Legal Discrimination and Violence against Women
Analyzed through a Feminist Lens Using the Advocacy Coalition Framework

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Abstract
This article analyzes the impact of discriminatory laws on violence against women (VAW) in Morocco. I utilize the Advocacy Coalition Framework (ACF) from public policy to examine how feminist and religious coalitions compete along core beliefs, but at times may cooperate along policy core and secondary beliefs. My analysis is based on in-depth interviews and focus groups with more than 200 stakeholders across twenty Moroccan cities from 2013-2018. Respondents include women’s and human rights associations, VAW listening centers, overnight shelters, and violence victims as well as members of the judiciary. The research boasts an inclusive sampling of perspectives from across the Moroccan political spectrum, including secularists, socialists, progressive Muslim feminists,¹ and conservative Islamic associations. This amalgam of perspectives mirrors the complex fabric of Moroccan society and contributes valuable and unique insights

¹ When I refer to progressive Muslim feminists, I am referencing the work pioneered by Moroccan feminist scholar Fatima Mernissi, Egyptian Nawal Saadawi, Egyptian-American Leila Ahmed, African-American Amina Wadud, and Pakistani Asma Barlas, among others, which reinterprets the religious texts with a progressive feminist lens and gender equality. The current work of Asma Lamrabet certainly falls into this category.
into the sociocultural challenges to, yet potential for, cooperation and consensus-building to address VAW in Morocco.

**Keywords:** legal discrimination, feminist, domestic violence, rape, conjugal rape, abortion

**0. Introduction: VAW as a Pressing Global Issue**

Violence against women (VAW)\(^2\) is a pervasive issue of global proportion which has been overlooked, and even condoned, across societies. Even more alarming is the high percentage of violence that occurs in the home with the World Health Organization (WHO) indicating that 35% of women worldwide experience physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.\(^3\) The pervasiveness of domestic violence represents a major public health crisis with ripple effects across societies imposing socioeconomic costs on both present and future generations. To make matters worse, domestic violence victims often find themselves twice victimized: initially, by an aggressor and later, by the state and society to which they turn for help.

Historically, the state handled relations in the public sphere, while religious, ethnic, and tribal leaders managed relations in the private sphere, who in turn relegated the management of family relations to the father, who disciplined wives and children alike. As state’s strengthened central control, they slowly extended their power and authority into regulating private affairs. Nevertheless, many Moroccans still view domestic violence as a private matter, which is often hidden and even tacitly condoned. Consequently, VAW is widespread in Morocco, especially between intimate partners.\(^4\) In the late 1990s, feminist women’s associations brought the magnitude of violence to the public’s attention through real-life statistics based on the testimonies of VAW victims gathered by civil society-run listening centers. The

\(^2\) Violence against Women (VAW) and Gender-Based Violence (GBV) are often used interchangeably. For this project, the term VAW will be used to specifically address violence directed at women based on their gender.


\(^4\) Anaruz network annual reports, the Oyoun Nissaeya Observatoire, the listening centers for victims of VAW, and the 2011 High Commissariat for Planning Survey.
Union of Feminist Action (UAF) in Tetouan indicates “30, 40 women [arrived] each day at the Nejma centers, so [VAW] is very serious and represents different forms of violence as sometimes a woman is a victim of multiple forms of violence.” In 2011 Morocco’s High Commissariat of Planning (HCP) released results from the first national survey of VAW in Morocco indicating 63% of women between the ages of 18 and 64 reported being subjected to violence within the past year, and 55% of those victims of domestic violence. Despite these alarming statistics, only 3% of VAW victims file a complaint with the relevant authorities and only 1% of cases reaches prosecution.

1. The Advocacy Coalition Framework and Competing Beliefs

The Advocacy Coalition Framework (ACF) is a theoretical approach used in public policy to analyze how advocacy coalitions compete within a public policy subsystem, such as the environment, foreign trade, or, in this case study, women’s rights. In Morocco, women’s rights coalitions polarize along core identities, previously stated as secular and religious (Salime, 2011). Nevertheless, these core identities are reductionist, homogenize diverse networks as either secular or religious, and do not capture the multi-sided perspectives constituting associations and coalitions. So-called secular associations may privilege the UN human rights framework over religious texts, but, in fact, be very religious, whereas some highly religious associations may also subscribe to the UN human rights framework, so there is significant cross-over, diffusion, and policy-oriented learning between and among coalitions. Instead of a secular-religious polarization, I propose to show how coalitions compete around core beliefs, which are normative, ontological, and resistant to change, but more complex and nuanced than the popular religious-secular extremes imply. In reality,

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5 Personal interview with the Union of Feminist Action (UAF) (Tetouan) July 8, 2013.
6 High Commissariat for Planning. (2011) First National Survey on VAW in Morocco. For more information, see http://www.hcp.ma.
7 ACF was developed by Paul Sabatier and Jenkins-Smith 1988, 1993, 1999 to analyze how advocacy coalitions compete to change public policies and the environment and factors which contribute to change, which include policy-oriented learning and external shocks. Abrar, Lovenduski, and Margetts (2000) adapted ACF to the study of domestic violence in the UK, but ACF has not been utilized on women’s rights within a predominantly-Muslim country prior to my research.
coalitional core beliefs include a combination of factors beyond the secular-religious dichotomy:

- primary legal referent (the UN human rights framework or religious texts),
- unit of analysis (the individual or the family and society as a whole), and
- the privileging of gender equality to the complementarity of gender roles.\(^8\)

Even among core beliefs, there is cross-over between coalitions, but as Salime emphasized, a clear fracturing exists within the Moroccan women’s movements over the correct pathway to modernization and development.

