

# A Turbulent Morocco: A Khutta, A Mudawwana, A Reform Movement and Rivalry Frames

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Morocco, March 13, 2000: Hundreds of thousands of women poured into the streets of Morocco's two main cities for rival demonstrations over government plans to bolster women's rights. In Casablanca, Islamic parties headed by the Party of Justice and Development (PJD) and Al Adl Wa Il Ihsan party, both of which occupy seats in Parliament, rallied with around 300 000 followers chanting slogans against the government's suggested reforms and calling for their repeal. In Rabat, a couple of thousand people from feminist groups and political parties such as Al Istiqlal and Al Taqaddom Wa Al Ishtirakiyya gathered in support of these reforms. With slogans such as "Yes for the emancipation of women and no for their alienation," "Men and women equal before God, equal before the Law," and "For the dignity of women," they hailed the complete adoption of the government's plan.

## What is All this About?

It seems that ever since Mr. Abdel-Rahman Al-Yousoufi's government officially announced its intentions to advocate a campaign to uphold women's rights on March 19, 1999, strong reactions have been provoked from almost all the existing political, social, and religious groups in the country. Such outcries have also received international attention, as this is the first time this country witnesses such an aggressive debate over a national issue.

## How has this been Brought Up?

Conforming to the conclusions of the Fourth World Conference on Women held in Beijing in 1995, governments around the world were expected to adopt the Beijing Platform for Action (BPA) aimed at promoting the rights of women. Morocco, having attended the Conference, and being a signatory of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), was no exception.

Despite the fact that the government began to revise the national personal status code (the *Mudawwana*) in 1993, many areas pertaining to women are still overlooked and unattended to. Al-Yousoufi's government, recognizing the urgency of the need to establish women as major players in the development process, was thus intent on initiating a plan that would finally give women what would enable them to occupy an active, equal, and important position in the

Moroccan society. This plan, "*Khutta*," however, was thought to be of little force if the revisions given to the *Mudawwana* remained uninitiated. With the help of professionals and researchers, as well as representatives of the World Bank and the United Nations, the *Khutta*, - aimed both at giving women more rights as deemed necessary and in line with the international standards, at integrating them into the development stream - was drafted. This *Khutta*, was entitled the "Plan of Action for the Integration of Women in Development."

## Why is there a Need for this Khutta, and its Reform Suggestions?

The situation of women in Morocco is morbid. According to the 1994 Moroccan census, women constitute 50.3% of the population. Based on this census the figures related to the status of this majority are startling. 68% of the 55% illiterate populace are women. The majority of those reside in rural areas where one woman dies every six hours following a difficult birth situation.

The mortality rate for mothers following birth is 228 in every 100 000 births. As many as 28,000 cases of violence against women have been officially reported between 1994 and 1998, not to mention the ones not reported. 32.4% of the files of the Court of Appeal in Rabat deal with cases of reported rape.

Women enjoy a meager 0.6% representation at the Parliamentary level with two seats in the Representatives' Chambers and two others in the Counselor Chambers. This places Morocco in the last place among the countries that allocate parliamentary seats and public offices for women. There is only one woman counselor to HM the King. There are only two women occupying the position of Secretary of State. There are no females in the General Secretary post. Despite the fact that some professions are becoming increasingly womanized, yet the percentage does not exceed 30%.

## What is this Khutta?

The *Khutta* is composed of three fundamental sections. The first presents the general framework within which it is to be implemented. The second offers a diagnosis of the current status of women and deals with the obstacles facing the

prospects of integrating women into the development process, the challenges that need to be overcome and the knowledge needed to do so. The third section defines the measures needed to be undertaken in order to implement the *Khutta*. This section distinguishes between four categories of action:

1. Education and abolishing illiteracy;
  2. Reproductive health;
  3. Contesting against poverty and improving the economic role of women;
  4. Improving the political and legal status of women.
- Together, the propositions of all four categories constitute 215 clauses that are to be addressed.

### What are the Main Lines of Action of the *Khutta*?

In broad terms they are the following arranged according to the related categories:

1. In education and abolishing illiteracy, the ensuing propositions are made:
  - i. To organize a large campaign to raise awareness and sensitivity to the needs of women and to motivate them, as well as the community at large, in favor of educating women.
  - ii. To establish a precise and fixed quota of 250,000 women to be educated each year.
  - iii. To educate women who are employed in enterprises through special tailored programs.
  - iv. To educate unemployed rural and urban women in order to master reading, writing, and computation and to raise their awareness to their rights, to issues dealing with reproductive health, protection of the environment, etc.
  - v. To re-integrate into society young uneducated women who are either domestic or factory workers with the help of the Ministry of Education and Non-Governmental Organizations (NGOs).
  - vi. To create a better valued image of women through education and educational manuals that aim at eliminating gender stereotypes.
  - vii. To create an educational environment where gender equality would prevail.

