

Women, Islam, and the Moroccan State: The Struggle over the Personal Status Law

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Since 1991, the status of women in Morocco has been the subject of widespread debate. Efforts by women's groups and liberal political forces to change the Shari'a-based Personal Status Code (moudawwana), were vigorously opposed by conservative and Islamist forces. For both sides, the issue was central to their overall orientations towards "tradition" and "modernity". King Muhammad VI ultimately tipped the balance in favor of change. The resulting new Family Law may well mark a milestone in Moroccan society's evolution.

On March 12, 2000, the boulevards of Rabat and Casablanca were the scenes of two competing mass marches. The Rabat event, in favor of the government — and World Bank — sponsored *Plan d'action national pour l'intégration de la femme au développement*, was organized by a coalition of women's and liberal political groupings and parties, coincided with International Women's Day (March 8), and drew 40-50,000 persons. The Casablanca march, in opposition to the Plan, was sponsored by a coalition of mainly Islamist groups for the "defense of the Moroccan family," and attracted an estimated three times as many persons as the Rabat procession.

The significance of the two demonstrations was far-reaching. They marked a milestone in Morocco's evolution during the previous decade toward a more open, modern, and pluralist society. In this regard, the 1990s had been marked by steadily increasing political liberalization, expansion of the freedom of expression, real improvement in Morocco's previously abysmal human rights record, and the establishment of numerous voluntary organizations which filled the public space between the state and the individual.¹ From a different angle, the public show of strength by the

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1. For a thorough discussion of the growing manifestations of civil society in Morocco, and their limitations, see Azzedine Layachi, *State, Society and Democracy in Morocco: The Limits of Associative Life* (Washington, DC: Center for Contemporary Arab Studies, Georgetown University, 1998).

Islamist current marked a kind of coming-out party. In Morocco, as in other authoritarian Arab regimes, Islamist movements have grown in strength in recent years, as they partially filled the gap left by the absence of authentic democratic political systems in which the authorities are accountable to its citizens. Moreover, Islamist movements have proved adept at exploiting the trend towards liberalization to advance their own ends, ones which were not congruent with the principles of a genuinely liberal civil society.² From yet another perspective, the fact that the issue of women's standing in Morocco could galvanize so many people into action indicates that it is a bellwether subject for a society experiencing rapid change. Indeed this is true of much of the Arab world as a whole. To put matters in broader perspective, the question of the status of women has been central to a century of debate over the preferred directions which Arab societies should take.

This article will focus on the debate over the status of women, analyzing the battle over the proposed changes of the *Shari'a*-based Personal Status Law (*moudawwanat al-ahwal al-shakhsiyya; moudawwana*) a battle which was ultimately resolved in the fall of 2003 by King Muhammad VI. Critical attention will be paid to the role of the monarchy, which stands as the supreme arbiter between two "national projects" — that of women's groups, in alignment with liberal political forces, and that of Islamist movements and other conservative forces in Moroccan society.

THE MOROCCAN MONARCHY AND THE STATUS OF WOMEN

Traditional Arab societies, according to leading social scientists, are hierarchical, patrilineal, patriarchal, and class-based, leaving women, children, and the poor as their most repressed elements. Writing in the mid-1980s, Halim Barakat enumerated a list of five factors that reflected women's subordinate status:

1. Women are secluded and segregated, with the majority continuing to occupy the private domain of the household, and with public space reserved for males, and veiling (a sign of separation) still being widespread.
2. The roles most available to women are those of daughter, sister, wife, mother, mother-in-law, etc – with few professional careers available. Women are relegated to marginality by the prevailing social, political and economic organization.

2. Bruce Maddy-Weitzman and Meir Litvak, "Islamism and the State in North Africa," in *Revolutionaries and Reformers: Contemporary Islamist Movements in the Middle East*, Barry Rubin, ed. (Albany, NY: SUNY Press, 2003), pp. 69-89; Maddy-Weitzman, "Islamism, Moroccan-Style: The Ideas of Sheikh Yassine," *Middle East Quarterly*, Vol. X, No. 1 (Winter 2003), pp. 43-51.

3. Personal status codes discriminate against women, particularly in such areas as marriage, divorce and inheritance. Among certain classes, ownership of property is almost exclusively confined to men.
4. Prevailing religious ideology considers women to be a source of evil, anarchy (*fitna*) and trickery or deception (*kayd*). The prevailing standard of morality stresses those values and norms associated with traditional ideas of femininity, motherhood, wifeness and sexuality.
5. Women may still be exposed to such practices as forced marriage, honor crimes, clitoridectomy, etc.³

Clitoridectomy is not practiced in the Maghrib. On the whole, however, Barakat's characterization was broadly applicable to Morocco. So was Hisham Sharabi's critique of Arab society as being neo-patriarchal — one whose patriarchal structures have not been truly modernized, but only reshaped and preserved in “modernized” forms. These resulted in what Fatima Mernissi calls a “mutilated modernity” — void of the great democratic advances deemed crucial to achieving genuine societal transformation.⁴

Such sociological analyses in no way contradicted the fact that the question of women's standing has been on the Moroccan agenda for more than a half-century, that there are particular aspects which are unique to the country, and that significant change *has* taken place. As with so much else in Morocco, one may start with the monarchy — a venerable, deeply rooted aspect of Moroccan history, society, and political culture. However significant the political reforms of the last decade, they did not bring about a fundamental change in the centrality of the monarchy in the country's political life, with the king being both the spiritual and temporal leader of society.⁵ Moreover, after 50 years of multi-party politics and free-market economics, Morocco remains an authoritarian state (*makhzenian*, in Moroccan parlance).⁶ One analyst contends that the reforms which have taken place marked a conscious “de-politicization” of public life, pushing to the side all questions related to regime legitimacy, in favor

3. Halim Barakat, *The Arab World: Society, Culture and State* (Berkeley: University of California Press, 1993), p. 102.

4. Hisham Sharabi, *Neo-Patriarchy: A Theory of Distorted Change in Arab Society* (Oxford: Oxford University Press, 1988); Fatima Mernissi, *Islam and Democracy: Fear of the Modern World* (Reading, MA: Addison Wesley, 1992), pp. 13-82.

