



*Draft law # 103-13 (as updated) on the
elimination of violence against women*

Analysis and Advocacy Chart

September 7, 2016 version

The most recent version of the 17-article draft law approved by the Moroccan Government Council on March 17, 2016, voted with amendments by the House of Representatives on July 20, 2016, and currently under consideration by the House of Councillors represents a start in efforts to address violence against women, but much work remains to produce an effective legislative response. The draft law has numerous, substantial gaps, and many critical issues are not addressed at all. The draft law does not fulfill Morocco's international commitments on violence against women, reflect years of advocacy by local women's NGOs, or respond to the voiced needs of women victims of violence. It does not cover all forms of VAW or provide protection to all women victims of violence.

- 1. The draft law is primarily limited to a few minor reforms to the Penal Code and the Penal Procedure Code.** The proposed changes to current laws would (a) create a few new criminal offenses such as defamation and harassment based on sex, and (b) increase the penalties for existing criminal offenses in cases of a spousal or other family relationship. This approach only addresses the last part of the judicial process – the sentencing phase at the end of the trial. The majority of VAW cases never reach that point in the process.
- 2. The draft law does not address the critical, earlier steps in the process, such as the reporting, investigation, and prosecution phases of violence against women cases.** The major obstacles to addressing VAW in Morocco include deficiencies in these earlier phases:
 - The majority of violence against women cases goes unreported, due to women's distrust of the law enforcement and justice systems, inadequate resources and procedures for reporting violence, high evidence requirements, and negative attitudes on the part of local authorities.
 - Local authorities such as the police and the prosecutors lack the powers, duties and procedural guidelines that would help and compel them to investigate and prosecute cases properly and swiftly, and protect the victims.The draft law does not address these issues, lacking any provisions on police powers and duties, prosecutorial powers or duties, awareness raising and accountability of public actors charged with applying the law, or evidence collection and use.
- 3. The draft law does not address the deficiencies in the current rape and sexual assault laws.** The draft law does not address the need to: (a) reform the high requirement that women victims of rape demonstrate physical injury to prove non-consent (b) abolish the risk that rape victims who cannot prove non consent can be prosecuted for illicit sexual relations themselves, and (c) criminalize marital rape.
- 4. The draft law does not provide adequate protection of women victims of violence or prevent them from being at risk of future violence.** The protective measures in the draft law do not rise to the standard of an adequate Protection Order, which should be a separate, stand-alone Civil (not Penal) remedy that women should be able to obtain without launching a criminal complaint. Additionally, under the draft law even women who do launch criminal proceedings would not benefit from protective measures until the prosecution phase, leaving them unprotected from potential violence during the complaint and investigation phase.
- 5. The draft law does not establish any specific services or provide concrete support for women victims of violence.** Women victims of violence currently lack affordable and adequate medical treatment and health care services, access to safe housing and shelter, and other services that would guarantee their access to the justice system. The draft law does not address these needs.

As detailed in the below chart, the draft law should be expanded beyond mere criminal measures in order to provide a comprehensive state response to VAW that integrates prevention, protection, criminalization, and concrete compensation and services for all women victims of violence.

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DEFINITION OF VAW				
Acts Covered	N/A	Any act of discrimination based on gender resulting in physical, physiological, sexual or economic harm to women.	<p>Replaced with the following definition of VAW: Any act, material or moral, or refusal, based on sex discrimination, and that causes physical, material, moral, sexual or economic harm to the woman.</p> <p>Physical violence: Any act or refusal that harms or may harm the physical integrity of women.</p> <p>Sexual violence: Any word or act or abuse that may harm the physical integrity of women for sexual or commercial purposes.</p> <p>Moral violence: Any verbal aggression or coercion or threat or</p>	<p>The definition should:</p> <ul style="list-style-type: none"> • Be expanded to include not only physical, sexual, psychological, and economic violence, but coercive control, constraint and deprivation of liberty as well. This has been addressed in HoR amendments. • Cover acts that are intended to, are likely to, or may cause physical, sexual, psychological, and /or economic harm or suffering, including threats, and not just those that actually do result in such harm or suffering. This has been addressed in HoR amendments. • Clearly apply to acts currently defined as crimes as well as those currently defined as “low level” misdemeanors. • Define VAW as “any act or omission” This has been addressed in HoR amendments. • Define VAW as one form of discrimination (rather than all forms of discrimination as violence). This has been addressed in HoR amendments. • Explicitly define VAW as a form of torture as defined in the United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and as a violation of women’s Article 22 Constitutional rights.

