

NORTH



**North-South Centre**  
of the Council of Europe



SOUTH

**“Women’s Rights  
in the Euro-  
Mediterranean  
Region:  
Women as Agents  
of Change”**



Institute of Mediterranean Studies  
Lugano

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*Seminar*

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■ **"Women's Rights  
in the Euro-  
Mediterranean  
Region:  
Women as Agents  
of Change"**

*Lisbon, 30 June - 1 July 2006*

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**Report**

*Seminar organised by:*

*The North-South Centre of the Council of Europe*

*In co-operation with*

*The Institute of Mediterranean Studies in Lugano  
and the Luso-American Foundation in Lisbon*



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# Introduction

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**Within the framework** of its human rights, democratic governance and development programme, the North-South Centre of the Council of Europe has been involved for several years now in a process designed to reinforce women's rights and powers as agents of change in Euro-Mediterranean societies.

The seminar ***Women's Rights in the Euro-Mediterranean Region: Women as Agents of Change*** was part of this process.

The seminar was held in Lisbon on 30 June and 1 July 2006 and brought together participants from countries on both sides of the Mediterranean: representatives of governments and civil society, parliamentarians and university students. The presentations and debates were rich and intense.

We would like to thank all the participants for their powerful speeches and contributions.

This report contains a summary of the debates, conclusions and recommendations, the full texts of the presentations and a list of the participants.

The North-South Centre of the Council of Europe will continue to play its role as a catalyst in order to ensure that the recommendations are followed.

We would like to thank the Institute of Mediterranean Studies in Lugano for its invaluable co-operation. Our sincere thanks also go to the Luso-American Foundation for its kind sponsorship, without which the seminar would not have gone so smoothly.

Fifi Benaboud was responsible for co-ordinating the process.

***José Carlos Correia Nunes***  
Executive Director





# Summary

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**The seminar** *Women's Rights in the Euro-Mediterranean Region: Women as Agents of Change* organised by the North-South Centre brought together representatives of parliaments from countries in the Euro-Mediterranean region, government representatives, representatives of the authorities in the Council of Europe Member States, university students and members of civil society.

The seminar was part of a global, integrated process at the North-South Centre, which has focused for several years now on the promotion of women's rights and their role as citizens and agents of change and development in their societies and in the Euro-Mediterranean region.

This reinforcement of women's rights is part of a strategy to promote human rights and generally strengthen democratic processes. Indeed, the promotion of women's rights is indissociable from fundamental rights, democracy and development. The Lisbon seminar was an important milestone in the reinforcement of the process implemented by the North-South Centre to build strategies and create synergies between the different players, be they governments, parliamentarians, intergovernmental institutions or NGOs.

Of the main deficiencies mentioned in the *Arab Human Development Report 2002*, the issue of building women's capacities is one of the principal challenges in the region. Although the laws governing women's status are part of the constitutions of the different countries, their fundamental rights are violated every single day.

The fact that they are left out of political and civil life contributes to this trend towards exclusion. They have nowhere to assert their rights, even though these rights are recognised at international level and enshrined in international law.

How can we ensure that women fully enjoy their fundamental rights? What strategies can we adopt to build their capacity to achieve emancipation in settings where religion or tradition prevails? It is well known that their legal status is the greatest obstacle, and so what role can civil societies and international, regional and local networks play in improving this status and building their capacity?

Co-operation, the reinforcement of partnerships, the sharing of experiences between the Arab world and European countries and the expertise of the Council of Europe have proved to be essential elements in the promotion and protection of women's rights in the region.





The presentations and debates analysed the issue of women's rights from different angles. Experiences from a number of countries around the Mediterranean were described.

Morocco aroused considerable interest as it has been experiencing both demographic and socio-economic and political transitions. For the last two decades, different women's movements have been a driving force behind reforms in the domain of women's rights.

The public debate triggered by amendments to the *Moudawana* (family code) has clearly shown the sensitive nature of women's status in certain Arab societies. The debate represented the perceptions and attitudes of political, religious and social players with regard to women's rights and their participation in development. It highlighted not only antagonisms and resistance but also changes in the role of women in economic, political, social and cultural processes.

What is interesting about Morocco is that the new *Moudawana* adopted in 2003 was structured around two dimensions: the religious dimension with the *ijtihad* (revival of the religious side) supported and represented by King Mohamed VI as the religious authority and the "modern" legislative dimension with the discussion and adoption of the draft code by parliament.

This development is coherent and feasible because it brings the issue of women's rights out of the religious field into a more open, general debate in the political and social arena.

Does it pave the way for secularisation of the question of women? The future of women's circumstances in the region will show. Turkey is also interesting in this regard (see text in Appendix I).

More than anything, these measures show that women's rights can only improve sustainably in a context of overall reforms that allow women to become fully fledged citizens. The reform of family codes makes it possible to measure the dynamics of change in southern Mediterranean societies and resistance to the effective implementation of women's rights.

While this change was brought about in Morocco and Algeria as a result of pressure from women's associations and movements and progressive political parties, in Turkey, Tunisia and Jordan it was mainly the state that committed to and facilitated reforms towards gender equality.

It is, however, important to remember that there is often a gap between legislation and mentalities and that there is currently a cleavage between rules and practices. Laws are passed by parliaments but their implementation is slow or even blocked. Women's *de jure* and *de facto* experiences in Mediterranean countries differ both in their similarities and their disparities. The law is not enough to change mentalities, but it is a cornerstone on which to build change.

The principle of equality should not be limited to the law. It must be found in the economic, social and political field in order to pave the way for changing mentalities.

The importance of cultural or religious factors in the question of women's rights is undeniable. They are still used in different forms as tools of resistance to all profound change and continue to encourage the patriarchal system that renews and reinforces its own blocking tactics. Indeed, "cultural" practices and certain traditions linked to the patriarchal system often bring with them sustained discriminatory codes of conduct against women. Patriarchal structures and practices perpetuate inequalities.

It is important to point out that, while the religious aspect is very much present in the field of women's rights, it is not always the vector of these discriminatory codes of conduct. Conservative, exclusive interpretation of religion is one of the main obstacles to the promotion of women's rights in the Mediterranean region. Mentalities based on patriarchal principles that regard women as "the guardians of traditional values" often stand in the way of their emancipation. Religion is often called upon to reinforce this approach by painting it as sacred.

This reference to religion is not the prerogative of Muslim countries, however. In fact, according to a report adopted by the Parliamentary Assembly of the Council of Europe in September 2005, religions in Europe occupy a significant place in the lives of European women.

The direct or indirect influence on women of religions or their interpretation can infringe their rights. This is why it is necessary to dismantle the foundations of these systems. It is also necessary to highlight the important role played by education and awareness campaigns, which are essential tools in changing attitudes to gender equality and making women aware of their fundamental rights.

It is also important to tear down prejudices and representations that insist on regarding Arab or Muslim women as a single stereotype, without taking into account the great diversity and contrasts marking Muslim societies.

While taking into account the differences in women's circumstances in the countries on the north and south sides of the Mediterranean, the participants stressed that patriarchal practices are not exclusive to the south and can also be found in certain countries in the north.

The important aspect that came out of the debates was that, today, the issue of religion and women is causing more and more debate and controversy not only in the southern Mediterranean but also in Europe, and it is not possible or desirable to hide it. It is preferable and less harmful to address it in a process of reform and modernity.



However, it is necessary to speak out against any cultural relativism used to justify violations of fundamental rights. The impact of cultural relativism also affects immigrant women in Europe. They are doubly penalised by their condition as women and as migrants and are often confronted with dual standards and group pressures in total contradiction of respect for fundamental rights.

While recognising cultural differences, countries in both the north and south must conform to a common, firm base of universal values.

In a broader overall context, we must regard the development of women's rights and their emancipation in relation to different forms of discrimination in the framework of a strategy aimed at promoting democracy, human rights and socio-economic progress. Only integrated, overall reforms associated with good governance can bring about real political equality and the inclusion of women in economic, social and political change in southern Mediterranean societies.

History has shown that adhering to a democratic system, even if it does not involve rapid, visible growth in women's rights, does not prevent them from evolving progressively towards the adoption of the principle of equality in all spheres of society.

The question of women's place in southern Mediterranean societies is indissociable from the reinforcement of democracy and the vital need to introduce political, social and economic reforms.

Women's participation as essential players is a fundamental aspect of the construction of democratic societies. It is also from this point of view that we must regard their rights. While the participation of Euro-Mediterranean women is certainly increasing, they are still marginalised from the decision-making centres.

It is important to stress that if national legislations on the status of women are to be strong, they must abide by international rules (the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), for example).

There can be no doubt that the reinforcement of democracy has a positive impact on reforms affecting women's status. However, the reality in the field is not so simple. In certain poor countries in the south, the state's influence in isolated rural areas is limited. Illiteracy, poverty, unemployment and exclusion do nothing to facilitate the implementation of reforms likely to reduce discrimination. And women are even more disadvantaged and discriminated against at this level.

Their emancipation in a multi-dimensional approach is certainly a challenge in economic and social development in the southern countries. There must be an adjustment between women's real lives and institutional frameworks. A democratic society is judged in the light of the way it treats its women and its respect for their economic and social rights, which are inseparable from their

civil and political rights. The different players, governments, parliaments and women's organisations must co-ordinate their action and create synergies to ensure progress towards equality.

The construction of a Euro-Mediterranean space for dialogue, stability and shared development involves the reinforcement of democracy and respect for human rights. As women play an essential role in this space, one of the dimensions of Euro-Mediterranean relations must be the promotion of women as agents of change in the region.

While pointing out the limited action taken within the framework of the partnership, the participants stressed how important it was to reinforce dialogue and co-operation between the Maghreb and Mashrek countries and Europe.

The promotion of women's rights and the principle of equality, one of the Council of Europe's fundamental commitments, should serve as a consensual basis for this trans-Mediterranean dialogue.

In addition to recognising the essential role of women as agents of development and democratic reinforcement, the southern Mediterranean and Council of Europe countries must demonstrate a real political will and commit to promoting women's rights throughout society and include the issue of gender in all their policies. This will and this commitment must make themselves felt in governments, national parliaments, the Parliamentary Assembly of the Council of Europe and women's NGOs both south and north of the Mediterranean.

We must develop trans-Mediterranean solidarity by reinforcing existing networks and creating a trans-Mediterranean women's network sponsored by the Council of Europe. The purpose of this network will be to implement specific action to promote dialogue for the reinforcement of the rights of European and Arab women and their place in society, focusing on different issues:

- reinforcing texts and laws for the effective implementation of equality policies;
- following up on progress achieved and signing agreements such as the European Human Rights Convention, the United Nations Declaration or the CEDAW;
- changing mentalities through education and awareness-raising campaigns;
- organising intercultural activities;
- exchanging information and results of research into women's rights;
- conducting national surveys on the political, economic and social situation of women in the southern Mediterranean countries based on the model used by the Council of Europe in some Member States (Stockholm Conference, June 2006).



## » Conclusions and recommendations

The speakers on the two days (30 June and 1 July 2006) focused on evaluations of the situation of women in the Euro-Mediterranean region. They spoke of women's achievements, women in the field of rights, political participation and education, stressing important inequalities between women and men in terms of decision-making, employment and access to resources.

There are, however, contrasts in the region and between the southern countries themselves. Women in certain countries, like Tunisia, Morocco and Turkey, seem to enjoy more rights and freedoms than those in other southern nations. Countries like Saudi Arabia continue to marginalise women for cultural and social reasons. In countries in the north women are also subject to the patriarchal system even though they are emancipated and have jobs. Women who work have to try and reconcile family, domestic chores and employment. The number of women occupying positions of responsibility is limited and the unemployment and poverty rates are higher among women than men throughout the region.

Family codes have recently been the subject of substantial reforms, especially in Morocco and Algeria, where new laws guarantee gender equality and women's dignity. These two countries are currently undergoing a democratic transition and their authorities have responded to the demands of women's associations and democratic forces.

The participants then took stock of the main obstacles to equal opportunities:

- A shortage of strategies for including women in development;
- Limited employment for women;
- The high illiteracy rate among women;
- Partial, sectoral integration of women into the socio-economic fabric.

In order to understand and improve the situation of women in the Euro-Mediterranean region, it is necessary to take into account different socio-cultural contexts, historical and cultural specificities and the dominant mentalities in each country.

Research must be conducted in the region to determine the obstacles standing in the way of access to and implementation of women's rights. In all these cases, tradition and modernity tend to overlap but the universal values of human rights prevail.

Today, women in the north are also experiencing important changes in terms of political participation and assertion of their identity.

Religion, which plays a leading role particularly in countries in the south, can be adapted to the demands of modern society and to women's rights and needs. Monotheistic religions, including Islam, guarantee a woman's rights (to choose her husband, to work, to inherit, to vote, to receive an education, to set up a company...).

The Euro-Mediterranean partnership has not lived up to the expectations of the peoples in the region. Its implementation has come up against obstacles, and human rights and peace in the region are not targeted enough. But we must not under-estimate achievements.

This must be put into perspective. It's not a question of black and white. Everything changes according to the economic, social and educational players. All over the world, democracies are far from being perfect. Whatever the region, whatever the religion, women are victims of social injustice.

In order to make progress, local players and NGOs working to change mentalities and ensure sustainable development must be encouraged.

Ignorance of the different Mediterranean cultures is a problem that must be dealt with.

A better rapprochement and greater familiarity with countries and their cultures will contribute to better mutual understanding.

## » Recommendations

The following recommendations were made:

- Governments must ensure that women have legal protection.
- New laws and family codes must be implemented fully.
- Clear political will is necessary to ensure social justice and equality of the sexes.
- Successful experiences and best practices in the region must be publicised.
- Scientific studies must be conducted to set up databases on the region.
- Men must be associated with all projects promoting women.
- Strategic partnerships must be set up between the countries in the region.
- North-South and South-South co-operation agreements must be reinforced.



- A budget for women must be set up.
- There should be more women in trade unions and political parties.
- Their ability to manage companies must be developed.
- Appropriate assistance must be given to women living in rural areas.
- The democratic process in the region must be consolidated, as only democracy can guarantee women their rights.
- It is necessary to fight exclusion and inequality in education, health, employment, housing and social protection.
- Research conditions need to be improved in the countries of the south.
- Links must be developed between education and the job market.
- Information and communication technologies must be introduced at schools, and women must be given technological training.
- All the dimensions of the Euro-Mediterranean partnership must be implemented, especially regarding women's rights and integration into economic and social life.





## Opening Session

**Mr Claude Frey,**

*Chairman of the Executive Council of the North-South Centre  
of the Council of Europe*



**There can be** no harmonious development without shared responsibilities. In the 21<sup>st</sup> century, women have the same responsibilities as men. We know how much the development of a nation is influenced by the role of women as citizens and economic players. We are all aware of women's role, but there are countless obstacles of a legal and religious nature. However, these obstacles seem to be in people's minds more than anything. How can we overcome these obstacles? Changing legislation doesn't change mentalities. They can only be changed through education, in everyday life, in the field where actions speak louder than words.

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During this seminar, I would like to ask you to prepare proposals on concrete action to be undertaken for the promotion of women's rights.

The North-South Centre is very happy to welcome you here for this two-day seminar and is pleased to place at your disposal its network and partners, which are:

- Not only Council of Europe Member States but also countries from the south;
- The Parliamentary Assembly;
- Local and regional authorities (the Congress of Local and Regional Authorities with which an agreement to reinforce co-operation will be made);
- Non-governmental organisations, which are also represented in the Executive Bureau of the North-South Centre.

I would like to ask you to work with the North-South Centre and its quadrilogue network, as its members are ready to implement and follow up the action to be taken.







**Ms Gabriella Battaini-Dragoni,**

*Director General of Education, Culture and Heritage, Youth and Sport of the Council of Europe and Co-ordinator for Intercultural Dialogue of the Council of Europe*



**The subject** of our seminar fits in perfectly with the priorities of the North-South Centre and the Council of Europe, which has an essential role to play in the promotion of equality between women and men in its Member States, for example by defining common principles and standards for the promotion of full participation in society by women and men. The imbalances between women and men continue to mark all fields of life and it is increasingly clear that we need new approaches, new strategies and new methods to achieve equality between women and men.

Only a week ago, the Committee of Ministers adopted the details of a new Council of Europe campaign to combat abuse against women, including domestic violence. Abuse against women is a violation of human rights, preventing women from enjoying fundamental freedoms. It often renders women more vulnerable to further abuse and is a serious barrier to overcoming the inequalities between men and women in society. Violence against women is an act against peace, safety and democracy.

Another example of these new strategies is the integrated approach to equality between women and men. The aim of this integrated approach is the (re-)organisation, improvement, development and evaluation of decision-making processes in order to ensure that the players normally involved in defining policies incorporate the principle of equality between women and men in all fields and at all levels.

In this context, the role of women as agents of change deserves our undivided attention. More specifically, for several years, the Council of Europe has been working on women's role in the prevention of conflicts, the consolidation of peace and democratisation processes. Their participation at all levels of dialogue has proved essential in preventing conflicts and establishing lasting peace and world justice. Nevertheless, the results of past efforts are slim, as shown in a recent report by our organisation. "In spite of countless examples of women's strong commitment to the consolidation of peace and to dialogue in cases of national, religious or cultural division, their participation is neither encouraged nor recognised. As the main victims of conflicts, women do not have the power to influence decisions in times of war or in post-conflict situations. Because of the inequality between women and men, women are often under-represented. They see their rights violated or reduced. They are excluded from negotiation tables and have only limited access to resources".

Along with the policy of equality between women and men, the theme of the seminar also includes the promotion of intercultural dialogue, another of the Council of Europe's priorities established by the Third Summit of Heads of State and Government in 2005.

Our conception of intercultural dialogue takes a transversal approach, touching on the political, economic, social and cultural aspects, among others, of democratic societies based on respect for human rights and the rule of law.

For the Council of Europe, intercultural dialogue should take place at three levels, all of them equally important: intercultural dialogue in our societies, dialogue between European cultures and dialogue between Europe and its neighbours, particularly on the south side of the Mediterranean.

And now here we are in the heat of the debate. The conception of the role of women is one of the main markers of the perception of "the other", especially in relations between so-called European or Western culture on one hand and Islamic culture on the other. A few days ago, the Pew Research Center in Washington, one of the most important American social research organisations, published the results of its *Global Attitudes Project*. Its summary of the situation was as follows. "The chasm between Muslims and the West is also seen in judgments about how the other civilization treats women. Western publics, by lopsided margins, do not think of Muslims as "respectful of women". But half or more in four of the five Muslim publics surveyed say the same thing about people in the West."

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This seminar will help us to see what is behind global judgements. It will help us to understand the situation of women in our societies and their visible or hidden capacities, to contribute to the social, cultural and political changes needed for peace and development, and understand the educational and legal resources needed so that women, men, our countries and our cultures can advance.

I would like to thank the North-South Centre for organising this seminar and the Institute of Mediterranean Studies in Lugano for its partnership. The Luso-American Development Foundation also provided important support, for which we would like to express our gratitude.

Thank you for your attention. I hope your debates will be lively and fruitful.



**Ms Gülsün Bilgehan,**

*Member of the Parliamentary Assembly of the Council of Europe and  
Rapporteur on the Integration of Immigrant Women in Europe*



**It is a** great pleasure to be able to participate in this Seminar on Women's Rights in the Euro-Mediterranean region. After all, I am a woman and I am Mediterranean.

My country, Turkey, has been a great model for women's emancipation since the 1920s, thanks to the reforms introduced by Atatürk, founder of the Turkish Republic. The rights granted to women were extraordinary for their time. The abolition of the Sharia and the implementation of a civil and criminal code in 1926 contributed considerably to women's emancipation.

In developed countries, women participate in active life and even become leaders. The European values and legislations that contributed to this emancipation make Turkey's accession to the European Union very important to Turkish women.

In Kuwait, women have just achieved the right to vote. They are preparing to participate in the elections. In the Maghreb countries, the women's struggle continues through reforms, new civil laws and new family codes. There are great changes in the air and women are working towards them.

It is not cultural or religious comparisons that we need; we have to talk and adopt universal values. Where Islam is concerned, with the experience of four generations, my family is a concrete example that Islam is perfectly compatible with universal values. Today, we must choose universal values.

Turkey's Parliament has voted in some very advanced laws, but the important thing is to implement them. Legislation comes before practice. These issues are in line with the concerns of the Council of Europe, which, in January 2005, adopted a report by the Equal Opportunities Committee entitled The Integration of Immigrant Women in Europe. In its report, the committee concluded that women are victims of double discrimination in Europe, because of their gender and their origin. They are discriminated against in the host country and in the immigrant communities themselves. The report also highlighted the contribution that immigrant women can make to social cohesion and cultural diversity in our societies in Europe.

We therefore expressed the conviction that immigrant women are also agents of change.

