

# The Central Role of the Family Law in the Moroccan Feminist Movement

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**ABSTRACT** *Ever since its inception in the mid-forties of the last century, the Moroccan feminist movement has evolved around the family law Code. The post-independence family law denied women basic rights and thus fueled the disappointment and anger of the female intellectual elite (journalists, writers, politicians and activists). Legal rights have always constituted a priority in Moroccan women's struggle for dignity in and outside the home. These rights became central with women's increasing access to education and the job market. Today, women's legal rights are associated with democratization and political openness. This paper addresses these issues and underlines the impact of the family law in generating and accelerating feminist ideas in Morocco.*

## I. The Beginnings

The beginning of the Moroccan feminist movement goes back to 1946, the year in which the 'Akhawat Al-Safaa' (Sisters of Purity) Association<sup>1</sup> issued a document which embodied a number of legal demands, among which the abolition of polygamy and more visibility in the public sphere. This document is considered the first 'public' voice of the Moroccan feminist movement.<sup>2</sup> Some of these pioneer women wrote articles in the mainstream newspaper of the 'Istiqlal' (Independence) Party: *Al-Alam*.<sup>3</sup> Their views were generally supported by the male liberal nationalists of the time.

The first voices of women in the public sphere were made possible by the liberal views of key political male actors such as prominent nationalist thinkers, the monarch, and political parties. 'Akhawat Al-Safaa' belonged to the middle and upper classes of the city of Fes, and all of them had influential male relatives in the then sole popular party: the 'Istiqlal' (Independence) party.

At this juncture, it is important to distinguish the pioneer women's feminist views from the then prevailing male 'feminism' which targeted the promotion of

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<sup>1</sup> This association was part of the 'Istiqlal' (Independence) Party.

<sup>2</sup> Cf. Sadiqi et al. (eds.), *Women Writing Africa: The Northern Region* (New York: The Feminist Press), forthcoming in 2008.

<sup>3</sup> Ibid.

women from larger perspectives in which society as a whole, and not women as individuals, constituted the priority.<sup>4</sup> Thus, although they belonged to the same historical era (the Protectorate and Post-Independence era), Allal Al-Fassi, a Salafist, a religious reformist, and a prominent nationalist, who studied and lived in Egypt, dismissed polygamy, not because it harmed women as individuals, but because it was a practice that ‘tarnished’ the image of ‘modern’ Islam,<sup>5</sup> and Mohamed Hassan Ouazzani, a modernist intellectual, who studied and lived in France, called for equitable inheritance laws, not only because these laws were harmful to women as women, but also because equitable inheritance laws were ‘tokens’ of a modern egalitarian society. The two men had different societal projects and sought the ‘emancipation’ of women to suit these projects: an ‘enlightened’ Islamic state in the case of Al-Fassi and a European-style state in the case of Ouazzani.

The newly independent state<sup>6</sup> espoused these male feminist views for more or less the same reasons. For example, in 1957, King Mohamed V unveiled his eldest daughter in public and called for the necessity to emancipate women in order to develop society. After this symbolic gesture, thousands of women in cities unveiled and religious preachers in mosques associated unveiling and working outside the home with nation-building.

As for the political parties (conservative and otherwise), they included ‘feminist’ ideas in their electoral campaigns, although the more one went into their core priorities, the less ‘feminist’ these ideas became, as is most attested in the structures and orientations of these parties which bluntly reproduced the same patriarchal visions they claimed to fight against.

Overall, men’s feminist views were different from women’s: while the latter’s aimed at improving women’s lives, the former’s were more abstract as they formed part of ‘remedies’ to the ‘backwardness’ of Morocco. Feminist men of the time endeavored to prove that Morocco could not progress without educating and training its women. The interest in educating women that the intellectuals, the state, and political parties called for was not motivated by a genuine interest in the liberation of women as individuals, but by larger social/national projects. As a result, middle and upper classes sought in educating their girls some kind of social prestige which they used to boost their personal and social status.<sup>7</sup> Likewise, although the state and political parties played a crucial role in inducing women to seek regular remunerated work outside the home, this inducement did not emanate from clear and active policies to integrate women into the job market; rather, women’s work was part of unplanned consequences of state policies as well as of development requirements.

Although male feminism did not target the empowerment of women as individuals, the middle and upper class women gained from it in two fields:

<sup>4</sup> This feminism took its roots in the nineteenth century ‘Nahda’ (Renaissance) era in the Middle East and embodied male larger visions of what a targeted society could be. The ‘Nahda’ scholars, such as Jamal Eddine Al-Afghani and Mohamed Abdou, sought the ‘emancipation’ of women as part of the overall development of society.

