

MOROCCO¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at 2 April 2022)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular</i></p>	<p>Morocco's Constitution provide for equality between men and women in a number of provisions including:²</p> <ul style="list-style-type: none"> • The Preamble which commits the State to prohibit and combat discrimination against anyone on several basis, including sex; • Article 6 which guarantees equality before the law regardless of gender; • Article 19 which provides for the equal enjoyment of civil, political, economic, social, cultural and environmental 	<p>In their research study, ADFM (a prominent feminist association in Morocco) found that “ The judicial decisions analyzed in this study, which reflect the dominant tendency of the Court of Cassation, reveal that the provisions of the Family law, in general, are not "applied in a fair, modern and</p>	<p>Gender equality as stipulated in article 16 of CEDAW; emphasizing same rights and responsibilities during marriage and at its dissolution, is not always compatible with many family code provisions and social practices: This specifically touches upon issues like providing the wife's dowry upon marriage, the husband's support of the family, providing the alimony in case of divorce, the</p>		<p>According to the 2016 UNDP Human Development Report, Morocco ranked 123 on the UNDP Human Development Index and 113 on the UNDP Gender Inequality Index.²⁰</p> <p>According to the UN Economic and Social Commission for Western Asia (ESCRWA), about 17% of households in Morocco are headed by women.²¹</p>

¹ This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Morocco country table, we would also like to thank Houda Zekri, Asma Lamrabet and Mida Zantout for their inputs in its preparation.

² Preamble, Articles 6, 19 of Morocco's Constitution (2011), https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

²⁰ UNDP, “Human Development Report 2016”, Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

²¹ ESCRWA et al, “A Comparative Analysis of Gender Disparities in Arab Countries: A Study Based on Household Survey Data”, p. 29, https://www.unescwa.org/sites/www.unescwa.org/files/uploads/general_final_escwa.pdf

<p><i>issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>rights and freedoms by both men and women.</p> <p>Article 32 of the Constitution states that the family is founded on the legal ties of marriages and declares family as the basic unit of society.³</p> <p>The Family Code (<i>Moudawana</i>)⁴ is the main codified law that governs marriage and family relations of the predominantly Muslim population in Morocco regardless of their sect.⁵ In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, generally, reference may be made to rules of Maliki jurisprudence (<i>fiqh</i>) and to judicial reasoning (<i>ijtihad</i>) which “strive to fulfil and enhance Islamic values, notably, justice, equality and</p>	<p>effective manner” or interpreted according to the spirit of the Family law nor are they in harmony with the modern objectives announced in its preamble as strategic perspectives for its application”¹⁵</p>	<p>division of property, guardianship over children, and inheritance. While some provisions (taken from the Islamic <i>Sharia</i>) are in favor of women, others seem to reinforce a subordinate position of women under the husband’s <i>qiwama</i>. More discussion of this issue in this article¹⁶</p> <p>Speaking of policy, an article has highlighted “the incongruence between the political system, aiming at effecting gender equality through democratic laws, and the Moroccan value system which asserts its attachment to the</p>		<p>Over the last three years, Morocco has been sliding down in its rank according to the World Economic Forum’s Global Gender Gap Report. While it ranked 137th out of 149 countries in 2018, it dropped down to 143th out of 153 countries in 2019. This rank declined in 2020 positioning Morocco 144th out of 156 countries. Morocco registered an index of 0.61 in the overall gender gap index. The share is 13% (85% gap).²²</p>
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³ Article 32 of Morocco’s Constitution (2011), https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

⁴ Family Code (*Moudawana*)(2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁵ Article of the Family Code (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Information provided by Moroccan advocate, February 2017

¹⁵ Association Démocratique des Femmes du Maroc (ADFM). “The judicial practice of the court of cassation in the Moroccan Family law issues». January 2019. Available at: <https://learningpartnership.org/sites/default/files/resources/pdfs/Summary%20-%20ADFM%20Research%20Study%20Family%20Law%20-%202019%20-%20English.pdf>

¹⁶ Bouzghaia, Ilyass. “The Feminist Movement and the Concept of Qiwama in Morocco.” *Academia.edu*, 16 Dec. 2013, https://www.academia.edu/5451384/The_Feminist_Movement_and_the_Concept_of_Qiwama_in_Morocco

