

كسر القوالب Breaking the mold

#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: **Morocco**

Gender-Equality Inheritance in Morocco

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EQUALITY IN INHERITANCE: BACKGROUNDS OF THE ISSUE

Gender-equality inheritance nowadays has a crucial significance, especially after it was transformed into a public debate by the components of all religious, political and artistic¹ actions.

In Morocco, and according to the Population and Housing Census 2014, we found that out of 7,133,806, 1,186,901 families are headed by women; of these, 896,091 families live in urban areas and 290,810 families in rural areas. However, women who live in solitude constitute 20.9% of females heading families². On the other hand, a recent United Nations report recognized "notable gender discrimination" in terms of the inheritance system in Morocco, and 33% of women support changing the inheritance law for gender equality, compared to only 5% of Moroccan men supporting this change³.

Accordingly, and in light of women's role in bearing the responsibility of entire families and their suffering from the repercussions of the existing inheritance system, some civil actors initiated to demand gender-equality inheritance, especially since

there are interesting stories about this issue, such as the story of Amina, whose father passed away and left for her, her sister and her brother a huge wealth; after the partition, her brother inherited half of the wealth, and she and her sister inherited the second half. Within a short period, the male spent all his wealth, which made Amina bemoaning the loss of this wealth and demanding the change of the legal rule "the male has double the share of the female", according to the requirements of that era. In her opinion, religion is open and changeable⁴. On the other hand, the agnatic rule seems unfair, as female orphans who have no brothers shall share the inheritance with the closest male sibling to the deceased.

Based on the information mentioned above, and in the absence of a public policy addressing this issue, many organizations demanded, in their annual reports, to pass legislation abolishing gender discrimination in terms of inheritance, and they tried to set a frame for this issue by using universal, constitutional and religious justifications.

EQUALITY IN INHERITANCE IN THE ORGANIZATIONS' AGENDA

Many human rights organizations called in their annual reports on Moroccan governments to adopt the universal system of human rights, particularly the Convention on the Elimination of All Forms of Discrimination against Women, which Morocco had ratified, by the adjustment of the national legislation's contents with it, which will annul the inheritance system that is based on the Islamic law in its traditional form.

¹ - For instance, but not limited to, we mention the Moroccan series "Cloudy Eyes", directed by Saeed Khallaf who seeks to "break the cliché of the ideal brothers' relationship, through its characters facing a conflict over inheritance". For more information, click on the following link: <https://www.hespress.com/art-et-culture/428914.html>. In the same direction, there is the Moroccan play "Partition" that "discusses the types of social injustice against women regarding the inheritance, and it raises problematic fundamental questions as long as a great controversy and many jurisprudences have been raised about them". It was also played for the second time during Ramadan 2019 in several Moroccan cities. For more information, click on the following link: <https://www.hespress.com/art-et-culture/428459.html>

² - (Alilo. 2017. To the High Commissioner for Planning: Most of this family lives in cities... the women support almost two million families in Morocco.) <http://www.2m.ma>

³ - (Margheish. 2018. Inheritance in Morocco - Renewed demands for gender equality.) <https://www.dw.com>

⁴ - (DW. 2016. Morocco - Women activists fighting for gender-equality inheritance.) <https://www.dw.com>

The Moroccan Association for Human Rights is one of the leading national organizations in addressing this issue in detail, with the parallel report to the third and fourth Moroccan government report in 2007, on the extent of implementation of the “Convention on the Elimination of All Forms of Discrimination against Women”, in which it criticized the state’s adoption of two systems in theory: one system declares that it is based on the universal system of human rights, and a second system is in force and relies on the religious authority, and on of its manifestations is the implementation of the rule of “the male has double the share of the female” in the inheritance and the exclusion of non-Muslim women from the Muslim heritage unless she embraces Islam, etc.⁵.

In this context, the Federation of the Democratic League for Women’s Rights (2011) shed light on the necessity to abolish agnatic rule, i.e., inheritance without consideration⁶, through which the heir receives all the legacy in the absence of another heir, or what remains of legacy if there is an inheritor by imposition, i.e., the share estimated for the inheritor legally. However, and politically, the Socialist Union of Popular Forces was the only party that adopted the demand for gender-equality inheritance during the Federal Women’s Conference (2013), based on data considered accurate and related to the situation of Moroccan women, as almost 19.3% of Moroccan women support their families in cities, compared to 12.3% in villages, and 71% of them are divorced or widowed⁷.