And so it is still in the field of law that advances should be made first. We must realise that the protection of immigrant women's fundamental rights can be mitigated by the existence of bilateral agreements, the application of personal status to immigrant women or women of immigrant origin or because of the

absence of a legal status independent from that of the group. The application of rules of private international law cannot justify ignoring the basic principle of equality between women and men in the Member States of the Council of Europe or in any other country.

The Parliamentary Assembly therefore recommends:

- Granting immigrant women arriving under family reunification arrangements a legal status independent of that of their spouse;
- Guaranteeing immigrant women the right to hold their own passport and residence permit;
- Rejecting the application of any provision of foreign legislation relating to immigrants which is contrary to Human Rights, Protocol 7 of the convention or the principle of equality between women and men;
- Providing for the transcription and validation by the competent authorities of judgments in matters relating to marriage, divorce and child custody delivered by courts in non-member states of the Council of Europe in order to verify that said judgments are in conformity with the European Convention on Human Rights.

Improving the condition of immigrant women is a two-way process as it involves not only the host country but also the country of origin. Our report shows the link between the personal status of women in their country of origin and the situation of immigrant women in the host country.

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The Parliamentary Assembly has urged the Council of Europe to take measures to reinforce the protection of immigrant women's fundamental rights and to include gender issues in its work on immigration. The Parliamentary Assembly has asked the Member States to facilitate the participation of immigrant women in economic, social and public life.

The Parliamentary Assembly has also decided to continue its work on the effects of the application of immigrant women's personal status in the host country and to have talks with representatives of the Algerian, Moroccan and Tunisian parliaments on respect for the principle of equality between men and women in the family codes of their countries of origin. This parliamentary seminar will be held in Strasbourg on 19 October 2006 in partnership with the North-South Centre.

The views of the participants in this seminar may contribute to our reflection.



**Mr Zergün Koroturk,**  
*Ambassador of Turkey in Portugal*



**The theme** of the seminar covers a very special region. It is a region that has obvious cultural and social similarities, imperial influences, emigrant traditions and above all a region well aware of the value of diversity and harmonious co-existence. But it is a region which also has its contrasts. On one side, there are states well advanced in the socio-economic status and education of women and on the other side there are states where they still have some path to cover.

However despite this it is not correct to draw a fault line within this area related to the status of women. Because one cannot say this is a problem of the developing world and not of the developed one. In one of the most developed countries in the world the earning of women would be 43% that of men. So the core of the problem is mentality, political and social will and voice in gender matters. And gender is a social problematic issue all over the world.

Therefore the status or the role of women in the Euro-Mediterranean region is to a great extent part of this global issue.

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No doubt social norms and customs are powerful incentives in gender equality and, in this respect, institutional reforms are challenged by a country's social norms, customs and sometimes by religious considerations. However there are no dividing lines in relation to these considerations. Turkey is probably an interesting example being a secular state with a predominantly Muslim population. I am sure that the distinguished Turkish participants will focus in detail on this subject but just allow me to emphasise here that Turkish women got their right to vote and be voted on in early 1930's much before the French, the Italian, the Belgian and Swiss women. This leap could not have been achieved had there not been a strong political voice in this direction.

When we look at the Southern Mediterranean region, we again see that women are active in the social-economic life of the country and have made great progress in closing the gender gap. What has to be made clear is that if gender disparity is ignored we have to face its consequences on our well being, on our countries' sustainable growth ability, on effective governance and on the efforts to reduce poverty.

There is a need to explain that gender inequality is a lost opportunity for a more productive generation. There is a need also to get the civil bodies involved as much as possible in this task because at times they can be more effective than Governments.

Probably the Mediterranean region with its unique cultural and social similarities could be the ideal set up to get converged efforts in the sphere of the role of women and I am sure this seminar will contribute in this direction.



**Mr Jorge Lacão,**

*Secretary of State, Presidency of the Council of Ministers of Portugal*



**Greetings,**

**Ms Gabriella Battaini-Draxton**, Director General, Co-ordinator of Intercultural Dialogue of the Council of Europe

**Princess Wijdan Ali of Jordan**

**Ms Gülsün Bilgehan** Turkish parliamentarian, Parliamentary Assembly of the Council of Europe

**Ms Zergün Koroturk**, Ambassador of Turkey in Portugal

**Mr Claude Frey**, President of the Executive Council of the North-South Centre of the Council of Europe

**Mr Rui Machete**, President of the Luso-American Foundation

Congratulations on this initiative.

Equality between women and men is one of the conditions for the development of our societies and development cannot take place in detriment to their human rights.

In 1998, the Committee of Ministers of the Council of Europe stated in its Declaration on Equality between Women and Men, that equality between women and men is an integral part of human rights and that gender-based discrimination is an obstacle to the recognition, enjoyment and exercise of human rights and fundamental freedoms.

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First of all, it is important to guarantee the protection of women's rights, full enjoyment of their fundamental rights and the right to equality between women and men as a fundamental human right. It is necessary to reinforce the legal framework and conditions for monitoring legislation.

We have to fight gender-based discrimination in all fields.

Gender is a fundamental reference between human beings, especially when it is a question of reducing social differences based on ethnicity, geography or other factors. Women are, as we know, potential victims of countless forms of discrimination. Gender-based discrimination just because they are women is compounded by discrimination on other grounds.

We have to eradicate discrimination against women in internal laws on personal status in private relationships leading to inequalities between women and men in marriage (rules of access to marriage, effects on name and property, inequalities in divorce matters, etc) and international provisions on private relationships. And this must include eradicating discrimination in employment, education and the political sphere.





Longer life expectancy in the 21<sup>st</sup> century is a huge challenge. This new situation, which affects women more than men, will result in women remaining active for longer, creating an enormous potential energy that it is important to harness, in spite of the possible risks posed by poverty, lack of assistance and age discrimination.

The foreseeable increase in women's participation in the labour market is crucial in changing women's lives and vital to any country's economy, protecting them against poverty and the negative effects of ageing. It is also creating vast needs for childcare services.

In Portugal, the Master Plan for 2005-2009 of the 17<sup>th</sup> Constitutional Government enshrines policies making it easier to reconcile personal, family and working life. To this end, a programme to extend the social facility network (PARES) has been implemented.

The aim of this programme is to stimulate private investment in social facilities in order to increase installed capacity. This expansion includes specific solutions, such as the creation of new facilities for children, making it easier for women to reconcile their personal and family lives with their work, for the elderly, creating the right conditions for increasing their independence and improving the response to ageing and situations of dependency, and for the disabled, fostering greater integration and full citizenship.

With the approval of the National Programme of Action for Growth and Employment 2005-2008 (Lisbon Strategy – *Portugal de Novo*), the idea is for equal opportunity policy measures, especially equal opportunities for women and men, to be, with a specific approach throughout the life cycle.

The following targets have been set in the framework of these priorities:

- Increasing the overall employment rate from 67.8% in 2004 to 69% in 2008 and 70% in 2010;
- Increasing women's employment rate from 61.7% in 2004 to 63% in 2008 and maintaining the employment rate of people aged from 55 to 64 over 50% in 2010;
- Ensuring that, by 2010, 35% of children aged between 0 and 3 have access to childcare services (30% in 2008), increasing the number of places in crèches by 50% during the legislature;
- Encouraging women to participate more in active life by providing the financial support set forth in active employment policy measures in general, specific and regional programmes, for occupations particularly marked by gender discrimination, furthering social dialogue and reviewing the collective labour agreements from the point of view of gender;

- Improving the range of family support services, among others, in order to increase women's employment rate and promoting equal opportunity for women and men, reducing horizontal and vertical gender segregation in the labour market and reducing disparities arising from difficulties in reconciling women and men's personal, family and working lives.

In Portugal, support for maternity and paternity can play a decisive role not only in increasing the birth rate but also in establishing gender equality in the workplace.

Paid parental leave increased from 2001 to 2005. According to INE statistics it went from 69,514 days in 2001 to 494,257 in 2005.

Achieving equal rights means, however:

- Considering gender matters in all policies, including development aid policies. We must pay particular attention to the social relationships arising from the universal sexual duality of humankind as this is the only way in which we can contribute to real equality between women and men, to equal value of all human beings in terms of dignity and rights;
- Guaranteeing the existence of institutional policies and mechanisms in Portugal for equality between women and men and of the right conditions for them to actually work, without forgetting the need for statistics broken down by sex, promotion of research into equality between women and men, gender analyses and gender-sensitive budgets;
- Protecting women against threats to their dignity and integrity, such as abuse and human trafficking and working towards preventing them, defending the victims' human rights and pursuing traffickers and perpetrators of abuse. All forms of violence against women are a result of the absence of equality in the political, economic, social and cultural field. This is why we must work on the right to equality;
- Promoting citizenship and its impact on women's rights and participation and guaranteeing women's involvement in setting priorities to guide policies and measures and monitoring and evaluating them. To do this, it is necessary to promote the balanced participation of women and men in public and private life and decision-making by defining strategies and measures to reinforce their involvement in political, economic, social and cultural processes;
- Promoting women's access not only to education but also training in information and communication technologies. New information and communication technologies can contribute considerably to the inclusion and development of regions where there is less progress, giving women access to decentralised information adapted to their needs and creating the right conditions for communication and networking;





- Promoting the progressive inclusion of gender equality in teaching programmes and syllabuses with a view to the real implementation of co-education and equality education;
- Increasing the role of parliaments and civil society in the promotion of equality between women and men and in strengthening partnerships.

In 1998 in Ericeira, as part of the Euro-Mediterranean partnership enshrined in the Barcelona Declaration, Portugal organised the Euro-Mediterranean Conference for the Promotion of the Participation of Women in Economic and Social Life, sponsored by the High Commissioner for Equality and the Family, co-sponsored by the Kingdom of Morocco and organised by the CIDM. The conference provided the opportunity to exchange views and experiences on the promotion of women's participation in economic and social life in the partners' different cultural and social settings. The following are considered areas of strategic intervention that increase women's participation in economic and social life:

- facilitating women's access to vocational training, new technologies and credit;
- Raising decision makers' awareness of the need for joint development, encouraging women's access to associations in all fields of economic activity, including rural development;
- Identifying the need to separate statistics by gender in all sectors so that we adopt policies recognising women's role in economic and social life;
- Stressing the role that women should play in managing natural resources.

We know that the times we live in are times requiring innovation and change. We must be able to respond with a sense of justice and the affirmation of human dignity. Fighting democratically for the promotion of equality between women and men is an expression of our awareness of this justice and dignity as universal values.



## Session One: The development of family codes in the Euro-Mediterranean area

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### ***Difficult emancipation of women in Algeria***

On 14 March 2005, the People's National Assembly adopted an edict<sup>1</sup> amending and completing the law of 9 June 1984 on the family code. The Senate ratified it on 26 March 2005.

This edict was proposed by the President of Algeria by virtue of his constitutional powers to put an end to what he called "a sterile debate"<sup>2</sup> between the Islamist faction in favour of maintaining marital guardians and polygamy and the modernist faction supporting the introduction of equality between men and women in the family.

Even though it was called sterile, this debate enabled the two factions to confront each other and reassert their positions when what was the draft revision of the family code was presented to the government council.

By wishing to remain aloof from the mêlée and presenting an edict instead of maintaining the bill, the President favoured the faction, which said that it was satisfied with the content, as it was in line with "Algeria's foundations and values"<sup>3</sup>. Women were once again used as political pawns and sacrificed to the Islamist conservatives on the altar of discord. Looking back, one is tempted to say that the debate between the two factions was favoured only to be discredited later and used to present another document in the form of an edict.

All this political agitation by the Islamist conservatives on the possible suppression of marital guardians and polygamy (a pillar of Muslim law) expressed their fear that changes to the code would endorse the principle of equality in detriment to religious principles. Their fears were unfounded, as the drafters of the explanation of the draft law stressed that "Muslim law, the bringer of justice and equality, is the main source of the family code, a law that is characterised by its ability to adapt to historical, social, cultural and economic change, while leaving the door open to the *ijtihad*". The new text, i.e. the edict, merely took up again the feeble intellectual legal production of the Supreme Court in

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<sup>1</sup> Order 05-02 of 27 February 2005 amending and completing law 84-11 of 9 June 1984 on the family code.

<sup>2</sup> Speech by the President on 8 March 2005 after adoption of the order

<sup>3</sup> Press review March 2003-2004, amendments to the family code, documentation centre, IMED Italy, Bernadette Rigaud. The Islamist faction expressed its satisfaction, saying, "The amendments do not go against the Sharia". *El Watan* 1503, 2005. The FLN, RND and MSP voted unanimously in favour of the text. The Labour Party which advocates the repeal of the family code rejected the order amending the code.





its rulings on disputes on the interpretation of certain principles of Muslim law, like the *khol* (dissolution of marriage by mutual consent).

There were no great upheavals in the content of the code. There was no rewriting of the text, though there are still some noteworthy changes.

Custom, tradition and Muslim law were the references used by the writers of the edict. The few modern legal features referred to in the text concern pre-divorce reconciliation and marriage registration procedures, the marriage certificate proving the union, artificial insemination, scientific paternity tests, granting custody of children to their mother, abolition of the duty of obedience and abolition of the idea of the head of the family.

The principles of equality, priority of substantive law, international conventions ratified by Algeria, such as the CEDAW<sup>4</sup>, and respect for the hierarchy of rules<sup>5</sup> set forth in the constitution did not have enough impact on the writers' work. They did not have the courage to break away from the old rules established by the scholars of classic Muslim religion<sup>6</sup> (the guardian, polygamy and others, the code regurgitated<sup>7</sup>).

The edict that was adopted pleased the Islamist conservatives, who dream of nothing more than a return to pure tradition. For them, modernity is synonymous with westernisation. Women's freedom is regarded as a road leading to their depravity. While the Koran represents Muslim law as a human juridical work, it is brandished to cut short any debate and to justify belonging to a community that no-one can leave or go against. It is the community of Muslims that must be preserved; it is the honour of the community that is at stake and women must safeguard it. Moreover, the Algerian *ulema* have always spoken out against the abolition of the marital guardian. The guardian is supposed to protect and control his daughter's body to ensure that no stain can affect it and destabilise the family, the tribe or the whole community

The principle of the hierarchy of rules enshrined in fundamental law is ignored or reduced by the pure and simple transposition of Muslim law on status.

The women's movement was tricked by the measures of the public authorities and confined to a pointless debate with the Islamists. It was disappointed with the timid amendments passed by the assembly, amendments that certain associations rejected, maintaining their demand that the family code should be

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<sup>4</sup> Algeria ratified the 1979 international Convention on the Elimination of All Forms of Discrimination against Women on 22 January 1996 while stating reservations with regard to Articles 2, 9 (§2), 15 (§4) 16 and 29 (§1).

<sup>5</sup> Article 132 of the 1996 constitution: "Treaties ratified by the President of the Republic under conditions provided for in the constitution are above the law".

<sup>6</sup> Mohamed Charfi, *Le droit tunisien de la famille entre l'islam et la modernité*, RASJ, September 1974, volume XI, no. 3.

<sup>7</sup> Art. 51 of the family code: "Any man who has divorced his wife three times in succession may not take her back unless she marries and divorces another man or he dies after they have cohabited". This provision applies to common religious law, which only deals traditionally with the breaking of marital ties. The husband says three times "I divorce you". In practice today, divorce is judicial and subject to other conditions set forth in Article 48 et seq of the code.

abolished. These associations set up an action group called 20 years Barakat<sup>8</sup>, aimed at preventing the code from reaching its 24<sup>th</sup> anniversary in 2004. They tried to take up the challenge, but their campaign, which was launched simultaneously in France and Algeria, did nothing to shake the consciences of the decision-makers or prevent the amendments from being proposed in an edict.

The constitutional principle<sup>9</sup> of equality has not been used as a criterion on which to build relations between family members. The legislators preferred the ideas of justice and balance in relations between spouses. Guardianship, polygamy and repudiation, which are an affront to women's dignity, have been maintained in the new text. Without necessarily rejecting everything, the principle of equality was the source of certain provisions on relations between husband and wife, custody of children and accommodation. Let's look at the changes to the family made by the edict of 25 February 2005. Forty articles were amended. How can Algerian women be agents of change in this context where their freedom is under guardianship?

## » I. New aspects

### (A)

#### The public prosecutor's office

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The public prosecutor's office now plays an essential role in all instances concerning the provisions of the family code (Art. 3).

Its job is to ensure that the family code is applied in disputes between spouses. It intervenes in hearings with conclusions that one of its representatives adds to the file.

Its role is also to ensure that divorces are registered at the registry office, which used to be done by the court. It is also responsible for registering decisions validating marriages at the registry office (Art. 22).

### (B)

#### Betrothals

In our legal structure, there is a system of reconciliation and co-existence between religious marriages and civil marriages. Although it is not required by law, it is recognised and agreed at the time of betrothal that the religious wedding always precedes the civil wedding. The legislators have distinguished

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<sup>8</sup> The aim of the Association 20 years Barakat (Loi de 1901, JO 802-2003) is to launch a media campaign to organise a vast movement of information on the family code. Communiqué by 20 ans Barakat, 1st November 2004

<sup>9</sup> Articles 28 and 30 of the constitution: "Citizens are equal before the law with no discrimination on the basis of gender or any other personal or social condition or circumstance and the purpose of the institutions is to suppress obstacles standing in the way of the development of the person".



between the betrothal, promise of marriage accompanied by the reading of the Fatiha, which is not a marriage, and the betrothal accompanied by the Fatiha in a contractual ceremony that constitutes a wedding if the two parties agree and all the marriage conditions are met.

#### **a. Promise of marriage**

The promise of marriage is not a legally binding contract. It is a purely moral agreement which, according to Jean Carbonnier<sup>10</sup>, can "only result in a duty of conscience, not a legal obligation to lead to marriage". Each party is entitled to call off the betrothal. If this results in material or moral injury for one of the parties, a judge can order compensation. But if the man withdraws from the betrothal he cannot be ordered by a judge to consent. He cannot demand the return of the presents. If it is the woman who calls off the engagement, she has to return all presents that have not yet been used or their value.

#### **b. Betrothal and marriage ceremony**

The betrothal accompanied by the Fatiha in a contractual ceremony constitutes a wedding if the two parties agree and the marriage conditions have been met (dowry, witnesses and the presence of the *wali*).

If the marriage has been consummated before the end of the marriage act, the religious marriage will be regularised by a recognitive judgement (Art. 22).

## **II. The Marriage**

The drafters of the edict define marriage as a consensual contract between a man and a woman (Art. 4). They focus on consent in the formation of the marriage. The marriage contract requires the exchange of consent between the two spouses (Art. 9).

- » The marriage contract is not an ordinary contract, as it creates a family, the status of spouse and the legitimisation of children.

But a man can, within the limits of the law (Sharia), enter into four marriage contracts. This is polygamy. One of the spouses, the husband, is already married.

Society and the legislators still recognise this institution. Even though monogamous marriage is a principle in Muslim law and polygamy is an exception, this point of view does not seem to be unanimous among our politicians or the ulema who are supposed to have a family policy and open minds and espouse modernity. .

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<sup>10</sup> Jean Carbonnier, *La famille, l'enfant, le couple*, 21st edition, Puf 2002, *Droit privé*

## (A) Polygamy

*Polygamy is subject to new restrictions.* While recalling the Koran's principle of allowing a man to take four wives, the legislators subjected polygamy to more restrictions (Art. 8).

A court may authorise a new marriage if the first and second wives consent. It is interesting to note that, contrary to the law of 1984, the judge must ensure that the wife has agreed to a new marriage and that the reason has been properly proven. The husband must submit a medical certificate attesting to his wife's sterility or mental illness according to a 1984 circular from the Minister of Justice to registry offices and notaries. The judge then checks the applicant's ability to offer the equality and material conditions required for married life.

These restrictions might have led the legislators to abolish this uncontrollable institution and enshrine monogamous marriage, which is a principle of Muslim law, while polygamy is merely an exception. As it was maintained in the amendments to the family code, one wonders how, this institution, the shared responsibility introduced into conjugal relations will find a place in the many households that the husband will have. One also wonders how the judges will react when faced with the regularisation of *Fatiha* marriages that will be used more and more to get round the procedure required by Article 8 of the law. It won't be long before the new marriage is terminated before it is consummated if the husband has not received authorisation. How can the second marriage be proven and who should do it, the first or the second wife?

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## (B) The elements making up a marriage

### **a. Capacity to marry**

The drafters of the amendments aligned marriageable age with the age of majority, 19 for men and women. They also introduced the concept of *emancipation of minors by marriage*.

A judge may agree to grant a dispensation from the age requirement in case of special interest (the minor is pregnant) or in case of need. In this case, the minor who has received a dispensation from the age requirement in order to marry acquires the right to take the other spouse to court over the rights and obligations resulting from the marriage contract (Art. 7).

A father cannot conclude a marriage against the will of his child. Personal consent is required (Art. 13). A father cannot force a minor child to marry against his or her will.



