

The Politics of the Reform of the New Family Law (the Moudawana)

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INTRODUCTION

In 1957-58, after the independence struggle culminated in the final proclamation of independent Morocco, King Mohammed V codified the Kingdom's *Moudawanat Al-Ahwal Al-Shakhsiyya* (Personal Status Code).¹ The Moudawana is a “collection of legal rules that organize kinship relationships. It regulates the rights and duties pertaining to marriage, the custody of children, inheritance, divorce and alimony.”² Similar laws can be found across the Middle Eastern and North African region (MENA). In the 1990s reform of Personal Status Codes in these Arab/Muslim countries became “the key to the gate of freedom and human rights for women,”³ as Asma Khader, a former Jordanian Minister of Culture and a human rights lawyer aptly declared.

The Moudawana was to become the only religiously and tribally inspired law in the post-independence Morocco. Family codes were described by some as “the last bastion of the Shari’a in the legal codes of most Islamic countries.”⁴ The roots of the Moroccan Moudawana were firmly based in the conservative Maliki jurisprudence⁵ whilst at the same time seeking to maintain traditional tribal relations.⁶ This was a

¹ In the continuation of this thesis, I will use the short form – the Moudawana – or Personal Status Code if referring to the Moudawanat al-Ahwal al-Shakhsiyya, and the new Moudawana or Family Code/Law, when talking about the Moudawanat al-Usra, enacted in 2004.

² Iman Ghazalla, *Sculpting the Rock of Women's Rights: The Role of Women's Organizations in Promoting the National Plan of Action To Integrate Women in Development in Morocco*. 2001. http://www.hhh.umn.edu/centers/wpp/sculpting_rock_women_rights.html, January 2007.

³ As quoted in Mounira M. Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco*. University of California Press: Berkeley, Los Angeles, London, 2001. p 5.

⁴ Laurie A. Brand, *Women, the State and Political Liberalization: Middle Eastern and North African Experiences*. Columbia University Press: New York, 1998. p 58.

⁵ The word Moudawana, literally ‘collection’ or ‘code of laws’ is the title of one Maliki law books (Buskens, Leon. “Recent Debates on Family Law Reform in Morocco: Islamic Law as Politics in an Emerging Public Sphere.” In *Islamic Law and Society Journal* 10, No 1 (2003): 70-131. p 73). There are differences with other three Islamic legal schools in which Moroccan version of Maliki-based laws is either more moderate or modernized (for instance regarding the judicial divorce in certain cases); or stricter as in the case of guardianship of women. For a more detailed discussion see Buskens 2003: 74-77.

⁶ See Mounira Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria and Morocco* for an informed study of pre- and post-colonial state-tribe relations and their influence upon the drafting of the family laws in all three Maghrebi state.

consequence of several factors, which affirmed the future character of the Moroccan state and the makeup of political relations. First, the decision to promulgate a conservative Moudawana was done in complete absence of either a grassroots movement or a women's movement, demanding the expansion of women's rights.⁷ It was drafted by a committee, composed solely of men – *ulama* and judges - and was then approved by the monarch. In doing so, the king asserted the predominance of the monarchy in all matters pertaining to the state and the society; moreover, he marginalized his subjects in general, and women in particular, from the process of decision-making. Second, Moroccan identity was to become defined, paradoxically, as modern on the one side and traditional on the other. The fact that all other laws, with the exception of the Moudawana, were based on the French model of codified laws⁸ suggested that independent Morocco was to follow a progressive, modern path regarding matters of economics, politics and law. However, in order to retain its traditional values and Muslim identity, it gave women pivotal roles in the domestic, familial realm. Women thus became the glue that kept Moroccan society together by protecting it from losing its traditional Islamic character in the pursuit of 'Westernized' progress. Rabea Naciri, one of Morocco's most prominent women activists, nicely summed up the essence of Morocco's identity saying that "it is based on symbolic constructions that aim to present the country as both Arab-Muslim and open to the West."⁹ Finally, the Moudawana affirmed the patriarchal family model, corresponding to the intended appeasement of tribal dissidence. The tension between

⁷ Charrad 2001: 2. Interestingly, in the Tunisian case, which up until Morocco's reform of the Moudawana in 2004 was known as the most progressive family law of any Muslim country, the decision to draft such a document was done solely by the president Bourguiba himself.

⁸ It is important to see in this fact the reason of why the reform of the Moudawana in the 1990s became such a controversial issue. As mentioned above, the Personal Status Code became the only law in Morocco that from a legal perspective was showing the Muslim identity of Morocco.

⁹ Naciri, Rabea. "Engaging the State: The Women's Movement and Political Discourse in Morocco." In *Missionaries and Mandarins: Feminist Engagement with Developing Institutions*, edited by Carol Miller and Shahra Razavi, 87-111. Intermediate Technology Publications with the United Nations Research Institute for Social Development: London, 1998. p 104.

the *de facto* independent tribes and the central authority could have jeopardized the post-independence project of centralizing power and vesting it with the king. Thus the monarchy obtained an important ally among the conservative rural notables who envisioned the Moudawana as maintaining traditional and conservative specificities of a kin-based Moroccan society.¹⁰ Furthermore, despite the modernization and progress of the country, which was limited to the urban environment, “kin groupings remained agents of social control, enforcing behavioural norms and ordering political life in their local areas.”¹¹

The Moudawana obtained the aura of a sacred text on the basis of its rootedness in the Islamic law. It was thus perceived as unalterable. Interestingly however, despite the monarch being the supreme legislator also in the matters of religion in his capacity as Commander of the Faithful, he left the domain of family affairs to the *ulama*, who hence became the prime guardians and guarantors of the untouchability of the Moudawana. By delegating the law to an apolitical institution, the King reinforced the sacredness of it.

King Hassan II addressed the issue of reforming the Moudawana several times during the early years of his rule but his attempts lacked substance and real intention. Not until the colossal changes in the world, such as the disintegration of the Cold War divide and calls for political liberalization and democratization at the end of the 1980s and beginning of the 1990s, did it become clear that the autocratic regime of Hassan II would not survive without addressing and changing its quasi-democratic and quasi-pluralistic political system, and allowing the political arena to become more inclusive, rather than exclusive. All of these developments concomitantly led to a revived

¹⁰ Charrad (2001: 4) defines such societies in the precolonial and colonial periods as to indicate “that local ties understood in broadly defined kinship terms served as basis for political association and action.”

¹¹ *Ibid.*

interest in the reform of the ossified and sacred Moudawana. Consequently, in 2004, after a struggle of more than a decade a new *Moudawanat al-Usra* (Family Code) emerged in a modern and, as some call it, revolutionary form.

Why So Controversial?

The heated debates, which accompanied the reform process in the 1990s, seem to demonstrate that what is at stake in Morocco is not merely the issue of women's rights and their advancement. Those opposed to the proposed changes of the Moudawana felt that the structure of the society, its traditions, religion and national identity were subjugated to foreign, imported ideals and hence eroded. Furthermore, these debates showed a profound and perhaps unbridgeable gap between two blocks - the pro-West oriented secular reformists, who advocated the universal model of human and women's rights, and the traditionalists,¹² who fought for a more culturally sensitive approach to reforms in the family law. Indeed, both factions struggled for the same end result – the kind of revision of the Personal Status Code that would address the exigencies of the present time in a more suitable manner. However, the accompanying debates showed that the disparate proposed solutions to the reform were infused with ideologies, which sowed dissension among Moroccan women in particular and Moroccan society in general. Moreover, this polarization of Moroccan society in the case of the Moudawana reform has also demonstrated that the question of women's rights is not as black and white as proponents in the West tend to think. Interestingly, over time the reformists had to adopt some of the traditionalist language

¹² I shall call the campaigners for the reform of the Moudawana (women activists, associations and other involved individuals) 'reformists' and the opposition to the proposed reform 'traditionalists'. I think that this name best encompasses their stance on the reform without labelling them with such value-laden names as Islamists, fundamentalists or conservatives. Furthermore, in Moroccan case tradition cannot be separated from religion – Islam - and by nature, there is a conservative dimension to every tradition.

in order not to be entirely dismissed by the general public and the King Mohammed VI himself because their overtly secular agenda had been too strong.

King Mohammed VI presented his final decision of the new Family Law on October 10, 2003 effectively ending the heated debates and cementing the nature of the new Moudawana.

Thesis

Despite the Western or external perception of Morocco as following the ‘right’ path of democratization and for these foreign actors the reform of the Moudawana serves as some kind of proof for that¹³ the question remains as to how genuine these purported steps towards democracy and political liberalization have been. Indeed, the legal aspect of the reform was brought to an end with the promulgation of the new Moudawana. In the process of this reform, different sectors of society have been directly or indirectly involved, particularly in the second reform attempt under Mohammed VI. However, the King himself carried out the final decision on the scope of the reformed Personal Status Code after receiving the report of his *Lajna al-Istishariyya* (Advisory Commission).¹⁴ The current king therefore was acting in a

¹³ American President Bush in a letter to Mohammed VI praised the new reform, saying: “I read of your recent speech before parliament in which you proposed several important reforms of Moroccan family law to advance the rights of women. These reforms can help unleash the full potential of all of your citizens and add to the prosperity and stability of Morocco and the region. I am grateful for your responsible and courageous leadership and look forward to working together to resolve long-standing conflicts in North Africa and the Middle East.” In a similar way the EU welcomed the changes to the new family law (Source: the official webpage of the Moroccan government: <http://www.mincom.gov.ma/english/generalities/mwoman/women.htm>, November 2006).

¹⁴ King’s speech on October 10, 2003 is an example of personalization of decision-making. While announcing “the proposed Family Law to be submitted to Parliament for the first time”, he made it clear throughout the speech that it is him, as Commander of the Faithful and Moroccan King, who is deciding upon the scope of the reform and thus him who is paving the way for a more just and modern society. King Mohammed VI’s speech on the occasion of the opening of the Parliament Fall Session, October 10, 2003. His speech can be found on the official Moroccan governmental webpage: <http://www.mincom.gov.ma/english/generalities/speech/2003/ParliamentFallSession101003.htm>, November 2006.

similar way as his father, though with certain modifications, as we shall see in chapter 3.

The objectives of this thesis are to qualitatively analyze the political process and its actors on the basis of the debates surrounding and the political and social dynamics regarding the revision of the Moudawana. I shall use secondary literature (books and articles) in English, German, Arabic and French as well as primary sources, such as official documents, newspapers and personal interviews conducted during my field research in Morocco in December 2006 to January 2007. The analysis will help me focus on two interrelated main questions. Namely, what does the nature and outcome of reforming the Moudawana tell us about the political system of Morocco and its key political actors (the monarch, political parties and to a certain extent the makhzen and civic associations); and, how genuine the attempts to liberalize and democratize the political sphere have been. Furthermore, are the political reforms and the manner in which they were carried out compatible with the contemporary doctrine of accepted democratic behaviour? Does the process of political liberalization include ordinary Moroccans into the decision-making? Has political liberalization been achieved and followed by the democratization of the system?

Literature Review

The literature on family laws of MENA countries and on gender and social change is abundant. It deals with the question of women's rights either from a very exegetical, Qur'anic point of view, or from a purely secular, academic perspective. These types of literature provided an interesting overview of Muslim family laws and social change throughout the region. However by specializing to a large extent only

on the content of the laws and not on their political aspect they have also created a gap in knowledge this thesis aims to fill.

Two books particularly serve as foundation for my thesis. The first book is Mounira Charrad's *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria and Morocco* and is, as the title suggests, an exhaustive comparative study of the rationale behind the purport of family laws in the three independent countries. Her central argument is that "the process of state formation, especially the pattern of integration of tribes or tribal kin groupings in each nation-state, has been crucial in shaping the state and its family law policy."¹⁵

The second book is Laurie Brand's *Women, the State, and Political Liberalization*, which gives a more contemporary and comparative portrayal of attempts to reform family laws in Morocco, Jordan and Tunisia. She explores the relationship between political liberalization and women's issues and the interplay between the ostensibly liberalizing regimes and reformists. Brand asserts that certain governmental policies, which aim to improve the condition of women, lack real substance as the states merely use them for their own consolidation of power or to satisfy both the external aid donors and domestic reformist forces. She argues that "in their basic understanding of women and their role, the Islamists and the liberals do not differ substantially, and hence one should not look for liberalizing regimes to be 'women friendly'."¹⁶

Both of these books offer an insightful account of 'then and now' and 'why and what now'. The main deficiency of the two books and other literature, which deals with the subject of political reform in general and the Moudawana in particular, is that the two issues are either not connected or, as in the case of Brand's and

¹⁵ Charrad 2001: 2.

¹⁶ Brand 1998: 10.

Charrad's books, the former was written during Hassan II's era and the latter only addresses the early post-independence period.

On account of the fact that the new Moudawana has only been promulgated recently, it is still too early to expect comprehensive studies of the reform and its impact on the political process. Therefore, the closest to overcoming these problems is the growing number of books and articles concentrating on the Moroccan civil society. The question regarding the emergence of civil society is, like the reform of the Moudawana, linked to the scope of the Moroccan political systemic changes. Furthermore, disparate civic associations have been actively involved in the reform of the Moudawana. The literature discussing civil society can thus be used for the analysis of the politics of the reform of the Personal Status Code. Its shortcoming however is that it only deals with women's rights activism as part of the 'phenomenon' of civil society and hence in a very limited way.

The majority of Western scholarly works see the emergence of a 'vibrant' civil society as the foundation for, and a symptom of, a democratizing regime. Azzedine Layachi in his book *State, Society and Democracy in Morocco: The Limits of Associative Life* defines civil society as a set of distinct and *independent* groupings from the state.¹⁷ He therefore takes a rather pessimistic view by arguing that despite the increasing number of *civic associations* in Morocco this cannot be indicative of an existing and flourishing civil society because the state apparatus either controls or promotes these associations for its own ends. This argument distinguishes his thesis from others, like Rabea Naciri or Sonja Hegasy,¹⁸ a German scholar. Contrary to Layachi's perspective, they argue that the proliferation of *civil society movements* in

¹⁷ Azzedine Layachi. *State, Society and Democracy in Morocco: The Limits of Associative Life*. Center of Contemporary Arab Studies: Georgetown University, 1998. p 14.

¹⁸ Sonja Hegasy. *Staat, Öffentlichkeit und Zivilgesellschaft in Marokko: Die Potentiale der sozio-kulturellen Opposition*. Deutsches Orient Institut: Hamburg, 1997.

the recent years and their influence upon high politics is a manifestation of an opening-up of the Moroccan political space and a parallel retreat of authoritarian rule.

Therefore, the aim of my thesis is to bring these aspects of the revision of the Moudawana together placing the reform into the larger context of the transformation of the Moroccan political system under Hassan II and particularly under his son Mohammed VI.

Significance and Implications

Democratization and political liberalization have become ‘buzz words’ for the newly converted autocratic leaders and their desire to show that they are implementing progressive reforms. However, this spectacle tends to have a limited audience. Whereas it satisfies international financial organizations, such as the World Bank or the International Monetary Fund, and those Western leaders, who promote their Western democratic model, it creates confusion and problems domestically.

It seems that women have, in this era of rethinking the authoritarian regimes, become tools in the hands of manipulative politicians. In the post-independence era in Morocco the issue of women’s rights and their place in the society was exploited to confirm the Islamic identity of the new state, usually in order to placate the conservative opposition to the new regime. In the post-Cold War era, however, the manner in which this question is being resolved serves as the litmus test for the modern, democratic outlook of a country.

Therefore, democracy in the West has been defined in its most general way as the rule of majority where everyone directly or indirectly participates in the decision-making process independently and in the absence of the regime’s heavy hand. The

question that needs to be answered thus is – has this understanding of democracy been translated into the Middle Eastern context?

Limitations of the Scope of this Thesis

One important question, which arises, is how far-reaching and revolutionary, as described by some politicians and scholars, the new Moudawana really is. The discrepancy between the two antagonistic blocs (the reformists and the traditionalists) and the significantly higher numbers of people who rallied behind the traditionalists demonstrated that though the new Family Law has been enacted, the real implementation shall be long and arduous. The scope and direction of this thesis do not permit a detailed discussion of this matter; it will, however, touch on it in order to show two correlated concerns. Firstly, the discrepancy between the wishes of the masses and the elite, top-down project of modernization - which in a way resembles the consolidation of power in the immediate post-independence era and drafting of the original Moudawana - and secondly, the implications of such a project on the direction and nature of the reform of the Moroccan political system.

The Framework

The first chapter will analyze the history of the Moroccan political system after the independence. Its emphasis will be on those aspects of the historical overview which, firstly, directly influenced and were influenced by the Moudawana; and secondly, address the overall changes of political liberalization of the system.

The structure of the next two chapters is set to juxtapose the attempt to reform the Moudawana in 1993 with the reform of 2004. Both chapters will review the arguments of the main actors involved in the debates, and the emergence and

importance of civic associations not just for the reform of the Personal Status Code but for the general political system as well. It will, furthermore, look at the crucial role of both kings in the decision-making process relevant to this specific case study. This comparison will allow differences and similarities between the reforms of 1993 and 2004 to be analyzed in a more clear-cut way.

The fourth and concluding chapter will review the results of the campaign for the revision of the Moudawana and the implications this reform has had on the changing of the Moroccan political realm. This chapter will also look at different political actors, for instance political parties, both kings and civic associations involved in the process, in order to answer the questions asked in my thesis.

Chapter 1 – MODERN POLITICAL HISTORY OF MOROCCO

Alliance Building with Rural Notables

The French protectorate period in Morocco lasted only forty four years (from 1912-1956) and compared with Algeria this ‘short’ phase could be considered merely as a brief interlude in the long history of more or less sovereign Morocco. Nonetheless, the French presence in the country did have a significant effect on the future political and legal development of the independent Morocco. Particularly important in this respect was the colonial handling of the tribes. In Algeria, for instance, the colonial forces worked towards weakening the tribes. In Morocco on the other hand the French manipulated, and hence strengthened, tribes and their leaders (rural notables) in order to act as a counterweight to the predominantly urban-based nationalism. To be specific, in Morocco, the more or less autonomous tribal system existed throughout the history side by side with the Moroccan monarchy. Their relationship was one of tension, effectively causing the power of the Sultan to be weak. Therefore, the exploitation by the French of this antagonistic relation was further carried out for the promotion of the goals of the Protectorate itself.

King Mohammed V¹⁹ was left with no real political or democratic institutions in place and without the experienced cadre at independence. The underdevelopment of the local-run institutions was a consequence of the French conducting foreign and domestic relations of Morocco almost entirely from Paris and through their own people. Therefore, when the colonialists left Morocco in 1956 these bureaucrats departed with them. A further problem for the King represented the *Istiqlal* (Independence party) nationalists who endorsed the opinion that the monarch “can

¹⁹ Moroccan Sultan Mohammed V took the title of ‘King’ after the independence in order to show his monarchy’s modern and progressive orientation.

only be the arbitrator, the righter of wrongs, *he must reign but not rule.*”²⁰ The King therefore needed a strong ally in his struggle to win the dominant position in the country. Despite the fact that the dissident tribes represented a problem for the Moroccan sultans in the pre-independence era, it seems that at the outset of the independence the monarchy and the rural tribes (predominantly of Berber origin) became natural allies against the predominately urban-based Istiqlal nationalists. Rural notables in tribal areas were afraid that if the nationalists won the battle against the monarchy, they would transform the countryside to the detriment of the tribes.²¹ Therefore, in order for the monarchy to obtain a crucial ally in this struggle and to consolidate the primacy of the royal institution, the King gave up the modernization of the family law. Indeed, rural notables dislike innovation²² and preserving a conservative Moudawana effectively meant both maintaining of the old order in rural areas and securing an important ally.²³

The importance of the rural notables for the monarchy could not be overestimated because, in the words of Abdellah Hammoudi, “rural notables are the ones who have been responsible for the stability of the regime.”²⁴ This fact has had important consequences for the development of the Moroccan political and social system. Firstly, the Moudawana, based on the Maliki tradition, epitomizes the conception of the kind of kin-based tribal society that had been in place in the rural areas for centuries and had been preferred by the rural notables. Modernization, as had been introduced in all other spheres after the independence, was hence in the

²⁰ Emphasis added. Lise Garon. *Dangerous Alliances: Civil Society, the Media and Democratic Transition in North Africa*. Zed Books: London, New York, 2003. p 89.

