



## **Child marriage in Morocco: Explanatory memorandum for the repeal of articles 20, 21 and 22 of the Family Code**

Article 19 of the Family Code sets the minimum age of marriage at 18 years. However, Articles 20, 21 and 22 provide exceptions to this rule. Although intended to be exceptional, authorizations for child marriages have become the norm. These three articles contradict and are inconsistent with provisions of other Moroccan laws, and constitute a flagrant violation of children's rights, especially the rights of girls. It is critical that these articles be repealed in order to eliminate child marriage and set the age of marriage at 18 with no exceptions.

### **PUBLIC OPINION WIDELY SUPPORTS ELIMINATING CHILD MARRIAGE.**

- According to a new survey conducted by Project SOAR, more than 88% of respondents support eliminating all exceptions to marriage under age 18.
- In 2016, a national study by the Family Ministry found that 88% of Moroccans were in favor of increasing the age of marriage to 18.
- 85% of minors participating in a study conducted by the Presidency of the Public Ministry support setting the age of marriage at 18 with no exceptions. 93% of respondents declared their intention to refuse to marry their own daughters before the age of 18.

### **THE NUMBER OF CHILD MARRIAGES REMAINS HIGH.**

- According to a [diagnostic study on child marriage](#), between 2004 (when the Family Code was enacted) and 2019, the proportion of child marriages varied between 7.53% and 11.99% of the total number of marriages concluded in Morocco.
- According to the [annual report of the Public Ministry](#), the number of child marriage applications registered in 2019 in Moroccan courts remains high when compared to adult marriage applications: 27,623 child marriage applications and 84,855 adult marriage applications. .
- The number of child marriages is even higher when taking into account the number of marriage recognition acts, 5,031 according to the same report. Child marriage recognitions constitute a significant percentage, accounting for 15% of all such acts.<sup>1</sup>
- According to the [Ministry of Justice](#), in 2016, 30,312 applications for child marriage were registered in Moroccan courts, a figure which increased to 32,104 applications in 2018. These figures do not take into account verbal marriages of children known as “orfi” or “al Fatiha” marriages, or by “contracts” between men (often living abroad) and fathers in exchange for money. <sup>2</sup> These unregistered child marriages do not appear in any official statistics.
- According to the [High Commission for Planning](#), child marriage remains a problem in both urban and rural areas. One-third of child marriages involve urban residents.

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<sup>1</sup> Diagnostic Study on Child Marriage. Public Ministry, in partnership with UNICEF (November 29, 2021).

<sup>2</sup>In a recent report by the Special Rapporteur on "the sale and sexual exploitation of children, including child prostitution and child pornography and other child sexual abuse" emphasized the fact that child marriage was sometimes nothing more than the sale of children for the purpose of forced labor when the marriage contract included a transaction in the form of payment in cash or in-kind benefits. 20 March 2020 A/HRC/43/40.

## **THE AUTHORIZATION OF CHILD MARRIAGES IN MOROCCO HAS BECOME THE RULE RATHER THAN THE EXCEPTION.**

- According to the Ministry of Justice, 85% of child marriage applications were approved by the courts between 2011 and 2018.
- According to [the Public Ministry](#), court hearings for the authorization of child marriage are held daily in the majority of Family courts in Morocco.

## **CURRENT LEGISLATION HAS FAILED TO CONTROL OR PREVENT CHILD MARRIAGES.**

- According to a [study by the Public Ministry](#), between 2007 – 2019 the age of child marriage varied between 14 and 17 years.
- The same study also showed that between 2015 and 2019:
  - ✓ 57% of child marriage authorizations were issued the same day, compared to 36% after one week. Only 7% of authorization requests had a processing time exceeding one week.
  - ✓ 88% of authorizations were issued without the court soliciting the assistance of a social worker.
  - ✓ 91% of authorizations were issued without the assistance of medical expertise.
  - ✓ Only 14% of the rare medical expertise concluded were carried out by specialist doctors.

## **CHILD MARRIAGE IS A FORM OF DISCRIMINATION AGAINST GIRLS AND UNDERMINES THEIR RIGHTS TO HEALTH, EDUCATION, AND TO FREEDOM FROM VIOLENCE.**

Far from being in the “best interests of the child” or a source of protection and stability, child marriage leads to precarious socio-economic situations for girls.

Nearly all child marriages **involve minor girls**.