²² World Economic Forum. Global Gender Gap Report 2021. Insight report. March 2021. https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

	<p>amicable social relations.”⁶</p> <p>The <i>Moudawana</i> provides for a marital framework that is based on equality between the two spouses. Thus:⁷</p> <ul style="list-style-type: none"> • Article 4 defines that marriage is a “legal contract”, the purpose of which is “fidelity, virtue and the formation of a stable family under the supervision of both spouses”; • Article 51 stipulates the mutual rights and duties between spouses and they include: (i) cohabitation, mutual respect, affection and the preservation of the family interest; (ii) both spouses assuming the responsibility of managing and protecting household affairs 		<p>constants”¹⁷</p> <p>Many feminist activists reported that the family code was deemed “revolutionary” in 2004 but it is “outdated” in 2021¹⁸. Thus, they pointed out to the inconsistencies and demanded a revision of all discriminatory policies and legislations in order to be in line with the constitution and Morocco’s international obligations.¹⁹</p>		<p>According to the United Nations Development Programme, Morocco ranked 111 out of 189 countries²³</p> <p>Based on an information note by the Higher Commission of Planning (HCP), nearly 1 in 6 of Moroccan households are headed by a woman at the rate of 18.6% in urban areas and</p>
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⁶ Article 400 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/programs/gender-equality-and-womens-empowerment/moudawana/>

⁷ Articles 4, 51, 52 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/programs/gender-equality-and-womens-empowerment/moudawana/>

¹⁷ Dao-Sabah, Manal, 2020. “Women’s Rights in Post-2011 Morocco The Divergences Between Institutions and Values”. Konrad-Adenauer-Stiftung e. V. Policy paper. <https://www.kas.de/documents/276068/8307005/KAS+Maroc+Policy+Paper+Nov+2020+-+Women%E2%80%99s+Rights+in+Post-2011+Morocco+The+Divergences+Between+Institutions+and+Values.pdf/9aacf4ba-a1ea-3e66-b70b-787498b50d12?version=1.0&t=1607504069145>

¹⁸ Sara Ibriz. “Code De La Famille : Voici Des Pistes De Réforme.” *Medias24*. 8 Dec. 2021. <https://medias24.com/2021/12/08/code-de-la-famille-voici-des-pistes-de-reforme/?fbclid=IwAR0JqP2Nuz0C64XSzDhb-1k2kHtgCnA0o-1FGsvT1P8go7IMy9OW7NnEiSc>

¹⁹ Statement of the Democratic Association of Moroccan Women (ADFM). “For a comprehensive and urgent reform of the family code”. October 11, 2021. https://euromedrights.org/wp-content/uploads/2021/10/communiqu-10-octobre-2021_.pdf

²³ “Human Development Report 2020 - Table 5: Gender Inequality Index”. *United Nations Development Programme*. 2020. http://hdr.undp.org/sites/default/files/2020_statistical_annex_table_5.pdf. Retrieved 2021-12-10.

	<p>and the children's education; (iii) consultation on decisions concerning the management of family affairs;</p> <ul style="list-style-type: none"> • Article 52 states that when either spouse continually fails to fulfil his or his obligations in marriage, the other spouse may compel the spouse to execute the obligation or seek divorce for irreconcilable difference. <p>Marriage and family relations of Morocco's non-Muslim minority communities (e.g. Jewish) are governed by their own family laws (e.g. Hebraic Moroccan Family Law).⁸</p> <p>In its family code, Morocco generally relies on a hybrid system of reference, trying to harmonize Islam with international human rights declarations (notably CEDAW), along with the requirements of the</p>				<p>11.6% in rural areas (16,2% in total)²⁴.</p>
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⁸ Article 2 of the Family Code (*Moudawana*)(2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

²⁴ Higher commission of planning (HCP).Note d'information du Haut-Commissariat au Plan à l'occasion de la journée nationale de la femme du 10 octobre 2017. Accessed on 17 December 2021. Available at : https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-la-journee-nationale-de-la-femme-du-10-octobre-2017_a2026.html