### **b. The medical certificate**

The edict obliges the future spouses to submit to the notary or registrar a medical certificate issued less than three months ago attesting to the absence of medical conditions or risk factors contraindicating marriage (Art. 7bis).

The exam must be conducted not long (3 months) before the marriage contract is drawn up before a notary or registrar. It should say that the parties have undergone medical examinations and been informed of any medical conditions or risk factors contraindicating marriage. It is mentioned in the marriage contract, according to the legislators, who add that the conditions and forms of application will be regulated later.

The medical certificate should inform the two future spouses of any contagious or hereditary diseases that may affect them.

Apparently, an unfavourable result does not constitute an impediment to marriage. It is understood that an appeal will be made to the conscience of the sick person or to the doctor's duty to advise the person not to marry.

Absolute confidentiality of the results does not seem to have been taken into consideration, as the fiancés are obliged to inform each other of their medical results ("have been informed of any disease or risk factors contraindicating marriage"). Nevertheless, while waiting for the regulation of the contents of the medical certificate to be submitted to the notary and registrar, for the moment they ask for a health certificate.

The government council adopted an executive order on 12 April 2005 fixing the conditions and form of application of Article 7 bis of Law 84-11 of 9 June 1984 amended and completed with the family code.

"The provisions of this law are designed to subject the establishment of a marriage contract by a notary or registrar to the submission of a medical certificate by the bride and groom. The submission of the medical document is itself subject to tests and medical exams the results of which are given to the bride and groom, thereby reducing the risk of contagious diseases posing a danger to the spouse or offspring" (*El Moudjahed*, Thursday 13 April). One would suppose that the registrar or notary could refuse to conduct the wedding if one of the spouses has not been informed of the contents of the medical certificate. They must ask each other's consent and it is noted in the margin of the marriage contract.

### **c. Consent**

Another new feature is that *the marriage contract is concluded with the exchange of consent by both spouses.*

The spouses' consent is again compulsory, including that of the bride, to the conclusion of the marriage contract (Art. 9). The legislators insisted on defining consent, involving the request from one and the acceptance by the other, thereby signifying a legal marriage (Art. 10).

Article 10 adds that a request and consent by a disabled person expressed in writing or by gesture in language or by custom are valid.

It is important to point out that the provision authorising marriage by proxy has been abolished. Consent is exchanged personally and not by a representative or stand-in.

The code sets forth that minors under the guardianship of their father or some other person cannot be coerced and no-one can marry them without their consent. This provision is important as it is a defence against forced marriages (Art. 13).

The father, a close relative or a judge in his capacity as wali (marital guardian) contracts the marriage of a minor.

#### **d. Role of guardian**

Because of the consent exchanged between bride and groom, it is no longer the father or guardian who concludes an adult daughter's marriage contract. She is the one who concludes it in the presence of her *wali*, who is her father or close relative or someone else of her choice.

The rewriting of Article 11 raises some justified questions. In addition to capacity to marry, the dowry and two witnesses, the presence of the *wali*, whose role has changed, is also required in the conditions of the marriage contract. His presence there is mandatory and is actually a basic condition of the marriage contract (Art. 9).

We are therefore entitled to ask what the significance of this presence is. Can we consider the *wali*, who no longer concludes his adult daughter's marriage, as a third witness?

One also wonders as to the hierarchical order of *walis*. Will an adult woman be asked to first be accompanied by her father, as he is mentioned in the succession of *walis* before coming to the person of her choice? And if the father refuses to attend, what will the registrar require?

Can the woman choose freely from among them? Will the registrar be free to interpret this article as he likes?

We can be sure of one thing, and that is that the presence of the marital guardian, taking the form of a signature in the register at the wedding reduces the woman's legal capacity. Article 40 of the civil code stipulates, "All adults of





sound mind, who have not been declared incompetent, are free to exercise their civil rights. The age of majority is 19 years".

#### **e. Proof of marriage**

This proof is useful for the spouses and their children. Children have to prove that their parents were married to prove their legitimacy. Registry office provisions are applicable to the registration of marriages. If the couple were married by a notary, the notary has three days<sup>11</sup> to send the registrar a request for the marriage to be registered. The marriage is proven by presentation of the extract from the register. Failing this, it is rendered valid by a court.

A validation hearing concerns *fatiha* marriages meeting the conditions of a marriage that has not been registered at the town hall within the time limit. It is then registered at the request of the public prosecutor.

Weddings are performed by a notary or registrar, whom the legislators indicate as being legally qualified under Articles 9 and 9 bis of the code. These articles define the elements making up the marriage contract, though we should note one thing. The dowry is negotiated before the wedding and generally at the proposal ceremony or betrothal. It should be included in the marriage contract if it is drawn up before a notary (Art. 15) whether it is paid immediately or later, though it is more difficult to justify it or prove it when the wedding is performed by a registrar. It is never mentioned before the registrar. This is why the legislators have regulated any contestation of the payment of the dowry in different ways.

If, before the consummation of the marriage, the dowry gives rise to a dispute between the spouses or their heirs and none of them can provide proof, a ruling is given under oath in favour of the wife or her heirs. If the dispute takes place after the consummation of the marriage, a ruling is given under oath in favour of the husband and his heirs.

It is important to point out that the marriage contract signed before a notary is a way of protecting the woman's rights. She can stipulate in the marriage contract or in a later contract that her husband will not be polygamous or protect her right to work by obliging her husband not to forbid her from working (Art. 19).

#### **f. Impediments to marriage**

In addition to the normal absolute impediments already set forth in the 1984 code (consanguinity, union, breastfeeding) the amendments introduced a new

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<sup>11</sup> Art. 72 of the registry code, order 70-20 of 19 February 1970: "When a wedding takes place before a registrar, he records it in the register at the time. He sends the husband a family record book recording the marriage". If the marriage takes place before a *cadi*, he draws up a record and sends a certificate to those concerned. The *cadi* sends a certificate to the registrar within three days, and the registrar enters the certificate in the register within five days of receipt and sends the husband a family record book. A note of the marriage is made in the margin of the birth certificate of each spouse".

category of temporary impediments (Art. 30), including married women, women in legal seclusion after a divorce or the death of her husband, women repudiated three times by the same husband, being married to two sisters at the same time and the marriage of a Muslim woman to a non-Muslim man.

Article 31 of the 1984 law formally forbade a Muslim woman from marrying a non-Muslim man. The new law transforms this prohibition into a temporary impediment encouraging a husband of another faith to convert to Islam. We find the same relaxation in the nationality code, which was amended at the same time as the family code.

These changes are important as they allow an Algerian woman to pass her nationality on to her children<sup>12</sup> even if her husband is a foreigner<sup>13</sup> and, implied, of another religion. As a result of his marriage, the husband can apply for Algerian nationality. This is a small step towards recognition of marriages between Algerian women and non-Muslims.

### (C) Equality in relations between spouses

As we have already mentioned, the principle of equality was taken into consideration by the legislators. They laid down that the rights and obligations of both spouses were the same and mutual.

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***a. The concern for balancing relations between spouses has done away with the idea of the family head and the wife's duty of obedience to her husband and his family.***

The obligations in marriage are the same for both spouses. They range from safeguarding marital ties to the duties of life together, from mutual agreement in the management of their affairs to the joint protection of their children, their upbringing and their respect for their parents.

The spouses have equal rights to visit their relatives and to receive visits from them.

It is unfortunate that the qualifiers used to describe relations between spouses (mutual agreement, contributing jointly) do not apply also to custody of children, making it no longer the father's exclusive right but a right shared by both parents.

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<sup>12</sup> Article 6 of the nationality code: "A child born of an Algerian father or mother is considered Algerian".

<sup>13</sup> Article 9 of order 0501 of 27 February 2005: "Algerian nationality can be acquired by marriage to an Algerian man or woman by order under the following conditions: proof that the marriage is legal and has been actually established for at least three years at the time of application".



### **b. Marital regime**

While reiterating the principle of separation of property, each spouse owning his or her own assets, the legislators have introduced community of acquisitions after marriage. The spouses can agree in the marriage contract or in a subsequent contract to have community of acquisitions after marriage and the part coming back to each of them. This is what will protect the assets that the wife acquires during the marriage.

In practice, there are many cases in which the wife is dispossessed of her assets, as she does not know how to defend herself after contributing to their acquisition during the marriage. She does not even think about them, as she finds it natural that an acquisition or the construction of assets should be in her husband's name thanks to their mutual trust and the help. Reality soon catches up with her when the marriage breaks up.

## » **III. Affiliation**

Affiliation is the legal tie between father, mother and their child. This is the principle upheld by the family code. Legitimate affiliation assumes that the father and mother are married to each other. It even lays down that the child must be conceived during marriage.

It is marriage that fully entitles a man to a woman's children. A child is affiliated to its father by legal marriage. It is thus marriage that bestows the monopoly of procreation and automatically gives a child a father. The legislators point out that affiliation is established by a valid marriage.

The amendments have contributed nothing new to natural affiliation or adoption, generally called "*recueil légal*" or *kafala*<sup>14</sup>. Adoption is still subject to the same provisions as in the 1984 code.

As adoption was forbidden by law<sup>15</sup>, *kafils* or adoptive parents used agreement of name<sup>16</sup> to allow the incoming child to bear their name without affiliation.

It was an adoption.

Recognition of maternity<sup>17</sup>, on the other hand, allows a single mother who does not wish to give up her child to establish a legal tie with it. The child will have her name.

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<sup>14</sup> *Kafala (recueil légal) is a commitment to voluntarily take on the care, education and protection of a minor child as if it were the father's own child. It is established by deed.*

<sup>15</sup> *According to Article 46, "Adoption is forbidden by the Sharia and by law".*

<sup>16</sup> *Decree 71-157 of 3 June 1971 on changes of name, amended and completed by executive decree 92-24 of 13 January 1992. Art. 1 "In the name and benefit of a child legally taken in by kafala to make the patronymic of said child the same as that of its guardian"*

<sup>17</sup> *Article 44 of the family code provides for recognition of maternity.*

### **a. Use of scientific means** <sup>18</sup>

In addition to the provisions on affiliation in the 1984 code, the legislators have introduced a new form of affiliation, the use of scientific methods. It remains to be seen whether scientific processes can be used if there is no marriage, as under Muslim law paternity can only be recognised if there is a legal marriage.

Everything points to this being a means for a single mother to sue the presumed father of a child born out of wedlock. Research into paternity is not yet specifically allowed by Algerian law.

### **b. Artificial insemination**

The legislators have also introduced the possibility of a couple resorting to artificial insemination and therefore to link the child to them. The purpose of these provisions is to give legal status to this type of insemination. It is subject to certain conditions to prevent any deviations.

It is only allowed within a legal marriage. There are three conditions:

- 1)** Dual consent – the operation must be performed with the consent of both spouses in their lifetime;
- 2)** Only the husband's sperm and the wife's ovum may be used. No foreign blood may enter the family;
- 3)** Surrogate mothers may not be used. Taking advantage of experience in European countries like France, which declares null and void any agreement on the gestation and procreation on the account of others in its Article 16-7 CCF (see article 227-12.3 3 NCP), the Algerian legislators have included the use of insemination to avoid problems with the affiliation of the child, which will be legitimate

## » **IV. Dissolution of marriage**

The death of one of the spouses and divorce are the two ways of dissolving a marriage and oblige the wife to go into seclusion for four months and 10 days in the former case and three months in the latter.

### **(A) Divorce**

Divorce is the dissolution of a marriage. It must be pronounced by a justice authority for reasons provided for by law. It occurs at the wish of the husband, by the couple's mutual consent or at the wife's request within the limits imposed by Articles 53 and 54 of the code (Art. 48).

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<sup>18</sup> Article 40.2 of the family code says, "A judge may use scientific means for the purpose of affiliation".



a) A unilateral divorce is, in fact, the husband's right of repudiation without having to give any reason. Algerian law has taken this rule from Muslim law and stripped it of its traditional forms. In practice, the court to which the husband turns has only to confirm his wish to repudiate his wife.

It's interesting to note that the equivalent of repudiation is the *khol*. The wife also has the right to divorce under Muslim law, in return for compensation. This is considered a woman's right. The code has taken up this rule refined by the Supreme Court putting an end to the erroneous interpretation of the rule by judges who demanded the husband's agreement. Since then, a *khol* application has no longer been subject to the husband's acceptance. The Supreme Court thus recognised that this institution was in fact a woman's right. *khol* is a process by which a woman can apply for a divorce, paying financial compensation to the husband and has been reinforced and clarified. The legislators lay down that the wife can separate from her husband without his agreement by paying a *khol* fee. In the event of disagreement on the fee, the judge orders payment of a sum no greater than the dowry.

b) Under Muslim law, repudiation is the husband's right to break the marital tie for no reason. The equivalent of the right is *khol*, which is the woman's right to request a divorce without the husband's consent. This is why it would have been wiser for the legislators to amend the provisions of Article 48 on divorce by introducing a combination of the two rights so that the divorce could be requested by either party without stating a reason, against payment of reparation to the other.

### (B) Divorce granted to the wife

*In addition to the grounds for divorce already provided for in Article 53 of the code, new cases of divorce have been introduced. They are persistent disagreement between the spouses and violation of clauses in the marriage contract on the right to work and the prohibition of polygamy.*

The wife can dissolve the marriage by invoking either of these reasons. These two new cases have been added to existing ones to make things easier for the wife. It has always been considered that the cases provided for in Article 53 were restricted and aggravated by the difficulty in proving the reasons. As Salah Bey<sup>19</sup> pointed out, "A divorce decree sometimes deliberately depends on another ruling (on alimony payments or criminal conviction) and sometimes it is subject to an immoral fault established beforehand".

If it was impossible to prove the husband's misbehaviour, the wife had no alternative but to apply for a divorce by *khol*. These two new grounds for divorce will make things easier for the wife. In addition a wife applying for divorce on

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<sup>19</sup> Mohamed Chérif Salah Bey, *Algeria, Législation comparée, juriscasseur 1993*

the grounds in Article 53 is entitled to compensation for injury suffered as a result of abandonment or failure to pay alimony ordered at the hearing, the husband's refusal to share the wife's bed for more than four months or the husband's absence for more than one year.

### (C) Procedure

New provisions have clarified procedure. A divorce may only be decreed by a hearing preceded by several attempts at reconciliation by the judge. The reconciliation period should not last more than three months after the petition.

After the attempts at reconciliation, the judge will write a report containing the minutes and results, to be signed by him, the clerk of the court and the parties. These reconciliation attempts are mandatory. They are based on two instruments: personal interviews between the judge and the spouses in his chambers without their lawyers and the imposition of reflection time of no more than three months.

During the hearing, although the marital tie still exists under the law, there is, as Mr Carbonnier says, a state of semi-rupture and anticipation of divorce. In this sphere, the Algerian legislators, taking practice and the legal void into account, have introduced the possibility of the judge issuing an order on all provisional measures, including alimony, custody, visiting rights and accommodation.

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This hearing is held by the president of the court. He is therefore responsible for ordering these provisional measures. In view of the judge's mission, it is naturally a question of urgent measures to be taken in a divorce case involving risks of a physical or monetary nature to which the petitioning spouse might be exposed. If the risk is physical, the judge can decide to authorise the spouse to live apart from the other with any minor offspring. The personal status judge does not seem to have this prerogative. The text does not mention the subject. While the law allows the judge dealing with urgent matters to order provisional measures, which must be urgent, otherwise they run the risk of being rejected due to incompetence, the personal status judge can also do so after the reconciliation attempt or at a hearing for the same measures then considered to be ordinary.

Rulings on divorce by repudiation, at the wife's request or by *khol* are not subject to appeal, except in terms of material aspects or of custody.



## (D) Effects of divorce

While maintaining the former discriminatory provisions on alimony with regard to the wife and children, the legislators have introduced amendments on award of custody and accommodation. In case of divorce, the wife is only entitled to alimony as of the suit and until the ruling.

The legislators lay down that the judge must not take more than one year before the suit to rule on the payment of alimony against presentation of evidence. If the divorce petition is submitted after thirty years of marriage, the amount of alimony is calculated on the basis of one year of life based on the last one preceding the couple's separation. The evaluation is based on the husband's salary and the cost of living.

### ***a. Impact on children - custody***

The mother was given priority in the former text. Today, this is called into question, because an alternative order between the two beneficiaries of custody has replaced the mother's previous sole right. The father comes second after the children's mother. This is very important, as, unlike the 1984 code, a father wishing to have custody must take actual responsibility for his children.

Thus, custody of children is first awarded to the mother, then the father, then the maternal grandmother, then the paternal grandmother, then an aunt on the mother's side, then an aunt on the father's side and then the closest relatives, taking into account the child's interests.

If one of the spouses is awarded custody, the judge can allow the other visiting rights. Although judges prefer to award custody to the mother (in Muslim law, the custody of children or *hadana* is the mother's right) it seems that it is not awarded automatically if there is an objection, as the father may also want custody. The wording of the article implies this.

### ***b. Accommodation benefits the children***

The criterion for keeping the woman in the family home is the children's interest. It is thanks to the children that the woman will have a roof over her head.

The former code excluded the family home from the divorce decision and it was the husband who was entitled to it, while the wife and children found themselves out on the streets. The amendments mitigate this principle, obliging the husband to ensure that whoever gets custody has a decent home or to pay rent. The maximum amount of rent agreed on by the judges is not more than 5,000 DA or 50 euros. It is practically impossible to find rented accommodation at this price. What will happen to women who do not work if they are not guaranteed decent accommodation?

Women with custody remain in the family home until the father implements the court's decision on accommodation.

This accommodation, whether it is where the woman lives or that granted or rented, serves only for custody of the children.

In view of the fact that custody ends at the age of 10 for boys, which may be extended to 16 by the judge, and until marriageable age for girls, the woman has to leave the accommodation when custody ends.

As soon as the children reach the age of majority, the father can take action to recover the accommodation in which the mother lived during custody. And so mother and children find themselves out on the streets again. The legislators have just postponed expulsion. Where are the children's interests here?

The legislators have made the most of modernity in this case. They pretend to ignore that we are in a country where offspring, even if they are adults, can't free themselves of their parents' guardianship that easily.

Unemployment and housing shortages do nothing to favour the emancipation of children, who continue to live with their parents for a long time.

#### ***c. The right to work is not a reason for forfeiting custody***

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It has been laid down that the fact that a woman works cannot be a reason for forfeiting custody. But the legislators seem to have reservations when they add, "however, the child's interests will be taken into account". Does this mean that the child's interests can be invoked by the father to deprive the woman of her right to custody? It's possible.

If this is the case, it would be an offence against the constitutional principles guaranteeing non-discrimination, equality and freedom, which are reiterated by the law on work, which recalled the principle of non-discrimination and therefore an Algerian woman's right to work enshrined in Algerian law.

Judges who have already had to protect the right to work, rejecting petitions for divorce on the grounds that the woman works, will also defend this right and prevent it from being invoked to deprive women of custody.

#### ***d. Guardianship of children***

The principle of guardianship of children has not changed.

The father is the legal guardian of his minor children. On his death, guardianship passes to the mother. The fact that the mother takes over guardianship of her children on the death of her husband goes against Muslim law, which grants guardianship to an uncle on the father's side.





A new, timid advance has nevertheless been introduced by the amendments. The mother stands in for the father in urgent matters concerning their children in the event of his absence or impediment. This is a response to the frequent complaints of women that it is impossible to manage their children's lives when the father is not there. Opening a savings account for a child and being able to withdraw money from it, authorising the child to do sports or receive care, or taking a child out of the country are things that a mother can do without the father's permission.

One question arises, even though the legislators have made an effort. How do we determine the father's absence or impediment? Who does so, the judge or the person in charge?

It would have been better to introduce shared parental authority. There are situations today, without the law authorising it, in which the mother takes her children out of the country without the father's or a judge's permission. So far, border controls have tolerated this, but until when? Is it a decision for the DGSN alone?

Can standing in be transformed into shared parental authority? Where Algerian women living abroad are concerned, they no longer need the father's permission to travel with their minor children. The consuls from France decided this at a meeting in Algiers.

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#### ***e. Transfer of guardianship after divorce***

On the other hand, one thing that is clear and important is that in a divorce, the judge awards guardianship to the parent who has been granted custody.

Once again, the wording of this provision implies that the father can apply for custody on the same footing as the mother. No preference between father and mother is mentioned. Both can apply. But if we read the article on custody, it goes first to the mother, then to the father.

Divorce rulings after the application of the amendments to the family code transfer guardianship to the mother. This full guardianship allows the mother to exercise it without consulting the father.

## » **V. Conclusion**

These are some of the changes to the 1984 family code. They are half measures. To be sure, there are some positive points with regard to balanced relations between spouses, the guardianship of children and a home for a guardian mother, but we must point out the ambiguities and contradictions in many articles requiring subjective consideration by judges and registrars.

