-interpretation of Islamic law to provide more equitable provisions for both genders in the dissolution of marriage. Similarly, feminist scholars explore issues of sexual ethics and bodily autonomy, emphasizing women's right to consent and control over their bodies, particularly in matters of marriage and reproductive health.

The broader aim of these feminist efforts is to argue that Islamic jurisprudence can evolve to better serve the needs of contemporary society while remaining rooted in core Islamic values such as justice (*adl*), equity (*ihsan*), and the pursuit of benefits (*masalih*). This study interrogates the potential for egalitarian readings of Islamic scriptures to address social issues such as underage marriage- an issue that persists in Morocco despite existing legal frameworks- by promoting readings that center women's rights and autonomy.

By examining these interpretations, this study aims to explore how Islamic feminist knowledge can be utilized to challenge the flawed opposition between religious principles and women's rights, particularly within the context of Morocco. Further, while acknowledging the importance of transnational Islamic feminist movements in enriching local contexts, the study also recognizes the tensions inherent in applying transnational perspectives, which may be perceived as incongruent with local religious and cultural sensibilities. Therefore, the need for strategies that balance global feminist insights with locally grounded approaches remains paramount to ensuring both the relevance and legitimacy of these efforts within specific national frameworks.

Aïcha El Hajjami's work<sup>5</sup> for example provides a critical contribution to this conversation. She underscores the importance of dynamic reform within Islamic legal frameworks to address gender equality, particularly in Morocco. While acknowledging the intertwining of religious, political, and cultural factors, El Hajjami highlights two key obstacles: the role of the legal system as a "cultural core" and the hybridity of Morocco's legal system, especially in family law. She points to the importance of *ijtihad* (independent legal reasoning) and *nawazil* (juridical rulings) as mechanisms for adapting legal norms to contemporary needs, drawing on historical precedents like Ibn 'Ardun's fatwa, which granted female widows the right to half of the matrimonial wealth's accrued development. This dynamic approach to Islamic jurisprudence, particularly as guided by the Maliki school of thought, emphasizes public interest (*al-masalih al-mursala*), juridical preference (*istihsan*), and the objectives of Islamic law (*maqasid al-shari'a*)- principles that, when applied rigorously, can help rectify longstanding gender injustices and empower women within Islamic frameworks.

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<sup>5</sup> Naïma El Makrini, "Aïcha El Hajjami (née en 1952): Une jurisconsulte en action," in *Savants Musulmans au Maghreb*, Diacritiques Éditions, 24 March 2024, pp. 242–262.



By engaging with these Islamic feminist perspectives, this study aims to contribute to the larger discourse on gender justice, offering a nuanced exploration of how Islamic feminist knowledge can provide a framework for advancing women's religious rights while respecting local cultural and religious values.

### **MURSHIDAT AND A MODERATE ISLAM IN MOROCCO**

The teachings of Imams and Murshidat in Morocco<sup>6</sup>, while generally aligned with the principles of the Mudawana (Moroccan Family Code), continue to be influenced by conservative interpretations that hinder progress on key social issues such as inheritance or polygamy. These practices, which undermine women's rights, are often framed as religious traditions, creating a significant barrier to reform despite legal and educational efforts to address them.

The Moroccan state maintains a strong control over the religious sphere, adhering to Sunni Islam and the Maliki legal school, which is presumably followed by most of the population<sup>7</sup>. However, this portrayal of a homogeneous religious field may obscure the diversity of religious thought present in the country. Women's agency within religious discourse, particularly their role in shaping the interpretation of Islam and its application in legislation and social practices, is largely excluded. This exclusion is partly due to the reliance on classical Islamic jurisprudence, which was developed by male scholars centuries ago and continues to inform religious practices and the judiciary.

The recent inclusion of Murshidat- female preachers, counselors, and mediators- by the state, while significant in expanding women's agency, has done little to challenge or alter the existing status quo. The state's approach to religion remains highly controlled, with a clear reluctance to allow minority religious groups such as Shia Muslims or Christians to gain any political influence. Simultaneously, the state seeks to preserve and regulate the religious beliefs and practices of the Sunni majority, particularly within the context of a political strategy grounded in "spiritual security." This notion, coined in response to Islamist terrorist attacks in Morocco in 2003 and 2007, and the Madrid attack in 2004, aims to curb the spread of extremist ideologies by reinforcing state-sanctioned religious practices. As part of this effort, female religious leaders have been trained under the supervision of the Ministry of Religious Affairs and Habous (religious endowments) since 2004. The intention is to secure what the state defines as "moderate" religious practice, which is closely aligned with traditional Sufi influences and Maliki jurisprudence.

However, the Moroccan state's ambivalence toward Islamic feminism, both domestic and transnational, is also evident. For instance, the transnational Islamic feminist organization Musawah, which advocates for equality in the Muslim family, faced significant obstacles in establishing its head office in Morocco. After more than two years of delays, Musawah ultimately abandoned its efforts. This collaboration with Asma Lamrabet, a Moroccan Islamic feminist and

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<sup>6</sup> Imams are male religious leaders responsible for leading prayers, providing religious guidance, and delivering sermons in mosques. Murshidat (singular: murshida) are female religious guides introduced as part of Morocco's religious reforms after 2003. They are trained to provide spiritual counseling, teach religious classes, and promote moderate Islamic values.

<sup>7</sup> While the Moroccan state adheres to Sunni Islam and the Maliki legal school, which is the predominant religious affiliation, there are no official statistics on religious diversity in Morocco. The absence of such data reflects the state's emphasis on maintaining a unified religious identity, limiting recognition or visibility of minority religious groups, including Christians, Shia Muslims, and non-religious individuals.

former head of the Women's Centre at the prestigious Rabita (Mohammedan League of Scholars), ended when Lamrabet publicly declared that Islam endorses gender equality in inheritance laws. Her statement led to her resignation from Rabita in 2018, underscoring the challenges faced by Islamic feminists within state-controlled religious institutions.

This complex relationship between the state, religious authority, and feminist thought highlights the tension between the desire for reform and the entrenched conservatism that continues to shape women's rights in Morocco. While the state promotes a controlled version of religious practice that includes female religious leaders, it remains wary of the influence of Islamic feminism, particularly when it challenges longstanding interpretations that limit women's rights. The struggle for gender equality within an Islamic framework in Morocco remains deeply entwined with the broader political and religious dynamics of the state.

### **A DIVIDED WOMEN'S MOVEMENT - SHARING A STRATEGY?**

In recent years, Islamic/st activists have increasingly turned their attention to exploring Islamic feminism, a trend that intersects with the longstanding advocacy of secular reformers who have called for a family code that reflects gender equality. This convergence of interests between what has historically been a divided women's movement may now provide common ground for those seeking to emphasize the egalitarian principles within Islam, as highlighted by scholars such as Leila Ahmed (1992). Islamic feminist discourse, in this context, emerges as a counter-narrative that challenges the reductive view of Islam as a monolithic entity. It disrupts the notion that Islam must be understood through a singular, authoritative interpretation, and questions the assumption that Islam is the sole legitimate religious framework within Morocco.

The objective of this study is to critically engage with Islamic feminist perspectives on key social issues in Morocco, assessing their relevance and potential for promoting gender justice in the Moroccan context. This exploration seeks to evaluate the applicability of these perspectives to issues that have long impeded the advancement of women's rights, such as gender-based violence, unequal inheritance rights, and disparities in marital law.

By engaging with stakeholders across various sectors- religious, educational, legal, and political- this study aims to foster a deeper understanding of Islamic feminist perspectives. It intends to provide these stakeholders, including policymakers, religious leaders, and civil society organizations working for gender justice, with valuable insights into how these frameworks can address longstanding gender inequalities. Specifically, the study engages Imams and Murshidat, who play a pivotal role in offering religious guidance to the Moroccan public and who may be instrumental in reshaping attitudes toward gender justice.

The anticipated outcome of this study, and subsequent activities, is to provide a set of joint recommendations to inform Morocco's ongoing legal reform processes. These recommendations are directed at political stakeholders and lawmakers, with the goal of encouraging reforms that align with principles of gender justice. Additionally, the study aims to support civil society organizations that engage directly with the individuals and families affected by gender injustices, as well as to guide the counseling practices of Imams and Murshidat, ensuring that their advice reflects a more equitable interpretation of Islamic teachings. In doing so, this study hopes to inspire broader societal shifts toward gender equality within both religious and legal spheres in Morocco.



## I - ISLAMIC FEMINIST DISCUSSIONS ON INEQUALITY IN INHERITANCE

The debate over gender equality in inheritance highlights deep-seated social and economic inequalities in Morocco, underscoring the broader conflict between entrenched traditional norms and the aspirations of an evolving society. Addressing the systemic discrimination against women is essential, yet the prospects for achieving inheritance equality within the forthcoming family law reforms remain dim due to the royal directive to preserve religious rulings.<sup>8</sup> This reality perpetuates economic disparities by limiting women's access to equitable financial resources.

Although the reform may provide limited flexibility in the interpretation of specific inheritance details, it continues to contend with significant social resistance, further entrenching these inequalities. A survey<sup>9</sup> conducted by group Synergia highlights the opposition to gender-equal inheritance, with 69% of Moroccans rejecting the idea and only 23% in favor. Surprisingly, only 29% of women- despite being the primary beneficiaries- support reform, compared to 35% of men. Resistance spans age groups, with opposition peaking among those aged 25–34 (77%) and remaining high in both urban (70%) and rural (68%) areas. Socioeconomic factors also play a role, with individuals from lower socio-professional categories showing the strongest resistance. The findings suggest that public attitudes remain largely aligned with traditional Islamic inheritance principles, with little evidence of significant change over time. In contrast, attitudes toward women working outside the home show greater progress, with 66% of respondents expressing support, including 81% of women. Support is particularly strong in urban areas (71%) and among those aged 55–64 (82%). However, opposition persists among younger men and rural populations, reflecting lingering patriarchal attitudes. These contrasting perspectives underscore Morocco's complex gender dynamics: while resistance to inheritance reform remains entrenched, increasing support for women's workforce participation indicates a gradual shift in societal views on gender roles.

### THEOLOGICAL REINTERPRETATIONS

Islamic feminists have been at the forefront of reinterpreting Qur'anic verses on inheritance to promote gender equality. Central to this discourse is the verse in Surah An-Nisa (4:11), which traditionally has been interpreted to mean that a male heir receives double the share of a female heir. A significant body of literature emerged to argue for understanding the Qur'an and its stipulations within the socio-historical context of 7th-century Arabia. In her work *Qur'an and Woman*, Amina Wadud argues that the Qur'an's guidance on inheritance was revolutionary for its time, providing women with rights that they had previously been denied. She challenges the

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<sup>8</sup> On December 24, King Mohammed VI chaired a working session at the Royal Palace in Casablanca to review the progress of the ongoing revision of the Family Code (Mudawana). The session emphasized the importance of achieving a balanced and comprehensive reform that adheres to Islamic principles while addressing contemporary societal needs. During the meeting, the Higher Council of Ulemas shared its perspective on the proposed amendments presented by the committee responsible for revising the Family Code. Among the recommendations was a provision allowing individuals to transfer property or assets to their daughters during their lifetime. This transfer, recognized as legal ownership, ensures the daughters' inheritance rights are protected. The measure circumvents the challenges posed by the principle of *taasib*, which is likely to remain unchanged in the reformed code.

<sup>9</sup> Zineb Aqboub, "Égalité homme-femme au Maroc: héritage et travail," *Groupe Synergia*, 16 August 2022. <https://groupe-synergia.com/market-insights/egalite-homme-femme-au-maroc-heritage-et->

common oversimplification of the Qur'anic inheritance rule that a male inherits twice the share of a female. While verses 4:11-12 mention this ratio, the Qur'an provides multiple proportional divisions based on the specific circumstances of the inheritors, including various relatives like parents, siblings, and offspring. Thus, the division of inheritance is nuanced, considering the relationships and contributions of all potential heirs. She further contends that the fixed shares prescribed in the Qur'an were meant to address the specific economic and social conditions of that era and should not be applied rigidly in contemporary contexts where women's economic roles and responsibilities have changed significantly<sup>10</sup>. Wadud's approach advocates for a more contextual and ethical interpretation that aligns with the Qur'an's overarching principles of justice and fairness.

