

## **Morocco's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women**

### **Joint Alternative Report**

**Submitted by The Advocates for Human Rights,**

a non-governmental organization in special consultative status with ECOSOC since 1996  
and

**MRA Mobilising for Rights Associates,**

a non-governmental organization based in Rabat, Morocco  
in collaboration with an alliance of Moroccan NGOs

for the 82nd Session of the Committee on the Elimination of Discrimination Against Women  
13 June 2022–01 July 2022

Submitted 16 May 2022

Founded in 1983, **The Advocates for Human Rights** (“The Advocates”) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates works to end violence against women by changing laws and their implementation, as well as through monitoring and documentation, trainings, and advocacy.

**Mobilising for Rights Associates** (“MRA”) is an international nongovernmental women’s rights organization based in Rabat and currently working in Morocco, Tunisia, and Libya. MRA collaborates with grassroots level women’s rights activists and organizations to promote women’s full enjoyment of their human rights through changes in laws, structures, relationships and culture. Together with our partners MRA creates and implements long-term strategies to address the diverse causes of discrimination against women and develop meaningful, effective solutions. Our multidimensional strategies include popular human rights education, legal accompaniment, monitoring and documentation, strategic litigation, action-research, national law reform, and international advocacy. By engaging with local actors at different levels, MRA fosters micro-level changes in culture and relationships to support our activism for macro level legal and institutional reform.

**Methodology:** The information for this report was drawn from direct work on the ground in Morocco through on-going action research, legal accompaniment, and advocacy on women’s rights issues. Based in Rabat, MRA partners with local NGOs throughout Morocco.

## MOROCCO FAILS TO UPHOLD ITS OBLIGATIONS UNDER THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

### I. Legislative framework and definition of discrimination against women (List of Issues para. 1) and National machinery for the advancement of women (List of Issues para. 5)

1. The preamble to the Constitution establishes the supremacy of international human rights conventions over domestic law, but Morocco limits the supremacy of international law to “within the framework of Constitutional provisions and laws of the Kingdom, in respect of immutable national identity.”<sup>1</sup> This creates opt-out clauses to declarations on international human rights.
2. Although there is a trend toward application of international law obligations by domestic courts, primarily in commercial cases, very few decisions by domestic courts have applied international law in cases involving women’s rights. Due to lack of knowledge, few lawyers or judges invoke international conventions in such cases. Likewise, the lack of clarity about the legal status of international norms creates inconsistent or contradictory case law between different judges and levels of jurisdictions.<sup>2</sup>
3. Several articles of the 2011 Constitution relate to issues of gender equality.<sup>3</sup> However, equal rights of men and women are conditioned on “respect of Constitutional provisions, and permanent characteristics and laws of the Kingdom.”<sup>4</sup> Articles establishing Islam as the state religion<sup>5</sup> and defining the family as the basis of society, with its unity, stability and preservation guaranteed by the state,<sup>6</sup> provide substance for opt-out clauses to broader declarations on gender equality.
4. Additionally, the consultative nature and lack of financial independence of the Authority for Parity and the Fight Against Discrimination (APALD) limits its field of action. The Moroccan Economic, Social and Environmental Council<sup>7</sup> has recently recommended activating the

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<sup>1</sup> Preamble, Constitution of Morocco, 2011.

<sup>2</sup> Willman Bordat, Stephanie, *Plaider le droit international devant les tribunaux internes : L'exemple du Maroc, de l'Algérie et de la Tunisie*, Revue Méditerranéenne de Droit Public Volume V (Editions L'Epitoge-Lextenso, octobre 2016). ; Kouzzi, Saadia, *Décisions des tribunaux appliquant les normes internationales au Maghreb*, Revue Méditerranéenne de Droit Public Volume V (Editions L'Epitoge-Lextenso, octobre 2016).

<sup>3</sup> Morocco’s Constitution of 2011, Arts. 19, 22, 34, 32, 154, 164, 169. Article 19 provides that men and women have equal civil, political, economic, cultural, social and environmental rights. The state works for parity between men and women; Articles 19 and 164 provide for creation of an Authority for Gender Equality and Action Against All Forms of Discrimination (APALD); Article 34 provides that the state must enact and implement policies responding to persons with specific needs, including certain categories of women; Article 154 provides for equal access of female and male citizens to public services.

<sup>4</sup> Royaume du Maroc. Dahir n° 1-11-91 du chaabane 1432 (29 juillet 2011) Portant Promulgation du Texte de la Constitution, Article 19 [Constitution ], 2011.

<sup>5</sup> Ibid. Article 3.

<sup>6</sup> Ibid. Article 32.

<sup>7</sup> Itself a constitutional consultative body.

APALD and granting it power to investigate, enjoin, and take legal action against acts of discrimination against women.<sup>8</sup>

## II. Impact of the pandemic on women’s rights and gender equality (List of Issues para. 4)

5. A nationwide survey of Moroccan women’s NGOs showed an increase in reports of VAW during COVID-19.<sup>9</sup> Some reported a 30% increase in calls, while one NGO reported that calls doubled, and another reported that calls tripled.<sup>10</sup> This increase in figures reported by NGOs contrasts with those provided by the Presidency of the Public Prosecution, which notes a substantial decrease in the number of violence against women complaints reported from March 30 – April 30, 2020. Such a decrease is likely due to the numerous challenges and obstacles women faced reporting violence during the state of health emergency.<sup>11</sup>
6. **NGOs also reported a change in the types of violence women experience in the home due to COVID-19.** Confinement in the home, increased burden of household work, and economic stress due to lay-offs influence the types of violence women experience.<sup>12</sup> Abusers threaten to evict women from the home, use COVID-19 to isolate women from the community, and withhold financial support or child support.<sup>13</sup>
7. **Women do not benefit equally from COVID-19 public assistance.** The primary way COVID-19 allowances are distributed is to workers registered under the National Security Fund (CNSS). As women are disproportionately represented in the informal sector, many did not benefit from this method of distribution. If an individual is not registered under CNSS, they can receive COVID-19 allowances with “*Ramed*” cards. These are assigned to households, often to the husband.<sup>14</sup> As a result, many women did not receive funds because their husbands did not share the funds with them or because they were not yet legally divorced and hence did not qualify for an independent *Ramed* card.<sup>15</sup>

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<sup>8</sup> Conseil Economique, Social et Environnemental, *Le Nouveau Modèle de Développement du Maroc: Contribution du Conseil Economique, Social et Environnemental*, (2019), [http://www.ces.ma/Documents/PDF/NMD/CESE-Nouv\\_Modele\\_de\\_Devt-f.pdf](http://www.ces.ma/Documents/PDF/NMD/CESE-Nouv_Modele_de_Devt-f.pdf).