The legislators have imposed the compulsory presence of the guardian at a wedding on pain of nullity. The provision on invalid or null marriages, says, "A marriage is declared null if the wedding takes place without the *wali* when this is mandatory" (Art. 33). Does this mean that the *wali* is not necessary for an adult woman or must he be replaced in the conclusion of the marriage contract or does the guardian have no prerogative except to be present, and for a minor, to authorise the contract?

And if he is not present at the wedding of an adult woman, what about the marriage? Doesn't the registrar or the notary have to require him to be there?

There are so many questions left hanging or subject to interpretation. The legislators could have prevented this and been more consistent.

The rest of the code is unchanged, especially for successions which are subject to the dogma and are untouchable. The Koran is the source. Untouchable for some *fouqahas*, but that is a different debate. Other Muslim researchers have said that it is possible to touch the rules on succession that conservatives claim are unchangeable. That equality is a principle is part of the question.

Meanwhile, inequality between men and women is the basis of sharing in the succession.



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**Family law** and the status of women was one area in the long list of legal reforms in the Ottoman Empire which remained under the jurisdiction of the Sharia courts until the Republican period.

Modern Turkey has inherited a rich history of multinational and multicultural traditions from the Ottoman Empire but it is unique among the Muslim countries because it is a secular state.

The radical break with Islam following the collapse of the Ottoman Empire at the end of World War I, and the subsequent establishment of the Republic of Turkey in 1923 has had no parallel in the Muslim world: The initial reforms undertaken by the Republic included total secularisation of the legal and the educational systems, the dis-establishment of the *Ulema's* official role in the affairs of the state.

The status of women in modern Turkey varies over an extremely wide range, from the highly educated professional women in the cities, to the majority of women in the urban and rural areas. There are important differences in





lifestyle and social status not only between urban and rural women but also among women of different social classes, levels of education and employment status.

Turkish history often emphasises that the question of women was an important part of national reforms and that Turkish women were the first Muslim women to be granted legal and social rights.

*Kemalists*, the founding fathers of the Republic believed that granting equal rights to women in the political and social arenas was an integral part of their modernisation efforts. Among these rights, suffrage held special importance. The efforts to integrate women into social and political life as full citizens led to the proliferation of various women professionals, including academics, since the new Turkish Republic needed a "new woman who would epitomise its ideological shift into a secular nation state".

In 1923, Turkey was an under-developed agricultural country, in contrast to industrialised Europe. Women in Turkey still carried the heavy burden of giving birth to as many children as possible while working in the fields and doing housework. Nevertheless, at the same time, the Kemalist Government was preparing the most radical revolution for women. First of all, women were encouraged to give up wearing the veil, a symbol of religious and patricarchal oppression. The leaders of the Republic tried to set an example by appearing in public in the company of unveiled women.

Then in 1926, the Swiss Civil Code which introduced civil marriage and divorce and banned polygamy and granted equal rights to men and women in marriage, child custody, inheritance and property ownership was adopted. Through the Civil Code, women acquired the juridical status of "person" which enabled them to enjoy equal rights with men, and Turkey became the first Muslim country to eliminate "Sharia", the Islamic code that underlies the segregation of sexes and their differential legal treatment. Furthermore, women were franchised in time to vote in local elections in 1930 and in 1934 they were given equal political rights for national elections.

In the 1934 elections, an informal quota system was implemented by Mustafa Kemal Atatürk, and the number of female deputies reached a peak of 18 among the 395 members of parliament.

Mustafa Kemal was concerned with every aspect of women's lives, including clothing, as well as duties and responsibilities in the society. According to him, the new woman was to take her place in the public life of the Republic as an educated social individual. His public support for the recognition of equal rights for women was unquestionably rooted in a genuine belief in women's intrinsic equality with men. He declared openly that there would be no difference between men and women.

He always stressed the importance of women's participation as full members of society in the building of the nation. For example, in a 1923 speech, he stated:

*"We have to believe that everything in the world is the result, directly or indirectly, of the work of women.....If a society is content that only part of its population move with the times, then more than half of that society is doomed to be weak...The weakness in our society lies in our indifference towards the status of women...If our nation now needs science and knowledge, men and women must share them equally...Domestic duties are not necessarily the most important of a woman's responsibilities".*

Therefore, we can say that the Republic of Turkey has had an exceptional and historically unique experience in regards to women, and all decisions made for the advancement and empowerment of women today invariably reflect this historical significance.

With the foundation of the Republic in 1923, Turkey experienced rapid social and political transformation. The establishment of the Republic brought forth a socio-political structure whereby religion and state were clearly separated and laws were formulated according to strictly secular principles. Through the egalitarian public policies, the state accomplished in the 1930s and 1940s an unparalleled transformation in gender equality that was, by universal standards, most satisfactory at that time.

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However later on, the changing social, political and economic conditions of the Republic prevented further expansion of women's human rights to levels and areas reached by the Western world.

The later, ie new, understanding of women's human rights which emphasised the rights as well as sought equality in the private sphere alongside the public one demanded further empowerment of women in all walks of life, was difficult to incorporate into the social and political system.

Nonetheless, such demands also found reflection in the Turkish society in the 1980s when the women's movement became strong and an increasingly vocal proponent of women's human rights demanding a major overhaul of the existing laws, in particular the Civil Code, in order to update them. For this reason, women's organisations started a signature campaign for the amendment and abolition of certain articles of the Civil Code. In a very short time, 119,000 signatures were collected nationwide in order to support the said amendment bill. The posters and stickers bearing the slogan "Democracy in the family – democracy in the society" were published and distributed in all the provinces where the signature campaign had been launched.

The new Turkish Civil Code which entered into force on 1 January 2002, strengthened gender equality, equality between the spouses and considered women totally equal to men in family and society. The main provisions of the new law are as follows:





- Under the new Family Law, there is no longer a head of the family. The spouses are to care jointly for the maintenance of the family;
- Each spouse represents the conjugal union;
- The conjugal home has to be determined jointly by the spouses;  
The women have the right to use their former surname in front of the
- husband's surname;
- As regards the parent-child relationship, both spouses have parental authority over the children. In case of disagreement, the judge will determine;
- Spouses have the freedom to choose their job and profession. They do not require the other's permission. (The former Civil Code in Article 159 stated that women should take their husband's permission to enter a job or profession. This Article has been considered void by the Constitutional Court in 1990);
- The new Turkish Civil Code accepted "*participation in acquisitions*" as the regular matrimonial property regime. Under this regular regime, unless the spouses agree upon a different regime, marriage, acquired property which each spouse acquires during the marriage is shared when the marriage comes to an end. Each spouse takes his or her own property;
- The new Civil Code raised the legal age of marriage for women from 15 to 17. Boys and girls who have not completed 17 years of age cannot get married. However, under extraordinary conditions and for an important cause, the judge may permit a boy or a girl who has completed 16 years of age to get married;
- The spouses contribute to the maintenance of the conjugal union, each according to his or her own capacity;
- After divorce, the competent authority for maintenance allowance claims is the Court at the residence of the claimant not the defendant.

Upon the enactments of the new Civil Code, it became a necessity to establish specialised courts to settle the conflicts arising from the Family Law. For this purpose, the Act on Establishment, Jurisdiction and Trial Procedures of Family Courts was prepared and entered into force on 18 January 2003.

Another legal development in relation to the family was the enactment of a new law on the Protection of the Family. This law introduced some protection in the area of domestic violence. The Law states that the protection orders would be determined by the Family Courts upon the complaint of the abused women and children or the application by the public prosecutor and the party who applies domestic violence should stay away from home or work place for a period of time. If the security forces find out that the perpetrator is not complying with ruled protection orders, the court shall rule for imprisonment from three to six months.

## » Conclusion

As we have seen, Turkish law guarantees formal equality between men and women so in Turkey women do not confront any legal obstacles in exercising fundamental human rights such as education, political rights, employment. But despite the gains made since the establishment of the Republic, educational attainment levels for women and girls are not equal to that of the male population. Furthermore, they vary in different geographical regions and exhibit serious differences along the rural/urban residence.

A strong patricarchal culture reflected in gender discriminatory traditions and practices (such as son preference, early marriage) as well as scarce economic resources have acted as barriers to women's education. Budget restraints in education negatively affect women and girls from the lowest socio-economic status to reach these resources.

On the other hand, sufficient gains have also not been made to ensure women's equal access to health services. There are deficiencies in the reproductive healthcare field. Rural/urban disparities also persist in this regard. Notwithstanding the legal rights, Turkish women are not able to enjoy de facto equal rights in political participation particularly in terms of access to decision-making positions, nor is their access to economic resources on a par with men.

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Against this background, lies both economic factors and the continuing existence of a socio-cultural structure that supports and perpetuates gender inequality and discrimination and has found visual political representation with the advancement of competitive, democratic political institutions in the country.

But we strongly believe that as a young democratic country, Turkey will overcome all the difficulties in the near future and in this process the role of women's organisations will be vital.

## » Bibliography

Arat, N., "Women's Studies in Turkey", *Women's Studies Quarterly* 1996: 1&2

Moghadam, V., *Identity Politics on Women*, West View Press, Oxford, 1994,  
*Modernising Women*, L. Reiner Publishers, Colorado 1993

KSSGM, *The Fourth and Fifth Combined Periodic Report of Turkey*  
(<http://www.kssgm.gov.tr>)

Response of the Republic of Turkey to the Questionnaire Implementation of the Beijing Platform of Action, 2004



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## Introduction



**The situation** in Morocco in the last 10 years has witnessed a new age of transition to democracy based on consensus and aimed at instituting the rule of law by extending the participation of social players in the country's economic, social and political life. It has also involved paying more attention to the expectations of women's associations, which have been the instigators of all reforms affecting the country's economic, social and political life and the question of equality between men and women.

The best thing is not to make an isolated analysis of this movement, but rather to consider it as the action taken by the living forces of civil society, mobilised and directed by women's associations, which have been preparing the emancipation of left-wing party structures for independent action since the mid-1980s. It has evolved since then, going from demands and pleas to the preparation and implementation of concrete projects.

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Morocco has achieved real social and cultural revolutions in women's status. Over the years, women's associations have set up local and regional networks, gained the confidence of many providers of international funds, stimulated academic reflection and spurred ideological battles, like the debate on the national plan for including women in development in 1999.

There were three important stages in the reform process in Morocco:

- the role played by Moroccan women's action groups, which have raised public and political awareness since the mid-1980s;
- the contribution of alternating government (1998-2003) with the preparation of a draft plan for integrating women in development in partnership with social and political players;
- royal arbitration, which was behind the creation of an advisory committee (April 2001) charged with collecting proposals for reform from different associations and political players. Contrary to the reform in 1993, this committee consisted of three women – two academics and a magistrate.

These foundations favoured reforms and innovations, in spite of the groundless controversy caused by opponents of equality and modernity. What are these reforms? What advances and provisions can we talk about? What are the prospects?

In this context, we can say that 2003 was marked by a number of achievements in the field of equality between the sexes, revising and amending laws establishing the family status of women.

## » I. **Women's situation in the criminal code**

Law 24-03 of 11 November 2003 on the reform of the criminal code recognised the principle of equality between the sexes:

- Article 418 allows both spouses to benefit from the extenuating circumstances in case of adultery or severe bodily harm to the partner (in the previous article this applied only to the husband);
- Article 491 allows the Attorney General to prosecute the husband as well as the wife in case of adultery when one of them is abroad (the old code only prosecuted the wife);
- Articles 404 and 405 penalise sexual harassment and marital violence.

## » II. **Women's situation in the labour code**

After more than 20 years of negotiations, the labour code was adopted in July 2003 and came into force on 8 June 2004. In this code Morocco reiterates the fundamental principles of the ILO of which it signed seven of the eight fundamental conventions. This code forbids all forms of discrimination of any nature (race, gender, disability, religion, opinion or marital situation). The following provisions are particularly important:

- The right of women, whether or not they are married, to join a trade union and participate in its management;
- The right of women to sign an employment contract;
- Protection of maternity: Article 152 forbids women employees from working for seven consecutive weeks after the birth;
- A working mother may agree with her employer to take unpaid leave for one year without losing her job;
- Special breastfeeding rooms at work or in the immediate vicinity for all companies with at least 50 female employees aged over 16. These rooms may be used as crèches for these women's children;
- The legislators have laid down sanctions on any agreements in violation of these rules;
- It also penalises sexual harassment in the workplace.





### » III. Women's situation in the family code

Morocco has achieved true social and cultural revolutions in terms of women's status. It would not be possible to take stock of equality without addressing advances in the reform of the *Moudawana*. It is inspired by the principle of equality which enjoys more fundamentalism, due to the fact that it takes first place on the list of rights and freedoms recognised by the constitution.

Before mentioning some innovative points in the code, I would like to recall the process of this reform:

- the role played by Moroccan women in raising public and political awareness since the mid 1980s;
- the contribution of alternating governments (1998-2003) with the preparation of a draft plan for integrating women in development, in partnership with social and political players;
- royal arbitration, which was behind the creation of an advisory committee (April 2001) charged with collecting proposals for reform from different associations and political players. Contrary to the reform in 1993, this committee consisted of three women – two academics and a magistrate.

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#### **Advances and contexts in the new family code:**

- Adoption of the principle of equality between men and women is one of the main advances by suppression of "guardianship";
- The code has opened a new age for women, men, children and families in general and is the culmination of a long period of reflection on an issue that had not been looked into enough before;
- The establishment of a relationship based on agreement and shared responsibility between men and women enshrining the principle of equality re-establishes women's rights;
- In spite of its formality, the passing of the code in the two chambers – Parliament and Chamber of Counsellors – is of crucial importance as it is part of the revitalisation of our legislative institutions;
- Inclusion of international provisions and agreements on women's and children's rights;
- Marital guardianship is raised to the age of 18;
- Polygamy now requires legal authorisation and women can have included in the marriage contract a commitment from her husband not to take any other wives;
- Divorce by mutual consent is established and the two spouses' right to petition for judicial divorce is recognised;

- The new code establishes the mechanisms and institutions for legal and judicial protection of the family, with competence falling to specialised family courts set up for the purpose;
- The regulation allowing husband and wife to reach an agreement on how the assets acquired after marriage are managed arises from the principle of separation of assets.

## » Conclusions

The amendments made to the family code, criminal code and labour code (specific rights), certainly play a vital role in the implementation of equality between men and women.

However, the principle of equality should not be applied only in the legal field but also in the social and economic field in order to make way for change in general and changes in mentalities in particular.

We must admit this is going to take a long time. Indeed, the process has taken years to enable women to exercise responsibilities and have their say in economic, political and administrative institutions. This is why we must continue and redouble our efforts to change the male mentality and correct the negative image of women in society by developing awareness programmes, strategies and activities and education based on respect for human rights.

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We will focus on:

- Reinforcing the role of a well-organised civil society involved in the road to change, which will be essential in the democratic process;
- Independent democratic action by women taking over the job of promoting women's rights and setting up united local, regional and international networks;
- The political will of the powers that be to complete the implementation of the rule of law;
- Financial support and aid from international and local funds that can only speed up the process.

Finally, all this fundamental action to achieve democracy and equality between men and women in all fields will require the real participation of women in the Euro-Mediterranean partnership, which is the subject of our debate.



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### ***Social and political status of Jordanian women***

***In Jordan,*** we have long realised that people are at the heart of development. Our progress bears witness to the dedication and commitment of the Jordanian leadership. This in turn has been reflected in Jordan's status throughout the world. We are proud to be seen as a model of Arab and Islamic tolerance and enlightened vision.

A respect for human rights is already enshrined in our Constitution. The government is making concerted efforts to ensure that the rights of Jordanians are respected in all aspects of everyday life.

Democratic governance has become a central theme in Jordan's national development strategy. In such instances, there is an increasing awareness in Jordan that improving the status of women is a rights-based issue that will benefit the country as a whole. It demonstrates continued and steady improvements especially in terms of women's access to health and education services, which have resulted in improvements in life expectancy, maternal mortality and literacy rates for women.

Jordan has ratified all the major conventions in respect of women's rights and the government has actively pursued gender equality in many areas, including the passing of relevant legislation, although constant pressure is required to ensure that the process is accelerated.

Jordan has a parliamentary system of government headed by a hereditary monarchy. The state system in Jordan is comprised of three bodies, the legislative, the executive and the judicial. Women acquired political rights in 1974; there are six women members in Parliament out of 106 members of the electoral chamber with six more women members in the Senate out of a total of 50 members.

Similarly, the judiciary branch of government as yet has a nominal representation of women judges.

As for the executive body of the government, at present there is only one woman minister, but there were cabinets with four women out of the 30 posts.

Journalism in many instances is considered another informal body of the state system; even though women's participation in the mass media is rather high, none are in higher positions or editor-in-chief of any newspaper or national radio and television.

In political parties where some are progressive in terms of women's rights, there is no women's representative in any of the executive committees. In professional unions, women are only members and have no leadership positions.

Jordan has achieved much progress over the past few decades in education, health and the establishment of infrastructure.

Jordan has made great strides towards development, attempting not only to improve economic but social indicators, namely in terms of health and education. Education has proved effective, indicated as one of the best records in the developing world. Jordan is endowed with highly qualified manpower, a large number of whom provide expertise mostly to neighbouring Arab countries. However, qualified women tend not to be involved in such export of expertise due to socio-cultural factors. They thus remain in the country where they are not necessarily integrated in mainstream economic development.

Education has proved to be the single most powerful force for change and development. In Jordan, education has been a major determinant of women's participation in the development of female status. Education provides women with the choice to make decisions concerning all aspects of their lives, especially labour force participation, fertility and health care. Education is also vital to raising awareness of women's rights whether legal, political or economic.

In education, girls and women have almost the same opportunities as their male counterparts. The percentage of female teachers and of all school teachers of all cycles is about 65%. In higher education, the ratio of females to males is almost equal, but in graduate programmes the ratio drops to five to one.

However, women do not reflect their ratio in decision-making posts whether at the Ministry of Education or in the eight Public Universities and the 15 private ones.

There are no legal restrictions to women's employment as both the Constitution (Art. 23) and the Labour Law (1960 with final amendments in 1980) determines work as a right for all with "equality between workers in rights and responsibilities with no discrimination based on sex". However, certain provisions aimed at women's safety, protecting them "from dangerous operations" (Art. 46) and preventing them from night work may limit the range of activities available to women. In addition, incentives such as in-service vocational training are not included in the Labour Law as it is in the Arab Convention on Women Workers (Art. 4).

Women's role is still primarily regarded as that of a mother, whereby child-rearing and household duties are predominant concepts. The combination of this role with outside work becomes difficult in the absence of provisions facilitating its performance. Moreover, facilities for pre-school education and other services allowing women to perform their dual role of mothers and workers still remain to be instituted to allow access to the majority. Furthermore, men's increasing unemployment due to the economic crisis is itself a deterrent to



women's employment either because women do not or are not encouraged to apply for jobs so as to satisfy men's applications due to their importance as heads of household. In Jordan, as in most Arab countries, socio-cultural factors determine women's status within the society and the family. In Jordan, there is a dual legal system in which:

- i. Civil law found in the Constitutions. Statutes, ordinances and judicial decisions govern most aspects of public life including the functioning of government, commercial transactions and labour relations;
- ii. Personal status law derived from religious law and customary practices governs most aspects of private life including marriage and marital relations, divorce, child custody and inheritance.

This kind of dual legal system sharpens the distinction between the public and the private worlds with very different implications for men than for women.

Voluntary work in Jordan has a distinguished history. It has developed from a few small charities giving assistance to the poor to about 800 specialised organisations working in various aspects of social development and spread all over the country. Currently, 15% of all registered societies have an all-female membership. The interests of those societies vary, not all of them aim at improving the status of women or empowering them.

As beneficiaries of the services offered by voluntary organisations, women fare better than men as participants. Women make up approx. 60%. However, a look at the services they receive reveals stereotyped traditional activities such as training in sewing, knitting, flower arrangement, etc. In scholarships and student loans, more males than females receive these services. However, health services of the voluntary sector seem to cater more for women than for men.

Data from the National Aid Fund (NAF) reveals that 66.1% of all recipients of monthly cash assistance are women. This is rather a high proportion not only corroborating that women are the poorest of the poor but also giving some indication of the importance of addressing the issue of female-headed households.

However, the other programmes administered by NAF, namely vocational rehabilitation (income-generating projects), emergency aid and physical rehabilitation show a very small proportion of women beneficiaries. It can be deduced that women have not acquired enough skills to enable them to start income-generating projects or that women do not find willing guarantors for their loans for income generation. However, from those who benefitted, statistics indicate that almost all fulfilled loan repayment requirements.

As far as women's share in development, Jordan has achieved substantial steps in women's education. But this has not addressed the structural forces that create and sustain women's disadvantages.

Despite the fact that the development process in Jordan has increased female access to education, participation in the labour force and diversified non-domestic activities for women, there is still a lot that remains to be addressed to improve the status of women.