As stated in the information mention above, and in the absence of a special public policy to address the problems arising from the current inheritance system and its repercussions affecting women’s rights, and as a result of the constitutional guarantees (2011) related to equality and non-discrimination, the National Council of Human Rights issued its famous recommendation (2015) that founded qualitative progress in demanding the abolishment of the current inheritance system, and that considered that the rules regulating inheritance contribute to making girls and women more vulnerable to poverty and vulnerability⁸ and that its legislative provisions focus on gender inequality, based on guardianship, in which women are not entitled, for they inherit by default, to obtain only an estimated share of the inheritance according to their relationship to the deceased and the titles of other heirs only, but men heirs by the agnatic rule are entitled to take all of the inheritance⁹.

Hence, the council called for reviewing the provisions related to the inheritance system to achieve equality and equity for the benefit of the widow/widower and the descendants of both sexes¹⁰.

ACTORS AND INHERITANCE: ENGAGING IN CONTEXT

The actors calling for a change of inheritance included organizations relying on the global system of human rights and supported by some leftist and semi-liberal political parties and the enlightenment elites, including those based on the Islamic authority. However, the affected groups of the current inheritance system have not yet organized clearly, to allow them to express their demands, except for some individual cases that appear from time to time on social media.



Actors adopted a variety of forms during their advocacy activities, such as:

- Issuing memoranda, for instance the memorandum of the Democratic Association of Moroccan Women, entitled “For a legacy system that guarantees equality and justice”, through which it called for a review and reform of the current inheritance system that has become outdated and does not respect the contents of international conventions ratified by Morocco, and is not updated to what was stated in the Constitution (2011), especially its Preamble and Article 19 thereof¹¹;
- Recommending some politicians’ statements: After the first writer of the Socialist Union of Popular Forces called for equality in inheritance (2013), some organizations took advantage and issued statements supporting this demand and in solidarity with Lashgar, who was subjected to a campaign of threats and atonement by the political Islam parties;
- Elites’ positions: organizations invested in elites’ jurisprudences and positions supporting the demand for gender-inheritance equality, particularly those that are based on the Islamic authority, such as; Muhammad Abdel-Wahhab Rafiqi, who believes that equality between human beings despite their different races is a clear legitimate objective and a human rights demand that must be accompanied by the provisions and laws¹², and Asma Lamrabet, who considered that the “literal” implementation of the verse related to inheritance between brothers in this context constitutes a significant injustice, as it contradicts the objectives of the Qur’an that call for justice¹³;
- Petitions: On March 2017, 21, more than a hundred intellectuals launched a petition on the Avaaz website, calling for an end to what they described as discrimination against women in inheritance laws by abolishing the rule of “agnatic rule”, which they considered “unjust” for women¹⁴.
- Campaigns: The Democratic Association of Moroccan Women launched an awareness-raising campaign, under the slogan: “Why not?”, to demand gender equality concerning various rights, including equality in inheritance¹⁵;

5 - (Moroccan Association for Human Rights 2007.)

6 - (Al-Zaeem. 2011. Is equality in inheritance possible?) <https://www.hespress.com>

7 - (Maarouf. 2013. Vice President of the Scientific Union describes Muslim Scholars as a “wandering shouter”) <https://www.alquds.co.uk>

8 - (Publications of the National Council for Human Rights. 2015. p. 14.)

9 - (ibid., P. 14.)

10 - (ibid., P. 16.)

11 - (Lakom. 2017. Moroccan women’s association calls for a review and reform of the inheritance system.) <https://lakome2.com>

12 - (Rafiqi, et al. 2017, p. 50)

13 - (Lamrabet, et al., 2017, p. 47)

14 - (France 2018.24. More than a hundred Moroccan intellectuals sign a petition for equality in inheritance.) <https://www.france24.com>

15 - Legal Agenda (2017. Why not? An awareness-raising campaign to activate gender equality in Morocco.) <http://legal-agenda.com>

Based on the information as mentioned, it is evident that the organizations operating from within the existing legitimacy, during their advocacy of the demand for gender-inheritance equality, relied on internal acceptance of this demand, as most of these organizations adopt the universal human rights system for their basic laws; thus, they did not find any difficulty in developing their relevant decisions, on the one hand, and justifying it with religious justifications by elites relying on the Islamic authority, on the other hand, which contributed to its acceptance, relatively, by the general public consciousness.

