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Piercing the Veil

by  
*Madhavi Sunder*

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Madhavi Sunder<sup>†</sup>

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This Section studies *Claiming Our Rights: A Manual for Women's Human Rights Education in Muslim Societies*,<sup>216</sup> an ambitious, first-of-its-kind manual designed to foster women's human rights at the grass-roots level in Muslim communities. *Claiming Our Rights*—first published in 1996<sup>217</sup>—diverges from prior manuals in significant ways. Cowritten for the Sisterhood Is Global Institute (SIGI) by Mahnaz Afkhami and Haleh Vaziri, *Claiming Our Rights* sought to address specific problems that scholars and activists identified as impeding women's human rights in the Muslim world.<sup>218</sup> First, reformers were concerned that a lack of local and cultural texts and stories to help convey the abstract rights expressed in international legal documents would make the translation of women's human rights concepts to local Muslim communities difficult. Second, reformers had no theory or strategy to respond to claims by religious fundamentalists—and some Western cultural relativists—that secular, universal human rights are “Western” and thus incompatible with an Islamic or Muslim way of life. Third, and perhaps most importantly, without a mechanism for reconciling human rights and being Muslim, reformers found themselves only able to make rights arguments in secular terms, completely relinquishing the terms of cultural and religious identity to patriarchs.

Thus, the Manual's goals were both strategic and normative. Strategically, *Claiming Our Rights* sought to facilitate the transmission of international human rights law to local Muslim communities, while

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216. AFKHAMI & VAZIRI, *supra* note 171. The Manual, which was first published in 1996, has since been translated and adapted for use in countries as diverse as Azerbaijan, Bangladesh, Egypt, India, Iran, Jordan, Lebanon, Malaysia, Pakistan, Syria, the United States, and Uzbekistan. As of 1998, nearly 2000 women and men were estimated to have participated in the Manual's pilot workshops. *See id.* at iii.

217. *See* Barbara Crossette, *A Manual on Rights of Women Under Islam*, N.Y. TIMES, Dec. 29, 1996, at A4 (announcing the Manual's historic publication “with the shadow of a repressive Islamic regime in Afghanistan hovering over the debate” on women's human rights in the Muslim world).

218. *See generally* KUMARI JAYAWARDENA, FEMINISM AND NATIONALISM IN THE THIRD WORLD 2 (1986) (observing that feminism was “not imposed on the Third World by the West” and detailing a far more complex history of feminism in the Third World); FATIMA MERNISSI, BEYOND THE VEIL: MALE-FEMALE DYNAMICS IN MODERN MUSLIM SOCIETY 169 (Ind. Univ. Press 1987) (1975) (describing acquisition of greater rights by women in Muslim communities as “a random, non-planned, non-systematic phenomenon, due mainly to the disintegration of the traditional system under pressures from within and without”); VALENTINE M. MOGHADAM, MODERNIZING WOMEN: GENDER AND SOCIAL CHANGE IN THE MIDDLE EAST (1993) (noting that Islamist feminist movements simultaneously seek to maintain authentic cultural traditions and institutions while selectively incorporating from the West to advance women's rights); WOMEN, ISLAM AND THE STATE (Deniz Kandiyoti ed., 1991) (highlighting the role of state building in the development of feminisms in Muslim societies); Chandra Talpade Mohanty, *Under Western Eyes: Feminist Scholarship and Colonial Discourses*, in THIRD WORLD WOMEN AND THE POLITICS OF FEMINISM 51, 51 (Chandra Talpade Mohanty et al. eds., 1991) (positioning “the intellectual and political construction of ‘third world feminisms’” at the crossroads of two simultaneous projects: one of deconstructing hegemonic Western feminist discourses and another of constructing historically, geographically, and culturally grounded feminisms).

effectively answering the claim that universal rights are not relevant to Muslim women. Normatively, the Manual would challenge the supposed incompatibility of religion and rights.

The result is a manual that, unlike traditional human rights law, reconceives rights as also relevant in religious and cultural spheres, not just in the public sphere. Arranged into twelve workshop sessions revolving around hypothetical scenarios that highlight the human rights articulated during the Fourth World Conference on Women convened in Beijing, China, in September 1995,<sup>219</sup> the Manual employs several strategies that I label as translation, textualism, constructivism, and reconstructivism. Translation involves collecting stories, texts, idioms, folklore, and other examples from local cultural and religious life to help translate abstract international human rights laws to women on the ground. Textualism—the collection and presentation of specific religious and cultural texts that help explain and support the rights articulated in international law—is part and parcel of the translation effort. Viewed by themselves, the translation and textualism strategies—to the extent the Manual relies on texts supportive of women’s rights and international law—appear to affirm the law’s transition thesis. Religious and cultural texts are used strategically and functionally to help deploy secular, universal human rights at the grass roots. The universal rights themselves remain unchallenged.