<sup>9</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, (June 2020), 15. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronaviolence%20final%20report%20-%20English.pdf>.

<sup>10</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, (June 2020), 15. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronaviolence%20final%20report%20-%20English.pdf>.

<sup>11</sup> The original Arabic text of the communiqué and a French language explanation may be found at <https://www.medias24.com/violences-contre-les-femmes-baisse-des-plaintes-mais-chiffres-contestables-9953.html>

<sup>12</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, (June 2020), 5. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronaviolence%20final%20report%20-%20English.pdf>.

<sup>13</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, (June 2020), 5. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronaviolence%20final%20report%20-%20English.pdf>.

<sup>14</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, (June 2020), 5. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronaviolence%20final%20report%20-%20English.pdf>.

<sup>15</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, June 2020, 7. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronaviolence%20final%20report%20-%20English.pdf>.

8. **Women also experience increased levels of violence and discrimination at work.** Due to the high representation of women in the informal labor sector, such as street vending, sex work, and domestic work, women were affected more than men during COVID-19 lockdowns.<sup>16</sup> Women also experienced abuse and coercion to work in unsafe conditions and without protection from the virus. Moreover, rates of sexual violence and sexual harassment in the workplace increased during COVID-19.<sup>17</sup>

### III. Discriminatory stereotypes and harmful practices (List of Issues paras. 7-8)

#### *Discriminatory stereotypes*

9. **Discriminatory stereotypes about gender roles in the family persist.** Social and religious norms deem it “obligatory” for women to marry. Women are less likely than men to be single (28.9% vs. 40.9%) but more likely to be divorced (3.4% vs. 0.9%) or widowed (10% vs. 0.8%).<sup>18</sup> Just over 70% of men affirm that the most important role of the wife is to care for the house, and that men should have the last word in household decisions.<sup>19</sup>
10. **Discriminatory stereotypes about women in the workplace persist.** 31% of men over age 15 believe women should not work. 39% of Moroccans said it would cause problems if a woman earned more than her husband. Over 60% of the population believes men should take priority over women if jobs are scarce, and 71% believe a working mother exposes her children to harm.<sup>20</sup>
11. **Harmful stereotypes about violence against women persist.** 38% of men (compared to 20% of women) believe women sometimes deserve to be beaten. More than 6 in 10 men (62%) and almost 5 in 10 women (46%) agree or strongly agree that “a woman should tolerate violence to keep her family together.”<sup>21</sup>
12. **Moroccan media perpetuate harmful gender-based stereotypes about women.** Several recent examples illustrating the critical need to address this issue include the national debate

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<sup>16</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, June 2020, 6. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronavioence%20final%20report%20-%20English.pdf>.

<sup>17</sup> Mobilising for Rights Associates, *The Impact of COVID-19 on VAW in Morocco*, June 2020, 6-7. Available at <https://mrawomen.ma/wp-content/uploads/doc/Coronavioence%20final%20report%20-%20English.pdf>.

<sup>18</sup> Royaume du Maroc Haut –Commissariat au Plan, *Femmes et Hommes en Chiffres*, (2016).

<sup>19</sup> UN Women, Promundo, and Association Migration Internationale, *Résultats de L'Enquête Images sur les Hommes et L'Égalité des Sexes Menée Dans la Région de Rabat-Salé-Kénitra*, by Bachir Hamdouch et al., (April 27, 2018), <https://www2.unwomen.org/-/media/field%20office%20maghreb/documents/publications/2018/07/rapport%20images-vf-web.pdf?la=fr&vs=1554>.

<sup>20</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 26.

<sup>21</sup> UN Women, Promundo, and Association Migration Internationale, *Résultats de L'Enquête Images sur les Hommes et L'Égalité des Sexes Menée Dans la Région de Rabat-Salé-Kénitra*, by Bachir Hamdouch et al., (April 27, 2018), <https://www2.unwomen.org/-/media/field%20office%20maghreb/documents/publications/2018/07/rapport%20images-vf-web.pdf?la=fr&vs=1554>.

on the appropriateness of radio stations continuing to play songs of a popular Moroccan singer charged with multiple counts of rape,<sup>22</sup> and misogynistic comments online by a popular radio host that generated widespread indignation and pushback from women’s groups.<sup>23</sup>

### *Harmful practices*

13. **Child marriage of girls remains a significant problem in Morocco.** Articles 20 and 21 of the Family Code continue to allow marriage of minors under 18 when “justified” and after control by the Family Affairs judge.<sup>24</sup> The Family Code provides no minimum age below which authorization to marry may never be granted.
14. Figures from the Presidency of the Public Prosecution indicated that in 2020 the courts received 19,926 petitions to marry a minor, 95% of those for girls.<sup>25</sup> Between 2011 and 2018, 85% of marriage requests ended in an authorization.<sup>26</sup>
15. Judges often issue authorization to marry minors based on their own cursory visual examination of the girl’s physical appearance and determination that she is capable of assuming “marital responsibilities,” rather than resorting to the required expertise.<sup>27</sup> Reasons advanced by judges for authorizing underage marriage include saving family honor, avoiding scandal, protecting the girl’s chastity and preventing her from debauchery, or as a solution to poverty. Some do not even substantiate their decisions in writing. Corruption among public actors and the ease with which medical certificates attesting to the minor girl’s “maturity” can be obtained are also factors allowing circumvention of the law.<sup>28</sup>

## **IV. Gender-based violence against women (List of Issues paras. 9-11)**

### *Violence against women*

16. **In spite of measures reported by the State Party,<sup>29</sup> violence against women (VAW) is widespread in Morocco and the public actor response remains inadequate.** In a 2019

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<sup>22</sup> Aida Alami, *She Accused a Moroccan Pop Star of Rape. Online, she was Vilified.*, The New York Times, November 27, 2017,

<sup>23</sup> Vidéo: “Occupe-toi de ta Cuisine”, *les Propos Misogynes d’un Célèbre Animateur Radio*, H24info, July 4, 2019.

