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“Gender as a Determining Parameter of Democratic Appreciation in Morocco”

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October 10th, 2003 has become a historical reference date in modern Morocco. It is due to be added to other historic dates in the construction of modern and democratic institutions in the framework of a multi century old monarchic system. Under normal circumstances, this second Friday of October would just have happened to be any other calendar day, if article 40 of the Moroccan Constitution, enacted in 1996 (1), had not stipulated that the “*first session of the Parliament shall begin on the second Friday in October*” and that “*the King shall preside over the opening of the first session*”. It would have also been another ordinary Friday if it weren’t that, by application of the stipulations of article 28 of the same Constitution, “*the King shall have the right to address the Parliament (and) deliver messages before both Houses*”. The tradition has then developed that, during each opening session of the Parliament, the two Chambers convene together and listen to the King’s address, which stands for an inaugural address, or, in western terms, a “state of the union address”.

On the eve of the session, many observers, journalists and foreign diplomats were wondering about what the topic of this year’s address would be! But the most clear-sighted ones among them had enough clues to predict that, along with the reinforcement of the democratic process through recent Parliamentary, regional and communal elections, the gender issue was going to be the main event of this year’s new parliamentary session: they still remember that, shortly after accessing the throne (in July 1999), this young King had not only tackled the challenging issue of free and democratic elections, but has also raised the fundamental problem of the status of women in his first speech, delivered on August 20th, 1999. He had then announced his new concept of authority (on one side) and wondered (on the other side) “*how can society achieve*

progress, while women, who represent half the nation, see their rights violated and suffer, as a result, of injustice, violence and marginalization?”(2). Perspicacious observers also remember that he had taken significant decisions and initiatives on both fronts. Hopes grew; and actions were expected. For a young leader, the outcome is quite satisfactory for the moment. Within this multifaceted front of appreciation, the parameters of ***institutional democracy*** and ***gender equity*** deserve a closer analysis.

I. Appreciating the Democratic Parameters:

The Moroccan Constitutional monarchy aspires to function in the model of a Parliamentary system. The Constitution defines Morocco as “*a democratic, social and constitutional Monarchy*” (article 1), in which “*sovereignty shall be that of the People who shall exercise it directly, by means of referendum, or indirectly, through the constitutional institutions*” (article 2), and in which “*political parties, trade unions, local government bodies and professional chambers shall participate in the organization and representation of the citizens*” (article 3). “*The Constitution shall guarantee to all citizens the freedom of movement, the freedom of opinion, the freedom of association and the freedom to belong to any union or political group of their choice*” (article 9).

Institutionally, and under the arbitration of the Monarchy (whose powers and attributions are precisely defined by articles 19 to 35 of the Constitution), the legislative and executive powers are respectively invested in the Parliament and the Government. ***The Parliament*** consists of two Chambers: the House of Representatives (whose members are elected by universal suffrage for a five year term) and the House of Councilors (whose members are elected for nine years, with one third renewable every three years). Three fifths of the members of the House of Councilors shall be constituted by members elected, in the regions, by electoral colleges comprised of local representatives, while the other two fifths shall be constituted by members elected regionally by electoral colleges comprised of representatives of professional chambers and trade unions. As of ***the Government***, it is composed of the Prime Minister and the Ministers and is answerable to the King and to the Parliament. Within the line of classical parliamentary system political patterns, the Moroccan government may engage its political responsibility in front of the legislative body in either one of two ways: through a vote of confidence regarding a statement of general policy or through a censure motion, by which the House of Representatives may object to the pursuance of the Government’s responsibilities. Both motions may lead, if approved, to the resignation of the government (articles 75 and 76 of the Constitution). An original approach to Government responsibility has also been instituted through the voting of a “cautioning motion” by the House of Councilors, which leads to a parliamentary debate on the raised issue, but no voting effect on it. As of ***the Judiciary***, it is “*independent from the legislative and executive branches*” (article 82). A Supreme Court and a Constitutional Council oversee, at the head of the Judicial pyramid, that the principles of constitutionality and of due process of law are strictly respected by all partners.

The Moroccan political arena has always been open for free electoral competition, since pluralism and multiparty confrontation have characterized all phases of Moroccan political struggle. Even under the French protectorate, various political parties had represented the diverse trends of the Moroccan opinion. Since, independence, no less than 43 political parties have officially existed. 26 of them have presented candidates to the 1992 legislative elections and to the 1993 communal and regional elections. Eight major political parties stem out from the mass runners and continuously animate the political debate. A center left coalition is presently forming the government who is led by a technocrat Prime Minister. But, the game is permanently open for alternation.