Therefore, the actors centralized themselves in the issue, through their memoranda, petitions, and seminars, on the one hand, and following the development of conservative entities, supported by the government and hostile to this demand on the other hand. This issue helped the figures participating in this activity to unify their vision and be more professional and in harmony with their practice level.

ACTION AND INHERITANCE: CAUTIOUS APPROACHES!!

Civil actors applied a basic strategy in their advocacy for the abolition/amendment of the inheritance system. The strategy relied on the gender equality principles that the international human rights system is loaded with, "constitutional guarantees" and emerging jurisprudence, to affect the collective awareness stimulating it to interact positively with the relevant discussion's outcomes. To achieve this goal, the organizations did not hesitate to use a range of tactics, including the issuance of statements calling for launching a public debate on the topic, when the recommendation of the National Council for Human Rights or some political leaders' statements supporting or even opposing the demand were issued¹⁶, the launch of a petition and a campaign on social media, and utilization of King's signals¹⁷.

After the late Tunisian president, Beji Caid Essebsi called for the amendment of the personal and inheritance status, we noticed a transformation in the civil organizations' strategies, as it stopped calling for abolishing/amending the inheritance system, which was aimed at believing that its demand does not contradict the determinants of Islamic law, to adopt the explicit demand for amending the Family Code allowing gender-inheritance equality. This was expressed, for instance, but not limited to, by, the member of the Democratic Association of Moroccan Women, Khadija Roukani, the head of the Federal League for Women's Rights¹⁸, Fawzia Al-Asouli, the head of the Moroccan Organization of Human Rights, Boubacar Larco, the head of the Moroccan Association of Human Rights¹⁹, Ahmed El-Haje, and the Moroccan Alternatives Organization and the Moroccan Observatory for Public Freedoms, within the framework of a collective invitation to more than 27 Arab human rights organizations, in a joint statement published by the Cairo Institute for Human Rights Studies (2018)²⁰.

In terms of the tactics, we noticed that some young Moroccan women relied on "Equality in inheritance is a right, not a privilege" (equality in inheritance is a right, not an advantage), as a slogan on their Facebook profile pictures, following in the Tunisian women²¹, on the one hand, and the issuance of some actors for a

multidisciplinary study focusing on the inheritance in Morocco²², on the other hand, to refute the arguments of the hostile forces to the demand of gender-inheritance equality.

IMPACT AND COUNTER-EFFECT: DEBATE'S EFFECTS

Many factors affected the work of civil actors calling for the abolition/amendment of the inheritance system in Morocco, and they can be summarized as follows:

- Assisting factors: Recommendation of the National Council of Human Rights (2015). As a constitutional body, the King appoints its head, the signs of the king in his speeches or messages, the statements of some political parties supporting the demand for equality, such as the Socialist Union Party (2013) and the Authenticity and Modernity (2015)²³, "Close to the Palace", the Party of Progress and Socialism (2018)²⁴, a member of the government coalition, the jurisprudence of some advocates and researchers, which are based on Islamic law, such as Muhammad Abdul-Wahhab Rafiqi who was one of the main figures of Salafism Jihadism in Morocco and a member of the Arab Maghreb Scholars League, from which he was dismissed due to his opinions regarding inheritance, and Dr. Asma Lamrabet who headed the Center for Studies and Research on Women Issues in Islam, affiliated to the Muhammadan Moroccan Scholars League, from which she was forced to resign due to her position regarding the inheritance²⁵;
- Impeding factors: The demand for gender-inheritance equality faces many obstacles, mainly related to the traditional Islamic patriarchal culture, which contemporary fundamentalism has contributed to its revival after controlling it with ideological and political loads. That was clearly evident in demanding the abolition/amendment of the inheritance system, as the first writer of the Socialist Union, Lashgar, (2013), was subjected to a severe atonement attack by each of the first vice president of the Unification and Reform Movement, Muhammad Lahlali, the advocacy unit of the Justice and Development Party that leads the government, the head of the Scientific Council (a governmental, religious body), Lahssan Skanfal, in Temara²⁶, and Abdel-Hamid Abu Al-Naim, one of the Sheikhs of Salafism²⁷. After the recommendation issued by the National Council of Human Rights, the former prime minister, Abd al-Ilah bin Kiran, (2015) launched an attack on the council and its head, accusing him of causing sedition²⁸, as well as the head of the Unification and Reform Movement, Abd al-Rahim Sheikhi, one of the Salafist sheikhs, Muhammad al-Fazazi, and the member of the Supreme Scientific Council, Mustafa Benhamza, (a governmental, religious body).