But viewed in conjunction with two other strategies—constructivism and reconstructivism—the Manual begins to look more like a confrontation with traditional international law than an easy transition to it. The Manual’s textualism does not rely purely on texts that support women’s rights—let’s call these “good texts”—but also includes religious and cultural texts that challenge the rights expressed in international law. Faced with these “bad texts,” women participants are not asked to choose either religion or rights in cases of conflict, but rather, are encouraged to discuss the texts and to critique them. Religious texts are revealed as, in part, human constructions that are historically contingent and biased. This is the constructivist mode. Revealing some religious truths as partial, women are empowered to reconstruct religious and cultural norms in ways that reflect modern, international human rights principles and women’s own current needs and aspirations.

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219. These issues include women’s rights to autonomy in family-planning decisions; bodily integrity; subsistence; education and learning; employment and fair compensation; privacy; religious beliefs; free expression; and political participation, as well as their rights within the family and during times of conflict. See AFKHAMİ & VAZIRI, *supra* note 171, at 11.

### 1. *Translation*

Initially, *Claiming Our Rights* simply seeks to translate, or “use indigenous ideas, concepts, myths, and idioms to explain the rights contained in international documents” to Muslim women at the grass-roots level.<sup>220</sup> For years, Muslim activists and scholars worried that the lack of culturally relevant language to convey to Muslim women the message of international human rights documents was a major impediment to the propagation of the concepts and to expansion of women’s human rights in Muslim societies.<sup>221</sup> At a meeting in Berlin in May 1995, representatives from sixteen Muslim countries meeting to discuss strategies for improving women’s human rights in their regions concluded that “the production of material using indigenous concepts and ideas to support international rights documents” was a project of “highest priority.”<sup>222</sup>

True to this goal, *Claiming Our Rights* presents excerpts from several leading human rights instruments—including the Universal Declaration of Human Rights (1948),<sup>223</sup> the International Covenant on Economic, Social and Cultural Rights (1966),<sup>224</sup> the International Covenant on Civil and Political Rights (1966),<sup>225</sup> and the Convention on the Elimination of All Forms of Discrimination Against Women (1979)<sup>226</sup>—in dialogue with supporting texts from Muslim communities, such as the sura of the *Qur’an*;<sup>227</sup> samples of *hadith* concerning women;<sup>228</sup> examples of women role models, some from among Muhammad’s wives and daughters;<sup>229</sup> and samples of Arabic proverbs concerning women.<sup>230</sup>

The cultural and religious examples are offered to help explain abstract international rights in a local language.<sup>231</sup> The notion of “equality,” for

220. *Id.* at 1 (discussing the need to find indigenous concepts and ideas “to support” international rights documents).

221. *Id.* (“The idea of a human rights education project for women in Muslim societies originated during a series of meetings, discussions, and conferences held and sponsored by SIGI since 1993.”).

222. *Id.*

223. *Id.* at 85-89.

224. *Id.* at 91-99.

225. *Id.* at 101-15.

226. *Id.* at 117-27.

227. The sura are passages from the *Qur’an*. *Id.* at 53-73.

228. *Id.* at 75-78. The Manual describes *hadith* as “the term applied to the reports of the Prophet Muhammad’s words and actions.” *Id.* at 75. *Hadith* were first recorded by the Prophet’s companions orally and later translated into writing. Because of the human intervention involved in writing the *hadith*, the authenticity of many of them—of which there are thousands—remains a subject of disagreement among Islamic scholars. *Id.*

229. *Id.* at 79-81.

230. *Id.* at 83-84.