	<p>modern era⁹</p> <p>According to the current family law, the husband is obligated to financially provide for the family while “women can choose to contribute as their abilities allow”¹⁰</p> <p>Articles 19 and 164 provide for the creation of an Authority for Gender Equality and Action Against All Forms of Discrimination. This has taken several phases until October 12, 2017, when the establishment was announced in the official bulletin under number 6612. The Law No. 14.79 Relating to the Establishment of this Authority is tasked with monitoring and observing gender equality, parity and non-discrimination. The Council may also give opinions, proposals and recommendations in this domain.</p> <p>in accordance with these legal stipulates, one can refer to the Moroccan report that shows</p>				
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⁹ This can be inferred from the statement in the family code: “fidelity to the provisions of Sharia (religious law) and Islamic principles of tolerance, and encouraged the use of ijthad (juridical reasoning) to deduce laws and precepts, while taking into consideration the spirit of our modern era and the imperatives of development, in accordance with the Kingdom’s commitment to internationally recognized human rights. Family Code (*Moudawana*)(2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹⁰ Lahcen, Achy. 2013, “Morocco’s gender equality laws fail to improve situation,” *Al-Monitor*, <http://www.al-monitor.com/pulse/culture/2013/04/morocco-gender-equality-failed.html>

	<p>Moroccan efforts to promote women's rights in the Sixty-fifth session of the Commission on the Status of Women (CSW 65)¹¹</p> <p>Morocco is the world's only country that permits Jewish family courts to operate within its legal system¹²</p> <p>Among the temporary Impediments of marriage is "The marriage of a Muslim woman to a non-Muslim man, and the marriage of a Muslim man to a non-Muslim woman unless she is of the Christian or Jewish faith."¹³</p> <p>According to Fatima Sadiqi, the family code "does not adequately address the problems of single women and the non-Moroccan wives of Moroccan men."¹⁴</p>				
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¹¹ Ministry of Solidarity, women, Family and Social Development. Morocco's report in the 65th session of the Commission on the Status of Women on 21 March 2021. Available in Arabic at <https://social.gov.ma/wp-content/uploads/2021/03/Rapport-Maroc-CSW-avec-couv-vf.pdf>

¹² Kilkelly, Colin. "Morocco's Exception for Jewish Family Law Courts." <https://www.morocoworldnews.com/>, <https://www.morocoworldnews.com/2014/09/137945/moroccos-exception-for-jewish-family-law-courts>

¹³ Article 39 from the Moroccan family code Family Code (*Moudawana*)(2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹⁴ Freedom House, *Women's Rights in the Middle East and North Africa 2010 - Morocco*, 3 March 2010, available at: <https://www.refworld.org/docid/4b990120c.html> [accessed 13 December 2021]

	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>The minimum legal age for marriage is 18 for females and males as per Article 19 of the <i>Moudawana</i>.²⁵ However, Article 20, provides that the Family Affairs Judge in charge of marriage may permit girls and boys below 18 to marry “in a well-substantiated decision explaining the reasons justifying the marriage”, after having heard the parents or legal guardian of the minor with the assistance of medical expertise or after having conducted a social enquiry.²⁶</p> <p>Article 21 of the <i>Moudawana</i> provides that the marriage of minor is contingent upon the consent of the minor's legal guardian and should the guardian refuse, the Family Affairs Judge may rule on the matter.²⁷</p> <p>The <i>Moudawana</i> does not stipulate an absolute minimum age below which a marriage may not be</p>	<p>It is common for judges to permit girls and boys below 18 particularly if there is a pregnancy involved. For instance, there is a reported case of a 12-year-old girl asking a judge for permission to marry but the female judge refused, based on the girl's age.²⁹ A year later, the girl came back pregnant and again asked for permission. Because in Moroccan culture it's very important that a child carry the family name of the father, the judge deemed it necessary to reconsider her</p>		<p>The family code dictates that a judge has the authority to grant permission for underage marriages under article 16. This creates a loophole that prevents eradicating child marriage. In addition to this legal loophole, Al Fatiha marriages - undocumented marriage based on customary Muslim Law - provide a backchannel to marry child brides in rural areas. Al Fatiha marriages are unquantifiable and once presented before a court, the judge has no choice but to resort to</p>	<p>The <i>Moudawana</i> raised the minimum age of marriage for girls from 15 to 18 amidst fierce protests by Conservative Muslim groups. These groups argued that the raising of the minimum age for marriage would be a source of moral decay.³² Despite the increase in the minimum age of marriage, various sources indicate that the prevalence of child marriages in Morocco is relatively high:</p> <ul style="list-style-type: none"> • According to UNICEF's 2016 State of the World's Children Report, 16% of women aged 20-24 in