<sup>5</sup> In his *Al-Naqd Al-Dhātī* (Auto-Criticism), Allal Al-Fassi made several criticisms of the Moroccan family law in which he called for the abolition of polygamy, judicial regulation of repudiation, as well as divorce and the equivalent of a set of alimony for repudiated women.

<sup>6</sup> Morocco obtained its independence from France in 1956.

<sup>7</sup> Walters (1999) argues that girl’s education in Tunisia was partly geared towards producing more marriageable daughters, thereby, increasing the status of the family.

education and job opportunities, that is, the means of entering the public sphere. It was the new post-independence bourgeois class that produced the first women pharmacists, jurists, medical doctors, university professors, etc. The general feminist trend of these women was liberal in the sense that they readily embraced 'modern' ideas and practices without rejecting their local specificities, including being Muslim.<sup>8</sup> This liberal trend was accompanied by changes in dress, as well as other social practices, such as the adoption of the French style and ways of life. However, this style never succeeded in replacing traditional Moroccan practices and ways of life, including dress.

Women's feminist ideas started to be manifested in journalistic and academic writings (mainly sociological and literary). As such, the general feminist trend of these women links with the 'Akhawat Al-Safaa' journalistic practices. Journalistic writings included newspaper reports and magazine articles. These writings circulated widely among the educated population. The Moroccan feminist writer Leila Abouzeid started her career as a journalist in the early 1970s and wrote under a man's name, and Zakia Daoud remains a Moroccan professional journalist and a fervent feminist.

## II. Journalism

Journalistic discourse, couched in Arabic and French, evolved around two major issues: (i) a cult of domesticity and (ii) feminist ideology. The cult of domesticity included topics that were meant to improve women's health, productivity, education, nurturing skills, household management, childrearing, and 'how to' be a better, more effective wife and mother. As for feminist ideology, it included selected biographies of national and international feminist figures. Indeed, using some sort of feminist hagiography, biographies were used as a means of publicly exposing feminist ideas without directly implicating the writer. It is not just exposing readers to feminist ideas, but also authors' indirectly espousing such a stance. Both types of journalistic writings aimed at stressing the development of women through the development of their gifts, while highlighting their domestic roles. They were also meant to promote the rights of women to remain in the work force. In parallel to journalistic writings, women of the 1960s and 1970s started to write novels and produce sociological analyses. Some of these women, like Khnata Bennouna, belonged to leftist political parties and some readily espoused leftist ideology. Both the journalistic and academic writings challenged patriarchy without displacing or dismantling it.

Along these journalistic and academic writings, women started to organize themselves in political parties. Examples are the 'Union Progressiste des Femmes Marocaines' (Progressive Union of Moroccan Women), which was created in 1962, and the 'Union Nationale des Femmes Marocaines' (National Union of Moroccan Women), which was created in 1969. These were professional, not straightforwardly political, organizations. Likewise, more and more women became skilled politicians in opposition leftist parties such as the 'Parti du Progrès et du Socialisme' (Progress and Socialism Party) and the 'Parti de L'Union Socialiste du Front Populaire' (Socialist Union of the Popular Front).

In the subsequent years, that is in the 1980s, and with the advent of mass education, more outspoken feminist journalistic and academic writings were

<sup>8</sup> I will later deal with the dichotomy liberal feminism/Islamism.

produced by women. Magazines such as *8 Mars*<sup>9</sup> (March 8), created in 1983 and *Kalima* (Word), created in 1986 and censored in 1988, addressed feminist issues and aimed to show that gender roles, sexuality, and even the division of labor were neither divinely prescribed nor ordained by nature, but had a historical origin. In parallel, more outspoken women's voices made themselves heard in the academic sphere: Fatema Mernissi<sup>10</sup> argues that Moroccan women's unequal status is attributed to the political and economic systems which exclude them.<sup>11</sup> Leila Abouzeid (1983) wrote *'Ām Al-Fīl* (The Year of the Elephant)<sup>12</sup> where she brilliantly depicts how Moroccan women, who participated in the fight for independence, were fulfilled and had an identity during the nationalist fight, but after independence, felt discarded and useless as the national leaders often re-married younger wives and adopted French-style ways and manners in which indigenous ways of life and illiteracy hardly had any place.

### III. The Role of NGOs

Along with the journalistic and academic writings, women's associations (also called local NGOs) started to see the light of the day. The first post-independence women's association, 'L'Association Démocratique des Femmes Marocaines' (The Democratic Association of Moroccan Women) started, like the 'Akawat Al-Safaa' association, as a division of a political party, the Party of Progress and Socialism, this time. Soon after, another strong women's rights association, 'L'Union de L'Action Féminine' (Female Action Union), was created.

