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Morocco penal reforms spark debate on sex, religion

AFP (23.04.2015) - An overhaul of Morocco's penal code has triggered a lively debate on morality in the conservative North African nation, where homosexuality and sexual relations outside marriage are forbidden.

But calls to legalise extra-marital sex or abolish the death penalty appear to be a step too far for authorities in the country, where Islam is the state religion.

Morocco's penal code has remained largely unchanged since it was first adopted in 1962.

But now, 40 sections are to be repealed, 187 added and 576 amended, Justice Minister Mustapha Ramid, of the Islamist Justice and Development Party (PJD), said during a public consultation in Rabat.

In a country where tradition is paramount, the proposed changes to the basic law have prompted much hand-wringing.

As part of the consultation process, citizens are being urged to register their opinions on the ministry's website.

This is an expression of "significant evolution in terms of freedom and respect for human rights in Morocco", said Ramid.

He argued that the process meets the requirements of the country's new constitution adopted in 2011, in the wake of the Arab Spring.

Some changes have been broadly welcomed, such as alternative penalties aimed at reducing prison overcrowding as well as criminalising torture, genocide and human trafficking.

But the amendments have not inspired unanimity on issues related to morals.

Extra-marital sex will still be illegal, although the jail term for offenders will be reduced from a year to a maximum of three months. However, a fine of up to 21,000 dirhams (\$2,140, nearly 2,000 euros) will also apply.

And the penalty for failing to fast in public during the Muslim holy month of Ramadan remains six months in jail, although that can now be substituted by a maximum fine of 10,000 dirhams.

Ramid said he was open to dialogue, but there was "no question of challenging the Islamic identity of the state".

Under the changes, the offence of "contempt against religions" is introduced, punishable by between six months and two years in prison.

Adultery, proselytising and homosexuality remain banned.

There is also no change in the death penalty: despite not having been implemented since a moratorium imposed in 1993, it stays on the statute books while dozens of prisoners are on death row.

Such provisions have caused outcry among opponents to the text, especially on social networks where the hashtag #Code_Penal_No_Pasaran ("The Penal Code will not Pass") has been trending.

Some politicians have also added their voices to the dissenters.

Nouzha Skalli, a deputy for the Party of Progress and Socialism (PPS) and a former family and social development minister, said banning sex outside marriage is "unrealistic".

Enforcing it would mean "putting all young people in prison", she observed.

Lawyer Abderrahim Jamai said during one public consultation that the new basic law is actually a step backwards when it comes to personal freedoms.

"The penal code is the most important text after the constitution, and must reflect a vision for the next half century," he said.

Newspaper leader writers have also joined the debate.

A pro-reforms editorial by Saad Benmansour headlined "Never say never" in the daily Morocco Today calls for the widest possible consultation on the changes.

The justice ministry's position "probably reflects the opinion of a large number or a majority" of the country's 35 million people, he wrote.

"Fifty or 60 years ago, who would have thought that Morocco would undergo its revolution via a number of once taboo issues?" he asked.

As an example, Benmansour cited the reform in 2004 of the "moudawana" or family code, which gave more rights to women.

However, the daily At-Tajdid which is close to the justice minister's own PJD, denounced "extremists" seeking to liberalise moral legislation and "impose on Moroccans, under the cover of universalism, choices rejected in the past".

It warned of "discord" if laws contrary to "religious and core values" were passed.

Morocco divided over gender inheritance equality

By Abderrahim El Ouali

IPS (29.04.2014) / <http://www.ipsnews.net/2014/04/morocco-divided-equality/> - Morocco stands divided over a proposal for equal inheritance rights for men and women: modernists see this as application of equality arising from the new constitution, and Islamists see in this a violation of Sharia law.

There have been calls from extremists to kill those who seek equality rights.

The penal court of Casablanca sentenced Islamist Sheikh Abou Naim to a month of deferred imprisonment and a 500-dirham fine (50 euros) in February for issuing a fatwa to kill Driss Lachgar, general secretary of the Socialist Union of the Popular Forces (USFP), and other leftist activists.

Lachgar had chaired a meeting of party women on Dec. 20 where he called for a revision of inheritance laws so as to establish equality between men and women.

Sheikh Abou Naim accused Lachgar in a video posted on YouTube of "godlessness" and "apostasy", and made a public call to kill him. The Sheikh called women from the USFP "whores".

Activists say the sentence passed by the court was overly lenient. Salah El Wadie, leader of the movement Damir (Consciousness), said Abou Naim was sentenced for defamation and not for incitement to murder.

Modernist writer Ahmed Assid, described as a "pig" in Abou Naim's video, told media the trial had been "a farce".

The trial is over, but the debate on equal sharing of inheritance between women and men is only beginning.

Fatima Ait Ouassi, member of the 'February 20th' movement to campaign for equal rights, tells IPS that "equal sharing of inheritance between men and women is now a necessity."