Due to the cross-over and inconsistency, naming and delineating these two coalitions is problematic. The first advocacy coalition includes secularists, socialists, and progressive Muslim feminists, so I term this coalition as feminist\(^9\) rather than secular, since clearly many associations and activists within this feminist coalition have very strong religious beliefs and identify as Muslim. These progressive Muslim feminists, however, employ progressive interpretations of religious texts over more conservative understandings and largely, though not exclusively, subscribe to the UN human rights framework for

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\(^9\) Interviews with Moroccan feminist associations include: AMDF (Casablanca), Union of Feminist Action (UAF) (Tetouan, Agadir), ADFM (Rabat), IPDF (Fez), LLDF (Rabat, Ouarzazate, Marrakech, El Jadida), MRA (Rabat), La Voix de la Femme Amazighe (Rabat), Femme Action (Rabat), the Association Amal Pour la Femme et le Development (El Hajeb), Association Tafil Al Moubadarat (Taza), National Human Rights Council (CNDH), AMDH (Rabat), Solidarity Feminine (Casablanca), Association Ennakhil (Marrakech), the Association in the Fight Against SIDA (Marrakech), Association Anaouat (Chichaoua), Association Voix de Femmes (AVFM) (Agadir), Association Femmes du Sud (Ait Milloul), Oum El Banine (Agadir), Associaiton Sud Contre le Sid (Agadir), Association Wafae (Inezgane)
inspiration in reforming national laws. The *progressive Muslim feminist* associations align more closely with the *feminist* coalition, based on a similarity in *core beliefs*. Likewise, the second coalition is largely, but not exclusively, conservative *religious* associations, which often distance themselves from the term *feminist*. Other associations in this second non-feminist coalition focus more on special topics or social justice issues, which often align with *feminist* concerns. Nevertheless, these associations do not identify as *feminist* and distinguish themselves from *feminists* by including men in their ranks and leadership and not promoting a primarily *feminist* agenda. These associations include the youth social justice association Droites et Justice in Casablanca, Union Feminine Liberale in Rabat, which supports LGBTQ rights, Khotwa in Tikiouin, which works with street kids, and KAWTAR in Marrakech, which works with the disabled. These associations may be referred to as *post-feminist, social justice,* or *intersectional* associations. Thus, the second coalition, which identifies as either non-feminist, post-feminist, social justice, or *intersectional* in terms of approaching human rights by incorporating multiple axes of power and privilege to include race, class, ability, gender identity, sexual orientation, and other marginalized social identities. As a collective, I will term this coalition *non-feminists and post-feminists* (NFPFs).¹¹

*Feminists* deem gendered power asymmetries in the family and in society as the source of women’s marginalization. Additionally, they consider women’s subordinate position as constructed and therefore able to be deconstructed by using a *feminist* lens and gender equality *mantra* to re-envision the formal institutions (discriminatory laws) and underlying informal institutions (patriarchal cultural norms), often

¹⁰ For example, Nadia Yassine and the Justice and Charity movement reject the term *feminist* “to focus less on changing laws and more on changing mentalities” (Gray 2015: 101). Furthermore, some of the associations in this second coalition, such as the ruling Justice and Development Party (PJD) and PJD-associated Forum Azzahrae (FAFM) and the al-Hidn Association, promote women’s equal access to education and public sector jobs, but they support complementary gender roles in the family.

¹¹ Interviews with so-called NFPFs include: the al-Hidn Association (Casablanca), Forum Azzahrae (FAFM) (Casablanca), the Initiative for Women’s Development (Marrakech), Zitoune (Chichaoua), Studies and Research Center on Women’s Issues in Islam for the Mohammadia’s Rabita of Oulemas (Rabat), Khotwa (Tikiouin), KAWTAR (Marrakech)
informed by conservative religious interpretations, which systematically marginalize and oppress women. Not all feminist associations, however, act in an egalitarian and inclusive manner, as some promote an elitist agenda and organize hierarchically, which has alienated youth activists and male feminist supporters, sparked alternative discourses, and limited the reach of feminist activism. NFPFs, on the other hand, especially the religious-based associations, naturalize women’s subordinate position to men and do not challenge traditional complementary gender roles within the family, but they may and often do promote women’s access to education and employment in the public sphere as well as maternal rights such as maternity leave. In the following analysis, I will briefly differentiate the underlying policy core and secondary beliefs of these coalitions and demonstrate how they compete and where they might collaborate.

Aside from competing core beliefs, coalitions espouse policy core and secondary beliefs. Policy core beliefs are epistemological and determine how coalitions understand an issue as well as their basic positions on an issue, basic strategies, and prescriptions to implement their core beliefs. For example, with regard to VAW, feminists attribute the problem to unequal power relations between husbands and wives and male entitlement, whereas Forum Azzahrae (FAFM) understands violence as stemming from social issues, such as drugs, alcohol, and poverty. These contrasting understandings of the source of the problem lead to different policy prescriptions for addressing VAW. In addition, advocacy coalitions hold secondary beliefs which are more pragmatic assertions regarding how to implement policy core beliefs. Policy core and secondary beliefs are more flexible and offer a possible arena for compromise. For example, the healthcare and economic costs of domestic violence alone might compel convergence and compromise, even though the coalitions attribute domestic violence to different root causes. Nevertheless, whether the policies put in place to address such national issues resolve the problem or treat its symptoms, at times a potential solution may be equally amenable to both coalitions.

2. Feminists Focus on Laws and NFPFs on Changing Mentalities

Feminists view the penal code as privileging men and discriminating against women publicly and privately. Progressive constitutions and national laws serve as the institutional foundation and catalyst for
attitudinal and cultural change. For example, slavery was once an accepted institution. As civilizations evolved, the subjugation and exploitation of one race for the profit of another was discredited and countries passed national laws to eradicate this practice. Feminists believe VAW requires a decisive state response, beginning with progressive and proactive laws to discredit and delegitimize violence, deter aggressors, and to empower and oblige law enforcement – the police and gendarmerie - and the judiciary - lawyers, prosecutors, and judges with the necessary authority to implement and enforce these laws. As a family law lawyer in Tangier contends, “you can’t make legal rulings based on laws that aren’t on the books.”