The following key issues for women can be noted as:

- lack of a national strategy addressing women's specific needs;
- limited employment opportunities;
- declining but still high fertility rate;
- relatively higher illiteracy levels particularly among rural women;
- a sectorial rather than integrated approach to women's programmes limiting socio-economic impact.

These issues are considered to hinder women's full integration in mainstream development.

An action plan would be a concerted effort combined with an overview addressing women's specific issues. These include the need to:

- address various categories of women with different educational backgrounds but limited employment opportunities;
- reach a clearer vision coupled with appropriate actions both at policy-making and grassroots levels within a multi-sectoral approach; and
- re-identify women's needs within the country's present socio-economic circumstances to improve project design and implementation to integrate them in mainstream development not merely as beneficiaries but, more importantly, as effective contributors according to their qualifications and capabilities.

Better policy requires an understanding of the constraints which impinge upon both women and men. In many instances, public policies are developed without adequate attention to gender issues and thus directly and indirectly constrain men and women's ability to effectively participate in the development process. Evidence suggests that women are usually more constrained than men.





## Session Two: Women's rights: between law and tradition

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CNRS researcher (France)



### ***Backs to the wall***

**The dominant** conception of law, including among the elites in Muslim countries, is that the law is a *technology*, like electricity or atomic energy. Also, if we want to keep up with our times, we have to adopt the latest technology.

As Euro-American societies form the basis of the developed world, their legislations can be considered to be both the most effective and the most advanced. As we import technologies, we should also import law. It is this dominant idea that gives rise to the equally common conception that the law's purpose is to organise life in society. How can't we see it this way? For example, it regulates business transactions. Right. But is this the essential thing in the law?

If we look at it one way, we cannot explain marital impediments. All laws dedicate at least one paragraph. Turkish and Tunisian law, which are the most secular in the Muslim world, enshrine the marital impediment due to breast-feeding. An archaism? We can consider the law from a technological point of view and certain parts of the law may appear purely technical (e.g. contract law). We quote Turkish and Tunisian legislation as models to be imitated. Why keep a law as archaic as the *Sharia*, drawn up at the end of antiquity in the Middle Ages? Haven't Muslims adopted most of the western achievements like television, cars, planes and, more recently, mobile phones and computers?

Many, including those of Muslim origin, say to their fellow citizens, "Get rid of Islamic law, or at least the most outdated parts in exchange for more modern laws! We have to *adapt* to our times. The principle of adaptation has been borrowed from natural history, such as Darwin's theory on the evolution of the species. The demand that legislation should be adapted to the times assumes that we can treat laws in the same way as we treat vegetal or animal species. I could stop there and shout victoriously, "I've caught you red-handed committing evolutionism! Don't you know that evolutionism is a wrong way of thinking when applied to human societies?"

Let us see how this way of thinking is methodologically inaccurate. Darwinian evolutionism is neither anthropocentric nor teleological. It only seems so after the event. However, evolutionism applied to human societies is always teleological and therefore, if not racist, certainly paternalistic. From the western point of view, this attitude tends to make the current state of western civilisation the ultimate stage and therefore the inevitable end of the evolution of all "backward" peoples, such as Muslims. If evolutionism means maintaining that human life is subject

to the principle of change, historicity, we have to subscribe to it. But we have to oppose it if we have to accept that change should have an imperative sense.

When we apply Darwinian theory to human societies we must not forget that the main difference between man and other natural species is that, if all natural species have a history, only man has a conscience and strives to affect his own evolution. Human societies also adapt, perhaps, to their environment while taking their past into account. If we adopted the technological concept of law, we would have to replace civil law based on Roman-Christian law on Islamic personal status all over the Muslim world. We cannot use force to make this "transfer of technology". Colonial experience has shown that this goal cannot be achieved<sup>20</sup>. We count on "education", i.e. propaganda (it's difficult to say this word when the cause is "good").

The western belief that law is only a technology must be opposed with what this view entails. Western law has a history. In other words, no more than Chinese or Hindu law, did not descend from heaven or come out of the matrix of transcendental reason. The belief that law is only a technology allows us to credit the idea that western law is naturally universal and that is why the whole world should adopt it.

There is a discipline of science that shows that the opposite is the case and this is the history of law. Let's take an example – the law of obligations in the western world. It was not drawn up in 1649, 1776 or 1789; it has been passed down directly from Roman law, meaning it comes from antiquity. It was revised in the Middle Ages by medieval canonists, Romanists and theologians (Thomas Aquinas, Duns Scot), then in subsequent centuries by philosophers and other thinkers. Western law on obligations contains the greatest metaphysical issues in the west (freedom, free will, intent, etc.). We can certainly uncover technical aspects without seeing what is hidden behind them, such as debates on free will and intent in the western ontotheological tradition. To draw up a theory on contracts, something that the Romans did not have, we must, for example define what is a free, *voluntary* act. This is why we also forget that western law also has a cultural layer, not to mention metaphysical foundations. The decisive result of these discussions is the concept of an independent individual who is part of universal reason. This concept began in the 12<sup>th</sup> century and was completed in Kantian philosophy ("Free will is the only principle of all moral laws and duties complying with these laws", wrote I. Kant in *Critique of Pure Reason*).

The concept of free will shows both the evolution of marriage law and sexual morality. This is why, when we consider Islamic law from the point of view of equality between men and women and particularly the sovereign individual it seems totally obsolete. In this way, we confuse concepts and technological objects. A car can transport you; it is an instrument with a purpose. No-one can deny a car's qualities or properties. This is not the case with legal concepts. We first have to define them. Moreover, there are as many definitions as there are

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<sup>20</sup> *The present United States Government has not yet realised this! In spite of the rout in Vietnam and problems in Iraq.*





legal systems. Legal concepts have ontotheological bases. The promotion of free will and therefore individualism as the "measure of all things" is aimed at destroying societies where this independence is strictly subjected to the group and the community. How can we address western doctrine on marriage without evoking Christian *sexology*, especially the Augustinian doctrine of the original sin? The theory of love and the idea of pornography depend on it, without forgetting the "sexual revolution" of the late 20<sup>th</sup> century. The attempt to impose the western version of law on the Muslim world seems like a vast plan to smuggle Christian theological and metaphysical concepts into Islamic cultures.

All these considerations and remarks may seem rather disconcerting at a meeting aimed at promoting women's "rights". It might seem to be an argument in favour of the status quo. Indeed, Muslims today can choose between two poor solutions - nihilism and reactionary conservatism. Nihilism is the belief that it is possible to wipe out the past and that there is nothing good about Islamic legal tradition. As the majority of populations do not share these convictions, their holders are often forced to abide by them by force. This is why there is no correlation in the Islamic world between "opening to democracy" and the extension of "women's rights". The example of Tunisia in the Arab world is eloquent, indeed, as are the modest reforms recently introduced from above in Algeria and Morocco. When one is an ardent defender of individualism, one cannot accept a reform from above one which does not seem to have the approval of the population. So supporters of reform are not shocked by these methods! Reactionary conservatism is the policy of Islamists. We cannot consider Turkey, because it constitutes an exceptional situation in which an "Islamist" government is under double supervision by the army and by the European Commission. Let us consider the countries where it has been implemented more systematically and openly, like Iran, Sudan and Afghanistan under the Taliban. All these regimes, if they haven't collapsed, are at an impasse. But don't people invent the best solutions when their backs are against the wall?



**Ms Lilia Labidi,**  
*Writer (Tunisia)*



***Tunisian women, political struggles, new psychology, birth of a republic***

***I would*** like to add some points to this discussion for your consideration. They come from my experience of several decades as a feminist and researcher in the region and continent from which I come, the Arab Muslim world, Africa.

***The first is about the historical framework***

We cannot separate the history of women from a country's ideas and socio-political history. The importance of certain historical events like 1492, when the Jews and Muslims were expelled from Spain, colonialism and, more recently,



the misunderstanding between east and west, with the repression of everything characterising the Islamo-Arab identity must be remembered, especially because, after the economic and political wars, the Muslim world is now being attacked on a cultural level by means of symbols, children's religious education, caricatures of the Prophet Mohamed and the *hijab* of women in the name of which wars are undertaken against certain Muslim countries.

***The second has to do with the defence of the Arab Muslim personality in certain contexts***

The debates on the *hijab* and secularity in France since 2000 require a look back at historical contexts where similar debates have emerged. In the 1920s, Habib Bourguiba opposed the removal of the veil introduced by Manoubia Ouertani and Habiba Menchari at the time of conferences organised by French socialists in Tunisia. He considered it to be the wrong moment to attack the Muslim Arab personality. And while he was impressed by Kemal Atatürk, he did not approve of his actions, thinking that society could be modernised without attacking the foundations of the people's personality. During the debate, he drew on the attitude of women who, although they came to listen to what the women speakers had to say, did not remove their veils. This allowed Habib Bourguiba to criticise the "apostles of clothing feminism" and explain in his article *The Veil* that it would only disappear when that which it symbolised disappeared (*L'étendard tunisien*, 11 January 1929).

The man who seemed to go against the feminist ideas being debated at the time in the west was the same one who passed in 1956, during decolonisation, the code of personal status, even before the vote on the constitution. It was the only code of its kind in all Muslim countries to give countless rights to women and has been amended many times since, making it mandatory to have mixed schools and appealing to women to remove their veils and join the fight against underdevelopment. As a result, the *hijab* worn by educated women working and appearing in public is not the same as the veil worn by women in the 1930s. It is an act of defiance against the domination of a super-power that, to certain intellectuals, is trying to impose its ideas on minorities and peoples through psychological warfare and international, regional and local non-governmental organisations acting as intermediaries to spread its reforms in line with its own culture and interests.

***The third aspect has to do with the actions of feminists in the first half of the 20<sup>th</sup> century who projected their condition onto that of women in their colonised country and who, on demanding their country's freedom, also demanded new rights for themselves***

A sketch of the theory of evil, a Kantian concept, is formed here from the demands of these women at a personal level – education for girls, refusal to be given away in marriage, raising the age of marriage, the right to health, and on a political level - teaching in Arabic, status of political prisoners for women in jail, decolonisation of the country, demands that bear witness to women's growing





political awareness of social, political and cultural struggles in addition to their commitment to the construction of a new vision.

This model shows how the hopes of some brought both by society and the new elite led to a change in their legal status at the same time as the country was also involved in institutional reform going from rule by a Bey to a republican regime. While defending their cause and their country, Tunisian women also fought for a new psychology, for the birth of the republic.

### ***The last aspect refers to research methods***

It is also very important for women researchers to take an independent position that reflects the social demands of their societies and their regions and takes into account their counter-transfer in the study of certain questions that are sometimes highly political. Because if these researchers from the south want to contribute to knowledge, they must reflect in their work on the positions of the different social categories, even if the authors of the research do not always share the point of view of certain groups studied. Research should reflect the diversity of points of view if it is not to constitute an obstacle to future research and, above all, in order not to "deceive" users of this research, be they citizens or decision makers.

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***Ms Nadine Weibel,***  
*Anthropologist (society, law and religion), Strasbourg University*  
*(France)*

## » **Women, Challenges of Change**

### ***Religions and changes versus women***



***At a time*** when women in Western Europe are experiencing less and less discriminatory behaviour in the social, economic and political fields, it is interesting to examine the dynamics of relations between women and traditional religions. It is generally accepted that these religions stood in the way of the smallest hint of women's emancipation. In other words, are religions in a position to enter the field of gender equality, considered as an excellent indicator of progress?

We have to admit that religions have developed from an essentially patriarchal cultural base. They echo the social rules and codes set forth by the civilisations from which they emerged and, where women are concerned, they are excellent indicators of what their role would have been in any given age.

I would first like, very quickly, to look at how religions seem to subordinate women. I will examine the Abrahamic monotheisms, which, despite their



specificities thanks to their similar roots, have a certain spirit a certain essence in common. I will then compare these religions with the group of those from India that are awakening increasing interest in Europe and are beginning to arouse some curiosity in the Maghreb: the religion of the Brahmins called Hinduism by westerners in the 19<sup>th</sup> century, Buddhism and Jainism, which came from it and which form a conceptual set in which the relationship with the divine is fusional, unlike in the monotheisms where divinity and humanity are on very different planes. I will then look at the progress of women who, in their own religious field try to deconstruct the dominant male position.

One might wonder whether the essential treatment of women by religions, which I will define as the institutionalisation of belief, is not denied to them. In fact, they are universally regarded as transparent, insignificant creatures at the disposal of men. Paradoxically, their body is regarded as a den of temptation, an impure receptacle whose smallest actions have to be codified and controlled. The sexual ethics of the different religions are aimed at controlling lineage, hence the control of the body and its practices, which means isolating women by a number of means: covering the body, confinement, no mixing of the sexes. This isolation is legitimised by the belief in women's responsibility for any losses of control by men. In Mahayana Buddhism, for example, even though motherly love is regarded as a model of compassion, a woman is still an object of desire that can bring a man down to a lower reincarnation. In Islam, Judaism and certain Christian religions, women cover themselves so as not to kindle men's sinful desire. In the 1980s, the founder of Opus Dei, Escriva de Balaguer, since canonised by the Catholic Church, said that if a man committed adultery it was the woman's fault.

Another important point is that the charismatic personalities behind historical religions were all men. Throughout the process of drafting dogmas and laws, there is an appalling absence of women. In this same androcentric logic of religions, the clergy are almost exclusively men, with the exception of some branches of Protestantism. The terms *guru* in Sanskrit, priest in the Catholic Church and *imam* have no feminine equivalents. In summer 2004, a letter from the Congregation for the Doctrine of the Faith, signed by one who was still no more than Cardinal Ratzinger, to the Bishops of the Catholic Church condemned women who "respond to the axes of power with a power-seeking strategy, the immediate and most harmful consequences of which are found in the family structure". Women are supposed to be available for listening, welcoming, humility, fidelity, praise and waiting". This is how a report from the Parliamentary Assembly of the Council of Europe of September 2005 found that the countries in Europe, with the exception of Spain, where the percentage of women with jobs and the number of women in Parliament are lowest are also those in which the Catholic or Orthodox churches wield the most influence.

I would like to stress that I'm not putting religions or even men on trial here. I am just pointing out existing situations with what I hope is an impartial view but not perhaps as impartial as I would like. We are confronted here with the eternal dilemma between the observer and the subject of observation...





Today, we are witnessing the emergence of initiatives born within religions, taken by women introducing a hermeneutic approach towards the status they claim. They call into question the traditional paradigms, using theological tools to deconstruct the dominant position. This delocalisation of knowledge by rereading founding texts and canons is truly innovative if we recall the fact that women were forbidden access to the texts. This interdiction might be explicit, as in Hinduism or Judaism, for example or implicit as in Christianity or Islam where women did not have access to knowledge, as they were denied the right to an education.

We can evoke Jewish feminist theological positions recognising women's access to the rabbinate in liberal settings. Today, we have one female rabbi in France, four in Germany and some 15 in Great Britain. Among other innovations, there is the trend towards inclusion which consists of feminising masculine personal pronouns in Hebrew and male images while maintaining the structure of the blessings and liturgy.

This same trend towards inclusion has been adopted, to a less radical extent, by Christian feminists who are feminising or neutralising terms used in the Bible. For example, "mankind" becomes "humankind". These trends are visible on the other side of the Atlantic and in Great Britain and in the Germanic countries. In Germany there are now two chairs in feminist Catholic theology at theology faculties, while in France people are often unaware that such a discipline even exists.

Similarly, certain Muslim women, still a minority in Europe, refuse to keep women out of strategic religious and political positions, on the basis of the principle that the supreme authority is not embodied by male scholars but by God alone. There is a clear difference here between the vision and patriarchal version of the Koran. Amina Wadud, an expert in this type of argument and a lecturer in Islamology at the University of Virginia, in spring 2005 officiated over mixed prayers in New York. The Canadian Council of Muslim Women recently wrote a report along the same lines. It is without a doubt the same current as the *Sisters in Islam* in Malaysia, which has gone furthest in its rereading of the scriptures.

I must point out that there are two very different schools of thought when it comes to the analysis of the Koran. The first, still dominant one considers the Koran in its literal sense as a revelation and therefore unchangeable. Considering women's often miserable condition, only a bad interpretation or incorrect reading can be invoked. The second school of thought is clearly more marginal and takes a critical historical approach to the Koran and tries at all cost to reject the literality of the text and only preserves what the Fethi Benslama calls "the revelation of the mind"

In October 2005, the first International Congress of Islamic Feminism was held in Barcelona, with only a small European presence. While the congress's aim was to reopen the doors of the *ijtihad*, the participants fell overall into the first category, that of claiming incorrect interpretation of the Koran. In a similar event, on 5 March 2006 the first European Forum of Muslim Women was held in Brussels. It was an initiative of the UOIF (*Union des organisations islamiques*

*de France*) and showed the determination of practising Muslim women to be regarded as citizens and believers in such different fields as charitable and social commitments, neighbourhood associations, municipal councils, etc.

Women's reappropriation of their bodies and sexuality is another constant found everywhere in religious contexts. Some of them reject the moral and dress codes imposed by their religion, while others dissimulate their bodies, redefining this practice and discovering new areas of freedom where the rules of proxemics are upset, which allows them to enter fields to which they did not have access before. In this case, the French law on ostentatious religious symbols is paradoxically considered discriminatory as, on one hand, men who share the same convictions are not affected and, on the other hand, it does not recognise these women's right to choose for themselves.

In Hinduism, some women demand the right, reserved for men, to renounce sexuality and the status of spouse, while according to more orthodox beliefs, a woman's only duty is to unconditionally serve her husband. Buddhist nuns are also beginning to call into question their eternal inferior status, spurred by neo-Buddhists in North America and Europe.

Another common trend found, whatever the religious field in question, is the belief that at the advent of religions, women's situation was considerably better and only deteriorated over the centuries against the will of their founders and under the influence of a dominant patriarchal moral order. This is how a feminist Christian movement claims that women's status changed when Christianity passed from spoken to written around the 3<sup>rd</sup> century. Muslims think that the Prophet gave them rights that they had never had before and that have been despoiled by men over the centuries. Buddhist women claim that the negative passages on the female sex were introduced after the death of Buddha. Certain women, like the German Heide Göttner-Abendroth, go so far as to consider the patriarchy as a "pathological event in history", deluding herself with a sweet utopia of a matriarchy that existed for tens of millions of years before the advent of the patriarchy, which according to her appeared 40,000 years ago.

After speaking of these three central themes – the reinterpretation of the scriptures, the reappropriation of the body and nostalgia for a golden age, I would like to end with a hypothesis that modernity, regarded as an intellectual construction, could envisage a break with frozen historical religions, opening the door to new movements within them or parallel to them, to different spiritualities, be they humanist, syncretistic or of another inspiration. Sometimes women play a bigger role in them with the appearance in Europe of female gurus or other increasingly visible prophetesses. But I can talk about this at another meeting.

Thank you very much<sup>21</sup>.

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<sup>21</sup> *The issues dealt with in this presentation will be published in late 2006 by Presses Universitaires de Strasbourg "The paradoxes of the sacred or how religions subordinate and emancipate women". Additional information also appears in "La modernité de Dieu: regard sur des musulmanes d'Europe libres et voiles", in Socio-Anthropologie, No. 17/18, 2006.*





## Session Three: The role of women in democratic reforms: women's political, social and economic participation

*Dr Amal El-Obeidi,  
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### *Women's political participation in Libya : Result of survey research*

#### » I. Introduction



**During the** past three decades, the position of women and their role in society has been one of the dominant social and political issues in Libyan political discourse. The regime in Libya tried to use the socialisation process through schools and the media as formal agents of political socialisation in order to change the attitudes of Libyan society towards women.

The traditional views represent a great challenge to the process of change within any society, but especially Libyan society. Some of these views are that women are weak, mentally and physically; women are soft, beautiful and temperamental; women are sex symbols and a source of shame; women's place is in the home and housework is a woman's job, finally that is is shameful for women to remain unmarried.

The practical and widely-publicised official policies of the regime towards women were aimed at encouraging women to play a significant role in social, political and economic changes within Libyan society. However, the reality in Libyan society corresponds to the male position. Women lack authority and participate less, so have less capacity for forcing these issues.

The representation of legislative elites according to gender since 1969 shows that the vast majority which represent 89% of the group were males and only 11% were females. Among 54 members served in the General Committee of the People's Congress since 1977 only six females were among the group. This representation might contradict the political discourse in Libya which concentrates on the role of women in all aspects of society.

This also shows that women play a minor role in the political affairs of Libya at the higher level. However, those who were part of the legislative group were appointed only as secretaries of women's affairs or "the secretaries of social affairs".

At the local level in the Basic Popular Congress, women tend to be more involved and active although their role again did not go beyond the secretariat of social affairs and secretariat of the media and culture.

One of the interesting findings is the distribution of the executive elite according to gender since 1969 which shows that the vast majority which represent 98% of the group were males and only 2% were females.