<sup>24</sup> The authorization is not subject to appeal. The legal tutor’s (guardian’s) consent is required.

<sup>25</sup> Annual Report on the Implementation of the Penal Policy and the Improvement of the Performance of the Public Prosecutor, 2020.

<sup>26</sup> Que faire, face à la persistance du mariage d’enfants au Maroc ? Avis du Conseil Economique, Social et Environnemental (2019)

<sup>27</sup> Interviews with Local Morocco NGOs, (May 2012 – December 2013).

<sup>28</sup> Abdellah Ounnir, *Les justiciables dans le circuit judiciaire relatif au contentieux de la famille*, in *Le Code de la famille: Perceptions et pratique judiciaire*, 89-139 (Morocco: Friedrich Ebert Stiftung, 2007); Démocratique des Femmes du Maroc (ADFM), *Implementation of the CEDAW Convention: Non-Governmental Organisations’ Shadow Report to the Third and the Fourth Periodic Report of the Moroccan Government* (Nov. 2007).

<sup>29</sup> Committee on the Elimination of Discrimination against Women, Replies of Morocco to the *list of issues and questions in relation to the combined fifth and sixth periodic reports of Morocco*, (12 March 2021), U.N. Doc.

nationwide survey, 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 twelve months preceding the survey.<sup>30</sup> The prevalence of different forms of violence reported by women surveyed included psychological violence (49%), economic violence (15%), sexual violence (14%), and physical violence (13%).

17. The same survey found violence against women was most prevalent in the domestic context (52% overall, 46% committed by the husband or other intimate partner or ex-partner), followed by educational institutions (19%) and public spaces (13%). 15% of working women reported violence in the workplace, and 22% of students reported violence in education and training institutions. 14% of women reported experiencing technology facilitated violence via email, phone calls, or text messages.
18. Few VAW cases reach the law enforcement or justice systems due to failures of these systems to investigate crimes of violence, protect victims and hold perpetrators accountable. The aforementioned recent survey found that, following the most serious incident of physical or sexual violence suffered by women in the past 12 months, only 10.5% of victims (almost 18% for physical violence and less than 3% for sexual violence) filed a complaint with police or another competent authority. Less than 8% report spousal violence, compared to 11.3% for non-spousal violence.<sup>31</sup>
19. A previous national survey found most VAW complaints resulted in a written report (25%), or conciliation between spouses or withdrawal of the complaint (38%). Offenders were arrested only 1.3% of the time and indicted in 1.8% cases.<sup>32</sup> More recent statistics suggest a continuing trend – out of the 92,247 women who sought help at the VAW units at courts of first instance or appeal, only 21,588 (23%) benefitted from legal aid and only 4,233 (4.6%) resulted in court hearings.<sup>33</sup> Another recent report focusing on technology-facilitated violence only revealed nine instances where the perpetrator was arrested. In contrast, in eight cases the women targeted attempted suicide and in four instances were prosecuted themselves for sexual relations outside of marriage.<sup>34</sup>

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CEDAW/C/MAR/R Q/5-6, Replies 9-11 paras. 68-88; Committee on the Elimination of Discrimination against Women, *List of issues and questions in relation to the combined fifth and sixth periodic reports of Morocco*, (Nov. 17, 2020), U.N. Doc. CEDAW/C/MAR/Q/5-6, ¶ 232, 236.

<sup>30</sup> Royaume du Maroc Haut-Commissariat au Plan, *Deuxième enquête nationale sur la prévalence de la violence à l'égard des femmes*, (2019). Preliminary results available at [https://www.hcp.ma/Communique-du-Haut-Commissariat-au-Plan-a-l-occasion-de-la-campagne-nationale-et-internationale-de-mobilisation-pour-l\\_a2411.html](https://www.hcp.ma/Communique-du-Haut-Commissariat-au-Plan-a-l-occasion-de-la-campagne-nationale-et-internationale-de-mobilisation-pour-l_a2411.html).

<sup>31</sup> Press release, Kingdom of Morocco High Commission for Planning, *Communiqué du Haut-Commissariat au plan à l'occasion de la campagne nationale et internationale de mobilisation pour l'élimination de la violence à l'encontre des femmes*, (2019), [https://www.hcp.ma/Communique-du-Haut-Commissariat-au-Plan-a-l-occasion-de-la-campagne-nationale-et-internationale-de-mobilisation-pour-l\\_a2411.html](https://www.hcp.ma/Communique-du-Haut-Commissariat-au-Plan-a-l-occasion-de-la-campagne-nationale-et-internationale-de-mobilisation-pour-l_a2411.html).

<sup>32</sup> Kingdom of Morocco, *Principaux résultats de l'enquête nationale de la prévalence de la violence à l'égard des femmes*, January 2011.

<sup>33</sup> Annual Report on the Implementation of the Penal Policy and the Improvement of the Performance of the Public Prosecutor, 2018.

<sup>34</sup> Over 1,800 people were surveyed.

20. Reasons women do not report violence include lack of information that such violence was illegal or of procedures for reporting; threats of reprisals, of being blamed, considered at fault or arrested for sexual relations outside of marriage; and pessimism and skepticism about the usefulness of reporting to authorities, lengthy, expensive and complicated procedures, difficulties proving violence and inadequate evidence collection, absence of effective protection measures, and lack of confidence in public actors.<sup>35</sup> Criminalization of sexual relations outside of marriage prevents many women from reporting any form of violence committed against her, especially if she knew her aggressor.<sup>36</sup>
21. **Insufficient legislative advances:** Law 103-13 on VAW, enacted in March 2018, falls well short of complying with international standards or meeting advocacy demands made by civil society for over a decade. Rather than a comprehensive law with criminal and civil provisions, the law only has 18 articles and is limited to minor reforms to the Criminal Code and Code of Criminal Procedure, merely increasing penalties for existing criminal offenses in cases of spousal or other family relationships.
22. Law 103-13 did not reform Criminal Code provisions related to sexual assault or rape, which is still defined as “the act whereby a man has sexual relations with a woman against her will”, essentially requiring physical injuries as proof of resistance.<sup>37</sup> **Marital rape is still not criminalized in the Penal Code and was not addressed in Law 103-13.**
23. **Sexual relations outside of legal marriage remain illegal in Morocco** under Penal Code articles 490-93. As a result, women in non-marital intimate partner relationships do not come forward to report any form of violence – physical, sexual, technology-facilitated, or other – under Law 103-13 for fear of being prosecuted themselves.<sup>38</sup> Similarly, women victims of rape do not report sexual assaults given the threat of being prosecuted as criminals
24. Indeed, women victims of any type of crime – fraud, theft, extortion or other – in which a partner not the legal husband is the perpetrator or otherwise implicated are deterred from seeking recourse from law enforcement and the justice system by threats of being prosecuted for sexual relations outside of marriage. As one of the two means for establishing this infraction is “judicial confession”, women crime victims who report to law enforcement are deemed to have “confessed.”<sup>39</sup>