These two associations were soon followed by a plethora of similar, but smaller, women's associations which have emerged to combat violence against women, gender-based legal and cultural discrimination, under-representation of women in government and the economic sector, and illiteracy. These associations have given Moroccan women the opportunity to become skilled in the public organization of their demands, the public articulation of their resources, as well as a good opportunity to gain credibility in the public scene. Moroccan feminist associations produced many feminist militants who later became national public figures like Latifa Jbabdi, Nouzha Skalli, Amina Lemrini, and Latifa Smires Bennani.

These associations were greatly helped by international organizations. As liberal feminists and proponents of women's rights across the world have launched worldwide pressures to stop gender-based discrimination and promote women's rights, using powerful organizations like the United Nations, the government of Morocco was constantly being asked to send official delegations and address women's issues in world-wide events like the United Nations Decade for Women (1975–1985) and specific UN meetings (Mexico City 1975; Copenhagen 1980,

<sup>9</sup> This magazine ceased to appear for more than a decade before it resumed its activities in 2004.

<sup>10</sup> Fatema Mernissi, 'Etat et Planification Nationale', in A. Alahyane et al. (eds.), *Portraits de Femmes* (Casablanca: Le Fennec, 1987).

<sup>11</sup> It is important to note that the details of feminist struggles and conditionings differ for each Muslim country. For example, Tunisia's political elite positioned Tunisian women very differently by capitalizing on their civil rights. This does not mean that Tunisia is a panacea for women, but its history contrasts in critical ways with Morocco's. Indeed, national differences indicate that the 'Arab Muslim' world is not an undifferentiated whole.

<sup>12</sup> The expression 'Year of the Elephant' is an allusion to a famous period in the history of Islam during which foreign tribes riding elephants marched on the sanctuary at Mecca. Elizabeth Fernea with Robert Fernea (1985) explain the title by stating that the battle was not won by arms and superior numbers of warriors but by 'flocks of birds which miraculously appeared and bombarded the elephants with clay pellets'. The birds were like ordinary men and women who brought about Morocco's independence.

Nairobi 1985, Beijing 1995, etc.).<sup>13</sup> Likewise, Morocco ratified the Convention to End Discrimination Against Women (CEDAW) on August 26, 1993. CEDAW was ratified by Morocco with reservations to articles 2 and 16 which concern marriage and its dissolution and national identity and how it is not passed from mother to child, respectively. These reservations were justified on the grounds that Moroccan officials wanted to reconcile Western views with the Moroccan legal system; they considered that the two articles that were opposed conflicted with the Code of Personal Status known as the ‘Mudawana’.

By questioning the sexual division and the ideology on which it was based, the journalistic, academic and associative discourse of liberal feminists questioned patriarchy. In such a discourse, women’s condition was not considered a ‘natural state’, but a state that had historical origins and women’s work was seen as production, and not merely reproduction. As such, this discourse tackled issues which, until recently, were taboo, such as female sexuality and the various forms of violence against women. This discourse sought to politicize women’s collective consciousness of their oppression and denounced the indifference of political parties, which often used women’s issues to enforce their political agendas and demarcate themselves from the fundamentalist rhetoric, to the reality of women’s lives.

This overall stance of Moroccan feminists explains their bitter disappointment with the first Code of Personal Status ‘Mudawana’, which was instituted in 1957, that is, only one year after independence. The Moroccan feminist movement is deeply associated with the ‘Mudawana’ as the latter constitutes the locus of the legal and civil discrimination against women. The disappointment of liberal feminists with the ‘Mudawana’ was partly due to the fact that Allal Al-Fassi’s liberal ideas were not integrated into the ‘Mudawana’ although the man was called upon for the drafting of this document.<sup>14</sup> Another aspect of liberal feminists’ disappointment is the fact that the ‘Mudawana’ was based on the religious Maliki law, at a time when other codes were based on civil law such as the Penal Code and the Constitution. For example, many Moroccan laws such as the ones relative to bank interest and the sale of alcohol bypass the precepts of religion even though the Qur’an is very clear on these issues.