²⁵ Article 19 of the Family Code (*Moudawana*)(2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

²⁶ Article 20 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

²⁷ Article 21 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

²⁹ Information obtained from Moroccan advocate, February 2017

³² Leo Buskens, “Sharia and National Law in Morocco,” in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 114-115, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

	authorised. ²⁸	decision and ultimately legalised the marriage. ³⁰		<p>article 16 of the family code to approve them.</p> <p>The number of marriages involving minors accounted for 6.48% of total marriages in Morocco in 2020, showing a slight - but ultimately insignificant - decrease since 2015.³¹</p>	<p>Morocco were first married by 18 and 3% by 15;³³</p> <ul style="list-style-type: none"> • According to the Minister of Justice in May 2014, the rate of child marriages has continued to rise over the recent years; the Minister revealed that the number of cases of marriage has nearly doubled in the past 10 years, with 35,152 cases in 2013 alone.³⁴ • According to information compiled by Droit & Justice, there were more than 102,000
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²⁸ The Advocates for Human Rights and MRA Mobilising for Rights Associates, “Morocco”, *Submission to the Committee on Economic Social and Cultural Rights for the 56thSession*, 2015, para. 44, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

³⁰ Jake Warga, “Has Morocco’s Family Code Shown how Gender Equality can Coexist with Islam in the Courts” , *PRI*, 18 May2015,

<http://www.pri.org/stories/2015-05-18/has-moroccos-family-code-shown-how-gender-equality-can-coexist-islam-courts>

³¹ UNICEF Middle East and North Africa Regional Office UNFPA Arab States Regional Office. June 2021. “Child Marriage in the Context of Covid-19”. Available at:

https://arabstates.unfpa.org/sites/default/files/pub-pdf/child_marriage_in_the_context_of_covid-19_mena_regional_analysis_high_res_1.pdf.pdf

³³ UNICEF, “The State of the World’s Children 2016”, Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

³⁴ The Advocates for Human Rights and MRA Mobilising for Rights Associates, “Morocco”, *Submission to the Committee on Economic Social and Cultural Rights for the 56thSession*, 2015, para. 44, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

				<p>marriages of minor girls in Morocco between 2004 and 2014.³⁵</p> <p>According to reports by the National Human Rights Council of Morocco, the World Bank and civil society groups as well as academic research: the reasons for the high prevalence of child marriages in Morocco include:³⁶</p> <ul style="list-style-type: none"> • Entrenched patriarchal attitudes, along with poverty and lack of education; • High and increasing number of petitions
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³⁵ Droit & Justice, “Women’s Rights in Morocco”, May 2017, p. 14

³⁶ National Human Rights Council of Morocco, ‘Gender Equality and Parity in Morocco’, 2015, para. 6, http://www.cndh.org.ma/sites/default/files/cndh_-_r_e_-_web_parite_egalite_uk_-_pdf; Paul Pretitore, “Ten Years After Morocco’s Family Code Reform: Are Gender Gaps Closing?”, (World Bank MENA Knowledge and Learning Quick Notes Series, 121, 2014), p. 3, <http://siteresources.worldbank.org/INTMENA/Resources/QN121.pdf>; Girls Not Brides, “Morocco”, *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/morocco/>; The Advocates for Human Rights and MRA Mobilising for Rights Associates, “Morocco”, *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session*, 2015, paras. 43, 45, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>; Ann M. Eisenberg, “Law on the Books vs. Law in Action: Under-Enforcement of Morocco’s Reformed 2004 Family Law, the *Moudawana*”, (Cornell International Law Journal, 44, 2011), p. 710, <http://www.lawschool.cornell.edu/research/ILJ/upload/Eisenberg-final.pdf>