Mobilising Rights Associates (MRA) co-founder Stephanie Bordat equally blames inadequate laws for the non-responsive state institutions. “You can’t just tell the police, ‘now be nice to the poor victims of violence.’ The police can’t act if they don’t have a law telling them that they can act. You need a law.” Consequently, this article focuses on the impact of legal discrimination on VAW with regard to five main issues: extramarital sexual relations, abortion, domestic violence, rape, and conjugal rape. These issues cut across public and private space and provoke both feminist and NFPF activism and advocacy. I address each issue in turn, along with delineating the policy core and secondary beliefs of feminists and NFPFs.

Due to Morocco’s UN convention commitments, the state is obliged to exercise due diligence in eliminating VAW by private individuals and public authorities. Furthermore, divisions within the women’s movement create a plausible impasse on many issues. Consequently, the Moroccan parliament has yet to pass laws, which clearly define domestic violence and conjugal rape as illegitimate and to develop mechanisms and institutions to control it (Merry & Connelly, 2011, p. 23). Regardless, violence that is excused and normalized is allowed to persist.

3. Extramarital Sexual Relations

In Morocco, strict laws intended to maintain public morality penalize extramarital sexual relations (zina), with stricter penalties if either

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12 Personal interview with Family Law lawyer (Tangier) July 8, 2013
13 Personal interview with Mobilising Rights Association (Rabat) September 23, 2016
partner is married to someone else (Articles 490-491). Nevertheless, the repercussions of extramarital relations are gendered as an unmarried woman bears the evidence of her “crime” with a pregnancy. Conversely, to avoid prosecution under Article 490, unmarried men often deny a sexual relationship, while married men can be pardoned by their wives and avoid prosecution (Article 492). These articles coupled with the irrational logic that filiation and paternal responsibilities are based on a registered marriage (Articles 152 ,148) and not on actual DNA evidence, in effect, exonerates the single father of paternal responsibilities despite the child’s right to a father. Ignoring DNA evidence as a means of establishing paternity and distinguishing between legitimate and illegitimate filiation represent a

14 Article 490 Anyone having sexual relations with someone of the opposite sex outside of marriage is punished by imprisonment from one month to one year.

Article 491 A married person convicted of adultery is punishable by imprisonment for one to two years. The prosecution is only carried out on the complaint of the offended spouse.

15 Personal Interview with the Human Right Council (CNDH) (Rabat) October 17, 2016; Personal Interview with Initiative Pour la Protection des Droits des Femmes (IPDF) (Fez) October 14, 2016

16 Article 492 The withdrawal of the complaint by the offended spouse terminates the prosecution of his/her spouse for adultery. The withdrawal that occurs after a sentence has become irrevocable stops the effects of this sentence against the sentenced spouse. The withdrawal of the complaint never benefits the accomplice of the adulterous spouse. Personal Interview with the National Human Rights Council (CNDH) (Rabat) October 17, 2016; Personal Interview with Solidarity Feminine (Casablanca) January 10, 2017.

17 Article 152 Paternity is established by:
1- the conjugal bed;
2- acknowledgement;
3- sexual relations by error.

Article 148 Illegitimate filiation to the father does not produce any of the effects of legitimate filiation.

18 DNA testing is used in criminal investigations in Morocco, but generally not in paternity cases, with the exception of registering fatiha marriages post-facto (Article 126), which is disconcerting and discriminatory. DNA reads like a “barcode” with half the stripes in the barcode, aligning with those of the mother and half aligning with those of the father. Thus, the DNA signatures between a child and either biological parent is 50% of the barcode stripes. If they do not align, then the mother/father is not the biological parent, making DNA paternity testing a scientifically proven method for confirming/disconfirming paternity.
severe discrimination against single mothers and their illegitimate\textsuperscript{19} children and is unacceptable under Morocco’s international convention obligations. Based on the Convention on the Rights of the Child (CRC) Articles 2(2) and 18, the child cannot be discriminated against based on the status of the parents and both parents are responsible for the upbringing and development of a child. In Morocco, however, unwed fathers are responsible only if they choose to take responsibility (acknowledgement, under Article 152), which is unlikely, given the fact that extramarital sexual relations are a criminal offense. Anaouat in Chichaoua, reports that in a recent court case, a man and woman were in a sexual relationship and they were caught in a car. The man is married, and the woman is a widower. The woman was sent to prison, but the man was not because his wife did not file charges against him for adultery. The woman, however, spent nine months in prison and was pregnant.\textsuperscript{20} In Tunisia, on the other hand, if an unmarried woman has a child in a hospital, the state asks the name of the father. If the father denies the child is his, then he must submit to DNA testing and if he is the father, the child has all the rights due a legitimate child.\textsuperscript{21} Likewise, in Tunisia, in 2008 the Court of First Instance determined “filiation is a child’s right” and ruled that the Personal Status Code should be interpreted broadly and in accordance with Article 2 (2) of the CRC, which protects against all forms of discrimination against the child based on the status of the child’s parents.\textsuperscript{22}

Feminists believe sexual relations outside of marriage between consenting adults is a private matter and should be decriminalized. They point out that the legal repercussions of illicit sexual relations, such as unwanted pregnancies, prison sentences, and fines, fall solely on unmarried women. NFPFs, such as al-Hidn, are “not for extramarital sexual relations,” basing their contention that sexual

\textsuperscript{19} The same Arabic word for illegitimate is used for illegal (غير شرعي) in that a child conceived outside of wedlock is literally an “illegal child”

\textsuperscript{20} Personal interview with Association Anaouat pour Femmes et Enfant in Rural Villages (Chichaoua) January 12, 2018.


relations belong only within a marital relationship on the Qur’an 23:5-7: “all sexual relations outside of marriage are forbidden.” The PJD and PJD-affiliated FAFM assert decriminalizing extramarital sexual relations would contribute to debauchery, illegitimate children, and prostitution. Consequently, NFPFs want to maintain the criminalization of extramarital relations with prison sentences and fines, but also, feminists would add, with legal loopholes by which unwed fathers escape paternal responsibilities.

