

“Searching for Gender Balance in Contemporary Morocco”

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[This paper represents a mere platform for discussion which is due to be modified, completed and further refined in the light of the discussions that it will have generated at the Penn Museum International Conference: October 23-27, 2007]

Multiple analysts have been observing the encouraging changes that have recently been occurring in Morocco in the status of women. Yet, the most advised observers have been concluding to the fact that despite their growing participation in various social and political struggles and despite their active presence in newly conquered social and economic spheres, their real implication in the decision making process still remains sensibly meager. The search for gender balance in this respect as well as for the main reasons that hinder its deployment may then be fully justified.

The notion of ‘gender balance’ is employed for the purpose of the present research as the way to empower previously underrepresented women in roles that were largely dominated by men. Gender equality will then denote the search for «according to women within a given society similar opportunities in life as men, including the ability to participate in the public sphere» while gender equity will denote «the equivalence in life outcomes for women and men, recognizing their different needs and interests, and requiring a redistribution of power and resources». These two terms are in fact often used interchangeably, «expressing a liberal feminist idea that removing discrimination in opportunities for women allows them to achieve equal status to men» [1].

Applied to the gender situation in Morocco after fifty years of independence and renewed reforms, the question is again worth exploring!

On September 7th 2007, were organized in the Kingdom of Morocco the most recent legislative elections aiming at the appointment of 325 representatives in the first Chamber of the Moroccan Parliament. By all standards, they have proven to be authentically democratic, thus representing an excellent material for political analysis and a rich source of political teachings. Never before had Morocco experienced such a transparent vision in its electoral process nor had it been as successful in maintaining a strict neutrality of its public administration, even though it has been experiencing pluralism for more than seventy years and practicing multi-party candidacies for more than fifty years. How did women’s breakthrough function in this electoral context may well too be very revealing.

The US State Department spokesman, Sean McCormack immediately and publicly congratulated Moroccan authorities for “a poll totally in accordance with international standards” thus reiterating the support of the US government for Morocco’s endeavor to build “representative and democratic institutions” [2]. For his part, the newly elected French President Nicolas SARKOZY praised the “success of the recent legislative poll” and addressed his “congratulations for the democratic vigor proven again” by Morocco [3]. Similarly, the European Union expressed the same feelings both through the declarations of the President of its Parliament, M. Hans-Gert Poettering (for whom « the

unfolding of the recent elections which were free represents a strong signal of Morocco's engagement to respect the rules of democracy ») [4] and through the views expressed on the same subject by Mr. Javier Solana, High Representative of the EU in charge of Foreign Policy and Common Security and by Mrs Benita Ferrero Waldner, High Commissioner in Charge of EU Foreign Relations and Neighborhood Policy. While the former underlined that « these elections represent a strong signal of the continuous engagement of the country in a process of democratization and of political, economic and social reform » [5], the latter also stressed « the democratic conditions in which these elections took place thus witnessing of Morocco's engagement in the process of political, economic and social reforms " [6]. Democracy as a perfect guarantee of equal opportunities should normally imply a renewed breakthrough opportunity for more gender equilibrium in public institutions.

The expectation may thus be normal for the advised observers to see all fringes of the population benefit equally from this resolutely democratic will and to effectively confirm that the nourished high hopes are successfully becoming realities, most particularly regarding the gender issue which has long been ailing from neglect! This is mostly so that the newly crowned King, who accessed the Throne of his ancestors in 1998, has been sending strong signals of his resolute will to generate real change in the status of Moroccan women. Let's explore the changes which have occurred in the last ten years in a few relevant fields of political and social action:

1. A Few Demographic Parameters
2. A Key Objective of the 2005 National Millennium Development Plan
3. A Mitigated Political Equality
4. Sensitive Changes in the Family Status

1. The Demographic Parameters

The most recent legal census of the Moroccan population has established the official figures for the year 2004 at 29.9 Million inhabitants [7] (compared with the 11.6 Million censused in 1960, the population has almost tripled in four decades). Official statistics of 2006 [8] updated this evaluation to a little more than 30.5 million inhabitants (15.1 Million males and 15.4 females).

	Male	Female	Total
Urban	8.423.509	8.658.730	17.082.239
Rural	6.679.247	6.747.795	13.427.042
Total	15.102.756	15.406.525	30.509.281

The average annual increase of the population has been evaluated for the period between 1994 and 2004 at 1.4% (compared with 2.1% for the preceding period of 1982 to 1994). The urbanization rate of the population has reached 55.1% in 2004. [9]

The main gender characteristic of the Moroccan population is marked by the low alphabetization level of the total population in general (43% in general and 60.5 % in rural areas) and of the female population in particular (70% of the women aged more than 35 and more than 80% of the rural women aged more than 25 are totally illiterate) [10]. Thus, an important portion of the Moroccan population aged more than 10 has no educational level at all (43%), elementary school level population hardly reaches 29.5%, high school level population reaches 22.7% while university level population barely reaches 5% [11].

