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Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Parliament of Morocco

Committee Opinion[1]
Committee on Equal Opportunities for Women and Men
Rapporteur: Ms Nursuna MEMECAN, Turkey, Alliance of Liberals and Democrats for Europe

A. Conclusions of the committee

1. The Committee on Equal Opportunities for Women and Men fully shares the conclusion of the Political Affairs Committee that the Parliament of Morocco should be granted partner for democracy status with the Parliamentary Assembly.

2. It also shares the view that closer co-operation between the Council of Europe and Morocco would add fresh political impetus to the process of democratic reform already in progress in the country, strengthening the means for the Moroccan parliament to play a major role in this process.

3. Any parliament applying for partner for democracy status should have an aspiration to achieve gender-parity-based democracy and undertake a commitment to this end. The Assembly should stand ready to provide its advice and support to the parliament of Morocco to ensure that gender-parity-based democracy becomes an objective within reach.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

In the draft resolution, replace paragraph 8.19 by the following sub-paragraph:

> *"fighting all forms of discrimination (in law and in practice) based on gender; ensuring effective equality between women and men, including as regards inter-religious marriages and inheritance law and, where necessary, initiating a process of legislative revision; fighting all forms of gender-based violence; actively promoting equal opportunities for women and men;"*

Amendment B (to the draft resolution)

In the draft resolution, replace paragraph 8.20 by the following sub-paragraph:

> *"ensuring that the Family Code is fully implemented while initiating a public and political debate with a view to reviewing the provisions which are at variance with international human rights standards, including on the issue of polygamy;"*

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1. Reference to committee: Reference 3672 of 30 April 2010. Reporting committee: Political Affairs Committee. See Doc. 12625. Opinion approved by the committee on 20 June 2011.

Amendment C (to the draft resolution)

In the draft resolution, after paragraph 9, insert the following paragraph:

> *"In the area of equality between women and men and the advancement of the status of women, the Assembly invites Morocco to strengthen its co-operation with the North-South Centre and to take appropriate steps with a view to acceding to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210)."*

C. Explanatory memorandum by Ms Memecan, rapporteur for opinion

1. Gender equality and women's rights in the context of partner for democracy status

1. Gender equality is a core element in the context of the procedure to obtain the status of partner for democracy.

2. The request for such a status should include an explicit reference to the aspiration of the applicant parliament to embrace the values of the Council of Europe, which are pluralist and gender-parity-based democracy, the rule of law and respect for human rights and fundamental freedoms. It should also include a commitment to encourage balanced participation of women and men in public and political life.[2]

3. Furthermore, the parliamentary delegation enjoying partner for democracy status should, in so far as the number of its members allows it, be composed in such a manner as to ensure a fair representation of the political parties or groups in that parliament and to include at least the same percentage of the under-represented sex as is present in the parliament, and in any case one representative of each sex.[3]

4. As rapporteur of the Committee on Equal Opportunities for Women and Men, in the present opinion I shall take stock of the situation of gender equality in Morocco, highlighting achievements and remaining challenges.

2. Women's representation in politics

2.1. At parliamentary level

5. The Constitution of Morocco, in force since 1996, states at Article 5 that "all Moroccan citizens shall be equal before the law". In addition to this general principle, the constitution also states, in Article 8, that "men and women shall enjoy equal political rights. Any citizen of age enjoying his or her civil and political rights shall be eligible to vote."

6. Despite women's having active and passive voting rights, their representation in parliament was negligible for decades.[4]

7. This situation changed radically thanks to the introduction, in 2002, of a quota system for the House of Representatives (the lower house of parliament). According to this system, out of the 325 seats of the House of Representatives, 30 are reserved for women, to be elected from a national list of female candidates.

8. The remaining 295 seats are elected in 95 multi-seat constituencies, in which lists may include women and men. Following the 2007 elections, in addition to the 30 reserved seats, women occupied 10 out of the 295 seats.

9. The situation is different for the House of Councillors, the upper house of parliament, where there is no quota set aside for women. There are currently six female members.