231. The Manual does not limit the use of cultural examples in training sessions to those examples it supplies. Instead, Manual facilitators are requested to “make a point of collecting cultural materials—proverbs, quotes from literary works, biographies of role models, and/or newspaper clippings” found in the cultural settings in which they are teaching. *Id.* at 13.

example, is engaged in the very first workshop session through reflection on a *hadith* from the Prophet Muhammad, which states that “[a]ll people are equal, as equal as the teeth of a comb.”<sup>232</sup> Women consider the meaning of equality through discussion of the Prophet’s recorded statement that “[t]here is no claim of merit of an Arab over a non-Arab, or of a white over a black person, or of a male over a female.”<sup>233</sup>

## 2. *Textualism*

In order to translate international rights to local communities, the Manual relies heavily on texts from religious and cultural sources that support women’s rights—my so-called “good texts.” On the issue of domestic violence, for example, the Manual offers a verse from the *Qur’an* that states that “[i]f a wife fears cruelty or desertion on her husband’s part, there is no blame on them if they arrange an amicable settlement between themselves.”<sup>234</sup> On the subject of the freedom of religion, the Manual quotes the *Qur’an* as stating, “[l]et there be no compulsion in religion.”<sup>235</sup> “Good texts” help women relate to international human rights. At the same time, “good texts” respond to claims by fundamentalists and cultural relativists that universal human rights are foreign to Muslim religion and culture. “Good texts” demonstrate to women that their human rights are “supported by their cultural traditions.”<sup>236</sup>

Without more, the Manual’s strategies of translation and textualism do not represent anything new in human rights theory. In both instances, culture is engaged pragmatically, accommodating women’s religious beliefs, but ultimately only in the service of helping women to learn their universal human rights.

But the Manual’s textualism also includes “bad texts”—that is, texts that might be read as more hostile, or equivocal, with respect to women’s equality and autonomy. In a session on women’s right to choose whom to marry, for example, the Manual juxtaposes international legal text stating that “[m]arriage shall be entered into only with the free and full consent of the intending spouses”<sup>237</sup> with conflicting religious texts. One verse from the *Qur’an* states, “We have enjoined upon man (to be good) to his parents,” asking women to think about their obligations to obey elders; yet another verse states that believers “enjoin what is just, and forbid what is evil,” suggesting, perhaps, that women ought to do what is right for them.<sup>238</sup>

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232. *Id.* at 16.

233. *Id.*

234. *Id.* at 27.

235. *Id.* at 39.

236. Letter from Sisterhood Is Global Institute to author (Jan. 29, 1997) (on file with author).

237. AFKAMI & VAZIRI, *supra* note 171, at 19.

238. *Id.*

Women are encouraged to discuss the issue in light of these multiple texts. In an exercise on veiling, the Manual offers a verse from the *Qur'an* stating that men should be modest before God by lowering their gaze, but that modest women should “draw their veils over their bosoms and not display their beauty except to their husbands” and other members of their family.<sup>239</sup> Facilitators then ask women whether these injunctions require different obligations of women and men, and who decides how women dress.<sup>240</sup> In both of these examples, texts are used not merely to translate rights, but also to encourage women to weigh and judge the texts themselves.

### 3. *Constructivism*

It is in this critical textualist approach that the Manual begins to look like something new. By encouraging women to question religious texts, the Manual challenges the traditional legal conception of religion as natural and incontestable. To the contrary, one of the “major premises” of the Manual is that many religious texts are historically contingent and subject to human bias.<sup>241</sup> For example, the Manual characterizes the “*shari'a*—the rules which have governed Muslim societies throughout the centuries,” as “historically determined and temporally situated because it has had to be rendered understandable to each age and community by reference to the needs of that age and community.”<sup>242</sup> The Manual states that the *Shari'a* laws, which were written by men, may be flawed and politically biased. “Because human society has been organized hierarchically and patriarchally across the ages, the *shari'a*, like all other religiously inspired laws, reflects the social realities specific to that age,” the Manual states.<sup>243</sup>

The constructivist strategy emphasizes not only the contestability of religious laws and interpretations, but also their multiplicity and flexibility. “The interpreters of the *Qur'an* . . . have been able to offer different interpretations during different epochs precisely because the original ‘Word’ is infinite in depth and scope,” the Manual states.<sup>244</sup> “Hence, it is applicable to innumerable circumstances and is able to define evolving conditions infinitely.”<sup>245</sup>

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239. *Id.* at 23.

240. *Id.* at 23-24.

241. *Id.* at 3.

242. *Id.*

243. *Id.*

244. *Id.*

245. *Id.*

#### 4. *Reconstructivism*

Revealing that religion is in part a human construction is a first step in enabling women to question and critique religious laws. But the Manual goes further. It also empowers women to *reconstruct* religion. Through twelve workshops, the Manual uses hypotheticals, role playing, and storytelling to enable women to construct a dialogue and negotiate, rather than avoid, the tensions between Muslim traditions, international human rights concepts, and evolving notions of gender equality.<sup>246</sup> In its own words, the Manual examines not the conflict but the “relationship between a woman’s basic human rights and her culture.”<sup>247</sup> Under this approach, rights are not imposed from outside or above a community, but rather are derived from the process of women negotiating conflicts within the community.