4. Abortion

As for the issue of abortion, a 2007 study by the Moroccan Association of Family Planning indicates that 600 women have an abortion each day of which 52% are married women. Nevertheless, until recently, abortion remained a criminal offense in Morocco, punishable by six months to two years in prison, unless the mother’s health is at risk and requires spousal consent (Articles 453). In Tunisia, on the other hand, abortion during the first trimester has been legal since 1973 and is funded by the government. As a result, in Morocco 13% of maternal deaths are due to (largely illegal) abortions, while in Tunisia complications from abortion are very rare and women do not die.

23 Personal interview with Forum Azzahrae Pour la Femme Marocaine (FAFM) (Rabat) October 5, 2016.
25 Article 453 Abortion is not punishable when it constitutes a necessary measure to safeguard the health of the mother and it is openly practiced by a physician or surgeon with the consent of the spouse. If the practitioner believes that the life of the mother is in danger, this authorization is not required. However, notice must be given by him to the Chief Medical Officer of the prefecture or province. If no spouse or if the spouse refuses to give consent or he is incapacitated, the doctor or the surgeon cannot perform surgery or use a therapeutic that could lead to termination of pregnancy that after written notice of the chief doctor of the prefecture or province attesting that the health of the mother can be safeguarded only through such treatment.
Thanks to Moroccan feminist activism, the abortion law was amended on June 9, 2016 to allow abortions in cases of rape, incest, and malformation of the fetus. However, no public policies, institutions, or procedures have been put in place to implement this reform. Association Femmes du Sud (ASF) in Ait Milloul notes, if the woman is married, there is no problem with getting an abortion as long as the husband agrees; otherwise, it is a crime. If the husband does not agree, then the doctor can make the decision. Even with the 2016 amendment, in cases of rape, the woman is not entitled to an abortion as the necessary public policies and procedures to enact the reforms have not been put in place. Even with the reforms, president of the Moroccan Association for the Fight Against Clandestine Abortion (AMLAC) Chafik Chraibi adds, the current legal reasons for abortion only cover about 10-20% of abortions, so his concern is the other 80-90% of the estimated 600-800 illegal abortions performed daily in Morocco.

Even more disconcerting, on July 31, 2018, the Minister of Health Anass Doukkali suspended the sale of a misoprostol product called Artotec, which is used in combination with another drug, mifepristone, to induce an abortion, giving Moroccan women even fewer options in the event of an unwanted pregnancy.

Feminist and NFPF coalitions are fractured over the issue of abortion with a great deal of crossover between coalitions. Many of the mainstream feminist associations, such as AMDF, LDDF, UAF, and ADFM cast the criminalization of abortion as a public health issue and a restriction on a woman’s right to control over her own body and personal freedom, citing Tunisia’s legalization of abortions as a model.

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28 Personal interview with Association Femmes du Sud (AFS) (Ait Milloul) January 24, 2018
29 Zineb Achraf. (15 May 2015). “Chafik Chraibi Is Leading the Charge Against Illegal Abortion in Morocco.” Huffington Post Maghreb on-line (Retrieved on May 23, 2018). Conversely, the Moroccan Association of Family Planning indicates that most women seeking an abortion in Morocco were either cases of rape, incest, mental illness or pre-marital sex, which is illegal (Gray 2015: 113).
30 “Health Minister removes misoprostol from pharmacies for six months and a safe abortion advocate is arrested soon after.” Posted in the Africa, Middle East/Mediterranean Morocco News, Newsletter. (Retrieved November 30, 2018)
for other Arab countries. These associations fear the right to life reaffirmed in Article 20 of the 2011 Constitution may be used to reinforce the criminalization of abortion, whereas other associations, such as the NFPF Moroccon Association of Human Rights (AMDH) in Rabat view a pregnancy as an embryo and not a life. Conversely, some associations within the feminist coalition are adamantly against abortion, such as Solidarity Feminine in Casablanca and Oum El-Banine in Agadir, which both work with single mothers and their children. Solidarity Feminine defends a woman’s right to have sexual relations, inside or outside of marriage, and yet they are vocally against abortions, except in cases of rape, incest, deformation of the fetus, and for the very young -- 11, 12, or 13 years old -- even if she is not raped. Nevertheless, Solidarity Feminine believes that before defending the right to life or the right to an abortion, it is important to defend the right to information, knowledge, and prevention for if young people are to take responsibility for the consequences of their actions, they must first know what those consequences are. Similarly, Oum El-Banine is against abortion, claiming abortion is not a solution to the problem. Likewise, some NFPFs deny abortion as a legitimate alternative, such as the Initiative for Women’s Development (IWD) in Marrakech, saying that abortion is haram unless the mother’s life is in danger or in cases of rape and incest. Furthermore, it is also haram to abort an illegitimate child. The Association Zitoune in Chichaoua views abortion as “bad for morality to kill a child… as it is a life in spite of everything.” In claiming abortion is haram, these religious-leaning associations are referencing religious texts to support their stance that abortion should not be legalized based on Qur’an 17:31 “Kill not your children for fear of want. We shall provide sustenance for them as well

32 Personal interview with the Moroccan Association of Human Rights (AMDH) (Rabat) October 19, 2016.
33 Personal Interview with Solidarity Feminine (Casablanca) January 10, 2017.
34 Personal interview with Oum El Banine (Agadir) January 25, 2018
35 Personal Interview with Initiative for Women’s Development (Marrakech) January 8, 2018
36 Personal Interview with Association Zitoune Pour le Developpement (Chichaoua) January 12, 2018
as for you. Verily the killing of them is a great sin.” Other NFPF activists affiliated with the PJD supported lifting the ban on abortion, arguing the Qur’an does not explicitly state when the beginning of life occurs and the Malekite position claims a fetus does not have a soul until the end of the first trimester (Gray, 2015, p. 114).