5. Remy Leveau, “The Moroccan Monarchy: A Political System in Quest of a New Equilibrium,” in *Middle Eastern Monarchies: The Challenge of Modernity*, Joseph Kostiner, ed., (Boulder, CO: Lynne Rienner, 2000), pp. 117-130.

6. Literally, “storehouse,” or “treasury,” *makhzen* is the traditional term for the Moroccan sultanate. Contemporary Islamist movements use the term consistently, as part of their critique of what they view as a dictatorial, and illegitimate regime. For analyses of Moroccan political trends in the 1990s, see Henry Munson, “The Elections of 1993 and Democratization in Morocco,” and Susan Waltz, “Interpreting Political Reform in Morocco,” in *The Shadow of the Sultan: Culture, Power, and Politics in Morocco*, Rahma Bourqia and Susan Gilson Miller (eds.), *Harvard Middle Eastern Monographs XXXI*.

of purely “technical” economic issues.⁷

An examination of the public aspects of the behavior of Morocco’s last three rulers towards their wives and daughters illustrates the degrees of both continuity and change towards the place of Moroccan women in society. For example, the late King Hasan II’s second wife, Latifa, and mother of his four children, including Muhammad VI, was chosen from one of the leading rural Berber families. Their marriage in 1962 was kept nearly secret, and portraits of the late Hasan II’s family are ubiquitous, but conspicuous by her absence. The lack of any mention of her whatsoever suited Morocco’s prevailing tribal-imperial norms, which would have viewed her public exposure as an insult to the King’s honor. At the same time, much of the modern monarchy’s behavior was characterized by a dualist approach.⁸ Both Hasan and his father, Muhammad V, the first King of independent Morocco, pushed their eldest daughters into public roles to signal that they favored expanded women’s involvement in public life. For example, Muhammad V insured that his daughters, as well as his sons, received a modern education, and dispatched his eldest daughter Aicha, unveiled, to deliver an address of his in Tangier in 1947 advocating independence. Her appearance quickly made her into a heroine, a role model for Moroccan women.⁹

Hasan continued in his father’s footsteps. His own eldest daughter, Lalla Meriem, frequently played the role of the First Lady both at home and abroad during the 1990s, for example, acting as hostess for foreign visitors, including the very high profile visits of Hilary Clinton. She explicitly worked to advance the standing of women and children, serving as an advocate for their health and welfare. Hasan’s second daughter, Lalla Hasna, also took on public roles in the King’s name.

King Muhammad VI, who assumed the throne following the death of his father on July 23, 1999, moved quickly to project the image of a more accessible leader interested in political and social reform, one better attuned to the needs and wants of his subjects.¹⁰ The closing of the royal harem and the King’s emphatic declared commitment to integrate the female half of society into public life were part of a number of symbolic steps taken to advance the status of women. Three years later, he took the unprecedented step of publicly announcing his intent to marry. His fiancée, Latifa Benani, was a 24-year old computer engineer from a middle-class urban family

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(Cambridge, MA: Center for Middle Eastern Studies of Harvard University, 1999), pp. 259-281, 282-305. For a deeper look at Moroccan political culture, see Abdallah Hammoudi, *Master and Disciple: The Cultural Foundations of Moroccan Authoritarianism* (Chicago: University of Chicago Press, 1997). For an analysis of the political system in the first decade after independence which still carries much value, see John Waterbury, *The Commander of the Faithful* (London: Weidenfeld and Nicholson, 1970).

7. Abdeslam Maghraoui, “De-politicization in Morocco,” *Journal of Democracy*, Vol. 13, No. 4 (October 2002), pp. 24-32.

8. Guilain Denoeux and Abdeslam Maghraoui, “King Hasan’s Strategy of Political Dualism,” *Middle East Policy*, Vol. V, No. 4 (January 1998), pp. 104-130.

9. C.R. Pennell, *Morocco Since 1830* (NY: NYU Press, 2000), p. 272.

10. Bruce Maddy-Weitzman, “Morocco,” *Middle East Contemporary Survey (MECS)*, Vol. XXIII, 1999 (Tel Aviv: The Moshe Dayan Center, 2001), pp. 429-435.

in Fez. Muhammad had thus broken with tradition on two counts: he had removed the iron curtain of mystery which had always surrounded the royal spouses, and had married a “modern” woman, instead of adopting the traditional course of sealing political alliances by choosing the daughter of a rural Berber notable. The public announcement, the choice of the bride, the subsequent public celebrations, and the pictures, a year later, of a doting young father cradling his first-born son, were all designed to send a clear message: the royal house was now modern in outlook, marching forward in the spirit of the times with a focus on the future, a future which promised better days for women.

SOCIO-ECONOMIC AND DEMOGRAPHIC PROFILE

The socio-economic and demographic profile of Moroccan women points to a society experiencing rapid change, whose implications are myriad. The majority (56%) of Morocco’s population now lives in urban areas, with the figure steadily rising at an annual rate of 3%. Twenty-seven percent of all women aged 15 and over were economically active during 1995-2002, constituting 26% of all non-agricultural wage earners. Particularly noteworthy has been the rapid drop of Morocco’s population growth rate – from a steady 3% annual rate in the 1960s and 1970s, to 1.3% at present. Translated into family size, the average Moroccan woman now bears approximately three children in her lifetime, a figure less than half of the one 30 years ago. The average marrying age for Moroccan urban women is now 25-26, up from 17 in earlier decades.¹¹

