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The Politics of Abortion Policy in the Heterogeneous “Muslim World”

Legal frameworks in part inspired by Muslim jurisprudence (also referred to as Sharia laws) regulate the lives of as many as 600 million women around the world, a majority of them living in Asia. Personal Status Codes, known in some contexts as Family Codes, affect various aspects of women's status as citizens, professionals, sexual beings, and so forth. This paper examines and compares contemporary laws, policies, and theological debates relating to abortion in a range of Muslim countries. It is timely because reductionist commentaries—present especially in the media of the United States and other Western countries, but also finding their way into academic writing—often fail to recognize the diversity that exists across Muslim societies.

Apart from the widespread reference to the so-called Muslim world—a term that erroneously suggests some sort of homogeneity—neoconservative discourses in particular place emphasis on women's status, presenting it as uniformly subordinate. In fact, the sheer geographical, cultural, and political scope of Muslim societies implies that legal approaches and national policies

(including those relevant to women's bodily rights and abortion) are likely to be more varied than is usually portrayed. The confusion that leads to constructing homogenized, and hence inaccurate, views of "Muslim laws" and "Muslim women" must be clarified. This chapter is intended to operate as an intervention into these debates: focusing on one particular aspect within the reproductive rights arena—abortion—it provides concrete data that challenge ongoing generalizations and misperceptions. My hope is that it will contribute to a larger, critically important project aimed at making the realities and complexities of Muslim societies more intelligible to an often inadequately informed audience.

Section 1 frames the issue of abortion in a global context, providing statistical evidence of the connections between unsafe abortion and maternal mortality. It then briefly evokes how, over the past several decades, interventions to increase access to abortion have been linked to a neo-imperialist agenda and have provided ideological fodder to sections of the Muslim religious right. Finally, section 1 refers to the controversy over rights, looking at some of the key confrontations in the international arena between opponents and advocates of women's reproductive rights in the 1990s, and examining current efforts by the international community to improve maternal health.

Section 2 looks at Muslim jurisprudence and examines how theological considerations are reflected, or not, in the legal arena. Presenting various Muslim scholars' legal opinions, it inquires whether these evidence a unanimous view regarding the permissibility of voluntary termination of pregnancy across Muslim societies. Section 2 also provides an overview of forms of legislation related to abortion in Muslim-majority countries and includes specific examples of state policies enacted in nations ranging from Algeria to Malaysia and Bangladesh. And it inquires to what extent governments appear to be readjusting their abortion policies and guidelines on the basis of concrete socioeconomic realities.

Section 3 pays attention to a claim urged by a number of women's rights defenders from Muslim societies: that laws (including abortion laws) become more restrictive where conservative religious voices are able to influence, more or less overtly, state policies and institutions. Among these religious groups, those associated with political Islam have been identified as particularly concerned with curtailing women's autonomy and control over their reproductive capacities. Looking at contexts as varied as Nigeria, Kyrgyzstan, Iran, and

Bangladesh, section 3 raises the question of whether politico-religious (or fundamentalist) groups are indeed increasingly powerful in shaping national legal frameworks.

1. Abortion in a Globalized Context: Public Health Concern, Problem of Imperialism, or Question of Rights?

In both Muslim and non-Muslim societies, questions linked to women's bodies tend to generate especially fierce debates in the arena of reproductive rights. The issue of abortion in particular has been for decades, and remains, a controversial and highly politicized issue around the world. We first examine the issue from a public health perspective, revealing the links between illegal, unsafe abortion and its impact on maternal mortality worldwide. The political implications of the abortion debate are then considered, with an emphasis on the criticisms formulated by Muslim politico-religious groups—criticisms that are seemingly directed against imperialist policies yet that are ultimately geared toward limiting women's reproductive options. Finally, the long-standing relevance of abortion debates in international forums is highlighted, as we review key reproductive rights agreements made at UN conferences held in Cairo and Beijing in the 1990s, and highlight recent attempts by governments worldwide to curb maternal mortality, notably through the Millennium Development Goals.

ABORTION AND PUBLIC HEALTH: UNSAFE ABORTION AND MATERNAL MORTALITY

Pregnancy-related problems can pose serious risks to women's health, but these issues have long been overlooked or made invisible, despite their prevalence in some regions and the fact that most are medically preventable. Actually, women's lives are most at risk when minimal infrastructure and a lack of basic training for health care providers combine with legal restrictions. This is particularly true with regard to abortion in contexts where it is outlawed or practiced in precarious conditions. The World Health Organization (WHO) currently defines "unsafe abortion" as "a procedure for terminating an unintended pregnancy that is carried out either by a person lacking the necessary skills or in an environment that does not conform to the minimal medical standards, or both."¹

Country-specific data show that women seek and undergo abortion even where access is illegal.² For example, Pakistan and Indonesia—two Muslim countries where abortion is outlawed and considered a criminal offense—have some of the highest rates of unsafe abortions. In Indonesia in 1989 there were “an estimated 750,000 to 1 million abortions performed per year or a ratio of 16.7–22.2 abortions per 100 live births.”³ A decade later, the trend had increased: it is estimated that in 2000, about two million abortions were taking place every year in Indonesia.⁴ In Pakistan, 2004 statistics showed that “890,000 unwanted pregnancies (or one in six pregnancies) end in induced abortions per year.”⁵ Because the legal grounds for abortion are severely restricted in both these countries, the procedures are often performed by unqualified individuals in substandard medical conditions. As a result, health risks are great, ranging from infection to lifelong complications, infertility, and death—despite the fact that safe and effective abortion methods are available.

The high prevalence of unsafe abortion therefore constitutes a major public health problem—not only in Muslim countries but globally. In 2000, WHO estimated that the annual number of abortions worldwide was 42 million⁶—22 million occurring safely and 20 million unsafely.⁷ Of the 20 million unsafe abortions, 19 million (a staggering 97 percent) occurred in developing countries.⁸ The latest WHO figures indicate a rise in unsafe abortion worldwide, with data for 2008 reaching 21.6 million.⁹ In addition, unsafe abortion accounts each year for 47,000 maternal deaths (13 percent of all maternal deaths) and causes a further 5 million women to suffer temporary or permanent disability. The relationship between restrictive legislation and medical complications related to illegal abortion—including increased maternal mortality ratios¹⁰—has been documented throughout the world. In 2010, the UN High Commissioner on Human Rights identified unsafe abortion as “one of the five major direct causes of maternal deaths,”¹¹ resulting in about one in eight pregnancy-related deaths.¹²

It must be noted that current maternal mortality ratios vary drastically from one region to another—but they overwhelmingly affect the “low and middle income countries of the economic South where 98 percent of maternal deaths occur.”¹³ Pregnancy-related deaths are contingent on many factors, but they skyrocket in conflict zones and in conditions of extreme poverty. In Muslim-majority countries, 2008 data show that incidence is as high as 1,400 for 100,000 live births in Afghanistan—among the highest in the world—but