In short, women’s human rights emerge, or are reconstructed, through dialogue and participation—both within one’s cultural community and ultimately in the legal world of international human rights itself. The cultural basis for human rights in Muslim communities under the reconstructivist method, then, is not just proverbs and quotations from religious texts, but the workshop participants themselves. The Manual self-consciously seeks to help “individuals become participants in defining the relevance and validity of ideas regardless of their source or age,” stating that “[t]he appropriate function of a human rights education model, therefore, is to promote ‘rights’ by facilitating individuals’ participation in the definition of law or truth.”<sup>248</sup> It is only when women “reclaim their own cultures, interpreting texts and traditions in self-empowering ways . . . , [that] women may truly claim their rights.”<sup>249</sup>

Thus, the Manual is a tool not just for teaching knowledge, but for empowering action—that is, for empowering women to construct new cultural, religious, and legal knowledge. Practical exercises prepare and empower women for the political activity of rejecting imposed norms and,

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246. See, e.g., *id.* at 27-29 (presenting a hypothetical conversation between Leila and her friend Zahra, who has just been raped); *id.* at 33-35 (describing the dilemma of Ayda, a top student who is denied permission to take a science class because of her gender); *id.* at 36-37 (presenting a hypothetical in which Fatima, a medical student, discovers she is being paid less than half of what a male medical student is being paid for the same work in a local doctor’s office). There is an interesting coincidence of method here with the approach of some critical race scholars, who also rely upon dialogue and narrative to promote rights consciousness. See, e.g., DERRICK BELL, *AND WE ARE NOT SAVED* (1987); RICHARD DELGADO, *THE RODRIGO CHRONICLES* (1995).

247. AFKHAMI & VAZIRI, *supra* note 171, at 12.

248. *Id.* at 4. Rather than aiming at incontrovertible truths, it produces dialogical frames where “ideas can be freely discussed and analyzed,” the Manual states of its methodology. *Id.*; see also *id.* at 5 (explaining that the model “does not aim to teach a particular truth but rather to establish dialogue”); *id.* at 12 (“[T]his manual does not seek to impart truth.”).

249. *Id.* at 9.

in turn, creating their own truths and meanings. Throughout the Manual, exercises focus on encouraging women to speak their conscience and to express themselves freely, “without self- or other kinds of censorship,”<sup>250</sup> in a variety of settings, public and private. In a session on women’s rights and responsibilities within the family, for example, participants are asked to consider how they interact with male members of their family.<sup>251</sup> By asking the women when was the last time they asked a male relative for something, and how they broached the subject,<sup>252</sup> the exercise encourages women to share both frustrations experienced in communicating with male family members and strategies for successful communication. Participants discuss a hypothetical conflict between a daughter, Leila, and her father over the choice of whom to marry.<sup>253</sup> Leila is not averse to the man her father has chosen for her, but would like the opportunity to get to know him before finalizing the arrangement. The young man, Karim, has no objection, but Leila’s father does. Participants are asked to consider Leila’s rights and obligations, and how Leila may successfully present her views to her father.

Another exercise encourages women to discuss family planning with their husbands. In this hypothetical, Leila, now married to Karim, wants to use contraception but Karim is afraid of community stigma.<sup>254</sup> The Manual facilitates the discussion with an excerpt from CEDAW articulating women’s right to “decide freely and responsibly on the number and spacing of their children” and a verse from the *Qur’an* stating that with respect to parenting, “[n]o soul shall have a burden laid on it greater than it can bear.”<sup>255</sup> Participants are asked to “consider what aspects of [their] cultural and religious experiences support women’s rights within the family.”<sup>256</sup>

Later, the Manual directly addresses women’s rights to challenge religious authorities. In an exercise entitled “Learning Your Faith,” the Manual seeks to “underscore the relationship between how and by whom Islam is taught, and what is learned, to suggest that women are capable of understanding Islam and may do so differently than men, and to explore women’s actual and potential role in teaching and interpreting Islam.”<sup>257</sup> Women are asked whether “both women and men” are “capable of reading and understanding the Qur’an and *hadith*,” and “[i]f women interpreted the Qur’an, would they emphasize different issues than those that men have

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250. *Id.* at 40.