Several scholars have critiqued traditional interpretations of Islamic laws, advocating for a more flexible, justice-based approach that reflects contemporary socio-economic realities. While the Qur'anic inheritance rules may appear to favor men -such as the two-to-one ratio-, they must be understood within the broader framework of justice and equity central to the Qur'an's message. The Qur'anic inheritance laws were revolutionary in securing rights for women who, in pre-Islamic Arabia, were often disinherited, but these laws also leave room for reinterpretation in light of modern contexts where women may contribute equally to family wealth. Asma Barlas, in her work *"Believing Women" in Islam*, contends that patriarchal societies have historically exaggerated gender differences to justify inequality, particularly by misinterpreting the Qur'an's messages<sup>11</sup>. She argues that the Qur'an promotes a vision of justice that transcends rigid gender distinctions and that its message is inherently flexible to accommodate the evolving roles of men and women in society<sup>12</sup>. Barlas asserts that any interpretation of Qur'anic laws, including inheritance, must reflect the core principles of fairness and equity<sup>13</sup>. Rather than being a static legal framework, the Qur'an's guidance is meant to be interpreted dynamically, ensuring that women's rights to wealth, inheritance, and social participation are upheld in ways that are just and relevant to contemporary realities<sup>14</sup>. This suggests that Qur'anic inheritance rules can and should be revisited to reflect modern contributions of women to family and society, allowing for interpretations that prioritize justice over fixed, literalist readings<sup>15</sup>.

Leila Ahmed (1992) similarly situates the issue within the historical development of Islamic law, arguing that early Islamic reforms aimed to protect women's financial interests but were later co-opted by patriarchal forces to reinforce male privilege. Ayesha Chaudhry (2013) adds that traditional interpretations often reflect the socio-political realities of early Islamic societies rather than unchangeable divine mandates. She calls for a contextualist approach, where modern reinterpretations of the Qur'an align with contemporary gender justice. Kecia Ali (2006) further provides a critical analysis of classical Islamic jurisprudence, noting that classical jurists were influenced by patriarchal norms, leading to interpretations that privileged men. She argues that it might be necessary to reject certain practices and interpretations even if they were approved by classical jurists or the prophet Muhammad according to Hadith. She prefers such conscious

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<sup>10</sup> Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, Oxford University Press, 1999.

<sup>11</sup> Asma Barlas, *Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an*, University of Texas Press, 2002. P. 126.

<sup>12</sup> Ibid., p. 186.

<sup>13</sup> Ibid., p. 191.

<sup>14</sup> Ibid., p. 195.

<sup>15</sup> Ibid., p. 197-98.

rejection over what she identifies as “well-meaning but deceitful manipulation of the texts”, to advance certain interpretations but not distance oneself from the interpretive tradition as a whole or a particular ruling”.<sup>16</sup>

Zainah Anwar<sup>17</sup> highlights the socially constructed nature of Islamic inheritance laws, as evidenced by the differing opinions among jurists regarding the apportionment of inheritance for sisters and uterine relatives, or maternal kin. The Qur'an specifies that if a man is survived by only one sister, she is entitled to half of his estate (An-Nisa 4:176). Some jurists extended this to mean that she would inherit the remaining half as well, if no agnate relatives were present. However, Shafi'i opposed this interpretation, stating, "Have you not given her the entire estate as a sole survivor, while God prescribed for her only half of it whether she survived alone or with others?" He also rejected the view of other jurists who referenced the verse about uterine relatives (Al-Anfal 8:75), arguing that this verse pertained to the period shortly after the Hijra when inheritance was distributed based on faith ties, a system that was replaced once specific verses about inheritance were revealed. Shafi'i contended, "the husband receives a larger share than most uterine relatives. So if you permit people to inherit according to uterine relationship, the daughter would be on an equal footing with the brother, and all the uterine heirs would be entitled to inherit and would have a greater claim than the husband, who enjoys no uterine relationship". He historicized these Qur'anic verses, asserting that the one concerning uterine relatives was no longer applicable, and argued that any remaining estate, or residue, should go to the tribe if no agnate relatives were present. Anwar suggests that this disagreement among jurists may also be viewed through the lens of patriarchal and matriarchal social structures. Shafi'i's interpretation appears to favor a patriarchal system, opposing views that might undermine this framework. In pre-Islamic Arabia, women and uterine relatives were excluded from inheritance, but the Qur'an introduced rights for women, granting half of the estate to a daughter or sister if she was the sole survivor. However, the Qur'an is silent on the distribution of the residue in such cases. Shafi'i's position seems to preserve the pre-Islamic patriarchal practice, replacing the tribe with the Muslim community.

Mernissi<sup>18</sup> further highlights the struggles faced by early Muslim women as they fought for their inheritance rights against pre-Islamic customs, which excluded women from inheritance because they were not seen as active participants in warfare. One example is Umm Kajja, an Ansari woman whose husband's brother denied her inheritance, claiming that since women did not fight in battles, they had no right to inherit. At the time, inheritance was largely tied to participation in war, which was a key means of acquiring wealth in a society of scarcity. However, many women, including Umm Kajja and Kubaysha Bint Matan, approached the Prophet Muhammad to demand the application of the new laws that granted women inheritance rights. In Kubaysha's case, her son-in-law attempted to claim her as part of his inheritance, which led to the revelation of verse 19 of Sura 4, prohibiting men from inheriting women or restricting their freedom to remarry. This marked a significant challenge to the prevailing customs, especially among the Ansar of Medina, where sons inherited their stepmothers as property. For Mernissi, this short verse represented a 'bombshell' for

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<sup>16</sup> Juliane Hammer, *American Muslim Women, Religious Authority, and Activism: More Than a Prayer*, University of Texas Press, 2012. P. 112

<sup>17</sup> Zainah Anwar (ed.), *Wanted: Equality and Justice in the Muslim Family*, Musawah: An Initiative of Sisters in Islam, 2009. P. 83.

<sup>18</sup> Fatima Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*, translated by Mary Jo Lakeland, Perseus Books, 1991. Pp. 130-139.

the men of Medina. For the first time, they found themselves in direct conflict with the revelation. Mernissi goes back to this historical moment to analyze men's psyche and their rejection of the new law to protect their privileges. Despite the clear guidance from the Quran, many men found these new inheritance rules incomprehensible and unfair, especially since they believed that women and children, who did not work or contribute to wealth accumulation, should not have equal rights to inheritance. They sought clarification from the Prophet, who firmly upheld the new laws. Mernissi emphasizes that despite the Prophet's insistence, men continued to manipulate the rules through interpretation to maintain their privileges, using the ambiguous term *sufaha* (the foolish) in the Quran to justify excluding women and children from inheritance. Some conservative men argued that women were the *sufaha*, and thus, their inheritance rights could be nullified.

Mernissi notes that centuries later, the renowned Islamic scholar al-Tabari carefully navigated this debate. While he cited numerous interpretations of the term *sufaha*, he ultimately concluded that the term referred to those incapable of managing their wealth, regardless of gender. According to al-Tabari, excluding women from inheritance based on the term *sufaha* was a distortion of the Quran's language, as the plural form *sufaha* applied to both men and women, and if God intended to designate only women as foolish, a different plural form would have been used. Mernissi critiques the religious scholars (*fuqaha*) for their empirical approach, which, while scientifically rigorous, lacked synthesis or the development of broader principles that could clearly define the relationship between the sexes in Islam. This empirical approach, she argues, allowed for the manipulation of sacred texts to preserve male privileges. Mernissi suggests that if Islamic scholars had established a system of fundamental principles, particularly regarding gender equality, Islamic civilization might have developed its own declaration of human rights, similar to the Universal Declaration of Human Rights. Mernissi concludes by highlighting the paradox in Islamic history: while Islam opposed slavery in principle, it was colonial pressure that ultimately abolished the practice in Muslim countries. Similarly, although Islam introduced revolutionary changes regarding gender equality, many Muslim men resisted these changes, both in the time of the Prophet and in the contemporary period. Mernissi argues that the resistance to gender equality in Islam reflects a broader failure to embrace the ethical and egalitarian dimensions of the religion, which continue to be perceived as foreign concepts.

## **SOCIO-LEGAL PERSPECTIVES**

Islamic feminists have also engaged in socio-legal analyses to explore the impact of inheritance laws on women's lives. Ziba Mir-Hosseini (2003) has been vocal on the ways in which patriarchal interpretations of Islamic law have been codified into legal systems in Muslim-majority countries. Mir-Hosseini argues that these legal structures often disadvantage women, not only by limiting their inheritance rights but also by reinforcing their economic dependence on male relatives. In her work, Mir-Hosseini highlights the discrepancies between the ideal of Islamic justice and the reality of legal practices in many Muslim countries. For instance, in some contexts, women may be pressured to forgo their inheritance rights in favor of male relatives, either due to social expectations or family dynamics (Mir-Hosseini, 2007). Mir-Hosseini's analysis calls for a re-examination of these practices and advocates for legal reforms that uphold women's rights to inheritance as equal citizens. Mir-Hosseini identifies how certain social norms were incorporated into fiqh through theological, legal, and social theories and assumptions that deemed women as created for men, marriage as a contract of sale, women as inferior to men, women needing protection, men as guardians and protectors of women, and male and female sexuality as

inherently different, with the latter seen as a potential threat to the social order (Mir-Hosseini, 2011). Mir Hosseini further argues that Muslim legal tradition does not treat men and women equally. The assumption at the root of this unequal treatment is that men are, and should be, in charge of women (Mir-Hosseini, Rumminger, Sharmani, 2014). This assumption is encapsulated in two legal concepts that place women under male guardianship. These are *Qiwama*, which denotes a husband's authority over his wife; and *Wilaya*, which denotes the right and duty of male family members to exercise guardianship over female members. These concepts, as constructed by classical jurists and reflected in current laws and practices, have played and continue to play a central role in institutionalizing, justifying and sustaining gender inequality in Muslim contexts, including financial responsibilities to justify unequal inheritance.

In Morocco, the issue of *ta'sib* presents a particular challenge. Under this rule, women or girls without brothers are required to share the inheritance with the closest male relatives of the deceased, such as uncles. Historically, *ta'sib* was justified within the tribal system of the time, where men were responsible for not only supporting their wives and vulnerable family members but also protecting and representing their clan. However, this is no longer the case in modern Moroccan society, where families are typically limited to parents and their children. Today, women often contribute significantly to their families' well-being, and in some cases, they are the sole providers. Many women also financially support their husbands, and the number of single, divorced, or widowed women- whether with or without children- has grown considerably. In this contemporary context, *ta'sib* has become increasingly unfair. Uncles do not care for their nieces, nor do cousins take responsibility for their distant relatives. Generally, men no longer provide for their female relatives, even if they are alone or financially vulnerable. How, then, can it be justified that these male relatives, often distant, can claim a share of the inheritance from a deceased person who left no sons, while taking neither material nor moral responsibility for the orphaned daughters? This leads to considerable emotional and financial distress, often during periods of mourning. In some cases, the male heirs demand their share of the deceased's property- sometimes even before the burial- claiming furniture, family heirlooms, and other assets, or pressuring bereaved women to sell the family home so they can collect "their due." As a result, an increasing number of parents who have no sons resort to legal workarounds, such as donations or fictitious sales, to protect their daughters. The question arises: why maintain a rule that no longer has any social justification and lacks a solid basis in the Qur'an? On the contrary, in the current context, *ta'sib* runs counter to the Qur'anic principles of justice (*'adl*) and the broader objectives (*maqasid*) of Islamic law.<sup>19</sup>

Moroccan theologian Ahmed El Khamlichi and former director of the official institution Dar Hadith Hassania has publicly challenged the religious basis of *ta'sib* and emphasized the individual's right to decide the fate of their property after death. He contextualizes this rule within the advent of Islam, explaining that it arose in a time when male relatives bore full responsibility for any wrongs committed by family members-particularly through the payment of *diya* (compensation). Women, in contrast, were not held liable in such cases, and this is where the concept of *ta'sib*- which prioritizes male heirs- was derived. El Khamlichi argues that this inheritance arrangement is not