10. Its 270 members are elected indirectly. Three fifths of the house are made up of members elected from each region by an electoral college composed of local government representatives. The remaining two-fifths are made up of members elected in each region by electoral colleges composed of elected officials from the

2. Rule 60.2 of the Assembly's Rules of Procedure.
3. Rule 60.4 of the Assembly's Rules of Procedure.
4. Moroccan women have had the right to vote since 1963.

professional chambers (agriculture; commerce, industry and services; the craft industry; and marine fisheries) and of members elected at the national level by an electoral college composed of employees' representatives (trade unions).

11. While the Parliament of Morocco does not have a committee dealing specifically with equal opportunities between women and men and gender issues, women members of both houses created, in 2005, a group called "Forum des femmes parlementaires marocaines", the Forum of Moroccan women parliamentarians.

12. The group aims to strengthen co-operation amongst women members of parliament and to promote the role of women in the framework of Moroccan parliamentary democracy.

2.2. Within the government

13. Out of 34 ministers and secretaries of state of the current government, five are women. Amongst them are the Minister of Energy, Mines, Water and the Environment; the Minister of Health; and the Minister of Social Development, Family and Solidarity, who is in charge of women and gender issues.

2.3. At local level

14. As a result of the successful pressure exerted by women's rights advocates, a quota system of 12% of the seats reserved for women has been introduced for local elections. As a result, in June 2009, when the new law was first enforced, 3 324 women were elected to local councils. This represented a dramatic increase in women's representation at local level.

15. Women have occupied prominent positions in local politics only for a few years. Marrakech was the first large city to elect a woman as mayor in 2009, while the town of Essaouira had a woman mayor from 2003 to 2009. There are no women among the powerful regional *Wali* (prefects), and there are only two female governors.

3. Gender equality in family law

16. Women's rights in the private sphere are a prerequisite and an important indicator of gender equality.

17. In 1993, Morocco ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). However, it also submitted several reservations, on the grounds that the CEDAW provisions on equality between spouses at all phases of a marital union and the right of a mother to transmit her citizenship to her children were incompatible with the then existing Moroccan law.

18. Since then, the situation has evolved. Substantial progress was made in this respect with the adoption of the new Family Code, or *Moudawana*, in 2004, which marked a turning point for the situation of women.

3.1. Areas of progress

19. The new code incorporates the principle of equality in marriage and grants more rights to women. Moroccan women can marry freely, without the permission of their father. The family is considered the joint responsibility of both spouses and not solely of the husband, as in the past. The requirement of "obedience" no longer exists, and the law considers wife and husband as joint heads of the household. The fact that spouses are on an equal footing is also testified to by the revision of the marital age, which is now 18 years for both women and men, whereas it used to be 15 and 18, respectively.

20. The new code also reformed divorce. Men's unilateral right to divorce has been restricted, and two new forms of divorce have been introduced, based on either mutual consent or irreconcilable differences. Both can be initiated by either spouse.

21. Polygamy was not abolished by the 2004 *Moudawana*, but it became subject to a judge's approval and is now allowed only under strict legal conditions.

22. A married man must prove that he has an exceptional reason for seeking an additional wife, as well as his ability to support both wives equally. In addition, a clause can be included in the contract of marriage by which the husband is not allowed to remarry. These conditions make polygamy difficult and extremely rare in Moroccan society today.

23. In line with the gender equality principle enshrined in the current *Moudawana*, Morocco's nationality law was also reformed. Until 2007, nationality law was based on *ius sanguinis* (blood), limited to the father. The child of a Moroccan woman married to a foreigner would not be born a Moroccan citizen. With the new law, both women and men have the right to pass on Moroccan citizenship to their children.

24. As a result of these legislative reforms, in 2008 Morocco was able to withdraw its reservations concerning the Convention on the Elimination of All Forms of Discrimination against Women. By then, the legal framework enabled the country to implement the convention in all its aspects.

3.2. Remaining areas of concern

25. Despite these numerous positive developments, Morocco's family law still presents weaknesses and inconsistencies as regards gender equality.