TABLE 1.1

Maternal Mortality Ratios in Muslim-Majority Countries, 2009

MIDDLE EAST	NORTHERN AFRICA	SUB-SAHARAN AFRICA
Bahrain 19	Algeria 120	Burkina Faso 560
Iran 30	Egypt 82	Chad 1,200
Iraq 75	Libya 64	Djibouti 300
Jordan 59	Morocco 110	Eritrea 280
Kuwait 9	Sudan 750	Gambia 400
Lebanon 26	Tunisia 60	Mali 830
Oman 20		Mauritania 550
Saudi Arabia 24		Niger 820
Qatar 8		Nigeria 840
Syria 46		Senegal 410
Turkey 23		Sierra Leone 970
United Arab Emirates 10		Somalia 1,200
Yemen 210		
CENTRAL ASIA	SOUTH AND SOUTHEASTERN ASIA	EUROPE
Kyrgyzstan 81	Afghanistan 1,400	Albania 31
Tajikistan 64	Bangladesh 340	
Turkmenistan 77	Indonesia 240	
Uzbekistan 30	Malaysia 31	
	Pakistan 260	

Note: Numbers refer to maternal deaths per 100,000 live births.

Source: World Health Organization, Global Health Observatory, 2008.

“World Health Statistics: Cause-Specific Mortality and Morbidity; Maternal Mortality Ratio.”

Geneva: World Health Organization. <http://apps.who.int/ghodata>.

as low as 18 in Saudi Arabia.¹⁴ Maternal mortality ratios tend to be very high in sub-Saharan Africa¹⁵ but much lower in former Soviet republics or the Middle East and North Africa regions (MENA). Table 1.1 highlights these discrepancies between Muslim countries, although it does not reflect the fact that ratios also tend to vary within countries.¹⁶

ABORTION AS AN "IMPERIALIST PROJECT":
THE MUSLIM RELIGIOUS RIGHT'S DISCOURSES
AND FEMINIST RESPONSES

Despite the severe toll of unsafe procedures on women's bodies and lives, the abortion issue has nevertheless been instrumentalized for political purposes. Particularly relevant to examine here is the rhetoric used by Islamists and the Muslim religious right over the last several decades—specifically, the religious right's alleged anti-imperialist stand—but we also briefly touch on the counter-arguments developed by advocates of reproductive rights in Muslim contexts.

Starting with coercive population policies implemented beginning in the late 1960s and continuing until—though to a lesser extent—the 1990s,¹⁷ "population control" referred to the regulation of fertility enacted as a government strategy. This involved a range of practices—including forced sterilization, forced abortion, and coercive use of contraceptives—that were at times carried out without the consent (or even the knowledge) of the women concerned. The reality of neocolonialism (particularly Western pressure exercised over the Third World to endorse population control policies, and the funding made available for these purposes) has long been used to lend power to the anti-abortion argument of those in Muslim countries whose aim is in fact to curtail women's reproductive rights. For example, in post-1979 Iran, abortion access was denounced by the new Islamist regime as an imperialist strategy promoted by the West to limit the growth of Muslim populations.

This argument, based on defining abortion as an imperialist project, remains alive. Interestingly, commentaries currently available on websites that promote comparable conceptions of Islam—and of women as reproductive engines—continue to issue similar warnings. For example, *Mission Islam* (whose stated goal, as stated on the organization's home page, is to denounce "the conspiracy that exists to exterminate Muslims and the religion of Islam from the face of the Earth") contains highly sensationalist rhetoric. An article on population control discusses alleged Western attempts to deplete Muslim populations in Nigeria, the Gambia and Indonesia in the 1990s. Providing apparently pertinent data, the unnamed author asserts that "the Muslim world is the primary focal point for the demographic fears of the West."¹⁸ The argument is then carefully crafted to provoke dismay and anger, with an explosive conspiracy theory involving the UN Population Fund, the International Planned

Parenthood Federation, a pro-Israel think tank, outside financiers, mass media manipulation, and psychological warfare. To those familiar with the Muslim religious right discourse, the conclusion reached by the author is predictable: the final section advocates "a return to militancy: Fighting back against the enemies of Islam."¹⁹ In other words, a Muslim using family planning methods or resorting to abortion is a pawn of hostile foreign powers—and by extension an enemy of Islam. In section 3 I will come back to this manipulation of religious beliefs—a strategy that remains effective even as it has little to do with theological debates and much more to do with a desire on the part of male clerics to control women's agency over their bodies.

It is not within the scope of this chapter to elaborate on the criticisms of coercive population policies formulated by women's rights advocates in Muslim societies—that is, by social actors who are clearly at the opposite end of the political spectrum from the religious right. Yet it must be noted that in the 1980s and 1990s, feminists from various Muslim countries and communities also condemned measures aiming at curbing birth rates. These feminists criticized population control policies on the basis that they were heavily promoted from abroad without securing the involvement of those concerned, particularly women, and that they reflected a hegemonic agenda on the part of institutions such as the World Bank, the Rockefeller Foundation, or Pathfinder. While concerned about donor-driven agendas and how these shaped national health programs, however, feminist critique has particularly emphasized the impact of these agendas on women's bodies and lives. Activists have focused as much on denouncing coercion (forced abortions and sterilizations) as on condemning prohibition (of contraceptives or abortion). While feminists' analysis took stock of the complexities at stake, their approach was often undermined by simplistic yet powerful allegations that they were colluding with foreign powers. The religious right and conservatives also accused them of undermining religious and cultural values.

ABORTION AS A HUMAN RIGHT? FROM THE
UNITED NATIONS CONFERENCES OF THE 1990S TO THE
MILLENNIUM DEVELOPMENT GOALS (2000–2015)

The United Nations Conferences of the 1990s: Cairo and Beijing Confrontations between advocates of access to abortion and those who opposed a "woman's right to choose" culminated during the UN-sponsored international conferences

of the 1990s. Overt conflicts emerged regarding whether control of women's reproductive functions should lie primarily with the individual, the state, or the community (with religious leaders being particularly vocal spokespersons). While these political tensions had been ongoing, they reached a peak during two key events: the International Conference on Population and Development (ICPD) held in Cairo in 1994 and the World Conference on Women that took place in Beijing the following year. To this day, both Cairo and Beijing remain landmarks in the history of reproductive rights.