About 19 million of the Moroccan population is between 15 and 59 years of age (63% of the total population) and is therefore legally eligible to be economically and socially active (9.7 million females and 9.3 million males). The occupation rate of each category is however substantially unequal: 7.2 million women are unemployed or inactive for only 2.5 million men.

These figures become drastically unequal when analyzed in rural areas: The total rural population of Morocco was evaluated in 2006 at 13.427.042 inhabitants almost evenly split between men and women; the occupation ratio shows however that 3.8 million men for a little more than 4 million women are in the potentially active age category in these regions; but real occupation rates show a real deficit for the female category: about 2.5 million women living in rural areas are unemployed or inactive for only 0.7 million men. [12]

Brought back to the age category between 15 and 24 years, the available statistics [13] on activity rate show that 62 % men of the total male population for only 23.8 % women of the total female population are effectively exercising an income generating activity.

This non flattering reality reflects the relative failure of different multi-sector development policies and has mainly stemmed from the voluntary policy of structural adjustment carried out during the eighties. Lessons that have thus immediately been drawn have led the government to adopt, in 1993, a new strategy of social development, marked mainly by a will to reinforce the social aspects of its rendered services [13].

In this context, special attention has been given to gender concerns and to the need to promote the role of women in the development process of the country. The action programs then launched in the mid-nineties have however proven to be insufficient and largely justified the call for a new '**National Initiative for Human Development**' launched on May 18th 2005, in the aftermaths of Morocco's engagements within the 2000 UN Millennium Summit that led to the adoption by the UN General Assembly, on September 8th 2000, of the '*United Nations Millennium Declaration*' [14]. Among other objectives, the will "to promote gender equality and the empowerment of women" has thus clearly been set out. New initiatives and precise objectives were fully integrated within essential national policy choices.

2. The Gender Objectives of the 2005 National Millennium Development Plan

Despite numerous economic and social difficulties, Morocco has launched since the beginning of the present millennium a voluntary social and human development policy. Public expenditures reserved to the social sectors represent more than 50 % of

the State budget. Schooling efforts have particularly been remarkable, mainly concerning school age girls in rural areas: the progression of the schooling rate of girls has moved from 30.1 % to 78.5 % between 1994 and 2004, while the schooling of young boys during the same period has moved from 55.7 % to 88.5 % [15]. The progressive change of the status of women within the Moroccan society has been given utmost priority by policy makers.

Among the eight main objectives assigned by the public authorities to all the development partners (government and civil society alike), three are particularly applicable to women: “**generalizing elementary education for all**”, “**promoting gender equality and fostering autonomy of women**” as well as “**improving maternal health**”.

Regarding the issue of gender equality, four targets were clearly set out:

- Eliminate gender disparities in primary and secondary education by the year 2005 and at all levels of education by the year 2015.
- Reduce gender disparities in employment opportunities, equal salaries and equal chances of access to resources, i.e. loans, goods, land, etc...
- Reach a 1/3 ratio of women representation in leadership positions within the legislative, executive and judiciary branches as well as within all decision making instances.
- Eliminate all legal discriminatory stipulations and reduce by half violence against women.

Thus gender equality was apparently sought as a target of all the programs involving human activities. These targets evidently found their justified place within the large context of democracy renewal and societal modernization that the country started experiencing for a little less than a decade.

Target N° 1 effectively seems to be potentially achievable: between 1990 and 2004, the number of women university graduates has more than tripled, moving from 42.628 to 146.000. The rate of feminization in the schools of medicine, pharmacy and dentistry reaches 60 % of the total student enrolment [16]. Gender disparities within the economic spheres (target N° 2) have also been registering visible progress. A few women have sensibly penetrated the public space both at high levels of administration and at various other levels of political and economic decision making. Although the feminization rate of the active population remains relatively modest, it has been in constant progression during the past few years: In 2001, activity rate for women barely reached 25.6 % (compared with 78.1 % for men) and climbed to 28.4 % in 2004, while the male rate had slightly dwindled to 77.5 %. In terms of salaries, although discrepancies do not exist in the civil service, they remain prevailing in the private sector where the remuneration of women is in most cases limited to the SMIG (guaranteed minimal inter professional salary). The higher you move in the hierarchy, the less visible is the discrimination. As of access to resources, it remains sensibly marked by cultural discriminatory reflexes, while statistics about the target pertaining to violence against women are relatively scarce. Some of the accessible ones are particularly alarming. In

1999, Casablanca Tribunals registered 5368 cases among which 78 % involved men: Needless to elaborate on the possibly real situation in rural areas.

Thus, concretization of gender equality and women's autonomy might prove to be a long run target. Beyond the public effort, women's associations are particularly active in engaging into promising partnerships at the national and international levels. They are fostering communication and field action initiatives aiming mostly at:

- Making the Orientation Council for Feminine condition more operational, in terms of making it more efficient in monitoring and evaluating the policies in favor of women;
- Introducing the gender approach in the conception, execution, follow up and evaluation of policy developments;
- Harmonizing the Moroccan legal instruments with the internationally prevailing stipulations;
- Calling upon positive discrimination to correct the men/women discrepancies in leadership instances representation;
- Carrying out the programs aiming at enhancing the perception of women through the media in order to reach all layers of the population and influence their mentalities.