Among 132 members of the executive elite, only three women during the period from 1969 until 2006 were among the executive elite. Fatima Abdulhafiz as the Secretary of Education from March 1989 to October 1990, Fawziya Shalabi was Secretary of the Culture and Media in 1995 and the Secretary of Media and Mass Mobilization from 1997 to 2000 and Bakhita El-Shalwi was appointed as the Secretary of Social Affairs in March 2006.

Women lack authority and participate less, so have less capacity for participation in the leadership decision-making positions. This can be seen in the representation of women within the elite structure in Libya since 1969.

The term "political participation" is used in this study to refer to the "act of taking part in the formulation, passage or implementation of public policies. This applies to the activities of any person, whether an elected politician, a government official or an ordinary citizen, who is active in any way in the production policy within any type of political system". Most of the literature on political participation deals with systems where there is competition between parties, and is therefore not very relevant to the Libyan case.

The nature of the Libyan political system and its political ideology is based officially on the structure of the 'authority of the people's system' or 'direct democracy' since 1977. In theory, the Basic People's Congress as one of the main elements of authority of the people's system is the main decision-making institution through which people are involved in the political process at the grassroots.<sup>22</sup>

Political participation in Libya will be examined by focusing upon the institutions for participation which the regime has created. One of the main such institutions is the system of Basic People's Congress.

This study is based on survey research of 500 Libyan University students of both sexes: 238 were female and 262 male. The sample numbers were proportionate by gender and faculty. The main focus of this research is to explore the attitudes of the university students mainly at the University of Garyounis in Benghazi towards the political participation in terms both of their active engagement and their views as to its effectiveness.

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<sup>22</sup> For more details see Amal Obeidi, *Political Culture in Libya* (Surrey: Curzon Press, 2001)





## » II. Political participation of students in Libyan society: data analysis

Exploring attitudes to political participation among the students (males and females) is the major concern of this study. The main topics relate to the political participation and attitudes of the respondents. The first deals with the experience of the respondents' participation within their own families' affairs. It may be expected that the participation of the respondents in family affairs and their relationships with their parents at different stages of their lives may affect their participation in the political system and other activities.

The second topic concerns the respondents' participation experience at school and university, asking whether they were active at either of these institutions. The third topic covers attitudes of the respondents towards political participation and their awareness of the political process within the political system in Libya by investigating whether they were active within the institutions of political participation or not.

A general aim of this section is to find out whether there is any relationship between the political experience of the respondents in the early stages of their lives (either within the family, school or university) and their participation within the political system.

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### (A)

#### The participation experience of the respondents within the family

The experience of individuals within their families and their participation in the affairs of the family may not only affect their political behaviour and their participation in political matters within society but may also add to an awareness of their role in the political process.

The respondents were first asked how they would describe their parents' treatment of their children: strict or relaxed. The response to this question showed well over half of the respondents (68%) described their parents' treatment of their children as relaxed, while only 30% described their parents' treatment as strict. Thus it seems that most of the respondents lived in a flexible and relaxed atmosphere with their parents.

Decision-making within the family was the next concern. The family atmosphere is clearly very significant for individuals. By looking at the early experiences of the individual in a family and the nature of relations among its members – non-democratic or democratic – one gains some understanding of forces which shape attitudes to political decision-making. Therefore the respondents were asked about the responsibility for making decisions within their family. The survey results indicate that for 30% of respondents, the responsibility for decision-making within the family rested with the father. Only 5% indicated that the mother was responsible for decision-making. In the latter case, the reason was

usually due to the death of the father or to divorce between the parents and with the respondent living with his/her mother. 22% of the respondents said that both of their parents were responsible for decision-making whilst 42% indicated that the whole family was responsible for decision-making.

The next question looked at the role of the respondents in family decision-making when they were children. It asked whether the respondent had a voice in family decisions as a child. 70% said they had no such voice, while 29% did. The decisions which they participated in related to matters concerning toys, trips, clothes, etc. Taken together, the responses to these two questions show that some 29% of the respondents had experienced a democratic atmosphere.

When those who answered positively were asked at what age they began to participate, 43% said between the ages of 6 and 11, 38% said between 12 and 15, 9% said between 15 and 18 and 5% said between 18 and 22. Given that the decisions in which they participated were only minor ones relating to their own personal welfare, the rate of the level of participation in family decision-making (29%) is low.

A further question explored the attitudes of respondents towards the idea that children should take part in family discussions in general. The respondents were asked whether they favoured children's involvement in decision-making within their families. More than half of the respondents (about 66%) supported the idea. Those who gave a positive answer were asked at what age children should take part in family discussions. Half the respondents, about 52% supported the idea of children starting to take part in family discussions when they are between 6 and 11, 31% said between 12 and 15, 7% said between 15 and 18 and only 2% said between 18 and 22 years old. From the results, it is clear that respondents were generally favourable to children taking part in family discussions before the age of 15.

An individual's willingness to express himself/herself in political debate may be affected by his/her experience of freedom of expression within the family. Respondents were therefore asked whether they felt free to talk to their parents about their family affairs. The response showed that 85% felt free to talk to their parents while only 14% did not. Those who gave positive answers were asked with whom they talked: the father, the mother or both parents. In response to this, 7% of the respondents said they talked to their fathers alone; half of the respondents (50%) talked to their mothers alone and about 42% felt free to talk to both parents.

## (B)

### **The participation experience of respondents in school activities**

The respondents were asked to describe their teachers at school. The object of this was to find out about the atmosphere at school and the relationship between students and teachers. More than half of the respondents (58%) said that their teachers were strict while 40% described their teachers as relaxed.



Participation in the political activities in early stages of the respondents lives: 25% participated in activities at school whilst 48% did not.

Activities to which the respondents referred were: ideological preparation camps, popular demonstration, ideological competitions, revolutionary meetings and student union activities.

56% of male students participated in political activities and 47% of females. It is clear that male students were more likely to have participated in the activities than female students.

### (C)

#### **The participation experience of respondents in university activities**

The respondents were asked whether they participated in the political activities at university. 11% of respondents gave a positive answer, while 89% answered "no". It is clear that students at the university participated much less in political activities than when they were at school. Such findings can be explained in terms of most political activities at school being (in theory) compulsory.

It is clear that most respondents had little motivation to participate in political activities at university, given their absence from one of the main activities at university, namely attending the students' congress meetings. This channel of participation is of similar significance to the main channel of participation within society, the Basic Popular Congress. Such findings lead us to question the role of students in the political participation process and the wider decision-making process in Libyan society.

### (D)

#### **Political participation in the wider political system**

The participation of the students in the wider political participation process in Libya, through the institutions of participation such as the Basic Popular Congress meetings.

The most common way in which Libyan citizens (and therefore students) can participate in the political system is through the Basic Popular Congresses (BPCs) which are the main institutions of the people's authority system in Libya.

When respondents were asked whether they attended meetings in their basic congress, only 6% said that they attended regularly; 45% attended from time to time. Half never attended these meetings. It is clear that students had limited interest in participating in the BPCs. This is perhaps surprising as they are educated, the expectation that they would be more interested in politics and therefore more likely to participate than other strata of society.

The results showed that rural respondents were more active politically and more likely to attend BPC meetings than urban respondents. Only 6% of the

urban respondents regularly attended the meetings, 40% of them attended from time to time, more than 54% never attended.

By gender, the results showed that there is a gap between male and female participation, with less involvement.

One of the most important findings showed that most students felt no capacity to influence the Congress' decisions: only 23% said yes and 74% answered no.

The ability to change decisions taken in the BPC by place of family residents showed that 22% of urban respondents thought that they would be able to change a decision while 76% answered no among the rural respondents.

### » III. Final remarks

Almost half of the respondents participated in the political activities at school, whilst a small minority participated at university. The explanation for such differences is that most activities at school were (in theory) compulsory.



**Ms Mary Jane Deeb,**  
*Ph.D, Chief, African and Middle Eastern  
Division, Library of Congress (U.S.)*<sup>23</sup>



#### ***Women in the Middle East and North Africa (MENA) region: who gets the biggest slice of the pie?***

**Social scientists** have been thinking about women in the Middle East in an evolutionary manner: women have been placed on a continuum the two poles of which are tradition and modernity. They have analysed women's expanding role in Muslim societies as one of empowerment along a horizontal line, a continuum that is demarcated by certain pegs on a scale of modernism. These pegs are "rights": the right to education, to work, to divorce, to vote, to relocate, to lead, etc... And as a woman achieves these rights she moves from being traditional to being modern.

A perfect example of this approach was a 2005 comparative study published by Freedom House and entitled "Women's Rights in the Middle East and North Africa: Citizenship and Justice". Written by a number of social scientists, including myself, it followed a very strict framework set up to measure : "women's equality" [to men], another way of describing "modernism." To compare the countries of the Middle East it employed "a universal standard of comparability based in

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<sup>23</sup> *Disclaimer: These are my views and do not necessarily represent those of the Library of Congress*





part on the Universal Declaration of Human Rights." The ratings were ranked on a five-point scale from 1 to 5, one being the weakest performance. This study employed five pegs to evaluate the modernity of each country, including non-discrimination and access to justice; autonomy, security, and freedom of the person; economic rights and equal opportunity; political rights and civic voice; and social and cultural rights.

It is clear that what was described in this study was a horizontal model with pegs, defined in Western terms, that measured numerically what it meant to have rights, to be equal to men, to be modern. The study was completely controlled by the "methodology" - by this horizontal paradigm. The researchers had to answer specific questions, and whenever they strayed to give a qualitative perspective, the passages were edited out of the final printed version. The results of the study, according to the editors, were that Tunisia and Morocco gave women the most rights, while Saudi Arabia, Kuwait and all the countries of the Gulf gave women the least rights.

Those results however, reflect only part of the reality of the living conditions of women in the Middle East and North Africa. Can one argue for example, that because of the progressive personal status laws in Morocco, rural Moroccan women (who constitute 40% of the female population in that country), enjoy more rights and freedom than Kuwaiti women whose personal status laws are less liberal but who happen to be 96% urban? Or that adult Moroccan women who are only 50% literate, are more modern and have more rights than adult women in the United Arab Emirates who are 80% literate? Or that Moroccan women who are attended by skilled health personnel only 42% of the time when they give birth, have more rights than Kuwaiti women who are attended by skilled personnel 98% of the times when they give birth?

It becomes evident, given these illustrations that this horizontal paradigm can in fact distort the reality of women's living conditions, and their ability to enjoy the rights that are given to them by law. These examples demonstrate some of the problematic issues that emerge when one adheres strictly to statistical and or/legalistic "pegs" of modernity to understand the changes that in fact are taking place in the Middle East, with respect to the actual conditions under which women live, the opportunities they actually enjoy, and the availability of these rights and opportunities.

I would like to suggest an alternative model or paradigm: one which looks at the status and role of women in the MENA region not as a one dimensional phenomenon but rather as a three dimensional one.<sup>24</sup> Instead of a continuum between two points, I propose an interactive cubic model that has horizontal, vertical and an-in depth dimensions. The aim is to create a paradigm to better understand how social, political, and economic factors interact in different ways, in different societies, at different times, to empower women, or halt their progress.

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<sup>24</sup> I first proposed this model at a workshop organized by the Institute of Mediterranean Studies, Lugano, June 2005.

For the case of simplicity, let us assume that the horizontal dimension includes the rights mentioned above including access to justice, economic rights, basic personal freedoms, equal opportunities, social and cultural rights, etc... If we compare the rights of women in five different countries in the Middle East, we will probably find that according to the law, on paper at least, these rights do not differ too much from one country to the other. There are variations of course, but most women have the right to education, work, political participation, divorce, the right to run for office, etc.. in almost every country in the Middle East. The difference lies primarily in the way those rights are applied, and to whom they apply more readily. In each society, some women will take advantage of the rights they are given by law, and make use of these rights, while others fail to use their rights and in fact operate as though they had few or no rights at all. The question then is why?

The vertical dimension of my cube includes the factors that allow and/or empower women to make use of these given rights, as well as those factors that hold women back. Four critical elements make up the vertical dimension: social class, ethnicity, religion, and residence. Women from the dominant social class, the dominant economic group, the dominant ethnic group, the dominant religious group, and women residing in urban areas, will have more opportunities to take advantage of the rights available to them, than other women in their society. The dominant classes, ethnic and religious groups will be different in each society and in each region, as well as in each phase of the history of their nations. Consequently, in each country a different aggregate of women will be best positioned, socially, economically and/or politically to take advantage of the rights available in their country.

In our comparison of Kuwait and Morocco, it is clear that the difference between the way Kuwaiti women and rural Moroccan women enjoy their rights is determined primarily by one factor, namely, wealth. The reason the Kuwaiti women, despite their more limited judicial rights on paper, have more de facto, rights, power and freedoms, is that they have the means to procure for themselves material and non-material opportunities that their Moroccan counterparts cannot. The estimated 2005 GDP per capita in Kuwait was \$19,200, while for Morocco it was less than a quarter of that, namely, \$4,200. Wealth allows for better nutrition, better health care, better education, more free time, in other words, wealth can empower and protect women to a greater degree than laws that are never used or rarely invoked.

But the vertical dimension of my cube includes the dominant class factor as well. Wealth is not distributed equally within any society, and therefore those at the top, the elites, have more of it, more privileges, better education, greater awareness of their rights, and a greater ability to defend those rights whether in Kuwait or in Morocco. Also women in an urban setting have more opportunities to get an education, and to find a job outside the home than rural women. The so-called gap in "modernity" that exists between the upper and upper middle classes in urban Morocco, and the 40% of rural women in that country, is enormous. And yet on paper they all have the same rights.



The vertical dimension of my cube also includes the religious factor. In Saudi Arabia and Kuwait where Sunnis are the dominant religious group, Shiite women (and men) are discriminated against in terms of job opportunities, access to justice, etc. although on paper they all have the same rights. On the other hand, in a society like Iran where the establishment is Shiite, it is the Sunni women (and men) who are discriminated against although they officially have the same rights. The same applies to Copts in Egypt who have the same rights as Muslims on paper, but are consistently discriminated against, in terms of access to jobs, promotions, political participation, and so on, because they do not belong to the dominant religious group.

Ethnicity is another factor that empowers women (and men) or inversely can limit their rights. Up to the war in Iraq, Kurdish women and men had the same rights and privileges on paper, but in reality faced much greater obstacles in trying to achieve their economic and political rights than did ethnically Arab Iraqis. Berbers in Algeria have long complained that their rights were limited including their right to learn their own language, or use their own first names. Although the situation has improved over the years, the riots in the Grande Kabylie in 2001, makes one wonder about the rights of Berber Algerian women. Arab Sunnis in Iraq dominated the political arena under Saddam Hussein in Iraq, but today it is the Arab Shiite's that are the dominant group. It is, therefore, likely that Shiite Arab women in the future will have more opportunities than the Sunni Arab women and the Sunni Kurdish women.

Lastly, the in-depth dimension of my cube includes historical and political factors. The descendants of women who fought for, or were given rights and freedoms gradually over several generations, are more likely to take advantage of more liberal personal status laws than first generation emancipated women. In the same vein, women in the MENA region who have not been exposed to prolonged periods of war or occupation, are more likely to take advantage of their legal rights than those who are facing severe social conflicts and political disruption.

Historical developments over a long period of time are important in creating generations of women who expect to have certain economic and political rights. In other words, it is frankly not very believable to put Egyptian women somewhere in the middle range of modernity in the Middle East as was done in the Freedom House study referred to above. Egypt has a long history of women's emancipation, that goes back to the nineteenth century. If many women in Egypt have chosen to wear the veil again in the past two decades, that does not mean that these women have given up their rights, or their power. The presence of women at every echelon of the Egyptian government and in every part of the economic sector belies this. What has happened is that while those rights were traditionally enjoyed by a very small elite until the mid-twentieth century, today that elite has expanded to include a broader spectrum of Egyptian women who are moving upwards economically and socially thanks partly to education. Other factors empowering women in Egypt has been men's migration to other Arab countries for work, leaving women to fend for themselves and take care of their families, which is a fact of history as

well as the push-pull force of globalisation that draws excess labour to areas where there is a demand for labour.

Unlike the case of Europe, conflict and war have undermined the emancipation of women in the Middle East. War and violence in Palestine, Afghanistan and for the past three years in Iraq, have affected the status of women negatively, and undermined the progress that had been achieved over the past decades. Women who constituted a significant part of the work force in Iraq, and were among the best educated in the Middle East, today have withdrawn to their homes, and taken to wearing the veil to protect themselves from strangers. With on-going violence and conflict, work opportunities diminish, and women are the first to lose their jobs. In war and conflict also, children are at risk, and mothers stay home to protect, feed, and educate their young (in Afghanistan, Iraq, Iran, Lebanon, Algeria, etc...) By and large, women who have made progress have been those residing in MENA countries that have experienced a reasonable period of peace and stability (eg. Morocco, Tunisia, Egypt, and some of the Arab Gulf countries)..

## » Conclusions

My position here has been that rights given on paper are mediated by social, economic and political factors, that affect women as well as men. It is not in confrontation that rights are achieved but more in the reconciliation of the variables that make up a society. So what are the issues that must be addressed as we look at improving women's status in the Middle East?

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1. The most important incentive to changing and improving the status of women is education at all levels of society for both women and men. Supporting the expansion of schooling in rural areas and providing support for home-schooling as well in conservative rural areas may be one way to bridge the gap between rural and urban women.
2. As long as there is a high level of poverty and unemployment in the MENA region, no amount of legalistic changes, or reforms of personal status laws will improve the condition of women. Creating jobs, including setting up small business enterprises in rural areas run by women (as was done in some parts of Asia, for example) will do far more to empower women than ineffective legal reforms.
3. The participation of women at all levels of the decision-making process is of course critical. But it is just as critical that these women constitute a representative segment of the population. By that I mean that the women who take, or are given, the power to make decisions for other women and men, should come not only from the elites, the dominant urban, social, economic and religious groups, but also from rural areas, from ethnic minorities, and from disenfranchised sectors of society. Only when these women address the needs of their communities, as only they can, will the condition of women in the society as a whole really improve.





4. To make better use of their rights, women in the MENA region need to be better informed about these rights. Women in the rural areas of these countries are generally unaware that they can go to courts and obtain justice in cases of divorce, child custody, property disputes, etc.. The reasons for their ignorance are many including the fact that these women are frequently illiterate, usually uninformed, and totally dependent on their families and more particularly their male relatives, husbands, fathers and/or brothers. Information campaigns via the media are critical to letting women know what their rights are, how to obtain them, and what to do if they don't.
5. One of the dangers of focusing only on women's rights, is that it ignores the other half of the equation. It is just as important to address men's concerns with respect to women as it is to give women rights on paper. If the men do not understand what these rights are for, they will oppose them and create obstacles to changes in the status of women. Elite women are able to enjoy more fully their rights and opportunities often because the men in these elites are educated and better informed, and understand that an educated wife or daughter is an asset, not a threat, and that they can be better mothers, earn a living and enhance their own wealth and prestige. These men support the education of the women in their families, and fight for their rights. Thus, information campaigns in rural areas, mentioned above, should focus not only on women but also on men.
6. Finally, by approaching the issue of women as agents of change from a "cubist" perspective, it becomes evident that there is no model that fits all countries in the MENA region. So while it is imperative that women get educated and educate others, work and have the same opportunities as men, are protected by law and have the same status before the law as men, it is also important that the process of change not be a top-down process, whereby the wealthy and those from the dominant social and cultural groups "tell" the others what to do. It is important that MENA societies become more democratic, and that women from all walks of life be actively involved in change, and that men also be always included, involved and active as agents of change to improve the living conditions of women.



**Ms Fatima Sadiqi,**  
*Centre for Research on Women (Morocco)*



### **Morocco in the Feminine**

**Morocco in** the feminine is a Morocco with several faces. It is a Morocco that is both homogeneous and heterogeneous, traditional and modern, and visible and invisible. It's a multilingual and multicultural Morocco that expresses itself equally well through written and oral wisdom. It has been Morocco in constant movement since its independence, with its ups and downs, in the image of Morocco. This Morocco in the feminine has managed to pave the way in the public sphere of power thanks to the Moroccan feminist movement.

The Moroccan feminist movement is a social movement firmly rooted in Moroccan culture and is characterised by continuity, constancy and pragmatism. The origins of the movement date back to the mid-1940s, when the first Moroccan women's association, *Akhawat Al-Safaa* (Sisters of Purity), publicly demanded women's rights – the right to schooling, the right to legal support within the family and the right to political visibility. However, these demands were not echoed before or during the two decades following the independence of Morocco, as the construction of a strong, solid state and a decent place in the Arab and international scenes were the political decision-makers' main priorities, relegating the issue of women to second place. It is true that education for boys and girls in urban milieus was strongly encouraged by the state but women's legal demands were not echoed on a political level.