It is within this scope of political power distribution that the king is maneuvering to implement democratic complements through the encouragement of NGO activities, the development of efficient literacy programs, the active follow up of massive educational reform at the primary and secondary levels as well as at the university level, through the incitation to better rural schooling of young girls and, more recently, through tackling the much muddled issue of gender equity.

II. Tackling the Gender Issue:

Ever since his to the throne of his ancestors in the summer of 1999, King Mohammed VI has erected himself as the apostle of democratic change. On all fronts, he has boldly and skillfully engaged in an irreversible process of change. It has also been demonstrated that, in his multifaceted democratic construction, the gender issue has occupied a privileged position. The king himself acknowledges that a lot remains to be done in this field. But, he reaffirms his determination *“to carry on with all substantive reforms”* (3).

In his approach to this issue the king and his government have adopted a very cautious attitude aiming at generating the desired change without alienating the support of a basically pious and conservative population. They have been aware of the growing domestic and international pressure; but were also aware of the incurred risks of any brutal changes.

Within the UN Committee on Elimination of Discrimination against Women, as in other international instances, the pressure grew stronger. International experts wondered about *“how religion could fit in with legislation on the elimination of discrimination against women”* (4). They further pressured Morocco, arguing that *“Moroccan Society has changed and the law has to be innovative and develop according to legal changes in the country. Morocco has international obligations in addition to its State religion”* (4). Others underlined the fact that, even though *“the implementation of the Convention was one of the Government’s priorities, that must translate into concrete measures that directly impact Moroccan women; while the Convention had been ratified in 1993, extensive discrimination persisted”* (5). While others focused more on the position of women within the family status, estimating that there is *“serious discrimination in marriage as far as divorce and custody of children are concerned (and that) today, de jure and de facto discrimination continued in Morocco: Men remained heads of the family, and they were the ones making decisions for women”* (6).

Multiple non flattering reports accumulated as were published seemingly alarming statistics; yet, the system held firmly and went on working on the reform silently, but resolutely. Thus, observers remarked that tentative progressive *“initiatives have met massive resistance within the strong religious groups, especially with respect to the controversial reform of women’s legal status in marriage and family law issues (...) While the political leadership slowly starts to embrace the ideals of promoting women socially and in politics, women’s situation in rural areas however remains poor and women are subdued patriarchal marriage institutions”* (7). According to a study carried out in the year 2000 by the “Democratic League for the Rights of Women”, 22% of Moroccan women are married without their consent, while 7.9% among the covered sample have declared that they had been forced into marriage. The same study has established that 49.8% of the divorced women had been simply repudiated, while 50.2% have obtained their divorce by referring their case to Justice. 73.3% of these divorced women by judicial decision had given up their right to the legally established alimentary pension (8). In the same year, the country faced massive conflicting demonstrations: in March 2000, an estimated 50,000 demonstrators marched peacefully in the

capital city Rabat in support of political reform in the area of women's rights. At the same time, Islamist groups organized a counter demonstration in Casablanca that drew an estimated 150,000 to 200,000 persons protesting such a reform (9).

On the domestic front, pressure was also growing, but changes were also occurring; since the aftermaths of the 1975 'First International Year of Women', groups of young militants started lobbying (10) for the evolution of the gender issue, until the creation, in 1985, of the first activist association of women (11). In 1993, the first two women accessed to the Moroccan Parliament and, in 1996, for the first time in Moroccan history, 4 women cabinet members were appointed in the Government. In 1997, and according to a government survey, 76 NGO's were actively defending the promotion of women's rights, and advocating enhanced political and civil rights for women. Along with them numerous other NGO's worked on providing shelter for battered women and on teaching women basic hygiene and child care. Ever since, the situation of women in Morocco has marked significant improvements. In March 2000, for the first time in the country's history, King Mohammed VI, less than nine months since his accession to the throne of his ancestors, appointed a female royal counselor in his inner cabinet. In August of the same year, he appointed another woman as head of the National Office of Oil Research and Exploration. In October of the same year, he also appointed the first woman as head of the national Tourism Office. In 2002, he also appointed the first woman president of a university as well as the first woman member of the Royal Research Academy. Meanwhile, he had appointed a Royal Consultative Commission for the Revision of the "Moudouana", within which four women, mostly scholars, were very active defending the progressive initiatives of a reform which was initially met by resolute conservatism of most of the other male members of the commission. Among them were a few of the most prominent names in contemporary Moroccan intelligentsia: M'Hamed Boucetta, former Secretary General of the conservative nationalist party "Al Istiqlal" (President of the Commission), Ahmed Khamlichi, Director of the School of Islamic Studies "Dar Al Hadith Al Hassania", Mohamed Touil, Professor at the historic school of theology "Al Qaraouine University" (founded in 867 a.c.), and others. They had no comparison with the authentic aura of their predecessors of the 1957 Committee, such as the senior Islamic theologians Sidi Mohammed Bellarbi Alaoui, Sidi El Mokhtar Soussi, Sidi Allal El Fassi and Sidi Ahmed El Badraoui, who had then drafted an evidently conservative document, or with the prestigious weight of the 1993 committee of theologians among whom were two counselors to King Hassan II (Abdelhadi Boutaleb and Ahmed Bensouda), the president of the Supreme court (Mohamed Mikou), the Minister of Justice (Moulay Mustapha Bellarbi Alaoui, whose father had participated in the drafting of the first "Moudouana") and the Minister of Islamic Affairs; but the members of the new team still held prestigious positions in the present day Moroccan chessboard. Their role was to discuss ways to change the family law, keeping in mind the need to adapt the spirit of society to the demands of modern times. During the summer of this year (2003), he had insistently urged the Royal Committee to present its report to him and finally set a deadline for its submission in mid-September. All indicators were then pointing at an imminent issue to this key question.