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			abandonment or deprivation which aims to undermine the dignity of women or her serenity or coerce, intimidate, create a climate of fear. Economic abuse: Any act or refusal which harms or may harm the economic and social rights of women.	
Scope of persons covered	Specific Penal code articles refer primarily to aggressor spouses, ascendants, descendants, a custodian, a tutor, or if the victim of the crime is a minor.	Specific articles refer primarily to aggressor spouses, ascendants, descendants, a custodian, a tutor, former spouses, or if the victim of the crime is a minor.	Adds on additional references to violence committed by a former spouse or fiancé.	The law should clearly establish that its provisions are intended to apply to a wide range of intimate relationships not limited to just spouses in legal marriage or other relatives, but also including other current and former cohabiting and non-cohabiting intimate partners, persons with a child in common even if they have never lived together, people dating, fiancés and ex-fiancés, ex-husbands, and members of the same household. This has been addressed in HoR amendments.
PENAL CODE REFORMS				
Punishments	Penal Code Art. 404 provides for	Modifies the article to add cases of violence or abuse“	Adds on “against a women because of her	Increased prison sentences are a strategy that only comes into play at the end of the judicial process and hence

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	increased prison sentences when violence and abuse is committed on an ascendant, custodian, or spouse	against any pregnant woman if her pregnancy is evident or known to the perpetrator, "or "against a divorced party in the presence of one of the children or one of the parents"	sex" and "against a fiancé." Modifies to "against a divorced party or in the presence of one of the children or one of the parents"	rarely applied, as most VAW cases are never reported to the authorities, investigated by the police, prosecuted, or tried. Unless local authority powers and procedures are clearly spelled out and enhanced to strengthen reporting, investigation, prosecution, and trial of VAW crimes, the current and proposed provisions for increased sentencing will remain ineffective. The presence of children should be an aggravating circumstance for sentencing purposes, but not a requirement for increasing sentences for violence against a divorced woman. The second part has been addressed in HoR amendments.
	Penal Code Art. 431 provides for 3 months – 5 years imprisonment and/or a 200-1000 DH fine for failure to assist a person in danger	Modifies the article to: <ul style="list-style-type: none"> • Provide for 3 months – 2 years imprisonment and a fine of 2000-10000 DH • Provides for a doubled sentence if the person committing the crime is the spouse, ascendant, descendant, a custodian, a tutor, or if the victim of the crime is a minor. Such sentence shall also be doubled in case of 	Adds on "former spouse" and "fiancé" to categories of persons committing the crime.	(See prior comment about limits of effectiveness to doubling prison sentences in the absence of effective reporting, investigative, prosecution and trial measures.)

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		recidivism.		
	Penal Code article 446 punishes with 1-6 months imprisonment and a 1200 – 20000 fine violation of professional secrecy by medical professionals except in cases where they denounce abortions or abuse of minors, a spouse or a woman. If summoned by the justice system, such professionals are free to testify or not.	Modifies the article to say that if summoned, “They are bound to give their testimony and they may, if necessary, submit such testimony in writing.”		Treating physicians should never be required to give testimony regarding treatment of and communications with competent adults. Violation of physician-patient confidentiality may put victims at greater risk & result in victims avoiding seeking medical treatment.
	Penal Code article	Modifies the article to include		

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	481 provides that in addition to the courts that would normally have jurisdiction, the court in the place of residence of an abandoned person or a person seeking financial support cases can also have jurisdiction over 479 (abandonment) and 480 (financial support) cases. Any legal action shall be preceded by a warning to the person paying the alimony to pay such alimony within fifteen days.	the court in the place of residence “the person expelled from the matrimonial dwelling,” which shall also have jurisdiction “over the filed actions in accordance with the provisions of chapters 479, 480 and 480-1;” (note, new eviction from marital home provision). Any legal action shall be preceded by a warning to the person paying the alimony to pay such alimony thirty days.		
	Penal Code article	Increases the sentence to 1 –		The definition of sexual harassment needs to be

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	503-1 punishes sexual harassment by abuse of the authority conferred by functions with the purpose of obtaining sexual favors with 1 – 2 years imprisonment and a 5000-50000 DH fine.	3 years imprisonment.		<p>expanded to fulfill the <i>UN Women Core Elements of Sexual Harassment Laws</i> http://www.endvawnow.org/en/articles/494-core-elements-of-sexual-harassment-laws-.html?next=495</p> <p>(See prior comment about limits of effectiveness to doubling prison sentences in the absence of effective reporting, investigative, prosecution and trial measures.)</p>
	Penal Code article 61 provides for the following security measures : 1° Relegation; 2° Obligation to reside in a designated place; 3° Refusal or entry or stay; 4° Judicial	Adds on: 10 – Prohibiting the convict from contacting the victim; 11- Subjecting the convict to appropriate psychological treatment”.		<p>The law needs to clarify that these are in addition to and not in lieu of the other set penalties for offenses.</p> <p>The law needs to specify that the appropriate treatment can involve a range of options, including behavior counseling and batterers’ groups. Psychological treatment is only causes when the offender has psychological problems in addition to his abusive beliefs and behaviors.</p>

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	detention in a psychiatric facility; 5° Judicial detention in a therapeutic institution; 6° Judicial placement in an agricultural settlement; 7° Barring from any public office or employment ; 8° Ban from practicing any profession, activity or art, whether subject to an administrative authorization or not; 9° Deprivation of paternal authority.			