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But Moroccan women did not give up. Supported by many democratic men (decision makers, intellectuals, promoters of human rights, militants, etc), these women, who soon understood that only legal rights can open the door to other rights, intensified their fight for reform of the family code. This fight took a number of forms. Texts were written in Arabic and French by journalists and writers like Fatima Mernissi, Khnata Bennouna, Leila Abouzeid and Zakia Daoud. In addition to these writings, many other women like Nouzha Skalli, Amina Lemrini, Latifa Jbaldi and Aicha Loukhmass organised themselves in political parties, especially left-wing ones, and began to make themselves heard. It was the combined efforts of all these women that, little by little, propelled the Moroccan feminist movement to the forefront of the political scene, aided by an open monarchy aware of the role that women could play on an increasingly complex political chessboard. Since the mid-1980s, Moroccan women's fight has intensified and diversified. An impressive number of women's or feminist associations have been born, thereby enriching Moroccan civil society. With their seriousness and pragmatism, these associations have managed to establish solid ties with all the Moroccan democratic movements. Women's voices have begun to carry weight in politics and the result is a first in the Arab-Muslim world – a profound reform of the family code. There is still a lot to be done to apply the code, not only in the feminist movement but also, and above all, in Moroccan society as a whole, but the march has begun.





The path followed by the Moroccan feminist movement clearly shows that the term "feminism", like the term "gender" can only be defined and understood within a particular culture. The Moroccan feminist movement is different from western and Middle-Eastern feminist movements, because the society that produced it has its own specificities that bring to the fore the eight essential components making up Moroccan culture and determining its fundamental values – its written and oral history, geography, Islam (in its complexity), orality, multilingualism, its social organisation, economic status and political system. We cannot view the future of the Moroccan feminist movement without including these components.





## Session Four: The Euro-Mediterranean Partnership: its impact on the promotion of women's rights

**Ms Federica Frediani,**

*Director of Programmes, (IMED) Institute of Mediterranean Studies (Lugano)*



**Ladies, gentlemen,** dear colleagues,

My brief presentation is an attempt to answer the questions asked by the North-South Centre in the introduction to this work session at the seminar.

The Institute of Mediterranean Studies, or IMED, was founded in 1997. Today, it is a multidisciplinary institute belonging to the University of Italian Switzerland. It was, among others, the multidisciplinary approach and the promotion of dialogue between theory and practice that motivated the Department of Development and Co-operation (of the Ministry of Foreign Affairs) to co-finance the IMED's activities in a more modern co-operation.

In the last three years, the IMED has organised regular meetings (Mediterranean forums) on the subject of *Women as Agents of Change*. The aim of these meetings was:

- To create a forum between countries to the north and south of the Mediterranean;
- To encourage dialogue between interlocutors with different experiences and from different fields of work, based on the principle that they can raise awareness and influence public opinion at different levels in their countries of origin;
- To use common reflection to identify mechanisms that can reinforce women's rights and role in the Euro-Mediterranean area.

One of the main results of these forums was collaboration between the IMED and the North-South Centre, which made this seminar possible. The fact that our two institutions work in the same field is clear in the agenda and we plan to continue, in collaboration with the institutions that you represent, to pursue the goals that I have just mentioned.

I would like to speak for the people who took part in the forums organised by our Institute and pass on their recommendations to you. I would first like to make some comments on the role of women in Mediterranean societies and more generally in post-modern, global societies. Women's role and identity in societies are the subject of theoretic and scientific debate and are constantly being redefined, even in Euro-Mediterranean societies on the north side. On 6 March 2006, the Council of the European Union published a roadmap for equality between men and women. Although the problems to be solved in the





southern countries are different from those in the north, it is best not to forget the large number of issues that still have to be settled in the northern countries.

It's a pretty complex research subject that requires a multiform approach capable of involving or allowing the participation of different players, while taking a number of parameters into account. Mary Jane Deeb's cubic model or paradigm, which takes into account women's rights in its horizontal dimension, which considers in its vertical dimension the factors of promotion or inhibition for women to take and use these rights (ethnicity, religion, social extraction), and which focuses in a third dimension on less tangible factors such as political or historical aspects, is an example of this approach.

The conclusions and recommendations reached by the participants in the forums organised by the IMED can be summarised as follows:

- Instead of thinking that they can make a difference by the simple fact of penetrating the field of politics dominated by men, women should create "women's networks" to build a society in which women's culture would be the base for real change;
- Networking between people from different origins and experiences is fundamental. Mediterranean women and men should work together on specific questions and make an effort to promote dialogue and interaction between different cultures;
- Co-operation between the north and south of the Mediterranean should work towards mutual, dialogue-based recognition and partnership between Mediterranean countries. It should be founded on shared universal values while respecting local specificities. We recommend the creation of a network to support this exchange of experiences;
- Human rights education and knowledge of the law should be encouraged. Positive experiences in the promotion of human rights should be disseminated. Change can begin from within.

The following points were also identified as vital for the advance of emancipation of women:

- The question of women's education is one of the most important factors in the development of their societies. The current education system contributes to gender segregation based on study areas, with [typically male] fields, such as technology, engineering and natural sciences dominated by men and [typically female] fields, such as human sciences, dominated by women. There are no solid statistics on Mediterranean countries permitting comparative studies. There are no data on higher education broken down by gender and by country. The first essential step is to set up an accurate database for later research into these issues. It is also necessary to conduct a comparative study of women's condition in the Arab world;

- When we talk about social change in communities in the south, it is important not to present finished products but rather to involve the members of these communities in the process of change. In the specific aspect of women as agents of change, reflection should focus on how women in the South can achieve independence so that they can point the process of change in the directions they themselves would have chosen, rather than defining the road they should follow [on their behalf]. The central question should be how to facilitate a process in which the stakeholders are also going to be responsible for the changes in their own world.

On the basis of these points for reflection, the IMED wishes and plans to be associated with the setting up of a network and common projects aimed at overcoming the cultural, material and political obstacles preventing women on both sides of the Mediterranean from fully realising their potential and making their visions come true.



**Ms Alima Boumedienne,**

*Senator, former member of the European Parliament (France)*



**We often** say that the measure of actual democracy achieved by a country is the lot of its women. So, to endeavour to analyse the progress made towards democracy by the countries on the south side of the Mediterranean, let's take a moment to think about women's place in these societies and then address the role that they play here and now and the role that they should play in the future to undertake democratic reforms in the region.

What can women contribute in the Arab world in terms of democracy, citizenship and human rights? As a female member of the French parliament of Moroccan origin and having devoted a good part of my life to fighting in politics for the society in which I believe, I feel particularly involved in this question.

Rape, crimes of honour, slavery, prostitution, forced marriages, genital mutilation, domestic violence, sexual harassment, trafficking, discrimination, unequal pay, the list is long but still does not cover all the violence against women all over the planet, especially during armed conflict where they can all be found. Whatever their nature, this violence is always supported by the same argument, as old as the hills and seeming, I hope, particularly retrograde and stupid in 2006, that of men's supposed superiority over women. Gender inequality, essential inequality.

Before addressing the problems of the southern Mediterranean countries, I would like to remind you that women only got the vote in France in 1944 and that, while equality has made great progress in companies and in the senior civil service, women are still a small minority in top-management positions. Although there are more women than men in higher education, women are in smaller numbers in the highest-rated courses and they suffer more from unemployment and unchosen part-time work. Difference in salary is also





against them. These inequalities in France are obviously not comparable to the violence described above, but the perception of man's superiority over women still persists in so-called developed countries.

Let us also recall that, according to the association SOS Femme, two million women are victims of domestic violence in France today. That's one woman in five. Four hundred die every year at the hand of their husband; that's more than one woman a day. The figures speak for themselves. France, a great role model on the international scene, has a lot of work to do and it had better start by cleaning its own house.

This having been said, the situation of women in the southern Mediterranean countries is, on the whole, pretty catastrophic.

## » I. **Abuse against women in the Euro-Mediterranean region**

If we refer to the United Nations Declaration on the Elimination of Violence against Women (CEDAW, Convention on the Elimination of All Forms of Discrimination against Women) of December 1979, there are three categories of abuse:

- First there is the abuse that takes place in the family, such as marital rape, genital mutilation and other traditional practices harmful to women, abuse linked to the dowry, forced marriages, etc. This abuse is private and kept in the family, and is more problematic, as it is often minimised, dissimulated, denied by the victims themselves, as they don't want to go against members of their own family;
- The second category is in the community, where a woman may be the victim of rape, harassment, intimidation, prostitution, etc. It is in the community that the public authorities should be able to play their role of defenders of women's rights most easily. In many places in the Mediterranean region, women have restricted access to public places, or they are controlled like minors, as their legal status is that of incompetent adults;
- The third category is abuse against women by the state itself, the abuse that it perpetuates and tolerates. This includes state legislation that weakens women's rights and favours their submission, thereby exposing them to abuse and arbitrary treatment.

While no region in the world is a haven of peace for women and each region has its own particularities, we find these three categories have a common denominator everywhere. This abuse always develops because of inadequate public policies implemented by states to defend their female citizens, prevent this abuse and punish its perpetrators.

Let's look at some examples of southern Mediterranean countries to illustrate this.

**In Egypt :** In the country of the Pharaohs and great pyramids, thousands of years of history and a magnificent culture, we find practices regarding women worthy of the European Middle Ages. Sexual discrimination is rife in the whole legal corpus – non-recognition of marital rape, domestic abuse not punishable, discriminatory sentencing (for the same act a woman can be more severely punished than a man), absence of women in the magistracy, etc. Egypt ratified the CEDAW in 1981, though it expressed reservations with regard to Articles 2, 9, 16 and 29, due to their incompatibility with the Sharia. Islamic laws constitute obstacles to the end of abuse of Egyptian women.

Worst of all is the continued practice of genital mutilation. According to a survey conducted by the authorities between 1997 and 2001, 97% of married Egyptian women are circumcised. This medieval custom has a particular social function – the more a woman's sexuality and desire are repressed, the better prepared she supposedly is for her future marriage and her role as a housewife. In this sphere, cultural relativism seems difficult. Respect for the woman, her body and freedom is not negotiable. It's a universal right. Many NGOs are fighting to end this practice in Egypt but unfortunately the small amount of leeway allowed to these organisations by the Egyptian authorities, with the legislation on associations, considerably limits their room for manoeuvre.

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**In Algeria :** The CEDAW came into force in 1996, but there also with many reservations. The family code is still totally discriminatory. Women cannot consent to marriage alone; this has to be done by their guardian, however old they are. They can only get a divorce under very restrictive conditions. They do not have the power to prevent their husband from taking other wives and the father is the sole guardian of their children. Where education is concerned, most of the time girls have less schooling than boys, placing them at a disadvantage in the labour market. Domestic violence is widespread. Algerian women were also the main victims in the armed conflict that broke out in 1992. Many of them are still suffering the consequences.

**In Jordan :** There is a code of honour in the Middle East. It is founded on society's wish to preserve what it considers the family's integrity. This traditional principle allows the murder of women who have brought shame onto the family. This is the case in Jordan. Unicef has counted an average of 23 crimes of honour a year. Most of the time, the women are victims of mere rumours or suspicion of adultery. Article 340 of the Jordanian criminal code stipulates, "A man catching his wife or one of his female relations in the act of committing adultery and who kills or injures one or both participants cannot be prosecuted". A campaign was launched to abolish this article. It was denounced by fundamentalists, especially the Islamic Action Front, which stupidly and ridiculously regarded it as a "western plot".

**In Morocco :** The kingdom signed the CEDAW in June 1993. Even so, women's situation has not changed much in the 10 years following this ratification. But





the issue of women's status has caused countless debates, which increased with the accession of King Mohammed VI in 1999. In January 2004, a new family code was passed by Parliament. Legally, Moroccan women are almost equal to men. It is the Maghreb country that offers the greatest hope of progress in favour of women's rights today.

Another increasingly common problem emerging today is the situation of women's rights in the context of immigration. More and more women seek refuge in northern countries with a reputation for greater respect for their rights.

While violations of women's rights are commonplace in the southern Mediterranean countries, physical and symbolic abuse of migrant women is also taking place every day in a number of European countries. The rights of immigrant women, asylum seekers and paperless women are regularly violated, especially in France, with the current government's immigration policy. In Germany, Belgium and France, foreign women die following brutal expulsion operations. Others are held in detention centres or in the international areas of airports.

Immigration policies being implemented by northern countries are aggravating the situation of women from the Mediterranean region.

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Bilateral agreements between certain European countries and emigration countries have also constituted a step back for immigrant women's rights. These agreements allow the law of their country of origin to be applied to immigrant couples. This law legalises inequality between men and women, by authorising forced marriages or repudiation, for example. By a series of legal rules, European societies keep immigrant women in an inferior position. We are all responsible for this state of affairs in the north and the south.

It was in this perspective that the Barcelona Process was devised in 1995.

## » II. The place of women in the Barcelona process

In November 1995, Barcelona hosted the first Euro-Mediterranean Conference. It was the starting point for a highly ambitious partnership between 27 countries from the north and south of the Mediterranean to make the meeting an area for dialogue, exchange and co-operation in favour of peace, stability and prosperity.

Unfortunately, the situation of women in the region is only briefly mentioned in a few lines in this partnership merely to underscore their role in economic development.

Now, the achievement of the Euromed partnership's goals cannot be conceived without the full participation of women from around the Mediterranean in the economic, social, cultural and political life of their societies. All the countries in the region, with the exception of Syria, have signed the United

Nations CEDAW. The restrictive approach of many countries (as we have seen) deprives this convention of its substance on essential points concerning women. This approach in Muslim countries is based mainly on unbending obedience to the Sharia, which results in the legalisation of inequality between men and women in terms of nationality, legal capacity, communal property, marriage, etc.

The 27 signatories of the Barcelona Declaration must therefore undertake to give priority to adopting action programmes guaranteeing women's rights as fundamental human rights in accordance with international rules and in respect for the principles of universality and indivisibility.

This is why, in Barcelona on 24 and 25 November 2005, the Euromed Women's Conference was held and attended by many representatives of governments and experts from the region. The aim was to reinforce women's political, economic and social role in the Euro-Mediterranean partnership. The conference also took note of a reality – more and more Mediterranean women are getting together to demand equality and denounce their oppression.

Violence against women in the southern countries, when they emigrate to the north or when they are in their northern host country as minorities, is not fatal. Faced with these situations, Mediterranean women are getting together to demand the end of legal discrimination and to fight a violent patriarchy and retrograde practices.

Dozens of women's associations have been born in recent years. Transnational networks have been set up and thousands of women are working in general rights associations.

For example, *Collectif 95-Maghreb Egalité* is an association of defenders of women's rights in Algeria, Morocco and Tunisia. It was set up in 1995 before the Beijing world conference on women's rights and is based in Rabat. It establishes relationships and collects testimony on abuse of women in these three Maghreb countries. It can therefore draw conclusions on the passive or active participation of the authorities in discriminations against women. It is also a decisive instrument issuing proposals for reform with regard to respect for women's rights.

Another example is the *Aïsha-Forum des femmes arabes* network, a platform of Arab women's NGOs from Palestine, Lebanon, Jordan, Egypt, Tunisia, Morocco, Algeria, Sudan and Yemen. Thanks to its importance and transnational approach, this network constitutes an excellent member of the Euromed partnership that can provide solutions for women throughout the region and not just a local approach to problems.

The setting-up of the Arab Court to Resist Violence against Women was also a major victory for feminists in the region. It was formed in 1995 to break down the wall of silence usually surrounding Arab women who are victims of abuse and allow them to come and testify.



Countless local or national associations are members of these networks today. Women thus participate directly in setting up movements ready to free them from the shackles in which they are still kept.

We must note that, in spite of the black picture I have been painting, feminist movements have been growing stronger in the last ten years in all the Euro-med partner countries.

Nevertheless more and greater efforts must still be made. More funds are necessary. The European Union must play the main role here. Legislation must be improved so that NGOs can work better. Petty laws restricting the freedom to join unions and associations are a decisive obstacle that must be removed. Greater recognition must be given to the action of NGOs in the region, as they are still often left to themselves and can only depend on the good will of their local activists.

Civil society is the main instigator of major social advances that are then included in government policies. It is therefore a decisive mechanism for women's rights in the Mediterranean region.

The Barcelona Process at least has the virtue of having allowed citizen's networks to spring up on the south side and to become interlocutors of policies implemented often in spite of pressures from local potentates. Some of them have received funding from the MEDA Democracy Programme and other sources, including the EMHRN, the Euro-Mediterranean Human Rights Network for which women's rights is a key priority.

The Institute of Mediterranean Studies (IMED), based in Italy, originally designed to be an informal network charged with conducting surveys of women's citizenship on the two sides of the Mediterranean. IMED moved on to a second phase consisting of implementing the programme "Positive action for rights of citizenship and equal opportunities in the Maghreb" (2001-2004), sponsored by the European Commission.

But unfortunately not all initiatives are successful. In Europe, important networks forget to look towards the other side of the Mediterranean. Old colonial reflexes sometimes surface unexpectedly. Southern NGOs do not always seem to have sufficient information on international co-operation or possible finance from the European Union. They become agents for transmitting and implementing northern NGO projects. It is here, for example, that I see the resurgence of colonial reflexes. The women's rights movement in the MENA region is not usually familiar enough with the Barcelona Process.

In addition, the lack of democracy and legislation on finance in certain countries in the region allows certain states to control all financial relations with providers of foreign funding and also helps to limit NGOs' ability to attract enough finance to implement common projects.

It is in this context that EU delegations in the countries of the region have a decisive role to play. They must reinforce the capacities of NGOs to defend women's rights and their recognition and involvement in the Euromed partnership. These delegations often have trouble supporting NGOs harassed by their own governments.

This was the case of the *Maison de la citoyenneté des femmes (Attanassouf)* in Tunisia, for example, which was sponsored by the European Commission. It received no support from the local European Union delegation when the Tunisian government was pressuring it to close down.

We can see that, if progress is not being made, it is not through a lack of good will. There are simply structural obstacles and diverging interests that stand in the way of the democratic machine.

The main stakeholders, women in the Mediterranean region, have shown their determination to improve the situation.

### » III. Women's role in the region as agents of democratic reforms

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How many of them are out there fighting every day? I can mention some of them and I salute all the others who publicly or anonymously stand up against the abuse and discrimination of another age unworthy of human civilisation as it should be in 2006:

- Aïcha Echa Channa, president of the *Solidarité Féminine* association, which in 2004 set up a hammam for single mothers. *Solidarité Féminine* has been taking in these mothers since 1985 and helping them to learn about their rights to defend themselves and find jobs again;
- Mazal Renford is the director of the Mont Carmel Golda Meir International Training Centre in Haifa, Israel. The centre has set up a workshop for Bedouin embroiderers on the basis of interdependent economics. Today production has been diversified and the centre has some 160 employees working at home, being paid a monthly salary and receiving training;
- Wassyla Tamzali is a lawyer in Algiers, founder of *Collectif Maghreb Egalité*, which for years has been fighting towards equality between men and women in the Maghreb;
- Faouzia Assouly is the president of the *Ligue démocratique des droits de la femme*, which wages a legal battle (which has borne fruit) for a family code, *Moudawana*, that is fairer to Moroccan women.

And there are plenty more. All these women have become players that cannot be ignored in the construction of societies that are fairer to their women and



therefore more democratic. A regime that is more favourable to women is a regime that is more favourable to all, because they are not half of man but half of humankind.

They therefore play a decisive economic, political and social role in their countries and, while their participation is growing, their marginalisation, still considerable in the decision-making process, shows that this state of affairs is not taken into account.

Civil society is not enough. Women from the southern Mediterranean must have more direct access to the political field. The challenges inherent in education are therefore essential. Girls in the Maghreb and Mashrek countries must be able to take the same courses as boys and not be confined to menial tasks by their families.

A United Nations report on the Arab world in 2002 estimated that some 65 million Arabs out of a total of 280 million are illiterate. Two-thirds of them are women. The report also says that although women represent 50% of the population, they only represent 3,5% of the Arab Parliament. In France, with less than 17% of women in the Senate, we are not best placed to criticise, but even so 3,5 % is unacceptable.

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This why women must take hold of the political arena without waiting for the good will of men or the help of international institutions. Just like their sisters on the north side of the Mediterranean, who have had to fight and are still far from winning in many fields, women on the south side must stand up, rebel and fight to achieve full recognition of their human rights.

This by no means signifies that they must copy the feminist movements in the north, who sometimes make themselves look ridiculous, like certain feminists in France who defended the law on the veil against Muslim women, who were merely wearing a piece of clothing relevant to their culture. Their scarf did not necessarily have any political connotations. These feminists also fell into the trap of racism, though they meant well by refusing women's submission to men.

Contrary to what many people believe, including many western women, feminism is by no means the prerogative of western societies. It would only be able to take one form. That would mean denying female plurality throughout the world. It may be veiled, it may be naked, it can be draped in all imaginable forms. The only thing that counts is that women, wherever they are, wherever they come from, have the same rights and prerogatives as their male counterparts.