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<sup>19</sup> "Call for the Repeal of the Inheritance Ta'sib Rule in Morocco," *Change.org*.  
<https://www.change.org/p/moroccan-government-call-for-the-repeal-of-the-inheritance-ta-sib-rule-in-morocco>.

stipulated in the Qur'an but is instead mentioned in a Hadith known as the "Peacock Hadith" (*taouss*). Regarding the role of wills in inheritance, El Khamlichi challenges the rule "*la wasiyata li warith*" (no bequest to an heir), asserting that it is not from the Qur'an but originates from a debatable hadith with an interrupted *sanad* (chain of transmission). As evidence, he cites a clear verse from Surat Al-Baqarah (2:180), which, he maintains, permits the deceased to bequeath property to their heirs. The verse uses the term "*bil ma'ruf*" (according to what is just and acceptable in society), which, El Khamlichi explains, highlights the importance of ensuring income for disadvantaged heirs. This could include a disabled heir, a widow, a young child, or-by logical extension-a daughter. El Khamlichi suggests broadening the interpretation of this verse to allow a father to bequeath property to any heirs who seem disadvantaged.<sup>20</sup>

Asma Lamrabet has been vocal in calling for a re-evaluation of inheritance laws in light of contemporary socio-economic realities. Lamrabet argues that the traditional interpretation of inheritance in Islam was context-specific and that modern contexts require new interpretations that uphold the principles of justice and equality. Her work advocates for a holistic approach that considers both legal reforms and changes in cultural attitudes toward gender roles and economic responsibilities. Lamrabet has called for revisiting the traditional texts and understanding jurisdiction on inheritance in the light of the changing social and economic dynamics including women's work and their equal contribution to the creation of wealth. Hence, the need for an equal distribution of inheritance becomes compelling. According to Lamrabet, the distribution of inheritance in the Quran should be understood within its socio-historical imperatives and in the context of the traditional structure of extended family, which in our modern times is replaced by nuclear family structure in which women contribute to the economic sustainment of the family or are heads of the family, "what can we say today of women who share the financial burden of the household, and even assume the entire responsibility when the husband has a low income or has no income at all? What can we say of all those men who are in the total inability to provide alone the needs of all the family to confront the imperatives of an extremely difficult employment situation for today's couple?" Lamrabet argues for the revision of inheritance laws by taking into consideration women's contribution to economic responsibilities. Refusing to acknowledge the latter reality contradicts the ethical principles of the Quran. Lamrabet also problematizes the dual frame of reference- religious and universal that underpins legal reform in Morocco and reveals discrepancies at the level of implementation, "the issue of inheritance, as well as other sensitive topics, forces us nowadays to review the whole approach of the Islamic frame of reference, in order to conceive it in a global way and go through a reformist reading of it so as to identify concrete answers that are capable of overcoming the current social legal deadlock".

Lamrabet suggests therefore a post-fiqh approach that privileges a consideration of the Quran's ethos of justice and equality. Lamrabet's call for a gender-neutral reinterpretation of inheritance Law that privileges the socio-moral objectives of the Quran becomes disruptive to religious constants. Constants become yet again useful in excluding interpretive endeavors that fall outside of state-approved interpretive frameworks and emphasizes the role of the monarchy and the religious establishment in being the sole catalyst in the implementation of political and social change.

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<sup>20</sup> Siham Bencheikroun (dir.), *L'Héritage des femmes : réflexion pluri-disciplinaire sur l'héritage au Maroc*, Ed. Empreintes, 2016. P. 27

Siham Bencheekroun<sup>21</sup> notes that while religious foundations are the legitimate basis for inheritance reforms, it is not enough to simply consult religious texts and question the *ulama* (Islamic scholars). She argues that it is essential to reassess both our approach to religion and our relationship to religious authority, emphasizing the importance of a societal frame of reference. Inheritance, she explains, is not only a religious issue but also a social and political one that can perpetuate violence against women. When it comes to inheritance, the *Mudawana* (Moroccan family code) remains faithful to Maliki law. It upholds the same rigid rules, imposes the same conditions on wills, and follows the same principles for identifying heirs and specifying shares, preserving the same inequality between the shares of men and women. As Mounira Charrad points out, inheritance regulations represent the most unchangeable part of Islamic family law. Given the Moroccan legislators' commitment to adhering to *Shari'a* and protecting the extended patrilineal kinship group, inheritance laws have been the least likely to undergo modification.<sup>22</sup> Bencheekroun highlights that inheritance rules are not isolated aspects of family law, and any potential reforms must be addressed in conjunction with broader family law reforms. While notable progress has been made in areas such as marriage, divorce, and social and political rights, there has been little discernible progress on inheritance reform, an increasingly urgent issue in modern Moroccan society.

## II- ISLAMIC FEMINIST DISCUSSIONS ON POLYGAMY

Polygamy has long been a contentious issue in Moroccan society, rooted in cultural and religious traditions yet increasingly debated in light of modern legal and social reforms. As a practice sanctioned under Islamic law but subject to contemporary reinterpretations, its regulation reflects broader tensions between tradition and the push for gender equality. Although the *Mudawana*<sup>23</sup> did not abolish polygamy, it imposed significant restrictions.<sup>24</sup> Articles 40 to 46 of the Family Code require judicial approval for polygamous marriages, mandating that the husband demonstrate an exceptional justification and sufficient financial means to support multiple families equitably. Article 40 also allows women to include monogamy clauses in marriage contracts, but such clauses are rarely used; out of 75,173 contracts analyzed, only 87 included them. Polygamy remains rare, with 2020 statistics showing it accounted for just 0.3% of marriages (658 cases). Despite its rarity, polygamy enjoys widespread societal support within the framework of the Family Code. A study<sup>25</sup> by the Center for Family Studies and Research found that 80% of Moroccans favor retaining polygamy under certain conditions, such as financial eligibility (53%), housing

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<sup>21</sup> Ibid.

<sup>22</sup> Mounira M. Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco*, University of California Press, 2001. Pp. 166-167.

<sup>23</sup> Mai El-Sadany and Bassel Jamali, "The Moudawana: Morocco's Nearly 20-Year Old Family Code," *The Tahrir Institute for Middle East Policy*, 7 July 2023. Available at: <https://timep.org/2023/07/07/the-moudawana-moroccos-nearly-20-year-old-family-code/>.

<sup>24</sup> Among the key changes discussed during the royal working session in December 2024 was a provision addressing polygamy. It mandates that wives be consulted during the marriage documentation process and explicitly declare whether they object to polygamy, with their decision formally recorded in the marriage contract. If a wife objects, polygamy is strictly prohibited. Even if no objection is raised, polygamy would be allowed only in exceptional circumstances, such as infertility, serious illness, or other reasons deemed justified by the court.

<sup>25</sup> Hiba El Bouchtaoui, "80% of Moroccans Embrace Polygamy as Marriage Age Rises," *Hespress*, May 22, 2023, <https://en.hespress.com/64544-80-of-moroccans-embrace-polygamy-as-marriage-age-rises.html>.



availability (10%), and physical and psychological suitability (8.3%). Only 16% opposed polygamy outright. Supporters emphasized its use in exceptional cases, such as infertility or illness. The study highlighted motivations for polygamy: for women, delayed marriage age (36%) and economic fragility (26.6%) were leading factors, while men cited financial capacity (33.7%), desire for children (28%), and notions of "manhood" (15.8%) as primary reasons. However, instances of circumventing legal restrictions- such as falsifying celibacy certificates, illegal marriages via religious rites, or concealing civil status records- were noted, raising concerns about enforcement. Awareness of the Family Code and its revisions is uneven. While 42.7% of respondents were fully informed, over 15% had no knowledge of recent updates. Women showed greater familiarity with the Code, accessing it for civil, personal, academic, and familial reasons.

### **THEOLOGICAL ARGUMENTS AND REINTERPRETATION OF ISLAMIC TEXTS**

Islamic feminists have extensively analyzed the Qur'anic verses and Hadiths related to polygamy, particularly focusing on the verse in Surah An-Nisa (4:3), which allows men to marry up to four women but with the condition that they must treat them all equally. Scholars have engaged critically with this verse emphasizing that the Qur'an's conditional allowance of polygamy should be understood within its historical and social context, where it was intended to protect orphans and widows in times of war, rather than as a blanket endorsement of the practice.

Amina Wadud's<sup>26</sup> hermeneutical approach focuses on the underlying ethical principles of justice and equality that she believes should guide contemporary interpretations. She argues that many Muslim nations that now view polygamy as unconstitutional have made these changes based on a comprehensive Qur'anic understanding of marriage, coupled with modern Islamic perspectives. Historically, marriages during the time of revelation were largely based on a need for women to be economically supported by men- first by their fathers, and later by their husbands. This economic aspect of marriage, as emphasized in various Qur'anic verses, is also relevant to the discussion of polygamy. In the Qur'an, verse 4:3, which states: "If you fear that you will not deal justly with the orphans, marry women of your choice, two, three or four. But if you fear that you will not be able to do justly (with them), then only one... to prevent you from doing injustice," is often cited regarding polygamy. Wadud clarifies that this verse primarily addresses the treatment of orphans. Male guardians, responsible for managing the wealth of female orphans, were sometimes unable to do so justly. Marriage to these orphans was proposed as a solution, while limiting the number of wives to four. This limitation also placed an economic responsibility on men to maintain their wives, balancing access to the orphan's wealth with the duty of care. However, most contemporary advocates for polygamy rarely mention the connection between the verse and the just treatment of orphans.

Wadud critiques proponents of polygamy for reducing justice between wives to mere material provision, focusing on whether a man can financially support more than one wife. This perspective, she argues, is an extension of the outdated notion of marriage as subjugation. It fails to consider justice in terms of time, affection, and spiritual or intellectual support, neglecting broader social justice concerns within marriage. The verse clearly emphasizes justice- whether in managing wealth, dealing with orphans, or treating wives fairly. Modern commentaries on polygamy often focus on this concept of justice. Furthermore, in light of verse 4:129, "You are never able to be just

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<sup>26</sup> Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*. Pp. 82-85



and fair as between women," many scholars conclude that monogamy is the preferred marital arrangement in Islam. Wadud stresses that the Qur'anic ideals of mutuality-"They (women) are raiment for you and you are raiment for them" (2:187) - and building love and mercy between spouses (30:21) cannot be fully realized when a husband is divided between multiple families.

Wadud also addresses three common justifications for polygamy, noting that none are directly supported by the Qur'an. First is the financial rationale, where a financially stable man is thought to be obligated to support more than one wife in times of economic hardship. This assumes that women are financial burdens rather than contributors. In today's context, many women do not need male financial support, as productivity in the workforce is not solely determined by gender. Thus, polygamy is not a solution to complex economic issues. The second justification revolves around childlessness, where polygamy is seen as a way for men to have children if their wives are unable. Wadud points out that the Qur'an offers no such rationale for polygamy. While the desire for children is natural, alternatives such as adoption and caregiving for orphans provide opportunities for childless couples to nurture and raise children without resorting to polygamy. The third rationale is based on men's unrestrained sexual desires, which is also unsupported by the Qur'an. The idea that men need multiple wives to satisfy their sexual needs undermines the Qur'anic principles of self-restraint, modesty, and fidelity- values that apply equally to both men and women. Wadud emphasizes that the Qur'an does not hold women to a higher moral standard while allowing men to act on their base desires. Rather, both men and women share the mutual responsibility of *khilafa* (trusteeship), and the Qur'an calls for a balance in moral conduct for all of humanity.

