

As drops in the ocean: the new law against violence on women and the larger mobilisation for women's rights.

Francesco Colin

Morocco is a champion in celebrating its accomplishments and during last Saint Valentine's day the Parliament voted and passed the new law against violence on women¹. Besides the widely amused reaction of social medias for the symbolic timing, this legislation has been long awaited, extensively commented and now, finally, it has been approved by both chambers. It indeed represents a welcomed step forward, but many close observers of the situation of women in Morocco are arguing that the impact of this law on the real society is unsure.

Gender-based violence is a stern issue in Morocco. The last official data available dates back to a survey made between 2009 and 2010, by the national statistical agency (the *Haut Commissariat au Plan*) and refers that 62,8% of women between the age of 18 and 64 have suffered from an act of violence in the 12 months before the survey². This is roughly 6 million women.

Evidently, a law that would assure an adequate protection from the violence to which women and girls are exposed was a primordial demand of Moroccan civil society and, for most of them, a dream far-to-be-fetched. However, since June 2016 (when the first draft of the law project was presented) this law became the potential legal instrument to counter the situation and ameliorate the situation of all women and girls and many actors have given their feedback to the text.

It is important to specify that there is a great variety of actors that engage in the advocacy for women's rights and their strategies and ideological references also differ significantly. Some organisations thrive for a liberation of women through an interpretation of religious texts that is liberated from its mainstream misogynistic orientation; some others are profoundly laic and ground their actions on the importance of individual liberties and the need for equality and equity in a society; some others focus their action to the struggle to eliminate all form of discrimination based on gender, sexual orientation and/or expression. Without aiming at describing exhaustively the panorama of Moroccan civil society, we can shed the light on some of its pivotal elements.

The law includes a definition of gender-based violence. Specifically, it is defined as "all act based on a discrimination grounded on gender, that is likely to cause a physical, psychological, sexual or economic damage to a woman". Defining that women are exposed to this particular form of violence is a primal step in fighting it. Furthermore, it foresees an aggravation of the punishment in

¹ "Le projet de loi contre les violences faites aux femmes définitivement adopté", HuffPost Maghreb, 14/02/2018, https://www.huffpostmaghreb.com/2018/02/14/loi-hakkaoui-contre-les-violences-faites-aux-femmes-definitivement-adoptee-par-gouvernement_n_19233070.html.

² The principal results of the study are available in French at this link: <https://www.hcp.ma/file/111460/>

specific cases (f.e.: when a crime is committed inside the marital context and when harassment is made by a public agent) and it defines as offences some acts that were largely unsanctioned (like the expulsion of the spouse from the conjugal household, or the harassment on the public space and in social media). Both preventive measures and follow-up mechanisms are foreseen, showcasing a wider understanding of the phenomenon and trying to find concrete responses to its many manifestations.

However, the most positive aspects of this law are defenceless compared to its shortcomings. In the overall framework of the law, international standards concerning gender-based violence are not always taken into consideration. For example, the punishment for the crime of rape is motivated by the assault to the honour and prudishness of the victim, rather than by its physical and psychological integrity. The majority of the critics have focused on the failure to explicitly include and penalise marital rape. If the promoters of the law argue that such notion is *de facto* included in the one of rape³, civil society actors have raised their voices against this alarming omission. In the above-mentioned study, it is also stated that conjugal violence is the one that women suffer the most, reporting approximately 3,7 million women who have experienced violence in their household. In such context, the issue goes beyond foreseeing preventive measures and more severe penalties. The stake was giving formal recognition to the fact that gender-based violence is particularly present in the most intimate living environment of a woman and that it needs an *ad hoc* acknowledgement.

Flaws are also assessed in the measures for prevention and follow-up mechanisms. Moroccan organisations and international actors have already noted that those mechanisms for prevention already put in place are characterised by many shortcomings⁴. In the approved version of the law, no measure is foreseen to tackle such shortcomings and/or to reinforce the prevention mechanisms. Regarding the follow-up, duties of the public agents are not thoroughly described in the law and therefore it strongly depends on the will of the agent in charge. Restraining orders to protect the victims can be issued but only through a criminal conviction, which are extremely costly (economically and psychologically) and can be withdrawn by the victim. Especially in the case of conjugal violence, a woman might be subjected to extreme pressure from his family (and/or larger entourage) to reconcile with his aggressor – even after getting a criminal conviction for him. This would allow the violent husband to be liberated from all his charges, and the violated wife to be forced to return in their household. The absence of financial support – and/or housing – for victims of marital violence that do not have the means to break out of their household is another reason of distress for concerned organisation.

What seems to be lacking is a wider recognition of the oppressive environment in which Moroccan women are often locked in. A thick web of patriarchal relations fails to produce the conditions for a situation in which women and men have an equal weight in society. If these relations can be punctually disrupted and seldom we can observe light improvements, a change in the current paradigm is conceivable only if the overall framework is questioned.

³ Notably, this position is brought forward by the members of the Justice and Development Party and by those organisation that are grounded in the religious references.

⁴ For example, Human Rights Watch documented these weaknesses and reported them to the concerned Ministries. See the letter in French: <https://www.hrw.org/fr/news/2016/02/15/lettre-de-human-rights-watch-au-gouvernement-du-maroc-propos-des-reformes-des-lois>.

This discussion might not be there yet, but we can observe that Moroccan society is vibrant and the struggle for women's rights is far from decreasing. Non-governmental organisations are employing new and diverse advocacy strategies and debates on gender issues in Moroccan society are developing and including an ever-larger group of stakeholders. In this sense, very recently a Moroccan MP deposed a law proposal that aims at the depenalisation of abortion⁵ and called for a generalised support of the governmental majority.

Even if the last legislative development has not been unanimously celebrated, women's rights and gender issues are increasingly problematised in national discussions and we can visibly see these issues steadily gaining political momentum. Scepticism is nurtured by the delusions of the past, but sure is that those who are mobilising for all women will hardly halt their endeavours.

⁵ "*Le PPS dépose une proposition de loi pour dépenaliser l'avortement*", TelQuel.ma, 4/05/2018, http://telquel.ma/2018/05/04/droit-lavortement-pps-depose-proposition-loi-au-parlement_1591161.