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<sup>35</sup> *Virtual Violence, Real Harm* (2019); *Promoting State Responsibility for Sexual Violence against Women in Morocco* (MRA Mobilising for Rights Associates, 2021); *Promoting State Responsibility for Intimate Partner Violence against Women in Morocco* (MRA Mobilising for Rights Associates, 2021).

<sup>36</sup> Interviews and focus groups in the above three research projects indicate the vast majority of aggressors are intimate partners or ex-intimate partners (husband or ex-husband, fiancé or ex-fiancé, boyfriend or ex-boyfriend).

<sup>37</sup> Penal Code of Morocco, article 486.

<sup>38</sup> See, e.g., *Virtual Violence, Real Harm* (2019); *Promoting State Responsibility for Sexual Violence against Women in Morocco* (MRA Mobilising for Rights Associates, 2021); *Promoting State Responsibility for Intimate Partner Violence against Women in Morocco* (MRA Mobilising for Rights Associates, 2021).

<sup>39</sup> Written reports from Moroccan NGOs to MRA, May 2021 – April 2022.

25. In addition to serving as a disincentive to women victims reporting violence, these legal provisions actually encourage and facilitate violence against women by providing violent perpetrators with a tool – the threat of denunciation for sexual relations outside of marriage - for blackmail, extortion, and coercive control of women.
26. The second means of proving sexual relations outside of marriage - “flagrant delit,” - is interpreted so broadly that a simple law enforcement report stating that “two unmarried people were found together in an isolated area” – even fully clothed – is sufficient for prosecution and conviction.<sup>40</sup>
27. Unwed mothers who give birth at a hospital, where the staff are required to notify law enforcement, and/or who file a case in Family Court to establish a child’s paternity, also face prosecution for sexual relations outside marriage, with the child’s birth deemed as proof.
28. As illustrated below, in 2020 there were substantially more prosecutions for so-called morality crimes than for Violence against women crimes.

<b>CRIMINAL CASE FILES, 2020<sup>41</sup></b>	
<b>VAW Crimes</b>	<b>“Morality Crimes”</b>
<p><b>18,275 criminal cases against 19,570 persons, including:</b></p> <ul style="list-style-type: none"> <li>● 43 murder</li> <li>● 708 rape</li> <li>● 6072 misdemeanor assault and battery</li> <li>● 1745 felony assault and battery</li> <li>● 493 sexual harassment in public spaces</li> <li>● 20 workplace sexual harassment</li> <li>● 153 technology-facilitated harassment</li> <li>● 2 prosecutions for violation of a no-contact order</li> </ul>	<p><b>27,378 cases against 31,799 persons, including:</b></p> <ul style="list-style-type: none"> <li>● 10,376 prosecutions for illicit sexual relations</li> <li>● 2268 prosecutions for adultery</li> <li>● 141 prosecutions for homosexuality</li> </ul>

29. The State party has not responded to a 2017 Communication from the United Nations Working Group on discrimination against women and girls, informing the State party that the criminalization of sexual relations outside of marriage is a form of discrimination against

<sup>40</sup> Written reports from Moroccan NGOs to MRA, May 2021 – April 2022.

<sup>41</sup> Annual Report on the Implementation of the Penal Policy and the Improvement of the Performance of the Public Prosecutor, 2020.

women and contrary to international human rights standards, and calling on Morocco to repeal these provisions.<sup>42</sup>

30. **Law 103-13 does not address, or establish any provisions for reporting, investigation, prosecution, or trial of violence against women cases**, or create obligations and procedures for law enforcement and justice system personnel. Policies and procedures thus remain unclear and inconsistent, hindering the process of responding to VAW cases. For instance, in one city, NGOs reported doctors do not provide medical certificates to women who report rape without instructions from a prosecutor.<sup>43</sup>
31. The lack of clear standards of evidence hinders investigation and prosecution of VAW crimes. The State party report claims judges have “become firmly convinced that domestic violence can be documented by a variety of means, including doctor’s certificates, photographs, exams and a variety of other available evidence.”<sup>44</sup> However, the cited Article 286 of the Code of Criminal Procedure actually provides that, “Crimes can be proven by any means of proof,” leaving it to judges’ discretion to assess evidence based on their “intimate conviction.” Additionally, local NGOs report that most often there is inadequate evidence collection by local law enforcement and justice system actors, who place the burden of bringing proof of violent crimes onto the victim.
32. **Law 103-13 does not provide adequate protection for women victims of violence or prevent them from being at risk of future violence.** The protective measures cited in the State party report and Replies to List of Issues,<sup>45</sup> and provided under the Criminal Code and Code of Criminal Procedure, are limited criminal (not civil) measures; rather than being available “immediately,” they 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, who report that their optional nature and lack of clarity make them difficult to apply. In addition to requiring the victim to file a criminal complaint, these measure come too late in the process – only after a prosecution has been launched or a conviction handed down. Most cases never get that far, leaving the majority of victims unprotected.<sup>46</sup>

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<sup>42</sup> United Nations Working Group on discrimination against women and girls, Communication to Morocco, Reference OL MAR 5/2017, November 14, 2017.

<sup>43</sup> Bordat, Stephanie Willman and Saida Kouzzi, USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018.

<sup>44</sup> Committee on the Elimination of Discrimination against Women, *Combined fifth and sixth periodic reports submitted by Morocco under article 18 of the Convention due in 2016*, (Feb. 19, 2020), U.N. Doc. CEDAW/C/MAR/5-6. ¶ 235.