To be sure, the consequences of the postponement of marriage and increasing numbers of women in the work force are far from unmixed. The anthropologist Donna Lee Bowen, for example, has written how young urban working Moroccan women often suffer from rumors of loose morality. This type of reaction partially explains the increasing popularity of the *hijab* (Islamic head covering) among young Moroccan females as a way to increase social mobility and enter into traditional “public”, i.e., masculine space while maintaining one’s honor and overall social equilibrium.¹² Islamists, on the other hand, view the combination of working outside the home and dressing as one pleases as making women vulnerable to new forms of exploitation and repression.¹³ Similarly, young rural women who manage to acquire an education and move to the city in search of work sometimes discover that they have priced themselves out of the marriage market at home. Moreover, they are also

11. Bruce Maddy-Weitzman, “Population Growth and Family Planning Policies in Morocco,” *Asian and African Studies*, Vol. 26, No. 1 (March 1992), pp. 63-79; Eltigani E. Eltigani, “Changes in Family-Building Patterns in Egypt and Morocco: A Comparative Analysis,” *International Family Planning Perspectives*, Vol. 26, No. 2 (June 2000), pp. 73-78; Lori Ashford and Donna Clifton, *Women of Our World, 2005*, (Washington, DC: Population Reference Bureau, www.prb.org, February 2005).

12. Donna Lee Bowen, “Changing Contraceptive Mores in Morocco: Population Data, Trends, Gossip and Rumours,” *The Journal of North African Studies*, Vol. 3, No. 4 (Winter 1998), pp. 68-90.

13. On the other hand, strong pressures and even threats often compel young women to cover their

unable to break into existing social networks, which prevent them from landing work commensurate with their abilities.¹⁴

Regarding education and the urban-rural dichotomy, the picture for women in rural areas remains grim. Modern schools for Muslim girls from urban elite families began to open in the 1930s, with the first class graduating from primary school in 1942, and the first secondary school class graduating later in the decade. By contrast, implementing compulsory education in the rural areas, particularly for girls, continues to be a monumental task for the authorities. The rate of female illiteracy in these areas remains appallingly high, at 87%, while in urban areas it has dropped to 49%. Taken together, nearly two-thirds of Moroccan women are illiterate, as compared to 41% of the men. In the rural areas, only three out of eight girls age 8-10 attend primary school and only one out of ten attend secondary school.¹⁵ Rural poverty and underdevelopment heavily affect the country's rates of infant mortality — 46.49 per 1000 live births, and maternal mortality — 228 per 100,000 live births (307 per 100,000 in rural areas).¹⁶ These figures are higher than those in nearly every other Arab country, let alone the countries of the developed world, where the figures are single digit. With only 58% of rural dwellers having safe potable water sources within one kilometer of their dwellings, and with the burden of water carrying being born mainly by females, one can thus begin to understand how difficult life is for rural Moroccan women.

Still, even if the bulk of Moroccan women remain both illiterate and closely linked to deeply-rooted patriarchal and religio-cultural patterns, one must also note the harbingers of change, particularly in the educational sphere. Literacy rates among females aged 15-24 stood at 61% between the years 2000-2004, and close to 40% of all current secondary and higher education students are female.¹⁷ In the work place, 37% of Moroccan enterprises operating in services are run by women, 31% in the trade sector, and 22% in industry, this according to the President of the Association for Women Heads of Enterprise (AFEM).¹⁸ Moroccan women are also becoming more visible as airline pilots, professors, doctors, and even athletes; Morocco was the

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heads when walking in public. See the report on the poor neighborhood in Casablanca from where the suicide bombers against various Jewish and Western targets in the spring of 2003 originated: Isabelle Ligner, "Moroccan Women Fear Extremism," *Middle East Online*, May 22, 2003 (www.middle-east-online.com/english/).

14. Doris Gray, "Moroccan Women on the Move? A Case Study of Rural Berber Women from the Middle Atlas Mountains," paper delivered at the seventh congress of the International Association of Middle East Studies, Berlin, October 2000.

15. Julie Combe, *La Condition de la femme marocaine* [The Condition of Moroccan Women] (Paris: L'Harmattan, 2001), pp. 130-32.

16. United Nations Development Programme, Human Development Report (March 2001) <http://hdr.undp.org/reports/global/2001/en/pdf/back.pdf>; Central Intelligence Agency, The World Factbook, Morocco, <http://www.cia.gov/cia/publications/factbook/geos/mo.html#People>

17. Combe, p. 132; *Women of Our World*, 2005.

18. Interview with Saloua Karkiri in *al-'Alam*, quoted in ArabicNews.com, March 31, 2005.

first Arab country to produce a female Olympic medalist — gold medal winner in the 400m hurdles in Los Angeles in 1984, Nawal al-Mutawakkal.

THE LEGAL ARENA: THE STRUGGLE OVER THE MOUDAWWANA

As elucidated by Mounira Charrad, the Moroccan woman lives under the umbrella of two opposing legal frameworks: the public, which is underpinned by universal standards deriving from both the Moroccan constitution and international covenants, and the private, which is based on Islamic law. In the early 1950s, on the eve of attaining independence from France, Allal al-Fasi, the head of Morocco's leading nationalist party, the *Istiqlal*, and the leader of the reform wing of Morocco's neo-Salafists, proposed a comprehensive set of social, economic, and legal reforms designed to reconcile Islamic principles with the requirements of the 20th century. In order to weaken the strength of the extended family in rural, tribal areas, and to strengthen the immediate family nucleus in urban areas, al-Fasi recommended a number of steps that would strengthen women's standing within the marital bond. On the extremely contentious issue of polygamy, al-Fasi was a radical, recommending its complete abolition, believing that any effort to achieve a compromise would be exploited by the country's still-powerful tribes.¹⁹ His relatively modern approach reflected the views of a whole generation of Moroccan nationalists, including those within his own family. His cousin Malika, the only female to sign the 1944 nationalist manifesto demanding independence, was especially involved in the independence movement and served as a model of emulation and a patron to subsequent generations of female activists.²⁰

However, al-Fasi's proposed reforms were not translated into action by the royal commission assigned to unify the newly independent state's plethora of personal status codes, notwithstanding the fact that al-Fasi himself served as the commission's *rapporteur*. The result was the *moudawwana* [mudawanna], codified in 1957-58, two years after Morocco attained independence.²¹ Based on the Malikite school (*madhhab*) of Islamic law, it treated a woman as a minor throughout her life, apart from a few specific areas such as granting her the right to manage and protect her own property. The code required her to obtain the consent of a patron (*wali*) in order to marry, and the consent of her husband or father to carry out business transactions, enter the work force or obtain a passport. As in every Arab country except for Tunisia, polygamy is permitted; the right to divorce is a predominantly male prerogative, through a modi-

19. Mounira M. Charrad, *States and Women's Rights: The Making of Post-Colonial Tunisia, Algeria and Morocco* (Berkeley, University of California Press, 2001), pp 159-161.

