

Aicha Ech-Channa: “Judges are implementing the new law with old mindsets”

Morocco has taken great strides forwards in reforming the law governing relations within the family by introducing changes to the Personal Status Code. However, the outcome of this reform is tied to attitudes that we must work to change.

Aicha Ech-Channa was born in 1941. She has worked in Casablanca as a nurse and subsequently as a trainer in health and social education. In 1972 she organised the first television programme on the subject of health education. Her activism began in the framework of the National Union of Moroccan Women in Casablanca. She is a pioneer in civil society and social action on behalf of vulnerable, marginalised and impoverished groups within society. She has fought to break the taboo surrounding the subject of single mothers, establishing the Women’s Solidarity Association in 1985, which she heads. In 1996 she published a book entitled *Miseria* in which she gathered testimonies from women and girls, including young domestic servants subjected to rape, girls raped by members of their own families, women who fell pregnant during their engagement period, and women who were divorced without their knowledge, as well as testimonies taken from abandoned children. She has won several international awards.

What is your understanding of reform?

The first thing that comes to my mind is that in Morocco at least, the voice of women is now heard, not only in the quantitative sense, but also in terms of its content. The field in which I work basically concerns children who are born illegitimately. Born in such circumstances, these children are deprived of several rights, despite the reforms that have been made in Morocco. An exception is the Family Law of 2004, which stipulates that such children should be given a family name, which could be a false name, and provides for the possibility of the natural father acknowledging the child. However, the fact that legislators recently turned their attention to this group – at last – does not mean that children born out of wedlock and their mothers have obtained their rights. It seems to me that the issue is tied to attitudes that we must work to change. Morocco has taken great strides forwards in reforming the law governing relations within the family by introducing changes to the Personal Status Code. However, the outcome of this reform for the various individuals within the family and for society depends on the extent to which prevailing attitudes within society change, including those of claimants and judges who continue to implement the new law with old mindsets. Of course, people need time to fully digest the Family Law and to take advantage of its positive aspects, as well as to understand where its hidden weaknesses lie, i.e. its failure to respond to all the issues at stake.

I thought deeply about these questions recently after I was awarded the OPUS Prize. I came to the realisation that it took Western societies two and a half centuries to undergo a number of changes, including changes to their laws. Within a short space of time, however – no more than fifty years – shifts have taken place in Morocco quicker than people have been able to grasp them fully, including the educated classes. No one can change attitudes unilaterally, even a person in a position of authority, with power and influence over people.

From my interviews with single mothers, I have concluded that there are many reasons for which single mothers are victims of the prevailing mindsets in a society that doesn't allow motherhood outside the framework of the marital relationship, as stipulated by law, to be dealt with positively. Some reasons relate to the low social and material status of the girl or woman in question, which leaves her weak and unable to deal with the problems she faces. These may include rape. The tragedy in most of these cases is deepened by the rejection by their families and communities and their lack of financial independence. I have also found that some women become single mothers for other reasons. Sometimes it is a maternal desire that dictates or directs their actions without them even being aware of it, coupled with fear of being denied the chance of motherhood as they reach the menopause. A baby-selling ring that I recently heard about in the media left me wondering about the reasons behind the growth of such a ring. I think a taboo issue is behind it. There are single mothers who conceal the fact that they are mothers, and fear often compels them to give up their children.

If you were to identify what was in most urgent and immediate need of reform, in what area would you begin?

I would begin with abandoned children. Children who are considered illegitimate by law and who live with their mothers are lucky as they have the opportunity to know their fathers in the future. However, children who are abandoned and don't know their parents can't defend themselves. Twenty years down the line, society and the legislature will be held to account for failing to protect these children and for not addressing their situation. In order to get the attention and ear of officials, I recently began to raise the problem of single mothers and abandoned children from the standpoint of the higher expenses that are incurred by the way in which we deal with the issue. Based on my experience at the Women's Solidarity Association, I estimated the expenses incurred by a mother and her child at 4,000 Dirhams per month, the same sum that was calculated by the SOS children's village for the care of abandoned children. And I wouldn't be surprised if the cost of the abandoned children who live in special state-run centres was as high. The costs are high because they don't cover the children's basic expenses only, like food and clothes, but also equipment and the salaries of their supervisors and other workers. An abandoned child is supervised by three employees, which equates to three mothers, instead of the birth mother, and the costs are paid for by the citizenry.