251. *Id.* at 17-18.

252. *Id.* at 17.

253. *Id.* at 18-19.

254. *Id.* at 21-22.

255. *Id.* at 22-23.

256. *Id.* at 19.

257. *Id.* at 35.

stressed?”<sup>258</sup> The Manual asks, “If you were a religious expert in your community what aspects of Islam would you emphasize?”<sup>259</sup>

The penultimate exercise has the leading characters from the hypotheticals—Leila, Karim, and friends—now organizing and leading a demonstration at the local university, to protest the university’s attempt to silence a friend, Huda, who has written controversial poetry about her experience with domestic violence.<sup>260</sup> Participants are asked, “Should women organize around a common cause? Should women lead their communities? Have you ever organized and/or led a group to pursue a common goal?”<sup>261</sup> The final session asks women, “How is the promotion of women’s basic human rights a community project?”<sup>262</sup> In addition to encouraging dialogue, several exercises throughout the Manual encourage women to draft model laws that better address women’s issues. Women are asked, for example, to “write a law” addressing the crime of violence against women.<sup>263</sup> After discussing their experience in coming to consensus on this project, women are asked what role they may play “in writing and/or strengthening the laws against various forms of violence?”<sup>264</sup>

##### 5. *Rumblings of a New Enlightenment*

It is through this reconstructivist approach—to both religion and law—that *Claiming Our Rights* charts new ground. Unlike traditional conceptions of human rights, the Manual envisions—and fosters—a notion of democracy within culture, not just outside of it.<sup>265</sup> Here we can hear the rumblings of a New Enlightenment: The Manual questions traditional assumptions that rights, reason, and autonomous participation and speech belong purely in the public realm. “The operative concepts here are identity and authenticity in a context of freedom and equality,” the Manual states.<sup>266</sup>

An interview with one of the Manual’s coauthors reveals more about the cultural and political context within which the Manual seeks to intervene. Mahnaz Afkhami explains that this radical new approach to thinking about religion and rights emerged out of Muslim feminists’ frustrations with traditional conceptions of women’s human rights.<sup>267</sup> On the one hand, she recalls, Muslim reformers were frustrated with the claims

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258. *Id.*

259. *Id.*

260. *Id.* at 44-46.

261. *Id.* at 46.

262. *Id.* at 49.

263. *Id.* at 29.

264. *Id.*

265. *Id.* at 5 (describing the Manual as “geared to ideas, structures, and actions that enhance democracy and promote civil society”).

266. *Id.* at 6.

267. Telephone Interview with Mahnaz Afkhami, Author (Aug. 1, 2002).

of fundamentalists and cultural relativists, who held that human rights are Western or foreign. “I have traveled all over the Muslim world and I’ve never heard anybody say that we don’t want [a right] because it’s a Western right,” says Afkhami, an international women’s rights activist for almost thirty years. “[T]he right to choice—no one opposes that.”<sup>268</sup>

On the other hand, Afkhami says that reformers began to resent the traditional notion that religion and rights do not mix. “During my own work with women’s groups in Iran in the 70s we had a hands off relationship with religion,” Afkhami recalls. “We did not engage because we were presented with the option that either you believed in rights or you believed in your religion and there was just no way of doing both.”<sup>269</sup> But later reformers began to challenge this dichotomy, asserting that choosing rights over religion was an extreme sacrifice many women were being forced to make.<sup>270</sup> As Afkhami tells it, this changing consciousness coincided with shifts due to modernization and globalization. Over time, she contends, women—both those on the ground and those in activist and leadership positions—felt more empowered to question traditional religious and legal rules. “As traditional societies change, people become more conscious of individual rights,” Afkhami says. “At one point, the law was the given that everybody accepted and people just had to obey what was given. Now we are moving toward rights. We are moving from law to rights.”<sup>271</sup>

In other words, modernizing societies—including Muslim societies—are moving away from accepting law or imposed identities toward a new era that posits an individual’s right to construct identity and conceptions of rights on one’s own terms. The Manual’s reconstructivist approach is premised on this notion: Individuals are not taught “truths” written in international law, but rather are empowered to construct their own version of the truth—be it in a cultural, religious, or public context. “The essential part of the methodology is the consciousness that you don’t dictate to people, by either religious edicts or human rights edicts,” Afkhami says.