Crucially, in 1994 the ICPD established the close relationship between reproductive rights and human rights. The final document stated that reproductive rights "rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health."²⁰ It insisted that the principle of "informed free choice" was "essential" and advised governments to "remove unnecessary legal, medical, clinical and regulatory barriers to information and to access" to the "full range of modern family planning methods."²¹ Further, it urged decision makers to "deal with the health impact of unsafe abortion as a major public health concern."²² A most significant step was achieved at the next UN conference, in 1995, when the Beijing Platform for Action (the final document of the United Nations Fourth World Conference on Women) linked improved women's health to legal reform, recommending that governments "consider reviewing laws containing punitive measures against women who have undergone illegal abortions."²³

Yet, in spite of these outcomes of the Cairo and Beijing conferences, which focused on the identification of individual women's human rights, conservative religious actors of various faiths ensured that abortion would not be recognized by the conferences as part of reproductive health and rights, in deference to existing national laws.²⁴ Conservative Muslim governments (alongside their allies from other religious faiths) were particularly forceful in their opposition, and they resorted to a familiar anti-imperialist rhetoric. For example, "the Saudi Arabian 'Council of Ulama,' that nation's highest body of religious authorities, condemned the Cairo conference as a 'ferocious assault on Islamic society' and forbade Muslims from attending. Sudan, Lebanon and Iraq then joined Saudi Arabia in announcing that they would not send delegates to Cairo. . . [I]ssues of family planning and birth control [were] seen as an imposition of

western values on the Muslim people and an attempt to revive 'colonial and imperial ambition'."²⁵

As established earlier, the anti-imperialist claim deployed by the Muslim religious right disguises its motives, which are primarily centered on its core objection to women's autonomy over their fertility and, more broadly, gender equality. Indeed, the same voices that opposed abortion (along with other gender equity provisions) back in the 1990s continue to be vocal now in condemning foreign interference in the reproductive health arena.²⁶ Tellingly, they do not similarly characterize other trends adversely affecting reproductive health and health care in general—such as the lack of trained providers, shrinking state support for public health systems, privatization of health care,²⁷ and the pharmaceutical industry's prohibitive pricing of medicines—all of which undermine access to essential services and result in increased mortality rates. Instead, the selective use of the foreign interference theme works precisely to undermine recognition of women as subjects with human rights. Despite the carefully crafted argumentation, the issue at stake is clearly not about resisting bullying by foreign powers: it is about the control of women's bodies and agency. Even as advocates for women have responded powerfully to the failure to recognize reproductive rights as human rights,²⁸ the issue remains highly contested.

The Millennium Development Goals (2000–2015) Since the 1990s, the health risks associated with a legal ban on abortion have been emphasized further. In particular, the correlation between unsafe abortion and maternal mortality has gained visibility in the context of the Millennium Development Goals (MDGs),²⁹ a set of eight concrete development benchmarks identified by the UN Development Program and aiming at eradicating global poverty. Governments agreed on the MDGs in 2000, with quantifiable outcomes to be achieved by 2015. Increasingly aware of the scope and gravity of maternal mortality, the international community came together to try to collectively address the issue: MDG5 focuses on "improving maternal health,"³⁰ and several other MDGs are seen as relevant to abortion.³¹

While the MDGs constitute a major step forward in terms of international awareness, there is increasing concern that the benchmarks may not be achieved by 2015. Also, feminist critique of MDG5 has pointed to its limitations, including the shift in focus, political intent, and language from earlier international forums. For example, the emphasis in Cairo and Beijing on reproductive

rights is replaced in MDR5 by milder and politically less controversial references to reproductive *health*. Without explicitly raising the issue of abortion, MDR5 nevertheless specifically encompasses the availability of contraceptives and tackles teenage pregnancy. MDR5 addresses abortion in that, as experts agree, the goal “is unlikely to be achieved without addressing unsafe abortion and associated mortality and morbidity”³² in a context where unsafe abortions account for 13 percent of maternal deaths globally.³³ In her comprehensive report on abortion worldwide, Susan Cohen points out: “In the developed and developing world alike, antiabortion advocates and policymakers refuse to acknowledge the facts that abortion’s legal status has much less to do with how often it occurs than with whether or not it is safe, and that the surest way to actually reduce the incidence of abortion is to reduce the incidence of unintended pregnancy. While they debate, obfuscate and insist on legal prohibitions, the consequences for women, their families and society as a whole continue to be severe and undeniable.”³⁴ Indeed, there is urgency as tens of thousands of lives are lost each year due to complications linked to unsafe abortion.

2. Religious Discourses and State Policies

As the human cost of unsafe abortion is increasingly acknowledged, various social actors—ranging from international agencies to governments, and from nongovernmental organizations (NGOs) to nonstate actors—are stakeholders in the politically and ethically charged abortion debate. Around the world, the increased involvement of religious actors and institutions in policy matters has raised concern among human rights defenders, partly because the “tendency to treat religious condemnations of abortion as irrefutable”³⁵ can leave little room for more nuanced views. A full understanding of Muslim laws regarding abortion requires both a highlighting of the main religious stands on abortion and an examination of how laws are formalized on the ground.

THEOLOGICAL DEBATES: BETWEEN JUSTIFICATION AND PROHIBITION

With respect to Muslim contexts, references to “the correct Islamic position” on abortion are common in media as diverse as secular Western newspapers and broadcasts, literature distributed in mosques, and extremist Internet sites.

The often-quoted assertion that “Islam prohibits abortion” does not, as will be demonstrated, reflect the wide range of Muslim scholars’ opinions on the matter. This misconception derives from a broader framework of reference to “Islamic law,” which suggests the existence of a unified normative legal system common to all Muslims. Using the term “Muslim laws” may better reflect the fact that there is no centralized authority in Islam. Traditionally, guidance is provided by theologians whose carefully considered opinions (fatwas, which are not legally binding³⁶) carry varying weight depending on the theologian’s status and knowledge. Apart from Shi’a-Sunni differences in jurisprudence, the four main schools of thought within Sunni Islam ensure *de facto* diversity in terms of religious interpretation. Further, the principle of *ijtihad*³⁷—or the use of reason to apply Islamic teachings to modern contexts—allows for legitimate debate among learned scholars. It is worth reiterating the point made by the Pakistani sociologist Farida Shaheed, currently a UN independent expert on cultural rights, who calls attention to the interplay between “religious continuity and social change.” Shaheed notes that it should not be “presumed that religion is uni-dimensional or fixed in time.” In addition to ongoing theological debates, beliefs also fluctuate: “Within one sub-group religious attitudes and practices vary with ethnic and class identity, and with time, these undergo changes.”³⁸

Muslim Jurisprudence – Varying Legal Doctrines Regarding Abortion The Quran does not explicitly address abortion, and religious scholars therefore consider other sources—such as relevant hadith or the Sunnah—in forging their opinions. As noted by Sa’diyya Shaikh, a professor of Islamic studies at Cape Town University, “historically the Muslim legal positions range from unqualified permissibility of an abortion before 120 days into the pregnancy on the one hand to categorical prohibition of abortion altogether on the other. Even within a single legal school the majority position was often accompanied by dissenting minority positions.”³⁹ Today, some jurists continue to reject abortion entirely as incompatible with Islam, while others tolerate it. The latter may endorse a range of valid reasons, including the health of the fetus (for example, fetal impairment), the circumstances of the pregnancy (for example, rape or incest) or its impact on the woman (for example, danger to a woman’s life or to her mental health, but also economic or social reasons, or when a new pregnancy threatens the life of a suckling infant).