The mission certainly appears to be substantial and needs more effective involvement of women in strategic and political decision making in order for real and effective changes to be registered.

3. Political Equality

Article 8 of the 1996 Moroccan Constitution clearly stipulates that «Men and women enjoy equal political rights» and that «All adult citizens of both sexes enjoying their civil and political rights are voters». The political will is therefore clearly established that gender political equality must prevail in Morocco. It is so much so that the same wording of the same article 8 has survived all four constitutional amendments that Morocco has known since the enactment of the first Moroccan Constitution by popular referendum on December 7th 1962, i.e. those that occurred on July 24th 1970, March 1st 1972, September 4th 1992 and September 13th 1996.

Not only have Moroccan women had the right to vote from the outset, i.e. since the first communal elections held in 1960 and the first legislative elections organized in 1963, but they also have enjoyed from the beginning the right for candidacy and for free access to elected positions, long before this right had been conceded to women in Algeria (1962), Iran (1963), Sudan and Libya (1964), Yemen (1967) Bahrain (1973), Jordan (1974) and ... Switzerland (1971). Yet, despite the existence of this right, the outcomes have still been very meager!

Between 1960 and 1993, no woman had ever managed to be elected to an official position either in the commune or within the Parliament. Only 14 women candidates had run for seats at the 1960 communal elections, on a total number of candidates reaching

17174, while, in the 1963 legislative elections, only 3 women candidates had run for office with a totally disappointing negative end result as an outcome. For the first time, the issue of the 1993 legislative poll allowed two pioneer women to make their entry to the Chamber of Representatives: these were Mrs. Badia SKALLI, a USFP militant and Mrs. Latifa BENNANI SMIRES, one of the key leaders of the Istiqlal Party.



Mrs. Latifa BENNANI SMIRES



Mrs. Badia SKALLI

For the first time in 1995, four women accessed the government in a bulk, and seats have been reserved ever since for female representation. In 2002, the number of women candidates to the Chamber of Representatives became however twelve times more important than in 1997. But, there were still only 266 women candidates among a total of 5,873 candidates and only 26 women who were heading electoral lists from a national total of 1,772 lists. Thus only five women managed then to be elected to that Chamber in the 2002 poll: representing respectively the Istiqlal Party (2), the Party for Justice and Development (2) and the Constitutional Union (1). A need for innovation was certainly and profoundly felt by most political actors. That's mainly why, thanks to a positive discrimination consensus between the public powers and the most representative political parties, a quota formula had been reached in 2002, allowing the bulk entry of 30 supplementary women in the Parliament within the context of a national electoral list reserved for women candidates only, i.e. reaching a total representation of 10.8%! The path was therefore paved for more field action and more gender solidarity towards more effective implication, also leading to the creation, in 2005, of the "**Forum for Moroccan Parliament Women Members**", an entity which main declared objective is the pursuit of the consolidation efforts of women's implication in decision making, public responsibility and legislative action.

Thus, 2007 statistics pertaining to female occupation of key positions, although still relatively limited, has sensibly increased. It may be summarized as follows:

- One woman Counselor to the King, Ms Zoulikha NASRI (among half a dozen male personal Counselors to the King, forming a real inner Cabinet).



Ms Zoulikha NASRI

- This same lady had also been one of the four first women ever to be appointed as members of the Government on August 14th 1995 respectively as junior minister in charge of 'Social Affairs', along with Mrs. Nawal El-Moutawakil (gold medalist in Athletics during the 1984 Los Angeles Olympic games) in charge of 'Sports', Mrs. Aziza BENNANI, in charge of 'Culture' and Mrs. Amina Benkhadra, in charge of 'Development of the Mining Sector'.



Mrs. Nawal El-Moutawakil



Mrs. Aziza BENNANI



Mrs. Amina Benkhadra

- Presently, and for the first time ever, seven women ministers have been appointed on October 15th 2007 within the government led by Prime Minister Abbas EL FASSI (composed of 33 members). In the previous government, composed of 34 members [June 2004 - October 2007] there were only two women: Mrs. Nezha CHEKROUNI, Minister in charge of Moroccans residing abroad and Mrs. Yasmina BADDOU, Secretary of State in charge of Social Development, Family and Solidarity).



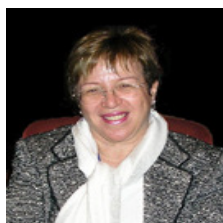
Mrs. Nezha CHEKROUNI



Mrs. Yasmina BADDOU

The seven newly appointed cabinet members are respectively in charge of the following sectors:

- 🇲🇦 Mrs Amina BENKHADRA, **Energy, Mining & Environment**
- 🇲🇦 Mrs. Yasmina BADDOU, **Health**
- 🇲🇦 Mrs. Nawal MOUTAWAKIL, **Youth & Sports**
- 🇲🇦 Mrs. Nezha SKALLI, Social **Development, Family & Solidarity**
- 🇲🇦 Mrs. Touria JEBRANE, **Culture**
- 🇲🇦 Mrs. Latifa ELABIDA, **Elementary Education**
- 🇲🇦 Mrs. Latifa AKHARBACH, **Asst. Minister for Foreign Affairs**



Mrs. Nezha SKALLI



Mrs. Touria JABRANE



Mrs. Latifa ELABIDA



Mrs. Latifa AKHARBACH

- Three women members of the Chamber of Councilors (2nd Chamber in the Parliament) within a total of 270 counselors: Mrs. Khadija ZOUMI and Mrs. Khadija GHAMRI representing the trade unions and Mrs. Zoubida BOUAYAD, representing decentralized entities, all of them elected through indirect polls for a nine year term.