In the context of Tunisia, family law banned polygamy based on *Ijtihad*, specifically the condition of justice, as Olfa Youssef explains. She argues that polygamy, like slavery, was a pre-existing situation, and conditioning it upon justice was essentially a form of banning it<sup>27</sup>. In her interpretation of the Qur'anic verse that permits polygamy, she highlights the following, "If you fear that you cannot act equitably toward orphans, then marry such women as seem good to you, two, or three, or four; but if you fear that you shall not be able to deal justly with them, then only one" (Qur'an 4:3). In line with Wadud's argument, Youssef notes that the possibility of marrying up to four wives occurs in the context of ensuring the protection of orphaned girls. In pre-Islamic Arabia, it was common for men to foster orphaned girls, and if these girls had any wealth, their guardians would often marry them, thereby acquiring their possessions. Many of these husbands mistreated their orphaned wives, refusing to pay the *mahr* (marriage gift) due to them. After the advent of Islam, such exploitative practices were prohibited, introducing guidelines that linked fair treatment of orphans to polygamy. The Qur'an cautions men that if they cannot treat orphaned girls justly, they should refrain from marrying them and seek other women instead. Youssef also refers to Aisha's interpretation, which asserts that the verse was originally revealed to address the situation of an orphan girl under the care of her guardian. Often, the guardian would mix the orphan's wealth with his own and seek to marry her without offering a fair dowry, unjustly taking possession of her wealth. The verse thus commanded guardians to pay a proper dowry if they wished to marry an orphan under their care<sup>28</sup>. Regarding the argument of taking the Prophet as an example, Youssef notes that while polygamy was socially acceptable as a solution to specific societal issues, the Prophet also considered the human element, particularly the suffering of women. She cites the

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<sup>27</sup> Olfa Youssef, *And Allah Knows Best: On Polygamy*. (Beirut: Dar Tanweer, 2013). Pp. 9, 14.

<sup>28</sup> *Ibid.*, p. 11.

example of the Prophet forbidding his son-in-law, Ali, from taking a second wife, stating that such a marriage would cause pain to his daughter, Fatimah. The Prophet is reported to have said, "Fatimah is a part of me, and whatever hurts her hurts me"<sup>29</sup>.

According to Asma Lamrabet<sup>30</sup>, a correct interpretation of the Qur'anic verse on polygamy requires understanding the historical and cultural context in which it was revealed. At the time, polygamy was deeply ingrained in Bedouin Arab culture, and the Qur'an did not introduce this practice but sought to limit its legitimacy. Lamrabet argues that this verse reflects the Qur'an's broader philosophy of gradual social reform. The Qur'an respected the prevailing social order, which was permissive regarding marital and extramarital relations, while introducing stricter principles to govern marriage. One such principle was the limitation to four wives, conditioned on the husband's ability to treat them with absolute fairness. This stipulation served as a dissuasive measure, preventing abrupt societal disruption while hinting at the Qur'an's inclination towards monogamy<sup>31</sup>. The verse states: "If you have reason to fear that you might not be able to treat them with equal fairness, then [only] one" (Qur'an 4:3). Lamrabet emphasizes that this requirement of fairness was intended to discourage polygamy, making clear that monogamy is the ideal manifestation of justice in marriage. She also notes that this verse was revealed in the aftermath of the Battle of Uhud, a time when protecting orphaned women was of paramount importance. The allowance for polygamy was a temporary solution tailored to that specific historical context, where safeguarding the rights of orphans and widows was crucial. Lamrabet argues that the permission for polygamy was always intended to be conditional and context-specific, as marrying multiple wives inherently risked leading to injustice, a violation of the Qur'an's strict stance against unfairness. She points to another verse: "And it will not be within your power to treat your wives with equal fairness, however much you may desire it" (Qur'an 4:129), which further underscores the human incapacity to achieve absolute fairness. According to Lamrabet, this is an example of the Qur'an's pedagogical approach, where gradual changes were introduced to address human realities while maintaining moral ideals. Ultimately, the Qur'an sought to minimize polygamy and promote monogamy as the ethical norm for Muslims<sup>32</sup>.

Lamrabet also references the Prophet's disapproval of polygamy when his son-in-law, Ali, sought to take a second wife while married to the Prophet's daughter, Fatimah. Despite the Qur'an's clear discouragement of polygamy, Lamrabet laments how this practice has persisted throughout Islamic history, often misunderstood and misapplied. She argues that polygamy has become unfairly associated with Islam and has been misused by some Muslims as a divine privilege, rather than recognizing it as a temporary allowance meant to fade away over time. Lamrabet concludes that the verse on polygamy, like other context-specific verses such as those related to slavery or corporal punishment, should not be extrapolated to the modern era. Some scholars, she notes, have even called for the suspension or abrogation of polygamy in the current context, citing its negative impact on family life, its social consequences, and the psychological barrier it creates to understanding the true message of Islam<sup>33</sup>.

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<sup>29</sup> Ibid., pp. 16-17.

<sup>30</sup> Asma Lamrabet, *Women in the Qur'an: An Emancipatory Reading*, translated by Myriam François, Kube Publishing, 2016. P. 142

<sup>31</sup> Ibid., p. 9.

<sup>32</sup> Ibid., p. 14.

<sup>33</sup> Ibid., p. 17.

In *Beyond the Veil*,<sup>34</sup> Fatima Mernissi critically interrogates the foundations of gender inequality in Muslim societies, emphasizing how patriarchal interpretations of Islamic texts have historically sought to regulate and suppress female sexuality. She argues that male anxieties regarding women's sexual autonomy have resulted in institutionalized practices, such as veiling and gender segregation, which reinforce male dominance and control. In her discussion of polygamy, she goes back to 1957 when Morocco established the Mudawana, or Code of Personal Status, overseen by a commission of ten men. These legislators reaffirmed polygamy based on a well-known Quranic verse: "Marry of the women who seem good to you, two, three, or four, and if ye fear that ye cannot do justice [to so many] then [marry] one..." This verse places the sole condition on polygamy as the "fear of injustice," a subjective notion that is difficult to define in legal terms. The Moroccan legislators, aware of the outdated nature of polygamy, rephrased the legislation slightly. They added the term "forbidden" alongside polygamy, but the essence remained unchanged. Article 30 states: "If injustice is feared, polygamy is forbidden." This echoes the Quranic argument (4:129), which declares: "You cannot be perfectly equitable to all your wives, even if you so desire." Although the Qur'an does not justify polygamy, she for example cites the scholar Ghazali who provides a rationale based on instinct. She notes that his argument exposes a flaw in Islamic views on sexuality: polygamy grants men the right to indulge their sexual desires without regard for women's needs, who are viewed merely as "agents" in the process. Ghazali explains that for men burdened with strong sexual desire, more than one wife is recommended to ensure chastity, though this number must not exceed four. This reasoning implies that a man's sexual drive requires multiple partners to relieve sexual tension. Interestingly, for Mernissi, Ghazali also acknowledges that both men and women share similar sexual drives. However, while men are permitted to have up to four wives, women are limited to one man or, sometimes, even less than that. This discrepancy leads to a distrust of women, whose sexual frustration is institutionally organized. Polygamy not only affects the sexual dynamics but also has psychological implications, reinforcing men's perception of themselves as primarily sexual beings. It also serves as a way to humiliate women by implying they are unable to satisfy their husbands. Mernissi continues that the Quranic verse allowing polygamy also permits men to possess as many concubines as "your right hand possesses," though Moroccan lawmakers, conscious of modern financial constraints, remained silent on the matter. Concubinage disappeared in Morocco with the end of female slavery in the early 20th century.

Mernissi further argues that historically, polygamy did not appear to be prevalent in pre-Islamic Mecca or Medina. As historian Gertrude Stern noted, polygamy as understood in the Islamic era—where one man maintains multiple wives—lacked evidence in pre-Islamic Mecca, a sophisticated urban trading center. Marriages were often uxori-local, meaning women remained with their own people, and it was not uncommon for women to retain autonomy, even controlling their own sexual relationships. For instance, Salama Bint Amr, the Prophet's great-grandmother, married under the condition that she remained her own master, able to leave her husband if she disliked him. The Prophet Muhammad's own views on polygamy appeared inconsistent. Despite having multiple wives himself, he strongly opposed his son-in-law, Ali, from taking a second wife, arguing that doing so would harm his daughter Fatima. This incident suggests the Prophet understood that sharing a husband was detrimental to a woman. Similarly, his political supporters, the Ansar, discouraged a marriage between their daughter, Leila Bint al-Khatim, and the Prophet out of

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<sup>34</sup> Fatima Mernissi, *Beyond the Veil: Male-Female Dynamics in a Muslim Society* (London: Saqi Books, 2011). Pp. 57-64.

concern that jealousy might strain alliances. The institution of polygamy also seems to have emerged as a response to the breakdown of tribal communalism. In the wake of the Battle of Uhud, where many Muslim men were killed, the Prophet sought to create a system of responsibility whereby unattached women- divorcees, widows, or orphans- could be reintegrated into family units, often through marriage. This responsibility system helped protect women and restore the honor and security of the tribe.

Sharifa Zuhur<sup>35</sup> discusses polygamy in light of the concepts of *sharaf* and *ardh*, central to Arab and broader Muslim notions of honor, which bind individuals to their clans or extended families. *Sharaf*, though theoretically applicable to both genders, is predominantly associated with men and is earned through family reputation, hospitality, generosity, and socioeconomic or political power. *Ardh*, on the other hand, specifically pertains to women and is tied to their sexuality and bodily integrity. The honor of a clan is jeopardized if a woman's sexual conduct deviates from prescribed norms, such as premarital loss of virginity or marital infidelity, as these transgressions reflect upon the entire family. Zuhur explains that this form of honor is intricately linked to male lineage rights, with the gravest violation occurring if a woman bears an illegitimate child. Historically, some women resorted to infanticide to avoid dishonoring their families. Islamic law further reinforces these restrictions by forbidding adoption and punishing women for *zina* (sexual misconduct). While men's rights to polygamy were institutionalized, women are held to strict sexual fidelity, and any infidelity on their part brings dishonor not just to themselves but to their broader familial network. Zuhur also notes that anthropologists have described these codes of honor and shame as fluid, with historical examples of gender role reversals or "genderbending." However, she argues that despite such exceptions, rigid gender ideals are often upheld as the social "norm," and challenges to these norms are perceived as a result of Western influence, which is seen as corrupting traditional values.

## LEGAL PERSPECTIVES AND REFORMS

Ziba Mir-Hosseini (2003) offers a nuanced analysis of polygamy within Islamic law, arguing that while Sharia permits the practice, it also provides room for interpretation and reform. Her work examines how Muslim-majority countries navigate this issue, with some, like Tunisia and Turkey, banning polygamy outright, while others impose strict conditions that make it difficult to practice. Through her scholarship, Mir-Hosseini highlights the tension between classical Islamic jurisprudence and contemporary calls for gender equality, focusing on both the theological underpinnings and the socio-legal consequences of polygamy in countries like Iran and Morocco. In exploring the legal and social realities of polygamy, Mir-Hosseini critiques the significant disparity between the Qur'anic ideal and how polygamy is practiced. Based on her ethnographic research in Iran and Morocco, she demonstrates that polygamy often undermines the Qur'anic emphasis on justice, causing harm to women. In her work *Marriage on Trial* (2000), she delves into the lived experiences of women in polygamous marriages, revealing how the practice perpetuates inequality and serves as a tool for male control over women's sexuality, social status, and economic stability. Despite legal reforms aimed at restricting polygamy, its persistence continues to harm women and contravenes the Qur'anic ethos of fairness. Mir-Hosseini advocates for legal

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<sup>35</sup> Sherifa Zuhur, *Gender, Sexuality and the Criminal Laws in the Middle East and North Africa: A Comparative Study*, Women for Women's Human Rights (WWHR) - New Ways, February 2005.p. 14-15.

reforms that prioritize gender justice by reinterpreting the principle of justice in a modern context. She argues that polygamy, while permitted under Islamic jurisprudence, is not mandated, and contemporary legal frameworks should prioritize monogamy to ensure the rights and well-being of women. She also highlights the work of feminist activists and reformers who engage in *ijtihad* (independent reasoning) to reinterpret Qur'anic verses on marriage in ways that reflect contemporary understandings of justice and equality. Central to Mir-Hosseini's feminist critique is the recognition of polygamy as a site of gender politics. She argues that traditional, male-dominated legal structures have preserved polygamy even when it is no longer justifiable in modern contexts. For Islamic feminists like Mir-Hosseini, the moral imperative of justice must take precedence over literal adherence to practices that perpetuate inequality. This egalitarian approach to Islamic texts seeks to challenge patriarchal norms and promote interpretations that align with the values of equity and fairness (Mir-Hosseini, 1999).