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	Penal Code article 407 provides for 1-5 years imprisonment for helping or assisted suicide.	Adds that "Punishment shall be doubled if the crime is committed against a minor, or by one spouse against the other, or by one of the descendants, or ascendants, or the custodian or by any person having authority or tutorship on the victim".	Adds on "or against a woman because of her sex." Adds on "or by the former spouse or fiancé."	(See prior comment about limits of effectiveness to doubling prison sentences in the absence of effective reporting, investigative, prosecution and trial measures). (See prior remark in Scope of Persons covered section that the provisions apply to a diversity of intimate relationships and not just spouses).
Protection Orders/No-Contact Orders	N/A	Adds new article 88-1: If a person is convicted for a crime of harassment, assault, sexual abuse, mistreatment or violence against women or minors, the court may adjudicate the following: 1 – Prohibit the convict from contacting the victim, approaching victim's whereabouts, communicating with the victim by any means whatsoever for a period no longer than five years as of the date of his release, or as of the date of the judicial decision in case of a	Modifies to be "If a person is convicted for a crime of harassment, assault, sexual abuse, mistreatment or violence against women or minors, regardless of the act or the person who committed it..."	<ul style="list-style-type: none"> • Protection Orders should be a part of the Civil procedure code and not the Penal code. • Civil Protection Orders should be issued upon the request of the victim • Protections orders should not be linked to, dependent on, or require a criminal complaint or prosecution • Protection orders should be available to women victims of violence as a separate, independence, stand alone remedy. • The law should specify that no independent evidence should necessary for issuing a protection order and that sworn statement, testimony or affidavit by the victim is sufficient. • The law should ensure that protection orders can be issued on a swift basis. • The law should provide for both (a) emergency ex parte protection orders issued immediately based on

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		<p>suspended sentence, fine or alternative punishment; 2 – The convict shall be subject to appropriate psychological treatment throughout the period provided for in the above item or throughout his imprisonment time. The judicial decision of culpability may include the implementation of such procedure (treatment) temporarily regardless of any form of appeal exercised; The court may give its order prohibiting the convict indefinitely from contacting the victim, approaching victim's whereabouts or communicating with the victim, providing that the court justifies such order."</p>		<p>the statement of the victim where there is an imminent threat of violence and (b) longer term orders following a full hearing.</p> <ul style="list-style-type: none"> • The law should provide for additional measures in protection orders including but not limited to financial support of and compensation for the victim, removing the perpetrator from the home in cases of domestic violence and guaranteeing the use of the home to the victim and her children, and preventing the perpetrator from contacting, approaching or communicating with third parties such as her dependents, relatives and other third persons as appropriate. • The law should clearly establish who has standing to apply for / power to initiate a protection order and on what grounds. • Protection orders should contain a presumption against award of child custody to the perpetrator. • The law should establish obligations for and provide clear guidance to judges (and prosecutors, below) for issuing protection orders, rather than leaving such orders as optional and dependent on discretionary powers as is written in the draft law.
	N/A	Adds new article 88-2: The treating doctor shall at least quarterly report to the	Adds on "The victim must be informed of the results of the medical	Surveillance of a convicted perpetrator by medical professionals should be part of and treated as part of a probationary criminal justice system whereby he is

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		sentencing judge about the medical development of the convict to make sure that convict's behaviour has improved and that the convict will not commit the same acts he was convicted for at the first place. If the treating doctor sees fit to end such procedure (treatment) before time, doctor shall inform the judge by a separate report explaining his reasons thereto."	reports and of the judge's decisions related to punishments."	monitored for certain behavioral requirements. Such surveillance should not be treated as a medical condition as the draft law currently suggests.
	N/A	Adds new article 88-3: In case of prosecution due to committing one of the crimes stipulated in Chapter 88-1 herein, the Crown Prosecution or the Investigating Judge may give his order prohibiting the prosecuted from contacting the victim, approaching victim's whereabouts or communicating with the	Adds on that "or the Court" may issue such an order Adds on that an order may be issued "or upon the request of the victim."	(See prior comments above on Protection Orders/No-Contact Orders) In addition to the Protection Orders under the Civil Procedure Code available to the victim as described above, the Penal Procedure Code should create No-Contact orders issued by the Prosecutor for the duration of the criminal proceedings to protect a victim, even one who has chosen not to participate in the criminal proceedings, and other potential witnesses.

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		victim by any means whatsoever. Such order shall remain in effect until the court issue its final decision.”		
	N/A	Adds new articles 323-1: Violating the prohibition order or refusing psychological treatment according to Chapters 88-1 and 88-3 shall subject the violating person to imprisonment from 6 months to two years and a fine ranging from 2,000 MAD to 20,000 MAD or one of them.” and 323-2: Violation to the protective measures referred to in Article 82-5-1 of the Penal Code shall subject the person concerned therewith to imprisonment from one to three months or a fine from 5,000 to 20,000 MAD or one of them.	Specifies “contacting or approaching” the victim as a violation	Repeated violations of the protective order (recidivism) should result in increased sanctions.
Punishments	N/A	Adds new article 429-1: Punishment provided for in articles 425, 426, 427 and 429	Adds on if the person committing the crime is the “ex-spouse” or	(See prior comment about limits of effectiveness to doubling prison sentences in the absence of effective reporting, investigative, prosecution and trial measures.)

