

GENDER EQUALITY IN MOROCCO

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Abstract

This article examines the rarely talked about subtleties of Moroccan reform in the realm of women's rights and its inadequate fulfillment of obligations to international human rights standards. The Preamble to Morocco's post-Arab Spring 2011 constitution follows the example of its 1996 version, in which the state declared its "determination to abide by the universally recognized human rights". However, while the state is often hailed in the international forums and media as a true trendsetter in the realm of women's rights in the Middle East and North Africa region, this analysis of the much celebrated two main goals—"doing justice to women" and "preserving men's dignity".

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The case of gender equality as defined by CEDAW and the ways in which the state approaches it further question Morocco's professed adherence to the international human rights standards and shed light on the discrepancy between Morocco's stated adherence to such standards and the country's constants as expressed in Article 19 of the current constitution.

Many conservative Western as well as Moroccan women's rights activists oppose the notion of gender equality, which surrounds the heightened international and domestic discourse on women's rights, poverty-alleviation projects, and legal reforms. Analysis of Morocco's government responses to international conventions and action plans dealing with women's rights, such as CEDAW and the Millennium Development Goals, manifest misinterpretation and misappropriation of the notion of gender equality by different groups and for diverse purposes¹.

CEDAW recognizes discrimination against women to be linked intrinsically with a lack of gender equality. It defines gender equality in a holistic manner, applicable to both the public and the domestic spheres, in addition to situating it within the international regime of human rights. Therefore, CEDAW establishes an international standard for gender equality and as such forms the basis of numerous other international legal standards and poverty-alleviation campaigns, such as the Beijing Platform for Action and the Millennium Development Goals.

Morocco ratified CEDAW in 1993, shortly after the first reform of the PSC. However, it entered several reservations to Article 9, which grants women equal rights with men regarding the nationality of their

¹ <https://about.jstor.org/terms>

children and to Article 16, which spells out key principles of gender equality within family and marital relationships. Morocco entered these reservations because gender equality as defined by the Convention in the domestic realm (but not in the public domain) was deemed incompatible with the Islamic law, “which guaranties to each of the spouses rights and responsibilities within a framework of equilibrium and complementarity in order to preserve the sacred bond of matrimony”².

It is thus separate individual rights and obligations rather than equal rights that govern gendered marital roles in Morocco. These reservations not only nullified the object and purpose but also confirmed Islamic law’s authority over international law in interpreting discrepancies between CEDAW articles and domestic law. Morocco’s reservations also assert that Islamic law and universal human rights law employ incompatible definitions of gender relations. In its report, “Women’s Human Rights and Gender Equality: Morocco” asserts that Morocco enters reservations “essentially for conventions dealing with women’s rights”, thus reaffirming the supremacy of religious law in family legislation in particular. Following this general guideline, it is important to discern Morocco’s intention regarding the application of particularly Article 2 and the institution of gender equality in national legislation. This declaration clearly excludes and modifies the legal effect of CEDAW in application to Morocco, demonstrating that it can be treated as a de facto reservation.

The fact that the government deposited the withdrawal of the reservations at the United Nations during the Arab Spring and amid predictions of an Islamist victory in the forthcoming elections conclude that the withdrawal was due to the international and domestic pressures, as well as to protect the image of Morocco as a progressive Muslim-majority country in the region, engulfed in revolutions and the Islamist gains. Perhaps this episode also demonstrates the incompetence or at least unfamiliarity of those in charge with withdrawing the reservations with the country’s legal order.

How does the reformed Family Code address the issue of gender equality? This question is important particularly in light of the fact that the law is frequently presented by the more secular members of the country’s political elite as establishing gender equality. The Preamble, for example, asserts that Moroccan family is “based upon shared responsibility, affection, equality, equity, amicable social relations and proper upbringing of children”. As such, the reformed Family Code reproduces the traditional idea that women need protection, which denies them individually. It therefore still operates as a protective and corrective document rather than non-discriminatory in the sense of CEDAW’s definition. In short, the Code reaffirms local perceptions of inequality in marital relationship, denying women the right to participate in the household affairs on equal footing, something which the law in fact purports to guarantee in Article 51 spelling out mutual obligations and rights of spouses.

In conclusion, necessary to say that Morocco is often presented in the international community as an exemplar for Muslim societies. However, the analysis of the Family Code’s purported goals, notably those of “doing justice to women” while “preserving man’s dignity”, and the peculiar case of Morocco’s withdrawal of CEDAW reservations demonstrate that the image is not wholly deserved. In short, the reformed Family Code and the regime’s discourse on women’s rights and gender equality offer the impression of the country’s progress. However, underneath this liberal veneer, the regime reaffirms and sanctions patriarchal gender relations entrenched in many communities across Morocco.

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²<http://www.ifes.org/Content/Publications/Papers/2010/Focus-on-Morocco-Social-Attitudes-Toward-Women.aspx>

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