

MOROCCO

Universal Periodic Review Mid-term 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

Submitted November 2019

The Government of Morocco was reviewed during the 27th Session of the Working Group on the Universal Periodic Review on 2 May 2017. The Government of Morocco has opted in to the mid-term reporting procedure. The following civil society organizations respectfully submit a joint mid-term report related to the lack of implementation of recommendations related to the rights of women in Morocco.

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: Based in Rabat, MRA partners with local NGOs throughout Morocco. 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.

Morocco: Universal Periodic Review Mid-term Report

| Recommendations Accepted by Morocco | | |
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| Family Law | Grade | Overview |
| <p>144.132 Repeal the provision preventing Moroccan women from transmitting nationality to their foreign husband (Congo)</p> <p>144.133 Repeal provisions which deny women legal guardianship of minor children on equal footing with men (Denmark)</p> <p>144.135 Consider eliminating from identity documents all data that could lead to discrimination against children born out of wedlock (Peru)</p> <p>144.136 Improve the existing procedures for registering children to guarantee equality for children and equal legal treatment without any discrimination (Serbia)</p> | <p>Not implemented (no progress made)</p> | <ul style="list-style-type: none"> Article 10 of the Nationality Code on “Acquisition of nationality by marriage” only allows foreign women married to Moroccan men to acquire Moroccan nationality. The Code does not provide for foreign men married to Moroccan women to acquire Moroccan nationality. The 2004 Family Code maintains discrimination against women in child custody and guardianship. Mothers risk losing physical custody of their children if they remarry or move. Mothers only exercise legal guardianship over their children when the father is absent or incapacitated. The 2002 Civil Status Code maintains discrimination against children born out of wedlock. The Code does not guarantee unwed mothers the right to obtain and record their children in a Family Booklet, depriving such children of a legal identity. The 2004 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. |
| Violence Against Women | Grade | Overview |
| <p>144.188 Adopt comprehensive and integral legislation to eliminate discrimination and all forms of violence against women and to promote their advancement in all areas, including economic area (Honduras)</p> | <p>Partial implementation (very minor)</p> | <ul style="list-style-type: none"> Violence against women is a widespread problem in Morocco. According to the preliminary results of the Second National Survey on the Prevalence of Violence against Women (2019), 54.4% of women in Morocco |

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| <p>144.189 Strengthen the existing legal framework to protect women against all forms of violence and eliminate all discriminatory gender-based legal norms (Chile)</p> <p>144.190 Take all necessary measures to strengthen the fight against domestic violence and sexual violence against women (France)</p> <p>144.193 Continue efforts to combat violence against women (Tunisia)</p> <p>144.195 Expedite the adoption of draft law 103.13 on violence against women, while taking into account the importance of widening the protection for women victims of violence, and criminalize marital rape (Belgium)</p> <p>144.198 Implement adequate measures to ensure the comprehensive and effective protection of women against domestic violence and accelerate the drafting process of a bill that is consistent with international standards in this area (Germany)</p> <p>144.199 Strengthen the legal framework to prevent discrimination and violence against women, in particular domestic violence (Italy)</p> <p>144.200 Accelerate the process of adoption of the draft law on the elimination of the violence against women (Jordan)</p> <p>144.202 Adopt specific legislation on violence against women, including criminal and civil provisions necessary to address domestic violence and sexual harassment against women and girls (Mexico)</p> <p>144.203 Implement the law on violence against women swiftly (Norway)</p> <p>144.204 Adopt a general law on violence against women, in accordance with international standards, providing the means for its effective implementation (Paraguay)</p> <p>144.205 Strengthen legislation to ensure gender equality, in particular to prevent violence against women and stop early and forced marriages (Republic of Korea)</p> | <p>progress made)</p> | <p>suffered at least one form of violence in the 12 months preceding the study.</p> <ul style="list-style-type: none"> • Few VAW cases reach the law enforcement or justice systems due to the failures of the system to investigate crimes of violence, protect victims and hold perpetrators accountable. According to the Second National Survey, only 6.6% of women victims of violence reported the violence to public authorities. • The 2018 Law 103-13 on Violence against women, with its mere 18 articles, falls well short of complying with international standards or meeting the advocacy demands made by civil society for over a decade. Rather than proposing a specific law with criminal and civil provisions, as per numerous UPR recommendations accepted by Morocco, the Bill is limited to minor reforms to the Criminal Code and the Code of Criminal Procedure, merely increasing penalties for existing criminal offenses in cases of a spousal or other family relationship. • Marital rape is still not criminalized in the Penal Code, and was not addressed in Law 103-13. • Sexual relations outside of legal marriage remain illegal in Morocco under Penal Code articles 490-91. As a result, women in other intimate partner relationships do not come forward to report violence under Law 103-13 for fear of being prosecuted themselves. • Likewise, women victims of rape do not report sexual assaults given the risk of being prosecuted themselves as criminals. • In 2018, there were 12,239 criminal cases of illicit sexual relations outside of marriage. In contrast, there were only 1008 cases of rape, and 2120 cases of criminal domestic violence registered (2018 report of the Presidency of Public Prosecutor). • Law 103-13 does not address or establish any provisions |
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| <p>144.206 Accelerate the enactment of the law on violence against women and the adoption of the international definition of gender-based violence (Slovenia)</p> <p>144.207 Further progress in the fight against all forms of discrimination and violence against women, putting into operation the Authority for Gender Equality and Action against All Forms of Discrimination (Spain)</p> <p>144.208 Adopt and implement a comprehensive and non-discriminatory law on violence against women and girls (Switzerland)</p> <p>144.209 Put into place specific legislation to prevent, investigate, and punish violence against women (Uganda)</p> <p>144.210 Adjust the new abortion law protocol to give women the right to abort in cases of incest and rape based on the police report only (Slovenia).</p> <p>144.211 Step up efforts to combat violence against women by strictly enforcing relevant laws and improve victim support mechanisms (Thailand)</p> <p>144.212 Take additional measures on domestic violence (Greece)</p> | | <p>for the reporting, investigation, and prosecution phases of violence against women cases.</p> <ul style="list-style-type: none"> • Law 103-13 does not provide adequate protection for women victims of violence or prevent them from being at risk of future violence. Limited protective measures are only available in cases where there is a criminal prosecution or conviction. • Law 103-13 does not establish any specific services or provide concrete support for women victims of violence, such as health care, housing, or legal assistance. • Law 103-13 did not reform any provisions related to sexual assault and rape, still defined as sexual relations “against a women’s will,” requiring physical injuries as proof. • Abortion remains illegal in the Penal Code unless it is deemed necessary to protect the mother’s health. In addition, the husband’s authorization is required, except in cases where the mother’s life is in danger. In the absence of spousal authorization, the doctor must seek written permission from the Chief Medical Doctor in the district before performing the abortion. • Bill 10-16 that would allow abortion in cases of rape or incest, foetal impairment, or the mother’s mental illness has been stalled in from of Parliament since June 2016. |
| Child Marriage | Grade | Overview |

