

## Personal Status Code in Morocco

Fatima Mernissi, a contemporary Moroccan feminist spoke to various Moroccan women from various backgrounds on the issue of marriage and couples. She reports that these women insist on a conjugal couple based on economic and affective equality as the sole viable model and that they are completely dedicated to creating it. Mernissi concludes that "when polygamy-polygyny and repudations are instituted as laws in a given society, it is clear that society has opted against the existence of the marital couple as an entity in which economic and effective relations will be based on equality."

— **Financial Support:** The Personal Status Code stipulates that "every person provides for his needs through his own resources with the exception of the wife whose upkeep (*nafaqa*) is incumbent on her husband". This does not reflect the reality of Moroccan women. Thus, studies show that women are the main providers in 30% of Moroccan families. In her interviews with working Moroccan women, Mernissi concluded that husbands tend to be physically and economically absent in low-income families, leaving the women to care for the family.

Consequently, the reform plan legally grants women their right to participate in supporting the family. Amina Aby Ayyash claims that this reform does not constitute a giant leap towards the emancipation of working Moroccan women. It merely admits their true participation in the Financial support of the family.

— **Divorce:** The Personal Status Code does not permit women to file for divorce except under specific conditions: (1) a dangerous illness of the husband; (2) absence of husband for a long duration; (3) the absence of financial provision from the husband. Thus, the right to divorce lies in the hands of the husband in general. (a) **In a regular divorce**, he may return his wife to his

home after a period of three months and 10 days of the initial divorce. (b) **In a non-retroactive divorce** a husband has to officially remarry his ex-wife if he wants her to return. (c) **The final divorce** is one where a woman may buy her freedom from her husband with a sum of money. Again this divorce is not admissible without the approval of the husband.

The Personal Status Code also known as the Family Code is meant to be a guiding tool in family planning, regulating the relationship between the man and the woman inside the family and in society. However, Moroccan women seem to feel that the Code fails to promote liberation for the family and for women: It tends to reinforce the traditional role of men as financial providers and of women as dependent on men. Consequently, a reform plan of the Code was presented in Morocco in 1981 and in spite of its numerous flaws remains frozen to our present day. The reform plan is criticized for not improving the situation of women but for only alleviating the financial burdens of men.

We shall review some of the basic laws of the Personal Status Code and the suggested reforms, highlighting the relevant remarks of two Moroccan female scholars: Fatima Mernissi and Amina Abu Ayyash.

— **The Right of the Man and the Guardian in Marriage:** It is the man who declares his wish to marry the woman, and does so only after the approval of her guardian. Further, the guardian has the right to arrange for a woman to marry an "appropriate suitor" against her will if he fears "decadence". The reform plan amends this situation only by raising the minimum age for marriage, namely in consideration of the financial capabilities of the young groom. Abu Ayyash sees that the rights and freedom of women remain untouched by all these laws and reforms<sup>(1)</sup>

— **Polygamy:** The marriage model, operative by law and in the values is an unbalanced and totally asymmetrical relationship in both economic and affective terms<sup>(2)</sup>. Faithfulness is demanded only of the wife. The man can officially have four wives and repudiation allows him to replace them by others if he wishes. According to Amina Abu Ayyash, the reform plan does not propose to ban polygamy. The suggested reform is that the husband must inform his first wife that he is taking another wife through a court of law; and to prove that he is financially capable of supporting the expenses of the additional household. Again Abu Ayyash insists that there is no mention of the rights of women in polygamous marriage practices.

Abu Ayyash states that her criticism of the Personal Status Code and the reform plan is not an attack against men. She claims that there is a need for more democracy and equality between the interactive bodies of society including men, women and the family. Mernissi also criticizes the laws by saying that these laws were designed for the future Moroccan family without consulting the central element of the family: woman.

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(1) *Al-Mara' Al-Maghribiyah Wa Qanoon Al-Ahwal Al-Shakhsiyah* by Amina Abu Ayyash, taken from NOUN (No. 2, Aug. 1989) an Egyptian Quarterly by the Association of the Solidarity of Arab Women. (Arabic reference).

(2) Fatima Mernissi. *Doing Daily Battle: Interviews with Moroccan Women*. Translated by Mary Jo Lakiland. London: The Women's Press, 1988.