The Euromed partnership cannot solve this tricky question alone. It can only act as a facilitating framework for measures towards greater gender equality. In spite of the Israeli-Palestinian conflict, in spite of American intervention in Iraq, in spite of all the conflicts and tensions poisoning relations in the region, in view of all the movements emerging in civil society in the region, these women (and also some men) give me confidence in the future.



**Ms Maria-Àngels Roque,**

*Director of Studies and of Quaderns de la Mediterrània, European Institute of the Mediterranean (IEMed) Spain*



### **Reinforcing women's role in society**

**One of the** potentials of the Mediterranean region and also one of its most important challenges has to do with the status of women and their participation in society as citizens. It is a key aspect for measuring conditions in different countries, as shown by the Human Development Index – illiteracy, low employment, and rare political representation of women are still present on the south side. Certain indicators have progressed, as have legal reforms.

While it is still necessary to improve the condition and status of women in the region, we must underscore the great progress that has been made in the last decade. Today, women are getting married later than before. They favour education and training and actually constitute more than half of university graduates in many countries. They are also active in different sectors of the economy and production and more and more often occupy high-level public and political positions. This progress has favoured awareness of the need for a reform of their legal status throughout the region and has recently unleashed a dynamic of unprecedented reform in the Maghreb and Mashrek, thereby marking a break with centuries of discrimination and violation of women's rights.

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This progress has had many positive effects on southern Mediterranean societies in the medium and long term. However, in spite of the progress and new opportunities, inequalities still exist. Based on these observations and within the framework of the tenth anniversary of the Barcelona Declaration (which is also the tenth anniversary of the Beijing Platform for Action), the Euro-Mediterranean Women's Conference was held on 24 and 25 November 2005. This forum was, without a doubt, the most anticipated, innovative forum in the Euro-Mediterranean Summit Barcelona +10.

In harmony with the reflections of different Euromed bodies and European institutions involved in the Barcelona Process and of other forums (such as the Sana Regional Conference and the Arab League meeting in 2004), the starting point for the work of the 2005 Women's Conference was the conviction that equal opportunities between men and women are a universal issue that influences the economic and human development of countries and populations in the Euro-Mediterranean region. The success of this equality between men and women is one of the main themes uniting Euro-Mediterranean societies.

The Euro-Mediterranean Women's Conference Barcelona +10 was divided into three working sessions based on the main issues behind the Euromed partnership: i) women's rights as a guarantee of human rights and democratic progress and as a vector of a more united society, ii) women's contribution from a micro and macro-economic point of view to sustainable development





and iii) women's access to training, education and culture as a means of improving employment, competitiveness and active citizenship.

In addition to all these issues, in the conclusions presented by Commissioner Benita Ferrero ([www.iemed.org/documents/concludonesang.pdf](http://www.iemed.org/documents/concludonesang.pdf)) the participants also stressed different points:

- They consider that the women's movement has grown in all the partnership countries. However, it needs more funds, a better legal framework for women's NGOs and greater recognition of its work. It is, above all, civil society that encourages social progress, which is then included in government policies;
- They feel that it is necessary to circulate information on women's networks in the Euro-Mediterranean region for the exchange of data between all active groups, for more homogeneous communication and a debate of medium- and long-term goals;
- They stress the importance of involving civil society in this reflection and considering its opinion by means of decision-making processes, both with regard to the need to support and reinforce institutional development and their capacity to work in networks to stimulate the Euro-Mediterranean region;
- They propose setting up a regional, qualitative Euromed mechanism involving societies and governments to monitor women's situation in the Euro-Mediterranean region, promote best practices and denounce regression or disrespect for human rights in policies on gender;
- They underscore the need to include the transversality of women's policies in the different plans of action of the European Neighbourhood Policy (ENP);
- They make a highly positive evaluation of the European Commission's initiative of organising a Euro-Mediterranean Ministerial Conference with the participation of civil society (focusing on women's issues) and call for it to be held in the second half of 2006.

### ***Neighbourhood Policy and the Barcelona Process***

Where the ENP is concerned, complementary as it is to the Barcelona Process, since they both aim to improve relations with the southern countries while favouring internal reforms, we find that Europe expected the liberalisation of markets would lead to wider democratisation, thanks to the creation of new economic opportunities for citizens.

We had to witness the terrible events of 11 September to realise that one cannot understand justice without recognising the other's culture. And this dialogue between cultures is essentially a dialogue between people and not between anonymous cultural entities. One of the most noteworthy initiatives

of recent years has been the creation of the Group of Wise Persons regarding dialogue between the peoples and cultures of the Mediterranean, which published a report in 2004. Its main recommendation was implemented with the creation of the Anna Lindh Foundation for the Dialogue between Cultures, in Alexandria. There is also the United Nations Alliance of Civilisations, a movement set up to combat divisions between cultures, particularly Islam and the west.

It is also interesting to see that, at Barcelona +10, the two Euromed conferences that attracted the most attention, in the midst of general discouragement, were those on gender equality and regions.

***The Euro-Mediterranean Ministerial Conference on Strengthening the Role of Women in Society (Istanbul, 14-15 November 2006)***

Its purpose will be to adopt a Euro-Mediterranean Plan of Action (2007-2011) for Strengthening Women's Role in Society and to promote equality between men and women in the region. The plan of action will be drawn up in accordance with the objectives of the five-year work plan adopted by the Euro-Mediterranean members at the 10<sup>th</sup>-anniversary summit of the Barcelona Declaration.

The preparation of the plan of action in 2006 lasted several months and it will be approved at the Euro-Mediterranean ministerial conference to be held in Istanbul for the purpose on 14 and 15 November 2006. The preliminary reports on the debates at the preparatory conference throw light on dynamic, common points on Euro-Mediterranean and regional contexts in terms of opportunities, adversities and experience of ongoing reforms regarding the promotion of women's status and their condition in the framework of the Euro-Mediterranean partnership.

In order to extend the consultations, three Euro-Mediterranean networks were charged with drawing up preliminary reports focusing on the main features of best practices:

- EuroMesco to summarise women's fundamental rights and public and family legislation in the region;
- The FEMISE network to write a report on women's economic integration in the region;
- The Anna Lindh Foundation to draw up a report on the socio-cultural field and relationships between men and women in the region. We will be participating in the dossier that the European Commission asked the foundation to deal with, Culture and Communication: fundamental instruments in changing mentalities and society.

Of the different contributions requested by the European Commission, the issue of stereotypes is certainly the one that has most points in common to the north and south of the Mediterranean as, although legal and participative





aspects are very different, the evolution of mentalities is much slower and requires continuous attention in many fields in both the north and south. The fundamental goal is to combat stereotypes, promote dialogue and help change mentalities in favour of gender equality. This dossier also looks at the *visibility* of women's role in the *media* and *art*.

Among our main recommendations for *education*, we pointed out not only the need to invest in non-stereotypical teaching and school and non-school training – two fields with exceptionally important social and economic repercussions but also the importance of computer networks in civil society.

One of the events that helped the progress of our work and proposals was the preparatory conference in Rabat, Morocco from 14 to 16 June 2006. This regional meeting in preparation for the ministerial conference brought together participants from the whole region, including Libya and Mauritania. Certain qualified participants were invited to discuss and submit for debate recommendations on these three major issues. Considerable time was devoted to debates aimed at furthering and diversifying exchanges and putting together recommendations to be included in the Euromed Plan of Action 2007-2011.

The goals of the Rabat preparatory conference were:

- To analyse and take stock of progress, perspectives and obstacles regarding (1) women's fundamental rights as an essential part of democracy, (2) women's status and economic participation in the region and (3) social and cultural questions regarding the social roles of men and women in the region;
- To focus on and share what has been learned from ongoing reforms in the region in the three fields mentioned, including the role and contribution of the different players;
- To draw up pertinent, specific, concrete proposals for change at regional and national level to be included in the Euromed Plan of Action to Strengthen Women's Role in Society (2007-2011), the adoption will be proposed at the ministerial conference in November 2006.

The Euromed Plan of Action for Strengthening Women's Role in Society will contain measures that will have to be applied at bilateral and regional level within the framework of the Euromed partnership. It will allow us to capitalise on knowledge acquired in the ten years of the Euromed partnership in the Barcelona Process and reinforce the egalitarian dimension of ENP plans of action in order to implement the measures in these programmes.

The plan will make the most of knowledge, analyses, initiatives, ongoing action, strategic recommendations and existing contributions on a regional and national level by national players (official institutions, NGOs, research

institutes) and regional and international players (implementation of the Beijing Platform for Action, Millennium Development Goals, etc).

The conference will not just endow a larger grant from the Commission. In accordance with the commitment requested at the Barcelona Women's Conference in November 2005, it will also demand that the 35 countries include the Plan of Action measures in their bilateral co-operation policies and that the southern countries include them in their national budgets.

In the different Mediterranean cultures, women are linked to important cultural elements that they have passed down through the ages - language, religious beliefs, oral literature and ecological and artistic knowledge. Thanks to education and training, for the last 10 years, women have also been able to revitalise the world of business, politics, science, teaching and culture. Nevertheless women's status on the south side is evolving very slowly, not only because of mentalities, but also because of lack of resources and a real political will.

On the other hand, *decentralised co-operation* helps build women's capacity in education, information and development in both urban and rural milieus. This co-operation does not require large economic support, just constant, regular activity by information centres and networks of associations and effective technical assistance.

### ***By way of conclusion***

It is essential to identify, support and reinforce national, regional and local initiatives improving women's visibility and participation in public affairs and decision-making bodies. In addition, technical and financial aid in the creation and sale of handicrafts by women can not only promote their visibility and independence but also improve the economy and heritage of the region by exploiting their tourist and industrial potential. In addition, it is also essential to develop communication through new technologies, including internet access.

In addition to these recommendations and best practices and the essential influence of improving women's rights under the law, this document underscores the importance of involving *civil society* in local governance and multilateral, decentralised co-operation. Civil society is the main promoter of social progress, which is eventually included in government policies. It also promotes best practices and the application of human rights in gender policies.

The question is even more pertinent in the context of globalisation, where the preservation of cultures against a trend towards standardisation requires safeguarding global cultural heritage, which is the pillar of sustainable development, while reflecting the intercultural dialogue process by taking women's opinion into account. Women, with their absence from this dialogue, are becoming the victims of cultural relativism, which tends to reduce their rights and affect their condition (World Summit on Sustainable Development, Johannesburg, 2002). On the other hand, women's place in culture is also

linked to artistic production. In spite of women's presence in this activity, both in schools and young artists' exhibitions, their works are rarely included in important collections or their names found in art history books.

Even in Europe, certain governments do not consider egalitarian education a priority. Several regional or municipal communities have interesting education programmes. Government awareness campaigns can help mentalities to evolve, beginning with the leaders themselves.

It is absolutely vital to identify, support and strengthen regional, national and local initiatives favouring the visibility of women's role and their participation in governance and action to transform society and respond to women's new roles and requirements.



# Appendix II

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## Programme of the Seminar

» **Friday, 30 June 2006**

### *Opening session*

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9h00–10h

**Chair:**

*Claude Frey*, Chairman of the Executive Council, North-South Centre, Council of Europe

**Official introductions:**

- *Gabriella Battaini-Dragoni*,  
Director General of Education, Culture and Heritage, Youth and Sport;  
Co-ordinator for intercultural dialogue, Council of Europe
- *Princess Wijdan Ali* of Jordan
- *Gülsün Bilgehan*,  
Parliamentary Assembly, Council of Europe
- *Zergün Koroturk*,  
Ambassador of Turkey in Portugal
- *Rui Machete*,  
President of the Fundação Luso-Americana<sup>25</sup>
- *Jorge Lacão*,  
Secretary of State, Presidency of the Council of Ministers of Portugal

10h00–10h30

Coffee Break

**Introduction to the Seminar:**

*Fifi Benaboud*,  
Co-ordinator of the Transmed Programme, North-South Centre, Council of Europe

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<sup>25</sup> The North-South Centre of the Council of Europe would like to acknowledge the kind support of the Fundação Luso-Americana in the organisation of the Seminar.

Simultaneous interpretation during the Seminar was provided in English and French.





### **First session**

### **The development of family codes in the Euro-Mediterranean area**

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10h30-11h30

**Moderator: Riad Malki,**

Director of the Panorama Centre for Democracy (Palestine)

**Speakers:**

- **Nadia Ait Zai,**  
Lawyer, Director, CIDDEF (Algeria)
- **Neclat Arat,**  
Director, Women's Study Association (Turkey)
- **Jamila Sayouri,**  
Jurist, President, Federation for Local Reforms and Initiatives (Morocco)
- **Amal El-Farhan,**  
Professor of Political Sciences, former Minister of Municipalities (Jordan)

11h30-12h30

Discussion

12h30-14h30

Lunch offered by the Fundação Luso-Americana

### **Second session**

### **Women's rights : between law and traditions**

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14h30-15h30

**Moderator: Fifi Benaboud,**

Co-ordinator of the Transmed Programme of the North-South Centre of the Council of Europe

**Speakers:**

- **Mohamed Benkheira,**  
Researcher, CNRS (France)
- **Lilia Labidi,** Author (Tunisia)
- **Nadine Weibel,**  
Anthropologist (Society, Law and Religion),  
University of Strasbourg (France)
- **Gema Martin Munoz,**  
Professor of Sociology of the Arab and Muslim  
World, Autonomous University of Madrid (Spain)

15h30-16h30

Discussion

16h30-17h00

Coffee break

### **Third session**

#### **The role of women in democratic reforms: political, social and economic participation of women**

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**17h-18h00** **Moderator: Ahmed Khchichen,**  
Member of the Scientific Committee of the Human Development Report on Morocco

**Speakers:**

- **Amal El-Obeidi,**  
Assistant Professor, University of Garyounis (Libya)
- **Mary Jane Deeb,** Chief, African and Middle Eastern Division, Library of Congress (U.S.)
- **Soukaina Bouraoui,**  
Director General, CAWTAR (Tunisia)
- **Fatima Sadiqi,**  
Centre for Research on Women (Morocco)

**18h00-19h00** Discussion

**19h00** End of the session

**20h00** Dinner at the Hotel Sana

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## » **Saturday, 1 July 2006**

### **Fourth session**

#### **The Euro-Mediterranean Partnership and its impact on the promotion of women's rights**

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**09h00-10h00** **Moderator: Mourad Allal,**  
General Co-ordinator of the Euromed NGOs Platform (France)

**Speakers:**

- **Carolina Mayeur,** Deputy Director, Spanish Agency for International Co-operation
- **Federica Frediani,**  
Director of Programmes, ISM (Switzerland)
- **Alima Boumedienne,** Senator, former member of the European Parliament (France)
- **Maria-Àngels Roque,** Director of Studies, European Institute of the Mediterranean (Spain)

**10h00-11h00** Discussion

**11h00-11h30** Coffee break



**Closing session****Recommendations, conclusions and resolutions**

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- 10h30-11h30**
- **Claude Frey**,  
Chairman of the Executive Council, North-South Centre, Council of Europe
  - **José-Carlos Correia Nunes**,  
Executive Director of the North-South Centre, Council of Europe
  - **Fifi Benaboud**,  
Co-ordinator of the Transmed Programme, North-South Centre, Council of Europe
  - **Federica Frediani**,  
ISM (Lugano)
  - **Gabriella Battaini-Dragoni**,  
Director General of Education, Culture and Heritage, Youth and Sport, Council of Europe; Co-ordinator for intercultural dialogue, Council of Europe
- 13h00** Lunch offered by the Fundação Luso-Americana
- 20h00** Dinner in a Fado Restaurant, Lisbon



# Appendix

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## List of Participants

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***Ms Nadia AIT ZAI***

Director  
Centre d'information et de documentation  
sur les Droits de l'Enfant et de la Femme  
(CIDDEF)  
Algeria

***Ms Belen ALFARO HERNANDEZ***

Head of Mediterranean Affairs  
Ministry of Foreign Affairs and Co-operation  
Madrid  
Spain

***Princess Wijdan ALI***

Ambassador of Jordan to the Republic of Italy  
Specialist in Human Rights  
Jordan

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***Mr Mourad ALLAL***

Co-ordinator  
Euromed NGO Platform  
France

***Ms Necla ARAT***

Director  
Women's Studies Center  
Turkey

***Ms Maria BARROSO SOARES***

President  
Pro Dignitate Fundação de Direitos Humanos  
Portugal

***Ms Cheryl BENARD***

Director  
RAND's Initiative on Middle Eastern Youth  
Washington DC  
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***Ms Soukeina BOURAOUI***

Executive Director  
Center of Arab Women for Training and  
Research (CAWTAR)  
Tunisia







**Ms Alima BOUMEDIENE**

Member of the Senate  
France

**Ms Mary Jane DEEB**

Chief, African and Middle Eastern Division  
Library of Congress  
Washington D.C.  
United States

**Ms Elza DEUS PAIS**

Chairman of the Committee of  
Equality and Women's Rights  
Portugal

**Ms Amal EL-FARHAN**

Professor  
Political Science at University of Jordan  
Former Cabinet Minister of Municipality Affairs  
Jordan

**Ms Ghita EL-KHAYAT**

Writer  
Specialist on Women's Rights  
Morocco

**Ms Amal EL-OBEIDI**

Professor  
University of Garyounis  
Benghazi  
Libya

**Mr Moha ENNAJI**

Vice-President  
Fès-Saiss Association  
Morocco

**Ms Federica FREDIANI**

Head of Programmes  
Istituto studi mediterranei (ISM)  
Università della Svizzera italiana  
Switzerland

**Mr Mohammad HOCINE BENKHEIRA**

Sociologist  
CNRS  
France

**Ms Lilia LABIDI**

Professor  
University of Tunis  
Tunisia

**Mr Jorge LACÃO**

Secretary of State  
Presidency of the Council of Ministers  
Portugal

***Ms Chiara LAINATI***

Researcher  
Synergia  
Italy

***Ms Khadijah LAKKIS***

Lebanon Euro-Med Group  
Lebanon

***Ms Mimi LEPORI***

Consultant  
CONSONO- Réseau ONGs  
Lugano  
Switzerland

***Mr Riad MALKI***

Director General  
Panorama Center for the Dissemination of Democracy and  
Community Development  
Palestine

***Ms Carolina MAYEUR***

Deputy Director  
Spanish Development Agency  
Spain

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***Ms Margarida MOTA***

Journalist  
Expresso  
Portugal

***Mr Manuel PECHIRRA***

Chairman  
Instituto Luso-Árabe de Cooperação  
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***Ms Jamila SAYOURI***

President  
Federation for Local Reforms and Initiatives  
Rabat  
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***Ms Maria-Àngels ROQUE***

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Quaderns de la mediterraneà  
Institut Europeu de la Mediterrània (IEMed)  
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***Ms Fatima SADIQI***

Director  
Gender Studies Center  
University of Fés  
Morocco

***Ms Nadine WEIBEL***

Professor  
CNRS  
Société, Droit et Religion en Europe  
Strasbourg, France

***Parliamentarians of the Mashrek and Maghreb countries***

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***Mr Tayseer AL-FITYANI***

M.P.  
House of Representatives  
Jordan

***Ms Nareman AL-ROUSAN***

M.P.  
House of Representatives  
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***Mr Mousa AL-WAHSH***

M.P.  
House of Representatives  
Jordan

***Mr Hazem HAWAMDEH***

Administrator  
House of Representatives  
Jordan

***Ms Milouda HAZIB***

Member of the Democratic Constitutional Group  
House of Representatives  
Morocco

***Ambassadors in Portugal***

---

***Mr Sabri BOUKADOUM***

Ambassador of Algeria

***Mr Ibrahim SALAMA***

Ambassador of Egypt

***Mr Ali IMDOURED***

Chargé d'Affaires, Embassy of Libya

***Mr Redouane ADGHOUGHI***

First Counsellor, Embassy of Morocco

***Mr Fouad EHLIEL***

General Delegation of Palestine

***Ms Catherine KRIEG-POLEJACK***

Ambassador of Switzerland

**Mr Mohamed RIDHA FERHAT**  
Ambassador of Tunisia

**Mrs Zergün KORUTÜRK**  
Ambassador of Turkey

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**Parliamentary Assembly of the Council of Europe**

**Ms Gülsün BILGEHAN**  
Rapporteur of the Parliamentary Assembly on the Integration of Immigrant Women in Europe

**Ms Sylvie AFFHOLDER**  
Deputy Secretary  
Committee on Equal Opportunities for Women and Men

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**Council of Europe**

**Mrs Gabriella BATTAINI-DRAGONI**  
Director General, Directorate General of Education, Culture and Heritage, Youth and Sport; Co-ordinator for Intercultural Dialogue  
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Programme Assistant  
Transmed Programme  
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**Ms Nour HEMICI**  
Trainee  
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**Luso-American Foundation**

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Conference Co-ordinator



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# SOUTH



# Centre



Institute of Mediterranean Studies  
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