The Musawah policy brief<sup>36</sup> similarly critiques polygamy in Muslim marriages, highlighting its detrimental impact on wives, children, and family dynamics, including mental health issues, financial strain, and social challenges. It emphasizes that polygamy conflicts with international human rights standards, such as CEDAW, which advocate for gender equality in marriage. The brief calls for the eventual abolition of polygamy to promote monogamy and protect women's rights. The report examines the regulations governing polygamy in Morocco as outlined in the *Mudawana*. According to Article 40, polygamy is prohibited under two specific conditions: if there is a risk of inequity between the wives or if the marriage contract explicitly includes a clause preventing the husband from taking another wife. In cases where such a clause is absent, Article 42 requires a husband seeking to enter a polygamous marriage to petition the court for authorization. This process mandates the submission of exceptional and objective reasons, along with a detailed declaration of his financial capacity. Article 41 further stipulates that the court must deny the request if the man fails to prove these exceptional motives or lacks the financial resources necessary to ensure equal maintenance, housing, and fairness for all parties involved. Additionally, Articles 43 and 44 require the court to facilitate a consultation with the current wife, allowing both parties to present their perspectives before any decision is made. Despite these legal safeguards, the report identifies significant gaps in their implementation. In practice, judges often base their approval of polygamous marriages predominantly on the husband's financial situation, overlooking the requirement to provide exceptional or objective justifications. Furthermore, monogamy clauses are infrequently included in marriage contracts; a review of 75,173 contracts revealed that only 87 contained such clauses. Many men also circumvent legal restrictions by obtaining celibacy certificates from different cities or entering into unregistered (*urfi*) marriages to evade the formal court process. Article 16 of the *Mudawana*, which permits the retrospective recognition of unregistered verbal marriages, is frequently exploited for this purpose, particularly when the second wife is pregnant. The scale of this practice is evident in the significant rise in judicial recognitions of verbal marriages, which increased from 6,918 in 2004 to 23,390 in 2008, highlighting the persistent challenges in regulating polygamy effectively.

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<sup>36</sup> "Ending Polygamy in Muslim Marriages". *Musawah Brief*, 2021

### III- ISLAMIC FEMINIST DISCUSSIONS ON VIOLENCE AGAINST WOMEN

In Morocco, violence against women persists as a deeply entrenched and systemic issue, rooted in cultural norms, societal structures, and legal gaps that perpetuate inequality and discrimination. Despite significant strides in legal and social reforms, the persistence of gender-based violence underscores the urgent need for comprehensive and systemic change. The INJAD Network Against Gender-Based Violence report<sup>37</sup> highlights alarming statistics and calls for sweeping legal reforms. According to the report, 57% of violence against women is perpetrated by their spouses, and 20% of women face the threat of eviction from their homes. These findings align with data from the High Commission for Planning's 2019 survey, which revealed that nearly 57% of women aged 15–74 experienced some form of violence in the previous year. Despite legal advances, including the 2018 Law 103-13, significant gaps persist in protecting women from abuse and ensuring their rights. The INJAD report advocates for a comprehensive overhaul of the legal framework, including the explicit criminalization of marital rape and the elimination of harmful practices such as virginity tests. It also calls for the decriminalization of consensual relationships and a broader definition of violence to include child marriage, honor crimes, and the abuse of widows. Moreover, the report highlights the need to address violence in specific contexts, such as conflict zones, state-sanctioned neglect (including violence in detention), security force abuses, political violence, and digital violence. These recommendations underline the urgent need for systemic reforms and societal change to protect women's rights and foster a culture of equality and safety. While legal measures such as Law 103-13 represent important progress, they remain insufficient without broader cultural and institutional shifts. The explicit criminalization of all forms of violence, the dismantling of harmful societal norms, and the establishment of robust mechanisms for enforcement and support are essential steps toward achieving gender equity.

#### THEOLOGICAL REINTERPRETATIONS

A significant focus of Islamic feminism discussions on violence against women (VAW) centers around marital discord, particularly interpretations of Surah An-Nisa (4:34). This verse is often cited in traditional discourses to justify male authority and, in extreme cases, physical discipline against women. In discussing the concept of *nushuz* (disruption of marital harmony) as mentioned in *Surah An-Nisa* (4:34), Amina Wadud argues that the verse does not simply establish a hierarchy where the wife must obey her husband under threat of physical discipline. Instead, Wadud asserts that this passage is meant to provide a structured means for resolving disharmony in marriage, highlighting that "*qanitat*," often translated as 'obedient,' should be understood as describing a believer's submission to God, not obedience to a husband. She writes, "The Qur'an never orders a woman to obey her husband... Such an interpretation has no universal potential, and contradicts the essence of the Qur'an and the established practices of the Prophet"<sup>38</sup>.

Wadud further critiques the translation of *daraba* (commonly translated as "scourge" or "strike") in the verse, arguing that this term does not necessarily mean physical violence. Drawing from

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<sup>37</sup> Imane Lechheb, "Morocco Ranks 98th in Global Knowledge Index, Below World Average," *Hespress*, November 21, 2024, <https://en.hespress.com/96404-morocco-ranks-98th-in-global-knowledge-index-below-world-average.html>.

<sup>38</sup> Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*. P. 74.

linguistic sources, she explains, "*daraba* does not necessarily indicate force or violence," and that in the Qur'anic context, it often means to set an example or to leave<sup>39</sup>. Thus, Wadud sees the Qur'anic guidance as seeking reconciliation, and not promoting violence or forced obedience in marriage. She emphasizes that the verse is about restoring harmony, not creating further strife, and concludes that the use of the term *nushuz* in this context applies to both men and women, reflecting a state of disorder in the marriage rather than disobedience on the part of the wife. In this re-interpretation, Wadud challenges the long-standing assumption that husbands are given divine sanction to discipline their wives physically. Instead, she underscores the Qur'an's preference for peaceful resolution through dialogue and mutual respect, as seen in the broader Qur'anic teachings on marital harmony.

Similarly, Asma Lamrabet<sup>40</sup> asks the question of whether the Qur'an contains a verse that justifies violence against women, as is frequently asserted? The unequivocal answer is no, despite the beliefs of those who advocate this interpretation. One verse that is often cited to support the notion of husbands being permitted to physically discipline their wives is from Surah Al-Nisa (4:34). This verse states: "Men are the protectors and maintainers of women because Allah has made some of them to excel others and because they spend out of their wealth. Therefore, the righteous women are devoutly obedient and guard in [the husband's] absence what Allah would have them guard. As for those from whom you fear disobedience, admonish them and forsake them in bed and strike them." This verse begins by affirming men's responsibilities as protectors and providers, an idea rooted in the concept of *qiwama*, and subsequently addresses a situation described as *nushuz*, often translated as "wife's disobedience" but which some scholars interpret more broadly as "adultery." Lamrabet emphasizes that this term signifies a severe conflict within the marital relationship rather than mere insubordination. The verse outlines a prescribed approach for men to address marital discord, suggesting a three-step process: first, to attempt reconciliation through communication; second, to isolate the wife in the marital bed, refraining from physical intimacy as a coercive measure; and finally, to "strike" her, a term that has sparked extensive debate regarding its interpretation.

She highlights the importance of considering the historical context of its revelation. Many classical commentators recount stories of women who approached the Prophet Muhammad to report mistreatment by their husbands. In response, the Prophet, known for his opposition to violence against the vulnerable, provided these women with the right to respond to their husbands' misdeeds through equivalent actions, effectively advocating for a form of justice that was revolutionary for that era. This stance, which might have been inconceivable in a tribal society, illustrated a significant step towards gender equality, shocking men of the time who felt their authority was undermined. In reaction to the Prophet's stance, men were outraged, claiming it could incite women to rebel against their husbands. This led to the revelation of the aforementioned verse, which at first glance seems to contradict the Prophet's initial decision. As Lamrabet points out, the Prophet acknowledged the conflict between his own judgment and divine guidance when he stated, "Muhammad decided one thing and God decided another."

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<sup>39</sup> Ibid., p. 76.

<sup>40</sup> Asma Lamrabet, *Women in the Qur'an: An Emancipatory Reading*. p. 153-159.

However, this revelation is consistent with a gradualist philosophy aimed at transforming deeply entrenched social norms. The Qur'an does not condone the mistreatment of women; rather, it introduces steps toward progressive change in a society that needed reform. In examining the Qur'anic vision of marriage, one finds an emphasis on love, compassion, and mutual support. Numerous verses promote kindness, respect, and tenderness, illustrating marriage as a bond characterized by peace and intimacy, as expressed in the verse, "They are a garment for you and you are a garment for them" (Al-Baqarah 2:187). Furthermore, another verse advises couples to treat each other with fairness and dignity: "Either retain them in a fair manner or separate from them in a fair manner" (Al-Baqarah 2:231). Scholars have interpreted this as a legal principle in Islamic jurisprudence that prohibits harm between spouses, encapsulated in the phrase *la darar wa la dirar*. Historical records show that early Muslims insisted on including this principle in their marriage contracts, ensuring moral protection within the marriage.

The Prophet's condemnation of violence against women is evident in numerous Hadiths that denounce mistreatment and stress the importance of treating wives with respect. One particularly poignant Hadith states, "The best among you are those who are best to their wives, and I am the best among you in this regard." This succinct teaching underscores the expectation for Muslims to model their behavior after the Prophet, whose life exemplified non-violence and respect for women. Given this context, how can one possibly interpret the phrase *fa-dribuhunna* as an endorsement for physical violence? Lamrabet notes the unease many scholars experience in reconciling this interpretation with the overarching principles of marital relations outlined in the Qur'an. While some interpretations suggest the term implies a light or symbolic strike, akin to a gentle touch with a soft object, others point to a more profound message of non-violence, as illustrated in the story of Prophet Ayub, who was guided to use a small bunch of grass to fulfill an oath without causing harm. Consequently, scholars have advocated for a significant restriction on the application of this term, leading to a consensus against any form of violence. They argue that a woman subjected to physical or verbal mistreatment has the right to seek divorce. Contemporary interpretations further emphasize the non-violent ethos promoted by the Qur'an. Ultimately, it seems contradictory to maintain that a symbolic act of violence is justifiable when it conflicts with the essence of Qur'anic teaching and the Prophet's exemplary behavior, which opposed all forms of violence. The notion that a literal interpretation of "beat them" could align with the principles of universal morality is tenuous. Instead, one might conclude, as the Prophet did, that divine revelation offers a deeper understanding, one that cannot condone violence in any form, even when interpreted as symbolic.

Similarly, Mernissi<sup>41</sup> highlights the Prophet's categorical stance against physical violence while paradoxically examining al-Tabari's interpretation of the controversial verse 4:34, which speaks of men's authority over women. Al-Tabari suggests that men's authority is based on their financial responsibilities, such as dowries and providing for women. According to Mernissi, while scholars generally agree on male supremacy, there is significant disagreement about the extent of this power, particularly regarding how a husband should deal with a wife who refuses sex. Al-Tabari offers various interpretations of how a husband should respond, ranging from verbal persuasion to banishment from the bed. His final interpretation becomes controversial when he argues that "banishment" could mean physically tying the wife to her bed, which some scholars, including

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<sup>41</sup> Fatima Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*. Pp. 158-59.



Mahmud Shakir, criticize as a strange and faulty interpretation. Mernissi highlights the difficulty of interpreting this verse, noting how modern political leaders exploit it to justify male dominance, ignoring the complexities and historical debates surrounding it. She points out that the Prophet, navigating conflicting pressures from his companions and divine revelations, was aware of the necessity to use authority in a way that would maintain his leadership and the unity of the community, often opting for methods that would deter challenge.

Sa'diyya Shaikh's article "Exegetical Violence: Nushuz in Quranic Commentaries"<sup>42</sup> also presents a critical examination of classical Islamic exegesis and its role in perpetuating gender-based violence, particularly through the interpretation of the Quranic term *nushuz*. Shaikh's analysis challenges traditional patriarchal readings of religious texts and calls for a feminist re-interpretation, positioning the article as a significant contribution to Islamic feminist discourse. Shaikh's central argument revolves around the idea of "exegetical violence," a term she uses to describe how the interpretative traditions (*tafsir*) of the Quran have been used to justify male authority over women, often resulting in the sanctioning of domestic violence. In particular, she focuses on the interpretation of the term *nushuz*, which has been traditionally rendered as "rebellion" or "disobedience" of a wife toward her husband. Shaikh traces the evolution of this term through major classical commentaries by renowned exegetes such as Al-Tabari, Ibn Kathir, and Al-Razi.