					<p>for authorisation of child marriages and their approval rate. In 2007, 87% of the 33,596 petitions seeking approval for a child marriage were authorised. In 2011, 90% of the 46,927 petitions seeking for the approval of a child marriage were authorised, with 99% of the petitions involving girls;</p> <ul style="list-style-type: none"> • Under-implementation of the law. For instance: <ul style="list-style-type: none"> - Judges often issue an authorisation to marry minors based on their own visual examination of the minor girl's physical appearance and determination that she is capable of
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					<p>assuming “marital responsibilities,” rather than resorting to the required expertise. Reasons provided by judges for authorising underage marriage include saving family honour, avoiding scandal, protecting the girl’s chastity and preventing her from debauchery. Some cite marriage as a solution to poverty. At times judges do not even substantiate their decisions in writing;</p> <p>- Alleged corruption among public actors and the ease by which medical certificates</p>
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					<p>attesting to a minor girl's "maturity" can be obtained.</p> <p>According to UN World Marriage Data 2015, the average age of first marriage among Moroccan females fell slightly from 26.4 in 2004 to 26.3 in 2010/11. During the same period, the average age of first marriage among Moroccan males remained stable at 31.2.³⁷</p> <p>For the last three years there has been a decline in the rate of child marriage. While the Ministry of Justice registered 32,104 applications for child marriage in 2018³⁸, latest data from the public prosecutor's</p>
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³⁷ United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>

³⁸ Conseil Economique, Social et Environnemental (CESE). "Que faire, face à la persistance du mariage d'enfants au Maroc?". N°41/2019. Available at: <https://www.cese.ma/media/2020/10/Que-faire-face-%C3%A0-la-persistance-du-mariage-d%E2%80%99enfants-au-Maroc.pdf>

				<p>office showed that Moroccan courts received about 27,623 requests in 2019³⁹. In 2020, Moroccan Courts received 19,926 requests and approved 13,335 of them.</p> <p>In his speech presenting the Public Prosecution Office report about child marriage, Moulay Alhassan Daki indicated that judges petitions to refuse child marriages shifted from 36% in 2018 to 58.4% of the total petitions submitted in the matter, and this percentage rose in 2020 to 65% of all petitioners.⁴⁰</p>
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³⁹UNICEF Middle East and North Africa Regional Office UNFPA Arab States Regional Office. June 2021. "Child Marriage in the Context of Covid-19". Available at: https://arabstates.unfpa.org/sites/default/files/pub-pdf/child_marriage_in_the_context_of_covid-19_mena_regional_analysis_high_res_1.pdf.pdf

⁴⁰Speech of the King's Public Prosecutor at the Court of Cassation, Head of the Public Prosecution on the occasion of presenting a diagnostic study on underage marriage. November 29 and 30, 2021 in Marrakech. Available at: <https://www.pmp.ma/download/%d9%83%d9%84%d9%85%d8%a9-%d8%a7%d9%84%d8%b3%d9%8a%d8%af-%d8%a7%d9%84%d9%88%d9%83%d9%8a%d9%84-%d8%a7%d9%84%d8%b9%d8%a7%d9%85-%d9%84%d9%84%d9%85%d9%84%d9%83-%d9%84%d8%af%d9%89-%d9%85%d8%ad%d9%83%d9%85-7/?wpdmdl=6230>