Mrs. Khadija ZOUMI



Mrs. Khadija GHAMRI



Mrs. Zoubida BOUAYAD

- Four Women members of the Chamber of Representatives (1st Chamber in the Parliament) within a total of 295 deputies, all issued from the recent September 7th legislative elections organized nationwide: Mrs. Fatiha LAYADI (Independent), Mrs. Latifa JBABDI (USFP Party), Mrs. Fatna EL KHIEL (Popular Movement Party) and Mrs. Yasmina BADDOU (Istiqlal Party), elected through direct polls for a five year term.



Mrs. Latifa JBABDI



Mrs. Fatiha LAYADI



Mrs. Fatna EL KHIEL

- Thirty more women members elected to the same Chamber through the national list reserved to women only within a positive discrimination process [17], the total number of women members of the Chamber of deputies thus reaching 34 among a total of 325 members (compared with 35 in the previous legislature).
- One woman is a leader of a (minor) political party: The Party for a Democratic Society (PSD) whose secretary General is Mrs. Zhor CHEKKAFI:



Mrs. Zhor CHEKKAFI

- One woman governor: Mrs. Fouzia IMANSAR



Mrs. Fouzia IMANSAR

Sensitive openings for new incoming women into high levels of public service decision making hierarchies have also been registered during the past and present decades: numerous numbers of women judges, a few presidents of tribunals and courts, as well as one president of a Supreme Court Chamber (Supreme Court Justice, Mrs. Saadia Belmir). In 1998, Mrs. Fathia BENNIS was the first woman appointed to the prestigious function of President of the Casablanca Stock Exchange and in the year 2001 Mrs. Rahma BOURQUIA was appointed as the first president of a university.



Mrs. Saadia BELMIR



Mrs. Fathia BENNIS



Mrs. Rahma BOURQUIA

For their part, elected women members of city councils are also becoming very common, including a few posts of mayors. But, even though the number of women candidates to communal elections has quadrupled between 1997 and 2003, women candidacies are still limited to a mere 0.34 % and the ratio of actual communal councilors barely reaches 0.54 %.

In the diplomatic sector, more than women ambassadors have also been accredited at different times in a few key capitals: these are H.R.H Princess Lalla Aïcha (Rome and London), Mrs. Zohour ALAOUI (Stockholm), Mrs. Farida JAÏDI (Brasilia), Mrs. AÏCHA ELKABBAJ (Copenhagen), Mrs. Mina TOUNSI (Dublin) and Mrs. Aziza BENNANI (UNESCO). The latter is even presently a candidate for the 2009 election of the Secretary General of UNESCO after having been elected, in November 2001, as chair of the Executive Council of the General Conference of UNESCO.

As of women who have emerged within the business community, merit has been more inherent to their personal skills or family acquaintances than to any regulatory will of public authorities. Among these, a growingly remarkable name has recently been that of Mrs. Khalida AZBANE BELKADY, General Manager Of the

'Azbane Perfume & Cosmetics Group' and Deputy Chairwoman of the powerful national lobby of businessmen: The General Confederation of Moroccan Entrepreneurs (CGEM).



Mrs. Khalida AZBANE BELKADY

Yet and despite all this growing number of glittering candidates for involvement in political decision making, power realm has proven to give reason for better and more efficient influence on strategic national processes through a mere case of matrimonial choice ! That's why the reform of this sector has also proven to be a key element in contemporary Moroccan social and political progress.

4. The Family Status & the 'Muduana' (مدونة الأسرة)

Here may be asked the question pertaining to the extent to which the stipulations of the above mentioned article 8 of the Constitution may be applicable! Is it meant somewhere that what is really sought is complete gender equality? And if so, can this resolute political choice be conciliated with the religious teachings of Islam? While multiple other constitutional stipulations clearly use the word "equality", in no context whatsoever is that terminology clearly linked to gender equality.

Let's explore the different constitutional wordings of article 5 ("All Moroccans are equal before the law"), article 12 ("All citizens can access, in the same conditions, the public jobs and functions") and article 13 ("All citizens are entitled to education and work under the same conditions")! Equality is thus mentioned to govern different contexts. But the only time when both men and women are mentioned as objects of equality, it is in article 8, pertaining to the political equality that has been examined above: "Men and women enjoy equal political rights". But the same Constitution also contains a major stipulation referring to the fact that "**Islam is the religion of the State**" (Article 8). And this clause will bear substantial meanings when it comes to introducing what has been considered as somewhat daring gender reform.