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		(note, criminalizing threats against persons or property) shall be doubled if the person committing the crime is the spouse, or one of the descendants, or ascendants, or the custodian or by any person having authority or tutorship on the victim. Such punishment shall also be doubled in case of recidivism.”	“fiancé”	(See prior remark in Scope of Persons covered section that the provisions apply to a diversity of intimate relationships and not just spouses.)
	N/A	Adds new article 436-1: If the abduction or detention (note, criminalized in article 436) is perpetrated by one of the spouses, or one of the ascendants, or descendants, or the custodian or by any person having authority or tutorship on the victim; or if the victim has suffered from any other act of violence regardless of its nature, the imprisonment sentences shall increase to become: 1 – 10 to 20 years in cases	Adds on if the person committing the crime is the “ex-spouse” or “fiancé”	(See prior comment about limits of effectiveness to doubling prison sentences in the absence of effective reporting, investigative, prosecution and trial measures.) (See prior remark in Scope of Persons covered section that the provisions apply to a diversity of intimate relationships and not just spouses.)

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		mentioned in paragraph one of Article 436 of the law herein; 2 – 20 to 30 years in cases mentioned in paragraph two of Article 436 of the law herein;”		
Vituperation and defamation based on sex	N/A	Adds new articles that provide that, 444-1: “Except in cases referred to in the law on press, the punishment for vituperation shall be the payment of a fine ranging from 2,000 MAD to 10,000 MAD. Such punishment shall double in case such vituperation is against a woman due to her sex” 444-2: Except in cases referred to in the law on press, the punishment for defamation as defined in Article 442 shall be the payment of a fine ranging	444-1 and 444-2 Eliminated “Except in cases referred to in the law on press,” Modified to “fine ranging from 12,000 – 60,000 MAD” (444-1) and 12,000 – 120,000 MAD (444-2) 444-1 and 444-2: Eliminated “Such punishment shall double in case such vituperation is against a woman due to her sex” 448-3: Adds on “or by the former spouse or fiancé.”	(See prior comment about limits of effectiveness to creating new crimes and doubling prison sentences in the absence of effective reporting, investigative, prosecution and trial measures.)

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		<p>from 5,000 MAD to 50,000 MAD. Such punishment shall double in case such defamation is against a woman due to her sex.”</p> <p>448-1: Shall be sentenced to imprisonment from six months to three years and a fine ranging from 2,000 to 20,000, any person who intentionally, by any means whatsoever including computer systems, captures, records, broadcasts or disseminates somebody’s private or confidential information or statements without prior approval of that somebody.</p> <p>Same punishment shall be applied to any person who intentionally, and by any means whatsoever, installs, records, broadcasts or disseminates somebody’s pictures while in a private</p>		

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		<p>place without that somebody approval.”</p> <p>Article 448-2: Shall be sentenced to imprisonment from one to three years and a fine ranging from 2,000 to 20,000, any person who intentionally, by any means whatsoever including computer systems, broadcasts or disseminates a combination of somebody’s statements or pictures without that somebody’s prior approval, or without mentioning that such combination is fake; or any person who broadcasts or disseminates false allegations or statements aiming thereby to harm somebody’s private life or reputation”</p> <p>448-3: Shall be sentenced with one to five years of imprisonment and a fine ranging from 5,000 MAD to</p>		

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		50,000 MAD if such acts as referred to in Chapters 448-1 and 448-2 are committed by way of recidivism; are committed by a spouse, a fiancée, one of the ascendants or descendants, custodian or any person having authority or tutorship over the victim; or are committed against a minor or a woman due to her sex.”		
Eviction from the marital home	Penal Code: N/A Family Code Article 53 provides that if “either spouse evicts the other from the marital home without justification, the Public Prosecutor shall intervene to return the evicted person to the house immediately and	Article 480-1: Shall be sentenced with one to three months of imprisonment and a fine ranging from 2,000 to 5,000 MAD, any person evicting the other party from the matrimonial dwelling or refusing the return of the evicted party to the matrimonial dwelling according to the provisions of Article 53 of the Family Code.”		<ul style="list-style-type: none"> • Returning a woman who has been evicted due to domestic violence back into the abusive situation is nota solution when the justice system actors cannot or will not provide for her safety in the home. • Protection Orders should provide for immediate removal of the violent offender from the home. • The definition of “matrimonial dwelling” should be expanded to include all places of residence including extended family domestic situations where people are effectively living, and not just apply to the nuclear family home. • Care should be taken so that these provisions are not used by violent perpetrators to claim that the victim of abuse evicted him from the home.

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	shall take all necessary measures to guarantee his or her safety and protection.”			
Family abandonment	Penal Code articles 479, 480 and new article 480-1 punish family abandonment, failure to pay financial support, and eviction from the family home respectively.	Adds on a new article 481-1: “In cases as provided for in articles 479, 480 and 480-1 of the law herein, the prosecution shall be put to an end if the complainant waived his/her right thereto. After such waiver is made the impact of the judicial decision if rendered shall also be ineffective. “		Abolish provision cancelling the prosecution, trial or execution of the sentence if victims “waive their rights.” Prosecution of criminal violations should not depend on the complaint or cooperation of the victim because it makes them subject to threats and intimidation to drop cases. Instead, prosecutors and law enforcement should gather evidence and build a case that does not depend on the victim’s cooperation just as they would in a case – such as homicide- where no victim is available.
Sexual harassment	Penal Code article 503-1 punishes sexual harassment with 1-2 years imprisonment and a 5000 – 50000 DH fine when committed	Adds on new articles: 503-1-1: “Any person who persistently harassed the other shall be considered as a perpetrator of a sexual harassment crime and shall be sentenced with one to six months of imprisonment and a fine ranging from 2,000 to		Abolish the requirement of “persistently.” The definition of sexual harassment needs to be expanded to fulfill the <i>UN Women Core Elements of Sexual Harassment Laws</i> http://www.endvawnow.org/en/articles/494-core-elements-of-sexual-harassment-laws-.html?next=495 The law should specify that “in public spaces or other”