| <p>144.217 Eliminate the harmful practice of early marriage and raise awareness among the public and parents for the effective protection of minor girls (Croatia)</p> <p>144.218 Strengthen measures aimed at eradicating child marriages and expedite the enactment of legislation abolishing the forced marriage of children (Sierra Leone)</p> <p>144.219 Take measures to counteract the trend of judicial authorizations of marriages involving minors, including through necessary amendments to the Family Code (Sweden)</p> | <p>Not implemented (no progress made)</p> | <ul style="list-style-type: none"> • Child marriage remains a significant problem in Morocco. Ministry of Justice figures show that in 2018, there were 32,104 petitions to marry a minor, up from 30,312 in 2006. • Articles 20 and 21 of the 2004 Family Code continues to allow the marriage of minors under 18 when “justified” and after control by the Family Affairs judge. The Family Code provides no threshold minimum age below which authorization to marry may never be granted. Ministry of Justice figures indicate that 85% of petitions for authorization to marry a minor are granted. |
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| <p>Recommendations Partially Accepted by Morocco</p> | <p>Grade</p> | <p>Overview</p> |
| <p>144.130 Analyse existing legislation and repeal all rules, in particular those of the Family Code, which are contrary to the principle of equality between children or which constitute a discrimination of the rights of the child (Chile)</p> <p>144.134 Abolish the criminalization of single mothers, allow full legal recognition of children born outside marriage (including with regard to their name and right of inheritance) and introduce DNA testing to ascertain paternity (Germany)</p> <p>144.138 Withdraw any reference in identity documents which would allow for the identification of children born outside of wedlock and repeal all discriminatory provisions regarding such children, in particular in the Family Code (Turkey)</p> <p>144.185 Review all laws and practices that discriminate on the basis of gender and bring them into line with international law and standards and take steps to further improve the protection of women who are subjected to violence, including by amending the Criminal Code to ensure the criminalization of marital rape (Sweden)</p> <p>144.191 Take the appropriate measures, taking into consideration its international obligations, to prevent the marriage of minors (Myanmar)</p> | <p>Not implemented (no progress made)</p> | <ul style="list-style-type: none"> • As noted above, the 2002 Civil Status Code and the 2004 Family Code continue to discriminate against children born outside of legal marriage and deprive them of a legal identity or any personal or financial rights from their biological fathers. • The Family Code provides for DNA testing to establish paternity, but only to prove or contest the parentage of a child conceived during a legal marriage. • Unwed mothers continue to be criminalized under Penal Code provisions punishing sexual relations outside of marriage. • As noted above, marriage of minors continues to be a significant problem and permitted under the Family Code. • Marital rape is not criminalized in the Penal Code. |

| 144.197 Criminalize marital rape and threats of violence as part of its draft law 103.13 on combating violence against women and implement State-sponsored programmes to support victims (Canada) | | |
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| Recommendations Noted by Morocco | Grade | Overview |