The fact that the ‘Mudawana’ was masterminded by men only and was based on religious law was meant to make it ‘sacred’ and not open to public debate. The ‘Mudawana’ also defined women as minors by limiting their rights and allowing polygamy. The Code was seen by liberal feminists as a ‘betrayal’ and a way of distancing women from the public sphere.<sup>15</sup>

Mernissi denounced the undemocratic practices of the former national male leaders who suffered from torture at the hands of the French colonizers in order to achieve democracy and equity but who then treated half of their society unfairly by institutionalizing a Code of Personal Status that denied them their rights. Mernissi deconstructed the patriarchal biases in gender representation at the official level and postcolonial undemocratic societal projects. She underlined the inconsistency

<sup>13</sup> It is worth noting that participation in international events like these carries an importance and a cachet in Morocco, as well as in North Africa and other countries, that it does not in the US at least, perhaps because though the US government may send delegations, the active and engaged participants are mainly from groups having nothing to do with the government, especially for women’s issues.

<sup>14</sup> In 1957, only one year after independence, King Mohamed V created a commission to work with the Minister of Justice to codify Family Law in Morocco; this commission consisted of ten Ulemas (Islamic scholars) and three figureheads of Moroccan Salafism (religious reformism) among whom Allal Al-Fassi.

<sup>15</sup> Zakia Daoud, *Transfiguration of the Maghreb* (Minneapolis: University of Minnesota Press, 1993).  
Winifred Woodhull, *Féminisme et Politique Au Maghreb* (Casablanca: Eddif, 1993).

between the conservative nature of the Code and the promotion of a liberal economic system. While the Moroccan Constitution granted women equal political rights with those of men, the Code of Personal Status inscribed them as essentially domestic beings with limited rights. According to Mernissi, postcolonial Morocco designated male supremacy and female subordination as symbols of cultural specificity and political legitimacy.

#### **IV. Interesting Developments: The Mudawana as a Pool of Struggle**

From the 1980s onward, the Moroccan feminist movement had to deal with a serious challenge: Islamism.<sup>16</sup> In general, Islamists don't have a deep theological or judicial knowledge which leads to require from themselves and from others rigorous religious practices based on the literal reading of the founding texts (Qur'an and Sunnah). In opposing the West, Islamism opposes modernity, and in doing so, it creates confusion between the West and modernity and takes the West, which may be defined as an incomplete historical manifestation of modernity, for modernity itself. Instead of criticizing the West in the name of modernity, Islamism rejects modernity and opposes the 'Self' and the 'Other' in an anti-historic way, using women as the weaker and hence more accessible sex.

Liberal feminists quickly realized that Islamists targeted women, especially the lower classes, through their call for veiling and their carefully packaged discourses that comforted the patriarchal tendencies among men, especially young unemployed males who were easily led to think that women's work outside the home robs them of opportunities. They also realized that by pushing politicized women to demand rights from a religious perspective, they were trying to hijack the discourse, space and fruits of years of efforts by liberal feminists.

The main strategies that liberal feminists used were a gradual downplay of the 'religious' role of the veil in their writings and practices, more and more usage of Arabic, Qur'an and *Hadith*, a call for more flexible readings of the Qur'anic texts, a gradual inclusion of the children's oppression in women's issues, and a reinforcement of Islam as culture and spirituality. These liberal feminists also endeavored to draw the attention of the younger, often veiled, generation to the real problems that women faced: absence of legal protection before the law. These feminists made an excellent use of the media in depicting the social misery of women and child victims of divorce, thus targeting the very social issues that the Islamists capitalized on. By doing this, the liberal feminists maintained their focus on the necessity to reform the Family Law.

Overall, the liberal feminists of the 1980s sought to assert themselves and affirm their own identity and the existence of their own history in spite of the powerful Islamic movement. They did this through journalistic writings, associative work, and anthropological, sociological, and political studies, as well as through narratives and poems. These feminists were conscious that if they rejected Islamic precepts, they would face a double sanction: in Morocco, they would fail to connect with the vast

<sup>16</sup> Islamism may be defined as a social movement or organization based on the exploitation of Islam for political aims. More precisely, any such movement or organization that tries to exercise power in the name of religion only. Given its western-most geographical position in the MENA region, Islamism reached Morocco last. Moroccan Islamists do not constitute a homogeneous group: they range from conservative, to moderate, to radical.

majority of Moroccan women who are poor, illiterate and deeply religious and, outside Morocco, they would be accused of not representing their own authentic culture.