On the partisan political level, the Justice and Development Party considered the National Council of Human Rights an irresponsible call. It included a shameful violation of the Constitution's provisions and a violation of the Institution of Amir al-Mu'minin²⁹, and the Independence Party adopted the same path³⁰.

16 - (Aswar. 2015. A human rights organization that appreciates the recommendations of the Yazami Council and calls for their implementation.) <http://www.archive.aljarida24.ma>

17 - (Al-Asri. 2018. Human rights: A royal reference to amend the Family Code and establish equality in inheritance.) <https://www.hespress.com>

18 - (Dasea. 2017. Moroccan women demand equality in inheritance - Female Moroccan legal experts brought the inheritance issue again after the disturbance of Tunisia.) <https://www.febrayer.com>

19 - (Al-Asri. 2018. Legal experts call for equality in inheritance. Al-Ramid: It is not a controversy issue.) <https://www.hespress.com>

20 - (Telquel Arabi, 2018. Two Moroccan and 25 Arab organizations call on the government and Islamists to establish equality in inheritance.) <http://ar.telquel.ma>

21 - (Margish, Op. Cit.)

22 - (Ben Chakroun et al. 2017)

23 - (Publications of the National Council of Human Rights. 2016. The National Council of Human Rights in the National Press.) <https://www.cndh>

24 - (Today, 2018.24. The debate on equality in inheritance reaches the government, and the Party of Progress and Socialism demands its issuance.) <http://www.alyaoum24.com>

25 - (Lmrabet, et al., Op. Cit., P. 39)

26 - (Maghres. 2013, the most important headlines in newspapers today, Monday) <https://www.maghress.com>

27 - (Today 2014. 24. The inheritance law in Morocco ... between calls for equality and respect for religious privacy.) <http://www.alyaoum24.com>

28 - (Mrghesh 0.2018, op. Cit.)

29 - (Benkirane. 2015. Communiqué of the General Secretariat of the Justice and Development Party.) <https://www.pjd.ma>

30 - (National Council for Human Rights in the national press. Op. Cit.)

After the Tunisian Council of Ministers ratified the Personal Status draft bill, the discussion was renewed on the same topic in Morocco. Some conservative actors launched an electronic petition (2019) on the Avaaz website, calling to preserve the Islamic heritage system. The petition came out as a reaction to a similar petition calling to eliminate inheritance based on an agnatic rule³¹.

According to the facts as mentioned above, and as a result of the transformation of the demand for gender-inheritance equality into a political conflict, in light of a complicated social structure, we did not notice a qualitative transformation, as the decision-maker has not included this topic in the public policy agenda yet; however, this topic has become more accepted by the general popular consciousness, and the civil performance is getting daily more professional and daring.

CIVIL PERFORMANCE TOLL

By studying this case, it can be said that the most significant outcome achieved by the civil performance is introducing equality in inheritance into the public domain and contributing to having a public opinion with an ability to interact with its contents. As for the lessons learned, they can be presented as follows:

- The ability of civil organizations to influence gradually the general popular consciousness that is mostly influenced by traditional values through adopting politicians' statements, the recommendations of the National Council of Human Rights and the jurisprudence of the elites relying on the Islamic reference
- The Justice and Development Party (2011) in power, and its opposition to gender-inheritance equality, along with the rest of the political Islam parties and some conservative forces, impeded the work of civil actors;
- The absence of civil organizations specialized in equality in inheritance affected its transformation into a national public opinion issue.



31 - (2018. A petition calling for preserving the "Law of God" in the inheritance in response to the demands to abolish blindfolding.) <https://lakome2.com>

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BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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