Morocco's initiatives were not only answering a national and local realm, but they also perfectly fit within the then newly growing regional and international context of political reform. At the beginning of the present decade, gender equality had been strongly underlined in Richard Haass's 2002 modern definition of democracy that has guided America's foreign policy choices under G.W. Bush's first term in the white House. This sensitive issue of gender had thus grown to become an unavoidable clue to democratic achievements. In the arguments set forth by Secretary of State Colin Powell to push his MENA region initiatives forward, was strongly underlined the argument that this issue concerns in most cases the access of more than half the population to its basic political and social rights. Its was therefore evidently understood that a society which

fosters women's subordination to a dominant male leadership paves the social bases for more servility of subjugated men towards other men, which is, of course, a total negation of democratic values [18].

Morocco's reaction was immediate making of the date of October 10th 2003, a historic day in the history of Morocco's gender reform: 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, 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 had 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 had been wondering about what the topic of that year's address was going to 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 that 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 had 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?"[19]. Hopes grew; and actions were expected.

In his approach to this issue the king and his government had 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" [20]. 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"[20]. 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" [21]. 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” [22].

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” [23]. 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 [24]. 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 [25].

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 [26] for the evolution of the gender issue, until the creation, in 1985, of the first activist association of women [27]. 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 on his ancestors, appointed a female royal counselor in his inner cabinet. Meanwhile, he had appointed a Royal Consultative Commission for the Revision of the “Moudouana” [الشخصية الأحوال مدونة], 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. And a few others who 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, which was clear and straight to the point: “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 ...”.

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” [28]. Amina Lamrini, leader of the ‘Democratic Association of the Women of Morocco’ deemed, for her part, that “the project represents a considerable progress” [29]. 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” [30]. Layla Chaouni, re-known woman activist within the civil society, and manager of a publishing company, considered that “the announced reform doubtlessly represents a considerable step forward” [31]. 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” [32], 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” [33]; 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” [33].

A large debate has generated 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 [34]. The project has also been submitted to the Parliament which discussed the bill and voted the new law pertaining to the new ‘Family Status’. 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 [35]. 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” [35].

The previous situation the modification of which was sought can be summarized as follows:

- Up to the independence of Morocco in 1956, gender and family status for Muslim Moroccans was fundamentally based on the ‘Malekite Fiqh’ [الفقه المالكي] references, as applied by the ‘Charia’ Jurisdictions [المحاكم الشرعية], while the Moroccan Jewish families depended upon ‘Hebraic’ family status as applied by Moroccan ‘Hebraic’ Tribunals. It was, and has been, evidently accepted that different statuses were applicable to different nationals from different confessions,

mainly that article 3 of the Moroccan Code of nationality of September 6th, 1958 clearly stipulates that “the law on family status and heritage specific to Moroccan Muslims is applicable to all nationals except the Moroccans of Jewish confession who depend on the Moroccan Hebraic family law”.

- Thus, for the Muslim community, the Moroccan newly enacted legislation after independence, pulled mostly from the traditional “Malekite” rite [36] in elaborating the regulations of the family status. Beyond the general spirit presiding over the elaboration of the whole document, three articles of the “Moudouana” (articles 82, 172 and 216) were similarly formulated in terms openly referring to the “Malekite” rite: “All cases that are not solved by the present code, will be settled by reference to the most authentically prevailing (Arrajii) or the most constantly used (Al machhour) opinion and tradition of the Malekite rite”. Article 297 was also formulated in relatively similar terms: “For all situations not provided for by the present code, it imparts to refer to the most pertinent or best known opinion or to the most recurrent tradition within the Malekite rite” (Arrajii Oua Al Machhour) [الراجع والمشهور]. The peculiarity of the Imam Malik’s approach is that, beyond his primary reference to the “Book” [الكتاب], the “Sunna” [السنة] and the “Ijmaa” [الإجماع] (Consensus), he also refers to the “tradition of the people of Medine” [المدينة أهل أعمال] as a complementary source for the teachings of his rite. For this purpose, he would observe the daily attitude and behavior of the people of Medine as close contemporary neighbors of the Prophet, and draw pertinent teachings from his observations. In choosing this approach, he was evidently opposed by other key theologians such as the Imams Chafai, Ghazali and Ibnou Hazm. But even though, his school of thought made its way and prevailed all over Islamic Andalusia (mostly within the school of Cordoba) and in the Muslim Maghreb (mostly in Fes). It is within the context of this Malekite heritage that was set up, in August 1957, a committee of Islamic Scholars called upon to draw a draft of ‘Family Law’.
- As for the Moroccan Hebraic family status legislation, it remained basically traditional, customary and non-codified. It is solely based on theological interpretation of the “Thorah” and on the “Talmudic” ‘Mishna’ set forth in the 3rd century by Rabi Juda Hadushen. Over the centuries, “Rabbis adapted religious texts without touching the dogmas” [37]. Writings and ‘Ijtihads’ of Moroccan Rabbis set the basic reference for Moroccan modern tribunals which always include a ‘Hebraic’ judge in charge of settling family disputes (if any) among the members of the Moroccan Jewish community. “It is the Grand Rabbi of Morocco who is in charge of the application of the ‘Family Status’ of the Moroccan Jewish community. The fundamental treaty which regulates life of the Jews is called ‘the Halaka’ (which means ‘the March’ in Hebrew), a way to behave, to live in family and in the community” [37].
- Concerning the already existing Moroccan “Moudouana” [as modified in September 1993] [38], some of its main rulings regarding the gender issue were mostly related to marriage, divorce and succession in heritage: Marriage was thus defined as a legal contract which aims at founding a family “under the care of the husband” (article 1). It cannot, however, be formed without “the formal agreement of the bride” who also needs to sign the document of marriage (article 5, #1). Yet, the marriage contract needs to be agreed upon for her by