Then came the King's speech; it was clear and straight to the point:

"Praise to God, Peace and Blessings be upon the prophet,

"Ladies and gentlemen, Honorable members of the Parliament,

"I am opening this session of Parliament as a last step in the process of renewing constitutional institutions, thus showing how determined I am to set the democratic process on the right track. This is an irreversible choice, whatever the challenges ahead (...)

“This issue certainly calls for far-reaching changes in old mentalities and public perceptions. We must open the way for women so that they may participate in all sectors of national life ...” (2).

This bold and daring initiative had the effect of a genuinely change generating revolution within the historically conservative context of the Moroccan Kingdom. All fringes of the population as well as all elements of the political and social leaderships of the country received the news with diversified reactions: Mustapha Ramid, a local outspoken Islamic lawyer of Casablanca, and president of the Islamic group in the Parliament (Party of Justice and Development), considered that this project would “alleviate the burden of injustice that prevailed over women” (12). Amina Lamrini, leader of the ‘Democratic Association of the Women of Morocco’ deemed, for her part, that “the project represents a considerable progress” (13). Khadija Reggani, leading member of the ‘Moroccan Association for the Rights of Women’, estimated that “the project renews hope among women and stimulates their participation in global development” (14). Layla Chaoui, reknown woman activist within the civil society, and manager of a publishing company, considered that “the announced reform doubtlessly represents a considerable step forward” (15). Even Islamic extremists welcomed the registered progress, but kept expressing concern for its possible foreign origins: for Nadia Yassine, key woman Islamist activist leader, and daughter of Abdessalam Yassine, founder of the extremist Islamic movement “Al Adl Wa Alihssane”, considered that despite the apparent progress of the project, “it is not necessary to put our culture in the scope of schools of foreign societies in order to find solutions to our problems” (16), while Driss Kettani, one of the historic conservative founders of the Moroccan “League of Oulemas” after independence in 1956, states about this new project that “at first sight, there appears to be in it nothing against religion”(17); but he still considers that “the status of women in Islam is unique and any controversy on the gender issue has always been the characteristic of colonial western civilizations in which family values no longer exist and which want to involve the Islamic civilization in the same mechanism”(17).

A large debate has generated and is presently going on in the media, in public spheres and among the various components of the civil society. For its part, the press and media in all Arab and Islamic countries have echoed this initiative (18). The project has also been submitted to the Parliament which will need to discuss the bill and vote the new law pertaining to the new ‘Family Status’. It will then be worth assessing the outcomes of such a daring initiative. Meanwhile, the document remains only a draft so far. Nothing of its content is definitive. Yet, it is still worth examining, given the originalities of its bold proposals for the context of an Arab and Islamic society.

The king has also expressed his awareness that “it became clear during the implementation of the ‘Moudouana’ as it stands, that, in some respects, the inadequacies and shortcomings which have been noted are due not so much to certain provisions, but mostly to the absence of a family judicial system, having the necessary material and human resources as well as clear procedures. The aim is to ensure that justice is administered and rulings are enforced fairly and swiftly” (19). He then ordered the minister of justice of his government to go ahead with the implementation of the necessary accompanying structures so that the projected reform can have better chances of success: “I order that you should set up suitable facilities for the administration of family justice in all courts of the kingdom, and to ensure that staff are trained, at all levels, and qualified to shoulder their future responsibilities” (19).