Clearly, the convergence and crossover between feminist and NFPF positions on the issue of abortion facilitated the 2016 reforms to include rape, incest, and malformation of the fetus as possible reasons for an abortion. Nevertheless, the fact that both coalitions contain associations that are both for and against abortion stymies the establishment of appropriate public policies and institutions to facilitate the reform’s effective implementation. Due to this legal stalemate, however, both unmarried and married Moroccan mothers with an unwanted pregnancy often find themselves with few viable options. Without adequate information concerning sexual and reproductive health choices and access to reproductive health services Moroccan women are left to deal with the consequences of their uniformed decisions. Often, rather than risk being ostracized by their family and society or even potential prison time for “illegal” sexual activity, women find someone willing to perform a clandestine abortion and risk injury or death due to medical malpractice.

5. Domestic Violence

Despite the fact that the majority of VAW occurs within the conjugal home, the Moroccan penal code does not specifically criminalize domestic violence as a separate category of violence. Feminists view domestic violence as “abuse” and “a violation of a woman’s human rights” and believe that the law should explicitly criminalize domestic violence to demonstrate that the state will not tolerate violence either in the public or private sphere. Currently, Articles 400-404 and 418 on assault and battery stipulate that if the aggressor is a family member or spouse the familial relationship will be considered an “aggravating circumstance” for sentencing purposes. At feminists’ urging, parliament revised Article 404 with Law 24-03 to add “her husband”

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37 Moroccan Penal Code, Articles 404 and 414; See Government’s Response to the Committee’s LOI, para. 72; see also, Freedom House Inc., Special Reports (Retrieved November 25, 2018).
(son époux).\textsuperscript{38} Previously, as in many Western societies with Christian religious texts, Islamic religious texts were referenced to legitimize domestic violence as “discipline” or “warranted,” which was reinforced by the 1993 shari‘a-based Personal Status Code designating the husband as the head of the family (Article 1) and dictating the wife’s absolute obedience to her husband (\textit{ta‘a}) (Article 36). Instead, Director of the Center for Studies and Research on Women’s Issues in Islam (CERFI) in Rabat Asma Lamrabet promotes the Qur’anic ethic of the marital union as deep love and infinite mercy (\textit{mawadda} and \textit{rahma}) as there was no mention of \textit{ta‘a} in the Qur’anic ethics of marriage.\textsuperscript{39} Nevertheless, the notion of \textit{ta‘a} was removed from the 2004 Family Law, which instead places the family and household under the co-responsibility of the husband and wife (Article 51). However, such justifications of domestic violence enable the institutionalization of discriminatory laws and practices, which allow perpetrators to act with impunity, while blaming the victim.

Feminists and NFPFs both condemn domestic violence, but their policy prescriptions differ on how best to address domestic violence. Feminists indicate that domestic violence goes unreported as women find it shameful and domestic violence is simply accepted. Association Anaouat in Chichaoua, explains that women in Morocco do not talk a lot about domestic violence, even highly educated women, because they find it shameful (\textit{hchouma}) to discuss. Although educated women know the violence is unfair, illiterate women in the rural areas accept domestic violence, believing that the husband has the right to practice domestic violence because he is her husband.\textsuperscript{40} Nejma in Rabat indicates a domestic violence victim needs a medical certificate attesting to the extent of her injuries (21 plus days) and two witnesses in order to prove that a crime was committed.\textsuperscript{41} UAF in Tetouan notes a normative bias towards blaming the wife for domestic violence in

\textsuperscript{38} Personal Interview with Family Law lawyer (Tangier) July 8, 2013.


\textsuperscript{40} Personal interview with Association Anaouat pour Femmes et Enfant in Rural Villages (Chichaoua) January 12, 2018.

\textsuperscript{41} Personal interview with Nejma Domestic Violence Center (Rabat) October 10, 2016
Morocco, “if a wife is beaten by her husband, she has done something to bring it on herself. It is her fault. This is the norm.” The Association Amal in El Hajeb contends, “one of the very common thoughts among women is that of the husband's right to beat his wife to ‘educate’ her.” Nevertheless, feminists challenge these cultural norms, using the UN Human Rights framework and a woman’s right to bodily integrity and hold the state accountable for demonstrating due diligence to challenge patriarchal norms that condone domestic violence. Even when VAW victims report domestic violence, the police and court do not always follow the letter of the law, according to Association Tafiil Moubadarat in Taza. For instance, when a woman complains to the police for the first time through a verbal procedure, the police make her sign the complaint without reading it. If Tafiil advocates accompany a VAW victim to the hospital to get a medical certificate, she gets it for free; whereas if she goes alone, they ask her to pay. Among NFPFs, FAFM claims it is illogical to think that Islam promotes violence when God said “Oh my servants, I have forbidden oppression for myself and made it forbidden amongst you, so do not oppress one another” (hadith 40). Instead, FAFM asserts, domestic violence stems from “the belief that men have to educate women and that they have to be violent, whereas women are expected to be patient.” Instead of prison, however, FAFM prescribes rehabilitation for violent men. As the women who have been married for 30 years do not want to send their husbands to jail, they just want the violence to stop. Nevertheless, to FAFM’s knowledge, there is only one rehabilitation center in Rabat and one in Casablanca, definitely not enough for all the domestic violence cases. Feminists believe the laws are key in changing the cultural norms, whereas NFPFs believe the key is to change the mentalities of the Moroccan society. With either approach the coalitions merge toward rejecting domestic violence as