				<p>The study that preceded the report indicates that 95% of the requests relate to the marriage of underage females, while the marriage of underage males constituted only 5%. 68% of the total requests come from rural areas. 77% of girls seeking marriage are not educated.</p> <p>The diagnostic study found that 57% of requests for permission to marry minors do not exceed one day for a decision. This is because of the high number of requests which does not allow the implementation of the social research, whether in the court, or by moving to the minor's residence, and gathering the necessary information before the family judge can make the appropriate decision of</p>
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					accepting or declining the request.
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>Regardless of their age, both prospective brides and grooms must consent to the marriage. Consequently, <i>ijbar</i> marriages are prohibited.⁴¹</p> <p>Article 4 of the <i>Moudawana</i> states that marriage is a legal contract by which a man and a woman mutually consent to unite in a common and enduring conjugal life.⁴²</p> <p>Article 10 provides that the marriage is "legally concluded by an offer expressed by one of the parties and acceptance by the other, in any accepted expression from which the meaning of marriage is inferred verbally or</p>	<p>On 14 January 2005, the First Instance Court of Rabat ordered the annulment of a forced marriage between a teacher and his student.⁴⁸</p> <p>This incident happened in 2019 not in 2005, and there is no reference in the news that this marriage was annulled by the court.⁴⁹</p>		<p>A marriage contract must contain the following:⁵⁰</p> <ul style="list-style-type: none"> • Mention of the judge's authorisation, its number, its date of issuance, and the number of the marriage document record as well as the court where it was filed; • The family names, first names, country 	<p>According to a World Bank note, a 2009 household survey showed that 8% and 11% of married women reported being forced by family to accept marriage proposals in the urban and rural areas, respectively. In 67% of cases (70% in rural and 65% in urban areas), the woman's father was reported to have forced her into the marriage.⁵¹</p> <p>The <i>Moudawana</i> sought to eliminate the</p>

⁴¹ Woodrow Wilson International Center for Scholars, "Best Practices': Progressive Family Laws in Muslim Countries", 2005, p.17, [https://www.wilsoncenter.org/sites/default/files/Best%20Practices%20\(English\).pdf](https://www.wilsoncenter.org/sites/default/files/Best%20Practices%20(English).pdf)

⁴² Article 4 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁴⁸ Information obtained from Moroccan advocate, February 2017

⁴⁹ Khalid, Majdoub. "Controversy in Morocco after a teacher married her student". 26/02/2019.

<https://www.aa.com.tr/ar/%D8%A7%D9%84%D8%AF%D9%88%D9%84-%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9/%D8%AC%D8%AF%D9%84-%D8%A8%D8%A7%D9%84%D9%85%D8%BA%D8%B1%D8%A8-%D8%A8%D8%B9%D8%AF-%D8%B2%D9%88%D8%A7%D8%AC-%D8%A3%D8%B3%D8%AA%D8%A7%D8%B0%D8%A9-%D8%A8%D8%AA%D9%84%D9%85%D9%8A%D8%B0%D9%87%D8%A7/1403641>

⁵⁰ Article 67 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁵¹ Paul Pretitore, "Ten Years After Morocco's Family Code Reform: Are Gender Gaps Closing?", (World Bank MENA Knowledge and Learning Quick Notes Series, 121, 2014), p. 3, <http://siteresources.worldbank.org/INTMENA/Resources/QN121.pdf>

	<p>conventionally” while Article 11 requires the offer and acceptance to be expressed in a congruent and concurrent manner.⁴³</p> <p>Article 12, read together with Articles 63 and 64, provides for marriages that were concluded under duress or fraud to be annulled and the spouse who is the victim may demand compensation.⁴⁴</p> <p>Article 21 stipulates that a minor’s guardian consent is expressed by signing the marriage authorisation petition “along with the minor.”⁴⁵</p> <p>The mandatory registration of marriages at the Family Court records as well as the Civil Status office is provided for by Article 68 of the <i>Moudawana</i>.⁴⁶ However, non-registration of a marriage contract does not necessarily invalidate the marriage. Article 16</p>			<p>or place of residence, place of birth and age, national identity card number or its equivalent, and nationality of both spouses;</p> <ul style="list-style-type: none"> • The name of the marital tutor if required; • The offer and acceptance by the two contracting parties who exercise full capacity and the ability to choose and discern; • In the case of marriage by 	<p>practice of <i>urfi</i> marriages by making it compulsory to register a marriage. However, according to a Shadow Report by the Advocates for Human Rights and MRA Mobilising for Rights Associates as well as information on the ground:⁵²</p> <ul style="list-style-type: none"> • <i>Urfi</i> marriages frequently occur in rural areas distant from the public administration. They place women in vulnerable situations when the “husband” abandons them and their children with no rights stemming from legal marriage;
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⁴³ Articles 10,11 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁴⁴ Articles 12, 63, 64 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁴⁵ Article 21 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁴⁶ Article 68 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; The Advocates for Human Rights and MRA Mobilising for Rights Associates, “Morocco”, *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session*, 2015, para. 53, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