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	as an abuse of authority conferred by his functions, harasses another through orders, threats, coercion or any other means with the goal of obtaining sexual favors.	<p>10,000 MAD or one of them, namely:</p> <p>1 – Harassment in public spaces or other by words, acts or signals of a sexual nature for sexual purposes;</p> <p>2 – Written letters, phone or electronic messages, records or images of sexual nature for sexual purposes.</p> <p>Such punishment shall be doubled if the perpetrator is a work colleague or one of those in charge of order or security of public places or else.”</p> <p>Article 503-1-2: A sentence of three to five years of imprisonment and a fine ranging from 5,000 to 50,000 MAD, shall be enforced if the sexual harasser is one of the ascendants, or one of the unmarriageables, custodian, or is someone who has authority or tutorship on the</p>		applies to diverse other places such as schools, the workplace, etc.

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		victim. Such sentence shall also be applicable if the victim is a minor.”		
Forced marriage	N/A	<p>Adds a new Penal Code article 503-2-1: Without prejudice to the severe criminal sentences, any person having coerced the other to marriage by means of violence or threat shall be sentenced with six months to one year of imprisonment and a fine ranging from 10,000 to 30,000 MAD or one of them only.</p> <p>Such sentence shall be doubled if such coercion is perpetrated against a minor or a woman due to her sex. Prosecution shall only be possible upon a complaint submitted by the person upon whom the coercion has been exercised.</p> <p>The prosecution shall be put to an end if the complainant waived his/her right thereto.</p>		Abolish provision cancelling the prosecution, trial or execution of the sentence if victims “waive their rights.”

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		After such waiver is made the impact of the judicial decision if rendered shall also be ineffective”		
Diversion of property	N/A	Adds a new article 526-1: “If any one of the spouses disperses his/her money or conveyed his/her property wilfully to inflict prejudice on the other party or children, or to circumvent the provisions of the Family Code, especially those relating to alimony, accommodation, rights ensuing from a divorce or to property division, shall be sentenced with one month to six months of imprisonment and a fine ranging from 2,000 to 10,000 MAD or one of them only. Legal proceedings shall not be started but upon a complaint submitted by the prejudiced spouse. The legal proceedings		Abolish provision cancelling the prosecution, trial or execution of the sentence if victims “waive their rights.” Abolish requirement of proof that offender acted “willfully.” Interim measures preventing diversion of property in advance should be included in any temporary judicial orders such as the Civil Protection orders above

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		thereabout shall be put to an end if the complainant waived his/her right thereto. After such waiver is made the impact of the judicial decision if rendered shall also be ineffective”		
Assault and Battery Complaint	Penal Code articles 400 and 401 require that a victim suffer injuries that result in more than 20 days of disability in order to bring a criminal assault complaint. As a result, women victims of violence must obtain a medical certificate attesting to this disability from the designated doctor	NONE	•	<ul style="list-style-type: none"> • Remove the requirement of a medical certificate attesting to more than 20 days of disability • Base prosecutorial decisions on detailed medical reports, not certificates • Allow medical reports to be provided by any doctor chosen by the woman. • The prosecution should go forward based on the act of violence in and of itself (no evidence of physical injury should be required to bring or prosecute a complaint). • Physical injury should be relevant only (a) as evidence and (b) to affect the punishment.

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	at a limited number of designated hospitals.			
Rape and Sexual Assault	Penal Code article 486 defines rape as « the act by which a man has sexual relations with a woman against her will.” Actual physical injuries are required to prove non-consent in rape cases. Penal Code Articles 486-488 consider rape as a crime against morality. Penal Code articles 490 and 491 criminalizing sexual relations outside of	NONE	•	<ul style="list-style-type: none"> • Define rape as a crime against persons. • Remove any requirement that sexual assault be committed by force or violence, and any requirement of penetration or physical injury as proof of non consent. • Eliminate the requirement that the victim prove she did not consent and create a definition of rape the provides for coercive circumstances • Abolish criminal prosecutions for illicit sexual relations.