²¹ Charrad 2001: 149.

²² Abdellah Hammoudi. *Master and Disciple: The Cultural Foundations of Moroccan Authoritarianism*. The University of Chicago Press: Chicago, London, 1997. p 39.

²³ It is important to keep in mind that at the eve of Moroccan independence, eighty percent of Moroccan population lived in rural areas and therefore, the support of the leaders of tribes proved to be crucial for the existence and later consolidation of power of the monarchy.

²⁴ Hammoudi 1997: 36.

realm of familial, social relations yielded by the King in order to consolidate the power of the monarchy as opposed to other political actors, such as the nationalist Istiqlal. In other words, “family law policies resulted from the strategies pursued by the newly sovereign states to establish authority over the society as a whole.”²⁵ Secondly, in order for the regime to keep rural notables as their allies, the patronage-client/makhzenian system has been left intact throughout the modern history of Morocco until the present time. As we shall see in the conclusion, this system has under the new king and his endeavour to bring about democracy been brought into question. Furthermore, Charrad rightly argues that “the existence of kin-based solidarities allowed for playing-off of factions as a way of preventing any single force from emerging as a significant rival.”²⁶

The political strategy of the monarchy of allying itself with the rural notables as a counterweight to the Istiqlal therefore was a sort of harbinger and a foundation for the prevailing political method used by the king – that of co-optation and encouraging parties to either emerge or branch off into new parties. Admittedly, the multi-party system, as it developed particularly during Hassan II’s reign, was a consequence of political strategy and necessity felt by the monarchy rather than of democratic aspirations of the two founders of the modern Moroccan political system – Mohammed V and Hassan II.

A further important institution, which served principally as an extension of royal power, was the makhzen.

²⁵ Charrad 2001: 6.

²⁶ *Ibid.* 234.

The Makhzen

The makhzen is a traditional establishment, which exists in the shadow of constitutionally sanctioned institutions such as the parliament and the government, yet it “pulls all the strings” as Mohammed Darif, a Moroccan political scientist, has argued recently.²⁷ It is an informal center of authority, which exists side by side with and for the monarchy. Its power can be recognized in the complex patronage network on the basis of which it has developed an almost unparalleled control over Moroccan society. Admittedly, the monarchy delegated some of its powers to the omnipresent institution and this is felt to such a degree that Moroccans even today do not speak of a ‘country’ (*dawla*) or ‘citizenship’ (*muwatina*) but instead use the word makhzen.²⁸ It has furthermore become a ‘catch-all’ term in Moroccan popular speech for all the problems of the country. Nourreddine Ayouch, president of the Moroccan society *2007 Daba*, argues that people should realize that makhzen is “nothing else but mere traditional convention [...] The real problem Morocco is facing is represented in justice and democratic activity, which we are sorely in need of in order to move forward rather than stopping at the word makhzen.”²⁹ Nonetheless, a majority of scholars still acknowledge the important and unchanging role of makhzen in the country despite the progress Morocco has witnessed since the independence in 1956. Abdallatif Hosni, director of the Moroccan magazine *Wijhat Nazar* (Viewpoint), argues that makhzen is like a chameleon and thus if there is anything that changes about it is its colour to match the colour of the surrounding but not its direction or real

²⁷ His views were presented in *Al-Ousbou*, a Moroccan weekly newspaper, December 29, 2006 – January 5, 2007: p 7. This issue analyzed the changing nature of makhzen and featured perspectives of a number of high profile Moroccans.

²⁸ *Ibid.*

²⁹ *Ibid.* 8.

nature.³⁰ This aversion to modernization could potentially pose a problem for the democratization project.

Development of a Multi-Party System

Morocco was left only with traditional institutions – the sultanate/monarchy and the makhzen when the French departed. Therefore, the King had to rely on himself and a handful of people in order to bring about the kind of system he envisaged for his country – that of a full-fledged democracy. Rom Landau, for instance, in his biography of Mohammed V, argues that the King wanted nothing but democracy.³¹ On account of the king's premature death, Landau's thesis could not be verified or challenged; yet whatever his genuine intentions, and a democratic system may have been one of them, Mohammed V embarked on his political agenda in incremental steps.

The tensions between the leftist (secularist) and religious factions within the Istiqlal came to the fore soon after the independence. Both Mohammed V and his main political aid – the future King Hassan II, further encouraged the factionalism within the party. Hassan II's strategy particularly was to play left and right tendencies against each other because of the party's general 'hegemonic ambitions'³² vis-à-vis the monarchy. Its split was therefore inevitable and it effectively confirmed multi-partyism and reinforced the power of the king over the government.³³ In 1959 a new, leftist party called *Union Nationale des Forces Populaire* (UNFP - National Union of

³⁰ *Ibid.* Nadia Yassine in a similar manner in an interview in 2005 argued that "the makhzen each time takes on a new colour; it is a renowned political chameleon." (See an interview on Nadia Yassine's webpage: <http://nadiayassine.net/en/page/10513.htm>, April 2007)

³¹ Rom Landau. *Mohammed V: King of Morocco*. Morocco Publishers: Rabat, 1957. pp 123-136.

³² Garon 2003: 91.

³³ See for instance Rkia El-Mossadeq. "Political Parties and Power Sharing". In *The Political Economy of Morocco*, edited by William I. Zartman 59-83. Praeger: New York, 1987. p 65; and Clement Henry Moore. "Political Parties." In *Polity and Society in Contemporary North Africa*, edited by William I. Zartman and William Mark Habeeb. Westview Press: Boulder, San Francisco, Oxford, 1993. p 44.

Popular Forces), led by Mehdi Ben Barka, was established as a splinter party and it quickly became the main political opposition to the king.³⁴ The UNFP's disagreement with the authoritarian regime of the Moroccan monarch goes back to the very beginning of its existence. The dissidence of its leaders was showed perhaps most clearly with their absence during the enthronement ceremony of Hassan II in March 1961.³⁵ In the 1970s, this party further branched off into the *Union Socialiste des Forces Populaire* (USFP - Socialist Union of Popular Forces).

Two other parties emerged within this early independence era – *Parti Democratique de l-Independance* (PDI- Democratic Party of Independence), led by Mohamed Hassan Ouazzani; and *Mouvement Populaire* (MP - Popular Movement), the party associated with the Berbers of Moroccan rural areas. Both parties had the effect of counterbalancing the Istiqlal and, in the case of the MP, represent mainly the interests of the monarchy and the makhzen.

Consolidation of Power

After Mohammed V's death in 1961, Hassan II continued with consolidating the supreme power of the monarchy as against the political parties. He was of the view that “without a popular monarchy, Morocco would no longer exist [...] More than ever, the Moroccan people need an Islamic popular and governing monarchy. That is why in Morocco the king governs; the people would not understand if he did not.”³⁶

The first constitution was promulgated in 1962. Morocco was to become a constitutional monarchy with the king as its supreme political and religious leader.

³⁴ Layachi 1998: 29.

³⁵ Garon 2003: 89.

³⁶ King Hassan II. *The Challenge: The Memoirs of King Hassan II of Morocco*. Macmillan London Limited: London, 1978. p 138.

The multi-party system became one of the constitutional provisions and, in the eyes of some of the Westerner leaders, the model for a moderate Muslim regime other Arab countries should imitate.

The UNFP was the only party that protested against the document, declaring that it gave too much power to the king. Its leaders, however, faced severe repression by the regime because of more or less openly challenging the king's authority. A number of their prominent members were arrested, among them Abderrahman Youssoufi, and Mehdi Ben Barka was sentenced to death in absentia.³⁷ In 1965 Ben Barka mysteriously disappeared in Paris and his kidnapping and probable death have not been resolved to this day.

The repression of members of leftist political organizations was followed by riots in Casablanca due to the worsening social conditions. As a consequence, the King suspended the constitution, prorogued the parliament and declared that he would rule by decree.³⁸

After two failed coup attempts, in 1971 and 1972, Hassan II finally reinstated the constitution in 1972. Despite the new constitution's declared democratic character the role of the king became even more powerful. Article 19, for instance, became the main guarantor of his role, stipulating:

“The King, Amir al-Muminin, Supreme Representative of the Nation, Symbol of its unity, guarantor of the permanence and continuity of the State, ensures the respect for Islam and the Constitution. He is the guardian of the rights and liberties of the citizens, social groups and collectivities. He guarantees the independence of the Nation, and the territorial integrity of the Kingdom within its undisputed frontiers.”³⁹

³⁷ C.R. Pennell. *Morocco Since 1830: A History*. New York University Press: New York, 2000. p 323.

³⁸ *Ibid.*

³⁹ Hassan II 1978: 227-228.

Furthermore, the king could rule by decree. This constitution was only replaced in 1992 and amended in 1996, ostensibly to give the parliament more powers.

Arguably the most crucial event, which enormously enhanced Hassan II's popularity, was the 1975 Green March. 350.000 Moroccan volunteers marched into the Western Sahara, which at that time was under Spanish control in order to 'reclaim' the territory as was argued by the Moroccan regime. The mobilization of masses and success in handling the issue helped Hassan II create an incredible unity among Moroccans, resembling that under his father Mohammad V when he returned from exile in 1955. In spite of the fact that people regained their confidence in the monarchy, this trust remained fragile and short-lived on account of the aggravated economic situation,⁴⁰ which followed the *de facto* annexation of Western Sahara.

The first important political opening occurred after Hassan II secured consensus among the political elite on the basis of the Western Sahara issue, which effectively resulted in weakening of the opposition parties. The new unwritten rule of the official recognition of political parties was to comply with the 'sacred triad' – Islam, monarchy and the territorial integrity of Moroccan kingdom. Those who questioned any of the elements of this dogma, as for instance the leftist activist Abraham Serfaty did in the late 1970s, faced harsh prison sentences and possible torture. Another infamous case of defying and questioning the Alawite credentials of the monarchy was the Islamist Shaykh Abdessalam Yassine, who spent the last two decades either in mental institutions or under house arrest.

Despite the successful consolidation of power, the monarchy faced severe problems starting in the early 1980s on account of a dire economic situation and

⁴⁰ Layachi 1998: 32.

Hassan II's autocratic and repressive regime, which ultimately led to the reforming of the political system and commencement of political liberalization.

Tumultuous 1980s

After independence, the King undertook a very limited modernization of Morocco. The country concentrated its resources on the development and progress of the economy, rather than on its social base – Moroccan people. Particularly after the two failed military coup attempts in 1971 and 1972, and an uncovered left-wing plot in 1973, the regime invested in the economic development of the middle class in order to ensure its loyalty and prevent future systemic disruptions.⁴¹ Hassan II gave the privileged even more privileges and the rich even more opportunities to build their worldly fortunes. Thus by 1990 most of the country's wealth was concentrated in the hands of the royal family and some two thousand powerful families.⁴² In privileging the urban and rural elite, he marginalized and impoverished, in relative terms, the already poor rural and newly urbanized population.

Due to the aggravated economic and social condition of the state, chronic debt problems,⁴³ and concomitant external criticism, the Club of Paris and the IMF negotiated in early 1980s the beginning of structural adjustment policy of economic austerity and fiscal conservatism.⁴⁴ These measures, needless to say, only exacerbated the situation of ordinary Moroccans. The ensuing economic crisis culminated in mass demonstrations after the collapse of the national currency (dirham), severe drought,

⁴¹ Shana Cohen and Larabi Jaidi. *Morocco: Globalization and Its Consequences*. Routledge: New York, London, 2006. p 36.

⁴² *The Middle East*, May 1990: 28.

⁴³ In 1989, the newspaper *The Middle East* reported, that Moroccan external debt amounted to \$20bn or \$800 for every Moroccan man, woman and child (July 1989: 29).

⁴⁴ See Cohen and Jaidi, 2006: 37-41; and Pennell, 2000: 356-361.

and consequential rise in food prices.⁴⁵ This rise was above all a consequence of the demand made by the IMF to cut food subsidies in order to improve the budgetary situation of the country and through that its monetary policy. This naturally affected a large part of the Moroccan population, whose lives were entirely dependent on the agriculture.

The King attempted to solve the predicament the country found itself in with a new constitution, which, as so many other times, changed nothing except reaffirming Hassan II's already overwhelming powers. His promise to bring about political reforms did not satisfy Moroccans, whose problems were of economic and not political nature. They therefore took to the streets in the country's biggest economic hub – Casablanca. "This was an urban riot by the disinherited, the unemployed and the young, who attacked not only the forces of law but the rich," reported Pennell.⁴⁶

The economic situation of the majority of Moroccans, however, did not improve throughout the 1980s, despite the initiated economic measures. The state on the basis of the IMF's plan virtually stopped providing social welfare for those most in need of. This opened a door of opportunity for grassroots religious and social movements, such as the Islamists and women's associations, who attempted to fill this gap and disseminate their specific agenda among ordinary Moroccans.

A further blow to Hassan II's arbitrary regime came almost unexpectedly during the first Gulf War in 1990. Hassan II condemned the Iraqi invasion of Kuwait and sent his troops to Saudi Arabia to help the Americans fight against Saddam Hussein. Moroccans protested against, what they perceived as, the encroaching 'American hegemony over the Arab world' and their King's involvement in this war

⁴⁵ Pennell, 2000: 354.

⁴⁶ *Ibid.*

on the side of the ‘neo-imperialist’ forces.⁴⁷ The King had to allow the opposition to organize demonstrations because of an enormous public pressure to bring home Moroccan troops, thus avoiding possible violent clashes. Infuriated Moroccans gathered on several occasions, with the biggest demonstration being held in Rabat. There an estimated 300.000 people gathered in support of the Iraqis, shouting anti-American and anti-Saudi slogans. Munson argues that Hassan II was “especially sensitive to criticism of the Saudi (and Kuwaiti) royal families because he knew, as all educated Moroccans knew, that criticism of them was criticism of him.”⁴⁸ The King was hence forced to answer their demands. Newspapers reported that in a nationwide broadcast Hassan II asserted in his arrogant manner that sending Moroccan troops was part of his royal prerogative, and therefore could not be criticized. He concluded that the troops were there to defend Saudi Arabia, and not to attack Iraq.⁴⁹ Hassan II thus sent a clear message to the Moroccan public that any further public defiance of his decision, which for him could not be subjected to any criticism, would meet severe punishment. Despite his harsh words, however, the fact that he, firstly, had to allow anti-government demonstrations, and secondly that demonstrations forced him to give his subjects an explanation of his ‘royal prerogative’, showed that the days of his authoritarian rule were numbered.

A further important ramification of the Gulf War events was that the protests gave the Islamists a golden opportunity to appear, arguably for the first time, as a “legitimate force alongside the secular oppositional parties”⁵⁰ without suffering proverbial repression. Moreover, Tom Porteous wrote in the Middle East International newspaper that “opposition groups, hitherto docile or new to the political scene, have

⁴⁷ Henry Munson Jr. *Religion and Power in Morocco*. Yale University Press: New Haven, London, 1993. pp 137-138. *See also* C.R. Pennell, 2000: 370-373.

⁴⁸ Munson, 1993: 138.

⁴⁹ *See for instance* The Middle East, March 1991: 24.

⁵⁰ Layachi, 1998: 37.

lost their fear of authority and are pressing for real political and economic reforms without a vigour not seen since independence [...] The phenomenon is increasing hopes for a more democratic future which will be hard to deny even if the war in the Gulf ends quickly.”⁵¹

Perhaps the most severe shock for Hassan II’s rule came from the international human rights organizations, which exposed his oppressive regime to the outside world and made further financial aid contingent upon the improvement of Moroccan human rights record. In a similar manner, the American government and the European Community (EC) demanded political democracy and economic liberalization.⁵² The EC was particularly adamant in their condemnation of Hassan II’s authoritarian rule. The decision to financially help Morocco proposed in 1991 was therefore blocked by the European Parliament on the basis of flagrant human rights abuses by the regime.⁵³

Hassan II’s answer to the outpouring of international and domestic opprobrium was two-fold. The closing down of the infamous Tazmamart prison followed the amnesty of some of the political prisoners; however, torture did continue on a reduced scale.⁵⁴ Furthermore, in order to deal with the demands for democratization of the political system, Hassan II resorted to his proven populist tactic of promising to change the constitution with the aim of creating a better balance of power between the monarch and, the almost insignificant role of, the parliament. He made it clear, however, that “democracy would come in small doses and that the primary role of the monarchy would be preserved.”⁵⁵ Brand argues that at least part of the impetus behind his limitation of democracy derived from the recent events in

⁵¹ Middle East International, February 22, 1991: 21.

⁵² Pennell, 2000: 372.

⁵³ Middle East International, January 24, 1992: 13.

⁵⁴ Pennell, 2000: 373.

⁵⁵ Brand, 1998: 42.

Algeria,⁵⁶ and thus fears among both the ordinary Moroccans and especially the King that a rushed opening of political space could lead to the rise of Islamic fundamentalism.⁵⁷ The monthly newspaper *The Middle East*, for example, already in 1990 predicted that progress towards Western-style democracy across the Middle East would be slow, stating that “one of the chief reasons is that the immediate beneficiaries of relaxed political restraints frequently tend to be Islamic fundamentalists rather than secular liberal democrats.”⁵⁸

The new constitution of 1992 included the reference of human rights and political equality between women and men. It furthermore gave greater powers and role to the parliament and the prime minister, promised more transparent elections and resolution of the Western Sahara issue. Hassan II described the new constitution and the beginnings of democratization as “Morocco’s passport into the world scene.”⁵⁹ The King, however, disregarded the principal demands of the opposition parties, organized in the revived National Bloc (*Al-Kutla al-Wataniyya*),⁶⁰ thus contradicting himself at the very outset of his ‘democratization’ process. Moreover, Hassan II was reported saying: “The fact that I am delegating certain powers to the government and parliament does not mean that I am renouncing them.”⁶¹ Therefore, it seems that the perceived threat that the Algerian scenario could repeat itself in Morocco was only a ploy used by the regime to avoid some of the demands made by the external and domestic forces and concomitantly to limit the negative effects a complete exposure to democratic rules could have had on the political position of the monarchy.

⁵⁶ *Ibid.* 34.

⁵⁷ ‘Better a Moroccan shah than a Moroccan Khomeini.’ See Munson 1993: 178-179.

⁵⁸ *The Middle East*, March 1990: 11.

⁵⁹ *The Middle East*, February 1993: 23.

⁶⁰ The so-called National Bloc (*Al-Kutla al-Wataniyya*) was already formed in 1970 by the USFP and the *Istiqlal* after the parliamentary elections, which they claimed had been rigged. In the 1990s they were joined by two other leftist parties – *Organisation de l’Action Democratique et Populaire* (OADP - Organization for Democratic and Popular Action) and *Parti du Progres et du Socialisme* (PPS - Party of Progress and Socialism).

⁶¹ *Middle East International*, September 11, 1992: 16.

Political Situation from 1993 to ‘Alternance’

King Hassan II had significant expectations after the change of the constitution in 1992, which he hoped, would lead to more power-sharing and a change in the parliamentary majority. However, as aforementioned, he turned down a number of demands from the oppositional Kutla for more transparent and democratic institutions. Parties constituting the Kutla thus resigned in protest from the parliamentary commission in charge of supervising the forthcoming elections. In order for these parties to return to the commission Hassan II promised fair and transparent elections, while retaining his prerogative to appoint the whole cabinet by himself if need be. Therefore, his supreme political and social role remained untouched and enormous compared to the other political actors even after the new constitution was implemented. In practice this meant that Hassan II continued his custom of designating ministers of key portfolios - those of prime minister, interior, defence, foreign and religious affairs regardless of the outcome of elections. Therefore, even if the opposition parties were brought into the government, as was his vision for the parliamentary elections in 1993, the constitution safeguarded the monarch's supreme position.

The elections of 1993 resulted in a hung parliament. None of the parties or political groups obtained majority of seats. This was a big disappointment for the King who anticipated one party or group to having a parliamentary majority in order for his ‘change and renewal’ period to emerge;⁶² although Layachi reports that “the opposition perceived this result [of the elections] as a deliberate manipulation by the

⁶² Stephen O. Hughes. *Morocco Under King Hassan*. Ithaca Press: Reading, 2001. p 333.

king in order to avoid facing the majority that could effectively use the newly-reinforced powers of parliament.”⁶³ It is perhaps more plausible that the King truly wished to see change in the parliament; yet, not because of his sudden democratic ‘makeover’ but, again, because of the effect this would have on the external image of his rule. As shall be discussed in more detail in the next chapter, Hassan II suffered a major blow at the beginning of the 1990s on account of revelations about his autocratic and repressive regime. Therefore, the new constitution and the elections in 1993 served mainly one purpose – the improvement of his and Morocco’s international reputation.

