



» MOROCCO

Situation report on violence against women

March 2018

1. Legislative framework

Morocco's Constitution prohibits gender-based discrimination as well as « harming the physical or moral integrity of any person, under any circumstances whatsoever and by any private or public person whatsoever. No one shall inflict cruel, inhuman, degrading treatments or treatments harming dignity on others, under any pretext whatsoever » (Art. 22). However, the Penal Code does not yet provide for the effective protection of women against violence and discrimination specifically directed against them because of their gender.

Successive improvements to the Penal Code have nevertheless resulted in the criminalisation of sexual harassment, of certain types of conjugal violence and certain aspects of gender-based discrimination, and the strengthening of sanctions for the crimes of rape and indecent assault targeting women. Nevertheless, under Articles 486 and 488, rape is considered as a crime against morality and not as a crime against the person. Marital rape and psychological violence are not criminalised in the Penal Code.

In 2014, following efforts conducted since 2012 by civil society and certain parliamentary groups, the Moroccan Parliament adopted a legislative amendment repealing subparagraph 2 of Article 475 of the Penal Code stating rapists can no longer avoid prosecution by marrying their victim if she is at least 18 years of age. In June 2016, the government council adopted a new version of the draft Penal Code reform (No. 10-16). The text simply made a few amendments to the current Penal Code, relating in particular to alternative penalties, voluntary termination of pregnancy, and tougher penalties for persons accused of sexual assault on minors. Civil society has challenged the government's methodology, which did not use the required participatory approach, and opted for fragmenting the draft Penal Code reform instead of revising the Code entirely.

The Parliament adopted Law 103.13 on combating violence against women on 14 February 2018. The law criminalises forced marriages, introduces an – albeit vague – definition of sexual harassment, and doubles the punishment for those who threaten another person of death or other injuries if the perpetrator is the victim's spouse/ex-spouse, fiancé/ex-fiancé, ascendant or kafil¹ (legal guardian). It ignores, however, the opinions of the national institutions and the advocacy of civil society, which have denounced the fact that the law only consists of a number of scattered and partial amendments to the Penal Code, and does not respond to the need for a comprehensive law on violence against women. Also, it associates in the same text women and minors, thus failing to target specifically those forms of violence directed against women because of their gender. Furthermore, the law does not prohibit acts of violence such as theft, fraud, or abuse of confidence within the

¹ Kafala is a measure to protect children without recurring to adoption, which is prohibited in most countries applying Islamic law. It is defined as a commitment to take charge of the needs, upbringing, and protection of a child, without however creating a permanent parent-child relationship between the child and the person taking care of him/her (kafil).



marriage, nor does it cover all types of violence, especially failing to criminalise marital rape and some forms of psychological and economic violence. It also makes no reference to legal protection for several categories of women, including single mothers, unmarried women, migrant women and disabled women. In cases of violence, CSOs are not allowed to file a complaint on behalf of the victim without her authorization. Moreover, the law is highly insufficient in terms of protective measures, remedies, and sanctions for domestic violence in particular, thus showing the lack of a clear approach that takes into account gender and is aimed at curbing impunity. Finally, civil society has pointed out the incompatibility of the procedural measures provided for in the law with the specific character of crimes of violence, and their inadequacy to ensure the victims' access to justice and flexibility in the production of evidence.

On Monday 22 January, at the Council of Ministers, king Mohammed VI endorsed a decision allowing women to become public notary officials (adoul). Women can now therefore draft marriage and divorce certificates, or other legal documentation, particularly with regards to inheritance and property.

Although Morocco is a signatory State of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and, since July 2015, of its optional Protocol, the country only acknowledges its obligation to eliminate discrimination against women to the extent that it is not contradictory with Sharia law. However, the Moroccan government has withdrawn its reservations regarding Article 9 on women's right to nationality and to transfer their nationality to their descendants, as well as regarding Article 16 on marriage and family life in April 2011.

Morocco has not ratified the Rome Statute on the International Criminal Court (ICC) and has not signed the Istanbul Convention of the Council of Europe on the prevention and fight against violence against women.

Morocco ratified the Vienna Convention of 1969 on the Law of Treaties, which is reflected in the new Constitution as primacy of duly ratified international conventions over domestic law.

2. Political framework

Every year, the Ministry of Justice reports on the statistics relating to the Family Code: divorce, marriage of minors, polygamy, and on cases of violence processed by the courts, without specifying those based on gender.