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	marriage create a strong disincentive for a woman to report a rape as she risks being prosecuted herself.			
Marital Rape	Marital rape is not a crime in the Penal Code.	NONE		Amend the Penal Code to explicitly criminalize conjugal rape.
PENAL PROCEDURE CODE REFORMS				
Closed Door Proceedings	Penal Procedure Code article 302 provides for closed door proceedings in cases of a danger to public order or morality.	Adds on to this article the provision that “If the case is related to violence or sexual abuse against a woman or a minor, the court may hold an enclosed hearing upon request of the victim.”	Adds on “The closed door hearing shall include the discussions.”	The law should also provide for: <ul style="list-style-type: none"> • Allowing the victim to testify and give evidence in court without having to confront the defendant or his family or other members of his circle • Protection for the victim when entering, exiting and while in the courthouse • Obligations and guidelines for judges on when to grant the victim’s request for closed door proceedings.
Civil Lawsuits	Penal Procedure Code article 7 provides for civil lawsuits by those harmed by a Penal Code offense, and	Adds on to this article the provision that, “However, the aforementioned associations dealing with issues of violence against women, according to their statutes, may not act as one of the parties (Plaintiff)		The law should allow for associations to bring a civil party suit with either: <ul style="list-style-type: none"> • “explicit” (not “written”) permission from the victim • Or her representative Unless: <ul style="list-style-type: none"> • Such permission is impossible to obtain

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	allows public utility NGOs to bring a civil party complaint.	unless they obtain a written permission thereto from the victim.”		<ul style="list-style-type: none"> Her life is in imminent danger
Protective Measures	<p>Penal Procedure Code Articles 82-4 provides that victims must be informed of their rights to bring civil lawsuits and other legal rights, and that a written note must be made in the file that she was informed of these rights.</p> <p>Article 82-5 provides that the prosecutor or investigating judge must take all measures to protect the lives</p>	<p>“Article 82-5-1: In addition to the measures provided for in Articles 82-4 and 82-5 herein, the following protective measures shall be immediately implemented in cases of violence against women:</p> <ul style="list-style-type: none"> Returning the child in custody with the custodian to the dwelling designated by the court; Warning the perpetrator not to commit any violence if the perpetrator threatened to do so and pledging him not to have recourse to violence; Informing the perpetrator that he is prohibited from disposing of the common property; 		<p>The law should provide for a presumption against awarding child custody to the aggressor.</p> <p>Warnings to the aggressor are insufficient – the law should provide for specific protection orders with concrete measures to protect the victim and her entourage.</p> <p>“Shelter house or social care institutions” are currently inexistent.</p> <p>If feasible and the preference of the victim, she should be allowed to remain in the home and the perpetrator should be required to leave.</p> <p>Victims should not ever be “deposited” in shelters upon a court order but rather have access to safe housing and shelter upon her request.</p>

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	of the victims, their family and their property from all potential harm due to the fact of having filed a complaint. These include giving her the police telephone number, protecting her and her entourage physically, change her residence, or have her seen by a specialized doctor.	<ul style="list-style-type: none"> Referring the victim to hospital centers for treatment; Ordering the depositary of the woman subject to violence in shelter houses or social care institutions if necessary.” 		
Police Officer Powers and Duties	N/A	NONE		<p>The law should clearly establish police officer powers and duties related to and provide guidelines for taking reports of violence and investigating complaints. These should include:</p> <ul style="list-style-type: none"> Prompt and immediate response to every case of violence against women that comes to their attention The powers and obligation to go immediately to a

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				<p>scene of a domestic dispute without a prosecutorial order</p> <ul style="list-style-type: none"> • The obligation to and standardized form for taking and filing a detailed written report for every case of violence against women that comes to their attention • Conduct and document a thorough investigation of every case in which law enforcement has reason to believe that a criminal violation has occurred. • The power and obligation to arrest the violent offender immediately if they witness the crime or if the police believe there is a severe risk to the victim • The powers and obligation to inform women victims of violence of their rights • The powers and obligation to provide immediate protection to women victims of violence and their children • Be forbidden from conducting or suggesting mediation between the perpetrator and the victim • Provide for a timely and expeditious taking of the complaint and investigation to avoid lengthy delays • Refer every case for which there is evidence that a criminal violation occurred to the prosecutor. • Police should conduct a risk assessment at the scene of an assault.
Prosecutorial Powers and	N/A	NONE		The law should clearly establish prosecutorial powers and duties related to and provide guidelines for investigating

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Duties				<p>and prosecuting complaints of violence against women. These should include:</p> <ul style="list-style-type: none"> • The responsibility of the prosecutor (and not the victim) for prosecuting the case. Prosecution should not require a complaint or cooperation by the victim. • The obligation to inform women victims of violence of their rights, of available services, and of every step in the proceedings • The powers and obligation to provide immediate protection to women victims of violence and their children • Be forbidden from conducting or suggesting mediation between the perpetrator and the victim • Provide for a timely and expeditious investigation and prosecution of the complaint to avoid lengthy delays
Collection and Use of Evidence	Penal Procedure Code article 286 provides that « offenses may be established by any mode of evidence, unless otherwise permitted by law, and the judge decides based on	NONE		<p>The law should:</p> <ul style="list-style-type: none"> • establish clear guidelines for the proper and timely collection and submission to court of medical, forensic and other relevant evidence • not require medical or forensic evidence for conviction • allow for the prosecution of violent offenders without the victim's testimony on the basis of other evidence