In all legal schools, prohibition of abortion is contingent on the gestational age of the fetus. The above reference to 120 days is related to ensoulment, the

belief that a fetus becomes fully human when “an angel is sent and breathes the *ruh* (spirit) into it.” While the timing of “ensoulment is not specified in the Qur’an,”⁴⁰ Quranic verses discuss various stages of fetal development. The relevant “passages describe the formation of *nutfah*, *‘alaqa*, and *mudgha* (semen, a bloody clot, and a lump of flesh)” and are read alongside with the “*hadith* in which these stages are divided into periods of 40 days.”⁴¹ Theologians’ varying assessments of when abortion is prohibited (becoming a criminal offense) are linked to the series of changes the fetus undergoes from conception to 120 days—shifting from a simple organism to a human being.

Ensoulment is just one question on which jurists differ as they debate either previously established matters or issues prompted by recent developments. For example, an ongoing discussion centers on whether abortion for rape or incest victims is *haram* (prohibited) or justified.⁴² Prominent clerics and religious institutions—such as the Grand Sheikh of Al-Azhar in Egypt in 2008⁴³ and the Indonesian Council of Ulema (MUI)⁴⁴ in 2005—have recently supported the right of raped women to seek abortion. Indeed, several countries—such as the Sudan, Iraq, and Qatar,⁴⁵ among others—have recently incorporated similar opinions into their legal provisions, allowing abortion for rape victims.

Interestingly, both opponents and advocates of family planning and/or abortion (not all of them learned scholars) can justify their preferred position by referring to the same sources. For example, one often-quoted Quranic verse is: “Do not kill your children for fear of poverty for it is We who shall provide sustenance for you as well as for them.”⁴⁶ On the one hand, this is seen as corroborating the so-called “traditional Muslim rejection of birth control”;⁴⁷ as such, it is interpreted as meaning that “the greatest reward Allah gives a person for his commitment to God, right in this world, is to give him various children. . . This is why the Prophet clearly stressed that Muslims should marry and generate for He will be proud of their large number in the last day.”⁴⁸ On the other hand, it is analyzed in relation to its original context by feminist theologians (such as the Pakistani Riffat Hassan), who interpret it as a reference to—and a rejection of—the customary infanticide of girls at the time of the Prophet. These dissenting interpretations highlight the need to avoid conflating “Islamic” and “Muslim.” As the Nigerian researcher Ayesha Imam notes, “Islam is the religion or faith (the way of Allah), while Muslims are those who believe in Islam and attempt to practice it. . . The recognition that Islamic and Muslim are not synonymous is important because it helps avoid

essentialising Islam and reifying it as an a-historical, disembodied ideal which is more-or-less imperfectly actualized in this or that community.”⁴⁹ It is a fact that Islam has merged with diverse cultural traditions across the world, ensuring local variations in terms of religious beliefs and practices, as well as in terms of interpretations of the scriptures.

ABORTION LAW IN APPLICATION IN MUSLIM-MAJORITY STATE POLICIES

How do these theological debates influence actual legislations, and are they reflected at national policy levels? In 2009, “70 countries, representing more than 60 percent of the world’s population, permit[ed] abortion without restriction . . . or on broad grounds.”⁵⁰ Table 1.2 shows where Muslim-majority countries stand with regard to abortion (if allowed, it should be performed during the first four months of gestation; beyond this, certain countries make provisions for abortion to save a mother’s life). National laws are generally justified with reference to Islam, but combinations of theological, cultural, historical, and political factors translate into different legal prescriptions at the country level. Indeed, despite the emphasis on religion as their main framework, Muslim laws are not the sole parameter affecting legal prescriptions related to abortion. Other factors intervene: in most countries, a complex mix of customary practices, civil codes partly inherited from colonial times, *fiqh* (Muslim jurisprudence), and so forth is likely to be at play. In fact, one reproductive rights expert has noted that “the majority of abortion laws in the North African and Middle Eastern region are based on antiquated civil laws (primarily French, British and Italian), not Islamic law (except for Sudan, Iran and Saudi Arabia).”⁵¹

As the data above make clear, laws range from total prohibition from the time of conception to different levels of permissibility (generally during the first four months of pregnancy). It is beyond the scope of this paper to examine the complexities involved in each context, but it must be remembered that legal prescriptions, practical considerations, and social norms combine to enhance, limit, or criminalize women’s ability to access abortion services. For example, where abortion is illegal, penal and criminal codes often include sanctions against both the person performing the abortion and the woman seeking it (as in Oman or Pakistan). Where abortion is legal, there may nonetheless be little awareness about abortion access among the public or little willingness to apply the law among health practitioners, or both. (A case in point is Malaysia, where

TABLE 1.2

Abortion Laws in Muslim-Majority Countries: Grounds on Which Abortion Is Permitted (as of September 2009)

COUNTRY	TO SAVE THE WOMAN'S LIFE OR PROHIBITED ALTOGETHER	TO PRESERVE PHYSICAL HEALTH	TO PRESERVE MENTAL HEALTH	ON SOCIO- ECONOMIC GROUNDS	WITHOUT RESTRICTION OR ON REQUEST
Afghanistan*	•				
Bangladesh*	•				
Egypt	•				
Indonesia*	•				
Iran* (F)	•				
Iraq	•				
Lebanon*	•				
Libya* (PA)	•				
Mali*	•				
Mauritania	•				
Nigeria*	•				
Oman	•				
Senegal	•				
Somalia	•				
Sudan (R)*	•				
Syria (SA/PA)*	•				
United Arab Emirates (SA/PA)*	•				
West Bank & Gaza Strip*	•				
Yemen*	•				
Burkina Faso (R/I/F)	•	•			
Chad (F)	•	•			
Djibouti	•	•			
Eritrea (R/I)	•	•			
Jordan	•	•			
Kuwait (SA/PA/F)	•	•			
Morocco (SA)	•	•			
Niger (F)	•	•			
Pakistan	•	•			
Qatar (F)	•	•			

COUNTRY	TO SAVE THE WOMAN'S LIFE OR PROHIBITED ALTOGETHER	TO PRESERVE PHYSICAL HEALTH	TO PRESERVE MENTAL HEALTH	ON SOCIO- ECONOMIC GROUNDS	WITHOUT RESTRICTION OR ON REQUEST
Saudi Arabia (SA/PA)	•	•			
Algeria	•	•	•		
Gambia	•	•	•		
Malaysia	•	•	•		
Sierra Leone	•	•	•		
Albania	•	•	•	•	•
Azerbaijan	•	•	•	•	•
Kyrgyzstan	•	•	•	•	•
Tajikistan	•	•	•	•	•
Tunisia	•	•	•	•	•
Turkey (SA/PA)	•	•	•	•	•
Turkmenistan	•	•	•	•	•
Uzbekistan	•	•	•	•	•

* Exception only to save woman's life *Italics* | No exception to save woman's life

F | Abortion permitted in cases of fetal impairment I | Abortion permitted in cases of incest