In 2009, Morocco's Higher Planning Commission (Haut-Commissariat au Plan) conducted a national study² on the prevalence of violence against women. This was the public authorities' acknowledgment of the extent of the phenomenon of violence and of its consequences. This study revealed that out of a population of 9.5 million women between the ages of 18 and 64, close to 6 million (i.e. 63%) had experienced an act of violence during the twelve months preceding the study, and 3.7 million (55%) among them had experienced conjugal violence.

National plans aimed at combating violence against women were implemented in recent years, in particular between 2002 and 2004, and more recently between 2008 and 2011 with the Multisectoral Programme for combating gender-based violence through the empowerment of women and girls (TAMKINE), grouping 13 ministries, NGOs and 8 United Nations agencies. Combating all forms of discrimination and violence against women was one of the priorities of the Governmental Agenda for Equality aimed at achieving gender equality for 2012-2016. However, NGOs are not systematically invited to participate in developing these plans, not in monitoring and evaluating them.

A 2008 convention between the Ministry of Social Development, Families and Solidarity, the police, the Royal Gendarmerie and the Ministries of Justice and Health established coordination between these various services within the framework of the information system. Coordinated by the Ministry of Social Development, the aim was to collect data and draw up an annual report ahead of the UN's 16 Days of Activism against Gender-Based Violence.

The establishment of the National Observatory of Violence against Women (ONVEF), created within the Women's Directorate of the Ministry of Social Development, Families and Solidarity in 2014, was criticised by most associations working in the field. They withdrew from the Steering Committee after questioning the sources of information on which the Observatory based its findings, and the absence of state-run structures providing reception and support facilities and services for women victims of violence.

The ONVEF published its first report in July 2016. It relied on data collected by the courts and hospitals, as well as on statistics from the police and the Royal Gendarmerie. Its conclusions called for accelerating the final adoption of the draft Act on violence against women, taking into account the moral violence perpetrated

2 http://www.hcp.ma/downloads/Violence-a-l-egard-des-femmes_t13077.html

against women, the development of evidence and the improvement of the conditions for implementation of the Families Code. It also called for continued institutional coordination between the various stakeholders and the establishment of unified national indices relating to the phenomenon of violence against women and girls and the institutionalisation and wider creation of counselling and mediation cells within schools. In order to implement these recommendations, the government was called upon to accelerate the process for reforming the laws relating to combating violence.

In addition, a situation report on gender equality and parity in Morocco published in October 2015 by the National Human Rights Council (CNDH) encouraged Morocco to withdraw the interpretative declarations of the CEDAW, to enact a specific law for combating violence against women, and to ratify the Istanbul Convention of the Council of Europe, as well as to accelerate the process for the creation of the Authority for gender equality and combating all forms of discrimination (APALD) and the Advisory Council on Families and Children. In August 2017, the Parliament adopted the Law 70-14 on the creation of the APALD. However, both feminist organisations and the CNDH have strongly criticized the absence of a clear definition of the terms “equality” and “discrimination” and the fact that the law makes the APALD an authority generally dealing with all forms of discrimination, rather than a specialized body dedicated to gender-related discriminations. Furthermore, according to the text of the law, the APALD will act simply as an advisory body, despite the recommendation of CSOs that it should have the status of a legal body and the right to take legal action against situations, acts, or perpetrators of discrimination. The Advisory Council on Families and Children, tasked to monitor the situation of the family and childhood, was established by Law 78-14 in 2016.

3. Protection framework and access to justice

Protection system and counselling, psychological support and empowerment services

Counselling and accommodation services for women and girls victims of violence are generally set up by civil society, but they lack resources and are few in number as a result. This situation is all the more critical in rural areas. The Ministries offer certain services, such as referral and legal assistance services for women victims of violence offered by the Ministry of Justice and medical and psychological support services offered by the Ministry of Health, but they also lack resources.

The authorities can issue appropriate injunctive or protective orders to protect victims of violence from the perpetrators, such as, for instance, the lifting of professional secrecy on medical reports in the event of violence between spouses or against women or children under the age of 18.

Prevention and training of professionals in contact with victims

The ministerial department responsible for promoting women’s rights started an annual process of information and communication on violence against women in 2004. However, according to various evaluations, the campaigns provided information but did not raise awareness, and consequently had very little impact on changing attitudes.

The Ministry focused on the perpetrators of violence, and the campaigns conducted in 2014 and 2015 therefore focused on broadcasting awareness-raising spots via the mass media and organising 8 regional meetings.

The training of professionals dealing with survivors of violence against women, such as police, social workers and health professionals has improved, in particular through the implementation of training programmes by UN Women and the UNFPA.