The February 20th movement arose in 2011 within the Arab Spring. It campaigned successfully to bring in a new constitution approved by referendum in July of the same year. This new constitution stipulates equal sharing between men and women.

However, the Islamist cabinet that was formed after the general election in November 2011 included only two women. A reshuffle in October 2013 included six women among 39 ministers.

Morocco is still far from gender equality in the political world, but nothing stops the government implementing the constitution in inheritance rights, says Ait Ouassi.

"We do not live any more in the old Arabic society where Islam appeared and where women lived under the supervision of men," she tells IPS. "Now, women work and contribute fully to family assets just like men, and it is inconceivable to apply inequitable laws when it comes to sharing family inheritance."

Lachgar says 19.3 percent of Moroccan women in cities and 12.3 percent in villages have prime responsibility in taking care of their families.

Strict application of Muslim law grants to a woman only half of what a man inherits in case of the death of one of the parents. In a case of death of the husband, the wife has only one-eighth of the inheritance "while women work even more than the men," Samir El Harrouf, a member of the United Socialist Party (PSU), tells IPS.

The religious conservatives see this as a literal application of "divine law".

"Nobody can modify the sacred texts in relation to inheritance and polygamy," well-known advocate of Muslim jurisprudence Redouane Benchechrone told journalists.

But there are other interpretations of the religious text. "According to the studies that I have made in Muslim jurisprudence, this is simply a false interpretation of texts," El Harrouf tells IPS.

He says that what the Quran grants to women in inheritance is only the minimum that must be respected – nothing forbids that women be granted more. New studies in jurisprudence show that it is necessary "to distinguish in religious texts between what is constant and what is varying," El Harrouf says.

"What is constant is matters of faith and worship. On the other hand, other requirements vary according to the social and historical context, and depend on the specific conditions of every society and on a particular phase of its historical development."

Ait Ouassi agrees. "As we were able to amend the family code, we have to revise the laws on inheritance which are contradictory to international agreements on human rights. We must stop immediately all forms of discrimination against women."

Morocco ratified the agreement on elimination of discrimination against women on Jun. 21, 1993. A new family code providing for equality came into law in 2005.

According to the new family code, polygamy is forbidden except on authorisation by a court of competence.

Under this family code, polygamy requires the consent of the first wife and authorisation by a judge. But people manage to bypass the law by getting married without official papers. Once the new woman is pregnant, the court is forced to ratify the marriage because the civil rights of the child come into play.

Modernists are therefore asking for outright outlawing of polygamy.

The Islamists who now lead the government, and who were then in the opposition, had opposed the new law and called it "an incitement to prostitution."

In the current debate, Islamists too are divided. The Justice and Development Party (PJD) which leads the government, calls the push to equality foreign pressure to alter "the identity of the nation". On the other hand, Mostafa El Moutassim, leader of the Islamist party Civilisational Alternative, published an article on his Facebook page saying he is willing to open up the question of revision of laws governing the distribution of inheritance.

Dutch abortion ship 'blocked' from Morocco port of Smir

BBC News (04.10.2012) - A Dutch campaign group says its ship offering women medical abortions has been prevented by authorities from entering the Moroccan port of Smir.

The group, Women on Waves, provides abortions and advice from boats anchored in international waters near countries where abortion is illegal.

The group's leader, Rebecca Gomperts, told the BBC it planned to launch "a surprise" in response.

She said the entire harbour was blocked and no-one was being allowed to enter.

Women on Waves has said it was invited to Morocco by a youth group called Alternative Movement for Individual Freedoms.

But the country's health ministry said on Wednesday that the ship would not be allowed to operate in the country and called on the authorities to apply the law against the group and the ship, the AFP news agency reported.

Speaking from an inland location close to Smir, Ms Gomperts declined to give any details about what the surprise action would entail.

She travelled into Morocco separately by air on Wednesday, ahead of the boat.

The boat started its journey from the Netherlands on Monday and was scheduled to dock at Smir on Thursday.

Inducement drug

In an earlier press release the group said the ship was able to provide legal medical abortions for women who are up to six-and-a-half weeks pregnant, while it was anchored in international waters.

The group's main intention was to promote the fact that an abortion-inducement drug is actually available to women in Morocco, but most of them were unaware of it, the group said.

Women on Waves said it has also launched a hotline number for women to obtain information about contraception and abortion.

Ms Gomperts said it was not yet clear how many calls had been received as the group was in the process of finding out.

Over the past 11 years, a Women on Waves ship has visited Ireland, Poland, Portugal and Spain, sparking protests from anti-abortion groups.

Morocco was the first Muslim country the group planned to visit.

In cases of illegal abortions performed domestically, women expose themselves to grave health risks by resorting to dangerous methods, Women on Waves says.

The group says that, according to figures published by the Moroccan government, between 600 and 800 abortions take place every day in the North African kingdom.