PA | Parental authorization required R | Abortion permitted in cases of rape

SA | Spousal authorization required

Source: The format of this table is borrowed from the Asian-Pacific Resource and Research Centre for Women 2009; the data is excerpted from the Center for Reproductive Rights 2009.

a progressive law recognizes physical and mental health as grounds for abortion and the National Fatwa Committee endorsed abortion during the first 120 days of pregnancy, yet a monitoring study carried out by Asian-Pacific Resource and Research Centre for Women [ARROW] in 2009 shows that "there is a strong anecdotal evidence of restricted accessibility in several public hospitals."⁵²) On the other hand, Tunisia—the first MENA country to liberalize its abortion law, which it did in 1973—has taken bold steps, introducing adolescent-friendly clinics and making abortion available to unmarried women.⁵³

Bangladesh: The Case of "Menstrual Regulation" Bangladesh's innovative policy needs to be briefly addressed as an example of the pragmatic accommodation that a state's health services and conservative religious forces can make to one another. Abortion is illegal in Bangladesh (except to save a woman's life), but in the early 1970s the government became concerned about the country's growing population. In 1974 the state introduced menstrual regulation (MR, also known as ME, for menstrual extraction) for women at risk of being pregnant. The procedure is allowed up to ten weeks "following a missed menstrual period," but because the pregnancy is not technically verified, MR is not regulated by the penal code. It is usually referred to as a "postconceptive method" or an "interim method of establishing nonpregnancy." By 1979 the government had "included MR in the national family planning program"⁵⁴ and, "over the last 20 years, has trained over 10,000 physicians and other health care providers to provide MR services."⁵⁵ Beyond MR's being "a crucial strategy to circumvent anti-abortion laws,"⁵⁶ the Bangladeshi case illustrates that women's reproductive rights are not only contingent on religious and ethical considerations but also on sociopolitical matters. Bangladesh's matter-of-factness is certainly not unique, as Carla Makhoul Obermeyer shows in her discussion of changing population policies in Iran. She makes a point that has a wider relevance: "While the [religious] doctrine has a degree of flexibility on issues of reproduction, the political context is a key factor for understanding the way in which religious doctrine is interpreted."⁵⁷ In other words, governments that claim adherence to Islamic doctrine tend to either use or reject religious arguments when suitable to justify adjustments in policy. They may also engage with religious authorities to secure more liberal interpretations, or more conservative ones, that fit their needs at a given time. As a result of this pragmatism, reproductive laws and policies are far from static.

Algeria: Dealing with Wartime Rapes Algeria is another good example of pragmatic politics. Until the 1970s, abortion was outlawed, and family planning information was not available. However, when confronted with a spiraling population (and an average of 7.9 living children per woman⁵⁸), the government launched a public awareness campaign focusing on the compatibility of contraception with Islam. Officially, abortion was still rejected on religious grounds: "The opinion (15 February 1973) of sheikh Ahmad Hammani, at the time President of the Higher Muslim Council of Algeria, was very rigid, with abortion being a crime for him and the abortionist a murderer who exposes

himself to revenge and the law of retaliation."⁵⁹ A couple of decades later, however, another contingency needed to be dealt with—namely, the fact that during the 1990s, fundamentalist armed groups kidnapped and raped several thousand young women (estimates vary between 1,000 and 3,000), forcibly impregnating them. When planning its response, the government felt it needed to take into account the reactions of a socially conservative society where raped women were considered as having "lost their virginity" and, as such, were often rejected by their families. In 1998, the government secured a fatwa from the High Islamic Council allowing abortion for rape victims⁶⁰—an edict requiring that each victim of sexual violence be considered "a chaste and honorable woman, that no one should blame or punish [or the false accuser may be sued]."⁶¹ Furthermore, once the rape was confirmed by testimonies, no doctor could invoke his or her freedom of conscience to refuse to perform an abortion. Worth noting is the fact that religious authorities did not initiate this fatwa: it was the "Ministry of National Solidarity and the Family [an Algerian governmental agency] which took the initiative in requesting the ruling."⁶² National needs and concerns took precedence over earlier religious considerations.

Concretely, when specific developments—such as economic trends or war—require a large pool of labor at a particular juncture, contraception and abortion become unavailable and, often, are deemed un-Islamic. But when governments become alarmed by the threat of overpopulation, religious support is often enrolled so that abortion laws may be liberalized. In such situations, conservative religious forces cooperate without exercising dominant power in their relationship with the state. Sometimes, however, in strong collusion and coalition building with fundamentalist forces, governments in Muslim-majority states effectively bow to the dominant forces of the religious right and advance their generally more restrictive policies.

3. Fundamentalist Politics

Reproductive health and rights continue to be sites of negotiations between states and civil society, as well as sites of conflicts between the religious right and women's reproductive rights advocates. In contexts where fundamentalist forces⁶³ are vocal and increasingly affect national political agendas, women's

rights (in particular, sexual or reproductive rights) tend to be denounced as a crime against Islam—or as an offense to Muslim culture or a threat to Muslim values. Following a regional consultation in 2007, a prominent activist from Sisters in Islam in Malaysia noted that “religious interpretations that do not support women’s sexual and reproductive rights and gender equality are having an increasing impact in many countries of our region. This extends from negatively influencing sexuality and reproductive policies and laws and their implementation, to actual access to health services, as well as morality norms.”⁶⁴ The Asian and Pacific region is indeed not the only part of the world affected by the rise of these sectarian and authoritarian forces: a number of feminists from other Muslim contexts have documented this trend over the last several decades. A few selected examples from Nigeria, Bangladesh, Kyrgyzstan, and Iran stress the impact that fundamentalist discourses—and practices—have had on women’s reproductive self-determination.

ISLAMIZATION PROCESSES AND THEIR IMPACT ON ABORTION POLICIES IN NIGERIA, BANGLADESH, KYRGYZSTAN, AND IRAN

Nigeria “No good Muslim will ever accept any human directive which contravenes the laws of Allah” begins a pamphlet published “in response to the national population control program adopted by the Nigerian military government in 1988.” The writer is presented as a “one-time governor [and] highly respected religious leader” who “discuss[es] the divinely ordained balance between male and female and between human numbers and resources” and objects to “those who support anti-natalist programmes [and] fail to take into consideration the resources that are made available to righteous people as a result of divine providence.”⁶⁵ In a couple of sentences, the anonymous commentator exemplifies several arguments commonly used by fundamentalist leaders to challenge those who do not share their views. First, “human directives” (that is, man-made laws—in this case, government family planning policies) are presented as contradicting or even undermining what are otherwise perceived as God-given injunctions; this establishes a hierarchy that no true believer can challenge in good faith. Second, popular resentment against an authoritarian regime comes as a helpful reminder that “the military government” should not be trusted. Third, the author’s social and religious standing is legitimized to ensure greater support. Fourth, gender norms are clearly presented as immutable and the product of God’s will. Finally, repeated references to “divine

providence” and to the role that “good Muslims” and “righteous people” have to play help clarify the way: real Muslims cannot resort to family planning, lest they betray their faith. This conveys a potent threat that suggests to those tempted to follow another path that they will face God’s wrath. Furthermore, such discourse creates a climate that incites human rights violations, legitimizing punishment (including extrajudicial punishment) of perceived deviations from religious teachings.