Despite the electoral outcome⁶⁴ Hassan II nonetheless wished to see the opposition parties, the Kutla members, form the government; however, they refused his offer on the basis of two problematic issues. Their first concern was that if they wanted to create a majority government, the predominately leftist parties would have to align themselves with some of the parties from the rival ‘loyalist’ group, most probably with the center-right Wifaq parties.⁶⁵ This would, naturally, defeat the purpose of having an oppositional government at all because the result would be another co-opted, and hence dysfunctional and futile government. Secondly, the King retained control over the appointment of key ministers, stating that “the opposition lacked the necessary political experience to fill the posts.”⁶⁶ He was particularly adamant on keeping Driss Basri, “the all-powerful Minister of Interior and

⁶³ Layachi 1998: 84.

⁶⁴ In the second indirect elections Kutla’s votes were reduced to 35%, whereas the Wifaq and other loyalists increased their portion to over 58% (Bruce Maddy-Weitzman. “Morocco: Al-Mamlaka al-Maghribiyya”. In *Middle East Contemporary Survey: Volume XVIII 1994*, edited by Ami Ayalon and Bruce Maddy-Weitzman, 519-536. Holmes & Meier: New York, London, 1994. p 521). The second elections therefore resulted in another victory of the ‘royalists’.

⁶⁵ Wifaq group consisted of loyalist co-opted parties (also called ‘royalists’), largely established by the monarchy in order to counterbalance the strength of Istiqlal or other opposition parties. These parties are: MP, *Union Constitutionnelle* (UC - Constitutional Union) and *Rassemblement Nationale des Independents* (RNI - National Assembly of Independents).

⁶⁶ Middle East International, December 3, 1993: 12.

Communication.”⁶⁷ Basri became one of the most controversial political figures and Hassan II’s closest aid. It could be argued that all the power in Morocco had since the 1970s until Hassan’s death been concentrated in two people – in the King himself and in Basri. Middle East International hence rightly called him “Hassan’s alter ego and the de facto prime minister.”⁶⁸ A further important objection the opposition parties, and particularly the USFP and the Istiqlal, held against him was the fact that Basri had been in charge of organizing and overseeing previous elections which all resulted in vote-buying and other fraudulent practices to the detriment of the ‘non-loyalist’ parties. Therefore, the Kutla’s appeal for a real democracy in 1992, which would promote individual rights against the omnipresence and omnipotence of a handful of men, came as no surprise.

The King appointed a government of technocrats, people with no party affiliation, in 1994 but continued the negotiations with the parties in order to find a solution for the stalemate created after the 1993 elections.

At the beginning of 1995 Hassan II announced a new wave of liberalization, promising amendments to the 1992 constitution. This prompted Abderrahman Youssoufi, the leader of the USFP, to return from his voluntary exile and accept the mandate in the so-called Alternance government in 1997. Already in 1994 the Kutla parties issued a manifesto, calling for “the implementation of true democracy.”⁶⁹ Among the manifesto’s most important elements was their demand for direct and universal elections of *all* members of the parliament. Furthermore, they again called for the dismissal of the interior minister Driss Basri, whom the opposition perceived as the main obstacle to real political reform.

⁶⁷ Bruce Maddy-Weitzman. “Morocco: Al-Mamlaka al-Maghribiyya.” In *Middle East Contemporary Survey: Volume XIX 1995*, edited by Bruce Maddy-Weitzman, 492-517. Holmes & Meier: New York, London, 1995. p 494.

⁶⁸ Middle East International, November 26, 1999: 13.

⁶⁹ Maddy-Weitzman 1994: 522.

The amendments to the 1992 constitution were announced in September 1996. They established a bicameral parliamentary system, consisting of a Chamber of Deputies (*Majlis al-nuwwab*) – a lower house, entirely selected by direct elections; and of the Chamber of Counsellors (*Majlis al-mustasharin*), or the upper house, which consists of indirectly elected members.

Hassan II indeed yielded to the demands of the Kutla regarding the direct elections. However, he merely transferred the indirectly elected members, mostly loyalists, to the Chamber of Counsellors and gave them sweeping powers, such as dismissing the government. Hence, even if the opposition was brought to power, and Hassan II certainly wished to see that, the upper house would keep it in check. Catherine Sweet thus rightly argues that “the Moroccan parliament is a classic pseudodemocratic institution: it enhances the power of the regime rather than limiting it.”⁷⁰ Or, as one journalist told Middle East International, “the king wants democracy without letting go of power.”⁷¹ Nonetheless, these new measures and the reality of the Hassanian democracy, as Ahmed Alawi, a staunch supporter of the throne and Hassan II, called the ‘new’ era, satisfied the demands of the Kutla and they returned to the negotiating table.

The elections for the Chamber of Deputies were held in November 1997. They resulted in another hung parliament with Kutla obtaining the biggest share, yet still constituting less than a third of all seats. This time, however, Kutla members accepted the mandate to form the government. Abderrahman Youssoufi became prime minister of the new *Alternance* government. It was called this because the opposition returned to government after more than thirty years. Stephen Hughes recounted that Youssoufi’s appointment “was greeted enthusiastically by public opinion and nearly

⁷⁰ Catherine Sweet. “Democratization Without Democracy: Political Openings and Closures in Modern Morocco.” In *Middle East Report*, No 218 (Spring 2001). p 24.

⁷¹ Middle East International, April 10, 1998: 14.

all the parties. It was taken as a signal that there would indeed be ‘change and renewal’ as the king had promised and Moroccan democracy would become more credible.”⁷² Moreover, optimism prevailed also among some Western observers and one of the Middle East International correspondents wrote of a “gradual spring awakening on the Moroccan political scene.”⁷³

The new government comprised of socialist/leftist and pro-palace center-right parties. Negotiations regarding its composition proved however to be hard for Youssefi because he had to find ministers, who would be acceptable for both the King and his coalition partners. Due to this and the fact that Hassan retained the power of appointing key ministers some analysts and scholars argued that the Alternance government was a farce and that the king merely needed a scapegoat for the dire economic and social situation. Furthermore, Sweet asserted that Youssefi and his Kutla partners this time negotiated a worse arrangement than they would have got if they had accepted Hassan II’s initial offer in 1993. “Rather than contending with an unicameral legislature in which only one-third of the legislators were indirectly elected, the opposition now had to deal with an entire chamber of indirectly elected senators who could force the government’s dissolution.”⁷⁴

From the outset the government was given very little room for manoeuvre. Their agenda focused on the reform of the administration, judiciary and educational sectors, improvement of economic situation, rural development, commitment to cultural pluralism and enhancement of women’s rights.⁷⁵ Particularly in the economic sphere, Youssefi’s socialist ideology was severely restricted by Hassan II’s insistence on the neoliberal structural adjustment policies of the IMF and World

⁷² Hughes 2001: 338-339.

⁷³ Middle East International, April 10, 1998: 14.

⁷⁴ Sweet 2001: 24.

⁷⁵ Hughes 2001: 340; and Ghazalla 2001: 6.

Bank.⁷⁶ Furthermore, Youssoufi's limited budget caused the dropping of a number of items from his government program. However, perhaps the most important factor in the failure of the Alternance government to realize its promises or to bring about even symbolic reforms lay in the way politics has been practised in Morocco since independence. Hassan II never intended to transform his absolutist monarchy into a more European-style constitutional monarchy because this would necessarily entail the relegating of the monarch's power to a secondary position.⁷⁷ In hindsight, the Alternance government resembles more an agreement between the King and the Kutla parties, where everyone knew the rules of the game, than a genuine wish to bring about significant reforms. Youssoufi revealed after Hassan II's death that he had had to swear on the Qur'an to collaborate faithfully with the king to govern the country.⁷⁸ Moreover, the fact that Youssoufi abandoned his leftist beliefs for the prime ministership and that Hassan II became his primary advocate, despite their past altercations,⁷⁹ only reaffirm the misleading title of the Alternance government and the nature of the democratization in Morocco.

The Death of Hassan II and Commencement of a New Era?

King Hassan II died on July 23, 1999. Moroccan people and newspapers were, though full of grief, also full of anticipation and concern regarding the course the transition with the new king, Mohammed VI, would take. During his first address to the nation the new King affirmed his attachment to the principles "of constitutional monarchy, a multi-party system of government, free economy, regionalization, the

⁷⁶ Sweet 2001: 24-25.

⁷⁷ Iman Ghazalla for instance quoted Hassan saying "Islam prevents me from establishing a constitutional monarchy where the King delegates all his authority and reigns without ruling" (2001: 5-6).

⁷⁸ Buskens 2003: 84.

⁷⁹ Sweet 2001: 25. The king imprisoned Youssoufi in the 1960s before going to a self-imposed exile for fifteen years.

state of law, respect of human rights and individual liberties.”⁸⁰ Furthermore, he highlighted the agenda of improvement of women’s rights as one of his priority tasks. Middle East International already a month after Hassan II’s death therefore reported that “many consider that the key obstacle to much needed change has gone.”⁸¹ This was particularly the case due to Mohammed VI’s seeming reform-oriented stance and his modern outlook. Newspapers wrote extensively about his unceremonious character, publishing pictures of him having tea with women and describing instances when Mohammed VI was seen stopping at red lights and talking to ordinary people whenever he had a chance. He asserted on more than one occasion that his role model would not be his father but the Spanish King Juan Carlos, who made the transformation from Spain’s repressive dictatorial regime to an open democratic system possible, without meddling into the ambits outside of his constitutional reach. “The new monarch is a modern man with modern ideas and experiences,”⁸² concluded The Middle East in September 1999.

In domestic and foreign media he was dubbed ‘the king of the poor’ because of his numerous visits to rural parts of Morocco, including the Rif mountains, and his promises to help fight poverty. Furthermore, he talked about the ‘new concept of authority’ based on accountability, human rights and individual freedom.⁸³ All these were signals for the public that the era of repression was over. Arguably, the biggest indicator for Moroccans and some commentators of the new King’s commitment to reform was getting rid of the Interior Minister Driss Basri, his father’s closest ally and one of the more controversial political figures in Moroccan history. Middle East International reported that “no official explanation was given for the

⁸⁰ Ibid.

⁸¹ Middle East International, August 20, 1999: 16.

⁸² The Middle East, September 1999: 5.

⁸³ Abdeslam Maghroui. “Political Authority in Crisis: Mohammed VI’s Morocco.” In *Middle East Report* 218 (Spring 2001). p 14.

dismissal...Basri, 61, was summoned to the palace on 9 November and relieved of his post.”⁸⁴ However, despite the relief Moroccan people in general felt at this gesture, Basri’s firing was done without the involvement and knowledge of the prime minister or the government, thus solely on the basis of the new King’s orders. This arbitrary move hence demonstrated a different, undemocratic feature of the new King – a feature which has more in common with his father than with Juan Carlos.

George Joffe took a more pragmatic stance toward the high expectations of domestic and external forces. He argued that Mohammed VI’s speeches, which were full of generalities and lacking concrete plans, were nonetheless a wise tactic of the monarch in order “to avoid raising hopes that could not be satisfied. The fact is that Morocco’s complex problems will take time to resolve and [the King] knows that constitutional and institutional change will be the most difficult to address.”⁸⁵ Joffe concludes that “to imitate the Spanish model of King Juan Carlos...will only be possible once he has established the changes he wishes to see.”⁸⁶

Despite his commitment to reform and to the institution of a constitutional monarchy, following the Spanish model, foreign and domestic commentators agreed that the King would likely remain the main arbiter and decision-maker in the country. A number of cases and particularly the issue of women’s rights, as we shall see later, demonstrated both a break and a certain continuation with Hassan II’s authoritarian rule.

Less than two years after the enthronement of the new King, it seemed that reports about Morocco’s seeming smooth transition and optimistic predictions were made rather hastily. In 2000 the authorities banned a Berber demonstration and marches of unemployed graduates, to name just a few, ostensibly for reasons of

⁸⁴ Middle East International, November 12, 1999: 10.

⁸⁵ George Joffe. “The Legacy of Hassan II.” In *Middle East International* July 30, 1999: 19.

⁸⁶ *Ibid.*

security. Freedom of speech was restricted once again when in April of the same year two weekly magazines were banned by the leading USFP party and its president and prime minister Youssoufi. Two of Morocco's most venerable journalists were put in prison because of their publication of articles in which they openly implicated the USFP's involvement in the two military coup attempts in the 1970s. James Sater quite rightly argues that this incident indicates the threat the established political parties feel by the increasing importance of the civic associations and other non-governmental actors vis-à-vis political parties and the new alliance between the state and these groups, which seems to be established in order to create a counterbalance to the existing parties.⁸⁷ Therefore, in light of these events and the meanings they carry with them, it is not surprising that one of the imprisoned journalists, Mustafa Alaoui, said after his imprisonment, "A new dictatorship is on the rise of Morocco."⁸⁸

The first elections under Mohammed VI were held in 2002 and they in a way confirmed the concerns of some of the political commentators that the reign of the new King would not bring a complete rupture with the rule of his father, Hassan II.

Elections of 2002

The elections of 2002 were described by Mohammed VI as a landmark in the history of Moroccan elections when he called on his people to "make of the coming elections a landmark in the process of consolidating the march towards democracy and development."⁸⁹ The high expectations were mostly due to the fact that the authorities were announcing 'free, fair and transparent' elections and that the electoral system for the Chamber of Deputies was changed in order to give more weight to the

⁸⁷ James Sater. "The Dynamics of State and Civil Society in Morocco." In *The Journal of North African Studies* 7, No 3 (Autumn 2002). pp 110-116.

⁸⁸ Middle East International, May 5, 2000: 6-7.

⁸⁹ Royal Speech on the occasion of the Revolution of the King and the People: http://mincom.gov.ma/english/generalities/speech/2002/revolution_king_people.htm, November 2006.

parties and to avoid election rigging through vote-buying.⁹⁰ Moreover, for the first time, a National list for women candidates only was created, reserving one tenth of all parliamentary seats for women politicians.

The outcome of the elections showed surprising results for the Istiqlal party who increased its number of seats.⁹¹ The USFP however, perhaps unsurprisingly after their failure of the Alternance government, lost seven seats but nonetheless remained the largest parliamentary party. In addition, the ‘royalist’ parties, such as the RNI, MP or UC, all lost significantly compared with the previous elections.

Twenty-two parties made it past the parliamentary threshold, indicating that the new proportional electoral system effectively created a fragmented political scene. Contrary to the expectations of the voters and parties themselves, the new King appointed the Prime Minister – Driss Jettou, a non-party technocrat, who merely a year before obtained the portfolio of the Interior Ministry. A further blow to the parties was the increase in the number of technocratic ministerial posts from six to nine.

Therefore, the ‘free, fair and transparent’ elections became merely a leitmotif of the authorities and “a goal in themselves.”⁹² Despite being largely considered as ‘free and fair’ and the king declaring that “the election of the new [Chamber of Deputies][...] is indeed a major step in our democracy,”⁹³ the fact that the voters and the elected parties had no say in choosing approximately one fourth of the cabinet and

⁹⁰ James N. Sater. “Morocco After the Parliamentary Elections of 2002.” In *Mediterranean politics* 8, No 1 (Spring 2003). p 135.

⁹¹ The analysis of the results done on the basis of table, published in Sater 2003: 138.

⁹² Sater 2003: 141.

⁹³ Speech made by the King Mohammed VI at the Opening of the Parliament’s Fall Session, 11 October 2002:

http://mincom.gov.ma/english/generalities/speech/2002/opening_parliament_fall_session.htm, November 2006.

the prime minister, devalued both the slogan of ‘free and fair’ and the democratization process in general.

Nonetheless, the elections in 2002 represented another landmark – the Islamist party, the *Parti de la Justice et du Developpement* (PJD - Party of Justice and Development), became the biggest oppositional parliamentary party.

The Islamists

A more visible presence of Islamists in Morocco emerged quite late (in the late 1970s) compared with other Maghrebi and Middle Eastern countries. There are several reasons for that. Firstly, religious symbolism had traditionally been appropriated by the monarchy and to a limited extent also by the Istiqlal party. Therefore, people had the right to more or less free religious expression within the officially sanctioned religious framework and hence there was no need to look for alternative ways. This argument sustains Munson’s view that the monarchy is not the key religious institution in the country.⁹⁴ In this context it is not the scope of the religious role of the monarch that is important for the late organization of the Islamist movement but the fact that open religious expression is not prohibited as in Turkey or heavily controlled as in Tunisia. Secondly, repression of the more outspoken and militant groups was quite efficient; however, the King did not succeed in hindering Abdessalam Yassine and his *Al-Adl wa’l-Ihsan* (Justice and Spirituality) movement from becoming the most popular Islamist group in the country despite his and his association’s ongoing persecution. Thirdly, as in many other Middle Eastern countries, the King used religious groups in the 1970s as a counterweight to the

⁹⁴ Munson 1993: 124-125.

leftists. In this invigorated religious life, the Islamists saw the opportunity to develop their groups and enhance their activities.⁹⁵

The Islamists particularly gained momentum when the state retreated from the social sphere at the beginning of the 1980s due to the IMF's structural adjustment program. As Layachi quite rightly argues "what has driven the Islamist movement in the Maghreb has not been a wish to establish an Islamic state but primarily to change the existing social and political order."⁹⁶ In Morocco perhaps the desire to change the existing political order and the role of the monarchy in it was generally emphasized less than for instance in Algeria. The reason thereof is that not only that the political groups must recognize the authority of the king but also Moroccans in general accept the significance of his role as arbiter and therefore as the only political figure able to maintain order and stability. Munson asserts that "for many Moroccans, the king's harsh suppression of those who oppose him is seen as a sign that he is the kind of strong ruler Morocco needs."⁹⁷

Some scholars argue that because of their social and economic orientation the Islamists are secular in nature. Indeed, at first their concern in Morocco was to provide grassroots social welfare in those areas where the absence of state programs caused deterioration of people's living conditions. Only when the issue of reforming the Personal Status Code in Morocco emerged, was their attention turned to their primary political aim – that of safeguarding the religious character of the society.

The two biggest and most popular Islamist political groups in Morocco today are, as already mentioned, Al-Adl wa'l-Ihsan and the PJD. Al-Adl wa'l-Ihsan has had an uneasy relationship with the regime since its leader Abdessalam Yassine in 1974

⁹⁵ Azzedine Layachi. "Islamism in Algeria, Morocco, and Tunisia and the Struggle for Change." In *The Arab-African and Islamic Worlds: Interdisciplinary Studies*, edited by R. Kevin Lacey and Ralph M. Coury, 23-47. Peter Lang: New York, Oxford, 2000. p 34.

⁹⁶ *Ibid.* 24.

⁹⁷ Munson 1993: 144.

sent a 114-page open letter, 'Islam or the Deluge', to Hassan II challenging both his authority and the Alawite credentials of the monarchy.⁹⁸ Yassine was after this 'suicidal letter'⁹⁹ put into mental institution and his association has not been able to obtain legal recognition ever since. There are many reasons for their political isolation, the most important one being the fact that they have been openly defying the king and are effectively calling for an Islamic state in which the monarchy does not necessarily have a place.

Al-Adl wa'l-Ihsan however is attacked not only by the regime but also, and perhaps more significantly, by the secular and pro-West women associations, activists and other 'liberals'. Latifa Jbabdi, president of the women's association *Union de l'action feminine* (UAF - Union of Feminine Action), in 2006 told in an interview that Nadia Yassine's, Al-Adl wa'l-Ihsan spokesperson and the daughter of Abdessalam Yassine, pro-reform stance is "pure demagoguery... What she says is one thing. What she does is another."¹⁰⁰ Moreover, Jbabdi argued that "the father of Nadia Yassine is closer to the Taliban than the Ayatollahs in Iran."¹⁰¹ Nadia Yassine is familiar with these sort of allegations directed against her, her father and the association. Her lucid repudiations of such accusations nonetheless earned her recognition in the Western press.¹⁰² In an interview for a German online magazine Telepolis in 2006 she told the journalist: "Our practice of Islam is one of the most moderate ones, one can imagine. If wearing of veil would be forced on all women in Morocco, I can reassure you I

⁹⁸ The Moroccan monarchy traces its lineage back to the Prophet Muhammad and this is one of the more effective means for the legitimization of the monarchy's position in the Moroccan society.