20. Alison Baker, *Voices of Resistance: Oral Histories of Moroccan Women* (Albany, NY: SUNY Press, 1998), pp. 63-77.

21. Although he is often criticized for having compromised on his earlier, more reformist views, a number of women's rights activists believe that al-Fasi was forced to bow to the positions of more conservative members of the commission. (Baker, p. 30.) For a piece of supporting evidence to that effect, see Charrad, *States and Women's Rights*, p. 167.

fied version of the act of repudiation (*talaq*).²²

The legal aspects of the *moudawwana* carried wider implications as well. According to Mernissi, the *moudawwana*'s division of space — reserving public space for men only, while allocating private space for women (albeit in an inferior position) — parallels the division of gender roles, based on the notion that the sexes are innately complementary rather than equal. A husband's duties, as elaborated in Article 35 of the Code, were essentially financial, since he was the leader and unchallenged authority of the family. A woman's responsibilities, elaborated in article 36, focused on sexual morality, submission, and deference to the husband, his parents, and close relatives, the training of the children in their religious and cultural tradition, and the obligation to breast feed her infants, if possible.²³ Mounira Charrad states that the message of the *moudawwana* was that the conjugal bond may be short-lived, whereas the ties with male kin may be enduring. The new Moroccan state, she says, essentially ratified the societal status quo, for the purpose of advancing national goals. She adopts the metaphor of the French researcher Germaine Tillion, who describes the Maghribi kin groupings as "republics of cousins."²⁴

The imbedding of cultural ideals in legal codes surely shapes women's own lives in numerous ways. At the same time, recent research on the views of Moroccan women shows that the ideals articulated in the *moudawwana* are not accepted uncritically, that the difficult everyday realities of many women contributed more to shaping their views of what an ideal marriage should be, and that the *moudawwana* itself was understood to be contributing to their problems.²⁵ Research of this type puts paid to the outdated concept of women being only passive actors, without agency, and adds a further layer of understanding to the increasingly dynamic social realities of Moroccan life.

Beginning in the 1990s, the quickening pace of change included political and economic liberalization measures guided by an autocratic monarch, as well as pressures from below. Especially noteworthy was a petition campaign by a coalition of newly energized women's groups, some affiliated with left-wing political parties and others of a more independent character, to change the *moudawwana*. Their demands included: 1) equality and complementarity between husband and wife in the family; 2) according women legal competency upon reaching the legal age of maturity (18); 3) giving women the right to marry without a *wali*, and raising the minimum age of marriage from 15 to 18; 4) equalizing the divorce process, and placing the matter in the hands of a judge; 5) outlawing polygamy; 6) giving equal rights of guardianship

22. For a detailed summary of the Code, see Charrad, *States and Women's Rights*, pp. 161-168; for its full text, and a primer on a Moroccan woman's rights and duties under it, see Fadela Sebti, "Rights of the Muslim Women in Morocco," www.techno.net.ma/femmes/e-default.htm.

23. Mernissi, *Beyond the Veil: Male-Female Dynamics in Muslim Society* (London: Saqi, 1985), pp. 109-110, 137-140.

24. Mounira Charrad, "State and Gender in the Maghrib," *Middle East Report*, No. 163 (March-April 1990), pp. 19-24, quoting Germaine Tillion, *The Republic of Cousins: Women's Oppression in Mediterranean Society*, Q.Hoare, trans. (London: Saqi, 1983).

25. Bess Dopkeen, "Moroccan Marriages & Moudawana," Spring 2004 (unpublished).

over children; 7) making work and education a right which the husband cannot dispute.

Carried out over a year's time, the petition campaign achieved extraordinary results, collecting one million signatures for presentation to the King. It also generated considerable opposition, mainly from religious circles. In August-September 1992, Hasan stepped into the fray, in a way that both legitimized the issue as a subject and essentially de-politicized and demobilized the campaign. Hasan emphasized that

....the personal status code is, before anything else, my responsibility, and I will shoulder any responsibility arising from the application or the non-application of such a code. Therefore you [referring to the women activists] should refer such matters to me...you should not mix up religious matters with civil and political matters...²⁶

Remarks in a subsequent speech were reminiscent of al-Fasi's efforts to synthesize Islam and modernity:

Let everyone be assured that I will give justice to Moroccan women, and naturally I will implement the noble and merciful *shari'a*. I will assent to the rights of women, and I will ensure that this is implemented as well....God wants a society that is dynamic, diligent and industrious....²⁷

In additional speeches and meetings with women's groups over the next month, he reiterated his sensitivity to women's difficulties and his commitment to amending the *moudawwana*, while adhering to Islamic tenets. Citing the principle of *ijtihad* (lit: the interpretation of the Holy Law to promote human welfare, by qualified individuals, on the basis of reason), he often declared that "everything that is not forbidden [by Islamic law] is permitted."²⁸ To that end, he appointed a 21-person committee to study possible reforms. However, it was heavily weighted toward the religious establishment, and included but one woman. One year later, it appeared that a molehill had been made out of a mountain. The committee recommended cosmetic changes only: for example, regarding marriage, a woman who had reached the age of maturity and was an orphan would be able to contract her marriage herself; the phrase "the woman does not contract her own marriage" was dropped, leaving only the following: "the woman delegates her *wali* to contract the marriage for her." The husband was required henceforth to inform the first wife of his desire to take a second wife and was required to obtain the permission of a judge for such a marriage.²⁹ Regarding the dissolution of the marriage contract, minor constraints were placed on unilateral

26. Moroccan RTM TV, August 20, 1992, translated by Foreign Broadcast Information System (FBIS), *Daily Report. Near East and South Asia*, August 25, 1992.