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	his own personal conviction.”			
SUPPORT MEASURES				
Cells and Committees	Circular No.1040 of 17June 2008 concerning the establishment in all provinces of integrated support units for women and child victims of violence.	Article 9: To support women victims of violence, cells and sectors-joint committees shall be established in accordance with the provisions of this part (in a future regulatory text).		<p>The Cells that already exist are often not effective or functioning, are severely under-resourced and understaffed, and their overall effectiveness is severely called into question.</p> <p>Any new law should remedy this situation by clearly establishing in this law and not a future regulatory text:</p> <p>The law should create an obligation on Government to allocate an adequate budget for all of the below cells and committees.</p> <p>The mandate and powers of all of the below cells and committees needs to be clearly established, including the provision of concrete and specific services for women victims of violence.</p> <p>The mandate of all of the below cells and committees should clearly be to monitor implementation and respect of the law by the public actors and suggest future law reforms.</p> <p>The below Committees should also be comprised as a</p>

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				<p>matter of law of at least one NGO representative.</p> <p>NGOs working on violence against women should have a right to attend the committee meetings (rather than it being based on the invitation and discretion of the Committee.</p>
		<p>Article 10 Cells of support for women victims of violence shall be established within courts of first instance, courts of appeal, central and external services of the government sectors in charge of health, youth and women, the General Directorate of National Security and within the High Command of Royal Gendarmerie; Such cells shall provide services for women victims of violence such as reception, listening, support, orientation and accompaniment; The established cells inside courts of appeal or courts of</p>	<p>Modified to read “central, decentralized and external” services...</p> <p>Modified to read “The selection of the members of the established cells within said central and external services</p>	

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		<p>first instance shall consist of a deputy crown prosecutor, a judge in charge of juvenile affairs and a social assistant, in addition to the administration representatives;</p> <p>The selection of the members of the established cells within said central and external services, General Directorate of National Security and the High Command of Royal Gendarmerie shall be subject to a regulatory text. The selection of the administration representatives of the cells established within said courts shall also be subject to a regulatory text;</p> <p>The principle of specialization and parity shall be taken into consideration during the establishment of such cells.</p>		
		<p>Article 11 National Committee A national committee for</p>	<p>Article 12 modified to add "civil society organizations" to the list</p>	

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		<p>support of women victims of violence shall be established. It shall have the competence and duties stipulated in Article 12 herein;</p> <p>The Head of the government shall appoint the President of the National Committee as proposed by the governmental authority in charge of women affairs;</p> <p>Persons or representatives of national bodies and women associations may attend the works of the National Committee if the later see any use therein.</p> <p>The National Committee shall meet at least once a year, or whenever necessary upon invitation by the president;</p> <p>The Committee Secretariat shall be referred to the sector in charge of women;</p> <p>The composition and working methods of such committee shall by determined by a</p>	<p>of actors to strengthen and activate coordination and partnership with.</p> <p>Adds to Article 12: "Produce an annual report on the results of their work."</p>	

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		statute; Article 12 The National Committee shall have for a mission the following tasks: <ul style="list-style-type: none"> - Ensuring communication and national coordination between government sectors and central administrations concerned with violence against women; - Giving its opinion regarding the action plans adopted by the regional and local committees referred to in Article 13 and 15 herein, and following up with the implementation of such actions plans; - Receiving and reviewing reports submitted by local and regional committees; - Monitoring the work of the local and regional committees and proposing ways to develop such 		

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		<ul style="list-style-type: none"> works; - Contributing in the establishment of mechanisms to improve the management of the cells (see Article 10 herein), and the management of the local and regional committees, while in the mean time following up with their works at the central level; - Strengthening and establishing partnership and cooperation mechanisms between regional and local committees and other stakeholders. 		
		<p>Article 13 Regional Committees A Regional Committee for women victims of violence shall be established at the level of the judicial district of each court of appeal, and shall</p>	<p>Article 13 Adds on after “lawyer”: “designated by the Bar President of that Appellate Court jurisdiction” Adds on after “judicial delegates” President of</p>	

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		<p>comprise:</p> <ul style="list-style-type: none"> - Crown prosecutor or his deputy in his capacity as president; - Investigation judge, judge counselor, and a counselor in charge of juvenile affairs; all shall be appointed by the president of the Court of Appeal; - Head of the Clerk Office or his representative; - Social assistant in the said court; - Administrationrepresentative; - Representative of the regional council; - A lawyer - A Judicialdelegate. <p>The committee works might be attended by any person known of his interest in women affairs, any representative of any body, institution or associations which the committee sees</p>	<p>the Regional Council of Judicial delegates”</p> <p>Eliminated last paragraph: The administration representatives, lawyer and judicial delegate for the Regional Committee for women victims of violence shall be determined by a regulatory text.</p> <p>Article 14: Adds on a new task as third bullet point: “Coordination and communication with civil society organizations working in this field.”</p>	

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		<p>useful to invite; The administration representatives, lawyer and judicial delegate for the Regional Committee for women victims of violence shall be determined by a regulatory text.</p> <p>Article 14 The Regional Committee shall have for a mission the following tasks:</p> <ul style="list-style-type: none"> ▪ Preparing regional action plans according to its mandate; ▪ Ensuring communication and coordination between judicial authorities and other sectors and administrations concerned with issues relating to the support of women victims of violence at the regional level; ▪ Unifying the working methods of the cells and local committees to ensure 		