a “wali” [a sort of tutor] (article 5, #2), who must be a male relative [son, father, brother, grand father, etc...] (article 11). In certain circumstances, **“the judge may act on her behalf”** instead of a possible abusively opposing “wali” (articles 9 & 13). The **“matrimonial age for the woman was 15”**, while, for the man, it was 18 (article 8). Yet, article 9 stipulated that this age could still be lowered with the agreement of the “wali” or by decision of justice. Regarding polygamy, the previous “Moudouana” acknowledged its acceptance in absolute terms. Article 30 specified, however, that the first spouse must be notified of the intentions of her husband to marry a second wife. The new bride must also be informed of the existence of the first wife. **“Charia” then allows up to four wives.** The wife may, however, according to the stipulations of articles 30 and 31, request that her husband takes the written engagement, in the contract of marriage, not to marry any other wife and to also acknowledge his acceptance of the dissolution of his first marriage if he ever violates this engagement. In all cases, the judge could be solicited to pronounce the refusal of polygamy (article 30, #4). As for conjugal relationships, they were based on reciprocal rights and obligations of both spouses, and most particularly, for the wife, on **“an obligation of fidelity and obedience”**, while there were no such mentions for the husband towards his wife. Furthermore, under the stipulations of the previous “Moudouana”, **only the husband could normally decide the repudiation.** It can be written, verbal or in the case of a dumb illiterate husband **“by non equivocal signs or gestures”** (article 46). The wife could, however, also request that the judge pronounces the divorce under certain circumstances defined by articles 53 to 59 (attaliq) [لتطليقا] or chose to follow a procedure of divorce by mutual consent, based on a material compensation, provided for by articles 61 to 65 (khol’) [الخلع]. As for the rules of succession, they were precisely defined between the categories of “fardh inheritors” [لفرضا] and “assaba inheritors” [العصبية] by articles 217 to 297 of the previously prevailing “Moudouana”, on the bases of the “Coranic” verses **“يوصيكم الله في أولادكم للذكر مثل حظ الأنثيين”** [Allah directs you as regards your children's (inheritance): to the male, a portion equal to that of two females] (Sourate ‘Annisae’ النساء, verse N° 11) and **« وإن كانوا إخوة رجالا و نساء فللذكر مثل حظ الأنثيين »** [if there are brothers and sisters, (they share), the male having twice the share of the female], (Sourate ‘Annisae’ النساء, verse N° 176).

The 2004 Reform introduced resolute elements of real change; they may also be summarized as follows:

- Basically, the reform stems from a resolute royal will to bring about significant changes in an awkwardly conservative social setting. Behind the king, it is apparent that large fringes of the Moroccan society seemed to be backing his initiative. But, the final outcome still remains tributary of what the performances and attitudes of the judiciary system will be.
- On the procedural point of view, it may be worth pointing out that, among the three projects of “Moudouanas” that Morocco has known since its independence, this is the first one that has been brought to the floor of Parliament. The reason is quite simple. In 1957, there was still neither a Constitution nor a Parliament. In 1993, Morocco had just adopted, by referendum, a new Constitution in 1992 (the 4th one) and was in the process of

installing the constitutional institutions. And according to the stipulations of article 101 of that Constitution “until the installation of the House of representatives, all legislative measures necessary for the implementation of constitutional institutions, for the functioning of public services and for the conduct of State affairs, shall be taken by the king”. So, the 1993 reform of the “Moudouana” was adopted directly by a royal “Dahir”. But, under present circumstances, the king has deemed that this competency falls within the areas of attribution of the Parliament, on the basis of the stipulations of article 46 of the Constitution. It must be noted, however, that by doing so, the king seems to be accepting some sort of Parliamentary competency on affairs linked with “Faith”, which normally fall with his sole sphere of attributions as “The Commander of the faithful” (Amir Al Mouminine) [أمير المؤمنين], in accordance with the stipulations of article 19 of the Constitution. In his inaugural speech before the Parliament, he himself addressed this issue: “Although the 1957 Family Law was drawn up before the Parliament was established, and was subsequently amended by Dahir in 1993, during a constitutional transition period, I have made a decision for the proposed Family Law to be submitted to Parliament, for the first time, in view of its implications with respect to civil law. As for the provisions of a religious nature, they fall within the competence of Amir Al Muminin. I expect you to rise to this historic occasion and be worthy of the responsibilities assigned to you, not only by respecting the sacred nature of the proposed texts, which were prepared with due account being taken of the aims of our tolerant religion, but also when you adopt new legislation. These provisions should not be regarded as flawless, nor should they be perceived from a fanatic angle. Instead, you should address 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” [39].