⁹⁹ Emad Eldin Shahin. *Political Ascent: Contemporary Islamic Movements in North Africa*. Westview Press: Boulder, Oxford, 1997. p 194.

¹⁰⁰ Interview with Latifa Jbabdi by Alfred Hackensberger entitled "Der Koran und der muslimische Feminismus". Telepolis, June 17, 2006. <http://www.heise.de/tp/r4/artikel/22/22833/1.html>, January 2007.

¹⁰¹ *Ibid.*

¹⁰² The BBC reporter for instance in 2005 wrote: "It is difficult not to be impressed by Nadia Yassine. She is anything but the stereotypical picture of an oppressed Muslim woman." (<http://news.bbc.co.uk/2/hi/africa/4297386.stm>, April 2007).

would fight my whole life against such a thing. Faith and religion are a matter of free choice not of force.”¹⁰³

The PJD as opposed to the Al-Adl wa'l-Ihsan is officially recognized, meaning that the party can contest elections. It was formerly known as *Mouvement Populaire Democratique et Constitutionnel* (MPDC - Popular Democratic and Constitutional Movement). In the mid-1990s the Islamist association *Al-Islah wa'l-Tajdid* (Reform and Renewal) and other smaller Islamist groups formed a new unified movement called *At-Tawhid wa'l-Islah* (Unity and Reform) in order to get official political recognition. They thus joined the MPDC/PJD. *Al-Islah wa'l-Tajdid* is an offshoot of a more militant Islamist group, *Al-Shabiba al-Islamiyya* (Islamic Youth), which in 1972 obtained legal recognition as a religious society. This was part of the King's strategy to obstruct the leftists. It was outlawed in 1975 because of their anti-monarchical statements and the alleged killing of a political figure.¹⁰⁴

One of the main reasons for the legalization of *At-Tawhid wa'l-Islah* through MPDC/PJD in the mid-1990s was the view of the King that allowing moderate Islamist groups to partake in the political life would prevent the Algerian scenario to play itself out in Morocco and thus to de-radicalize the Islamist movement.¹⁰⁵ The party's leaders stated that they were allowed to compete the elections because of their acceptance of non-violence, democracy, constitutionalism and support for the Moroccan monarchy.¹⁰⁶

¹⁰³ Interview with Nadia Yassine for the German online magazine Telepolis by Alfred Hackensberger, 17 May 2006. The interview can be found on: <http://www.heise.de/tp/r4/artikel/22/22587/1.html>, February 2007.

¹⁰⁴ Shahin 1997: 183-188.

¹⁰⁵ Michael J. Willis. "Between Alternance and the Makhzen: At-Tawhid wa Al-Islah's Entry Into Moroccan Politics." In *The Journal of North African Studies* 4, No 3 (Autumn 1999). pp 72-73.

¹⁰⁶ Michael J. Willis. "Morocco's Islamists and the Legislative Elections of 2002: The Strange Case of the Party That Did Not Want to Win." In *Mediterranean Politics* 9, No 1 (Spring 2004). p 56.

The party increased its popularity since its coalition with the Islamists. In the latest elections in 2002 the PJD quadrupled its number of parliamentary seats compared to the 1997 elections and thus became the third largest party. Al-Adl wa'l-Ihsan portrayed the gains made by the PJD as an advance for the Islamism in general.¹⁰⁷

Some argue that their electoral success is due to a number of factors. Firstly, their 'rival' Islamists, Al-Adl wa'l-Ihsan, were banned from participating in the elections and thus their potential voters joined the ranks of the MPDC/PJD instead.¹⁰⁸ Secondly, their untarnished reputation of being outside the corrupt system helped them win people's votes.¹⁰⁹ During the campaign for the reform of the Moudawana the PJD actively participated on the side of the traditionalists and this possibly helped them improve their political profile in contrast to other parties, such as the Istiqlal, the USFP and the 'royalists'.

Political liberalization of the regime starting in the early 1990s was also one of the elements, which allowed the heightened presence of disparate politicized groups, such as the Islamists, and the more or less open expression of their views.

Political Liberalization and Democratization

Political liberalization and democratization seem to be the two notions attracting most attention when talking about the current and future state of affairs of the MENA countries. However, even after more than a decade of political attempts to reform the ossified and autocratic regimes, in reality these regimes have not changed and moved beyond superficial reforms that do not fundamentally threaten their control. Why then are MENA countries, and as will be shown Morocco is not an

¹⁰⁷ Willis 2004: 70.

¹⁰⁸ Willis (Autumn) 1999: 61.

¹⁰⁹ *Ibid.* 57.

exception, resisting any substantial and tangible changes? Before attempting to answer this question, however, let us first turn to definitions.

Although political liberalization and democratization differ in meaning, they both form necessary steps in any transition period where a full-fledged democracy is the final objective. According to Brand, political liberalization “refers to an opening up of the political system” on the basis of granting greater civil and human rights to citizens and more transparent elections.¹¹⁰ International organizations, such as the WB and IMF, as well as some scholars, call this step to democracy ‘good governance’ in order to address the content and requirements of political liberalization in a more nuanced manner. The phase of good governance from this perspective is conceived to counter “political repression and concentration of power.”¹¹¹ The ruler thus still retains full, though perhaps not absolute as before, control over the polity. Therefore, as both Brand and Layachi agree, political liberalization does not equal democracy or democratization, despite the fact that it may be treated as such by the autocrats and political elites themselves. Hassan II for instance called his partial political opening-up and constitutional changes in the 1990s as elements of the democratization process despite the fact that his power did not decrease – on the contrary, he consolidated his political role vis-à-vis the other political actors.

“Democratization [on the other hand] is a process whereby state control over society is slowly diminished to a point where the state becomes less arbitrary and more prone to bargaining with the most representative groups of the social, economic and cultural spheres.”¹¹² Thus, whereas political liberalization initiates the process of ‘de-authoritarianization’ and of acknowledging the role of the *citizens* in the system, it

¹¹⁰ Brand, 1998: 4.

¹¹¹ Cohen and Jaidi 2006: 26.

¹¹² Layachi, 1998: 15.

is the next stage of democratization that, at least in theory, should allow the transitional state to finally transform itself into democracy.

This process, however, does not guarantee triumph of *Rechtstaat* (democracy) over the *Machtstaat* (authoritarianism). In Layachi's words "democratization [...] may lead either to democracy or to a reverse movement toward authoritarianism (Tunisia and Russia), to chaos (Somalia), or to a vicious internal conflict within a polarized society (Algeria)."¹¹³ Nonetheless, despite the outcome, political liberalization and democratization are inextricably linked and the former should precede the latter.

How, then, do the Arab regimes fit into these two models of political transformation? Baghat Korany rightly argues that "the present process [in the region] is not yet political democracy, nor even polyarchy, but at best a limited and shy process of organizational political pluralism."¹¹⁴ Indeed, regimes across the region have embraced political contestation in the form of elections to such an extent that they have by now become a common feature of political life. Anoushiravan Ehteshami even goes so far as to argue that "many of these elections have been quite crucial, even historic, events."¹¹⁵ While some authors are being more cautious in this regard, Ehteshami is right in saying that no matter how transparent, "electoral politics" nevertheless "is influencing the lot of MENA citizens."¹¹⁶ In this respect, arguably, Morocco can be considered an anomaly. The fact that in the last decade the elections have continually shown a low voter turn-out, can serve as an example of the weariness of a substantial percentage of Moroccan people to participate in elections

¹¹³ Layachi, 1998: 15.

¹¹⁴ Baghat Korany. "Arab Democratization: A Poor Cousin?" In *Political Science and Politics* 27, No 3 (September 1994). p 511.

¹¹⁵ Anoushiravan Ehteshami. "Is the Middle East Democratizing?" In *British Journal of Middle Eastern Studies* 26, No 2 (November 1999). p 209.

¹¹⁶ *Ibid.* 210.

which do not affect the structure of governing bodies in any significant way and thus indirectly of their lives.

One of the major obstacles to democratization of the region is, as most of the authors agree, the fact that reforms are part of a carefully planned top-down, elite project aimed at both circumventing pressing domestic problems and pleasing the external donors.¹¹⁷ The problem with such an elite directed social and political transformation is two-fold. People are not recognized as *citizens*, and hence equal participators in the political life, but tend to be perceived by the elites merely as *subjects* in need of guidance and rule by the oligarchy. Political liberalization thus only reinforces the status quo, despite instituting minor changes (for instance improvement of human rights records) yet it does not bring about substantial reforms or real democracy. In contrast, Ehteshami, Layachi and other authors, propose that grassroots movement and not political elites should be in the vanguard of the profound systemic changes.

One of the main shortcomings of a top-down led democratization project, and also of some scholars, is the fact that they often deny the Islamists the right to participate in the democratic process. Some, such as Shana Cohen and Larabi Jaidi, even suggest that political liberalization in Morocco has not been successful because it has not been able to stem Islamism. However, Islamism as any other political force is both a product and a part of the new democratic reform wave. The Islamists thus should be recognized as legitimate parties in the political discourse just as any radical right-wing or left-wing group in the West is able to compete in the elections. In this respect, Fahmi Huwaidi, an Egyptian writer and Islamic thinker, rightly contends that

¹¹⁷ See, for example, Tim Niblock. "Democratization: A Theoretical and Practical Debate." In *British Journal of Middle Eastern Studies* 25, No 2 (November 1998): 221-233; and Layachi, 1998.

“disengagement with democracy is the introduction to disengagement with the Islamist presence.”¹¹⁸

Therefore, the essence of the problem of the democratization issue in the Arab world is not democratization itself but definition of it. What kind of democracy do the external forces want to see? They indeed advocate freer and more transparent elections; yet it seems that they, just as the domestic elites, do not want radical changes in power if those in power are the allies of the West. Complete rejections of Hamas’ victory in Palestine or Chavez’s in Venezuela are just two of the most recent and blatant examples of the Western Janus-faced advocacy of democratic transformation of the developing world. Hence, should the democratic model, promoted by the West, rather be called polyarchy than democracy? Indeed, as will be shown, Western donors to Morocco have in recent years, and particularly since the enthronement of Mohammad VI, showed a sense of approval of the new King’s political behaviour and thus turned a blind eye to continuous breaches of freedom of thought and official intolerance towards the Islamists and other ‘radical’ political groups. Furthermore, it seems that the West, though it may be genuinely interested in the improvement of human rights (but not full civil rights), wants to see the kind of democracy where their allies would be popularly elected. In order for this to happen, however, anti-Western groups with political ambitions should, in their view, be kept at bay. But, what is the message that people in the region are getting? The answer to this question is not as simple as one may think. The issue of women’s emancipation and the concomitant heated debates in Morocco, caused by the promotion of women’s rights, show that ordinary people do want to be heard and that any foreign system,

¹¹⁸ Fahmi Huwaidi. “Fadd al-Ishtibak ma’a al-Hala al-Islamiyyah.” (Disengagement with the Islamist presence) In *Al-Kitaab fii Ta’allum al-‘Arabiyya: Al-Juz’ al-Thalith* (Textbook for Arabic, Part Three), edited by Kristen Brustad, Mahmoud Al-Batal and Abbas al-Tonsi. Georgetown University Press: Washington DC, 2001. p 35.

which is being imposed on them, will meet severe opposition. This, however, may cause the formation of a grassroots movement or nascent civil society, which is deemed by some as the prerequisite for democracy. In any case, Morocco's decade of discussions regarding the reform of the Moudawana conveyed to the West a message that in order for any changes to be approved they have to come from within the Moroccan society. Or, as Korany correctly argued, "if Western democracy wants indeed to travel, it has to learn the language of the countries it visits. Such familiarity with non-Western contexts will help the latest Western product to indigenize, get universalized, and lose in the process some of its negative historical connotations."¹¹⁹

Emergence of Civil Society?

In Morocco, as elsewhere, transition to democracy and emergence of a functioning civil society go hand in hand. During the last two decades, the proliferation of various associations has been enormous. Women's, religious and human rights organizations have perhaps been the most active and visible. However, there seems to be a confusion regarding the application of the term 'civil society'. Whereas women activists in Morocco tend to use this notion for the burgeoning associative life, scholars on the other hand remain more cautious. Layachi, for instance, argues that because civil society is defined as a "set of social, economic, cultural and political groupings, distinct and *independent from the state*"¹²⁰ one cannot consider existing civic associations in Morocco as elements of civil society. Often leaders of these seemingly independent organizations remain members of political parties, thus under the influence of the party politics, which, it should not be forgotten, tends to be co-opted by both the regime and the makhzen. Political parties

¹¹⁹ Korany, 1994: 512.

¹²⁰ Emphasis added. Layachi 1998: 14.

themselves also do not promote an independent associative life. Namely, the proliferation of civic associations and their popularity among ordinary Moroccans was one of the consequences of the inability of political parties, as the traditional channel for expression of popular will, to fulfill their role. Furthermore, the regime is using many of these organizations as instruments of ideological integration.¹²¹

In addition, because the makhzen controls and organizes civic life of Moroccans through its patron-client system and ramified social network it naturally opposes the organization of autonomous entities in the form of civic associations, which could potentially diminish the role of the makhzen and its purpose.¹²² Therefore, when discussing the inhibited nature of civil society in Morocco the importance of the makhzen should not be understated.

These arguments coupled with the fact that political activism in Morocco is only allowed if it complies with certain rules – respect of Islam, the King and Nation - clearly confirm Layachi's insistence on the absence of genuine civil society in Morocco.

Nonetheless, the existence of some form of civic organization and their influence upon the high politics has become an undeniable reality in Morocco. There are clashing views among scholars regarding the relationship between the regime and civic associations. The most prevalent argument is that not just the parties or makhzen feel threatened by their popularity but that also the state (the monarchy) itself perceives them as encroaching on its exclusive territory. However, others contend that the monarchy has by now realized that a diversified society, which is also promoted by the existence of disparate cultural and ethnic organizations, will need a unifying

¹²¹ Layachi 1998: 40.

¹²² *Ibid.* 31.

force in the body of the king for its survival.¹²³ Furthermore, James Sater argues that the state is reshuffling its political alliances after civic associations proved to be more successful in mobilizing support than political parties. He concludes that the “partnership between the state and civil society acknowledges the political importance of non-governmental actors and leads ultimately to the vision of a new structure of state-power relying on a broad alliance with civil society.”¹²⁴

Women’s Movement

The role of women’s organizations in Morocco is to a certain extent similar to that of religious (Islamist) groups. They both work in the field of improving the social welfare of ordinary Moroccans because the state does not provide many of the social services it used to.

Women’s organizations started with campaigns for raising awareness regarding women’s rights, violence against women, they organized educational seminars and established women shelters. An important medium for disseminating their message was the so called Women’s press, consisting of newspapers such as *8 Mars* or *Kalima* (Word), which discussed topics that were at that time regarded as taboo (domestic violence, single mothers or homosexuality). However, considering the fact that in the 1980s, when most of these associations and newspapers developed, more than 50% of the female population was illiterate, the scope of their influence could not have been substantial. This furthermore indicates that the emerging women’s movement in the 1980s and the 1990s existed for a certain profile of Moroccan women – those of educated, middle- and upper-class urban women. Furthermore, leaders of the main women’s associations had been politically active in

¹²³ Daniel Burton-Rose. “Room to Breathe: Creating Space for Independent Political Action in Morocco.” In *Middle East Report*, No 209 (Winter 1998). pp 9-10.

¹²⁴ Sater 2002: 115.

leftist organizations during their university years before joining different political parties. The *Association Democratique des Femmes du Maroc* (ADFM - Democratic Association of Moroccan Women), founded in 1985 as the first women's organization, was established by some of the former members of the leftist PPS. *Union de l'action feminine* (UAF - Union of Feminine Action), the initiator of the One Million Signature Campaign in 1991, also attracted politically active women from another leftist party – the OADP.

Rabea Naciri, president of the ADFM, asserted that women's associations gave educated women a greater opportunity for political visibility than mainstream political parties. However, in her own words they “remain divided between their desire not to cut the umbilical cord from their leftist roots and their desire to affirm their own political identity and their independence from these same groups.”¹²⁵

An important departure point for a more independent political activism came with the *United Nations Fourth World Conference on Women*, which was held in Beijing in 1995. In Morocco preparations for this conference began in 1991. The transnational group, which was the main protagonist behind these preparations, was called *Collectif 95 Maghreb Egalite* (Collective 95 - Maghrebi 1995 Collective for Equality). It comprised of six women's organizations and individual women activists from Tunisia, Algeria and Morocco. One of the main members of the Collective 95 was Moroccan ADFM.

The group issued a number of joint documents in which they recognize the importance of Islamic element in the lives of Maghrebi people; however, this Islamic referent, in their view, can only be applied within the cultural and civilizational domain of a country but cannot govern the legal or political aspect of it as well. In

¹²⁵ Naciri 1998: 95-97.

their opinion, legal matters should be subjected to Western democratic principles. On account of the divergence of two referents, Islamic and Western, Iman Ghazalla argues that the goal of the Collective 95 was “to transcend this situation of a double referent and adopt a unified international referent.”¹²⁶ For these women activists and the NGOs liberation of women also entails liberation from religion and thus regards the Western secular model as the ideal model for the advancement of women. Collective 95 published an alternative ‘egalitarian’ personal status code entitled “One Hundred Measures and Provisions,” which specifically addressed the issues of equality in marriage, divorce, filiation, and inheritance.¹²⁷ However, their alternative document to the Moudawana that is secular and based on the notion of universal rights, as we shall see later, clashed with the perspective of the advocates of a more ‘culture-specific’ approach.

The preparations for the UN Conference on Women coincided with the beginnings of the UAF led One Million Signatures campaign which marked the beginning of more than a decade long struggle for the reform of the Personal Status Code.

¹²⁶ Ghazalla 2001: 19.

¹²⁷ Fati Ziai. “Personal Status Codes and Women’s Rights in Maghreb.” In *Muslim Women and the Politics of Participation*, edited by Mahnaz Afkhami and Erika Friedl. Syracuse University Press: New York, 1997. p 80.

Chapter 2 – REFORM OF 1993

Beginning of the One Million Signatures Campaign

Latifa Jbabdi is the president of the UAF and though belonging to the elite has a long history of fighting for women's rights for which she had also been imprisoned in the past.¹²⁸ She described her organization as being based on modernity and democracy. In the interview for the German Telepolis in 2006 she said: "We want social change and absolute equality between genders. Our struggle has a Muslim dimension, which you can call Islamic, if you wish. The fundamentalists have always worked against us. They are not Islamic, they are Islamist and reactionary."¹²⁹ She described herself as a Muslim feminist, belonging to the Muslim community; however, as she added, "first and foremost I adhere to the universal values of human rights."¹³⁰ In the same breath she did acknowledge, that in the 1980s, the UAF "failed to communicate with people in the right way,"¹³¹ because the organization had been overtly secularist. They had to change the tactic in the 1990s in order to, as she said "find the way to talk to people about our project in the manner that they would understand."¹³² In rereading the Qur'an and the Prophet's Traditions the members of the association realized that they could fight for their modern values and principles from a perspective closer to the majority of Moroccans.¹³³ Despite their reformulation of the demands and placing them within the modernist Islamic discourse, it is nonetheless important to emphasize that the UAF has been struggling for a secular family law, based on the universality of human rights. For the opposition faction this is a negation of the very Islamic identity the UAF and others ostensibly have been

¹²⁸ Interview with Fatima Sadiqi by author.

¹²⁹ Interview with Latifa Jbabdi by Alfred Hackensberger.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

¹³² *Ibid.*

¹³³ *Ibid.*

fighting for. Essentially, Muslim identity has been relegated to a secondary position, defining for the UAF and its counterparts the intimate religiosity rather than a political or legal dimension of their country. This fact has become the biggest apple of discord and a dividing line between the UAF and other women organizations, which eventually joined the UAF on the one side, and traditionalists or Islamists, as they are popularly called in both the domestic and Western press, on the other.