Bangladesh The processes of Islamization in various Muslim countries and communities provides a fertile ground to both state and nonstate actors who, claiming to uphold moral values and religious prescriptions, feel entitled to unleash their own wrath on individuals. Bangladesh has witnessed a strengthening of politico-religious forces over the last decades and attests to the pervasiveness of fundamentalist discourse at the community level. Issues such as reproductive rights provided a platform for the religious right’s increased mobilization. In the 1980s, birth control campaigns were aggressively promoted by the Bangladeshi government. By the early 1990s, the prominent feminist lawyer Salma Sobhan noted that conservative male community figures started “arrogating to themselves the privilege of pronouncing *fatwas*,”⁶⁶ although they were not qualified to pronounce religious edicts. By hijacking and subverting traditional, informal village tribunals (*shalish* or *salish*⁶⁷), these coalitions of elders and/or clerics appointed themselves as judicial authorities, pronouncing sentences and even enforcing punishments. The edicts they pronounced targeted women especially and focused on enforcing narrow definitions of cultural and moral norms. While alleged offenses varied (ranging from working outside the home to exercising agency in sexual matters), the sociologist Sajeda Amin and the lawyer Sara Hossain noted in the mid-1990s that a series of fatwas were directed at local women who used family planning. These fatwas imposed harsh sanctions, including “social ostracization, refusal to burial, and lashings and other sentences.”⁶⁸ The authors also observe: “Interestingly, while Muslim fundamentalists have not directly threatened family planning programs, they have reacted to the assertion of women’s reproductive rights within the context of such programs. In this effort to challenge the ability of women to assert their reproductive rights, fundamentalist groups have sought to impose a monolithic and repressive interpretation of religious laws and religious views.”⁶⁹ To specifically target women is a feature common to many religious fundamentalisms.

Kyrgyzstan An additional way to curtail women's rights (reproductive or otherwise) is through legal reform—another avenue used by fundamentalists in various regions. As in most former Soviet republics, termination of pregnancy is legal in Kyrgyzstan: *women can obtain an abortion on request up to the twelfth week of pregnancy, and up to the twenty-second week for socio-economic and medical reasons. An additional guarantee is enshrined in the reproductive rights law, which states in article 12 that “a woman cannot be forced by anyone to pregnancy, abortion, or delivery. Such actions are qualified as violence against women.”*⁷⁰ But since the mid-1990s, the government has faced pressure from Islamic groups seeking to restrict abortion. Furthermore, in June 2006, the government ombudsman tried to introduce criminal liability for women and medical staff terminating pregnancies between twelve and twenty-two weeks for social reasons. In response, a coalition of women's NGOs launched a campaign to defeat this initiative, first organizing hearings locally and then mobilizing their colleagues in the region⁷¹ and beyond. The liberal abortion law remained in place, but in January 2010, Olga Djanaeva, from the Rural Women's Union (ALGA, an NGO whose mission is to improve rural women's quality of life), was still issuing warnings regarding the pervasive pressure exercised by religious anti-abortion advocates on the government in Kyrgyzstan.⁷²

Iran Lastly, the example of Iran may challenge commonly held assumptions. As noted by Lynn Freedman, a leading expert on maternal mortality and former board member of Women Living under Muslim Laws: “Although fundamentalists are intensely concerned with the control of women, this does not necessarily mean that all fundamentalists are inherently opposed to contraception. Indeed, the experience of Iran shows that fundamentalists, particularly when in power, will continue to be pragmatic and, using the tools of scriptural interpretation, accomplished a 180-degree reversal from a pro-natalist [post-1979] to an anti-natalist policy.”⁷³ One of the Islamic Republic's first steps after 1979 was to reject family planning programs that had been implemented under the shah and outlawing sterilization and abortion on religious grounds. As a result, the following decade witnessed a drastic population increase, in line with the demands placed by the Iran-Iraq War (1980–88) at the time. However, the war (along with other factors, such as the declining price of oil) left the country's economy depleted. By 1989, the government revised its ideological stand, with the Parliament (also known as the Islamic Consultative Assembly) for-

mulating a National Birth Control Policy in order to curb the fertility rate and increase access to contraception. Both these instances, primarily motivated by the economic impact of population growth, were justified with reference to Quranic teachings and hadiths. More recently, in 2005, the Iranian Parliament passed the Therapeutic Abortion Act, which permits abortion before sixteen weeks of pregnancy under limited circumstances, including medical conditions related to fetal and maternal health.⁷⁴ In views of these various policy changes, Makhlof Obermeyer noted that “even an Islamic regime such as Iran's can come—however grudgingly—to support reforms that result in improvements of women's options, and can justify its position with reference to Islamic texts, clearly demonstrat[ing] the flexibility of the doctrine.”⁷⁵ The changes in Iranian law also illustrate the ideological gymnastics (theological, in this case) that politicians engage in when confronted with harsh demographic and economic realities.

Abortion Access: Forgotten Constituencies? While the legality of abortion varies from country to country, and while policies vary within countries depending on political and historical contingencies, feminist analysis has long asserted that women do not constitute a homogeneous group. It therefore comes as no surprise that Muslim women (among others) experience differential access to abortion services. It is necessary to acknowledge some of the groups that are underprivileged in this regard—regardless of whether abortion is legalized in their particular context. Among those whose reproductive needs tend to be ignored, some are particularly disadvantaged due to their specific social circumstances: in particular, low-income women (who are especially affected by the privatization of health care), youth (especially where parental consent is required), mentally and physically disabled women (who face sexual assault and are also denied sexual agency), incarcerated women, rural women, undocumented migrants, women facing domestic violence and those whose mobility is curtailed, HIV-positive women, and refugees and internally displaced persons.

Furthermore, feminist scholars and advocates have also pointed out that with regard to the voluntary termination of pregnancy, the central issue is not so much one of choice as one of access (at least in contexts where abortion is not criminalized—that is, where legal choice is available). A variety of factors, ranging from social to economic, come into play and affect the accessibility of abortion services—including seclusion, female literacy rate, knowledge

related to sex education, financial means, available means of transportation to medical centers, and the opposition and stigma women may face within their communities. These considerations, seemingly centered on the micro level, actually provide further ways to help deconstruct homogenized views of women in Muslim countries and to show how their lives and reproductive options are affected not only by Muslim laws but also by other factors. The complexities they reveal have a broader relevance in that they challenge stereotyping and hence offer a more nuanced picture of abortion trends—and of Muslim societies in general.

Conclusion: Unholy Alliances

By providing tangible data related to Muslim religious views and state policies on abortion, as well as evidence of evolving legal patterns in a variety of contexts, this chapter has helped to document the changing nature of abortion politics. Beyond pointing at the multilevel realities of reproductive rights in Muslim contexts, it has also highlighted one phenomenon that threatens women's rights in Muslim societies—that is, the impact of the religious right. To avoid casting the Muslim religious right as an isolated force, it is useful to conclude with a reminder that politico-religious movements operate at a global level and strengthen each others' agendas.