- The main introduced changes are as follows :
 - ✚ Setting the minimum **age for marriage** at 18 years for both men and women (article 19); the judge may, however, lower the age of marriage in certain justifiable cases (article 20);
 - ✚ Making husband and wife jointly responsible for the family (article 4); they both acquire **equal authority in the family**;
 - ✚ Entitling the woman **the right of guardianship** that she independently exercises according to her choice and interest (article 24); she may then choose her “wali” [الوالي] if she wants, or exercise personally her guardianship rights (article 25) and may also appoint her father or one of her relatives;
 - ✚ Assuring the guarantee of **reciprocal rights of both spouses**, instead of the previous one sided obligation of obedience and fidelity (article 51);
 - ✚ Giving women new **rights to assets acquired during marriage** (article 49); regarding this issue of management by husband and wife, of the property acquired during marriage, and while confirming the principle of separate estate for each of them, the couple may agree, in a document other than the marriage contract, on how to manage and invest the assets acquired jointly during marriage; in case of disagreement, they shall resort to the judge who shall base

his assessment on general regulations of proof to determine the contribution of each of the spouses in fructifying the family assets;

✚ **Restricting polygamy** in terms that make it almost impossible to achieve (articles 40 to 46); polygamy shall therefore not be allowed unless some legal conditions are met. In order for the judge to allow a second marriage of a requesting individual, the applicant must demonstrate its necessity and ascertain his capacity to treat his second wife and her children on an equal footing with the first, and that he will provide the same living conditions for all. Then the process may start with a confrontation of the initial partners within the tribunal; this phase may lead either to a refusal of the request by the judge or to a permission to go ahead with the second marriage, or, if the initial wife wishes so, to a divorce. If the new marriage is permitted, it will not be contracted until the new bride is officially informed of the husband's initial marriage. In some cases, polygamy might not even be considered if the two initial partners had contractually agreed not to allow it within their marriage. In that case, the wife would have imposed a condition in the marriage contract whereby her husband will refrain from taking a second wife.

✚ Making **divorce** a prerogative that can be exercised as much by the husband as by the wife, in accordance with legal conditions set for each party, and under judicial supervision (articles 78 to 128); thus, the husband's right to resort to repudiation shall be limited by specific restrictions and conditions designed to avoid misuse of this right; For this purpose, mechanisms for reconciliation and mediation, through the family and the judge, shall be strengthened. The divorcing husband will have to seek the permission of a tribunal (article 79); the woman may also avail herself of this prerogative by using the right of option (tateleek) [التطليق]; whatever the case, and before the divorce is authorized, it shall be ascertained that the divorced woman gets all the rights to which she is entitled; divorce cannot be duly registered until all monies owed to the wife and children have been paid in full by the husband

There certainly appears that in modern contemporary Morocco drastic changes are occurring in the area of gender balance and women's empowerment strives. Tangible apparent results have effectively been reached. But, the social real is that limited fringes have so far been concerned with change awareness and to a lesser extent change benefits! Most of the population and mostly the rural one still lack the basic social tools for reaching the desired change. Things appear as if a double speed trend is characterizing this and other reform initiatives. The search for gender equity along with the no less vital search for human dignity are still and should still be on the pressing agenda of national decision makers, be them males or females!

Casablanca, October 15th 2007.

[1] – Report N° 55 of the 'Bridge Development Gender' on "*Gender & Development*", Institute of Development Studies, University of Sussex, Brighton (UK), February 2000, <http://www.ids.ac.uk/bridge/>

[2] – Official declaration quoted by the Moroccan press agency "Maghreb Arab Press" (MAP), Washington, Sept. 10. 2007.

[3] – Message of congratulations addressed to His Majesty the King of Morocco, in 'Le Matin du Sahara', Sept. 10. 2007.

[4] – Official declaration quoted by the Moroccan press agency "Maghreb Arab Press" (MAP), Strasburg, Sept. 19. 2007.

[5] – Official declaration quoted by the Moroccan press agency "Maghreb Arab Press" (MAP), Brussels, Sept. 11. 2007.