This trend in the feminist movement was strengthened in the 1990s at the journalistic, academic and associative levels. In the late 1990s, Moroccan liberal feminism was enhanced at the academic level by the creation of centers for research on women as well as graduate programs on gender/women studies at the university level in Rabat, Fes, and Meknes. These programs have typically been established in state or public Universities, not in private institutions as was the case in the Middle East.<sup>17</sup>

At the level of associations, while the majority of Moroccan women's advocacy NGOs are concentrated in the urban centers of Rabat, Casablanca, and Fes, local NGOs, women's and development organizations have emerged in smaller cities and towns across the country since the late 1990s to address problems unique to women in their regions. In 1992, 'L'Union de L'Action Féminine' launched a huge campaign to establish equality between women and men on Women's International day on March 8 of that year. This association sent a letter to the Parliament calling for changes in the 'Mudawana' and secured a million signatures to support its demands. These demands were strongly opposed by the Islamists, and as a result, King Hassan II, in his capacity as 'Amīr al-Mu'minīn' (Commander of the Faithful), created a Commission of 'Ulemas' (religious scholars) and judges to review the proposed changes and suggest recommendations. None of the members of this Commission was a woman.<sup>18</sup> On May 1, 1993, the king announced changes in articles 5, 12, 30, 32, 48, and 148, such as limiting the marriage tutor control as the woman needed to give her consent and sign the marriage contract; women over 21 who did not have a father were allowed to contract their own marriage without a tutor, before taking a second wife, a husband needed to inform his first wife; a woman could ask for a clause in her marriage contract to the effect that her husband would give her a divorce if he took a second wife, but it was up to the judge to either declare or not the divorce; a man's application to divorce his wife needed to be addressed to two notaries and the wife needed to be summoned to court. The mother was given the right to legally represent her children if their father died (but according to article 142 the mother still could not dispose of the children's property) and in cases of divorce child custody was given first to the mother and secondly to the father. Finally, some type of family counseling institution was to be created to help judges with family disputes. The 1993 reforms were a real disappointment and a step backwards for women's associations because of the child custody issue. Custody was given to the mother and then the father but, in case of the mother's remarriage, custody was given to the father instead of the maternal grandmother.

In spite of their disappointment, liberal feminists considered the 1993 changes big symbolic gains because they made the debate on the 'Mudawana' public for the first time in the history of Morocco, a sign that the Moroccan feminist movement was making significant headway. Indeed, the biggest success of this movement was its ability to bring an almost 'sacred' religious document into the heart of public debate: the 'Mudawana' was not only examined, but criticized and

<sup>17</sup> Margot Badran, Fatima Sadiqi and Linda Rashidi (eds.), 'Language and gender in the Arab world', *Language and Linguistics*, 9 (2002).

<sup>18</sup> Ahmed Taoufik, *The Code of the Personal Law and the Latest Amendments* (Casablanca: Da Al-Thaqafa, 1993).

even changed. This meant that women's issues were finally open to public discussion and debate. This is a remarkable achievement.

In 1998, the first socialist government took power in Morocco and in March 1999, Mohamed Said Saadi, the then Secretary of State for the Family, the Children and the Disabled, presented the 'Plan d'Intégration des Femmes dans le Développement' (The Plan for Integrating Women in Development), also known as 'The Plan'. Of the 214 points that this Plan contained, eight concerned changes in the Family Law, such as the abolition of polygamy; which immediately infuriated the Islamists who saw in 'The Plan' an outside maneuver to destabilize Moroccan society. During March 2000, two marches were organized: one in Rabat supporting the 'Plan' and one in Casablanca opposing it. The Feminist movement was at the forefront of the supporters of the Plan. Human rights NGOs, democratic NGOs and political parties also supported the 'Plan'. As for the Casablanca march, it was supported by the Islamists. The Casablanca march was characterized by the great number of veiled women who marched in separate rows from men. The latter march was meant to be a show of force on the part of the Islamists who managed, through unprecedented mobilization, to attract greater numbers of people and to launch their first political party. The 'war' between them and liberal feminists took on bigger dimensions. 'The Plan' failed, and Mohamed Said Saadi lost his post. The failure of the Plan was a real blow for the feminist movement which, nevertheless, kept fighting.

In addition to universal laws and global feminism, liberal feminists concentrated more and more on 'maqasid Shar'iyah' (Goals of Shari'a) instead of 'Shari'a' *per se*.<sup>19</sup> Seeing that the state would not favor the rise of Islamism in Morocco, the feminist movement started to rally with the state, thus further politicizing women's issues. This process was greatly enhanced by the enthroning of Mohamed VI, a young new king in July 1999.

With the end of the last century and the beginning of the new one, the Moroccan feminist movement has started to become very visible in the public sphere of power. From its inception to the end of the 1990s, the discourses of the Moroccan feminist movement ranged from a deconstruction of the family and social oppression, through that of the legal oppression, to that of political oppression. As such, this movement evolved through various historical periods and managed to ensure continuity. At the beginning of the twenty first century, and with the coming of the new king, the feminist movement in Morocco has increasingly become a political actor, and an indispensable tool of democratization.