<sup>45</sup> Committee on the Elimination of Discrimination against Women, *Combined fifth and sixth periodic reports submitted by Morocco under article 18 of the Convention due in 2016*, (Feb. 19, 2020), U.N. Doc. CEDAW/C/MAR/5-6. ¶ 232, 236. *Committee on the Elimination of Discrimination against Women, Replies of Morocco to the list of issues and questions in relation to the combined fifth and sixth periodic reports of Morocco*, (12 March 2021), U.N. Doc. CEDAW/C/MAR/R Q/5-6, Reply 10, paras. 82-84.

<sup>46</sup> Criminal Code of Morocco articles 61, 88-1, 88-3, Code of Criminal Procedure Article 82-5.

33. The State party incorrectly states that “the spouse committing the violation is removed.”<sup>47</sup> Law enforcement officers are not empowered by law or policy to remove violent offenders from the home and hence rarely do so. In the majority of cases, NGOs report that women and children must flee the home and seek shelter elsewhere.
34. **Law 103-13 does not establish specific services or provide concrete support such as health care, housing, or legal assistance for women victims of violence.** Law 14-05 on “Social Protection Establishments” is the only law that provides for safe housing for vulnerable individuals. It does not specifically apply to women victims of violence.<sup>48</sup> The State party reports that 65 “multifunction centres have been established” in response to the 2020 Marrakesh declaration on combating violence against women;<sup>49</sup> 40 multifunction centres were created at the regional and local level to provide care for victims of violence.<sup>50</sup> NGOs in Morocco, however, report that these centres not functional or operating, but are empty buildings without staff.<sup>51</sup>
35. Women experiencing domestic violence face challenges obtaining a medical certificate with the duration (attesting to injuries resulting in 21 or more days of incapacity caused by the violence) legally necessary to bring a criminal complaint for assault.<sup>52</sup> According to local NGOs, most certificates issued range from 1 to 20 days, which does not allow for the perpetrator’s arrest.
36. Law 103-13 creates numerous exceptions in VAW cases by providing that prosecutions are terminated and judgments are cancelled if the victim waives her rights. Prosecutions for family abandonment, non-payment of financial support, expulsion from the conjugal home, coerced marriage, or squandering of property terminate if the victim waives her rights; any decision rendered is also cancelled. Likewise, reconciliation puts an end to the protective orders of Article 88-1; despite the fact that the offender would have violated a court order or decision, these criminal cases are treated as private matters.
37. The State party has not responded to a 2017 Joint Communication from the United Nations Working Group on discrimination against women and girls and the Special Rapporteur on

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<sup>47</sup> Committee on the Elimination of Discrimination against Women, *Combined fifth and sixth periodic reports submitted by Morocco under article 18 of the Convention due in 2016*, (Feb. 19, 2020), U.N. Doc. CEDAW/C/MAR/5-6. ¶232.

<sup>48</sup> Royaume du Maroc. Dahir n° 1-18-25 du 25 rejab 1439 (12 avril 2018) portant promulgation de la loi n° 65-15 relative aux établissements de protection sociale.

<sup>49</sup> *Committee on the Elimination of Discrimination against Women, Replies of Morocco to the list of issues and questions in relation to the combined fifth and sixth periodic reports of Morocco*, (12 March 2021), U.N. Doc. CEDAW/C/MAR/R Q/5-6, Reply 11, para. 85.

<sup>50</sup> *Committee on the Elimination of Discrimination against Women, Replies of Morocco to the list of issues and questions in relation to the combined fifth and sixth periodic reports of Morocco*, (12 March 2021), U.N. Doc. CEDAW/C/MAR/R Q/5-6, Reply 11, para. 86. Committee on the Elimination of Discrimination against Women, *Combined fifth and sixth periodic reports submitted by Morocco under article 18 of the Convention due in 2016*, (Feb. 19, 2020), U.N. Doc. CEDAW/C/MAR/5-6. ¶247.

<sup>51</sup> Written communication from Moroccan women’s rights NGO (11 May 2021).

<sup>52</sup> Penal Code of Morocco article 400-401.

violence against women, its causes and consequences, in which these two special procedures raised many of the above issues related to the deficiencies of Law 103-13.<sup>53</sup>

### *Sexual Harassment*

38. Penal Code article 503-1 (from 2003) only covers the offence of sexual harassment in the workplace by a superior and with the purpose of obtaining sexual favors. Behavior that creates a hostile work environment is not defined as sexual harassment under article 503-1.<sup>54</sup>
39. The 2018 law 103-13 on VAW expanded the scope of sexual harassment crimes, criminalizing “persistent” harassment in public spaces by words, acts or signals of a sexual nature for sexual purposes” or “written letters, phone or electronic messages, records or images of sexual nature for sexual purposes.”<sup>55</sup> If the perpetrator is a co-worker or in charge of order or security of public places, or an ascendant or has authority over the victim, this is an aggravating circumstance for sentencing purposes (Penal Code articles 503-1-1 and 503-1-2).<sup>56</sup>
40. Law 103-13 also criminalized technology-facilitated violence. New Penal Code articles 447-1 – 447-3 criminalize intentionally capturing, recording, broadcasting or dissemination of another person’s private or confidential information or statements, pictures in a private place, or false allegations or statements aiming to harm someone’s private life or reputation. Offender relationship to the victim through one of the categories previously mentioned is an aggravating circumstance for sentencing purposes.
41. Despite these legislative advances, women experience multiple barriers to reporting sexual harassment. Again, lack of procedures to facilitate reporting, investigation, and prosecution, or clear standards of what constitutes “proof” prevent these articles from being applied in practice. Sexual harassment provisions require that the harassment be “persistent” – an undefined term that again raises issues of how to prove elements of a crime or what evidence is admissible and sufficient. Women who report technology-facilitated harassment by an intimate partner, such as the non-consensual sharing of intimate images, to the authorities are often deemed to have “confessed” to sexual relations outside of marriage and prosecuted themselves.
42. Sexual harassment occurs often among women working in agriculture or other unofficial sector jobs. Female seasonal agricultural workers, who often don’t have official contracts, health insurance, or job benefits, say many cases of sexual harassment go unreported because of

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<sup>53</sup> United Nations Working Group on discrimination against women and girls and the Special Rapporteur on violence against women, its causes and consequences, Communication to Morocco, Reference OL MAR 2/2017, July 4, 2017.

<sup>54</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 30.

<sup>55</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 30.