You let people discuss it for themselves and come to conclusions for themselves. It’s striving for a new way of learning that emphasizes the individual as an empowered being who can decide for herself. It connects again to the idea that that person also decides how she sees her religion and how she sees the relationship between various rights and her religion.<sup>272</sup>

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268. *Id.*

269. *Id.*; *see also* IN THE SHADOW OF ISLAM: THE WOMEN’S MOVEMENT IN IRAN (Azar Tabari & Nahid Yeganeh eds., 1982).

270. Telephone Interview with Mahnaz Afkhami, *supra* note 267.

271. *Id.*

272. *Id.*

For Afkhami, the Manual's engagement with religion does not make it antisectional. In fact, Afkhami believes that "[s]ecularism is at the heart of human rights" because women should not have any identity—let alone a religious identity—imposed upon them.<sup>273</sup> But some Western feminists "go beyond this by not accepting that people have a right to be religious," Afkhami says. The Manual, in contrast, asserts that women "have a right to their own spirituality, their own exercise of religion." Afkhami continues that "sometimes feminists have had a way of not valuing the adherence of a lot of other feminists to religion. That's something that has caused a bit of difficulty in solidarity building."<sup>274</sup>

Significantly, while *Claiming Our Rights* confronts human rights law, it does not reject it. Rather, it takes human rights claims and makes them applicable in more aspects of women's lives—that is, in private as well as public contexts. Afkhami says of the Manual,

It's radical . . . because it is a new way of going the furthest that one can in allowing people to make choices and to have autonomous definitions of their identity, both spiritual and otherwise. . . . It allows people—for many, many millions for the first time—to think that it is possible to relate to God directly, to relate to culture directly, and to make their own sense of what it means.<sup>275</sup>

Indeed, this is a "radical" new conception of human rights. While traditional legal understandings of the "right to religion" favor leaders' views of the religion over those of dissenters and actively affirm the right of leaders to impose their views on members, the Manual views freedom of religion and choice as an individual right to participate in the group and to shape one's own religion—not just as an individual right to belong or to leave. "You talk about the right to exercising your religion, but the nuance of here's an individual woman wanting to say what her religion means to her and not wanting to comply with what some *mullah* says it is" has been less theorized, Afkhami says. *Claiming Our Rights* allows the religious authority "the right to his interpretation, but he just simply does not have the right to tell me to change my interpretation," Afkhami continues, acknowledging that in this way the Manual heralds "a new way of extending, expanding, and communicating the actual practice of the right to religion."<sup>276</sup>

To be sure, like WLUML, the Manual does not advocate a culture- or religion-based approach to human rights in all contexts. Field studies

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273. *Id.*

274. *Id.*

275. *Id.*

276. *Id.*

testing the Manual in various countries have found that religious approaches are more appealing in some countries and less so in others.<sup>277</sup> For example, in her home country, Iran, where theocracy has been in place for more than twenty years, Afkhami says that religious approaches are not popular. “There [women] resist religion and they want to deal more with [international] conventions and material like that,” she says. “In general, the population in Iran since the revolution has become more and more secular. Not in terms of the government but in terms of the civil society. So in different settings, different aspects of the [Manual] have been stressed.”<sup>278</sup> In Afghanistan, on the other hand, many reformers have found that some engagement with culture and religion is necessary.<sup>279</sup>

The Manual’s open framework has led to its appropriation by numerous groups around the world. According to Afkhami, *Claiming Our Rights* has thus far been translated into twelve languages and has been further “reevaluated and readjusted as it has been produced and implemented in different countries.”<sup>280</sup> “The methodology and the Manual is totally flexible,” Afkhami says, so that “[p]eople are making new versions of the Manual all the time. There is not only a Jordanian version of it, but there are many Jordanian versions of it.”<sup>281</sup>

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277. See SISTERHOOD IS GLOBAL INSTITUTE ANNUAL REPORT 2000 (offering detailed country reports from field tests of the Manual in Azerbaijan, Bangladesh, Egypt, India, Jordan, Lebanon, Pakistan, Syria, and Uzbekistan).

278. Telephone Interview with Mahnaz Afkhami, *supra* note 267.

279. June Starr’s work on Islamic justice in Turkey suggests a dialectical relationship between secular and religious law. According to Starr, religious campaigns become popular after periods of secularization; and, vice versa, secular campaigns have more resonance after theocratic moments. See JUNE STARR, *LAW AS METAPHOR* 176 (1992) (writing that the comeback of religious sentiments within otherwise secular campaigns for legal reform in the Islamic context does not represent a problematic aberration in the secular legal project, but “merely another swing in the pendulum toward more complexity in the dialogue”).