26. Provisions on inheritance are clearly discriminatory since men inherit twice as much as women.

27. Muslim women are not allowed to marry non-Muslim men. This represents a form of discrimination against women, as no similar provision applies to men; moreover, it is a violation of the fundamental right to marry and also a restriction on freedom of religion.

28. The fact that polygamy, although rare in Moroccan society, has not been banned is also contrary to the principle of gender equality. Further amendments to the legal framework therefore seem advisable. If in 2004 the legislators chose to amend the family law without challenging some traditional and religious norms deeply rooted in tradition, the time might now be ripe for a more daring approach. In other Muslim countries, such as Tunisia and Turkey, polygamy has long been absent from the legal landscape and is not missed.

29. In addition to the weaknesses of the law, the gap between statute and actual implementation is wide. The Family Code is often criticised for leaving too much room for the interpretation and discretion of the judge. Moreover, the reform has not been accompanied by adequate training for staff within the judiciary. Finally, a number of marriages, particularly in rural areas, are celebrated in traditional form and are not officially registered, thus escaping the application of the law and depriving women of any protection provided by it.

4. The status of women in society

30. Moroccan women's growing representation in politics does not reflect an accurate image of the status of women in Moroccan society: while women politicians' participation tends to be the expression of a social élite, the advancement of the status of women in Moroccan society is a challenge still to be met.

31. This challenge has been taken up, in quantitative terms, by the United Nations Development Programme (UNDP), which has recently introduced, in addition to the other indexes used to calculate a country's human development, a new "Gender Inequality Index". This takes into account several indicators of reproductive health, political empowerment and labour force participation.

32. According to UNDP's 2010 Human Development Report, Morocco has a high Gender Inequality Index value (0.655), close to that of Egypt and other countries in the region but far from the level of countries such as the Netherlands (0.174) and most other European states, which range between 0.200 and 0.300.

33. As a result of such a relatively low placement in the Gender Equality Index, the country's Human Development Index value is as low as 0.567, which places Morocco below the general and the regional average, ranking 114th out of 169 countries.[5]

34. The gender gap is particularly wide when it comes to education. The population overall has a low literacy rate, 52.3% according to the 2004 census, but gender-specific data show a great imbalance (65.7% for men, 39.6% for women). It is hardly necessary to underline that the high incidence of illiteracy prevents a large number of Moroccan women from participating in cultural, economic, social and political life on an equal footing with men.

35. While the high illiteracy rate as a whole seems to be a product of insufficient infrastructure and other spending in recent decades, particularly in rural areas, the gender gap is a consequence of traditional and cultural practices making it more difficult for girls to gain access to education.

5. Source: UNDP, http://hdrstats.undp.org/images/explanations/MAR.pdf.

36. The Moroccan Government is increasingly aware of the importance of literacy and education, and public investment in schooling is growing. However, it is essential that education policies integrate a gender perspective in order for the current gender gap to be bridged.

37. The Charter for Education and Training, adopted in 2000, and the Najah Emergency Plan of 2006 have proved successful. They included the adoption of a gender-specific approach in the state budget and in textbook design, as well as infrastructure measures, such as the construction of schools, canteens and boarding schools.[6] These efforts should continue apace.

38. Since 2005, with the reform of the public budget procedures, the Moroccan Government has indeed considered gender-sensitive budgeting as the way forward. As a result, since then, the finance bill has been accompanied by an annual gender report, showing how the guidelines on gender-sensitive budgeting have been followed.

39. The gender report evaluates the gender-specific impact of public policies. It presents the current situation, the methodology applied and the achievements of the departments involved, by means of gender-sensitive performance indicators[7]. On 8 March 2007, the Prime Minister issued a circular letter calling on state departments to introduce gender mainstreaming in all development policies.

40. Even if the challenge of advancing the status of women has not yet been met, progress can be seen in all aspects of social and economic life. It is worth recalling that, on several occasions, as Morocco presented its official report on the implementation of CEDAW to the relevant committee of the United Nations, a network of women's non-governmental organisations (NGOs) presented parallel reports.

41. Those reports, which provide the NGO views on the status of women in the country, represent a considerable co-ordination effort and testify to an advanced level of development and dynamism of civil society, including women's organisations.