42 Personal interview with the Union of Feminist Action (UAF) (Tetouan) July 8, 2013
43 Personal interview with the Association Amal Pour la Femme et le Developpement (El Hajeb) October 12, 2016
44 Personal interview with Association Tafiil Al Moubadarat (Taza) October 13, 2018
45 Personal interview with Forum Azzahrae Pour la Femme Marocaine (FAFM) (Rabat) October 5, 2016.
46 Ibid.
legitimate and reframing the violence as a violation of a woman’s human rights.

6. Rape

Another form of VAW with multiple layers of complexity and conflation in Morocco is the issue of rape. The definition of rape in the 2003 Penal Code is limited to “the act by which a man has sex with a woman against the will of the latter” (Article 486), which does not meet international standards. As IPDF in Fez notes, the first night of marriage, a man cannot be capable of deflowering his wife, so he has recourse to a service-- and it exists in society—a service of women, often from the family, who will deflower the woman with the ends of candles, etc. It’s rape. It’s done with force, and it’s not recognized as rape.47 The World Health Organization (WHO) recommends that the definition of rape should be gender neutral, encompass a range of sexual acts including vaginal, oral, and anal sex, and expand the instrument of the sex act to include not only a penis, but also other body parts and foreign objects. Furthermore, the stipulation of force or coercion should be eliminated from the definition of rape as coercion includes a gradient of force, such as intimidation, threats, blackmail, and cases of non-consent if the person is incapacitated.48 To complicate matters, the Moroccan penal code categorizes rape as an attack on manners and public decency (Articles 483-496), instead of a crime against an individual person. Hence, perpetrators of rape and sexual assault have been able to deflect the rape charge by referring to public decency (Article 483) and diverting the blame onto the victim as a justification for the assault and even rape.49 Finally, in Moroccan cultural norms, the loss of virginity for a girl outside of marriage is cast

47 Personal Interview with Initiative Pour la Protection des Droits des Femmes (IPDF) (Fez) October 14, 2016
49 Two women in Inezgune were harassed on June 14, 2015 for the dresses they were wearing. When they called the police, they were charged with “harming public morality” under Article 483 because their dresses were deemed “too short” and “indecent” (just above the knee) (Personal interview Association Voix des Femmes Marocaines (Agadir) January 23, 2018). The women were later acquitted and the four men who accosted them were put in jail. Later, however, the women moved to a different city following their arrest due to the continued fallout from their trial. The feminists supported the women’s “personal freedom to dress as they wanted.”
as compromising the family’s honor. Thus, rape victims, their families, and even the courts often conflate a woman’s loss of virginity with rape, whether through consensual or non-consensual sexual relations.

In addition, rape victims, like domestic violence victims, must demonstrate a high degree of physical injury (21+ days) and provide two eye witnesses to prove non-consent. If unsuccessful, they can be charged with extramarital sexual relations (Article 490), public indecency (Article 483), or defamation (Articles 442-448). In Morocco the phenomenon of rape is complicated by single women in consensual relationships who get pregnant, but claim they have been raped in order to avoid prosecution for extramarital sexual relations by casting themselves as the victim. Solidarity Feminine in Casablanca explains, if a woman gets pregnant outside of wedlock, even if she is in a loving relationship with a man, she will most likely claim she was raped in order to avoid prosecution for extramarital sexual relations under Article 490 because “being violated is far more acceptable than sexuality.” AVFM in Agadir says, with regard to the false allegations of rape, “women say it's rape because they know the laws are not in their favor. If the law didn’t criminalize extramarital relations, women would not say it's rape.” Equally, the man will claim the woman is just a prostitute in order to escape culpability and possible prison time under the same article. These two fabricated versions of sexual relationships outside of marriage perpetuate gendered stereotypes and misinformation across Moroccan society with dramatic negative effects on actual rape victims as well as single mothers and their children. To complicate matters, real rape victims rarely report the rape unless they become pregnant for several reasons: widespread victim blaming, the fear of not being able to prove non-consent and facing prosecution for extramarital sexual relations, for public decency, or for defamation. According to AVFM, women rarely report a rape unless they become pregnant and even then not until the fifth or sixth month as they are hoping to miscarry, and knowing neither their families, the courts, nor society will believe them. Consequently, rapes, and even gang rapes, often go unpunished in Morocco as perpetrators present themselves as

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50 Personal interview with Solidarity Feminine (Casablanca) January 10, 2017
51 Personal interview Association Voix des Femmes Marocaines (AVFM) (Agadir) January 23, 2018
52 Ibid.
victimized or the parents of the accused appeal to the judge for leniency.\textsuperscript{53}

\textit{Feminists} promote women’s access to justice in rape cases, but the criminalization of extramarital sexual relationships, supported by many religious associations in Morocco, pits men and women against each other in the event of an extramarital pregnancy, even in consensual sexual relationships. Furthermore, some categories of women, such as single mothers, are disproportionately discriminated against in Moroccan society. Neither feminist nor NFPF associations historically advocated for single mothers or prostitutes -- often conflated in Morocco -- and their children. Instead, single mothers were vilified and ostracized by a society, which shamed and marginalized them, while granting impunity to single fathers. LDDF in Rabat adds:

lawmakers neither take rape victims seriously nor do they consider rape a type of violence…. there are women who cannot have access to justice. They are not married

and they are raped, but the rape is blamed on the woman’s lack of modesty (\textit{pudeur}). Lawmakers and the government do not want to think about these women. They do not want women’s rights associations to participate more forcefully on their behalf, so the government leaves things to a committee to analyze society, instead of integrating women’s rights associations more directly into finding solutions.\textsuperscript{54}