2. In an attempt to improve the conditions pertaining to reproductive health, the following recommendations are made:
  - i. To create and implement a unique national program dealing with reproductive health.

- ii. To reinforce the professional background of general physicians and nurses.
- iii. To facilitate the reception of pregnant women in hospitals.
- iv. To recruit more midwives and improve their status, as well as to equally involve the traditional obstetricians.
- v. To improve the follow-ups of pregnant women both before and after delivery.
- vi. To improve the care provided to women and men, infected with sexually transmitted diseases.
- vii. To improve the system of distribution of condoms by diversifying the methods and regions of distribution.
- viii. To take charge of certain cases of miscarriage and extra marital pregnancy as well as abortion.
- ix. To take care, both medically and psychologically, of women who have menopausal and who have cancer.

3. In contesting against poverty and improving the economic status of women, the *Khutta* laid out the following lines:
  - i. To continue combating poverty with females as primary targets, with special emphasis on the most vulnerable ones, such as needy housewives.
  - ii. To provide female artisans with a status that would give them access to aids such as micro-credits and enable them to sell their products.
  - iii. To develop the integration of women and reinforce their professional formation by programs of alternation, especially in enterprises of the poor areas and the small urban centers.



Source: Daiffa, Women's Algeria (drawings)

- iv. To work on changing the prevailing mentalities by integrating women with university degrees into careers that are traditionally considered to be masculine such as medicine and education.
- v. To mobilize and aid women to recognize their rights in the hope of reducing their exploitation and the unstable nature of their work.
- vi. To reinforce the status of active women and understand the difficulties they face.
- vii. To provide women who work domestically or who are housewives with a status by declaring them artisans.

4. For improving the political and legal status of women, the following suggestions are seen as necessary and vital:

- i. To guarantee a visible representation of women in decision-making positions as well as in higher level public positions.
- ii. To create and implement special corrective measures to create a more equal representation of women in decision making committees.
- iii. To eliminate the imposed legal discrimination against women in accordance with the United Nations covenant of 1979.
- iv. To create special legal sanctions to protect women against all forms of violence.
- v. To take necessary measures outside the legal scope to protect women.
- vi. To appoint judges as well as auxiliaries dedicated to dealing with family issues.
- vii. To sort out the dispositions of the sanctions of the Family Code in cases of non-conformance and violation.
- viii. To create family tribunals.
- ix. To recognize the right of female judges to intervene in personal status matters.
- x. To diffuse all the legal decisions made by the Supreme Court in favor of women in all the media whether heard, read or seen.

In addition to all these lines of action, reforming certain articles in the *Mudawwana*, is recognized to be at the heart of the success of the *Khutba*. Without such reforms, it is believed that all efforts would be in vain as the situation would remain essentially the same.

#### What are the Articles of the *Mudawwana* that are in Want of Reform?

Of all the articles of the *Mudawwana*, nine were perceived as requiring amendment, and six were to be made binding by the law. The nine proposed amendments are summarized as follows:

- i. To raise the marriage age from 15 to 18 years in confirmation with the Convention on the Rights of Children that Morocco had ratified in June 1993.
- ii. To give all females of marriage age, 18 years, the right to conclude their own marriage without the mediation of a matrimonial guardian.
- iii. To repudiate the right of the husband to divorce instan-

taneously and replace it by a judiciary divorce that can be obtained upon the request of either spouse or upon the joint request of both.

- iv. To establish an equal division of all acquisitions attained during marriage between the husband and the wife irrespective of the contribution of the wife as to their attainment.
- v. To include the marriage domicile as part of the divorce alimony.
- vi. To give tutelage over the property of minor children to the judge irrespective of the sex of the legal guardian.
- vii. To eliminate the right to polygamy, maintaining it only an exception as deemed appropriate by a judge and upon the consent of the first wife.
- viii. To unify the custody age of the children to 15 years regardless of their sex.
- ix. To provide the wife with full custody of her children upon divorce even if she marries again.

Beyond these proposed reforms of the *Mudawwana*, there are some legal aspects that have been suggested as equally necessary for the advancement of women. These articles that are made to be legally binding have caused much stir in the country and contributed to worsening the already existing opposition movement both in the official and the unofficial public representations. In brief they are:

- 1) granting the Moroccan nationality to a child of a Moroccan mother and foreign father,
- 2) granting a duplicate of the civil status identity card to the female divorcee having custody of her children and
- 3) providing an imaginary father's name to a child born to a Moroccan mother of an unknown father,
- 4) revising article 336 of the Code of the Penalty Procedure (CPP) in order to permit a domestically violated wife to prosecute her husband,
- 5) revising, or rather abolishing article 475 of CPP which would allow a kidnapper to escape litigation upon marrying the kidnapped, and
- 6) obliging political parties and syndicates to establish a minimum quota of 33% of female representation in their administration, as is the case to be in the government itself.