27. Moroccan RTM TV, September 8, 1992, translated by FBIS, September 9, 1992.

28. Zakyā Daoud, *Féminisme et Politique au Maghreb: Sept décennies de lutte [Feminism and Politics in the Maghrib: Seven Decades of Struggle]* (Casablanca: Editions Eddif, 1996), p. 344.

29. The actual number of polygamous marriages is very small. For example, in the Rabat region, 200 requests were made in 1999, with 150 being approved.

repudiation — the two parties were now required to be present to register the divorce, and a judge's permission to implement the divorce was required as well. In the event of divorce, male children after age 12, and female children after age 15 could choose which parent to live with. Mothers would now automatically be named guardians after the fathers, as opposed to leaving it up to judges to decide. A few additional changes were quietly introduced in subsequent years: removing the need for written permission for a woman to apply for a passport, although husbands/guardians could still actually block the application; and the granting of the right to sign contracts.³⁰

Women's activists were extremely disappointed with the results, and even questioned whether their tactics during the signature campaign should have been less blunt, and more geared to preparing the grounds for change through education of society. Nonetheless, in retrospect, it is clear that a new chapter had been opened in Morocco regarding the whole matter of the status of women.

Almost five years later, and less than 18 months before his death in July 1999, the Moroccan monarch achieved his central political goal that he had pursued over the course of the previous decade. In March 1998, the historic opposition political parties, headed by 'Abderrahmane El Youssoufi, leader of the *Union Socialiste des Forces Populaires* (USFP), assumed the reins of governance, in partnership with, and under the guidance of the monarchy. For Hasan, the creation of the much heralded *gouvernement de alternance* was crucial for pursuing a policy of accelerated, albeit controlled reform. To be sure, it is easy to be cynical about Hasan's pursuit of "homeopathic" democracy and indeed, the results of the *alternance* government's four and one-half years in power left many Moroccans disappointed. Nonetheless, Morocco did become an increasingly pluralist and more open society during those years. Not surprisingly, the question of the status of women was again thrust into the limelight. Together with representatives of the World Bank, women's and human rights groups, liberal-reformist portions of the new *alternance* government drafted a comprehensive plan to integrate women into the development process and thus fight poverty. The plan had four priorities: 1) expanding education, and particularly combating illiteracy; 2) promoting women's health and that of their offspring; 3) integrating women into economic frameworks in order to promote development and combat poverty; and 4) strengthening women's status in the legal, political, and public institutional spheres.³¹

The latter category included explicit reference to the *moudawwana*, whose alteration was declared vital for women of all social classes, and not just the élite, as a number of critics had alleged. The existing law, stated the plan, constituted a serious obstacle to participation in all forms of public life for half of Morocco's population.

Consequently, public attention quickly centered on what were essentially the

30. Laurie A. Brand, *Women, the State and Political Liberalization* (NY: Columbia UP, 1998), pp. 69-78; Valentine M. Moghadam, "Women and Citizenship: Reflections on the Middle East and North Africa," *Civil Society*, April 1999, pp. 9-15; Fadela Sebt, "Shopkeeper," entry in "Rights of the Muslim Women in Morocco."

31. The complete text of the plan can be found at www.maghreb-ddh.sgdg.org/asdholm/plan.html.

same demands raised in the “million signatures” campaign seven years earlier: abolishing the perpetual guardianship of women, which would, among other things, allow them to marry and work without permission; raising the official minimum marriage age from 15 to 18; abolishing polygamy; equalizing the right of divorce and making it subject to the courts (the divorce rate in Morocco is very high, an estimated 50%, a sign that “sacred” family bonds are under heavy stress); conferring half of the husband’s wealth on the wife in the event of divorce or the husband’s death; and giving women the right to retain custody of her children in the event she remarried. There was, however, no mention of changing the inheritance law which, in accord with Qur’anic precepts, confers on women only 50% of what their male siblings receive.

As in 1992, the response among religious circles was strongly negative. After studying the plan, the Moroccan League of ‘*Ulama*’, an official state body, declared that the plan would denigrate Islamic jurisprudence and posed a menace to the continuity of Islam. Unjustly interfering in the affairs of the family, it said, the plan would deter men from marriage and encourage prostitution and a loosening of morals. They were supported by the government’s Minister of Habous and Islamic Affairs, Alaoui M’Daghri.³² One thing that was different from 1992 was that Islamist opposition movements now openly led a campaign against changing the law. In recent years, they had become more active participants in political and social life, as liberalization expanded. Thus, the increasingly vocal calls for reform from the left-liberal sphere of Moroccan society was paralleled by increasing religio-political activism among the lower urban classes and on university campuses. A legal, predominantly Islamist party, the *Mouvement Populaire Démocratique et Constitutionnel*, had garnered 10 seats in the 1997 parliamentary elections; one year later, it was renamed the *Parti du Justice et Développement* (PJD; in the 2002 elections, it won 42 seats in the 325-member Chamber of Deputies). Its titular leader ‘Abd al-Karim Khatib expressed his opposition to the plan in plain terms, declaring that the struggle over the matter was “a war between the believers and the apostates.”³³ The umbrella body established to combat the plan declared that its efforts would constitute an “*intifada*” against “cultural globalization.” This would, it said, resemble the other great uprisings in modern Moroccan history against French imperialism and on behalf of Moroccan independence and territorial unity, such as the 1975 “Green March” to lay claim to Spanish/Western Sahara.³⁴ Thus, the opponents to the development plan played the nationalist/patriotic “card,” along with religious and cultural ones.