The One Million Signatures campaign was some sort of an unofficial referendum to raise enough support to change the Moudawana. The campaign began on March 7, 1992 amidst Hassan II's preparations for the new constitution.¹³⁴ This had not been the first call for the reform of the Personal Status Code. As with so many other issues concerning the public welfare, none of these attempts involved a general discussion regarding the shortcomings of the law. The King and the government set up various official commissions in the past, which usually did not last beyond the first meeting. However, during the 1980s academic debates on the reform of the law became more intense than ever before. Moroccan intellectuals, for instance the sociologist Fatima Mernissi, and the jurists Ahmad Khamlichi and Abderrazak Moulay Rachid, concentrated their efforts to show that the old Personal Status Code did not address adequately the needs of the modern Moroccan women and society anymore.¹³⁵ Indeed, the Moudawana had been written for a different time and society; however, one cannot disregard the multifaceted problematic nature of their argument. As Brand asserts "the woman envisaged in the Moudawana [of the 1950s] is a rich woman who does not work outside the home and whose status is guaranteed by

¹³⁴ Brand reports that during Hassan's speech on March 3, 1992 he asked his subjects for six months of social peace because of the increased unrests (Brand, 198: 69). The UAF however used this moment of a weakened regime to promote the agenda of women's rights and ultimately reform the ossified Moudawana.

¹³⁵ Buskens, 2003: 77-78.

reliance on her family. The poor woman is not really taken into consideration.”¹³⁶ The old law, as it was conceived and written down, thus did not guarantee protection to women without patrons or to women who were forced to work outside the homes because of their dire economic situation. Therefore, it seems that what these academics called for, was another reform of the family law, which, again, would only address the changing status and needs of a small class of urban educated women and not of Moroccan women as a whole. Furthermore, they, as many women activists, were writing and expressing their protests in French – in the language associated with a different, modern and secular Morocco and hence with Morocco that had nothing in common with the plight of an ordinary Moroccan woman.¹³⁷ The content of their demands and the language used to express them, therefore, sum up the essence of and the reasons for the emerging heated discussions during the 1990s. Moreover, the reform of the Moudawana became one of the prime indicators of a limited modernizing project Hassan II had envisaged in the early years of his rule. This top-down project served to address and fulfill particular aspirations of a chosen social class, whereas it marginalized the others.

All these previous more or less desultory attempts to at least partially reform the Personal Status Code failed because of several factors. Firstly, they had been initiated and led either by the King or people close to him, implying that even if reforms would have taken place they would not have changed the rights of women in any substantial way. The rigid and conservative nature of the law had been put in place by the King with the purpose of securing an important ally for the monarchy. Therefore, any consequential reform would have disturbed the alliance between the

¹³⁶ Brand, 1998: 59.

¹³⁷ Jennifer Spratt (“Women and Literacy in Morocco.” In *Annals of the American Academy of Political and Social Science* 520 (March 1992). p 122) reported that in 1985 the percentage of illiterate women was 78%, indicating therefore that demands of these academics were not based on the true picture and condition of the majority of Moroccan women.

rural notables and other conservative circles and the King. Secondly, despite the existence of various women's associations since the 1960s, these were not politically independent organizations because such independence would not have been tolerated by the regime. Concomitantly, these politically active women were aware that the time and circumstances for such a substantial change of the sacred document had not yet come.

As mentioned in the previous chapter, a concoction of international and domestic events opened the door for a more aggressive and determined campaign initiated by educated and leftist women. Furthermore, Pennell wrote, "Moroccan society was moving more quickly than the political system."¹³⁸ The political parties were aware that their adherence to status quo, and thus to the unchanged Moudawana, was a ticket for participation in the government and for economic and other privileges granted by the King. Therefore, although the UAF sent a letter, explaining their aspirations to the parliament and political groups,¹³⁹ their aim was not to target the political parties but instead seek "the involvement of public opinion in the debate for the reforms of the Moudawana and for more commitment to end violence against women," as Fatima Outaleb, the director of the UAF Women's shelter, explained in an interview.¹⁴⁰ The organization thus sought support outside this traditional channel of the expression of political will because persuading the political elite to join their cause at this early stage of their struggle would, no doubt, have resulted in another lost opportunity.

Their initial campaign was extremely well thought out. The UAF organized media seminars and conferences for various national and international women and

¹³⁸ Pennell, 2000: 348.

¹³⁹ For a more detailed content of the letter, *see* Brand, 1998: 70.

¹⁴⁰ Email interview with Fatima Outaleb by author, January 29, 2007.

human rights organizations.¹⁴¹ Furthermore, it sought to coordinate their work with other NGOs and groups in order to spread the word and to gain as wide a support as possible. However, it took the UAF almost two years to convince other women's organizations and human rights groups of the need to join their forces to change the Moudawana. Their reserved attitude toward the campaign was a consequence of several factors. Firstly, these women's organizations disagreed upon the UAF's approach to reforming the Moudawana in one big step. On the contrary, these groups felt they have a better prospect of success if they pursue a more gradual approach.¹⁴² Secondly, though advocating the universal model of human and thus women's rights, the incorporation of the Islamic reference into this model by the UAF might have instilled some fear among the secular oriented women's groups such as the ADFM or AMDF (*Association Marocaine pour les Droits des Femmes* – Moroccan Association for the Rights of Women). Thirdly, a majority of women activists share a similar leftist history. They later joined different political parties and then more or less successfully sought independence from them. However, their success in doing this was rather limited at the beginning of the 1990s because any political activism had to be conducted through official political channels – that of political parties. Furthermore, as Iman Ghazalla argues, women's organizations “were apprehensive of the obstacles this campaign may pose to women's political work”¹⁴³ because of the reactions of political parties. Indeed the conservative Istiqlal and the leftist USFP reacted extremely negatively to the campaign of the UAF. The president of the organization, Latifa Jbabdi, explained that for these two political parties “to touch the Moudawana was to touch a taboo which would then create problems.”¹⁴⁴ The main

¹⁴¹ Ghazalla, 2001.

¹⁴² Brand, 1998: 71.

¹⁴³ Ghazalla, 2001.

¹⁴⁴ Quoted in Brand, 1998: 70.

problem and reason for other oppositional non-Islamist parties to actively oppose women campaigners was that they perceived the issue as divisive for the society.¹⁴⁵

The core of the opposition, however, was formed outside the parliament. The religious establishment, as the guardians of the sacred character of the Moudawana, were a natural opponent to the campaign. However, other religious groups as well felt that the UAF directly or indirectly attacked the Islamic character of Moroccan society. The importance of their protest against the UAF's treatment of the Moudawana lies in the fact that, similar to the First Gulf War, this campaign provided an important outlet for the Islamists to "contest power", as Brand argues¹⁴⁶ and therefore form an unofficial and un-coopted expression of feelings toward the reform of the Moudawana.

The Opposition is Formed

One of the first negative reactions to the One Million Signatures campaign came from the Islamist association Al-Islah wa'l-Tajdid. In seeking political recognition from the authorities, the association claimed to be "peaceful and moderate"¹⁴⁷ but their reaction to the campaign and its activists was rather violent. Laurie Brand and Leon Buskens report that in April's 1992 issue of the association's weekly, *al-Raya*, Muhammad al-Habib al-Tujkani, a professor of Islamic jurisprudence, issued a *fatwa*, condemning the 'feminist' campaign as an act of apostasy, which is punishable by death according to the Islamic Shari'a.¹⁴⁸ Furthermore, he criticized the campaign because it aimed "at conspiring against Islam

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.* 72.

¹⁴⁷ Buskens, 2003: 82. For the political development of Al-Islah wa'l-Tajdid, see for instance Michael Willis (Autumn 1999); and Michael Willis (Spring 2004).

¹⁴⁸ Brand, 1998: 71-72; Buskens, 2003: 82.

to eliminate it, to remove what is left of Islamic law in Muslim world, and to achieve a complete westernization of the world.”¹⁴⁹

In a similar manner, the Ministry of Religious Endowments and Islamic Affairs tacitly encouraged the mosque preachers to fight against the campaign initiated by the UAF. Not insignificant for the understanding of the proportion of the Ministry’s reaction is the fact that the King himself appoints its minister. This means that the minister is accountable only to the king and is thus heavily influenced by the politics of the royal court. Therefore, the Ministry’s denunciation of the campaign possibly indicated King’s objection to the reform even prior to his first official speech regarding the issue later that year.

Ghazalla notes that a counter-petition opposing the reform of the Moudawana was thus circulated in the mosques, which were under the tutelage of the Ministry of Religious Endowments. This petition stated among other things that the women’s campaigners were made up of unbelievers calling for people to abandon Islam.¹⁵⁰ Fierce reaction of the religious establishment and people associated with it in addition to the violent language, however, in the end worked against them and helped the campaign to obtain more than one million signatures. This figure is quite telling of the real success of the campaign particularly given the fact that Morocco in the 1990s was a country of approximately twenty five million people, majority of whom lived in underdeveloped areas, leading to a large extent a very traditional way of life.

Buskens rightly observes that “the clashes between modernists and Islamists about family law reform in 1992 and 1993 foreshadowed the debate on the same subject beginning in 1999.”¹⁵¹ However, he does not mention that the ‘modernists’, as he calls them, had to ‘deradicalize’ their view regarding the nature of the new law

¹⁴⁹ Quoted in Brand, 1998: 71.

¹⁵⁰ Ghazalla, 2001.

¹⁵¹ Buskens, 2003: 82.

because, as we shall see later, the ‘Islamists’ managed to rally much greater support behind their cause, therefore admitting that the reformed law should be placed within a less secular context as initially espoused. In addition, the opposition to the campaign was not an opposition to the reform of the Moudawana *per se*, but a protest against the utilization of a foreign discourse and non-Islamic reference point. Moreover, the opposition insisted that the Moudawana has to be reformed on the basis of a careful rereading of the sacred Islamic sources – the Qur’an and the Sunna, employing thus the right of *ijtihad*.¹⁵² This, however, formed a further controversy particularly in the second attempt to reform the Moudawana. The ulama claimed that only scholars, versed in the Islamic jurisprudence and law, have the right to exercise *ijtihad*, whereas women campaigners, and the UAF was among them, objected and argued that everyone has this right.

Hassan II Enters the Stage

The commotion the UAF campaign caused among Moroccans and the success of the petition finally induced the King to get involved. Fatima Sadiqi, a Moroccan academic, argues that this campaign impressed Hassan II to such an extent that he finally intervened,¹⁵³ though, as Brand rightly contends, “the king intervened not to guide or orient the discussion, but to end it.”¹⁵⁴ The publicity that the campaign and the women activists attracted was unprecedented and as a consequence became too political for what the King was prepared to tolerate. It touched the very essence of the regime – that of keeping the conservative forces at bay and by this it potentially threatened Hassan II’s more or less uncontested rule. Despite the fact that associative

¹⁵² *Ijtihad* in its most basic meaning refers to an independent judgement and interpretation of the Qur’anic laws.

¹⁵³ Interview with Fatima Sadiqi by author.

¹⁵⁴ Brand, 1998: 74.

life was allowed in Morocco it seems there was an unwritten rule requiring that associations should keep their aims ‘non-political’.¹⁵⁵ Therefore, Hassan II wanted to depoliticize the issue in order not to antagonize these allies of the monarchy – precisely those circles, which the orthodox text of the Moudawana was meant to appease when it was promulgated.

On August 20, 1992 during his speech for the occasion of the 39th anniversary of the Revolution of the King and the People Hassan II made it clear that despite the fact that issues pertaining to the family were delegated to the realm of the ulama, he alone was “responsible for the Moudawana or the non-application of the Moudawana” and thus the matter should be referred to him. He added that:

“during the coming of referendum or election campaigns, be careful not to mix what is religious with what is temporal or political [...] I know what is immutable in religion and what may be subject to ijthad. Beware of any confusion. Write to me at the Royal cabinet. We are prepared to receive you, to meet with you and to put things back where they belong. There are, of course, some gaps and an inadequate application of the Moudawana, there is discrimination and there is justice. But lets repair all this outside the political arena so that we do not fall into some trends that have never existed and will never be allowed in this country. Lets take care of all this as soon as possible.”¹⁵⁶

In hindsight, Hassan II’s reaction was understandable because of a number of reasons. Activists outside the political establishment made the issue of women’s rights a political matter. In doing this they violated one of the unwritten rules of political participation in the country and hence defied the King himself. Furthermore, the monarchy at that moment needed strong allies because of the quantity and quality of the criticism directed towards the regime. Hassan II’s political ‘meddling’ into the character of the document would have potentially alienated an important pillar of his

¹⁵⁵ Burton-Rose 1998: 9.

¹⁵⁶ Excerpt from the king’s speech on August 20, 1992. The text can be found on the Moroccan governmental site: <http://www.mincom.gov.ma/english/generalities/mwoman/tribute.htm>, January 2007.

support – the religious authorities (ulama) acting as the guardians of the conservative nature of the document who had shown strong aversion to any kind of reform of the Personal Status Code in the past.

In addition, the fact that the King wanted to resolve the matter in a quick manner was a consequence of what Brand argued to be an opportunity for the monarch. The referendum regarding the proposed changes to the constitution was scheduled for September 4. The parliamentary opposition, organized in the Kutla,¹⁵⁷ announced their boycott of the referendum because they viewed the proposed changes of the constitution as insufficient. Therefore, in order for Hassan II to avoid a low voter turnout during the referendum, he once again resorted to his populist rhetoric. His speech on August 20 was thus partly devoted to women activists and other Moroccan women with the aim of pleasing them and obtaining their votes in the constitutional referendum.¹⁵⁸ Moreover, a resolution of the debate would have been a quick answer to the demands of the external and domestic actors calling for democratic changes.

On September 8, immediately after the successful referendum, the King told Moroccans that he will now devote his time to solving the question of advancement of women's rights and guaranteed the full application of these rights.¹⁵⁹ He received representatives of women's organizations and other women activists, addressing them as daughters and giving them a speech that resembled that of a father teaching his daughter life-lessons. During his talk Hassan II once again declared that he would not allow Islamic family law to be the subject of any political struggle because of its

¹⁵⁷ Formed this time by the Istiqlal, USFP, PPS and OADP.

¹⁵⁸ Brand, 1998: 74. The outcome of the referendum, according to official Moroccan reports, was 99% in favour (Brand, 1998: 43), prompting foreign press to dismiss the referendum as being 'another of those 99% referendums.'

¹⁵⁹ See the short excerpt of his speech on the Moroccan governmental webpage: <http://www.mincom.gov.ma/english/generalities/mwoman/tribute.htm>

potential for dividing the nation and creating a situation resembling the one in the neighbouring Algeria.¹⁶⁰

The reception of women activists on the whole presented for the King another channel for reaffirming his supreme authority. If reforms were to be instituted, he alone would have to decide upon the scope and quality of them. Indeed, once the King intervened and told his subjects to end the quarrels, no one dared to continue the discussion and defy him.

The nature of how the public discussion was almost abruptly brought to an end corresponds to what Munson, in his insightful book called '*Religion and Power in Morocco*,' argued to be a relationship between the king and his subjects, or between the possessor and the possessed. His analysis of the argument is done on the basis of semantics. Munson attempted to demonstrate that the Arabic word used for the king (*malik*) conveys the message of 'someone who possesses something'. Furthermore, the word used to describe his subjects, *ra'iyya*, in its literal meaning of 'flock', thus describes "rulers as shepherds of their flock."¹⁶¹ Munson then argues, that the idea "that rulers in some sense possess as well as govern their subjects [...] continues to play an important role in Moroccan politics."¹⁶² Indeed, during *Hassan II's* rule the concept of citizenship as opposed to 'subject-ship' was unheard of. Only with the enthronement of Mohammed VI did the situation begin to change and thus the notion of citizenship has been increasingly recognized and applied by the new King. However, even now there are significant restrictions to the uninhibited expression of the rights of citizens. Lise Garon, for instance, rightly observes that Moroccans as individuals "do not have the citizenship status that would allow him or her to speak freely and openly. He or she can join the ranks of a party, but alone, the citizen has no

¹⁶⁰ Buskens, 2003: 79.

¹⁶¹ Munson, 1993: 146.

¹⁶² *Ibid.*

existence in the public forum.”¹⁶³ Ironically, the state seems to have a more efficient control over the actions of civil groups than of dispersed individual activists and thus feels less threatened by the latter than the former. Nonetheless, the campaign to reform the Moudawana arguably helped with moving the sacred boundaries of political participation and decision-making and with changing the relationship between the king and his people as none other popular outpouring of feelings before.

Resolution of the Issue

Hassan II established a commission in October 1992 with the intention of preparing a draft proposal for the revision of the Moudawana. On the King’s instructions the commission had to work with women’s associations in order to reach a consensus and then submit the agreed upon proposal to the King. It consisted of twenty men and one woman, who was the *charge de mission* of the royal cabinet. Ten of its members were representatives of various official religious institutions, ranging from the extremely conservative Minister of Religious Endowments Abdelkebir Alaoui M’Daghri to the President of the Islamic university in Qarawayn.¹⁶⁴ Therefore, the composition of the commission made it clear to the participating parties that the King would not accept any significant deviation from the established framework of the Malikite school as preserved in the Personal Status Code of the 1950s.

The commission submitted its recommendations to the King a year later in September 1993 when the country was preparing itself for the parliamentary elections. As required by the law, the King dissolved the parliament before the elections. This however meant that no parliamentary debate prior to promulgating the new law would take place. Hassan II thus in a Machiavellian manner circumvented a

¹⁶³ Garon 2003: 101.

¹⁶⁴ For a complete list of members of the commission *see* Brand, 1998: 75.

democratic requirement regarding decision-making and power-sharing and ultimately by himself decided upon the scope of the reform.

The Content of the Reformed Moudawana

Not surprisingly, the reform of the Moudawana introduced only minor changes to the old law and was thus a great disappointment for many women activists. Furthermore, the reform encompassed changes in other legal documents pertaining to women's and children's position within the family and thus not to the Personal Status Code per se, as the UAF and other associations aspired for.¹⁶⁵

One of the main changes of the revised Moudawana in 1993 was the right of women to designate their own guardian (*wali*). A *wali* is a male relative who contracts marriage in the name of the woman. A marriage therefore, could not be undertaken without at least an indirect consent of the woman, as had been the case before. A further important, albeit small, change concerned the unilateral repudiation. According to the new law, the presence of two professional witnesses in front of a judge to register the dissolution of a marriage was required. The law also made the wife's presence at her husband's repudiation mandatory; however, this still did not grant women the right to divorce, unless she could prove that her husband, either abandoned her in bed, was physically abusive or was impotent, which, needless to say, was extremely hard to do. In cases where couples had children, the mother received custody over them. The law gave the male child upon reaching the age of twelve and the female child upon reaching the age of fifteen the right to decide with which parent s/he chooses to live.¹⁶⁶ Furthermore, polygamy was made slightly less 'harmful' for the first wife. According to the revised law the husband now had to

¹⁶⁵ Ghazalla, 2001. For a more detailed discussion of the reform of 1993 see Ghazalla, 2001; Brand, 1998: 76; Buskens, 2003: 79-82.

¹⁶⁶ Brand, 1998: 76.

inform his first wife about his intentions and seek permission of a judge. Moreover, a family council (and not an independent family court) to assist the judge in taking care of the family affairs was established.¹⁶⁷

Despite these modifications of the old Moudawana, perhaps the biggest disappointment of women activists was the fact that the reform did not change the general treatment of women as being minors in their adult lives. Their rights regarding having a greater say in issues concerning their lives have indeed relatively increased; however, a woman's male guardian retained the ultimate right to decide. Buskens hence rightly argues that instead of enhancing women's rights, the new law attempted to protect weaker parties (women and children) against abuses of the privileged men.¹⁶⁸ Therefore, the reform of 1993 was entirely in line with the main stipulations of the Maliki law and with the aspirations and demands of the Salafiyya movement in 1958, which exercised great influence upon the drafting of the original Moudawana. It preserved most male prerogatives and traditions, thus avoiding any alienation of the conservative rural notables, the makhzen and other important allies of the monarchy.¹⁶⁹ Moreover, perhaps indicative of the wider irrelevance of the reforms of 1993 is the fact that the international press, even those who specialized in the Middle East affairs, did not bother to report about them despite the question of women's issues in the MENA region becoming a sort of leitmotif of the autocrats themselves and the Western media. The only news relating to Morocco at that time were those pertaining to the ongoing Western Sahara dispute and the upcoming elections.

