



THE FAMILY CODE: WHAT CHANGE FOR THE LEGAL SITUATION OF THE MOROCCAN WOMAN RESIDING IN EUROPE?

The problems of the personal status of the Moroccan woman residing in the European Union are due to the conflict between two laws:

- A laic law from which paternal and marital authority has disappeared. This law retains the principles stipulated in the international human rights conventions, especially the principles of liberty and equality in the framework of family relations between the sexes and between children, and excludes all forms of discrimination.

- An Islamic law which, until recently, consecrate the conception of the patriarchal family and the traditional division of work between the sexes as well as giving a particular position to the husband in family relations. This law has not undergone fundamental reforms since its promulgation in 1957 until February 2004.

The innovations, introduced by the family code, certainly, have had significant repercussions on the Moroccan family living abroad, in particular the countries of the EU. However, it always consecrated provisions that negatively affect the situation of migrant women (Exp: polygamy, religious impediment to marriage, repudiation, custody of the child ...).

In order to improve the legal situation of Moroccan immigrant women, the doctrine of private international law has proposed solutions such as the application of the law of domicile or habitual residence, the law of the autonomy of the will, radical reform of the family code . However, the criticisms made of them suggest that the application of the material rules contained in bilateral conventions between the countries concerned, would be the appropriate solution to achieve this objective ?

These solutions will, nevertheless, depend on the serious will of the countries concerned to improve the legal status of women in migration and to address this issue in a spirit of openness on the other.