While democracy advocates may celebrate the competing mass demonstrations in 2000 over the *moudawwana* as a milestone in the struggle to expand the sphere of civil society, the political élite was clearly shaken by the strength of the Islamist reaction and shelved the plan. One year later, however, it resurfaced on the public

32. *Al-Hayat*, June 1, 1999; *Libération*, June 25, 1999; *Ha’aretz*, August 26, 1999.

33. *Maroc Hebdo International*, July 2, 1999.

34. *Al-Tajdid*, November 10, 1999; Tony Hodges, *The Roots of a Desert War* (Westport CT: Lawrence Hill & Co., 1983); John Damis, *Conflict in Northwest Africa: The Western Sahara Dispute* (Palo Alto, CA: Hoover Institution Press, 1983).

agenda. Muhammad VI had already gone out of his way to express his sympathy with women's aspirations. Now he met with women's advocacy groups, and appointed with much fanfare a committee headed by Supreme Court Justice president Driss Dahak to study the matter and propose appropriate changes. The committee was composed of a cross-section of people, including members of the *'ulama'* and women of both traditional and liberal bent. At first look, it appeared that the scenario of the early 1990s was about to play itself out again, a scenario of delay and, at best, minor incremental changes only. But the decade of developments since the original petition campaign pointed to the possibility of more far-reaching changes. In January 2003, former Foreign Minister and *Istiqlal* Secretary-General Muhammad Boucetta took over for Dahak as head of the committee. In March, he announced that the committee's work would be concluded within a number of months, and that instead of amending the existing law, the committee intended to recommend that a new law be tendered. Interestingly, the committee is said to have provided the king with two different sets of recommendations, one more limited in scope, and one more far-reaching.

CROSSING THE RUBICON

The series of terrorist bombs on May 16, 2003 in Casablanca that killed 37 persons was so traumatic that it was referred to in some quarters as Morocco's "September 11th." King Muhammad's initial slowness in addressing the nation in the aftermath of the bombing added a further element of concern. However, the authorities, led by the King, soon recovered from the initial shock and confusion. An iron hand was employed against the bombing suspects, their supporters and all suspected Islamists (resulting in a substantial retreat from the progress made in the human rights front). But that was not all. Determined to promote an alternative vision to that of radical Islam, the King now decided to complete the long-delayed process of altering the *moudawwana*, choosing the far-reaching version of the recommendations tendered by the Boucetta committee. On October 10, 2003, the King formally presented the Moroccan parliament with his plan to replace the *moudawwana* with a new, "modern Family Law" that was, he declared, "meant to free women from the injustices they endure, in addition to protecting children's rights and safeguarding men's dignity."³⁵ Explaining his rationale, Muhammad anchored the plan firmly within "the tolerant aims of Islam, which advocates human dignity, equality and harmonious relations," as well as "the cohesiveness of the Malikite rite and on *ijtihad*, thanks to which Islam is a suitable religion for all times and places." In presenting the main points of the new law, he referred frequently to Qur'anic verses and interpretations of the *shari'a*, which were commensurate with the proposed changes. The law included the following main points:

1. "A modern form of wording, instead of that which undermines the dignity of

35. Speech by King Muhammad VI to Parliament on October 10, 2003. <http://www.mincom.gov.ma/english/generalities/speech/2003/ParliamentFallSession101003.htm>.

women as human beings;” central to this new style of wording was the conferring of joint responsibility for the family on the husband and the wife.

2. Removing guardianship from a woman once she had come of age.

3. Establishing the minimum age for marriage at age 18 for both men and women, apart from special cases to be determined by a judge. Equality was also to be ensured in custodianship cases by allowing both boys and girls to choose their custodian at age 15.

4. Regarding polygamy, one of the most difficult of all *shari‘a* matters to reconcile with modernity, Muhammad explained that God had made it allowed, but in fact made it “almost impossible, from the Islamic legal point of view.” The new law would insist on “strict conditions...and a judge’s permission,” before permitting polygamy, including the explicit consent of the first wife, as well as allowing its prohibition within their marriage contract.

5. The process of drawing up and registering marriage contracts for citizens residing abroad was to be simplified.

6. A woman’s right to divorce was to be expanded, to include instances in which the husband “failed to observe any of the conditions in the marriage contract, or if he harmed his wife through lack of financial support, abstinence, violence, or any other wrongful deed.” A man’s right to resort to repudiation (*talaq*), on the other hand was to be limited by specific restrictions and conditions. All divorce proceedings would require judicial supervision. Divorces would not be registered until the husband had paid all the required monies to the wife and children. Divorce by mutual consent, under judicial supervision, was also to be part of the new law.

7. International agreements protecting children’s rights, which had already been ratified by Morocco, were to be included in the new law. “Children’s rights with respect to custody are also to be guaranteed by entrusting custody to the mother, then the father, then the grandmother on the mother’s side.” In the event that none of this proved possible, a judge would determine the guardian, “keeping in mind the sole interest of the child.”

9. The child’s right to acknowledgement of paternity in case the marriage was not officially registered was confirmed.

10. “In keeping with the principle of *ijtihad*, the granddaughter and the grandson on the daughter’s side, just like the son’s children, shall be granted the right to inherit from their grandfather.”³⁶

36. October 10, 2003 speech. <http://www.mincom.gov.ma/english/generalities/speech/2003/ParliamentFallSession101003.htm>.