According to a joint study conducted by the Moroccan Association for the Protection of Children in Danger and UNICEF, the number of children who were abandoned at birth in Morocco in 2008 was estimated at around 6,480 children, a figure that represents approximately 2% of the total births in that year. I should clarify here that to approach the issue of these children from a financial standpoint is not to say that they do not deserve the care and attention we provide them with. It serves to highlight the fact that the issue is being addressed ineffectively both financially and socially, due to prevailing attitudes within society. In the past I encountered rejection and opposition because of the nature of the problem I was tackling and trying to highlight. I still sometimes encounter people who oppose my work and even regard my concern for single mothers as encouragement for prostitution! What is dangerous is that such views are not confined to people whose positions may be attributed to their "Islamist" political orientation, but are also espoused by other actors. What I want to argue is that, based on my experience and what I know of the experiences of other countries, the societal and

the just solution to the problem of children born outside wedlock is that these children live with mothers and fathers, or with their mothers at least. Such a solution would also save the state a significant slice of its budget, which it could instead use to develop several fields, for example scientific research. It would also provide the children with a balanced family atmosphere. Thus tackling the problem from this perspective would create a positive outcome for the country in all respects.

Regarding the modification of the Code of Personal Status and Inheritance with the promulgation of the Family Law, you have stated that it was merely an amendment and that people's mindsets must also be changed. Do you have anything to add in terms of your opinion of this law?

It was only an amendment and not a change, because many of the problems remain unresolved. The provision granting men the right to polygamy, for instance, was left unchanged. Indeed certain terms were appended to the new text that don't provide effective solutions for all members of the family. If, for example, a man has the right to marry another woman because his wife is infertile, then what is a woman to do in case her husband is infertile? The new text merely recognised the right of an infertile wife to seek a divorce and gain her freedom, but I don't regard such a solution as a radical change. And the minimal legal age at which girls may marry, which was set at eighteen years old, has been contravened in a number of regions where girls still get engaged at seven years of age and are married at thirteen with a reading of the *Fatiha*. And in case the husband disappears for any reason, including death, then the wife assumes the status of a single mother by law. If these matters persist, many problems will ensue, including health problems among mothers. There is, for example, a high mortality rate among mothers during birth, both because of the high number of young mothers and because of multiple births. This is especially the case in some regions where there are no social security, awareness-raising campaigns for birth control, and necessary facilities such as health centres and schools that would help to bring birth rates down.

Due to the attitudes and traditions that still prevail, there are many problems. These include for instance the implementation of the Family Law and the extent to which it is relevant to society and responsive to the needs of the various groups within it. The legal text is not sufficiently clear and opens up the possibility of abuse. It doesn't respond to what is really happening within society and can't provide adequate solutions. In the case of a marriage contract that is concluded according to the terms of the law, the fact that a judge is granted the power of discretion to marry a girl below the minimum legal age doesn't solve the problem, because the issue is tied to the judge's mindset. Regarding divorce on the grounds of *Shiqaq* ("discord"), I ask myself whether the two parties – the wife and the husband – are aware of what the consequences of such a solution are for each of them. I raise this issue primarily with regard to the impact it has on the children and in terms of the way in which this provision and the way it is applied help to produce second-class citizens.

Generally speaking, I consider the main problems raised by the Family Law to be the fact that it still doesn't respond to the real problems of the people, and the persistence of attitudes within society that hamper progress with regard to the law's protection of all individuals in society.

I'd like to ask you about the problem of Soulaliyate women: They demanded to benefit from restitution of communal land on an equal basis with men. Regarding future transactions, the state responded positively to their request.

I will speak more broadly than about the problem facing Soulaliyate women and broach the issue of inheritance in general, because the issue is primarily a financial one. According to the interpretation of Islamic *Shari'a* law, a woman is entitled to half a man's share of an inheritance. In the current reality, however, a number of problems follow from this division. On the one hand, the number of women who head households has risen steadily, which is at odds with the man's responsibility for paying *Nafqa* (financial support) to his wife. On the other hand, the situation of some women deteriorates as a result of this unequal division of the inheritance, whether in case of the death of a husband or father, or otherwise. And it is generally girls who shoulder the burden of mothers adversely affected by the fixed apportionment of an inheritance. I therefore wonder if, given the changes that have occurred in society, we should continue to be bound by this interpretation of inheritance matters in the *Shari'a*, or whether we should live according to the Islam of today. In other words, do we have the freedom to reinterpret the *Qur'an* according to the needs of society?

There are several considerations that come into play when dealing with subjects of a highly sensitive nature. In addressing the problem of single mothers at the Women's Solidarity Association, for example, we do what we can to avoid recourse to the courts to safeguard the rights of the woman and her child. The fact that by law the judge has power of discretion creates the possibility of inconsistent rulings depending on the attitude of the judges and the directives given to them by the decision-makers, which are determined by circumstance. Sometimes a court will deliver a verdict against a woman on charge of corruption while in other circumstances it will not, for politics and law are interrelated.