¹⁶⁷ Buskens, 2003: 81.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

Concluding Remarks

In spite the fact that the reform of 1993 only introduced minor cosmetic changes to the Moudawana and that some women campaigners and academics felt betrayed by the outcome of the reform, Fatima Outaleb, a member of the UAF, drew a more positive picture of the outcome of the One Million Signatures campaign. She said that “the UAF was not dissatisfied with those reforms. We thought that we have succeeded in breaking the taboo and the sacredness of the Moudawana.”¹⁷⁰ Fatima Sadiqi agrees in a similar manner, remarking that “the changes of 1993 were very small but important because people realized that the Moudawana was not sacred but that you can touch it. They realized it is just a text.”¹⁷¹ In addition, the campaign and subsequent debates mobilized people across social strata, even those otherwise apolitical individuals. Public discussions, petitions and confrontations showed to the King that his subjects’ willingness to express their strong opinions regarding issues, which directly affected their lives would have to be considered when taking decisions. The ‘Munson-esque’ relationship between the obedient slave and his master was thus put under question and it has proved in the ensuing years that it is prone to transform itself into a more equal relationship between the ruler and the ruled.

Moreover, as Sonja Hegasy summed up the results of the One Million Signatures campaign, the women activists and their opposition successfully used the new means of communication in the name of the newborn civil society, which was made possible by the process of democratization.¹⁷² Despite there being no consensus among scholars to what extent one can talk about the birth of the civil society it is nevertheless true that the political events of the 1980s and early 1990s leading to the campaign and the campaign itself indeed turned the wheels of history, thus starting a

¹⁷⁰ Email interview with Fatima Outaleb by author.

¹⁷¹ Interview with Fatima Sadiqi by author.

¹⁷² Hegasy 1997: 193.

slow transformation of an extremely authoritarian regime into a more responsible leadership. Layachi rightly concludes that Hassan II this time “cleverly averted potential rupture with his society and the real opposition [was not] able to muster enough momentum and strength to prompt change.”¹⁷³ Furthermore, another Western diplomat was right in predicting that “if Morocco becomes a constitutional democracy, it will not be while Hassan is on the throne.”¹⁷⁴

¹⁷³ Layachi, 1998: 105.

¹⁷⁴ Quoted in *The Middle East*, February 1991: 23.

Chapter 3 – REFORM OF 2004

After 1993 and the CEDAW

The reform of the Moudawana in 1993, despite its shortcomings, was an important departure point for women activists and various associations. They continued their work in order to heighten the awareness of the general public regarding the question of the status of women's rights in the country. The One Million Signatures campaign and concomitant heated debates addressed, among other more directly related issues to the text of the Moudawana, certain societal taboos, such as rape, domestic violence or the issue of children being born out of wedlock. Therefore, some of the activities of women's associations and other NGO groups included organizing seminars for women in order to inform them about their rights, establishing safe houses for mothers without homes or opening centers to help rape victims either legally or psychologically. The role of these civic associations in this respect was hence much like that of the Islamists – to act in those areas of social welfare from which the state had retreated on account of its concentration of resources on the IMF's prescribed fiscal and monetary reforms.

A further important impetus for the increased activities in addition to the revision of the Personal Status Code was the ratification of the United Nation's *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) on June 21, 1993. The Convention was signed in 1979 by 64 states and to date 185 countries ratified it.¹⁷⁵ CEDAW serves as an important appendix to the existing human rights conventions and agreements because it deals with the problem of 'discrimination against women' in a comprehensive rather than fragmented manner. Its important contribution to the globalization of the women's question lies

¹⁷⁵ For further information regarding which countries signed, ratified or gave reservations, see the official UN site for the CEDAW: <http://www.un.org/womenwatch/daw/cedaw/states.htm>, March 2007.

particularly in Article 1, which for the first time defines the notion of discrimination against women in an explicit manner. It states that this type of discrimination includes

“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹⁷⁶

The ratification of CEDAW by Morocco in 1993 is important because it is indicative of two interrelated issues. First, Morocco ratified the Convention in time when Hassan II’s international image reached its lowest point. Second, Morocco only acceded to CEDAW after submitting several declarations and reservations thus demonstrating the real scope of the changing nature of the regime. This meant that, although certain legal documents were amended or ratified, the principles of the old laws remained intact. Specifically, as Ghazalla argues, Morocco “departs from the assumption that both the Islamic Shari’a and the Western democratic referents are based on similar premises about reason, justice, equality and fairness.”¹⁷⁷ In the case of CEDAW one can see the practical application of this notion of particularity of Islamic values and principles. Morocco placed Shari’a laws above all other international and domestic laws, even the constitution, in cases where there would be a conflict of interests. In other words, despite the fact that Morocco in 1992 included the clause that “all Moroccan citizens shall be equal before the law”¹⁷⁸ into its constitution, this did not *ipso facto* bring equal treatment of women in legal matters. Laws spelled out in the old Moudawana clearly breach the constitutional condition of

¹⁷⁶ See the full text of the convention on its official UN site:

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>, March 2007.

¹⁷⁷ Ghazalla, 2001.

¹⁷⁸ The Constitution of the Kingdom of Morocco, Article 5, Chapter 1. Some authors argue that women in Morocco are not regarded as full citizens because of the conditions stemming from the Moudawana and penal codes, which restrict women from the full enjoyment of civil and other rights. In the light of this argument, therefore, the constitutional clause of equality of all Moroccan citizens before law becomes questionable.

equality in cases such as the rights of marriage or divorce. Fati Ziai thus rightly argues that many of the provisions of the Shari'a law "although purportedly protecting women, in fact perpetuate gender inequality."¹⁷⁹ As regards CEDAW, this is especially problematic in Morocco's reservation to Article 2, which is a general article stating the policy measures and objectives of the document. Among other things this article calls parties to the Convention to prohibit all forms of discrimination against women and embody the principle of equality between men and women in their national constitutions and legislation. Furthermore, countries are asked to "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women."¹⁸⁰ Morocco stated in their reservation to this Article that it would apply its principles as long as they do not

"conflict with the provisions of the Islamic Shari'a. It should be noted that some of the provisions contained in the Moroccan Code of Personal Status regarding women's rights that differ from the rights conferred on men may not be infringed upon or abrogated because they derive primarily from the Islamic Shari'a, which strives, among its other objectives, to strike a balance between the spouses in order to preserve the coherence of family life."¹⁸¹

These reservations rightly prompted some authors and activists, for example Rabea Naciri, to argue that "Morocco's reservations to CEDAW serve chiefly to nullify the convention's objectives and purpose."¹⁸² Arguably, the purpose of the ratification of the Convention was political rather than legal or social. The issue of

¹⁷⁹ Ziai 1997: 73.

¹⁸⁰ Text of the CEDAW: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>, March 2007.

¹⁸¹ Reservations to the text of the CEDAW: <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>. March 2007.

¹⁸² Rabea Naciri. "Morocco." In *Women's Rights and the Middle East and North Africa: Citizenship and Justice*, edited by Sameena Nazir and Leigh Tomppert. Rowman and Littlefield Publishers: Lanham, 2005. p 187.

women's rights was appropriated by the regime to improve its domestic and international image and not to improve the condition of women in Morocco.

Nonetheless, both Morocco's ratification of CEDAW in June 1993 and cosmetic reforms of the Moudawana in September that same year opened a window of opportunity for further work of the women's associations and activists. Furthermore, a renewed chance to re-open the issue of the Moudawana came with the Alternance government in 1997.

Plan of Action for the Integration of Women in Development (PAIWD)

Abderrahman Youssoufi, the leader of the leftist USFP, became Prime Minister in the Alternance government after the elections in 1997. His party and the other Kutla members did not obtain enough votes to form the government so the coalition had to be formed with some of the center-right 'royalist' parties. On account of this and the fact that the upper Chamber of Counsellors kept the government and parliament in check by its right to dismiss the lower house, any substantial political reforms would not be implemented. Furthermore, in the economic sphere, Youssoufi had to abandon the idea of promoting his party's leftist agenda as this would necessarily impinge on the IMF's neoliberal structural adjustment program. Therefore, one of Youssoufi's government priorities was to open a social dialogue with the aim of improving the economic condition of women and advance their rights in Morocco.

Youssoufi's socialist views and non-conformist past appealed to the activists' general leftist ideological orientation. His government's promise to help advance the issue of women's rights indicated that the reform of the Moudawana would become a

government-led project thus lending the issue more credibility and enhancing its chances of success.

The essential guide for the social politics of the Alternance government, and the issue of women's rights within it, was the 1995 negotiated United Nations' Platform for Action. This Platform was the final document of the Fourth World Conference on Women held in Beijing, which spelled out the necessary mechanisms for the implementation of CEDAW goals. As it is stated in its Mission Statement, the Platform for Action is "an agenda for women's empowerment [that] seeks to promote and protect the full enjoyment of all human rights and the fundamental freedoms of all women throughout their life cycle."¹⁸³ Furthermore, it defined equality between women and men as "*a matter of human rights* and a condition for social justice" and as something that is "also a necessary and fundamental prerequisite for equality, development and peace."¹⁸⁴ Mahnaz Afkhami and Erika Friedl hence quite rightly argue that the document states explicitly that "women's rights are human rights and that all issues are women's issues."¹⁸⁵ The notion of women's rights being part of the universal body of human rights as advocated in this Platform was also shared with women's associations in Morocco. As we shall see later, this became one of the contentious issues in the debates between the reformists and the traditionalists.

Nonetheless, the Platform, more than any other international document which addresses the issues of human rights, laid down a practical agenda for countries to implement necessary measures in those subject areas where women tend to be most exposed to ill treatment, poverty or undignified conditions. The most pressing areas,

¹⁸³ The Mission Statement of the United Nations Fourth World Conference on Women can be found on: <http://www.un.org/womenwatch/daw/beijing/platform/plat1.htm#statement>, March 2007.

¹⁸⁴ Emphasis added. *Ibid.*

¹⁸⁵ Mahnaz Afkhami and Erika Friedl. "Introduction." In *Muslim Women and the Politics of Participation*, edited by Mahnaz Afkhami and Erika Friedl. Syracuse University Press: New York, 1997. p ix.

as defined by the Platform, are violence against women, health issues, unequal economic possibilities and rights of the girl child.

Morocco as a party to the CEDAW and as a participant in the conference in Beijing drafted its own *Plan of Action for the Integration of Women in Development* (PAIWD). Zoulikha Nasri, who was a state secretary in the government preceding Youssoufi's Alternance government, initiated this Plan of Action; however, only with Youssoufi's prime ministership was the government prepared to go beyond mere initiatives. Said Saadi, a member of the *Parti du Progres et du Socialisme* (PPS - Party of Progress and Socialism) and the *Minister in Charge of Social Protection, Family and Children*, pronounced reforming of the Moudawana to be a legitimate demand of women's movement.¹⁸⁶ According to him, Islamic principles should be subjected to the exercise of *ijtihad* and the demands of modernity.¹⁸⁷

Said Saadi and his department were responsible for writing the Plan of Action together with an ad hoc technical committee comprised of members of the government, representatives of political parties, unions and NGOs.¹⁸⁸ Moroccan PAIWD, based primarily on the Beijing Platform for Action and on other UN declarations, was presented to the government on March 19, 1999. The Moroccan Plan of Action laid down four areas of priority: (1) expanding education; (2) improving women's health; (3) the integration of women in economic development; and (4) strengthening women's status in the legal, political and public institutional spheres.¹⁸⁹ This fourth point was directly linked to reforming different legal codes of the country which pertained to the status of women in the society – that of the penal

¹⁸⁶ Ghazalla 2001: 20.

¹⁸⁷ Buskens 2003: 84.

¹⁸⁸ As reported in Amy Freeman. "Re-locating Moroccan Women's Identities in a Transnational World: the 'woman's question' in question." In *Gender, Place and Culture: A Journal of Feminist Geography* 11, No 1 (March 2004). p 27.

¹⁸⁹ Buskens 2003: 85; and Maddy-Weitzman 2005: 402.

code (to end violence against women), laws concerning nationality (to grant Moroccan nationality to children born of Moroccan mothers and foreign fathers) and, particularly, the Personal Status Code.¹⁹⁰ The planners of the PAIWD hence considered the 1993 reform of the Moudawana to be insufficient.

The most important proposed changes to the Moudawana as stipulated in the PAIWD, are those linked to marriage and the dissolution of it, such as (1) minimum age of marriage for girls would be raised from fifteen to eighteen; (2) unilateral repudiation should be abolished and replaced by judicial divorce; (3) in case of divorce, the mother would obtain custody over both boys and girls until the age of fifteen and she would also be their legal guardian; (4) regarding the division of property after the divorce, the wife should be granted half of the property because of her contribution to the household; and (5) special family courts should be established and judges trained in family legal matters should be appointed.¹⁹¹

These proposed changes of the Moudawana differed quite substantially from the 1993 reform of the document and thus from the prescriptions of the Maliki legal school. Therefore, opposition of the religious establishment and of other religious groups to the PAIWD was expected.

Religious Opposition to PAIWD

The Ministry of Religious Endowments and Islamic Affairs and its minister Abdelkader M'Daghri Alaoui, another close ally of Hassan II, adopted the Plan of Action in principle. In spring 1999, soon after the draft was submitted to the government, M'Daghri Alaoui, however, informed the government about the report of

¹⁹⁰ Buskens 2003: 85.

¹⁹¹ For a more detailed summary of what the suggested changes to the Moudawana in the PAIWD were, *see* Buskens 2003: 85-89. Furthermore, for a comparison with the 1993 reform, *see* previous chapter.

the *ulama* regarding the PAIWD. Unsurprisingly, the *ulama* rejected the PAIWD's fourth point – that which concerned the reform of the penal code and the Moudawana - but made no reference to the other three items of the Plan of Action.¹⁹²

M'Daghri Alaoui sided with the *Moroccan League of Ulama* and supported their report. Their opposition was directed toward, what they perceived as, the secular nature of the Plan of Action because it undermined the Islamic character of Moroccan society and the importance of the Shari'a law for it. Hence, their disagreement with the revived aspirations for the reform of the Moudawana was based on the same premises as in 1993.

The Ministry, religious establishment (the *ulama*) and other traditionalists furthermore opposed the conception of universality of human rights, which was promoted by the pro-West secular reformists and international financial aid organizations working in Morocco.¹⁹³ For them, this seeming 'universal' character of human rights is promoted by a neo-colonial Western propaganda, wishing to subordinate Muslim and other developing countries to Western ideals. In other words, the international organizations and international order, as it is particularly formulated in numerous UN agreements and declarations, are based on a Western-Christian and concomitantly secular experience. Thus cultural and religious specificities of non-Western societies had not been taken into consideration during the time when these organizations came into existence. Furthermore, universality of human rights was created at a time when colonialism had not yet ended. Thus, for the traditionalists, the aim of the PAIWD and the secular Moudawana was to create a uniform world based on exclusively Western values and perceptions of the world. This in itself was

¹⁹² Freeman 2004, 27.

¹⁹³ The World Bank together with the Moroccan government sponsored the Plan of Action.

unacceptable for the traditionalists on the grounds that it denied the right to exist to particular sacrosanct religious tenets and their immutability.

Moreover, the traditionalists in general and the *ulama* in particular look at the Qur'an and the Sunna, as the essential documents of the Islamic law, which in their opinion, if read and interpreted properly, grant women extensive rights and hence improve their condition. The report of the League of the Ulama regarding the Plan of Action clearly stated that it is ignorance and lack of morality and not the Shari'a law *per se* that brought about such ill treatment of women in the society.¹⁹⁴ The *ulama* furthermore also regretted the fact that they have not been consulted on the drafting of the Plan of Action. They considered themselves as having authoritative say in the matters pertaining to family legislation and hence to applying *ijtihad* when necessary. Namely, Mohammed V entrusted the *ulama* with guarding the Moudawana in order to secure an important ally in his pursuit to consolidate power *vis-à-vis* the nationalist Istiqlal party. With this he effectively removed the *ulama* from the political arena until the issue of the reform of the Moudawana re-emerged in the 1990s.

Therefore, the main problem of the *ulama* was the fact that they were losing their exclusive authority over the matters pertaining to exegesis of the holy texts and religious laws. Individuals, women activists and civic associations not versed in the Islamic jurisprudence demanded their right to exercise *ijtihad*.¹⁹⁵ Latifa Jbabdi, for instance, told in an interview in 2006 that her association came up with a feminist interpretation of the Qur'an, on which the UAF based their campaign to reform the

¹⁹⁴ Buskens 2003: 90.

¹⁹⁵ The question regarding the right to exercise *ijtihad* is a contentious and unresolved issue, which exists in all Muslim communities, not only in Morocco. Women activists and liberals argue that it is the right of every Muslim to apply *ijtihad* because in Islam there is no clergy and thus no group possesses the exclusive right to interpret the holy texts. The *ulama* on the other hand reserve this right for the learned in fiqh – the Islamic jurisprudence - and in the Shari'a.

Moudawana.¹⁹⁶ Moreover, the *ulama* criticized the government and the reformists because in their view the text of the Moudawana could only be reformed if initiated by the monarch, in his capacity as *Amir al-Mu'minin* (Commander of the Faithful), and on the basis of the sacred texts and the *ijtihad* of the *ulama*.¹⁹⁷

Indeed, the insistence of the Ministry, and other traditionalist associations and individuals, regarding the incompatibility of the Plan of Action with the fundamental nature of Morocco was strong. However, some authors and Western commentators wrongly interpret the content and the scope of the opposition to the Plan of Action and later to the reform of the Moudawana. Bruce Maddy-Weitzman, for instance, asserts that “one thing different from 1992 was that the Islamist opposition movements now openly led a campaign against changing the law.”¹⁹⁸ Scholars like Maddy-Weitzman tend to confuse the criticism against the utilization of foreign sources (such as the UN human rights documents) in the proposed reform of the Moudawana with the opposition to changing the law *per se*. Arguably, the so-called opposition to the PAIWD and later to the renewed campaign to reform the Personal Status Code, objected to its secular, Western and universal orientation and not to the modernizing and reforming of the family law as such. In other words, the traditionalists in general welcomed the initiatives to reform the Moudawana but were concerned with the fact that Islamic values were being eroded through the process of the reform. Indeed, the Plan of Action formulators and supporters sought to reconcile Islam with modernity, but as Maddy-Weitzman rightly argued they “were more interested in seeking religious legitimization for their essentially modern, secular project than in genuinely engaging Islamic sources in a real dialogue.”¹⁹⁹ If the 1993

¹⁹⁶ Interview with Latifa Jbabdi by Alfred Hackensberger.

¹⁹⁷ Buskens 2003: 91-92.

¹⁹⁸ Maddy-Weitzman 2005: 403.

¹⁹⁹ *Ibid.* 408-409.

experience taught PAIWD initiators and activists anything, it was that both the general Moroccan public and the monarchy would not accept advocacy of purely secular policies. Zakia Salime thus quite rightly contends that the decade of debates regarding women's rights and the reform of the Personal Status Code witnessed two trends – that of the feminization of Islamists and conversely, the Islamization of feminists.²⁰⁰ The de-radicalization of the traditionalists' and reformists' agendas and bringing in elements of both universalism and religious principles proved to be a necessary requirement in order to mobilize Moroccans' support for their cause and to gain credibility.

Interestingly however, on account of the gradual appropriation of religious speech and topics by the general public, the *ulama* consequently lost some of their authority in these matters.

Nonetheless, utilization of religion by the reformists proved not to be enough to mobilize support outside urbanized areas because they sought the abolition of some of the fundamental Islamic legal concepts (for instance polygamy or the institution of a marriage guardian - *wali*). Furthermore, both the reformists and the traditionalists saw the other as the archenemy and hence any reconciliation seemed to be impossible. One 'liberal' journalist attacked the opposition to the Plan of Action calling on all democrats to unite against the "obscurantist horde of Moroccan Taliban."²⁰¹

Political Parties and Their Response

All this time, the government, apart from M'Daghri Alaoui's Ministry, and particularly political parties, such as the Istiqlal, the USFP, and the royalists, stayed

²⁰⁰ Her argument can be found in a brief overview of the dissertation on the website of Women and Gender in Global Perspectives Program of University of Illinois: www.ips.uiuc.edu/wggp/newsletter/webNewsltrDec05a.pdf, March 2007.