At face value these reforms seem plausible, appropriate, necessary and beneficial; and they may be so. Yet, and rather unfortunately, not all factions think alike. Like any country that is undergoing processes of change and advancement, opposition forces exist in Morocco to hinder the progress process. Although opposition may at times be beneficial, yet at others, it simply constitutes a hurdle to the smooth functioning of things.

In Morocco, a country in which religion and the religious establishments are extremely influential, a strong opposition movement emerged. This movement, constituted mainly of the extremist and less extreme religious factions in the country such as the PJD and the Al Adl Wa Il Ihsan movements, vigorously challenged the suggested reforms and called for their total abolition.



### What are the Oppositions Arguments?

In the words of Harakat Al Tawheed Wa Al Islah, “the conflict does not revolve around whether or not it is necessary to integrate women into the development stream, as some would like to assume, but rather around the prospects for changing the *Mudawwana’s* articles that are primarily dictated by the Muslim *Shari’a* and particularly by the Maliki legal school (*mathhab*).” To them, the proposed amendments are in direct contradiction with the Muslim direction and should thus be contained.

To start with, they attack the proposed recommendation regarding the judicial divorce. They claim that incorporating an article that prevents the husband from instantaneously divorcing his wife as is dictated by the *Shari’a* clearly challenges it. In their argument, they attack the draftsmen of the reform by accusing them of ignorance of the *Shari’a*. They hold that the reformers are clearly unaware that a husband divorcing his wife is but one form of the divorce allowed in Islam (the others being that a wife can ask to be divorced from her husband and that a judge can annul a marriage when this is regarded as necessary). Despite the fact that each of these forms has its own guidelines and prerequisites, the fact remains that in Muslim marriages the wife is not at a disadvantage, as the reformers claim.

To further strengthen their argument, the opposition holds that the creation of only one form of divorce, that which is judicial, defies the purpose of discouraging divorce, if that is the intent of the government. They claim that it would create confusion in the family and ambiguity in the matrimonial life during the divorce process. In addition, they think that such a form of divorce would generate hostility between the spouses, which would completely destroy any possibility of marriage restoration. The opposition claims that this article would discourage marriage and encourage extra marital relationships. Its disadvantages are thus seen not only to contradict with its purpose, but also to outweigh its claimed advantages and as such it should be disclaimed.

The second objection deals with the marriage age. The opposition strongly holds that legally raising the marriage age to 18 years causes more harm than benefit in society. Though it does not clearly contradict with the *Shari’a*, it, nonetheless, is deemed unnecessary. The arguments advanced in support of this outlook revolve around the fact that the statistical data available points out to the increased presence of unmarried females rather than ones who are wed too young. They hold that the available data reflects a society in which the age of marriage has steadily increased to reach an average of 26 years. As such, they hold that it is unnecessary to legally restrict marriage options, given the status quo which disfavours early marriage.

The third argument is presented against the article that forbids polygamy. According to the opposition, such an article not only defies the recommendations of the Quran, but also

questions its wisdom for God has purposely sanctioned polygamy so long as certain conditions are met. Not only does abolishing this right mean disregard for sacred texts, but it also reflects the ignorance of the reformers as to matters concerning these issues.

As it is argued, God has dictated specific conditions for sanctioning polygamy and unless these are satisfied, there can never be endorsed polygamy. The fact that the reformers were unaware of the existence of such scriptures points to their ignorance in matters pertaining to social welfare. Legally restricting polygamy is not only not needed, but also irreligious.

A fourth argument that the opposition holds is against the equal allocation, upon divorce, of all acquisitions during marriage between both spouses. They claim that such measures present an expressed challenge to the recommendations of the *Shari’a* that maintain a specified distribution pattern.

Even though the reformers claim that such an article would safeguard the wife’s rights, it will curb her freedom and affect her interests negatively. Such a recommendation would permit the husband to have an equal share of his wife’s earnings just as it permits her to have of his. The *Shari’a*, on the other hand, in assigning fixed distribution channels, protects the finances of the wife in not giving the husband any right to his wife’s riches without her consent. Furthermore, such a binding constituency to a marriage is bound to create cases in which divorce is staged so that either spouse could gain financially from the other’s success. This is not to mention the fact that it would motivate either spouse to conceal her/his real wealth from each other. This would defeat the purpose and meaning of marriage and give women a weaker position than they already occupy.