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		<p>the harmony of the services (i) at the level of the judicial district that is within the jurisdiction of the court of appeal and (ii) at the level of other relevant sectors and administrations;</p> <ul style="list-style-type: none"> ▪ Defining the constraints and obstacles hindering the process of support provided for women victims of violence, and suggesting appropriate solutions thereto on a participatory basis and according to the competence of each relevant sector; ▪ Defining the constraints and obstacles hindering the process of support provided for women victims of violence, especially those requiring an intervention at the central level; 		

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		<ul style="list-style-type: none"> ▪ Capitalizing on different expertise and experiences and making them accessible to all local mechanisms; ▪ Conducting periodical and annual reports on the committee's work and outcome, including the work of the local committee and cells; ▪ Regional Committee's reports, including the annual report, shall be submitted to the National Committee; ▪ The Regional Committee shall meet at least twice a year, or whenever necessary upon invitation by the president; ▪ The Regional Committee shall meet if at least half of its members are present, and shall take its decisions by the majority of those present; 		

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		<ul style="list-style-type: none"> ▪ Clerk Office of the Court of Appeal shall function as the secretariat of the Regional Committee. 		
		<p>Article 15 Local Committee A Local Committee for support for women victims of violence shall be established at the level of the judicial district of each court of first instance, and shall comprise:</p> <ul style="list-style-type: none"> - Crown prosecutor or his deputy in his capacity as president; - Investigation judge, judge counselor, and a counselor in charge juvenile affairs; all shall be appointed by the president of the Court; - Head of the Clerk Office or his representative; - A Social assistant in the said court; - An administration representative; - A representative of the 	<p>Adds on after “lawyer”: “designated by the Bar President of that Appellate Court jurisdiction” Adds on after “judicial delegates” President of the Regional Council of Judicial delegates”</p> <p>Eliminated last paragraph: The administration representatives, lawyer and judicial delegate for the Regional Committee for women victims of violence shall be determined by a regulatory text.</p> <p>Article 16 second bullet</p>	

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		<p>prefectural or provincial council;</p> <ul style="list-style-type: none"> - A lawyer - A judicial delegate. <p>The committee works might be attended by any person known of his interest in women affairs, any representative of any body, institution or association which the committee sees useful to invite;</p> <p>The administration representatives, lawyer and judicial delegate for the Local Committee for women victims of violence shall be determined by a regulatory text.</p> <p>Article 16 Mandate of local committees The Local Committee shall have for a mission the following tasks:</p> <ul style="list-style-type: none"> ▪ Preparing local action plans according to its mandate; 	<p>point adds on “and civil society organizations” to the list of actors to coordinate with</p>	

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		<ul style="list-style-type: none"> ▪ Ensuring communication and coordination between judicial authorities and other sectors and administrations concerned with issues relating to the support of women victims of violence; ▪ Defining the constraints and obstacles hindering the process of support provided for women victims of violence, and suggesting appropriate solutions thereto on a participatory basis and according to the competence of each relevant sector; ▪ Defining the constraints and obstacles hindering the process of support provided for women victims of violence, especially those requiring 		

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		<p>an intervention at the regional and central levels;</p> <ul style="list-style-type: none"> ▪ Conducting periodical reports; ▪ The Local Committee's periodical reports shall be submitted to the Regional Committee; ▪ The Local Committee shall meet at least four times a year, or whenever necessary upon invitation by the president; ▪ The Local Committee shall meet if at least half of its members are present, and shall take its decisions by the majority of those present; <p>Clerk Office of the Court shall function as the secretariat of the Local Committee.</p>		
Concrete Services for Women	N/A	NONE		The law needs to provide for the creation, implementation, and adequate funding for concrete, specific services for women victims of violence and their

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Victims of Violence and their Children				<p>children reaching all areas of the country, including but not limited to:</p> <ul style="list-style-type: none"> • Free 24 hour nationwide telephone hotline • Free interpretation services when necessary for interacting with the law enforcement , justice and health sector authorities • Free legal aid for court proceedings • Free court accompaniment support services • Free shelter and emergency housing • Free health care services • Domestic violence and sexual assault counseling centers • Adequate funding for NGOs providing these services
ENTRY INTO EFFECT				
Entry into Effect	N/A	Article 17 The law herein shall enter into effect after three months of its publication in the official bulletin.		
APPROPRIATE IMPLEMENTATION OF THE LAW BY PUBLIC ACTORS				
Training and awareness raising for Public actors	N/A	NONE		The law should provide for mandatory training on the new law and awareness-raising on violence against women issues for public actors including but not limited to the gendarmes, police, prosecutors, judges, court clerks, civil status officers, doctors, nurses and other health care professionals.

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Protocols, Guidelines and Standardized Response Forms	N/A	NONE		The law should require that immediately following enactment of the law, the relevant Ministries develop regulations, protocols, guidelines, instructions, directives and standards, including standardized forms, for all relevant sectors including law enforcement, justice system and health sectors.
Penalties for non-compliance	N/A	NONE		The law should <ul style="list-style-type: none"> • compel public actors to comply with its provisions • provide for sanctions for those who do not apply them • allow victims of violence to bring lawsuits against public actors who have not complied with its provisions.