## **V. Women's Activism and the Democratization of the Public Sphere: The Politicization of Women's Issues and the New Family Law**

The impasse that the Moroccan feminist movement reached in 2000 changed dramatically with the coming of the new king, Mohammed VI. One month after he took power, King Mohamed VI said in his August 20, 1999, address: "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

<sup>19</sup> Whereas 'Shari'a' rules are more based on a rigid and literal reading of the Qur'an and *Hadith* (the Prophet's Sayings), 'maqasid Shar'iyah' target the contextualization of these rules within changing historical eras.



marginalization, notwithstanding the dignity and justice granted them by our glorious religion?"

A series of high-profile female royal appointments followed this statement; in March 2000, for the first time in the country's history, the king appointed a female Royal Counselor, in August 2000, the King appointed a woman to head the National Office of Oil Research and Exploration, in September 2000, he confirmed the first-ever female ministerial appointment, and in October 2000, he appointed the first woman to head the National Office of Tourism. Similar appointments to political and religious posts followed in subsequent years.

In addition to the king's disposition to enhance women's position in the public sphere, the Socialist Party, led by Abderrahmane Youssoufi, set the ground in May 2002 for the democratization of the Parliament by approving a proposal, backed by the King, which sets aside 30 seats for the election of women in the national elections of September 2002.

These top-level political actions greatly boosted the feminist movement in Morocco and confirmed its recognition as a powerful political actor in the public sphere. Although feminist journalists and writers continued to focus their efforts on legal demands, they expanded their domain of action to various related areas. Hence, they endeavored to assert that law is a social construction, that inequality and social relations are socially constructed, and hence subject to historical variability, deconstruction and reconstruction on the basis of equality. They demanded a re-examination of the social, political, economic structures and an analysis of the judicial norms with respect to men–women relations in order to fight the ambivalence in men–women social relations. On other fronts, liberal feminists increased efforts to introduce gender as a powerful tool of analysis in various public institutions.

In parallel, women's associations became more active, proving, thus, more accessible to women than the institutional political parties as they do not require extensive material resources or influential connections. Two main types of women's associations may be discerned at the eve of the twenty-first century: the ones that focus on service provision by filling gaps left by the deficient state structures in terms of social and economic development, such as addressing concrete problems on the ground using available means, and the ones that focus on advocacy and lobbying with the aim of defending a vision of society where women's legal and civil rights are respected. Both types of women's associations kept a dialectical relationship with the broader civil society (Human rights associations, youth organizations that involve women's issues, etc.). This advocacy and lobbying tightened the link between women's associations and other actors of civil society.

Women feminist writers such as Mernissi started to be directly involved in the work of women's associations. Mernissi explains:<sup>20</sup>

Pour faire fructifier notre capital social, on a besoin de donner confiance aux 13 Millions d'adultes qui existent dans notre pays, hommes et femmes, ruraux et citadins pour qu'ils puissent devenir des 'hallalin al machakil'. Car il faut que nous, les 13 Millions d'enfants deviennent de superbes démocrates, de merveilleux communicateurs, des pionniers de la Méditerranée de la tolérance.

<sup>20</sup> Fatema Mernissi, *ONG Rurales du Haut-Atlas. Les Aït Débrouille* (Rabat: Editions Marsam, 2003), p. 123.

[To fructify our social capital, we need to give confidence to the 13 million adults who live in our country, men and women, rural and urban in order for them to become problem-solvers, because we, the 13 million children, should become superb democrats, marvelous communicators, pioneers in the Mediterranean of tolerance.]<sup>21</sup>

Overall, women's associative work started to assume political, social and economic functions, hence strengthening institutional politics. Politically, local activism bridges the gap between women and the institutional political sphere mainly through local activists' networks with more urban/political women's NGOs. Socially, the increasing proliferation of women's associations allowed women to assume more powerful social roles as leaders and managers of public affairs. Economically, NGOs have allowed many women to acquire economic independence through self-generating incomes such as micro-credits.

On a more general level, women's associations started to become carriers of alternative projects of transformative gender roles in Moroccan society, and this protects and guarantees an effective exercise of public freedoms favoring the emergence of pluralist collective identity based on the universal values of the culture of citizenship, for bottom-up development and for empowerment. Indeed, women's associations endeavored to promote participation, social mobilization, and associative lobbying that encourage good governance and a culture of responsible citizens, not passive subjects, thus working towards a dynamic participatory and equitable democracy.<sup>22</sup> They have become real schools of democracy which encourage women to get involved in decision-making in local public affairs and to empower women at all levels of governance. NGOs have enabled women to critically assess their own situation, create and shape a transformation of society.