280. AFKHAMI & VAZIRI, *supra* note 171, at 9.

281. Telephone Interview with Mahnaz Afkhami, *supra* note 267.

Where the Manual itself has not been adapted, its approach has been.<sup>282</sup> Even traditional human rights manuals that at one time took a purely “secular” approach<sup>283</sup> have begun to highlight some of the themes in *Claiming Our Rights*. A popular human rights education manual called *Local Action, Global Change: Learning About the Human Rights of Women and Girls*,<sup>284</sup> written by human rights educators Julie Mertus, Nancy Flowers, and Mallika Dutt, is an example. While early drafts of *Local Action, Global Change* took a traditional universal approach to women’s human rights that spent little time on questions of religious or cultural community,<sup>285</sup> the current version questions the efficacy of a purely secular approach in securing women’s rights.<sup>286</sup> In the context of the family, for example, *Local Action, Global Change* notes the use of religious arguments to prevent secular legal reforms, which are effectively characterized as foreign and “counter to religious law and custom.”<sup>287</sup>

Taking a reconstructivist approach similar to *Claiming Our Rights*, the manual states that it may be “necessary to create an *enlightened* religious interpretation of different religions, since it is the right of all people to believe.”<sup>288</sup> An exercise entitled “Analyzing Culture” asks participants to list religious and cultural practices in their lives that are different for

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282. A review of other country-specific manuals for women’s human rights suggests that the cultural approach is used by a number of women’s human rights groups. See, e.g., ZEINAB ABBAS, HUMAN RIGHTS EDUCATION FOR WOMEN: AN ISLAMIC PERSPECTIVE (n.d.) (asking Sudanese women to discuss religious and cultural tenets that both contradict and support women’s human rights); MANISHA GUNASEKARA, DRAFT TRAINING MANUAL ON WOMEN’S HUMAN RIGHTS EDUCATION 86 (1995) (encouraging women to “recast” traditional folklore and religious texts “from a constructive feminist optic” and calling forth a “radical reinterpretation of tradition”); LILA-PILIPINA, WOMEN’S HUMAN RIGHTS EDUCATION: A TRAINING MANUAL 9 (1995) (urging Filipino women at the grass roots to reconceive international human rights, and recognizing the limitations of international treaties “vis-à-vis religion, ethnicity, neocolonialism, class stratification[,] . . . racism and other patriarchal ideologies of power”); cf. B.A.B.E.: WOMEN’S HUMAN RIGHTS GROUP, TRAINING ON WOMEN’S RIGHTS AS HUMAN RIGHTS (1995) (using culture for educational, but not necessarily nationalist, purposes); MEGHNA GUHATHAKURTA & KHADIJA LINA, EMPOWERING WOMEN AT THE GRASSROOTS: A MANUAL FOR WOMEN’S HUMAN RIGHTS EDUCATION (1995) (taking a more secular approach that focuses on increasing women’s political participation in hopes of securing a Uniform Family Code that will end misuse of religion and governance of family relations by Islamic personal law). Many of these manuals were sponsored and partially funded by the People’s Decade for Human Rights Education, a United Nations project.

283. Interview with Nancy Flowers, Author and Human Rights Educator, Amnesty International, in Stanford, Cal. (Oct. 29, 1997).

284. See JULIE MERTUS ET AL., LOCAL ACTION, GLOBAL CHANGE: LEARNING ABOUT THE HUMAN RIGHTS OF WOMEN AND GIRLS (1999).

285. In fact, a pre-Beijing version sought to help women transcend parochial identifications and embrace their global identity as women. Julie Mertus et al., *Our Human Rights: A Manual for Women’s Human Rights* (1995) (unpublished manuscript, on file with author).

286. The Manual also directly quotes many contemporary human rights activists in the Muslim world. See, e.g., MERTUS ET AL., *supra* note 284, at 41 (quoting Nawal El Saadawi and Farida Shareed); *id.* at 41-42 (citing reports of the 1994 WLUML conference in Lahore, Pakistan).

287. *Id.* at 41.