- According to one [Public Ministry study](#), 99% of child marriage applications between 2007 and 2018 were for girls.
- In a report by the [High Commissioner for Planning](#), in 2020 there were 21,285 marriage applications for girls under 18, compared to 88 applications for boys.

Married girls become **unpaid domestic workers** for their in-laws.

- 77% perform household labor on a daily basis for their husband's relatives, either those who live in the same home or in other households. <sup>3</sup> This constitutes a crime under [Law 27.14 on combating trafficking in persons](#), particularly when the victim is a minor.<sup>4</sup>

Child marriages produce **child mothers**:

- According to a [study by the Public Ministry](#) :
  - ✓ 82% of minors had a child during the first years of marriage, the majority of whom gave birth between one and three times before the age of 18;
  - ✓ 14% of pregnancies of minors resulted in abortion, death of the newborn or children with disabilities;
  - ✓ 26% of minors gave birth at home without medical supervision, despite the fact that 59% of minor mothers required surgical procedures during childbirth;
  - ✓ 37% of married girls participating in the study said they had acquired sexually transmitted diseases in their marriage.

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<sup>3</sup>Opinion of the Economic, Social and Environmental Council, “What to do about the ongoing marriage of girls in Morocco?” <https://www.cese.ma/media/2020/10/Que-faire-face-à-la-persistence-du-mariage-d'enfants-au-Maroc.pdf>

<sup>4</sup>Article 448.1.

- [The Ministry of Health](#) considers pregnancies before the age of 18 to be high-risk; 32% of married minors have one or more children.

Child marriages lead to **diverse forms of family and intimate partner violence** – physical, sexual, verbal and economic.<sup>5</sup>

- More than 22% of minors interviewed had suffered at least one form of violence from the husband and/or his family.
- 10.48% of minors were expelled from the marital home, either by the husband or by his family.

### **MARRIAGE OF CHILDREN UNDER 18 CONTRADICTS OTHER MOROCCAN NORMS AND LAWS, AS WELL AS INTERNATIONAL OBLIGATIONS**

Considering children under the age of 18 legally competent to marry and assume its legal consequences violates provisions of the Moroccan Constitution and contradicts other provisions in national legislation. In particular:

The [Moroccan Constitution](#) guarantees:

- Equality between men and women, and State responsibility to achieve this parity (Article 19);
- Protection from cruel, inhuman, or degrading treatment or violations of human dignity (Article 22);
- Legal, social and moral protection and basic education for all children (Article 32).

The [Family Code](#) :

- Provides that the conclusion of marriage is subject to “the capacity of the husband and wife” and “the absence of legal impediments” (Article 13);
- Considers that parents and the State are responsible for children and must (Article 54) :
  - ✓ Protect their life and health until the age of majority;
  - ✓ Take all possible measures to ensure the normal growth of children while preserving their physical and psychological integrity;
  - ✓ Provide education and training;
  - ✓ Take measures necessary to ensure their protection and preserve their rights in accordance with the law.

The [Moroccan Penal Code](#) provides that a 12-year-old minor who has not reached the age of 18 is criminally considered partially irresponsible due to a lack of discernment (Article 139).

Law 103.13 [on the elimination of violence against women](#) establishes a distinction between adults and minors, and recognizes the right of the latter to protection; the penalties are doubled when the act of violence is committed against a minor (Penal Code articles 407, 424 - 429, 434, 447).

Law [27.14 on combating trafficking in persons](#) defines child trafficking as “the act of recruiting, training, transporting, transferring, harboring, receiving or acting as an intermediary for this purpose... for the purpose of exploitation. When it comes to children, it is not necessary that force or other means provided for in the law be used (Penal Code article 448.1).

On numerous occasions, national institutions and United Nations human rights bodies have called on the Moroccan government to repeal articles 20, 21 and 22 of the Family Code as a violation of international and constitutional human rights standards, such that exceptions to the minimum age of marriage are no longer allowed. These include:

- ✓ The Moroccan Economic, Social and Environmental Council (2012, 2016, 2019)

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<sup>5</sup>Diagnostic study of underage marriage in Morocco, 2021

- ✓ The Moroccan National Human Rights Council (2018 and 2019)
- ✓ The United Nations Committee on the Rights of the Child (2014)
- ✓ The United Nations Committee on Economic, Social and Cultural Rights (2015)
- ✓ The United Nations Committee on the Elimination of All Forms of Discrimination against Women (2008, 2022).
- ✓ The Human Rights Council, Working Group on the Universal Periodic Review (2012, 2017).