Because of the social, economic, and political issues they persistently address, women's NGOs, and civil society in general, gradually became the *raison d'être* of the Moroccan political class not only because of the disposition of the latter as mentioned above, but because of external pressure and pressure from political parties and other human rights NGOs. The government and political parties have realized the need to take account of these new areas of participation and mobilization. The challenge facing the women's NGOs is to elaborate autonomous strategies and to establish themselves as forces for innovation, political pressure and proposals, to push the state to revise its policies. The NGOs autonomy is a basis for genuine partnership with the state and for co-operation with political parties. For the time being, Morocco is perhaps a unique example in the Arab world; a country where the battle led by feminine NGO activists has begun to have a tangible impact on national human rights and development policies. Support for these movements remains essential, not just for Morocco, but for the sake of social development throughout the region. Moroccan women's activism helps to promote awareness and knowledge of legal rights among women, to develop networks between

<sup>21</sup> The translation is the author's.

<sup>22</sup> Valentine Moghadam, *Modernizing Women: Gender and Social Change in the Middle East* (Boulder, CO: Lynne Rienner, 1995).

El-Mostafa Chadli, *La Société Civile ou la Quête de l'Association Citoyenne* (Rabat: Publications Faculté de Lettres et des Sciences Humaines, 2001).

Maria-Angels Roque, *La Société Civile qu Maroc* (Paris: IEMed Publications, 2004).

women's NGOs and community-based groups, and to ensure a broader spectrum of participation in the public sphere.

The impact of the feminist movement was vividly felt after the May 16, 2003, Casablanca bombings. Liberal feminists have been very swift in strongly reacting to the terrorist attacks and they were among the very first who took to the streets. They brilliantly seized the event to take a 'historical revenge' on the Islamists. Their strong public presence was greatly enhanced by the significant diminution in power of the Islamists after the Casablanca attacks.

Overall, the dialectic relationship between the monarch, political parties, the Parliament, and human rights NGOs, on the one hand, and the feminist movement, on the other hand, led to the promulgation of the new Family Law.<sup>23</sup> More than in any period of Morocco's history, the new Family Law is both a subject of its own and a means of studying other topics such as changing notions of state authority, individual decision-making, gender practices, family planning, and family size. It is felt to be an important document that concerns all the components of society, as its impact is attested at the legal, political, religious, socio-cultural, and intellectual levels. At the legal level, the Family law is a central piece in the Moroccan judicial arsenal because it touches on practically all the other aspects of the Moroccan legal system. At the political level, women's judicial status in the family is linked to demands for democracy and full citizenship, and while at the socio-cultural level, the Family Law has been associated with the controversial notion of emancipation,<sup>24</sup> on the intellectual level, the new Family Law has been and still is at the heart of the antagonism between two major tendencies: the conservatives and the modernists.<sup>25</sup>

In spite of the fact that the new Family Law is more 'audacious' than 'The Plan', it succeeded. There are three reasons behind this success: first, unlike the Plan, the new Family Law is first proposed to the Parliament, thus implicating all the representatives of the people; second, it was presented as a 'project of society', and third, it resolves the notorious issue of reference by blending social reality, the 'Shari'a', and the philosophy of human rights. The new Law is designed around

<sup>23</sup> The new Family law is presented as a body of rules, practices, and beliefs that govern the home. Its policies govern all aspects of family life from courtship, marriage and child rearing to spousal violence, divorce, and inheritance.

<sup>24</sup> Women's emancipation has always been characterized by passionate debates. The reason is not simply because of the implications on the social and individual lives of Moroccans, but because this emancipation entails a redefinition of the functions and roles of men and women, as well as that of the relations between individuals.

<sup>25</sup> The domain of confrontation is women's rights in the private sphere, the family. The issue at stake is reference (le référentiel). For conservatives, reference needs to stem from identity 'going back to the source' and 'what singles us out as different: the 'Shari'a'. For modernists, reference needs to stem from universal values. The antagonism is a mirror of the socio-cultural rift within Moroccan society. It is an expression of the ambivalence in the Moroccan judicial and political systems. This ambivalence had local and international causes. It should be pointed out that such antagonisms have always surfaced in the major transitional phases of Morocco's history.

three axes: equality between spouses, family equilibrium, and the protection of the children.<sup>26</sup> The inclusion of children was instrumental in passing the law. It circumvented the thorny issue of 'illegal' children in a skilful way: by respecting international laws protecting children's rights, single mothers were given legal visibility.