Shaikh highlights how these commentators' interpretations were deeply influenced by the patriarchal structures of their time. In her view, the interpretive methods applied to Quranic verses, especially those related to gender roles, are not neutral but are shaped by socio-cultural contexts that favored male dominance. This, according to Shaikh, leads to what she terms "exegetical violence", the use of religious texts to legitimize the subjugation of women. Shaikh's discussion of how *nushuz* has been linked to justifications of physical discipline or violence against women reveals the embedded nature of gender inequality in traditional Islamic legal thought. By questioning the interpretive assumptions of classical scholars, Shaikh opens the door for alternative readings that focus on ethical and gender-just interpretations of the Quran.

Shaikh calls for a feminist re-interpretation of the Qur'an that moves beyond the patriarchal lenses of classical exegesis. She suggests that the term *nushuz* could be re-imagined to encompass both male and female behaviors, as well as focusing on marital harmony rather than hierarchy. This re-reading aligns with the Quran's overarching ethical imperatives of justice, compassion, and mutual respect. Shaikh's approach resonates with other feminist theologians who have similarly sought to revisit Quranic verses related to women's roles and rights. She positions her argument within a framework of ethical Islam, emphasizing that the Quran, when interpreted without patriarchal bias, advocates for gender equality and fairness. This is a particularly important point, as it reframes the debate from being about the Quran itself to being about the ways it has been interpreted.

Azizah al-Hibri's article "An Islamic Perspective on Domestic Violence,"<sup>43</sup> further argues that domestic violence is incompatible with the Quran's ethical and theological foundations. She asserts

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<sup>42</sup> Sadiyya Shaikh, "Exegetical Violence: Nushuz in Quranic Gender Ideology," *Journal for Islamic Studies*, vol. 17, 1997, pp. 49–73.

<sup>43</sup> Azizah Y. al-Hibri, "An Islamic Perspective on Domestic Violence," *Fordham International Law Journal*, vol. 27, 2003, pp. 195–224.

that Islam promotes gender equality and mutual respect within the family, pointing to the concept of *tawhid* (the oneness of God) as a framework that rejects any form of hierarchy, including gender-based ones. Al-Hibri draws upon Quranic verses that emphasize harmony, love, and mercy in marital relationships, such as Surah Al-Rum (30:21), which describes marriage as a source of tranquility and affection. In her analysis of the term *wadhribuhunna*, al-Hibri highlights the Quran's philosophy of gradual social change. She points out that the Qur'an was revealed in a society where practices such as wife-beating were common, and that the Quranic verses on this issue were meant to restrict and ultimately eliminate such practices, rather than endorse them. Al-Hibri draws parallels to the Quran's gradual prohibition of alcohol, noting that the same approach was likely intended for the issue of domestic violence. This gradualist approach, according to al-Hibri, reflects the Quran's recognition of the social realities of seventh-century Arabia, while simultaneously laying the groundwork for a more just and equitable society. She argues that contemporary Muslim scholars and jurists must take into account the Quran's broader goals when interpreting these verses today, moving towards interpretations that promote gender equality and the protection of women's rights.

Ayesha Chaudhry further offers a critique of classical Islamic interpretations of domestic violence, particularly focusing on *Surah An-Nisa* (4:34), which has historically been used to justify spousal discipline. In her book, *Domestic Violence and the Islamic Tradition: Ethics, Law, and the Muslim Discourse on Gender* (2013), Chaudhry re-examines the traditional exegesis of this verse and challenges patriarchal readings that have legitimated domestic violence. Chaudhry's central argument revolves around the interpretation of *Surah An-Nisa* (4:34), a verse that includes the controversial term *wadhribuhunna* (often translated as "hit them"). She argues that this verse has been misinterpreted by classical scholars to justify male control over women, allowing for physical discipline in cases of *nushuz* (disobedience or rebellion). Chaudhry critiques this interpretation, stating that "the translation of *wadhribuhunna* as 'beat them' reflects patriarchal assumptions rather than the ethical teachings of the Quran"<sup>44</sup>. Chaudhry provides a detailed analysis of the historical and cultural contexts in which these interpretations were formulated. She highlights how male jurists shaped Islamic legal traditions to reflect the patriarchal values of their time, leading to interpretations that sanctioned spousal violence. She notes that "the medieval interpretations of *nushuz* allowed men to discipline their wives in a manner that reflected the gender norms of those societies, which accepted male authority and female subordination"<sup>45</sup>. Chaudhry's critique points to the need for a re-reading of *Surah An-Nisa* that is in line with the Quran's overarching principles of justice and mercy. Chaudhry's work dismantles the patriarchal foundations of classical Islamic exegesis, which she argues have contributed to the normalization of domestic violence. She critiques how male scholars historically interpreted *nushuz* as a wife's rebellion against her husband, allowing for physical chastisement. Chaudhry writes, "The traditional interpretations of *nushuz* and *wadhribuhunna* were shaped by a patriarchal understanding of the husband's role as the head of the household, an understanding that legitimized the control and discipline of women"<sup>46</sup>. She further argues that these interpretations were not divinely mandated but were deeply influenced by the cultural biases of medieval Muslim societies. "The assumption that men

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<sup>44</sup> Ayesha S. Chaudhry, *Domestic Violence and the Islamic Tradition: Ethics, Law, and the Muslim Discourse on Gender*, Oxford University Press, 2013. P. 58.

<sup>45</sup> Ibid., p. 42.

<sup>46</sup> Ibid., p. 61.

had a right to physically discipline their wives was more reflective of the socio-cultural realities of pre-modern Muslim societies than of the ethical teachings of the Quran<sup>47</sup>. By deconstructing these patriarchal assumptions, Chaudhry advocates for a reading of the Quran that is more faithful to its ethical imperatives of justice, compassion, and equality.

She highlights that the verse must be understood within the larger context of the Quran's message of mercy and peace. Chaudhry contends, "*Surah An-Nisa* (4:34) should not be read in isolation, but rather in light of the Quran's repeated injunctions for kindness, equity, and harmony in marital relations"<sup>48</sup>. In challenging the traditional translation of *wadhribuhunna*, Chaudhry suggests alternative readings that avoid physical violence. She points out that the verb *daraba* has multiple meanings in Arabic, including "to separate" or "to part." She argues, "The interpretation of *wadhribuhunna* as physical beating is not the only possible understanding of the text. A more contextually appropriate reading would suggest non-violent means of resolving marital conflict"<sup>49</sup>. By offering these alternative interpretations, Chaudhry aligns her argument with the Quran's broader ethical vision of justice and the protection of human dignity.

Chaudhry also situates her argument within the broader framework of the Quran's philosophy of gradual social change, which she argues is often overlooked by classical scholars. She notes that the Quran was revealed in a context where wife-beating was a common practice, but its teachings aimed to gradually eliminate such practices. Chaudhry argues, "The Quran's ethical trajectory moves toward limiting violence in the family and promoting mutual respect and kindness between spouses. The verse should be read as part of a broader, gradual movement towards social justice"<sup>50</sup>.

By placing *Surah An-Nisa* (4:34) within the context of the Quran's gradualist approach, Chaudhry critiques the traditional interpretation that justified violence as a permanent solution to marital discord. She calls for contemporary scholars to adopt a progressive, ethically grounded interpretation that reflects the Quran's commitment to justice and gender equality.

## LEGAL FRAMEWORKS AND REFORMS

The Musawah policy brief, *Ending Violence Against Women in Muslim Families*<sup>51</sup>, examines violence against women (VAW) in Muslim contexts through cultural, religious, legal, and social lenses. It highlights how patriarchal interpretations of religious texts and discriminatory family laws exacerbate VAW, creating power imbalances that trap women in abusive relationships and impede their ability to seek safety. The brief calls for reforms to family laws to ensure they promote equality, partnership, and justice. Drawing on Islamic teachings, the brief underscores that the Qur'an advocates equality and kindness in family relations, leaving no room for violence. It emphasizes the principle of *maslaha* (benefit or interest) to support interpretations of Qur'anic verses that foster non-violence and harmony. Islamic scholars and institutions are urged to reject patriarchal customs and actively oppose practices that perpetuate VAW.

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<sup>47</sup> Ibid., p. 86.

<sup>48</sup> Ibid., p. 95.

<sup>49</sup> Ibid., p. 104.

<sup>50</sup> Ibid., p. 110.

<sup>51</sup> Ending Violence Against Women in Muslim Families. Musawah Brief, 2023.

In Morocco, the issue of violence against women has been a significant focus of both legal reforms and feminist activism. Despite the existence of Law 103-13 on violence against women in Morocco, defining marital violence remains a significant challenge. The law provides a framework for addressing various forms of violence, but it falls short in explicitly recognizing marital violence as a distinct category. This ambiguity is compounded by deeply entrenched cultural norms that view certain forms of spousal control or coercion as acceptable within the bounds of marriage. As a result, many women are hesitant to report abuse, fearing social stigma or disbelief from authorities. Furthermore, the lack of a clear definition in the legal framework makes it difficult for survivors to seek justice, as acts of marital violence are often trivialized or dismissed.

In 2019, The Ministry of Endowments and Islamic Affairs<sup>52</sup> issued a sermon focused on the prohibition and criminalization of violence against women, which was delivered by imams across the country. This followed the release of a report by the High Commission for Planning, which revealed a dramatic increase in cases of violence against women in Morocco during 2019. During the Friday sermon, imams warned about the dangers of the escalating phenomenon of violence against women, pointing out that such actions contradict the values and principles of Islam, which calls for respecting women and treating them with kindness and compassion, following the example of the Prophet Muhammad. The preachers also reminded the congregation of some Prophetic hadiths that highlight the high status of women in Islam, in an effort by the Ministry of Endowments and Islamic Affairs to contribute to reducing the phenomenon of violence against women in Moroccan society as part of a national and international campaign on this issue.

Earlier in 2016, the Center for Studies and Research on Values at the Mohammadia League of Scholars<sup>53</sup>, with support from the United Nations Population Fund, also hosted an event to present the findings of Farida Zomorod's (professor of Quranic sciences and director of the research on women's rights in Islam) study titled "A Survey of Concepts of Rejecting Violence Against Women in the Quran and the Purified Sunnah." In her presentation, Zomorod highlighted a critical challenge: the existence of two contradictory approaches to interpreting Islamic texts regarding gender relations. On the one hand, Quranic and Hadith texts uphold general principles that affirm the dignity and esteemed status of women. However, these broad principles alone have proven insufficient in addressing persistent misunderstandings about specific texts regulating relationships between the sexes. These misunderstandings have led to accusations that sacred texts endorse violence against women. To address this issue, Zomorod posed a key question: What is the most effective method for interpreting and studying these texts? She proposed several foundational principles for interpretation, emphasizing the Sharia's overarching goals of promoting human welfare and preventing harm.

Zomorod also elaborated on the concept of violence, noting its varied definitions across philosophical, educational, social, psychological, and behavioral disciplines. While the Quran does not explicitly mention the term "violence," it contains concepts both rejecting and addressing violence. In the Sunnah, the term "violence" appears in two Hadiths. The first recounts an incident where the Prophet Muhammad forbade verbal violence. When Jews insulted him by saying "death upon you" instead of "peace upon you," the Prophet responded calmly, "And upon you," and

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<sup>52</sup> Badi' Hamdani, "Morocco Turns to 'Friday Sermons' to Curb Violence Against Women," *Assahifa*, 2019, <https://www.assahifa.com/>

<sup>53</sup> Rabita Mohammadiya, "Presentation of Study Results on Concepts of Rejecting Violence Against Women in the Qur'an and Sunnah," 2016, <https://www.arrabita.ma/events/>.

advised Aisha not to retaliate with insults. The second Hadith highlights the Prophet's teaching: "Indeed, God is gentle and loves gentleness, and gives for gentleness what He does not give for violence." Zomorod thus underscores the importance of nuanced interpretations of sacred texts that align with principles of justice and nonviolence, emphasizing that these principles are essential for addressing accusations of textual support for violence against women.