Seeking to reconcile the differences which had arisen during the decade-old controversy over the *moudawwana*, Muhammad declared that the proposed reform “should not be perceived as an indication of one side’s victory over the other, but rather as gains for all Moroccans.” Detailed legislation would be submitted to parliament for debate and approval, he told the assembled legislators, something which had never been done previously with regard to the *moudawwana* or subsequent amendments. Moreover, the laws’ provisions, he said, “should not be regarded as flawless.” The legislators should consider them “with realism and clear-sightedness, keeping in mind that this is an *ijtihad* effort which is suitable for Morocco at this point in time, in its endeavors to achieve the development objective it is pursuing in a wise, gradual and determined manner.” At the same time, he reminded everyone of his supreme authority, and that the results of the parliamentary debate would be a foregone conclusion:

As the King of all Moroccans, I do not make legislation for a given segment of the population or a specific party. Rather, I seek to reflect the general will of the Nation, which I consider to be my extended family.³⁷

Muhammad’s speech was greeted with widespread exultation. One liberal Moroccan weekly called the speech the King’s “big bang.”³⁸ Additional liberal forces, including Berber culture associations, were greatly encouraged by the King’s decision, viewing it as corresponding to their own visions of a more pluralist and open society. Whatever more conservative and Islamist groups thought, they kept their criticism to themselves: the King had spoken. Parliament ratified the new legislation in January 2004, not before discussing myriad amendments proposed by both liberal and conservative forces. But the thrust of the legislation was intact.

In his speech, Muhammad had recognized that the new law required the establishment of a modern family court system, for which judges and lawyers alike would have to be trained. Only thus could the law be actually implemented. Over the next year, steps were taken in that direction, but the process would be lengthy. So would the process of altering traditional mindsets. For example, unwed mothers were often viewed as no better than prostitutes, and the *moudawwana*’s provision insuring the right to identify paternity was not always so easy to implement.³⁹

CONCLUDING OBSERVATIONS

The reactions among Islamist movements and conservative societal elements to the proposed changes in the Personal Status Code illustrated the extent to which large

37. October 10, 2003 speech. <http://www.mincom.gov.ma/english/generalities/speech/2003/ParliamentFallSession101003.htm>.

38. *L’Economiste*, October 13, 2003.

39. MoroccoTimes.com, March 8, 2005.

sections of Moroccan society feel threatened by anything which carries the label “modernity.” Those who favored changes opened themselves to charges not only of immorality but also disloyalty, acting in the service of Western imperialists/ Zionists/ international organizations. For example, the chief author of the 1999 development plan, Secretary of State in charge of Social Protection, the Family and Children, Muhammad Said Essaadi, was branded an “enemy of God,” and an “agent of international Zionism.”⁴⁰ The discourse of opposition and the establishment of a strict dichotomy between authenticity and foreign ways include traditional themes like fear of *fitna*. All of this fits into the widespread mantra in the developing world of opposition to globalization.

The issue of the status of women has been a mobilizing one for both proponents of women’s equality and opponents, belonging to the larger political and societal debates framed by orientations to “tradition” and “modernity.” In the late 1950s, the adoption of the *moudawwana* was part of the governing élite’s strategy of maintaining the political and social status quo.⁴¹ However, the social and economic changes experienced over the last two decades created a different set of dynamics that helped create new constituencies in favor of change. The interaction between Morocco’s reforming élites and domestic and international NGOs and institutions, created new kinds of dynamics, and women’s status came to be understood as a national concern of the first order. The larger context was that of an expanding civil society, characterized by increased contestation between different social forces. The growing strength of Islamist movements in Morocco is an inseparable part of the picture, and belies the notion that an increase in “civil society” produces a linear progression toward Western-style democracy. One additional point must be made in this regard; any analysis of this type of socio-cultural clash must take into account the position of the state. The Moroccan authorities have consistently alternated between expanding and restraining the permitted amount of pluralism, as part of their adroit strategy of managing the myriad challenges facing them. In one sense, the crackdown on Islamist groups following the May 2003 Casablanca bombings and resulting outcry of judicial abuses by human rights groups, and subsequent scrapping of the *moudawwana* in favor of the new Family Law further attests to the government’s zig-zag approach. In another sense, though, it seems that the authorities view the two matters as complementary, for the purpose of strengthening the loyalties to the regime of the liberal elements in Moroccan society and thus forestalling the advances of the Islamist current.

The very subject of the status of women has become central to the public discourse. Women in today’s Morocco are acting as agents;⁴² part of this includes efforts to write themselves into (albeit not reject) the country’s dominant historical narratives.⁴³ Not coincidentally, Moroccan Islamists now frame their discourse as acting

40. *Jeune Afrique/L’Intelligent*, March 21, 2000.

41. Charrad, *States and Women’s Rights*, p. 168.

42. The most important work on the history of feminism in the Maghrib states is that of Zakya Daoud, *Féminisme et Politique au Maghreb*.

43. Liat Kozma, “Women Writing History: Feminism and Social Change in Morocco,” *Occasional*

on behalf of women's needs, including, for example, the need to ease the divorce process and attain literacy and education. Their emphasis on women's rights to an education confirms Dale Eickelman's stipulation that Muslim societies are passing through an important process, in which individuals are acquiring greater expertise and familiarity with their own religious texts, even to the point of explicating texts. This development is likely to have long-term implications for the relations between the individual and the authorities, both state and religious.⁴⁴ One thing should be clear, however: for Islamists, the meaning of the term "Islamic feminism" is that feminism is a branch of Islam, rather than Islam being a branch of feminism.

Earlier debates within the Islamic camp over birth control and family planning were not monolithic, and this was also the case regarding the proposed changes to the *moudawwana*. For example, Nadia Yasin, the daughter and articulate spokesperson of Morocco's leading Islamist figure, Shaykh 'Abd al-Salam Yasin, declared regularly that the *moudawwana* was not a sacred text. Rather, it was the heritage of a system of political despotism that needs to be replaced with a just Islamic system, within which women's concerns will be promoted.⁴⁵ By contrast, PJD leader 'Abdallah Benkirane rejected the development plan's underlying "anti-religious ideology," which he said resulted in irrational attacks on the *moudawwana*'s principles.⁴⁶ Differing approaches and emphases should also be seen in the context of the jockeying for power and influence within the Islamist camp. But one must note that once the King had made his decision to replace the *moudawwana*, the issue was no longer a subject of public debate.