²⁰¹ Buskens 2003: 101. The journalist was Bachir Znagui, writing for the socialist newspaper *Liberation*. This newspaper is linked to the USFP and thus to the, then, Prime Minister Youssoufi.

largely away from the heated debates. Indeed, the PPS and the USFP were the main initiators and drafters of the Plan of Action. Interestingly however, once they submitted the document to the government they retreated from any public discussion or further commenting of the PAIWD's points. Istiqlal's attitude, as the other governmental party, was more ambiguous and apart from a few of its members did not wish to lend its outright support to the Plan of Action. Their roots are deeply entrenched in Allal Al-Fassi's Salafism. Both the memory of Al-Fassi and the Salafi ideology prevented them to denounce the old Moudawana because he was one of the 'fathers' of this document. However, the party's politics of non-interference perhaps showed more the nature of Istiqlal in particular and the Moroccan multi-party system in general than a true reflection of their ideology. Namely, the Salafi movement, as it originates from Jamal Al-Din Al-Afghani and Muhammad Abduh, calls for a spiritual return to the early Islamic *umma*; yet at the same time the exegesis done by the two thinkers underlined the need for a modern interpretation of the sacred texts and thus for *ijtihad*. It seems that the Istiqlal found itself in a predicament and hence instead of opting for or against the Plan of Action, it stayed away. The other parties faced similar difficulties as well. They were split regarding the nature of the issue because the PAIWD's fourth point and the reform of the Moudawana was not just another political matter but it directly affected their members' personal identities. Therefore, any public expression of the parties' attitude could cause potential rupture within their membership. Furthermore, the public debates and the way they addressed particularly the fourth point indirectly challenged the King's religious and political authority - something that Hassan II already in 1992 asserted he would not tolerate. The line between the King's recognition and disapproval of political parties was thin and these

parties did not want to risk possible repercussions in case they encroached on his territory.

Nonetheless, individual members of parliament and also some parties did partake in the debates and allied themselves with either the reformists or the traditionalists who organized themselves into various networks in order to become stronger compared to their adversaries.

Forming the Alliances

A Network to Support the Plan and the *Front to Defend Women's Rights*, comprised of women associations, activists and liberal politicians, were created in mid-July 1999. Their aim was to educate the public about the content of the Plan of Action because even in mosques during Friday *khutbah* (sermon) the imams preached against it.²⁰² It is important to keep in mind that the majority of mosques in Morocco are under direct control of the Ministry of Religious Endowments. Arguably, the imams' preaching against the fourth point of the PAIWD during sermons could have been a command from the Ministry.

A rival forum called the *National Committee for the Protection of the Moroccan Family* was established in November 1999 by certain prominent politicians including the leaders of two parliamentary parties – the parliamentary Islamist party, the PJD, and the *Mouvement National Populaire* (MNP - Popular National Movement), which was created at the beginning of the 1990s as a splinter group from the loyalist Berber MP party.²⁰³ The goal of the National Committee was:

“to unequivocally clarify the position of Islam on the family and on women. Its position is that it is necessary to permit *ijtihad* to eliminate all forms of injustice against family members within the limits of respecting the

²⁰² Freeman 2004: 28.

²⁰³ Ghazalla 2001: 26.

laws of the Shari'a [...] Any treatment of the problems of the family cannot be effective without a constructive dialogue in which the ulama, jurists, sociologists and psychologists participate."²⁰⁴

Dr. Abdelkrim Al-Khatib, the secretary general of the PJD, managed to garner the support of some well-known members of the independence movement, thus, as Buskens argues, "stressing the patriotic and anti-imperialist character of the committee."²⁰⁵ Two members of the Istiqlal and the USFP also joined its ranks despite their parties' official non-involvement into the debates.

The National Committee appealed to the Moroccan people to protest against the proposal and to ask for an alternative plan that will serve the real needs of Moroccan society and address Islamic tenets in a proper manner.²⁰⁶ According to the members of this Committee and allied parties, they supported the reform of the Moudawana but, as discussed above, they disagreed with its secular nature. Furthermore, they argued that the Plan of Action did not offer any solutions to real problems family members were facing, but instead addressed "false problems that rarely occur in real life, such as polygamy and early marriage."²⁰⁷

Al-Adl wa'l-Ihsan shared the National Committee's view regarding the nature of the proposed changes. Polygamy, in their opinion as well, was not a real problem in Morocco because most men could hardly afford one wife.²⁰⁸ They perceived the aim of the planners of PAIWD as a tactic to distract Moroccans from real problems the society was facing such as the liberation of political prisoners or the question regarding the right to freedom of speech.²⁰⁹ This committee hence offered a great

²⁰⁴ *Ibid.*

²⁰⁵ Buskens 2003: 95.

²⁰⁶ *Ibid.*

²⁰⁷ Buskens 2003: 97.

²⁰⁸ Buskens 2003: 99.

²⁰⁹ *Ibid.* This latter issue particularly represented a significant obstacle for Al-Adl wa'l-Ihsan's activities because of the regime's extremely negative attitude toward the group and the fact that their

opportunity for Al-Adl wa'l-Ihsan to come out of their forced political isolation. Buskens, for instance, speculates that Nadia Yassine “seems to have realized that the topic is useful for attracting attention and mobilizing support.”²¹⁰

The movement joined the ranks of other traditionalists and thus created a sort of political alliance even with the parliamentary PJD. Their biggest demonstration of a mutual agenda was the Casablanca March organized on March 12, 2000 as some sort of counter-demonstration to the one held in Rabat.

Marches for Women’s Rights

The Rabat March for Women was originally conceived as part of the worldwide campaign to celebrate International Women’s Day in order to turn the attention of the world public to the questions of equality, violence against women, economic injustice and to voice a rejection of neoliberal economic globalization.²¹¹ Some scholars and women activists themselves were arguing that the March in Rabat at first was a separate issue of that of the PAIWD, however the similarity between the campaign for the Plan of Action and the agenda of the Rabat March for Women on the one hand, and the fact that the same women’s associations and activists participated and organized both activities on the other hand, is obvious.

Somehow unexpectedly the Moroccan authorities granted permission to the PJD and its allies to organize another march in Casablanca. This was quite a surprise for the reformists because the right to hold demonstrations in Morocco is severely restricted. There may be a number of explanations for this. The government itself was split over the issue and therefore they had to allow both of the demonstrations to take

leader, Sheikh Abdesalam Yassine, spent most of the last thirty years either in a mental institution or in prison.

²¹⁰ Buskens 2003: 100.

²¹¹ Freeman 2004: 27.

place in order not to alienate any of the governing parties and hence obstruct the work of the government. Furthermore, granting the permission to hold demonstrations in Rabat and Casablanca might have been a part of the proclaimed liberalizing tendencies of the new King. Moreover, the authorities perhaps thought that allowing both marches would make the issue more balanced.

Nonetheless, when it became clear that the ‘Islamists’ would be marching on the same day, Amy Freeman wrote, “it was impossible to prevent the march from becoming essentially a referendum for the Plan [of] Action: supporters of the Plan would march in Rabat with the women’s rights activists, and opponents in Casablanca with the Islamists.”²¹²

On March 12, 2000 both marches, one in Rabat and the other in Casablanca, took place. The estimated numbers of demonstrators vary sufficiently – from 40.000 to 100.000 in Rabat and 60.000 up to an improbable number of one million in Casablanca. Buskens rightly contends that these figures “[were] obviously part of the political struggle.”²¹³ Nonetheless, the Casablanca march attracted a much larger crowd of people than the march in Rabat. More important than the exact number of participants in both marches however, is the fact that the issue regarding the reform of the Moudawana, which was essentially what these marches were about, moved Moroccan society as a whole and not only its politically active elites.

The Casablanca march was remarkably well organized as protestors were transported from all over Morocco to this city.²¹⁴ During the demonstration marchers

²¹² Freeman 2004: 28.

²¹³ Buskens 2003: 104.

²¹⁴ The choice of this city by the traditionalists might not have been coincidental. Namely, perhaps of all Moroccan cities, Casablanca remains connected in people’s minds with the French presence because of its colonial architectural appearance but also because Casablanca today is developing itself into the economic hub of Morocco. Therefore, in the past Casablanca and not Rabat was the venue for numerous demonstrations against the economic policies of the regime and the fact that this city was the target of terrorist attacks in 2003 and 2007 tell of the general Western orientation of the city itself. This

followed strict rules of decent Islamic behaviour - Nadia Yassine led women in separate lines from men, who, in contrast, were marching with Mustafa Ramid, the PJD leader, and Fathallah Arslane, secretary general of Al-Adl wa'l-Ihsan. Demonstrators carried slogans, saying "Yes to the integration of women in development. No to westernization and submission."²¹⁵

Bassima Hakkaoui, president of the women's association of the PJD and the participant in the Casablanca march, told in an interview that the march was a protest against the threat to the identity of people.²¹⁶ Furthermore, she explained that her party's preferred system of government is 'the commandership of the believers' thus implicitly acknowledging the role of the monarchy in Morocco.²¹⁷ In this the PJD differs significantly from their provisional political ally Al-Adl wa'l-Ihsan. This movement openly questions the importance of the monarchy for the Moroccan democracy and more or less advocates its abolition because the existence of the monarchy, in their opinion, inhibits the progress of the country. In June 2005, Nadia Yassine said in an interview for a Moroccan newspaper: "If I had to choose between autocracy and republicanism, I would opt for the latter."²¹⁸ She has been put to trial for transgressing the official Morocco's rule of the untouchability of the monarchy despite her repeated statements that she was merely expressing her personal academic opinion and not igniting a revolution.²¹⁹

was exactly what the marchers in 2000 were struggling against and thus Casablanca presented a good symbol for their 'anti-imperialist' stance.

²¹⁵ Buskens 2003: 104.

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

²¹⁸ The interview can be found on Nadia Yassine's webpage:

<http://nadiayassine.net/en/page/10513.htm>, April 2007.

²¹⁹ *Ibid.*

The King's Involvement and the Resolution of the Issue

The two marches in Casablanca and Rabat most clearly demonstrated the preponderance of the traditionalists over the reformists. The numerically superior Casablanca march signalled to their opponents and the government that Moroccans at large did not agree with the secular nature of the Moudawana, as advocated by the reformists. Therefore, the marches in 2000 and the heightened presence of the Islamists in the public arena since their Casablanca triumph forced the reformists to appeal to Mohammed VI for his intervention as Commander of the Faithful to resolve the issue. This was quite an extraordinary shift for the group so overtly committed to secular ideals and the fact that they initially attempted to circumvent King's involvement in the issue.

The King's first intervention followed the two marches in 2000. He issued a royal decree (*zahir*) promulgating the CEDAW, including all of the original reservations. This international agreement had never been published in the official law gazette and thus, despite being ratified in 1993, never *de jure* entered into force. Therefore, this *zahir* and the unresolved issue of the PAIWD were, to a certain degree, indicators of the direction and scope of the final reform of the Moudawana in 2004.

A further sign for the trajectory of the debate after the King got involved was the replacing of Said Saadi as a Minister and the dismantling of his *Ministry in Charge of Social Protection, Family and Children*. Nouzha Chekrouni, a member of the USFP became the Minister of the new *Ministry in Charge of the Condition of Women, Protection of the Family, Childhood and the Disabled*. The primary aim of the newly established Ministry, along the tasks contained in its name, was to introduce and advance more gender-equality programs within the ministries.

However, despite the pronounced women-oriented, or at least more women-friendly agenda, of Mohammed VI, the new Ministry and its programs to this day remain heavily underfunded – due mostly to the fact that women’s issues, regardless of the publicity they obtained during this decade of reforming the Moudawana, do not figure important on the official government programs.

The change in the focal point of the Ministry was quite apparent and some commentators argued that Saadi’s replacement with a more moderate USFP politician was due to his communist past and strong favouring of the secular agenda of the reformists. Chekrouni in contrast advocated the reform of the Moudawana on the basis of and within the scope of the Shari’a law. Furthermore, contrary to even her party’s and Youssoufi’s initial declaration that the reform lay solely within the purview of the government, she asserted that that would be unconstitutional. In his capacity as Commander of the Faithful and as “the Protector of the rights and liberties of the citizens, social groups and organisations”²²⁰ the king, and not the government, had the authority to change the Moudawana. Thus, as a consequence of unrelenting appeals of women activists and on the basis of Article 19 of the Moroccan constitution, Prime Minister Youssoufi at the beginning of 2001 transferred the authority regarding the reform of the Personal Status Code to the King.²²¹

On March 5, 2001, Mohammed VI, like his father, received a number of women activists and representatives of women organizations. The main difference between his audience and the one in 1992 was in the way the two kings addressed their women visitors. Whereas Hassan II took the opportunity to emphasize his supreme power in resolving political and social issues in Morocco, his son, Mohammed VI, listened to his female visitors and made only a brief speech,

²²⁰ Article 19 of the Moroccan constitution, http://www.mincom.gov.ma/english/generalities/state_st/constitution.htm, April 2007.

²²¹ Buskens 2003: 111.

reassuring them that he was committed to bringing about a reform. Furthermore, the new King promised them to establish a commission to resolve the issue.²²²

The reception of women activists in 2001, in a similar manner like the one a decade earlier, and the King's involvement ended the politicization of the contested issue. All factions involved, including the PJD yet excluding Al-Adl wa'l-Ihsan, welcomed the King's intervention and his promises to oversee the reform process. This issue gave the new King his first opportunity to reaffirm the political and religious role of the king in the Moroccan society.

On April 27, 2001 the King announced in a speech the establishment of a Consultative Commission (*Lajna al-Istishariyya*) "endowing it to look at the mechanisms and guidelines, which would ensure a sound application of the Personal Status Code, and thus to devote itself to the project of revising the Code."²²³ The commission consisted of three women and thirteen men,²²⁴ representing both traditionalist elements as well as liberal ones. Driss Dahak, first president of the Supreme Court as well as the president of the official body for human rights, was appointed chair of the Commission.

In his speech the King highlighted the importance of the "insightful scheme and pioneer work" of Mohammed V and Hassan II, thanks to whom "a number of gains for the Moroccan women have been realized. Among them was the reform introduced to improve the Personal Status Code"²²⁵ in 1993. The King acknowledged the political shortcomings of this reform and lack of its implementation. However, he

²²² *Ibid.* 112.

²²³ I received a copy of the King's speech in Arabic at the UNESCO Chair for Women and Her Rights at the Faculty of Law, Economics and Social Sciences in Rabat. The speech called "*Al-khitab al-maliki as-sami bimunasaba tanSib al-lajna al-istishariyya al-khaSSa bimuraja'a Moudawanat al-Ahwal al-ShakhSiyya.*" (The Speech of His Royal Highness Regarding the Appointment of the Consultative Commission Pertaining to the Revision of the Personal Status Code) delivered on April 27, 2001.

²²⁴ The three women were Zhor El-Horr, a judge in the Supreme Court, Rahma Bourqia, a sociologist, and Nezha Guessous, a professor of medicine. The majority of the male members were ulama, belonging both to the conservative and liberal trends.

²²⁵ King's speech on April 27, 2001.

also indirectly criticized Moroccan society for the failure of the Code, due to its “lack of endowment with the virtues of true Islamic behaviour in familial relations.”²²⁶ Nonetheless, his solution to the sound application of the stipulations of the Moudawana and hence to the advancement of women’s rights is to “creatively blend adherence to our religious principles, which make up the essence of our identity, with the complete harmony of the spirit of the era, characterized by the universality of human rights, within the framework of *ijtihad*.”²²⁷ Therefore, his stance regarding the issue was that of moderation²²⁸ and continuity with both the Islamic principles and the Maliki legal tradition, and with the trajectory his father initiated in the early 1990s. In doing this he effectively appeased the involved parties in the long run.

The Commission’s work consisted of meeting with representatives of different political parties, women’s associations and legal and other experts, such as Fatima El-Kabbaj, a member of the Supreme Council of Ulama. El-Kabbaj was mainly advising the Commission regarding the issue of guardianship. She reported that “the opinions the Commission received were clashing. There were those in favour of the kind of Moudawana, which would take into account the Islamic nature of the society, and there were those who were against this. There were some associations who demanded complete equality with men. The king then took the best suggestions from all these opinions.”²²⁹

Despite having held numerous hearings and receiving a wide-range of opinions, some women’s associations and activists complained about the slow pace of the Commission’s work and the lack of information and communication. They openly

²²⁶ *Ibid.*

²²⁷ *Ibid.*

²²⁸ He stated in his speech on April 27, 2001: “I will work to liberate women from anything that hinders her effective participation in building a cohesive Moroccan society without extremism, bigotry or relinquishing our stable Islamic Moroccan identity.”

²²⁹ Interview with Fatima El-Kabbaj by author, December 28, 2006. Rabat, Morocco.

asked whether the Commission was created to change the law or merely to keep things quiet.²³⁰

During the Commission's existence the King intervened in its work twice— in November 2001 and March 2002. The purpose of his meetings with the Commission was to further clarify its objectives and to work hard in order to achieve them. In January 2003 Mohammed Boucetta, former Istiqlal Secretary-General, took over from Dahak as chair of the Commission. Throughout the decade long debates regarding the Moudawana, the Istiqlal had had an ambiguous attitude toward the reform. Despite giving support to the Rabat march at the very last minute, the party remained critical of the kind of reform advocated by the secular reformists. The appointment of Nezha Chekrouni and her more conciliatory approach to the reform of the Moudawana than Said Saadi's was deemed as too radical for the Istiqlal as well.

Arguably, the most decisive event in the reform process after the King's intervention in 2001 was the Casablanca terrorist attacks on May 16, 2003. The victims were mostly Moroccans despite the attacks being carried out at the locations frequented by foreigners. These bombings had a profound impact on most Moroccans who had traditionally considered their country to be immune to the kind of religious fundamentalism spreading in other parts of the Arab and Muslim world. Fatima Sadiqi thus rightly argues that

“something deep happened in the Moroccan soul during the attacks. A lot of people describe [the attacks] as *saf'a* or slap in the face, some kind of eye-opener [...] Even people who were for the Islamists realized that [Islamism] can be something really dangerous. The feminists took advantage [of the situation] and took to the streets, proclaiming that [religious fundamentalism] is exactly what they didn't want. The Islamists thus lost a lot. A new version of Islamism arose that accepted the human rights and the monarchy.”²³¹

²³⁰ Buskens 2003: 115.

²³¹ Interview with Fatima Sadiqi by author.

While Al-Adl wa'l-Ihsan still directly or indirectly advocated the abolition of the monarchy as the necessary requirement for a full-fledged democracy in Morocco they, as well as other traditionalists, conservatives and the PJD, after the bombings withdrew from openly attacking or opposing the reform and the King.

The Commission is said to have submitted to the King two proposals for the reform of the Moudawana - one more limited in scope, and the other more far-reaching.²³²

On October 10, 2003 Mohammed VI delivered a speech in which he announced his decision regarding the reform of the Moudawana. He placed the question of women's rights within the broader context of democratization, reiterating his rhetorical question of "how can a society achieve progress, while women, who represent half the nation, see their rights violated and suffer as a result of injustice, violence and marginalisation, notwithstanding the dignity and justice granted them by our glorious religion."²³³ The reform of the Moudawana marked a significant break with the old document despite the attempt of the Commission and the King to base it on the Shari'a law and Moroccan religious traditions. Nonetheless, it seems that the reform satisfied both the reformists and the traditionalists, even Al-Adl wa'l-Ihsan and Nadia Yassine. She welcomed the reform and in 2006 said in an interview that the new law is "good and important, without a doubt [...] But the law is far from being sufficient and it does not match up with Moroccan reality!"²³⁴ In her view, and in the view of many women activists, the whole society and its structures need to be effectively reformed in order for the stipulations of the new Family Law to have an impact on the society at large. She furthermore argued: "It is nice, when women are

²³² Maddy-Weitzman 2005: 404.

²³³ The speech can be found on:

<http://www.mincom.gov.ma/english/generalities/speech/2003/ParliamentFallSession101003.htm>,

November 2006.