Especially in the post-9/11 context, fundamentalist leaders from various creeds are often portrayed as sworn enemies of one another, but the development of a shared political agenda can be seen over the last couple of decades. This increasing collaboration was denounced early on by women's rights advocates, and scholars have since documented cross-religious alliances among religious extremists, especially with respect to the United Nations arena.⁷⁶ As early as 1999, the Iranian scholar Janet Afary noted that “revival movements do not operate in isolation from each other,” and she pointed to the 1994 UN conference in Cairo as a turning point.⁷⁷ That conference, Afary noted, “became the scene of a new type of alliance between the Roman Catholic Church and a host of Muslim fundamentalist groups. Both opposed any reference to abortion rights in the UN documents. Since Muslim jurisprudence has historically been tolerant of birth control methods, one wonders whether Islamist movements are learning new arguments from the Catholic Church or from Christian fun-

damentalist groups in the United States.”⁷⁸ Following Cairo, an international Christian and Muslim religious right alliance continued to develop at other UN conferences, with Mormons,⁷⁹ fundamentalist Christians, and conservative Arab heads of states strategizing to oppose liberal social policies. Representative of other such successes, one of the results of this coalition building was to oppose including a reference to reproductive health care services in the final declaration of the UN Summit on Children in 2002.⁸⁰ Over the years, a series of networking meetings⁸¹ has brought together Mormons, representatives of the Vatican, and fundamentalist Muslims; some of these gatherings also welcomed envoys from Sudan, Libya, Iran, and the United States. The coalition—which has grown to include a powerful bloc of more than fifty governments—is now able to mobilize a critical mass that successfully lobbies the United Nations. In 2002 Austin Ruse, the founder and president of the New York-based Catholic Family and Human Rights Institute, noted: “We have realized that without countries like Sudan, abortion would have been recognized as a universal human right in a UN document.”⁸²

Conservatives and extremists continue to collaborate at the UN level on this as well as on other issues, with a key battleground being sexuality. However, local gains have been made at the national level to limit unsafe abortion. For example, among the seventeen countries worldwide that liberalized their abortion laws between 1995 and 2007, four are Muslim-majority countries and one has a large Muslim minority: Albania, South Africa, and Burkina Faso liberalized their laws in 1996, as did Chad and Mali in 2002.⁸³ Despite these significant steps, however, women's unmet needs for reproductive health services remain massive in many Muslim countries, and unsafe abortion practices continue to claim tens of thousands of lives every year.

Notes

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¹ The current WHO definition (World Health Organization, Department of Re-

productive Health and Research 2008, 3) derives from the original WHO formulation, which dates back to 1992 and defined unsafe abortion as follows: "characterized by the lack or inadequacy of skills of the provider, hazardous techniques and unsanitary facilities" (World Health Organization, Maternal Health and Safe Motherhood Programme 1993).

2 There is inherent difficulty in securing reliable evidence regarding the prevalence of illegal procedures, but Susan Davis, former executive director of the Women's Environment and Development Organization, warns that abortion opponents tend to inflate global data on illegal abortions, quoting a range "from 150 to 500 million a year" (Davis 1999). For more reliable statistics, see World Health Organization 2004.

3 See also Hull, Sarwono, and Widyantoro 1993, 243.

4 Utomo B et al. 2001.

5 Pakistan Population Council data for 2004, quoted in Hamdani 2006, 4.

6 This figure represents about 22 percent of all pregnancies, but the percentage relates to a slightly higher estimate of forty-six million abortions yearly (Guttmacher Institute 2011).

7 Åhman and Shah 2004.

8 World Health Organization, Department of Reproductive Health and Research 2007.

9 The 21.6 million figure for 2008 indicates an increase from 19.7 million in 2003, "a rise due almost entirely to the increasing number of women of reproductive age globally" (Shah and Åhman 2010, 1). This article usefully details trends in all regions and subregions.

10 Maternal death is currently defined as follows: "the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management but not from accidental or incidental causes" (World Health Organization 2004).

11 United Nations General Assembly, Human Rights Council 2010.

12 Cohen 2009.

13 Development Alternatives with Women for a New Era 2010.

14 World Health Organization, Global Health Observatory 2008.

15 As noted by WHO experts, two regions bear most of the burden of maternal mortality: in 2005 sub-Saharan Africa and South Asia accounted for 86 percent of all maternal deaths (Say and Shah 2008).

16 For example, in the Philippines, "the maternal mortality ratio is below 15 in high-income urban areas but up to 94 in Region 8 (Eastern Visayas) and reaches 165 in the Autonomous Region of Muslim Mindanao" (Estrada-Claudio 2010). Among other factors, Estrada-Claudio points to the fact that there are only 500 midwives in the Autonomous Region of Muslim Mindanao.

17 Feminist scholars have noted again recently that indigenous peoples and communities of color are subjected to population control to this day (Silliman, Fried, Ross, and Gutierrez 2004). However, mainstream debates have shifted since the glory days of population control: nowadays, population growth is seen less as a threat to economic and social development, and more as a potential economic booster guaranteeing increased market opportunities.

18 "Population Control," n.d.

19 Ibid.

20 United Nations International Conference on Population and Development 1994, 156.

21 Ibid., 158–60.

22 Ibid., 167.

23 United Nations Fourth World Conference on Women 1995, 174.

24 Petchesky 2003, 44.

25 Shaikh 2003.

26 The argument that posits contraception and abortion as plots promoted by racist Western states to enhance their hegemony is not limited to Muslim countries. An illuminating article highlights its appeal among subjugated communities in the West as well (Prisock 2003).

27 For a discussion regarding the growth of private health care and its impact worldwide, see "Privatisation of Sexual and Reproductive Health Services" 2010.

28 In the context of the Cairo conference, for example, women's groups organized a range of responses, from the unequivocal support for a woman's right to choose to the international network Women Living under Muslim Laws (Women Living under Muslim Laws 1994) to the Los Angeles-based Muslim Women's League's support for "issues that are embraced by Islam, namely . . . providing access to birth control so married couples can have some influence on the size of their families" (Muslim Women's League 1994).

29 For a short but comprehensive overview of the MDFs, see the UN Development Program website (www.undp.org/mdg/basics.shtml).

30 MDF5 aims to improve maternal health by 2015 through "reducing maternal mor-

ality ratio by three quarters" and "achieving universal access to reproductive health" (ibid.).

31 Advocates and experts agree that at least MDF₁ (on the "Elimination of poverty and hunger") and MDF₃ (on "Promoting gender equality and empowerment of women") also have relevance to access to abortion.