- [6] – Official declaration quoted by the Moroccan press agency “Maghreb Arab Press” (MAP), Brussels, Sept. 12. 2007.
- [7] – As confirmed by the Decree 2.05.189 issued by the Prime Minister on December 2nd 2005.
- [8] – 2006 Annual Report on ‘Activities, Employment & Unemployment’ issued by the High Commissioner to Planning.
- [9] – Moroccan 2005 Human Development Report “Women & Development Dynamics”, Jan.2006, HCP/UNDP Rabat.
- [10] – Moroccan 2005 Human Development Report “Women & Development Dynamics”, Jan.2006, HCP/UNDP Rabat.
- [11] – 2006 Annual Report on ‘Activities, Employment & Unemployment’ issued by the High Commissioner to Planning.
- [12] – 2003 National Survey on Employment, High Commissioner to Planning.
- [13] – National Report pertaining to the Objectives of the Millennium for Development, December 2003.
- [14] – <http://www.un.org/millennium/declaration/ares552e.htm>
- [15] – National Report pertaining to the Objectives of the Millennium for Development, September 2005.
- [16] – Idem.
- [17] – These are: Mrs. Bassima Hakkaoui, Fatma Ben El Hassane, Somaia Benkhaldoun, Jamila El Mossalli, Khuidija Hanine and Nezha El Ouafi (from the **Islamist Party: P.J.D.**), Mrs. Samira Koraiche, Malika El Assimi, Mahjouba Zbiri, Naima Khaldoun, Latifa Bennani Smires and Fatiha Bakkali (from the nationalist **Istiqlal** party), Mrs. Najima Thaythay, Bouthayna Iraqi Houssaini, Saida Tayebi, Mbarka Bouaida and Naima Aboumouslime (from the centrist party National Union of independents: **R.N.I.**), Mrs. Halima Asali, Zahra Chagaf, Fatima Moustaghfir, Amina Drissi Smaili and Touria Cherki (from the rural a berber **Popular Movement** Party : MP), Mrs. Aicha Guellaa, Fala Boussoula, Saadia Saadi, Saloua karkri and Nazha Lahrichi (from the **USFP** Socialist Party) and Mrs. Gajmoula Ebbi (former Polisario Leader), Amal El Amri and Aicha El Karche (from the former Communist Party : **PPS**).
- [18] – Richard Haass, “*Reinforcing Democracy in the Islamic World*”, Presentation to the “Council on Foreign Relations”, Washington, D.C., December 4th, 2002.
- [19] – 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.
- [20] – Hugette Bokpe Gnacadja, UN expert from Benin, UN Committee on EDAW, op. cit.
- [21] – Pramila Patten, UN expert from Mauritius, UN Committee on EDAW, op. cit.
- [22] – Aida Gonzalez Martinez, UN expert from Mexico, UN Committee on EDAW, op. cit. 07.15.2003.
- [23] – “Enhancing Women’s Political Participation in Morocco”, in AFROL News, June 3, 2001, www.afrol.com .
- [24] – “7.9% of Forced Marriages in Morocco”, PANA Nouvelles, www.famafrique.org .
- [25] – “Enhancing Women’s Political Participation in Morocco”, in AFROL News, June 3, 2001, www.afrol.com . op.cit
- [26] – Jeanne Bisilat, “Face aux changements: les femmes du sud”, L’harmattan, paris, 1997.
- [27] – 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
- [28] – Le Matin du Sahara, Monday, October 13, 2003, page 3.
- [29] – “The Importance of the Reform”, in ‘Al Ahdath Almaghribia’, Tuesday, October 14, 2003, page 2.
- [30] – “A Modernist Democratic project”, in ‘Al Ahdath Almaghribia’, Tuesday, October 14, 2003, page 2.
- [31] – “On Behalf of All Women”, in ‘Le Journal’, October 18 – 24, 2003, page 28.
- [32] – “Nadia Yassine’s Reaction”, in Le Journal, October 11 – 17, 2003, page 13.
- [33] – “Point of View of a Theologian’ in Le Journal, October 18 – 24, 2003, page 13.
- [34] – See the following document “Annex I” which contains excerpts of some of the MENA region media coverage of the initiative.
- [35] – 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>).
- [36] – A few authors have also explored legislative paths where Moroccan law has referred to pertinent teachings of other rites (mostly ‘Chafii’) whenever genuinely original solutions to some situations were commended by them. Ref. Mohamed Al Kachbour “....” (Code of Personal status), New Annajah Press, Casablanca, 1994; Abboud Rachid Abboud “Al Ahwal Ashakhsyia: Kawaid wa Shourouh” (Personal status: rules and explanations), Arrachad Library, Beirut, 1965; Ahmed Khamlchi “Attailik ala Kanoune Al Ahwal Ashakhsyia” (Commentary on the Code of Personal Status), Part I, Al Maarif Library, Casablanca, 1987.
- [37] – Albert Sasson, Jewish Moroccan Member Consultative Council of Human Rights & President of the Council of the Jewish Community in Morocco, in “The New Family Code Will Influence the Evolution of Family Status of the Moroccan Jewish Community”, Interview with the MAP Press Agency, Rabat, October 17, 2003.
- [38] – Ref. “Moudouanate Al Ahwale Ashakhsyia”, French and Arabic edition, Dar Annachr Al Maarifa, Rabat, 1999.
- [39] – Maghreb Arab Press News Agency (<http://www.map.co.ma>), Speech delivered by His Majesty King Mohammed VI at the opening session of the Parliament Fall Session, October 10, 2003.

APPENDIX I

Samples of the Press Coverage Of the Moroccan Gender Issue by 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".