#### IV- ISLAMIC FEMINIST DISCUSSIONS ON UNDERAGE MARRIAGE

Underage marriage remains a persistent and contentious issue in Morocco, highlighting the tension between entrenched traditional practices and ongoing legal reform efforts. Despite the 2004 Family Code raising the legal marriage age to 18, exceptions allowing judicial discretion have perpetuated the practice, disproportionately affecting young girls. Official statistics<sup>54</sup> reveal that over 13,000 such exceptions were approved by judges in 2020 alone, while UNICEF<sup>55</sup> reports that 14% of Moroccan girls were married before the age of 18 between 2015 and 2021. The consequences of underage marriage are profound. Girls married as minors often face significant emotional, psychological, and physical harm, with heightened risks of sexual and domestic abuse. Alarming, 64% of married Moroccan girls aged 15-19 believe that spousal violence is justifiable under certain circumstances. This practice also curtails girls' access to education, limits their future economic opportunities, and entrenches cycles of poverty and gender inequality. Socio-cultural and economic factors further entrench this issue. Patriarchal traditions, the emphasis on preserving female purity, and misinterpretations of religious teachings create a permissive environment for child marriage, especially in rural areas. Families facing economic hardship often see early marriage as a solution to reduce household burdens or secure dowries. The lack of adequate infrastructure and access to education in these regions exacerbates the vulnerability of young girls. Critics of the current legal framework argue that leaving exceptions open undermines the dignity and rights of minors, particularly underage girls. Reformist activists emphasize the need to abolish these loopholes, as they enable a practice that violates the principles of child protection. Conversely, some conservative voices contend that exceptions should remain for cases of social hardship, such as for orphaned girls who lack proper care, and argue for the freedom of age in instances where individuals demonstrate choice and maturity, believing that blanket prohibitions might infringe on personal autonomy and cultural context. This polarized debate reflects broader societal struggles to reconcile traditional norms with modern legal and human rights standards. Efforts to address this issue have gained traction in recent years. A 2019 report by the Economic, Social, and Environmental Council (CESE) called for the recognition of child marriage as a form of human trafficking and the abolition of legal provisions enabling it. The report underscores the intergenerational harm caused by child marriage, which perpetuates cycles of poverty and gender disparity. It advocates for stronger legal protections, including criminalizing practices like child marriage, honor crimes, and marital abuse. UNICEF's comprehensive analysis sheds further light on the issue, highlighting disparities between rural and urban areas. In rural regions, socio-

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<sup>54</sup> Adil Faouzi, "Child Marriage Persists in Morocco, Casting a Shadow on Women's Day Celebrations," *Morocco World News*, 8 March 2024. <https://www.moroccoworldnews.com/2024/03/361270/child-marriage-persists-in-morocco-casting-a-shadow-on-womens-day-celebrations>

<sup>55</sup> "Child Marriage in the Middle East and North Africa – Morocco Country Brief," United Nations Children's Fund (UNICEF) Middle East and North Africa Regional Office in collaboration with the International Center for Research on Women (ICRW), 2017.

economic pressures and restrictive social norms lead to higher rates of child marriage. The report calls for targeted interventions, such as community-driven awareness campaigns, educational programs, and economic empowerment initiatives to shift harmful social norms.

Promising measures include cash transfer programs to keep girls in school and collaborative efforts between civil society, government, and international organizations to monitor progress and ensure effective program implementation.

## THEOLOGICAL FOUNDATIONS AND REINTERPRETATION OF ISLAMIC TEXTS

The issue of underage marriage has long been a contentious topic within Islamic feminist discourse, garnering critical examination due to its complex interplay of theological, cultural, and socio-political dimensions. A significant portion of the literature centers on the Prophet Muhammad's purported marriage to Aisha, often cited as a key historical precedent used to justify child marriage in Muslim-majority societies. Islamic feminists have sought to challenge and reinterpret this narrative, scrutinizing its historical reliability and the patriarchal biases that have shaped its propagation. These perspectives are juxtaposed with international frameworks and local contexts, including the Moroccan legal and cultural landscape, to highlight strategies for addressing underage marriage through a combination of Islamic principles and human rights advocacy.

Asma Lamrabet<sup>56</sup> for example questions the widespread belief within Islamic tradition that the Prophet Muhammad became engaged to Aisha at six years old and married her at nine. She emphasizes the need for a critical analysis of the historical records surrounding this narrative, noting that biographical accounts from that period are often fragmented, ambiguous, and contradictory. By exploring these inconsistencies, Lamrabet seeks to challenge the infallibility of this claim, which has been propagated as religious orthodoxy. From the outset, Lamrabet highlights the ethical and moral challenges of this narrative. The idea of the Prophet, nearly 50 years old at the time, marrying a nine-year-old girl is difficult to accept- not only by modern standards but also in light of his reputation as a figure of honor, respect, and humanistic values. Importantly, the Prophet is cited in hadith as prohibiting the validation of a marriage without the bride's explicit consent, especially in the case of a young, unmarried woman (*bikr*). Consent, she argues, presupposes a level of maturity and understanding that a six-year-old cannot possess.

Lamrabet also examines the socio-anthropological context, noting that while early marriages were common during the Prophet's time, they typically involved girls around the age of 14, consistent with global practices of that era. Although exceptions involving younger girls may have occurred, they were not emphasized in classical Islamic history. Yet in Aisha's case, her purported age of nine has been elevated to the level of religious dogma. Lamrabet contends that a more plausible age for Aisha at marriage- between 14 and 19 years- aligns better with both historical and cultural contexts. Several contradictions in historical sources further undermine the traditional narrative. According to Ibn Hisham's *Sira*, Aisha was listed among the first 18 individuals to convert to Islam during the earliest years of the Revelation, a period that predates her purported birth year of 613 CE. If this timeline is accurate, Aisha could not have been an infant or unborn during the secretive early phase of Islam. Additionally, Ibn Hisham describes Aisha as "young" (*wa hya saghira*) in this context, a term that contrasts with what would have been expected- *radhi'a* (nursing child)- had

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<sup>56</sup> Asma Lamrabet, "Aïcha Mariée au Prophète de l'Islam (PBL) à l'Âge de Neuf Ans?" 2022, <http://www.asma-lamrabet.com/articles/aicha-mariee-au-prophete-a-l-age-de-neuf-ans/>.

she truly been an infant at the time. Lamrabet also references a hadith in which Aisha provides detailed recollections of events from the early years of Revelation, suggesting a level of awareness inconsistent with the traditional claim that she was a small child at the time.

Lamrabet highlights additional evidence that casts doubt on Aisha's young age at marriage. Historians like Al-Tabari provide conflicting accounts, with one suggesting that all of Abu Bakr's children, including Aisha, were born before the advent of Islam (pre-610 CE). If true, this would mean that Aisha was much older than nine at the time of her marriage in 622 CE.

Moreover, Aisha's reported engagement to Jabir ibn al-Mut'im prior to her marriage to the Prophet raises questions about the feasibility of her being engaged to two different men at such a young age. Lamrabet also notes that Aisha's documented participation in battles such as Badr (624 CE) and Uhud (625 CE) contradicts the Prophet's own stipulation that only individuals over 15 could take part in such events. Furthermore, the age gap between Aisha and her sister, Asma bint Abu Bakr, who was reportedly 10 years older, also undermines the traditional claim. If Asma was 27 or 28 in 622 CE, Aisha would have been approximately 17 or 18 at the time of her marriage.

Taken together, these inconsistencies lead Lamrabet to conclude that the claim of Aisha's marriage at nine years old is not historically tenable. Recent critical studies propose a more likely age of 15 to 19 years at the time of her marriage. While some argue for unquestioning acceptance of traditional accounts to preserve Islamic tradition, Lamrabet contends that such an approach compromises the intellectual integrity of the faith. Instead, a careful reevaluation of historical sources aligns with Islamic principles of wisdom, reason, and morality. She asserts that the deconstruction of the narrative surrounding Aisha's age is an ethical necessity to reconcile faith with universal moral values.

Similarly, Fatima Mernissi<sup>57</sup> critiques the underlying structures of patriarchal honor that reduced women's roles to their reproductive function and perpetuated early marriage as a societal norm. She argues that in premodern Muslim contexts, the idea of an adolescent, unmarried woman was unimaginable or linked to *fitna* (social disorder), as menstruation marked the transition to marriageable age. Mernissi highlights how this patriarchal system, built on the fear of dishonor through premarital sexual activity, shaped the family system and gender roles. Her observation of a "demographic revolution in sex roles" in Arab countries, where increasing numbers of women are pursuing education and delaying marriage, underscores the cultural shifts that challenge these traditional norms. By questioning these historical practices, Mernissi calls for a rethinking of outdated patriarchal constructs that continue to justify practices like child marriage under the guise of maintaining social order.

On May 5, 2023, the Moroccan newspaper *Hespress*<sup>58</sup> published an article summarizing the key arguments of Mounia Taraz, a researcher at the Rabita Mohammadiya. Drawing on a religious

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<sup>57</sup> Fatima Mernissi, "Muslim Women and Fundamentalism," *Middle East Report*, no. 153, July/August 1988. <https://merip.org/1988/07/muslim-women-and-fundamentalism/>.

<sup>58</sup> Wael Bouchachen, "A Researcher in Qur'anic Studies: The Jurisprudential Discourse Confuses 'Marriage of a Young Girl' with a Minor," *Hespress*, 2023. <https://www.hespress.com/%D8%A8%D8%A7%D8%AD%D8%AB%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%AF%D8%B1%D8%A7%D8%B3%D8%A7%D8%AA-%D8%A7%D9%84%D9%82%D8%B1%D8%A2%D9%86%D9%8A%D8%A9-%D8%A7%D9%84%D8%AE%D8%B7%D8%A7%D8%A8-%D8%A7%D9%84%D9%81-1145104.html>

framework, Taraz explored this practice through an approach that integrates traditional Islamic principles with the complexities of contemporary realities. Taraz's argument emphasizes the "civilizational functions" of marriage, arguing that marriage requires qualifications aligned with the spouses' roles in fostering trust, responsibility, and the conscious construction of a family essential for societal and civilizational development. According to her, marital readiness cannot be reduced to physical maturity alone, nor should a wife's eligibility be based solely on her capacity to endure conjugal relations. Taraz critiques the traditional legitimacy of child marriages, contending that minors are generally incapable of fulfilling the objectives of marriage. She further stresses that the legal age of marriage is not fixed and varies depending on historical, social, and cultural contexts, a variability debated both in classical jurisprudence and in modern discussions influenced by evolving societal conditions and laws. Her research highlights inconsistencies in contemporary Islamic jurisprudence regarding child marriage, particularly when addressing the issue within modern cultural and legal paradigms. Some jurists adhere to classical interpretations that permit child marriage based on physical readiness, while others adapt their views to contemporary realities. Taraz critiques these traditional positions for lacking a nuanced understanding of the distinctions between maturity in Islamic jurisprudence and legal adulthood as defined in modern law.

To illustrate the entrenched support for child marriage in classical jurisprudence, Taraz references juristic opinions such as Ibn Battal's assertion that fathers could marry off their daughters as infants, provided the marriage was not consummated until they were ready (Sharh Sahih al-Bukhari, Vol. 7, p. 173). Similarly, Ibn Qudamah states that "a father has the right to marry off his virgin daughter who has not reached the age of nine, without dispute" (Al-Mughni, Vol. 7, p. 388). Taraz contrasts these views with other perspectives that challenge traditional interpretations, including the reading of Quranic verse 65:4 (And those who no longer expect menstruation among your women - if you doubt, then their period is three months, **and [also for] those who have not menstruated**), often cited by jurists to permit child marriage. While many classical scholars, such as Al-Baghawi, Ibn Kathir, and Al-Qurtubi, interpret the verse as referring to young girls, alternative interpretations suggest it applies to women unable to menstruate due to medical conditions. Although these alternative readings remain minority views, they reflect a growing effort to reinterpret classical texts in light of contemporary contexts.