<sup>56</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 30.

threats of firing or physical abuse.<sup>57</sup> Many women who experience verbal sexual harassment at work report feeling helpless to stop it or file a complaint because of difficulties obtaining evidence to present in court.<sup>58</sup>

## **V. Participation in political and public life (List of Issues para. 14)**

43. **Gender parity in political positions exists in law but not in practice.** Just 24.3% of the 395-member House of Representatives and 12% of the 120-member House of Councillors are women, despite legal requirements for gender equality in elected bodies. This disparity is even more pronounced at the regional and local level. Of 12 regions there is only one woman president and just 15 communal presidents and three provincial/prefectural council presidents are women. Women also make up only 19% of high-level positions in the Executive Branch and diplomatic corps.<sup>59</sup>
44. **Women in civil service are under-represented in high-level positions.** Although women make up 39 % of all civil servants, they are much less likely than men to hold high-level positions. Women represent only 17.4 % of department heads, 10.24 % of division managers, 11.3% of directors, 0% of general directors, and 12.5% of secretary generals.<sup>60</sup>
45. **Rates of civic participation are lower for women.** Men are four to six times more likely to participate in activities such as protests, signing petitions, public forums, or contacting local officials. One survey indicated that in the June 2009 election, 45% of women voted compared to 5% of men.<sup>61</sup>

## **VI. Education (List of Issues para. 16)**

46. **Gender gaps in education level and literacy persist.** 37% of women are illiterate compared to 25% of men. In rural areas, only 26.8 % of girls attend middle school, while 29.4% of boys attend middle school.<sup>62</sup> Reasons for girls dropping out include lack of access to transportation and risk of sexual harassment on the way to school.<sup>63</sup>

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<sup>57</sup> *Female Workers in Villages...Forgotten by the Government and Face Sexual Harassment*, Al-Zahara' Forum for Moroccan Women, January 20, 2012. <http://www.fz.ma/news140.html>

<sup>58</sup> Amal Abu Al-Ala', *Women of Sexual violence Speak out*, Alyaoum24, September 7, 2013. <http://www.alyaoum24.com/164523.html>.

<sup>59</sup> World Economic Forum, *The Global Gender Gap Report*, (2017). The highest possible score is 1 (parity) and the lowest possible score is 0 (imparity).

<sup>60</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018. 36. For more detail, see section 4.1.4. Advances, Challenges and Gaps in Political Inclusion.

<sup>61</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018. 36.

<sup>62</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 55.

<sup>63</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 56.

47. **Women working in the political sphere are at a disadvantage due to lower education levels.** NGOs report that women, who are newer to the political system, bear the burden of catching up to men who are more familiar with it. Moreover, women often do not benefit from trainings provided by councillors because political parties choose who attends.<sup>64</sup>

## **VII. Employment (List of Issues para. 17)**

48. **Women’s rights are violated in the workplace in Morocco.** About 87.5% of rural working women and 54.2% of urban women do not have formal contracts.<sup>65</sup> NGOs report many cases of labor code violations, including unlawful terminations, salaries under minimum wage, and denial of paid maternity leave.<sup>66</sup> Violations are especially prevalent in industries such as seasonal berry picking, agriculture, and factory work, where women are disproportionately represented.<sup>67</sup> There is a shortage of labor inspectors and lack of emphasis on gender equality during inspections. In 2014, inspectors reviewed 12,833 companies and found only 37 violations related to paid maternity leave and 54 related to women’s right to work.<sup>68</sup>

49. **Women face social and economic barriers to remaining in the workforce.** Morocco has a “marital status gap” of 70%. Women often leave work when they marry.<sup>69</sup> Women may also leave jobs because of harassment, termination, or limited access to childcare.<sup>70</sup>

50. **Women face discrimination in recruitment.** Women face subjective and informal discrimination in recruitment. In Morocco, recruitment is conducted primarily through family relationships and connections. Women are disadvantaged by potential employers taking marital and family status into consideration or specifically targeting marginalized women from poor communities who will become dependent on the company.”<sup>71</sup>

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<sup>64</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 41, 208.

<sup>65</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 55.

<sup>66</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 55.

<sup>67</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 56.

<sup>68</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 56.

<sup>69</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 56.

<sup>70</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 56.

<sup>71</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 56.

## VIII. Health (List of Issues para. 18-19)

51. **No specialized healthcare or other services exist for women with disabilities.**<sup>72</sup> There is a shortage of psychiatrists, and persons with intellectual and psychosocial disabilities are often directed to mental health hospitals.<sup>73</sup> Barriers to accessing healthcare include lack of knowledge about the right to health, lack of access to hospitals, illiteracy, difficulty communicating needs, and mistreatment by hospital staff who denigrate women and harm their dignity.<sup>74</sup> Women with disabilities who become pregnant as a result of rape cannot seek legal abortions due to restrictions in the Penal Code. NGOs report they do not seek specialized health services because rape is perceived as a family matter.<sup>75</sup>
52. Additionally, women with disabilities may face financial difficulties, as persons with disabilities are more vulnerable to poverty.<sup>76</sup>
53. Abortion remains illegal unless deemed necessary to protect the mother's health.<sup>77</sup> The husband's authorization is required, except where the mother's life is in danger. Absent spousal authorization, the doctor must seek written permission from the Chief Medical Doctor in the district before performing the abortion.<sup>78</sup> Abortion is not legally permitted in cases of rape or incest, fetal impairment, for economic or social reasons, for women suffering from any type of impairment, or simply upon request. Moroccan laws punish women who have or attempt an abortion,<sup>79</sup> as well as anyone deemed to have incited abortion through public statements or distribution of written or visual materials.<sup>80</sup>
54. Bill 10-16 that would allow abortion in cases of rape or incest, fetal impairment, or the mother's mental illness has been stalled in Parliament since June 2016.<sup>81</sup>

## IX. Rural Women (List of Issues para. 21)

55. **Rural women have less autonomy in the household and over their labor.** 11.5% of rural women are considered heads of households compared to 18.5% of urban women.<sup>82</sup> Many rural

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<sup>72</sup> Communications from local Moroccan NGOs to MRA and The Advocates, June 2017.

<sup>73</sup> Communications from local Moroccan NGOs to MRA and The Advocates, June 2017.

<sup>74</sup> Communications from local Moroccan NGOs to MRA and The Advocates, June 2017.

<sup>75</sup> Communications from local Moroccan NGOs to MRA and The Advocates, June 2017.