32 Shah and Åhman 2009, 1149.

33 World Health Organization, Maternal Health and Safe Motherhood Programme, 1994.

34 Cohen 2009.

35 Center for Reproductive Rights 2005, 1.

36 See note 66 for a complete definition of fatwas.

37 The excellent article on family planning by Shaikh (2003) offers a comprehensive definition of *ijtihad* and its usefulness with regard to abortion: "Ijtihadi issues . . . are issues that require independent intellectual exertion and moral circumspection in light of a changing context and varying individual circumstances. Ijtihad is based on the assumption that in dealing with issues that are not explicitly addressed in the primary sources, jurists, informed by the spirit of the Qu'ran, use their moral capacities for creative reasoning and judgment to arrive at relevant legal solutions. Thus this opens up the possibilities for more dynamic Islamic approaches to understanding the issues of family planning in the current context."

38 Shaheed 1988-89.

39 Shaikh (2003) refers to one of the most prominent jurists at Al-Azhar (based in Cairo, this university is one of the most respected institutions in Sunni Islam) to provide a concise description of the positions held various school of thought.

40 Atighetchi 2008, 93. Note that chapter 5 of Atighetchi's book, devoted to abortion, provides a critical analysis of relevant sources and an erudite review of opinions from prominent jurists regarding ensoulment; the various valid reasons considered for allowing abortion; and the differences between, and within, various schools of thought.

41 Zuhur 2005, 52. Interestingly, Shaikh notes the correlation between "scriptural teachings" in Islam and the "prophetic teachings from Greek medicine which had a corresponding understanding of the stage of fetal development" (2003, 11).

42 A significant contribution to this debate is the fact that "in October 1988, a *fatwa* by Nasr Farid Wassel, Grand Mufti of Egypt, stated that in the case of rape it is lawful (*halal*) for a woman to abort within the first 120 days of pregnancy as rape is the equivalent to psychological murder in a cultural and religious context where female

virginity is an essential condition for marriage. . . On the contrary, the present Grand Mufti of Egypt, Ali Gumaa, has defined killing an innocent fetus which is the result of incest or rape as sacrilege" (Atighetchi 2008), 115, 117). While Atighetchi refers to the 1990s rapes in Bosnia and Kosovo as having "reopened the question of the lawfulness of abortion," abortion for rape victims has fairly consistently preoccupied legal scholars. For example, in 1972 in Bangladesh the prohibition on abortion was waived for women raped during the 1971 war of liberation (against Pakistan); in Algeria in 1998, the Supreme Islamic Council issued a fatwa supporting a similar provision, in reaction to Islamist fighters holding women in sexual slavery.

43 Muhamed S. Tantawi, who died in 2010, was the top Egyptian cleric at the time (Ramadan Al Sherbini, "Row over Abortion Right for Rape Victims in Egypt," *Gulf News*, 1 January 2008, <http://gulfnews.com/news/region/egypt/row-over-abortion-right-for-rape-victims-in-egypt-1.75832>).

44 Asian-Pacific Resource and Research Centre for Women 2008, 143.

45 Zuhur 2005, 53.

46 Quran, Surah 6:151.

47 "Population Control" n.d.

48 Ibrahim N. Sada, quoted in ibid., is introduced there as the "head of the Department of Islamic Law at Ahmadu Bello University."

49 Imam 1997, 7.

50 Center for Reproductive Rights 2007, 1.

51 Leila Hessini, director of women's organizing and community outreach at Ipas (a global organization that promotes women's sexual and reproductive rights), e-mail message to author, 4 March 2008.

52 Asian-Pacific Resource and Research Centre for Women 2009, 74.

53 Hessini 2007, 3. These are bold steps in the sense that both unmarried women and teenagers constitute contentious constituencies with regard to access to abortion.

54 Quoted in Asia Safe Abortion Partnership n.d.

55 Quoted in Asian-Pacific Resource and Research Centre for Women 2009, 72.

56 Joffe 1999.

57 Makhoul Obermeyer 1994, 59.

58 Laws 1988-89)

59 Atighetchi 2008, 114.

60 For details regarding these rapes and the ensuing fatwa liberalizing abortion in Algeria, see Luerssen Crowther (2000, especially 612-13) and Chelala (1998).

61 "Algérie: le Haut Conseil Islamique autorise les femmes à avorter," *Libération*,

28 April 1998 (www.liberation.fr/monde/0101243363-algerie-le-haut-conseil-islamique-autorise-les-femmes-violees-a-avorter). The translation is my own.

62 "Algeria Islamic Body Rules on 'Terror Rape,'" *Reuters*, 12 April 1998, www.mediterranean.org/article.php?id_article=545.

63 "Fundamentalism" is a disputed term; it is taken here to refer to those who blend theology and politics and rely on the use of religion to further their political purposes or cultural legitimacy.

64 Abdullah 2008, 72.

65 "Population Control" n.d.

66 Sobhan 1994, 11. Sobhan clarified the definition of a "fatwa" as "an opinion on a point of law [that should be] rendered by a mufti (i.e. a competent legal scholar) in response to questions submitted to him by a private individual or a *qadi* [judge]. The function of a mufti was essentially private and consultative and so a fatwa was not legally binding (unless it was) utilized by a *qadi* and incorporated into his decision" (ibid.).

67 *Salish* are "a centuries-old method of alternative dispute resolution, traditionally called upon to negotiate and mediate family or land disputes or petty criminal matters. [In the 1990s,] *shalish* contravened this customary practice and appropriated the right of judicial punishment" (Amin and Hossain 1995, 22). See also *Eclipse (Grahanka)* 1994. This documentary highlights the political roots, range of alleged offenses, and scope of *salish*-decreed fatwas in Bangladesh.

68 Amin and Hossain 1995.

69 Ibid.

70 See Women Living under Muslim Laws 2006.

71 In particular, via ASTRA (the Central and Eastern European Women's Network for Sexual and Reproductive Health and Rights). See ASTRA 2006.

72 Djanaeva 2010.

73 Freedman 1998, 65.

74 Larijani and Zahedi 2006. See also Hedayat, Shooshtarizadeh, and Raza 2006.

75 Makhoulf Obermeyer 1994, 71.

76 See, for example, Bayes and Tohidi 2001.

77 Afary 1999, 11. On the Cairo conference as a site of a "high-profile alliance among conservative forces," see also Freedman (1998, 55). For a review of the period 1975–2005, see Sen 2005.

78 Afary 1999, 11.

79 Notably, the Mormons' World Family Policy Center (and its director, Richard

Wilkins) was instrumental in linking with Saudi representatives. See Brian Whitaker, "Fundamental Union," *Guardian*, 25 January 2005 (www.guardian.uk/world/2005/jan/25/worlddispatch.brianwhitaker).

80 Colum Lynch, "Islamic Bloc, Christian Right Team Up to Lobby U.N.," *Washington Post*, 17 June 2002.

81 One significant meeting of this sort took place in Doha, Qatar, in 2004. See Whitaker, "Fundamental Union." See also Goldberg 2009, especially 163–65.

82 Quoted by Lynch, "Islamic Bloc."

83 Center for Reproductive Rights 2007, 4–5.

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