Regarding the Prophet Muhammad's marriage to Aisha, Taraz argues that this was a specific case, not a general legislative rule. She advocates focusing on competencies required by modern circumstances, including raising the legal marriage age to 18 or beyond when necessary to align with modern understandings of legal capacity and the civilizational significance of marriage. Taraz's findings call for a purposive approach to marriage that synthesizes traditional objectives with modern realities. She critiques the classical juristic reliance on physical maturity as the sole criterion for marital eligibility, arguing instead that intellectual, emotional, and social preparedness are essential. Her stance highlights the shared civilizational responsibility of both genders in building a stable family structure, supported by parental knowledge and awareness. By engaging with diverse juristic perspectives, Taraz's study contributes to ongoing debates about potential reforms to Morocco's Family Code. Her framework seeks to reconcile Islamic principles with evolving societal needs, advocating for a balanced approach that prioritizes justice, equity, and individual well-being within a broader civilizational vision.



## LEGAL FRAMEWORK AND ISLAMIC FEMINIST ADVOCACY

In its publication *"Ending Child Marriage in Muslim Family Laws,"*<sup>59</sup> Musawah critically addresses the practice of child marriage, defined as involving individuals under the age of 18, highlighting its detrimental impacts on health, safety, education, and economic development. The practice perpetuates cycles of poverty, violence, and discrimination, disproportionately affecting girls and undermining their opportunities for empowerment and self-determination. Musawah draws upon both international human rights frameworks and Islamic teachings to advocate for reform. Child marriage violates international conventions such as the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). Simultaneously, Islamic principles prioritize maturity, consent, and individual well-being, aligning with the call for establishing 18 as the minimum age for marriage.

The publication underscores a critical dissonance between Islamic teachings and current practices. While the Qur'an does not specify a precise age for marriage, it ties the institution to maturity and sound judgment. However, customs equating puberty with marital readiness are rooted in cultural traditions rather than divine law. Historical justifications, such as the often-cited example of Aisha's marriage to the Prophet Muhammad, are similarly contested. Historical accounts of Aisha's age at marriage vary significantly, ranging from nine to twenty-one. Furthermore, the Prophet's refusal to marry off his daughter Fatima at a young age serves as a more compelling precedent against child marriage. Musawah highlights the adverse outcomes of child marriage across several domains. Health risks include physical, emotional, and maternal complications for young brides and their children. Early marriages also disrupt education, perpetuating poverty and economic dependence. Such unions often expose young brides to domestic violence, marital rape, and diminished agency in decision-making. On a societal level, child marriage strains national resources, exacerbates high fertility rates, and reduces economic productivity.

To address these issues, Musawah recommends raising the minimum marriage age to 18 for both genders, with no exceptions. Governments are urged to align legal reforms with international human rights standards and Islamic values. Community leaders, religious authorities, and policymakers are called upon to tackle the socio-economic and cultural drivers of child marriage through education and advocacy, including enacting laws setting 18 as the minimum marriage age or significantly restricting exceptions. Musawah emphasizes that these reforms reflect the key Islamic principles of marriage, which should embody love, kindness, and mutual trust, as described in the Qur'an. Moreover, the principle of *maslaha* (public interest) justifies legal reforms prioritizing the well-being of individuals and society as a whole. Through a nuanced integration of religious, ethical, and human rights arguments, Musawah provides a compelling case for ending child marriage and fostering more equitable and just Muslim family laws.

Islamic feminist discussions on underage marriage thus provide valuable insights and strategies that can be applied to the Moroccan context, where the issue of child marriage remains a significant concern despite legal reforms. Morocco's legal framework, cultural practices, and religious landscape make it a unique case for examining how Islamic feminist perspectives can contribute to ongoing efforts to combat underage marriage. Morocco's *Mudawana* (Family Code), reformed in 2004, raised the minimum legal age for marriage to 18. However, it also includes a

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<sup>59</sup> "Ending Child Marriage in Muslim Family Laws," *Musawah Brief*, 2020.

loophole that allows judges to grant exceptions for girls as young as 16, leading to the continued practice of underage marriage in rural and impoverished areas. Islamic feminists argue that this legal inconsistency undermines the rights of girls and perpetuates gender inequality, advocating for the removal of judicial exceptions in the *Mudawana* and a more stringent application of the minimum age requirement to protect girls from early marriage. Further, underage marriage in Morocco is often tied to socio-economic factors, particularly in rural areas where poverty and lack of education are prevalent, contributing to the persistence of the issue. Strategies could include advocating for increased access to education for girls, economic support for impoverished families, and public awareness campaigns that highlight the negative consequences of underage marriage.

## CONCLUSION: THE RELEVANCE OF ISLAMIC FEMINISM IN MOROCCO

Gender justice in Morocco is deeply intertwined with the influence of religious discourse, which shapes the country's legal, social, and cultural norms. Islamic feminism, which seeks to reinterpret Islamic texts from a gender-equitable perspective, is particularly applicable due to Morocco's unique position as a Muslim-majority country with a reformist legal tradition that incorporates Islamic principles. For example, the 2004 reform of the *Mudawana* (Family Code) marked a significant step toward gender equality. Islamic feminism offers further pathways for addressing ongoing gender-based issues, decentering hegemonic and male-centric religious interpretations.

By reinterpreting Qur'anic verses with an ethical focus on justice, compassion, and equality, Islamic feminist scholars provide tools that can support Morocco's efforts to harmonize tradition with modernity in legal and social reforms. In a context where government and religious institutions play significant roles in legal reforms, these reinterpretations challenge longstanding norms that contribute to gender-based violence, unequal economic rights, and the marginalization of women in both religious and social spheres. A gender-sensitive reading of Islamic texts thus becomes a valuable tool for Moroccan activists and reformers working toward a more equitable society.

Islamic feminism's impact in Morocco extends beyond legal reforms to encompass grassroots activism and public education, where reinterpretations of Islamic texts are strategically employed to challenge deeply entrenched societal attitudes. By engaging with the complex religious landscape of Morocco -characterized by the dual authority of the monarchy and religious institutions- Islamic feminists navigate a space that is both restrictive and full of potential. This dual authority creates a challenging environment, as traditional interpretations often reinforce patriarchal norms, but it also provides opportunities to advocate for gender equality through religiously grounded arguments that resonate with the broader public.

A key strategy involves collaborating with religious leaders and institutions, whose influence over public opinion is pivotal in shaping societal values. By aligning feminist interpretations with Islamic principles, activists can foster greater acceptance of progressive ideas within communities that might otherwise resist them. Through targeted outreach, education campaigns, and partnerships with local religious and civic leaders, Islamic feminists work to bridge this gap. These efforts not only amplify feminist interpretations of Islamic texts but also create pathways for legal reforms to be meaningfully integrated into everyday life. By addressing both structural inequalities and cultural attitudes, Islamic feminism in Morocco continues to build a foundation for sustainable and culturally resonant gender equality across diverse social and geographic contexts.

# RECOMMENDATIONS

## 1. Promoting inclusive Reforms

- Legal reforms should ensure that family laws reflect principles of gender equality and justice.
- Religious reasoning and interpretation should emphasize the Qur'an's ethical principles of justice, fairness, and non-violence while aligning with contemporary understandings of gender equality.
- Address diverse conceptions of freedom by fostering interpretations that integrate the plurality of perspectives on freedom and justice within Islam.

## 2. Fostering Collaboration

- Facilitate platforms for dialogue among civil society actors, activists, religious leaders, and policymakers to promote mutual understanding and shared strategies.
- Enhance civil society efforts and networks to sustain the momentum of Islamic feminist knowledge despite resisting or shifting political contexts.
- Provide targeted training in Islamic feminist knowledge to local actors, enabling them to advocate effectively within their communities.
- Engage with transnational Islamic feminist knowledge to inform local practices, while critically addressing potential power asymmetries and ensuring that local agency and contexts are respected in the process.

## 3. Awareness and Education

- Launch initiatives to educate the public on women's rights in Islam using media, religious institutions, and educational programs.
- Encourage Imams and Murchidat (female religious guides) to promote gender justice through sermons, workshops, and community outreach.
- Leverage media and public platforms to counter stereotypes and traditional biases against women.

## 4. Data Collection and Research

- **Collect Reliable Data:** Government structures, research institutions, and civil society organizations should prioritize data collection on gender inequalities to inform policies and legal reforms.
- **Study Socio-Economic Impacts:** Conduct research on the socio-economic consequences of discriminatory family laws and practices to highlight their broader implications.

## PROPOSED RECOMMENDATIONS FOR ADVANCING ISLAMIC FEMINIST KNOWLEDGE TO SERVE GENDER JUSTICE IN MOROCCO

### 1. Seizing Current Opportunities and Building Alliances

- **Capitalize on Convergences:** Build on the shared goals between liberal feminists and Islamist movements, leveraging their common ground to advocate for gender justice at both local and international levels.
- **Utilize Growing Recognition:** Take advantage of the increasing acknowledgment of Islamic feminist knowledge as a legitimate and valuable framework for addressing gender equality challenges.
- **Foster Collaborative Platforms:** Encourage partnerships between feminist and Islamist movements to jointly engage with the government and civil society, uniting around Islamic feminist principles for collective advocacy.

### 2. Institutionalizing Islamic Feminist Knowledge

- **Incorporate Reinterpretation and Critique:** Secure the integration of critical reinterpretations of Islamic texts into the implementation of justice and equality principles.
- **Engage State-Sponsored Religious Leaders:** Leverage murchidat and imams as agents of dissemination, while addressing potential limitations posed by their state-sponsored and controlled roles to maintain authenticity and efficacy.
- **Expand Educational Reach:**
  - Integrate Islamic feminist perspectives into school curricula, emphasizing women's rights, citizenship, and gender equality through courses in civic education.
  - Review and update textbooks to reflect equitable interpretations of Islamic teachings.
- **Enhance Media and Publishing Efforts:** Utilize universities, publishers, and media outlets to promote accessible resources and public discussions on Islamic feminist knowledge.

### 3. Addressing Gender-Based Violence (GBV)

- **Redefine and Address Complexities:** Develop a comprehensive understanding of GBV that includes structural and political violence, often disproportionately impacting women.
- **Reexamine Legal Frameworks:** Advocate for precise legal reforms informed by Islamic feminist critiques, particularly addressing verses and laws that discriminate against women.
- **Disseminate Islamic Feminist Insights:**
  - Use mosques, schools, and civil society organizations to spread awareness of Islamic feminist approaches to GBV.

- Equip religious actors to serve as role models and actively challenge patriarchal norms, drawing inspiration from Muslim feminist figures.

#### 4. Reforming Legal and Social Structures

- **Foster Collective Ijtihad:** Promote collaborative reinterpretations (ijtihad) by engaging scholars, activists, and policymakers in revisiting Islamic laws to reflect contemporary gender relations.
- **Address Men's Engagement:** Develop targeted programs for Muslim men to navigate and embrace transformations in gender relations, fostering mutual understanding and allyship.
- **Enhance Civil Society Efforts:** Support initiatives that provide income-generating activities for women, valorize domestic work, and raise political awareness about Islamic feminist approaches.

#### 5. Reforming Inheritance and Marriage Practices

- **Reinterpret Inheritance Laws:**
  - Deconstruct official Islamic discourses on inheritance and advocate for interpretations that align with contemporary realities and gender equity.
  - Draw inspiration from other countries' Islamic feminist practices and experiences.
  - Encourage studies and research to enhance Islamic feminist discourse on inheritance, involving political leaders, Islamist movements, and civil society organizations.
- **Revise Marriage Laws:** Use Islamic feminist knowledge as a foundation for reinterpreting marriage laws, emphasizing equality and shared responsibilities.
- **Mobilize Key Actors:** Engage murchidat, imams, the Ministry of Religious Affairs, and educational institutions to propagate equitable practices and interpretations.

#### 6. Promoting Research and Expanding Discourse

- **Establish Research Networks:** Create informal networks dedicated to researching and disseminating Islamic feminist knowledge among relevant stakeholders, including policymakers and educators.
- **Encourage Intersectional Perspectives:** Islamic feminists should actively engage with diverse population groups and address emerging challenges of the 21st century.
- **Adopt a Global Outlook:** Learn from and integrate experiences of Islamic feminist movements in other countries to contextualize and enrich Moroccan efforts.

## 7. Mitigating Risks and Challenges

- **Avoid Apologetic Positions:** Ensure Islamic feminist narratives do not inadvertently reinforce patriarchal argumentation.
- **Safeguard Against Political Volatility:** Build resilient institutions and networks to maintain the momentum of Islamic feminist knowledge regardless of shifting political tides.

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