<sup>76</sup> Communications from local Moroccan NGOs to MRA and the Advocates, June 2017.

<sup>77</sup> Penal Code of Morocco art. 449-452. Articles 449-452 of the Moroccan Penal Code punish performing an abortion with 1 – 5 years imprisonment (doubled if the person performing the abortion habitually does so), and medical professionals may also be barred from exercising their profession temporarily or permanently. In 2008, 12 doctors were imprisoned under these provisions of the Penal Code. « Réformer l'Interruption Médicale de Grossesse...pour en finir avec l'avortement clandestine,» *Femmes du Maroc*, No. 160, April 2009).

<sup>78</sup> Penal Code of Morocco art. 453.

<sup>79</sup> Penal Code of Morocco art. 454 provides for a prison term of 6 months to 2 years a woman who has or attempts to have an abortion).

<sup>80</sup> Penal Code of Morocco art. 455 punishes a host of such acts with a 2 month to 2-year prison sentence.

<sup>81</sup> Royaume du Maroc. Projet de loi N°10.16 modifiant et complétant le Code Pénal.

<sup>82</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 28.

women must ask permission from male relatives to leave the house, access healthcare, or travel.<sup>83</sup> One study found only half of rural women are able to make decisions about their profits from working in the agricultural sector.<sup>84</sup>

56. **Women living in rural areas spend more time doing domestic work.** Rural women spend an hour more per day on domestic work than urban women. Basic tasks like hauling water and cooking take longer in rural areas due to inadequate infrastructure and transportation.<sup>85</sup>
57. **Rural women lack access to healthcare.** 90% of women in rural areas do not have health insurance coverage, compared to 53% of women in urban areas.<sup>86</sup>

## **X. Marriage and family relations (List of Issues para. 23) and Disadvantaged groups of women (List of Issues para. 22 (c))**

### *Polygamy*

58. **The government of Morocco has not abolished polygamy.** The Family Code continues to allow polygamy when the wife has not stipulated a monogamy clause into the marriage contract and when there is not a risk of inequity between wives.<sup>87</sup> A husband must file a petition with the court for authorization to take another wife. The judge may only authorize polygamy if the husband (a) proves he has an exceptional and objective justification for taking another wife, and (b) has sufficient resources to support both families and guarantee equality in all aspects of life.<sup>88</sup> Once the husband files a petition for authorization, the judge must summon the current wife for a hearing to obtain her consent. If she does not consent, her only option is to initiate irreconcilable differences divorce proceedings (*chiqaq*).<sup>89</sup> The judge must also notify the future wife that the petitioner husband is already married, and she must consent before the marriage may be concluded.<sup>90</sup>
59. In practice, women rarely stipulate to monogamy clauses in their marriage contracts. A review of 75,173 marriage contracts in Morocco found that only 87 contained a monogamy clause preventing the husband from taking another wife.<sup>91</sup>

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<sup>83</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 55.

<sup>84</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 55.

<sup>85</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 25.

<sup>86</sup> Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 49.

<sup>87</sup> Family Code of Morocco, Article 40.

<sup>88</sup> Family Code of Morocco, Article 41.

<sup>89</sup> Family Code of Morocco, Articles 43, 44, 45.

<sup>90</sup> Family Code of Morocco, Article 46. See also: Bordat, Stephanie Willman and Saida Kouzzi. USAID/Morocco Gender Analysis. Prepared by Banyan Global. 2018, 23.

<sup>91</sup> Global Rights, *Promoting Women's Human Rights in Morocco, Algeria and Tunisia through Strategic Use of the Marriage Contract*, (2011).

60. Official statistics for 2020 indicated 658 polygamous marriages (0.3% of all marriages), a slight decrease from 2016.<sup>92</sup> Although polygamy is rare, women whose husbands wish to take another wife must either agree or seek divorce. The mere threat of polygamy thus provides a source of coercive control by husbands over their wives.

#### *Discriminatory provisions in family law*

61. The State party incorrectly states that the Family Code ensures equal rights during a marriage and upon its dissolution.<sup>93</sup> Family Code provisions establish *separate marital property as the rule*, whereby each spouse retains ownership of assets acquired during marriage with no division or sharing of property upon dissolution of marriage. These provisions are detrimental to women. Although reforms did create the article 49 option for spouses to conclude a written property agreement setting out an alternative framework for how they will manage and share assets acquired during the marriage (for example, joint or community property), these are extremely rare in practice.<sup>94</sup> Ownership of titled property is by law deemed to be in the name of the person who registered it (usually the husband) even when both spouses contribute to its purchase.

62. **Women and men have unequal access to divorce.** Men retain their right to divorce unilaterally and without cause. In contrast, women must either pay compensation to their husbands to obtain a divorce or seek judicial divorce by proving one of six specified faults committed by the husband or by alleging irreconcilable differences.<sup>95</sup>

63. **Limited financial support and awards.** After divorce, husbands have no financial obligations, such as *alimony*, to their ex-wives beyond housing and maintenance expenses during the limited *idda* period.<sup>96</sup> Although fathers are responsible for financially maintaining children after divorce both paying the custodian *child support* and guaranteeing the children decent housing,<sup>97</sup> award amounts are generally quite low, and numerous problems arise in serving notice and executing judgments. In 2011, only 60% of child support cases received decisions, and only 60% of those were enforced.<sup>98</sup> Women thus often bear the costs of raising

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<sup>92</sup> Kingdom of Morocco High Commissioner for Planning, *La femme Marocaine en chiffres*, (2020).

<sup>93</sup> Committee on the Elimination of Discrimination against Women, *Combined fifth and sixth periodic reports submitted by Morocco under article 18 of the Convention due in 2016*, (Feb. 19, 2020), U.N. Doc. CEDAW/C/MAR/5-6. ¶219.

<sup>94</sup> See e.g.: Global Rights. Conditions, Not Conflict: Promoting Women's Human Rights in the Maghreb through the Strategic Use of the Marriage Contract, 2008.

<sup>95</sup> Royaume du Maroc. Dahir n° 1-04-22 du 12 hija 1424 (3 février 2004) Portant Promulgation de la loi n° 70-03 portant Code de la Famille («Family Code»), Articles 78 – 120, 2004.