Access to a non-discriminatory judicial and police system

Women have access to free legal assistance provided by the Public Prosecutor. They can file complaints for violence, but the judge may not continue the investigations if the complaint is withdrawn.

Training of judges and magistrates has improved, although a patriarchal culture continues to reign within the judicial system (most magistrates being men), which can contribute to casting aspersions on the victims’ testimonies. For instance, women witnesses are not always considered equal to men, according to the religious references on which the judges base their arguments (which consider that a male witness is worth two female witnesses).

In addition, an unequal distribution of courts across the country, women’s lack of awareness of their rights, and a lack of education are all obstacles to access to justice for women victims of violence.

Specific vulnerabilities

Although Morocco's National Immigration and Asylum Strategy aims to promote the integrations of migrants into the country's economic, social and cultural fabric, in practice migrants' and refugees' access to economic and social rights remains precarious and marked by discrimination, administrative barriers and the fear of being arrested and sent back to their country of origin when they are undocumented. Migrant and refugee women are therefore twice as vulnerable, because of their origin and lack of legal status, and because of their gender. Their access to justice in the event of violence is also highly complicated for the same reasons.

Unmarried women are stigmatised in Moroccan society and run a higher risk of suffering sexual violence according to the ONVEF's report. They are more vulnerable to poverty, given that unemployment is high among women and the number of female graduates entering employment is in decline.

Rural women are among those most affected by violence, and they have little or no access to protective mechanisms and are less aware of their rights. Girls, particularly those from rural areas, are at risk of being exploited as «little maids» by their families or other employers. This phenomenon, which is regularly denounced by women's rights associations, is worryingly widespread in Morocco. The Domestic Workers Act adopted in 2016 provides for legal protection and prohibits work under the age of 18 after a 5-year transition period, although it does not seem to provide any concrete solutions for combating the issues of clandestine domestic work and exploitation of minors.

4. Combating violence against women in the framework of international cooperation

Most programmes on violence against women are supported, with co-financing from the Moroccan State, by Spain, France, Belgium, Switzerland, Germany, Finland, Denmark, Sweden, the EU, and certain UN agencies in Morocco (UN Women and the UNFPA).

Cooperation with the European Union

The 2nd priority area of the EU-Morocco action plan focuses on combating violence against women and aims to: establish multi-purpose spaces - create reception cells for women victims of violence in criminal investigation departments - develop support mechanisms for women victims of violence and create reception cells attached to the courts of first instance - create integrated support units for women and children in hospitals - and finally, to establish a national Observatory.

An EU programme for the implementation of the Government's Equality Plan (PGE) 2012-2016, with a total budget of 45 million Euros, has supported the implementation of measures relating to protection, prevention, and awareness-raising. However, the plan's implementation has been deemed insufficient by civil society and has faced significant structural challenges.

Cooperation with the Council of Europe

Fighting violence against women has been one of the priorities of the cooperation programme 2015-2017 between Morocco and the Council of Europe. The Council of Europe has, inter alia, offered expert knowledge and practical assistance to support the process of drafting the law on violence against women and the establishment of the Authority for Gender Equality and Combating all Forms of Discrimination and the Advisory Council for Family and Childhood Affairs. The programme 2018-2021 has maintained this focus on combating violence against women, and its priorities include the implementation of the newly-adopted law on violence and the improvement of the current protection system.



5. Recommendations to the Moroccan State

- Combat gender-based violence by implementing the Government's Equality Plan and through the effective and coordinated operationalisation of the strategies of the various ministerial departments;
- Revise criminal legislation to meet three imperative objectives, in accordance with Article 22 of the Constitution: investigating violence perpetrated, punishing violence in order to put an end to impunity in this regard, and remedying the prejudice suffered by the victims;
- Review the recently enacted law to combat violence against women to align it with the standards of the United Nations and the provisions of the Istanbul Convention on preventing and combating violence against women and domestic violence;
- Strengthen public awareness of the issue of gender-based violence and implement a policy for raising awareness of women's rights and the culture of equality.
- Strengthen the training of professionals;
- Allocate a budget for supporting structures for women at national level, in each region and in local communities;
- Establish shelters for women and their children;
- Establish sectoral mechanisms for supporting women victims of violence in order to take urgent protective measures and provide medical, administrative and legal services, as well as victim reception and counselling services;
- Implement effective mechanisms for coordination between the various structures and stakeholders involved, including women's associations, which should be involved in all mechanisms and in the development of intervention strategies; apply the principle of gender equality to the matter of representation in such mechanisms.

