

Proactive versus Reactive Sexual and Reproductive Health Rights: A Comparative Case Study Analysis of Morocco and Tunisia

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Introduction

Morocco and Tunisia are two of the most progressive countries in the Middle East and North Africa (MENA) region. Their laws and public policies affecting women's sexual and reproductive health rights (SRHR) provide insight into the contentious nature of SRHR across the MENA region. Sharing a French colonial past and Maliki Islamic tradition, Morocco and Tunisia diverge on SRHR. Tunisia is an emerging democracy with a long history of *top-down* advances in women's rights and state promoted SRHR. Since independence, Tunisian women have benefitted from sexual and reproductive health (SRH) education, access to contraception, and state-funded first trimester abortion in public facilities. The state holds fathers accountable for out-of-wedlock children. Lastly, Tunisia's SRH policies have also targeted vulnerable populations, such as unmarried, minor, rural, and poor women. In contrast, the religious identity of the Moroccan monarchy prevented major legal reforms and policy shifts, until feminists demanded *bottom-up* change. Nevertheless, Morocco's SRHR provision is circumscribed and exclusionary, largely limited to married couples. The criminalization of extramarital sexual relations and most abortions limit the options of single – and married – Moroccan women when they are faced with an unwanted pregnancy.¹ As a result, many women resort to *unsafe abortion*.² Meanwhile, Moroccan men who father children outside of marriage enjoy social and legal impunity. The moderate Islamic Ennahda Party's short tenure in Tunisian leadership from 2011-2014³ and the electoral success of the Justice and Development Party (PJD) in Morocco in 2011 and 2016 parliamentary elections intensified the conflict between feminists and conservative Islamists. In Tunisia, some Ennahda members pushed to reinstate polygamy and complementary gender roles, according to former President of the Tunisian Association of Democratic Women (ATFD) Ahlem Belhadj. In Morocco the PJD raised lowering the minimum marriage age. The Islamic parties' public policies, however, showed a mixed response to women's issues, especially SRHR. Morocco and Tunisia registered new emergency contraceptives (ECPs), but they require a prescription. Morocco expanded abortion rights to cases of rape, incest, and fetal malformation under the PJD, but without instituting public policies to implement the reform. Under Ennahda, the state apparatus tasked with abortion provision experienced personnel changes and supply problems. These events warrant further analysis of the impact Islamic parties and conservative religious discourses have on SRHR.