**Cambridge, May 5 2004.
Dr. Hassan Rahmouni.**

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- (1) - Since its independence in 1956 from a French Protectorate, Morocco has enacted 5 Constitutions: 1962, 1970, 1972, 1992 & 1996; through this constitutional evolution, it has built a system based on a Constitutional Monarchy, in which the government is controlled by a bicameral Parliament and the Judiciary is independent from other powers; the multiparty system has also allowed the launching of relatively free elections.
 - (2) - Maghreb Arab Press News Agency (<http://www.map.co.ma>), Speech delivered by His Majesty King Mohammed VI at the fall opening session of the Parliament, October 10, 2003.
 - (3) - Idem.
 - (4) - Hugette Bokpe Gnancadja, UN expert from Benin, UN Committee on EDAW, op. cit.
 - (5) - Pramila Patten, UN expert from Mauritius, UN Committee on EDAW, op. cit.
 - (6) - Aida Gonzalez Martinez, UN expert from Mexico, UN Committee on EDAW, op. cit. 07.15.2003.
 - (7) - "Enhancing Women's Political Participation in Morocco", in AFROL News, June 3, 2001, www.afrol.com .
 - (8) - "7.9% of Forced Marriages in Morocco", PANA Nouvelles, www.famafrique.org .
 - (9) - "Enhancing Women's Political Participation in Morocco", in AFROL News, June 3, 2001, www.afrol.com . op.cit
 - (10)-Jeanne Bisilat, "Face aux changements: les femmes du sud", L'harmattan, paris, 1997.
 - (11)-Actually, this was the first civil society initiative in promoting an association for the defense of women's rights; before it, an official organization, named « L'Union des Femmes Marocaines » was created in 1969.
 - (12)-Le Matin du Sahara, Monday, October 13, 2003, page 3.
 - (13)-"The Importance of the Reform", in 'Al Ahdath Almaghribia', Tuesday, October 14, 2003, page 2.
 - (14)-"A Modernist Democratic project", in Al Ahdath Almaghribia', Tuesday, October 14, 2003, page 2.
 - (15)-"On Behalf of All Women", in 'Le Journal', October 18 – 24, 2003, page 28.
 - (16)-"Nadia Yassine's Reaction", in Le Journal, October 11 – 17, 2003, page 13.
 - (17)-"Point of View of a Theologian' in Le Journal, October 18 – 24, 2003, page 13.
 - (18)-See the following document "Annex I" which contains excerpts of some of the MENA region media coverage of the initiative.
 - (19)-Written order of king Mohamed VI to the justice minister to set up facilities for family justice in Moroccan Courts, Maghreb Arab Press Agency (<http://www.map.co.ma>).

ANNEX I

Samples of the Press Coverage Of the Moroccan Gender Issue be the MENA Region Media

1. **Algeria:** '*El Watan*', October 21, 2003: "The announced reforms will reconstitute to the Moroccan woman her real dimension as a full partner... This reform has reasserted the Moroccan woman and has endowed her with the position which is hers within society".
2. **Egypt:** '*Al Ahram*', October 12, 2003: "This new Code consecrates the principle of equality between man and woman in rights and obligations".
3. **Egypt:** '*Al Akhbar*', October 12, 2003: "The new text is in conformity with the teachings of Islam and meets the imperative of rendering justice to women, protecting children and preserving the dignity of men".
4. **Egypt:** '*Al Joumhouriya*', October 12, 2003: "The King has endowed women with more rights in matters of marriage and divorce and has raised the age of marriage from 15 to 18 for women".
5. **Jordan:** '*Addoustour*', November 3, 2003: "The amendments contained in the project of family code represent a breeze of modernity for the Moroccan personal status code...These new progressive laws, will place Morocco in the front row of Arab countries who assure, through law and legislation, a wide coverage of civic rights of women and children".
6. **Lebanon:** '*Al Hayat*', October 30, 2003: "The newly introduced amendments aim at preserving the dignity of woman, increasing her human value and rendering justice to her... In promoting this reform, the King has referred the verses of the 'Coran' and the 'Hadiths' of the prophet".
7. **Lebanon:** '*Al Moustaqbal*', October 29, 2003: "The amendments brought to the family code sum up a real social revolution as well as a revolution in mentalities, minds and customs".
8. **Saudi Arabia:** '*Riad*', October 12, 2003: "The King has announced a Family Code which foresees new rights for Moroccan women and reforms the laws pertaining to Marriage".
9. **Turkey:** '*Hurriyet*', October 15, 2003: "The new Code will place the family under the common responsibility of the two spouses".
10. **Turkey:** '*Radikal*', October 13, 2003: "The new Moroccan family code innovates in the fields of marriage, divorce, ownership and polygamy, which become all supervised by the judge".
11. **United Arab Emirates:** '*Al Khalij*', October 12, 2003: "The King of Morocco has arbitrated the disagreements on the family code and has announced a new project for the promotion of women, in which are introduced new fundamental amendments which adapt it to the spirit of the present time and harmonize it with the changes that have occurred in Moroccan society".