

# Morocco



## Women's Rights

Submitted by: The Advocates for Human Rights and MRA Mobilising for Rights Associates

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| <b>Mechanism</b><br>Committee on the Elimination of Discrimination Against Women (CEDAW) | <b>Summary:</b><br>Violence against women (VAW) remains a problem in Morocco. The Penal Code criminalizes victims and perpetuates VAW. Very few cases of VAW reach law enforcement and there are no specific or detailed provisions regulating the reporting, investigation, and prosecution phases of VAW cases. Rape and abortion laws do not meet international standards; marital rape is not criminalized. Further, child marriage remains prevalent for young girls. |
| <b>Session</b><br>82 <sup>nd</sup> Session   |  |
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### The Penal Code Criminalizes Victims and Facilitates VAW

- Sexual relations outside of legal marriage are illegal in Morocco under Penal Code articles 490-93. Many women victims do not report any type of violence due to the threat of being prosecuted themselves as criminals. Less than 3% of rape victims report the violence.
- Women victims who knew their aggressor and report violence to law enforcement can be deemed as having “confessed” (“judicial confession”) to sexual relations outside of marriage, or be prosecuted simply for being reported as found in the presence of a man not their legal husband (“flagrant delit”).
- Women victims of any type of crime – fraud, theft, extortion or other – in which a partner not the legal husband is the perpetrator are deterred from seeking recourse from law enforcement and the justice system by threats of being prosecuted for sexual relations outside of marriage.
- These provisions encourage violence against women by providing perpetrators with a tool to threaten, blackmail, coerce and control women under threat of criminal prosecution.
- In 2020, there were 27 378 criminal cases for these so-called morality crimes, but only 18 275 criminal cases for violence against women.

### VAW is widespread and the public response remains inadequate.

- 57% of women ages 15 to 74 (58% in urban areas and 55% in rural areas) reported experiencing at least one act of violence in the last twelve months, most prevalently in the domestic context.
- Few VAW cases reach the law enforcement or justice systems due to the failure of these systems to investigate, protect victims and hold perpetrators accountable. Laws and regulations do not establish any specific provisions regulating the reporting, investigation or prosecution phases of VAW crimes.
- Women do not receive adequate protection for women victims of violence. Current protective measures are limited criminal (not civil) measures; rather than being available “immediately,” are only available if and once a criminal prosecution has been launched or the offender has been convicted. None are mandatory and are left to the discretion of the prosecutor or judge.

**Rape and Abortion laws do not meet international standards**

- The outdated definition of rape has not been reformed under Law 103-13, nor is marital rape criminalized by Law 103-13 or in the Penal Code.
- The current definition of rape essentially requires physical injuries as proof of resistance, which excludes the majority of cases where such injuries are absent and cases where victims are unable to give consent.
- Abortion is still illegal, even in cases of rape or incest, fetal impairment, for economic or social reasons, for women with any type of impairment or disability, or simply upon request.
- Moroccan laws punish women who have or attempt an abortion, as well as anyone deemed to have facilitated or incited abortion through health services, public statements or materials.

**Child marriage remains a significant problem in Morocco.**

- The Family Code allows the marriage of minors when “justified” and after judicial control. There is no threshold minimum age below which authorization to marry may never be granted.
- In 2020, 95% of the 19,926 petitions to marry a minor were for girls. Authorization rates are high – 85% approval rates between 2011 and 2018.
- Most authorizations to marry are based on cursory visual examinations of the girls' physical appearance, rather than resorting to the medical and social expertise required under the law. Justifications are frequently based on concerns for family honor, chastity and poverty.

**Suggested Recommendations**

- Repeal Penal Code articles 489-493 and decriminalize all consensual adult sexual relations outside of marriage;
- Pass the pending Bill 10-16 that would allow for an abortion in cases of rape or incest, fetal impairment, or the mother's mental illness;
- Improve Law 103-13 on the Elimination of Violence against Women by enacting specific civil remedies for women victims of violence such as civil protection orders and orders removing the violent offender from the home, that are a separate, stand-alone Civil (not Penal) remedy available without having to file a criminal complaint. Women who launch criminal proceedings should benefit immediately from protective measures starting from the complaint and investigation phase;
- Eliminate the current 21-day incapacity period necessary for a woman to bring a criminal assault and battery charge in violence cases;
- Improve the Penal Procedure Code to effectively address the reporting, investigation, and prosecution phases in VAW cases, by providing health, law enforcement and justice sector actors with clearly defined obligations, powers, procedures and accountability mechanisms for non-compliance;
- Address deficiencies in rape laws. including (a) eliminating the high requirement that women victims demonstrate physical injury to prove rape (b) defining rape as “the absence of consent” rather than “against her will” (c) abolishing the risk that rape victims who cannot prove non consent can be prosecuted for illicit sexual relations themselves, and (d) explicitly criminalizing marital rape;
- Amend the Family Code to abolish the marriage of minors by setting a minimum threshold age under which minors may never be married, restricting underage marriage to a limited set of circumstances and conditions, and establish detailed procedures and administrative requirements for underage marriages.