And there are humanitarian considerations that govern how we in the association tackle the issue of a father acknowledging paternity of his child outside the courts. We prefer for a father to recognise his child willingly, motivated by a sense of paternal responsibility. This facilitates the development of a good familial bond between father and child, rather than forcing him to do so through the courts.

In the political field measures have been taken to increase the representation of women in the elected assemblies, via the national list for the parliament and the additional lists for the local councils. Do these measures meet your expectations as a woman?

What can a woman do for me if she accessed these elected bodies harbouring views like the view that my work on behalf of single mothers is tantamount to promoting prostitution? And what good can a woman do if she holds a seat in parliament but doesn't open her ears to society? Here, a number of positive initiatives have been instigated that involve exchanges of opinion and debate among groups of women parliamentarians and members of women's associations. The Women's Solidarity Association has joined the Women's Eyes Network, which is comprised of several organisations involved in the field of violence against women. It was not easy for us to gain acceptance by them initially, since at the time the concept of violence against women as adopted by these groups did not encompass the non-recognition of paternity

as a form of violence practised against single mothers. What was positive was that this network provided women parliamentarians with studies backed up by numbers, and thus helped them to make certain decisions. I wish that some sort of partnership could be established between the state and these associations whereby the latter would allocate funds for research. The King has now evinced an interest in social projects, inter alia in projects that focus on abandoned children and women in difficult circumstances. And here I appreciate the moral value of the inauguration of one of our association's projects by the King's wife on her first official engagement.

It is impossible to resolve the problems of a given society unless attention is paid to the actual situation of individuals and the real problems they face. Morocco has previously lost opportunities to benefit from two generations of its people, both during the Years of Lead and due to policies like the one on Arabisation. I should clarify here that I am not opposed to Arabisation as such, but rather the way in which the policy has been adopted in Morocco. It has caused the country's development to lag behind in several areas. Nonetheless, the diversity of Morocco sets it apart from other Arab countries and gives it added value by helping to stem religious, linguistic or cultural intolerance.

How do you view the development of the status of women in general?

Today, Morocco is experiencing a sense of openness and Moroccan society is now able to look at its own weaknesses and acknowledge them. Women are the critical link in society, because unless there is concern for the status of women, and if their status continues to be exploited for political ends cloaked in religious garb, then the effects will be felt by the whole of society, women and men alike. It is women who hold the key to the future course of society, whether the politicians like it or not: It is women who raise the individual members of society and shape their personalities. However, progress should be made in stages; every society that has embarked on gradual change has developed soundly.

What do you think of the role of women's associations in terms of their impact on society?

The fact that civil society is permitted to function in Morocco is positive, and something that can't be said of all countries. Civil society, despite the various difficulties it faces, has allowed certain groups within society to explore their experiences, raise questions and try to search for answers. I have worked in the Women's Solidarity Association because, in view of the narrow margin of freedom allowed during the reign of King Hassan II, it gave me a means of expression through the media. In the early 1990s I spoke about girls who were working as domestic servants, abandoned children and other subjects that were not easy to broach. Based on my civil society experience and the developments in Moroccan society that I have witnessed, I would argue that the existence of civil society – which also encompasses the political parties, although they have taken a different turn – is important to Moroccan society.

You referred earlier to some of the problems that you have encountered in your work at the association. Do you have anything else to add either in this regard or concerning problems in the home?

Of course I have problems, as everyone does. Although civil society work can be exhausting in many respects, and despite moments of weakness when I feel I don't want to continue in this line of work, I am certain that continuing to fulfil this duty towards these women and their children is ingrained in me. And who knows, perhaps as a result of what I am doing today I will help to make a success of the life of another human being who didn't receive his father's name or benefit from his moral and physical presence. Even when they deny paternity, particularly in cases where children have succeeded in their academic and professional lives, the fathers usually appear after several years to apologise to them.

What do you dream of as a woman, even if it is difficult or impossible to achieve at the present time?

I dream that there will be no more abandoned children and that children will no longer have to live in special centres. Society must strive to enable mothers to raise children born outside wedlock in dignity. Even if we think that the mother has made an error, it is in the nature of human beings to err and we cannot allow the children to suffer the consequences of a mistake that they didn't commit. This is what I dream of and I consider it to be a matter of urgency. I dream of respect for my freedom to make choices and for my conduct, actions and the clothes I wear not to be dictated to me by anyone, be it in the name of religion, tradition or anything else. I dream of a secular country.