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| <p>144.32 Revise the Criminal Code and associated laws to ensure compliance with international standards, guarantee equality with men and women, criminalize marital rape, decriminalize sexual relations outside marriage, abolish discrimination against children born outside marriage, increase the minimum age of marriage to 18 years, decriminalize consensual same-sex relations and develop public awareness programmes to address the stigmatization of lesbian, gay, bisexual, transgender and intersex persons (Ireland)</p> <p>144.129 Take the necessary measures to repeal all legal provisions that establish differences between children born in wedlock and children born out of wedlock, in particular those contained in the Family Code that were discriminatory against such children (Argentina)</p> <p>144.131 Repeal all discriminatory provisions in relation to children born out of wedlock (Congo)</p> <p>144.137 Repeal the provisions in the Family Code which discriminate against children born outside of wedlock (Togo)</p> <p>144.186 Revise the Family Code to prohibit polygamy and the marriage of minors, as well as to guarantee equality between men and women in inheritance matters and in the right to guardianship (Norway)</p> <p>144.196 Continue its efforts to improve legislation concerning violence against women, in line with international standards,</p> | Not implemented (Recommendations not accepted) | <ul style="list-style-type: none"> • Marital rape is not criminalized in the Penal Code. • Sexual relations outside of marriage are criminalized in Penal Code articles 490-91. • Same-sex relations are criminalized in Penal Code article 489. • As noted above, legal and social discrimination against children born outside of marriage persists. • As noted above, the 2004 Family Code continues to allow the marriage of minors under 18. • The 2004 Family Code articles 40-46 on polygamy continue to allow men to marry more than one wife. • The 2004 Family Code continues to discriminate against women in inheritance matters, providing that a man share is twice that of a woman's. |
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| <p>addressing the dimensions of prevention, protection and assistance, and repealing discriminatory provisions related to custody, marriage, inheritance and transfer of nationality (Brazil) (never mentioned in the addendum)</p> <p>144.213 Amend the law on inheritance in the Family Code in order to respect gender equality, as stipulated in article 19 of the Constitution of Morocco (Canada)</p> <p>144.215 Make further reforms to the Family Code to remove all exceptions that allow marriage of children under the age of 18 years of age (Botswana)</p> <p>144.216 Ensure that the minimum age of marriage at 18 years of age is respected, including by preventing judges from authorizing children to marry under article 20 of the Family Code (Canada)</p> | | |
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III. RECOMMENDATIONS

1. The authors of this joint stakeholder report suggest the following recommendations for the Government of Morocco:
 - **Morocco should effectively implement its new Constitution by effectively** establishing the supremacy and justiciability of international human rights conventions to which Morocco is a party and of the Moroccan Constitution over national laws.
 - **Morocco should 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.** The current Law 103-13 should be expanded beyond minor Penal Code reforms 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. Amendments should contain:
 - Specific civil remedies for women victims of violence to guarantee their right to housing, such as civil protection orders and orders removing the violent offender from the home, that are a separate, stand-alone Civil (not Penal) remedy that women should be able to obtain without launching a criminal complaint. Women who launch criminal proceedings should benefit from protective measures during the complaint and investigation phase.
 - Reforms to the Penal Procedure Code to effectively address the reporting, investigation, and prosecution phases of violence against women cases;

- Measures to address the current deficiencies in the rape laws by reforming the high requirement that women victims of rape demonstrate physical injury to prove non-consent (b) abolishing the risk that rape victims who cannot prove non consent can be prosecuted for illicit sexual relations themselves, and (c) criminalizing marital rape;
 - A legal framework and state financial support for shelters and housing to women victims of violence;
 - Specific reforms related to the current 21-day incapacity period necessary for a woman to bring an assault charge and to the procedures necessary to obtain a medical certificate.
- **Morocco should amend the Family Code.** Reforms to the Family Code should:
 - Abolish all provisions that allow polygamy;
 - 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;
 - Ensure that the marriage registration procedures have not been used to circumvent polygamy restrictions;
 - Abolish the marriage of minors by establishing a minimum threshold age under which minors may never be married;
 - 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;
 - Eliminate discrimination against children born out of wedlock.
 - **Morocco should amend the Nationality Code.** Article 10 of the Nationality Code on “Acquisition of nationality by marriage” should be amended to allow foreign men married to Moroccan women to acquire Moroccan nationality.
 - **Morocco should amend the Civil Status Code.** The Civil Status and Family Codes should be amended to explicitly provide that unwed mothers may obtain a Family Booklet in which to register their children.
 - **Morocco should amend the Penal Code.** Reforms to the Penal Code should:
 - 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;
 - Decriminalize all consensual adult sexual relations outside of marriage.