The discourse/terminology of *ijtihad* has been adopted by all, from secularists to Islamists.⁴⁷ Secularists, lacking a national leader akin to Kemal Atatürk and operating in a context not at all analogous to Turkey at the end of World War I, generally avoid challenging the prevailing order. The *Plan d'action national pour l'intégration de la femme au développement* emphasized the need to return to the Islamic legal tradition, which is "critical and innovative, based on *ijtihad* and *maqasid*" (proper intentions/goals). This approach is superficially reminiscent of the first wave of Islamic reformers a century ago, a wave which reached the Maghrib in the 1930s and 1940s. Like Allal al-Fasi, the new generation of reformers seeks to reconcile Islam with the modern world, and to show that the very notion of progress in fact derives from the principles of Islam. However, it seems safe to say that the plan's formulators

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Papers, No. 130 (Tel Aviv: The Moshe Dayan Center for Middle Eastern and African Studies, 2003) (in Hebrew); and Kozma, "Remembrance of Things Past: Leila Abouzeid and Moroccan National History," *Social Politics*, Vol. 6, No. 3 (Fall 1999), pp. 388-406.

44. Dale F. Eickelman, "The Coming Transformation Of The Muslim World" (Philadelphia, PA: Foreign Policy Research Institute) *WIRE*, Vol. 7, No. 9, August 1999; <http://fpri.org/fpriwire/0709.199908.eickelman.muslimtransform.html>.

45. *Al-'Alam*, March 14, 2000.

46. *Al-Wasat*, March 13, 2000.

47. Mernissi limits her definition of *ijtihad* to "private initiative," on the basis of 'aql (reason) and ra'y (individual judgement or opinion). By implication, this would remove *ijtihad* from the exclusive domain of the 'ulama'. (Mernissi, *Islam and Democracy: Fear of the Modern World*, pp. 18-19).

and supporters were more interested in seeking religious legitimization for their essentially modern, secular project than in genuinely engaging Islamic sources in a real dialogue. Sociologist Fatima Mernissi is an exception in this regard. However, her radical reformulation of Islamic texts to promote democracy and women's rights has not resonated widely. For oppositionist Islamists and conservatives within the political establishment alike, reference to the need for *ijtihad* also can be a form of manipulation, for the purpose of slowing things down, or redirecting the debate entirely, depending on their agendas. As for the third player in the Moroccan triangle, Moroccan monarchs too have referred incessantly to the need to pursue *ijtihad*-based reform, which aptly suited their political agendas. Muhammad VI's October 2003 discourse firmly anchored the new Family Law in Islamic principles.

Muhammad's speech demonstrated once again the crucial role that the monarchy has played in fashioning Moroccan society, including matters regarding the status of women. The monarch still serves as the ultimate arbiter for society and acts as an "orienting icon,"⁴⁸ using a selective discourse of modernity in order to promote controlled change and maintain social peace. One poignant example in this regard came in August 1993, when King Hasan delegated a white-robed and hooded woman to deliver a Qur'anic homily at the dedication ceremony of the Hasan II mosque in Casablanca before assembled dignitaries and a national television audience. It was a dramatic act, highlighting Hasan's multi-layered approach to promoting the status of women, as part of his blending of traditional and modern elements of political culture in order to exercise political power.⁴⁹

During his first four years in office, Muhammad VI demonstrated considerable continuity with his father's dualist approach towards the issue of women's status. On the one hand, he was conscious of the need to work with the '*ulama*' and conservative forces in order to prevent a radicalization and polarization of society. On the other hand, he never ceased to emphasize his commitment to the promotion of women's development and the improvement of their status. In one of his speeches to the nation, he said:

How can we talk about the progress and development of society when women, who constitute half of this society, are denied rights? Our true religion, Islam, grants them rights which are not respected. They [women] are equal to men.⁵⁰

One of the recommendations of the controversial *Plan d'action national* was partially implemented in the September 2002 elections, when 10% of the 325 seats in parliament were reserved for women. Although it fell short of the plan's recommendation to reserve 33% of the seats for women, it marked a large step forward; in each

48. M.E. Combs-Schilling, *Sacred Performances: Islam, Sexuality and Sacrifice* (NY: Columbia University Press, 1989); and Combs-Schilling, "Performing Monarchy, Staging Nation," in *In the Shadow of the Sultan*, Bourqia and Miller, eds., pp. 197-198.

49. Combs-Schilling, "Performing Monarchy, Staging Nation," pp. 197-198.

50. Moroccan RTM TV, August 20 - BBC *Monitoring Middle East* - Political, August 21, 1999. His grandfather and father had spoken in a similar vein (Daoud, p. 342).

of the previous elections, in 1993 and 1997, only two women won parliamentary seats. The new Moroccan government established after the 2002 elections included three women ministers, the largest number ever out of a total of 39 ministers. This too marked a small, but unmistakable step forward in the public-political sphere.

The trend towards further change was clear, but the scope and timing was unknown, until Muhammad's "big bang" of October 2003, which radically shifted the parameters of the discussion of women's legal rights, from the sphere of legislation to the sphere of implementation. Still, as is nearly always the case with regard to cultural clashes and conflicts, there will be no final outcome on the question of women's status in Morocco, but rather an ongoing dialectic, whose pace can be expected to quicken in the coming years. The implementation of the new Family Law constitutes one challenge among many which are on the Moroccan collective agenda. Almost half a century after independence, the Moroccan kingdom stands at a crossroads on a host of matters: its collective identity, the Islamist challenge, the increasing demands for the expansion of civil society, the pressures of poverty and its youthful population, and the difficulties and opportunities posed by globalization.⁵¹ The struggle over the standing of women is likely both to affect and be affected by the course of Morocco's overall political, social, and economic evolution. Given the intense interest in the subject, and the controversy it generated, the passage of a new family law replacing the *moudawwana* marked a seminal moment in the history of the struggle for women's equality in Morocco. It will most assuredly not be the last word on the subject. But it may well have been a transformative event.

51. Benjamin Stora, "New Challenges in the Maghreb," lecture delivered at the Moshe Dayan Center, Tel Aviv University, May 29, 2003.