Other associations, feminist and NFPF, offer insight on the issue of rape in Morocco, which could perhaps prove useful to a government willing to listen. For example, the NFPF IWD in Marrakech equated the marriage of an underage girl with an adult man as rape in the sense of statutory rape,\textsuperscript{55} which highlights the vulnerability of minors entering

\textsuperscript{53} Khadija Souidi in Ben Guerir in 2015, Amina Filali in Larache in 2012, Miriam in Oulad Teima, the unidentified woman who was sexually assaulted on a bus in Casablanca in 2017; and Khadija in Beni Mellal in 2018 are high profile gang rapes or sexual assaults where the perpetrators escaped with impunity.
\textsuperscript{54} Personal interview with the Democratic League of Women’s Rights (LDDF) (Rabat) September 29, 2016
\textsuperscript{55} Personal Interview with Initiative for Women’s Development (IWD) (Marrakech) January 8, 2018
into so-called “consensual” relationships, even legally-sanctioned marriages, with adults. Anaouat in Chichaoua highlights why the *non-consent* aspect of rape is so important, especially in cases where the victim is mentally or physically disabled as they have worked with several rape cases where the victims are mentally disabled and could not get legal services. Economic disparity also prevents some rape victims from equal access to justice. AFS in Ait Milloul notes that the rape victim must pay the court costs, perhaps 100-500 MDH, even if they receive legal aid due to poverty. So, the state provides the victim a *pro-bono* lawyer, who attends the hearings, but unless the victim pays the court costs, if the accused is convicted, he is going to serve the prison sentence, but he does not pay his victim damages because she did not pay the court costs.\textsuperscript{56} Finally, AMDH in Rabat, which focuses on human rights more broadly and not specifically women’s rights, asserts, “rape is violence against an individual, not an attack on public morality, but when the state does not criminalize rape, in effect, it constitutes state violence.”\textsuperscript{57}

One legal loophole which feminists and NFPFs combined forces to close was amending Article 475, which judges and families misused to force underage girls to marry men who had abducted and, at times even, raped them. In effect, this article legalized rape as a pathway to underage marriage. Following the high-profile case of Amina Filali and mass protests of feminists and NFPFs in response, the Parliament amended Article 475 on January 23, 2014 by eliminating the clause allowing the accused rapist to escape prosecution by agreeing to marry his victim. Ironically, the accused rapist could escape prosecution by agreeing to marry his victim, as by marrying “damaged goods” (i.e. a girl who has lost her virginity), he is theoretically “paying” for his crime. Nevertheless, Anaouat in Chichaoua says, marrying off underage rape victims to their rapist “happens and continues to happen, so the Penal Code is not something that actually protects women.”\textsuperscript{58}

\textsuperscript{56} Personal interview with Association Femmes du Sud (AFS) (Ait Milloul) January 24, 2018  
\textsuperscript{57} Personal interview with the Moroccan Association of Human Rights (AMDH) (Rabat) October 19, 2016.  
\textsuperscript{58} Personal interview with Association Anaouat pour Femmes et Enfant in Rural Villages (Chichaoua) January 12, 2018.
7. Conjugal Rape

Ironically, AFS says, the most common rapist is women’s own husband, according to a UN report on VAW. Feminists believe that rape, even within a marriage, should be a criminal offense with stiff sentences since sexual relations should always be consensual. Feminists challenged and defeated the principle of a wife’s absolute submission to her husband (taa’) which was eliminated in the 2004 Family Law. Nevertheless, despite feminist advocacy, conjugal rape is not explicitly criminalized (Article 487), which would signal a stronger break from the traditional understandings of a wife’s absolute submission to her husband. Feminists and NFPFs both confirm that the term conjugal rape is considered an oxymoron as marriage implies a husband’s sexual access to his wife. The exchange of sex for maintenance is enshrined in the Moroccan Family Law (Articles 194-195), with loss of maintenance possible if the wife has been ordered to return to the marital home, but refused.

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59 Personal interview Association Voix des Femmes Marocaines (AVFM) (Agadir) January 23, 2018
60 Article 487 If the culprits are ascendants of the person on whom the attack was committed, if those who have authority over her, if her guardians or hired servants or paid servants of the people designated below, if officials or ministers of religion, or if the culprit whatsoever was helped in his attack by one or more persons, the penalty is:
   - Imprisonment from five to ten years, as provided in Article 484;
   - Imprisonment from ten to twenty years, as provided in Article 485, paragraph 1;
   - Imprisonment from twenty to thirty years, as provided in Article 485, paragraph 2;
   - Imprisonment from ten to twenty years, as provided in Article 486, paragraph 1;
   - Imprisonment from twenty to thirty years, as provided in Article 486, paragraph 2.
61 Article 194 The husband shall be obligated to pay maintenance to his wife the moment their marriage is consummated, as well as if she has bidden her husband to consummate their marriage once it has been duly concluded.
Article 195 Maintenance for the wife shall be awarded by judicial decision starting from the date the husband has ceased to pay the maintenance expenses incumbent upon him, and the wife does not lose her right to maintenance unless she has been ordered to return to the conjugal home and has refused.
Furthermore, there is strong resistance to criminalizing conjugal rape from some religious associations, who contend that marriage by its very nature implies a husband’s full sexual access to his wife, which is reinforced by prominent jurists, the Qur’an, and the 2004 Family Law. Shaykh Khalil, who, as the most prominent Maliki jurist remains a strong influence on the more religious activists in both feminist and NFPF coalitions, and asserts that marriage gives a man the “right” to his wife’s sexual and reproductive organs (Mir-Hosseini 2011: 31-33). Conservatives agree and quote the Qur’an 2:223 to support their claim that marriage gives a husband unquestioned access to his wife sexually: "Your wives are for you a tilth (a place to sow seeds); come to your tilth however you wish and put forth [righteousness] for yourselves. Fear Allah and know that you will meet him.”