5. Violence against women

42. Gender-based violence is a scourge in Morocco as in other countries. Traditionally underestimated owing to cultural reasons and under-reporting, this issue has become more visible in the last few years thanks to the work of a number of non-governmental organisations and to increased attention by the government. Today it is recognised as one of the most widespread and severe violations of women's human rights in the country.

43. According to a study recently published by the Haut Commissariat au Plan, a governmental agency in charge of national statistics and planning, 62.8% of Moroccan adult women suffered some form of gender-based violence in 2010.[8] Anaruz, a network of non-governmental organisations assisting victims of gender-based violence, in 2007 issued research showing that 74% of women are victims of violence in the country. These data include domestic violence (not just physical but also psychological violence, such as economic violence or denial of family spending).[9]

44. Precise data are difficult to collect, as a large number of cases go unreported. Both the woman's weak position within the household and the lack of specific legislation discourage victims from applying to the law enforcement authorities.

45. The first national campaign against gender-based violence was launched by the Moroccan Government in 1998, and several have followed. In 2006, in the framework of the national strategy against gender-based violence, a National Observatory on Violence against Women was set up, in which several ministries (health, justice, education) and state departments co-operate with civil society. The Minister for Social Development, Family and Solidarity envisaged a draft bill to outlaw domestic and gender-based violence as specific criminal offences, but this has not been presented for the time being.

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6. Source: Ministry of Education, Morocco. http://mdgnet.undg.org/ext/MDG-Good-Practices/mdg3/MDG3A_Morocco_Gender_Equality_in_Education.pdf.
7. Ministry of Economy and Finance of Morocco, www.finances.gov.ma/portal/page?_pageid=93,1&_dad=portal&_schema=PORTAL.
8. Haut Commissariat au Plan, Enquête Nationale sur la Prévalence de la Violence à l'Egard des Femmes, Rabat, January 2011.
9. www.anaruz.org/portail/spip.php?article150.

46. The lack of specific provisions criminalising gender-based violence in Moroccan legislation makes the fight against gender-based and domestic violence much more difficult both for public authorities and non-governmental organisations.

47. I strongly encourage the Moroccan authorities to pursue the avenue of statutory enforcement. The introduction of a specific legal framework, based on a comprehensive approach including the prevention of violence, the protection of victims and the prosecution of perpetrators, would represent a major step forward.

48. The Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210), recently opened for signature in Istanbul, reflects the most advanced standards on this issue. Therefore, I call on the Moroccan authorities to look carefully into the possibility of acceding to the convention.

49. The convention is open to accession by Council of Europe member states and also by non-member states that took part in the negotiations. Third parties, such as Morocco, can accede upon invitation from the Committee of Ministers of the Council of Europe. Morocco should take the initiative to solicit such an invitation.

6. Conclusions by the rapporteur

50. The Assembly was visionary when it decided to set up the status of partner for democracy. Europe is linked to its neighbours not only through physical proximity but also through history, culture, religion and migration. The vocation of the Council of Europe is to promote democracy, human rights and the rule of law. This cannot stop at Europe's physical borders.

51. The status of partner for democracy represents an important tool, ideally in the context of a more comprehensive and elaborate Council of Europe neighbourhood policy yet to be developed, to assist the parliament of a neighbouring country in making further progress towards the realisation of those universal values upheld by our Organisation.

52. The Parliament of Morocco should be granted the status of partner for democracy.

53. On the one hand, this status will strengthen the Council of Europe's outreach capacity in the southern Mediterranean. On the other hand, it will allow Morocco to rely on the Council of Europe's specific expertise in pursuing the reform path it has already undertaken, including in the field of gender equality and gender-parity-based democracy.

54. I hope I reflect the views of Mr Luca Volontè, rapporteur of the Political Affairs Committee, by saying that granting the status of partner for democracy is not the end but only the beginning of closer, mutual and fruitful co-operation between the Parliament of Morocco and the Parliamentary Assembly of the Council of Europe in making democracy, human rights and the rule of law objectives that are within reach.