A fifth argument is presented against the prospect of allowing females of marriage age to marry themselves without need for a matrimonial guardian. This prospect is believed to challenge the dictates and recommendations of the Hadith (Tradition of the Prophet) which clearly indicates that marriage can neither be binding nor can it be concluded without the presence of a matrimonial guardian and two witnesses. Moreover, the opposition holds that there is no evidence that supports the need to have a provision enforced by law that allows women to marry since there are no societal indications that females are being forcefully coupled or are being prevented from marrying whom they wish. Furthermore, the opposition maintains that the reformers are blind to the fact that a matrimonial guardian exists to safeguard females and to guide them in their choices rather than force and coerce them.

Notwithstanding these arguments put forward in defending the Muslim nature of the country, the opposition laid grounds for arguments against propositions that it thought



would inevitably lead to the break up of the country's traditional societal norms and encourage Western notions and modes of life.

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In what relates to this, the opposition cites condom distribution through such channels as newspaper posts, telephone booths, and vending machines, as encouraging its use among the populace rather than its propagation as a prevention to sexually transmitted diseases. It is regarded that such a line of action fails to solve the problem at hand because it addresses its consequences rather

than its reasons. In addition, the prospect that the government would be willing to take care of certain cases of extra marital pregnancies would inevitably encourage the prevalence of such incidents, so that rather than providing solutions to existing problems, the *Khutta* is creating new problems that the country can do without. In addition, the fact that the *Khutta* has been laid out in co-ordination with and upon the recommendation of such foreign institutions as the World Bank and the United Nations clearly suggests that whatever has been proposed is aimed at projecting and popularizing Western ideas and manifestations.

#### What is the View of those in Favor of Adopting this *Khutta* with all the Reforms Needed to Guarantee its Success?

This team calls out for complete transformation of Moroccan society even at the expense of cutting the veins of tradition. The supporters argue that the texts laid down are not only a sign of development but are also an essential ingredient to achieve this change. They consider it high time that the government realized the pressing needs of society and launched a campaign in the direction of fulfilling them. They argue that the opposition's stance is not so much a matter of a religious fundamentalist clash as much as it is a political and cultural confrontation. What the opposition seeks to manifest is their resistance to the current state of affairs to strengthen their standpoint even in the absence of an alternative plan that they could rally for. In reality what they are calling for is the displacement of a perfectly worthy plan without having any other substitute with which to fill the thus created gap and to better the condition of women in the country. In effect, the reality remains that Moroccan women are exploited; they are deprived of their rights; they are oppressed; they live below acceptable sustenance levels and they are barred from decision-making spheres and economic and development arenas. What do the Islamists suggest to better this situation? Nothing.

In the words of Ismail Al-Olawi, Secretary of Al Taqaddom Wa Al Ishtirakiyya and the current minister for Civic Education, "the *Khutta* is not an end in itself, it is rather a means to achieving an end, a goal that all countries seek to witness happening to their societies which encompasses: an improvement in standards of living, sustainable development and a better future. The reforms of the *Mudawwana*, it should be kept in mind, are part of the overall Ministerial *Khutta* that was approved by a significant majority in Parliament including both opposition and support parties. It is thus surprising to see such loud debates as to its acceptance." The Minister adds, "the text of the *Khutta* is still in the planning phase. We, at the Parliament, are open to all discussions, suggestions and proposed revisions provided that those are in line with the overall projected objectives. I think that the distinct oppositions to the *Khutta* come from individuals and groups who are ill-informed and ignorant of the real motives behind its propositions."

The Minister goes on to say, that "the opposition claims that there are texts in the *Khutta* that contradict Islam and its *Shari'a*; to them I say that they are being misled into believing that. When was delaying the age of marriage into one more appropriate and in accordance with the international standards contradictory to Islam and the *Shari'a*? The *Shari'a* does not mention anything about the marriage age to start with. As to claims such as the ones against the distribution of condoms and encouraging reproductive health by taking care of miscarriages and abortions and ex-marital pregnancies, my response is that this is the least a government can do to its people in general and to its women in particular to ensure that they remain healthy. If the government does not take care of its citizens, who will? They will inevitably end up on the streets unattended to and this is what we do not want to see happening to our people. There are minimum requirements that a government should ensure and these are but a few of them. A lot remains to be done and this is the way to achieve what we have always hoped for. Finally, I say, when was Islam ever against the guarantee of a healthy life, and the improvement of women's status, and when did it stand in the way of development and equality?"

#### The *Khutta*, a Future of Execution or Elimination?

Morocco. The *Khutta* Two groups. Support and Opposition. Who will get his way? Will the *Khutta* be implemented or will it be eliminated?

Voices are still being heard until now. Cries of endorsement and cries of protest still echo in the streets. The issue remains unresolved. The government still has not chosen a course of action. Until it does, things will stay unchanged in the Moroccan society. It will remain divided by lines of difference and hostility, while women's status remains unchanged.