Although feminists and NFPFs concede the current laws do not criminalize conjugal rape, the coalitions’ subsequent response to sexual violence within the marriage are quite different, but again with some overlap. Feminists demand a law against conjugal rape since it is currently not a criminal offense. AVFM in Agadir notes that for married couples, if the husband wants to make love, the wife must comply. She does not have a right to say, no, to refuse him since Moroccan law does not recognize conjugal rape. The law does not protect her. In a family where things like that are going on, it is not going to provide a normal life and to produce normal children. Then, suddenly, the nuclear family is society. Wafae in Inezgane says the police always blame the rape victim, whether the rapist is the woman’s husband or someone else. The first question they ask her is "What did you do to make your husband rape you?" AFS in Aid Milloul adds, even if the wife gets a medical certificate from a doctor, certifying she was raped, the prosecutor and the judge tell her that he is your husband, you have children. Do you want to put your husband in prison? They force her to do reconciliation, even if there is a medical certificate and without a medical certificate, she has nothing. Even if the wife files a complaint against her husband with the prosecutor indicating her husband raped her or he did something to her that is illegal, such as forcing her to have anal sex, AFS indicates, the penal code will not

62 Personal interview Association Voix des Femmes Marocaines (AVFM) (Agadir) January 23, 2018
63 Personal interview with Association Wafae (Inezgane) January 30, 2018
punish him. The Democratic League of Women’s Rights (FLDF) in Ouarzazate agrees that the wife must be obedient to her husband in their sexual relations and do everything he asks, however, if he demands something prohibited by religious law, such as anal sex, she has grounds for a divorce. Consequently, conjugal rape cases are rarely tried in Moroccan courts, only sodomy cases, such as the high profile 2013 case in El Jadida, where a husband was sentenced to two years and fined 1500 MDH ($1,750) for sodomizing his wife.

Unfortunately, FAFM’s response to the problem of conjugal rape is silence. For example, in FAFM’s September 2016 *Parallel report to the sixth periodic report of Morocco regarding the International Covenant on Civil and Political Rights*, FAFM does not once mention conjugal rape or the problem of sexual violence within the family. I would suggest the silence is FAFM’s belief that marriage does, in fact, grant the husband sexual access to his wife since they did not raise this as a concern with regard to VAW in Morocco. The Association Anaouat in Chichaoua challenges Islamists’ assumption that a man can do anything he wants within marriage and defends Islam against domestic violence:

> Islamists excuse domestic violence as the husband can do what he wants in married life, but even in our religion, it's wrong. Islam does not say that, but people do not understand the true content of our religion. Islam is against domestic violence, so why do the Islamists support such things?

Conversely, more progressive Muslim feminist associations recognize women’s humanity and affirm that sexual relations should be

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64 Personal interview with Association Femmes du Sud (AFS) (Ait Milloul) January 24, 2018  
65 Personal interview with (FLDF) (Ouarzazate) October 27, 2017  
67 Forum Azzahrae for Moroccan Women (FAFM) (September 2016). *Parallel report to the sixth periodic report of Morocco regarding the International Covenant on Civil and Political Rights*.  
68 Personal interview with Association Anaouat pour Femmes et Enfant in Rural Villages (Chichaoua) January 12, 2018
consensual in a marriage. IPD in Marrakech affirms: “The wife is not the property of her husband like a cup….she has rights. Simply because his wife pleases him does not make her his property…. She is an entity, a human being with feelings and dignity. It is not the husband’s right to force himself on his wife. There must be kindness and consent, not violence as in the past.” Association Zitoune in Chichaoua agrees with the feminists with regard to anal rape, which is not allowed in the religion, indicating that a woman who is a victim of conjugal rape can file a complaint against her husband, if she has proof that he has her engage in abnormal sexual acts, and if she brings witnesses who can attest that this man behaves badly to her, the 2004 Family Law allows her to get divorced. Unfortunately, the woman does not have witnesses in her bedroom, so it’s very complicated.

8. Conclusion: Policy Core Beliefs and Secondary Beliefs

Previous literature regarding the women’s movement in Morocco and polarization into secular and religious trends presented little room for dialog, consensus-building, and nuanced understanding regarding how to best address high levels of VAW in Morocco. Nevertheless, reframing the coalitions into feminists and NFPFs, demonstrating the crossover between coalitions on key VAW issues, and better contextualizing the coalitions’ policy core and secondary beliefs provides opportunities for the diffusion of ideas and policy-oriented learning to occur between coalitions. Unfortunately, the state’s failure to show due diligence by not explicitly criminalizing domestic violence and conjugal rape maintains a family culture of hegemonic masculinity instead of fostering the culture of equality and mutual respect the removal of taa’ implies. Feminists and NFPFs agree on the need for abortions under specific circumstances, but both coalitions are painfully aware of the absence of public policies to implement this reform. Finally, the absence of DNA testing and paternal impunity for children fathered outside of wedlock proves the Moroccan state still does not protect all Moroccans equally nor comply with its international treaty commitments.

69 Personal Interview with Initiative for Women’s Development (IWD) (Marrakech) January 8, 2018
70 Personal Interview with Association Zitoune Pour le Developpement (Chichaoua) January 12, 2018

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