²³⁴ Interview with Nadia Yassine for the German online magazine Telepolis by Alfred Hackensberger.

told: Now you are free. However, what about unemployment which prevents women from being independent? Economic changes are not the only thing we need. Reform has to happen in every sphere of the society. Only then can we really achieve something positive. Otherwise only a patchwork remains.”²³⁵

Fatima Sadiqi in a similar manner said that “the state of religion and tradition will have to change. However, if you do that you have to change political tradition as well [...] But the king is ready for the change.”

The reform, however, was not concluded with the King’s announcement of the changes. In contrast to Hassan II’s handling of the issue, Mohammed VI submitted his proposal to the parliament for discussion and final approval of the law. Parliamentary parties welcomed his gesture. The MP’s member Idris Al-Santisi called Mohammed VI’s decision “democratic” and Malika Al-Sami, from the Istiqlal Branch for Unity and Justice, said after the King’s speech that with forwarding the document to the parliament, he honoured the constitutional institutions.²³⁶

Indeed, in comparison with his father, Mohammed VI acted in a more democratic fashion and to a certain extent was denying himself the exclusive right to promulgate laws. Yet, the overall nature of his gesture appears to be more symbolic than rooted in a genuinely democratic procedure. The debate in the parliament was indeed vibrant, particularly because of the PJD’s disagreement regarding the draft.²³⁷ However, the PJD had to soften their opposition in order not to openly challenge King’s authority.

The parliament unanimously voted on the document and promulgated the new Family Law in January 2004 without any major changes to the draft submitted by

²³⁵ *Ibid.*

²³⁶ The opinions of some of the members of the parliament regarding Mohammed VI’s speech on October 10, 2003 were published in the Moroccan newspaper Al-Tajdid on October 13, 2003.

²³⁷ Moroccan Al-Bayane newspaper reported on April 13, 2004 that some participants in the parliamentary debates described the PJD as being “aggressive.”

Mohammed VI in October the previous year. Therefore, the role of the parliament in the final debate regarding the reform of the Moudawana was that of a rubber stamp rather than of an authoritative institution having power to reject King's motions.

The Content of the New Family Law

King Mohammed VI presented the new Family Code in 2003 as being in complete harmony with both the Islamic principles and the modern age, stating

“it is necessary to be mindful of the tolerant aims of Islam, which advocate human dignity, equality and harmonious relations, and also to rely *on the cohesiveness of the Malekite rite and on ijihad*,²³⁸ thanks to which Islam is a suitable religion for all times and places. The aim is to draw up a modern Family Law which is consistent with the spirit of our glorious religion.”²³⁹

Furthermore, Mohammed VI asserted that “in my capacity as Commander of the Faithful, I cannot make licit what God has forbidden, nor forbid what he has made lawful.”²⁴⁰ Therefore, polygamy and inheritance laws in the new Law followed the more literal line of the Qur'an, thus becoming potential stumbling blocks for the approval of an otherwise applauding, outside world. However, as the King asserted, polygamy was almost impossible from an Islamic legal point of view, as a man has to prove to a judge that he will be able to treat both wives equally. Moreover, in cases where polygamous marriage is allowed by the Family Law the first wife now has the right to divorce her husband.

The new Family Law makes significant amendments to almost all stipulations of the old Personal Status Code, however it excludes those matters pertaining to inheritance and polygamy, which, as mentioned above, are issues subject to the strict following of Qur'anic rules. Those most important changes, however, were: the

²³⁸ Emphasis added.

²³⁹ King Mohammed VI's speech on the occasion of the opening of the Parliament Fall Session, October 10, 2003.

²⁴⁰ *Ibid.*

minimal marital age for women was raised from fifteen to eighteen years and was hence made equal with the legal requirement for men. Women are entitled to decide on their own regarding the guardian and can not be married without their consent. Furthermore, unilateral repudiation is forbidden and both wife and husband have to appear in front of a judge in order to get divorced. In general, the new law demands court procedures to become simplified and quick.²⁴¹ Where cases of divorces are concerned, the new law stipulates that women receive custody over the children and the father is obliged to pay child support.

The main importance and challenge of the new Moudawana is that “a modern wording instead of that which undermines the dignity of women as human beings”²⁴² has been adopted. To sum up, the new law is, as the King declared, not to be considered “as a legislation devised for women only, but rather as a code for the family, father, mother and children. The proposed legislation is meant to free women from the injustices they endure, to protecting children’s rights and safeguarding men’s dignity.”²⁴³

Concluding Remarks

Despite being too soon to pass judgements regarding the effectiveness of the implementation of the new law, it can be argued that the more than a decade long debates contributed to the ongoing, albeit slow, transformation of Moroccan political reality.

In this process it is important to emphasize the uncontested role of the king as a supreme religious and political leader. In his capacity as Commander of the Faithful

²⁴¹ Moroccans that I have spoken with during my field research in Morocco (December 2006-January 2007) all agreed this being one of the positive sides of the new law.

²⁴² King Mohammed VI’s speech on October 10, 2003.

²⁴³ *Ibid.*

and because of the aura of *baraka* the king exerts unmitigated power and is perceived as being infallible. The monarch in Morocco is not merely the leader of the country but also its supreme arbiter, perceived by the majority of his people as the impartial figure, who is above the bickering of the political parties and other social groups. The nature of the struggles for the reform of the Moudawana demonstrated that this role of the Moroccan monarch is not at all symbolic or obsolete. Fatima Sadiqi argues that “people want the monarchy to stay because it solves a lot of problems. If it goes, chaos will replace it. [The monarchy] is like a glue that keeps the society together.”²⁴⁴ During the more than a decade long debates about the issue of women’s rights both the importance and the continuity of the king’s role as arbiter and supreme ruler have been reinforced.

The new King handled the issue in a very diplomatic manner. Instead of favouring one side over the other he appropriated the agendas of both parties and combined their main principles into one document. In doing this he acknowledged the important contribution of civic associations and activists to the final resolution of the issue of the reform of the Moudawana. In contrast to Hassan II, Mohammed VI treated his people as citizens and not merely as subjects. This fact should not be overlooked because in the eyes of the Western commentators and aid organizations, the emergence of citizens (and civil society) and their relation to the ruling elite represent the litmus test for a truly democratic society.

It seems therefore that the new King is responding to the needs and demands of his people in a much more effective and astute way than his father had done during his thirty-eight years of rule. Fatima Sadiqi explained Mohammed’s VI political vision, saying: “People want tradition but want to change it. The new King is diluting

²⁴⁴ Interview with Fatima Sadiqi by author.

tradition and everything else and prioritizing ‘bi-somethings’, such as bilingual, bicultural, Muslim yet modern, etc. He thus never loses sight of tradition - it’s always there. By this ideology of ‘bi-something’ he keeps rural notables and urban elites happy.”²⁴⁵

²⁴⁵ Interview with Fatima Sadiqi by author.

Chapter 4: CONCLUSION

This thesis attempted to show the reality of the changing political character of the Moroccan state through the dynamics of the revision of the Personal Status Code. The reform is a telling outcome of important social and political developments in Morocco and in the international community. Domestically, the new politicized women's activism, which is inextricably linked to the reform of the Moudawana, became both the harbinger and the indicator of profound systemic changes. Internationally, the beginnings of the UAF's One Million Signatures campaign in 1992 coincide with groundbreaking changes such as the collapse of the bipolar world. To a significant extent the campaign itself and the subsequent reform of the Moudawana were influenced by these international transformations.

What message does the reform of the Moudawana convey about the overall nature of the current political system under Mohammed VI? The protracted struggle for the reform of the Moudawana and the way the issue was finally resolved in 2004 demonstrates two important idiosyncrasies of the Moroccan society – first, a proclivity for consensus politics, epitomized in the person of the king; and second, “the ingrained aversion to rapid changes that is shared across the Moroccan political and social spectrum.”²⁴⁶

The case study of the reform of the Moudawana has demonstrated that the role of the monarch in Morocco as a ruler, arbiter and unifier remains uncontested to a large extent, despite changes Morocco has underwent in recent decades. Mohammed VI in his capacity as the religious and political leader, for instance, had to intervene and call for a consensus over the issue of the Moudawana because the public debates became too divisive for the society in the early 2000s. Indeed, my analysis of clashing

²⁴⁶ Willis 2004: 79.

perspectives of actors involved in this reform was one of the ways to draw attention to the increasing acknowledgement of the heterogeneity of Moroccan society and hence of possible conflicts within it. This societal heterogeneity and a diversity of opinions competing in the public arena are furthermore important interrelated aspects of democratic societies. In Morocco, it should not be forgotten, public manifestation of disparate opinions varying from overtly secular to radically religious has only been possible because of the liberalizing nature of the regime. However, the process of political liberalization has not run its full course. Freedom of speech, for instance, is restricted, although to a lesser degree than under Hassan II's rule. Nadia Yassine's legal prosecution for stating at Berkeley University in 2005 that she would choose a Republic over the Monarchy²⁴⁷ is only one of the latest more 'notorious' cases of restricting freedom of speech. Morocco thus in this respect still differs from and lags behind other comparable (non-Arab) societies, which underwent similar processes of political liberalization and democratization.

Furthermore, Morocco is different from other established democratic societies in the way tolerance, as one of the accompanying elements of societal diversity, in the Moroccan case does not mean tolerance among disparate groups. The reform of the Moudawana has shown that there was no reconciliation between opposing forces although they were working towards the same objective - that of the revision of the Code. On the contrary, the verbal clashes between opposing sides sometimes became extremely offensive. In Morocco, thus, tolerance instead symbolizes full acceptance of the king's role as the final arbiter. Arguably, during Hassan II's reign fear of his repressive regime induced people to accept his decisions. More specifically, Hassan II in September 1992 informed his *subjects* of what he could and would allow and on

²⁴⁷ See Nadia Yassine's webpage: <http://nadiayassine.net>; and the interview with her by Al-Ussbou'iyah Al-Jadida, July 2, 2005: <http://nadiayassine.net/en/page/10513.htm>.

the basis of this asked both the members of his Commission and women activists to reach a consensus over the issue of the Moudawana. Naturally, this was a ‘consensus’ regarding the will of the monarch and not consensus regarding the content of the reform. Even in the 1990s, the ossified text of the Moudawana still served its original purpose of taming potential conservative opposition and keeping it allied to the monarchy. Mohammed VI, on the other hand, listened to and accepted suggestions from his *subjects-cum-citizens*. His ad-hoc advisory commission conducted an extensive inquiry, involving associations, groups, NGOs and professionals (but not the general public) representing different ideologies in order to learn about the prevailing attitude of the Moroccans involved in the issue. On the basis of the commission’s recommendations the King decided upon the scope of the reform with the aim of creating a ‘societal’ consensus. For the reformists, the new law represents a good foundation for their future work; and for the traditionalists the document meets the requirements of *ijtihad* and preserves the main tenets of Islam. Therefore, for both groups and the King the new Family Law symbolizes a suitable departure point for a truly contemporary society, loyal to its fundamental traditions and culture. Mohammed VI thus resolved the issue of the Moudawana in a much more diplomatic manner than his father by giving all factions involved a chance to agree with his decision and not simply accept it.

A further important difference between Mohammed VI and Hassan II is that, in contrast to his father, Mohammed VI also submitted the draft of the reform to the parliament thus acknowledging its constitutional legislative powers although it was unlikely that the parliament would make significant changes to the King’s draft document. With this gesture he reaffirmed his long-term stated commitment to bring

about democracy, albeit in small increments, and secured his supreme position in respect to other political actors.

Therefore, the popular fondness for or at least acceptance of the monarchy possibly owes much to the fact that Moroccans in general recognize the overall liberalizing tendencies of the new King. There are nonetheless significant similarities between Hassan II and his son, Mohammed VI, and a certain continuity in how politics is conducted in Morocco today, under the new King. Firstly, as stated above, freedom of speech and assembly remain restricted. Secondly, Mohammed VI, for instance, retained his prerogative to appoint the prime minister and some of the cabinet ministers, who are all non-affiliated technocrats despite the expectations of the parties following the 2002 parliamentary elections. It seems therefore that in his perspective, much like in his father's, the Moroccan society is not yet mature enough for a full-fledged democracy. The forthcoming elections in September this year will be a good indicator whether the situation has changed and to what extent.

Abdeslam Maghraoui, thus, was right in arguing that the new King created a new wave of political liberalization, which gave hope to a lot of Moroccans and which helped the country to unload the burden of Hassan's arbitrary regime. However, according to Maghraoui, Mohammed VI's symbolic gestures did not affect any systemic change. "His initiatives seem impulsive and ad hoc rather than guided by a clear reformist strategy. He bypasses due process and formal decision-making institutions, diluting his professed aim to establish the rule of law...King Mohammed's personal initiatives reproduce, in a different form, the old image of the benevolent despot."

Furthermore, Jaidi and Cohen quite rightly argue that the process of political liberalization "has not engaged a 'public' – it has not attracted the participation of the

people.”²⁴⁸ The campaign for the reform of the Moudawana, however, managed to involve people across social strata and educational background as no other issue before, except perhaps the Gulf War in 1990. By contrast, the elections in 1997 and 2002 presented quite a different picture – that of an apolitical society. One of the main reasons behind this general political apathy lies in the way politics in general and elections in particular have been conducted so far and the effect they have had on the running of the country. For instance, the low voter turn-out (51.61%) in the most recent elections regardless of the King calling on “*citizens* to make of the elections a strong moment and show to what extent the Moroccan people are pervaded by the values of democracy and freedom and by the virtues of moderation, tolerance and respect of the law,”²⁴⁹ clearly demonstrated that substance will have to be added to slogans such as ‘free, fair and transparent’ elections in order to persuade *citizens* that their votes do make a difference and that democracy does not simply consist of populist mottos.

In addition, Nadia Yassine is right in asserting that there is no democratic political culture in Morocco – there is lack of awareness on the side of the Moroccan society of what its place and role are in affairs of the state.²⁵⁰ A true political culture in the authoritarian/makhzenian regime could not have been developed or even encouraged. Indeed, a parliament and multi-party system were establishment right after independence; however, the role of these institutions and of Moroccan voters was miniscule compared to the monarchy and the makhzen.

Important in this context of developing a democratic political culture is the transformation of the political arena on account of its penetration by civic associations

²⁴⁸ Jaidi and Cohen 2006: 68.

²⁴⁹ Emphasis added. Royal Speech on the occasion of the Revolution of the King and the People: http://mincom.gov.ma/english/generalities/speech/2002/revolution_king_people.htm, November 2006.

²⁵⁰ See the interview with Nadia Yassine on: <http://nadiayassine.net/en/page/10513.htm>, April 2007.

and their politicized agendas. Namely, these associations and their political activism during the period of reforming the Moudawana exposed the weaknesses of the Moroccan party system because the political parties practically retreated and left the arena to the campaigners. This was the case particularly with the ‘traditional’ parties,²⁵¹ such as the Istiqlal, the USFP and the ‘royalists’, whereas the PJD and the MNP actively joined the debates, most vociferously during the Casablanca March in 2000. Two conclusions can be drawn from this development – first, ‘traditional’ parties could be called parties of flexible ideology or no ideology because they accommodate their beliefs according to the current political climate. The case of the USFP for instance clearly shows that their ‘radical’ leftist ideology from the 1960s and 1970s, when a significant number of their members were persecuted on account of their defiance of the King, quickly lost not just its edge but also the content when they were offered the mandate to form the Alternance government in 1997. The USFP’s co-optation by the regime is seen in two ways –in the economic sphere the socialist agenda was given up for neoliberal objectives of the IMF’s aid program; and the composition of the government was a result of difficult negotiations because the candidates had to suit both the King and the USFP’s coalition partners. Hence, some justifiably argued that the USFP and its president Youssoufi became ‘royalists’ *par excellence*. And second, in contrast to the old parties, the new parties, such as the PJD, perceive the purpose of political contestation in a different, more active way. The reform of the Moudawana gave the PJD a great opportunity to mobilize support of those Moroccan voters, who resent the way ‘traditional’ parties have conducted politics since independence and those who would vote for Al-Adl wa’l-Ihsan, if it were a legal party. Naturally, the PJD is aware of restraints of the system and its role

²⁵¹ I call these parties traditional not because they would advocate such an agenda but because they represent the ‘Hassanian school’ of political rationale for creating a political party.

in it; however, the party seems to be aware of the fact that if it maintains its incorrupt reputation and its political and social agenda the time may eventually come when they could win the elections.

The majority of political parties, however, appear to be unable to compete with civic associations when crucial issues directly pertaining to people's lives and their identities are concerned. The makhzen as well feels threatened by the popularity of disparate civic associations and their new alliance with the regime. Therefore, it seems that the monarchy has been the most resourceful of the three political centers – monarchy, political parties and the makhzen - in accommodating to the new exigencies of political liberalization. Majority of political parties and the makhzen, in contrast to the monarchy, obstinately hold on to the old political patterns and have not yet redefined their role in the transitional society. Hence, new politicized centers, such as the Islamists and other civic associations, have begun to exert substantial influence over the wider population and could thus be taking the lead in the political arena.

The question remains, however, as to whether Morocco is democratizing. The problem of answering this question lies in the definition of the process of democratization itself. In the MENA context democratization and political liberalization, as understood by the leaders themselves, mean the same thing. Democratization thus, in their perspective, denotes a partial opening-up of the political space, giving people a chance to elect their representatives to institutions that remain heavily under the control of the regime, and improving the human rights record of the country - to give only the most striking examples. In the case of Morocco, one can see that the West as well tends to confuse the benevolent autocratic regimes that show willingness to reform certain facets of their societies (for instance allow and acknowledge women's agency in the society) with democratizing regimes.

The nature of political power thus remains unchanged, while at the same time fulfilling the conditionalities Western states attach to aid packages.

Hassan II himself perceived his political reforms as part of the ‘democratization’ of the system despite the fact that his power remained omnipotent. Today under Mohammed VI, we can see important changes compared to those implemented during his father’s reign, such as giving the parliament a greater say or organizing free and fair elections; yet it seems that these improvements and reforms are being done either superficially or prematurely. To put it in other words – how can progressive reforms be implemented in a system, which is still largely governed by tradition and conservative institutions (such as the *makhzen* or the alliance with the rural notables)? How sensible then is, for instance, the promulgation of a modern Family Law in a country where more than half of the female population is still illiterate and thus largely vulnerable to traditional practices? The persistence of the caste system in the case of India, though officially abolished in the 1950s, is a good example of the embedded nature of traditions and their influence upon people’s lives in spite of the existence of what their leaders claim to be ‘progressive’, ‘democratic’ and ‘modern’ laws.

Changes in the society, though, are happening. The class of rural notables, responsible to a large extent for the underdevelopment of the countryside, seems to be transforming itself and “has shrunk already” as Fatima Sadiqi argued.²⁵² A lot of these prominent rural families are slowly leaving the countryside and moving to urban areas, thus increasingly abandoning their conservative mentality. Furthermore, the example of Mohammed VI’s dismissing his father’s cronies, who were to a large

²⁵² Interview with Fatima Sadiqi by author.

extent connected with the makhzen, and replacing them with younger technocrats furthermore confirms the contention that certain important reforms are underway.

Hence, the line between political liberalization and democratization is not clear-cut; however in the Moroccan case, the King controls democratic practices to such an extent that it can be argued that democratization has not yet begun.

One has to keep in mind, however, that both political liberalization and democratization, when carried out in an effectively traditional society, demand time and effort. We are not discussing a reform of one law or even a body of laws but a transformation of the whole society with its traditions, culture, and attitudes. It would be wrong to assume that a system, which needed almost forty years to be built, can be crushed and transformed into a full-fledged democracy within months. Dismissing the all-powerful interior minister Driss Basri, for instance, meant only the first step in dismantling deeply ingrained and wide network of Basri's dependents and aids. Furthermore, in doing so, Mohammed VI risked alienating Hassan's supporters who helped him and the monarchy stay in power. The new King seems to be aware that any sudden deviation from what was deemed as 'normal' under Hassan II could bring conflict with forces stronger than the monarchy. Hassan II was mindful of this fact and he kept his potential opposition (such as rural notables or religious establishment) as his allies thus obstructing the desired trajectory of liberalization and democratization.

To sum up, eight years of Mohammed VI's reign give the impression that his tactic is to bring democracy to Morocco in smaller but effective steps. If this indeed proves to be the case, he would be a true successor of his grandfather Mohammed V, not only in his name but also in his declared democratic political vision.

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