<sup>96</sup> Royaume du Maroc. Dahir n° 1-04-22 du 12 hija 1424 (3 février 2004) Portant Promulgation de la loi n° 70-03 portant Code de la Famille («Family Code»), Articles 129 – 137. The length of the *idda* varies depending on the circumstances from three menstrual cycles to four months and ten days, or, in the case of pregnant women, through the end of the pregnancy.

<sup>97</sup> Ibid. Articles 167-168, 190-191, 198-199.

<sup>98</sup> World Bank, *Morocco Mind the Gap: Empowering Women for a More Open, Inclusive, and Prosperous Society*, (2015).

children alone after divorce. Discriminatory inheritance laws continue to award women lesser shares of *inheritance* than men.<sup>99</sup>

64. The State party incorrectly states that the Family Code ensures the couple's shared responsibility towards children.<sup>100</sup> The law distinguishes between physical custody and legal guardianship of children and maintains inequality between fathers and mothers in *legal guardianship* of children. Even after divorce, fathers remain legal guardians, controlling all decision-making and management of affairs relating to children, such as education, property, and other administrative issues.<sup>101</sup> These also include responsibilities for children's bank accounts and for receiving insurance reimbursements for children's medical expenses, even when the mother has paid. Mothers with physical custody of children after divorce face obstacles to registering their children for school, to remarrying, as well as constraints on mobility to travel outside of the country with their children or to relocate within Morocco away from the father/legal guardian.<sup>102</sup>
65. The Family Code only recognizes *legitimate paternal filiation*, by which children are attributed to a father when he is legally engaged or married to the mother at the time of conception. "Illegitimate" or "natural" paternity does not exist in Moroccan law, and children born to unwed mothers have no rights from their biological fathers, such as the right to bear his name, receive financial support, or inherit.<sup>103</sup>
66. Additionally, the 2002 Civil Status Code maintains discrimination against children born out of wedlock. It does not guarantee unwed mothers the right to record their children in a Family Booklet, depriving such children of a legal identity.<sup>104</sup>

## XI. Suggested recommendations for Morocco

67. The authors of this report recommend the following to the government of Morocco:
68. **Engage with international institutions** by responding to the two United Nations Special Procedure Communications dating from 2017 expressing concerns about (a) Law 103-13 on violence against women and (b) the criminalization of sexual relations outside of marriage.

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<sup>99</sup> Royaume du Maroc. Dahir n° 1-04-22 du 12 hija 1424 (3 février 2004) Portant Promulgation de la loi n° 70-03 portant Code de la Famille («Family Code »), Book Six, 2004.

<sup>100</sup> Committee on the Elimination of Discrimination against Women, *Combined fifth and sixth periodic reports submitted by Morocco under article 18 of the Convention due in 2016*, (Feb. 19, 2020), U.N. Doc. CEDAW/MAR/5-6. ¶219.

<sup>101</sup> Royaume du Maroc. Dahir n° 1-04-22 du 12 hija 1424 (3 février 2004) Portant Promulgation de la loi n° 70-03 portant Code de la Famille («Family Code »), Articles 231, 236, 238.

<sup>102</sup> Ibid. Articles 173, 175 and 178.

<sup>103</sup> Family Code of Morocco articles 142 – 162.

<sup>104</sup> Loi de Statut Civil 2002 Loi No 37-99 relative à l'état civil, Dahir 1-02-239 du 25 rejab 1423 (3 October 2002).

69. **Implement the 2011 Constitution by** clearly establishing the supremacy, applicability, and justiciability in domestic courts of international human rights conventions to which Morocco is a party and of the Moroccan Constitution over national laws.

70. **Improve Law 103-13 on the Elimination of Violence against Women by passing comprehensive amendments to the law and implementing regulations that contain both criminal and civil provisions.** Amendments should include:

- 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.
- Reforms to the Penal Procedure Code to effectively address the reporting, investigation, and prosecution phases in VAW cases by providing public actors in the health, law enforcement and justice sectors with clearly defined obligations, powers, procedures and accountability mechanisms for non-compliance;
- Measures to address deficiencies in the 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;

80. **Amend the Family Code to:**

- Abolish all provisions that allow polygamy;
- Encourage women to stipulate to monogamy clauses in marriage contracts;
- Encourage couples to conclude marital property contracts as provided in Family Code article 49;
- Ensure that article 53 of the Family Code is not applied in cases of domestic violence;
- Eliminate discrimination between men and women in access to divorce;
- 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
- Eliminate provisions placing mothers at risk of losing custody of their children in case they remarry or move to another locality;
- Provide that mothers exercise legal guardianship over their children on an equal basis with fathers;

- Improve procedures for granting and enforcing financial awards for child support;
- Eliminate discrimination against children born out of wedlock.

81. **Amend** Article 10 of the Nationality Code to allow foreign men married to Moroccan women to acquire Moroccan nationality.

82. **Amend the Civil Status Code** (and Family Code) to explicitly provide that unwed mother may obtain a Family Booklet in which to register their children.

### 83. **Reform the Penal Code**

- Repeal 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, foetal impairment, or the mother’s mental illness;
- Eliminate the current 21-day incapacity period necessary for a woman to bring a criminal assault and battery charge in violence cases.

### 84. **Additional recommendations to Morocco regarding:**

- **Political Participation**

- Implement current gender parity laws for elected positions on national, regional, and local levels;
- Ensure women hold equal high-level positions to men;
- Improve and encourage civic participation on the part of rural and urban women.

- **Access to Education**

- Address high dropout rates for girls, especially in rural areas;
- Ensure women have access to adequate training in government positions;
- Take steps to reduce high illiteracy rates among women, particularly rural women and girls.

- **Right to Work**

- Put in place measures to ensure all women have formal employment contracts;
- Establish a clear protocol for prosecuting violators of the labor code in the informal sector and prosecute all violations accordingly;
- Take steps to effectively eradicate sexual harassment in the workplace;
- Address the “marital status gap” with respect to employment;
- Improve infrastructure and transportation for rural women and girls to ensure they can access educational and professional opportunities.

- **Access to Healthcare**

- Provide specialized care to women with disabilities, exonerate them from all costs, provide services in hospitals adapted for each form of disability, develop comprehensive health coverage, strengthen communication within and between hospitals, and simplify information to make it accessible for all disabled peoples;
- Ensure rural women have access to adequate healthcare;
- Enact the reforms to the Penal Code, stalled since 2016, that would amend the current laws on abortion to bring them in line with international standards.