288. *Id.* (quoting Nawal El Saadawi, *Fundamentalism—a Universal Phenomenon*, WLUML DOSSIER 9/10, Dec. 1991, at 30) (emphasis added).

women and men. Participants are asked, “Who is imposing the practice?” and “Who is benefiting from the practice?” Under this new approach, women are not asked whether human rights should trump religious laws, but rather, whether it is possible to find “interpretations of culture and religion that are not oppressive to any group of people.”<sup>289</sup> The manual asks women how they would “go about promoting those interpretations.”<sup>290</sup> Finally, rather than view human rights as fixed in positive international human rights law, the revised manual calls human rights “dynamic and evolutionary.”<sup>291</sup> Documents such as CEDAW “are the fundamental documents for giving women some idea of existing international standards.” But the manual continues that

these documents should not be presented as “perfect” or “settled.” Women should be encouraged to examine and question everything. The facilitator may point out that women’s participation and gender perspective in the drafting and enforcement of international documents has been far from perfect. Moreover, not all groups of women have been addressed. Participants should consider how these documents might have been different if all women’s concerns had been represented and respected.<sup>292</sup>

This review of contemporary women’s human rights training manuals reveals that traditional understandings about the “universality” of human rights are changing. During the last century universality was consonant with a notion of positive law that is external to communities and that either trumps local culture or takes a backseat to it. Recent editions of *Claiming Our Rights* and other contemporary human rights education manuals suggest, however, that evolving notions of human rights are derived both from within cultures, in response to their needs and evolving values, and in dialogue between reformers on the ground and formal human rights instruments.<sup>293</sup>

But how are formal law and legal institutions responding to this dialogue? Perhaps more important still, how should they respond? I turn to

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289. *Id.* at 29.

290. *Id.*

291. *Id.* at 206.

292. *Id.* at 205-06.

293. Sally Engle Merry makes a similar observation in a recent article describing three different approaches to gender violence in a small Hawaiian town. Merry observes that the three approaches—one based on rights, one based on religion, and one based on indigenous community—were strikingly different in how they defined and dealt with gender relations. At the same time, Merry notes that all three approaches shared “similar technologies of the self” through free will and choice. Merry’s point is that local communities reflect “modern” conceptions of the self as autonomous and rational, while imagining just societies that are not necessarily secular or universal. Sally Engle Merry, *Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization*, 35 *LAW & SOC’Y* 39, 40 (2001).

these questions in the next Part. Here I conclude by summing up the new normative conception of rights emerging on the ground through Muslim women's activism. Feminist analysis emerging in Muslim communities does more than offer an anti-essentialist critique showing that Islam *is* diverse. Feminists assert that Islam *ought* to be diverse. Feminists working in Muslim communities assert women's rights to contest imposed identities and to create plural and autonomous normative visions of culture and religion. Articulating a new right to make one's own identity, they fundamentally challenge current legal constructions of religion and culture. While current law conceives of individuals as having the freedom to pick and choose between communities, but allocates the right to define the community to religious and cultural leaders, women in Muslim communities are asserting that individual members of a community ought to be able to participate in this process.

Herein lies an important contribution to theorizing women's international human rights. Feminists in Muslim communities are boldly taking the critique of the public/private dichotomy beyond *freedom from* violence to *freedom to* create normative community. Under this view, while women should have a right to exit a normative community and choose another one if they want to, they should also have a right to stay within their communities and reform them. Current law's focus on exit elides many women's desire to maintain religious and cultural community. At the same time, a right to culture is not enough if women have no right to participate in making the culture. For women to assert cultural and religious rights requires a reconception of culture and religion as spaces that allow for reasoned, autonomous, and democratic participation. It is in this sense that the rights-based claims of feminists working in Muslim communities are distinct from traditional, Western human rights claims. Whereas the old Enlightenment sought freedom and equality in the public sphere alone, feminists in Muslim communities herald the New Enlightenment, demanding autonomy and democracy in both public and private spheres.

#### IV. FUTURES

"Imaginations of socially just futures for humans usually take the idea of single, homogenous, and secular historical time for granted," Chakrabarty writes.<sup>294</sup> But in presuming that the world's peoples are marching in lockstep toward a singular future,<sup>295</sup> we elide alternatives and

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294. CHAKRABARTY, *supra* note 58, at 15.

295. See Lawrence M. Friedman, *Erewhon: The Coming Global Legal Order*, 37 STAN. J. INT'L L. 347, 355-56 (2001) (describing "the spread of U.S. law and U.S. lawyering abroad" as, in part, "a matter of taste, like the spread of Coca-Cola" and explaining that "[i]t is perhaps also