Although the new Family Law is more audacious than the 1999 'Plan', the latter failed. The reason for the success of the former is the change in overall political context and the weakening of the Islamist ideology after the Casablanca 2003 terrorist bombings. The new Family Law led to many improvements in other laws, such as the criminalization of violence against wives, the law against sexual harassment in the workplace, and the mother's citizenship law. Overall, the new Family Law improves women's status before, during, and after marriage. It strengthens the position of women in the private and the public spheres. However, two issues remain pending: the implementation of the law and the issue of religion.

So far as implementation of the Family Law is concerned, it differs from region to region but in general it is meeting with resistance because of various reasons. First, the Family Law is still very poorly known in rural and sometimes urban areas.<sup>27</sup> Second, many male judges resist the application of the law. On the other hand, even when the Family Law guarantees women's rights, the impact of patriarchy, tradition, illiteracy, and ignorance may prevent women from invoking their rights or reporting crimes against them, such as rape, child abuse, sexual exploitation and domestic violence. For many feminists, the new Family Law can be adequately implemented only in a democratic context. Another problem is that

<sup>26</sup> Equality between spouses

The concept of equality is attested in the following innovations:sexes

- The legal age of marriage is 18 for both sexes
- Equality in family legal responsibility: both spouses are legally heads of the family.
- Equality in rights and duties: abolition of the right of obedience in return to catering.
- No tutorship for 'major' women.
- Severe constraints on polygamy, almost impossible
- Repudiation and divorce in the hands of the judge. The judge also handles consensual divorce, compensation divorce, 'shiqaq' (impossibility of cohabitation).
- Girls and boys choose which parent to live with at the age of 15.
- Grandchildren (from the daughter) inherit in the same way as those from the son.
- The sharing of accumulated property and benefits gathered during marriage

Guarantee of Family Equilibrium

- The public ministry automatically intervenes in any application of the Family Code
- Establishment of Family Courts. Twelve are already operational throughout Morocco (Royal letter addressed to the Ministry of Justice on October 12, 2003).
- Reinforcement of means of reconciliation through family
- Creation of a Fund for family assistance
- Recognition of Moroccan marriages contracted abroad according to the legislations of the host countries

Protection of Children's Rights

- In the interest of children, the right of the mother's tutorship is not lifted if the divorced mother remarries or if her residence is far from that of the father.
- In the interest of children, the judge may alter the order of the family members eligible to tutorship: the mother, the father, the maternal grandmother, etc.
- The social status of the child is taken into consideration at the moment of divorce: decent dwelling, the standard of living should be similar to that he/she was leading before divorce
- Recognition of paternity when the child is conceived during courtship, that is, before marriage is formalized by a contract.

<sup>27</sup> A recent study of 'Leadership Féminin' (a local women's association) reveals that 87% of women in six rural areas in Morocco do not know anything about the new Family Law.

the new Family Law is about married women. It leaves out: single women, who are not Moroccan but who are married to Moroccans.

In addition to the problem of implementation, the Family Law has not totally abolished four institutions: polygamy, repudiation, separation by compensation '*talaq al-khol'*', and the sensitive question of inheritance which the Family Law has not touched upon. These institutions were not abolished because, on the one hand, the reforms had already been audacious enough, and on the other hand, polygamy is allowed (albeit in a form that is debatable) in the Qur'an (as the King himself acknowledged, stating he cannot forbid what is allowed) and that inheritance is clearly outlined in the Qur'an.

This raises new questions for the feminist movements. The religious will one day emerge in a different form with secularization being more and more at stake in some feminist NGOs. Some feminist associations raise the question of secularization on the basis that the latter does not exclude religion. Secularization is important for the continuity of the feminist movement. The road is still long for Moroccan women to become full citizens, for equality to leave discourse and enter homes, and for democracy to prevail in both the public and the private space.

## VI. Conclusion

The feminist movement has greatly contributed to the feminization of a once male-dominated public space in Morocco. By espousing universal values and adopting local, appropriate and pragmatic strategies, this movement has succeeded to involve the major political actors in the promulgation of the new Family Law reforms. These reforms are by far the most important achievement of the Moroccan feminist movement, for they have succeeded to demystify the 'sacredness' of 'Shari'a' (Islamic law) and have fundamentally contributed to the democratization of the public space and the implementation of human rights on the ground. Male feminism, which once constituted the necessary background for the birth of the Moroccan feminist movement, is now joining this movement without jeopardizing the latter's independence from other actors. The major issue today is to seek efficient ways to implement the new Family Law through the sensitization of women, men and families to the important changes that have been introduced in the Personal Status Code and to incite judges to apply the new law without any reservation.

In the long run, the public debating of once private family issues will force Moroccan society to face the intricate issue of the role of religion in an increasingly secularized public space where women are increasingly visible as actors; this is the next big challenge of the Moroccan feminist movement.