⁵² Article 16 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Information obtained from Moroccan advocate, February 2017; Advocates for Human Rights, Morocco: *Submission to the Committee on Economic Social and Cultural Rights* (2015), para. 53, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

	<p>of the <i>Moudawana</i> provides that if a marriage contract is not officially registered, when deciding whether a marriage was in fact concluded, the court is to take into consideration all legal evidence and expertise, including the existence of children or a pregnancy from the conjugal relationship, and whether the petition was brought during the couple's lifetimes.⁴⁷</p>			<p>proxy, the name and national identity card number of the representative, and the date and place of issuance of the marriage delegation;</p> <ul style="list-style-type: none"> • Mention of the legal status of the spouse who has been married previously; • The amount of the dowry in cases where it has been specified, denoting any amount paid in advance or to be paid in future instalment(s), and whether it has been paid in front of witnesses or if 	<ul style="list-style-type: none"> • As an interim measure, Article 16 of the <i>Moudawana</i> provided a five-year grace period within which couples who were married unofficially before the <i>Moudawana</i> came into force in 2004 to officially register their marriage. The grace period was supposed to have ended in 2009. However, it was later extended to 2014 and again to February 2019. Feminist groups (and many judges) have denounced the misuse of Article 16 in this manner. With the extensions to the grace period, Article 16 has somehow become a tool for: <ul style="list-style-type: none"> - Men to take on a second wife without following the procedure laid
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⁴⁷ Article 16 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

				<p>there is mere acknowledgement;</p> <ul style="list-style-type: none"> • Conditions agreed upon by both parties; • The signatures of both spouses and the tutor when required; • The names of the two <i>adouls</i> (public notaries) and each one's signature with the date of the marriage contract; • The authentication of the marriage contract by the judge affixed with his seal. 	<p>out in the <i>Moudawana</i> to conclude a polygamous marriage;</p> <p>- Child marriages, particularly, in instances where the child is pregnant.</p>
	Legislative Framework	Case Law	Policy	Procedure	Practice

<p>Women’s capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>A prospective bride and groom over 18 does not require the consent of a guardian to enter into marriage. A prospective bride and groom below 18 require the consent of their guardians or a judge to enter into marriage.</p> <p>Article 24 of the <i>Moudawana</i> states that marital tutelage is the woman’s right, which she exercises upon reaching majority (18) according to her choice and interests.⁵³ At the same time, Article 25 stipulates that a woman has the capacity to contract her own marriage upon reaching the age of majority (18). She may contract her marriage herself or delegate this power to her father or one of her relatives.⁵⁴</p> <p>Article 21 of the <i>Moudawana</i> states that the marriage of a minor is contingent on the consent of her or his legal tutor. If the minor’s legal tutor refuses to consent, the Family Affairs Judge may rule on the matter.⁵⁵</p>				<p>According to a World Bank note, the percentage of women signing their own marriage contracts in place of male relative was only 21% in 2010, mostly unchanged since 2007.⁵⁸</p> <p>According to a report issued by the Higher Commission of Planning (HCP), marriage certificates between adult spouses are established at 127,554 in 2020, and 49,700 (25.6%) women of age have contracted their own marriage.⁵⁹</p>
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⁵³ Articles 24, 209 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁵⁴ Article 25, 209 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁵⁵ Article 21 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁵⁸ Paul Pretitore, “Ten Years After Morocco’s Family Code Reform: Are Gender Gaps Closing?”, (World Bank MENA Knowledge and Learning Quick Notes Series, 121, 2014), p. 2, <http://siteresources.worldbank.org/INTMENA/Resources/QN121.pdf>

⁵⁹ Higher Commission of Planning (HCP), “La femme Marocaine en chiffres : 20 ans de progress”. Available at: <https://www.hcp.ma/file/224050/>

	<p>Under the <i>Moudawana</i>, both spouses may stipulate any conditions that confer a legitimate benefit to each of them in their marriage contract so long as they are not in conflict with the objectives of marriage and the law.⁵⁶</p> <p>It is worth mentioning that despite the fact that Moroccan Islam and the family code are generally based on the Maliki School of jurisprudence, Article 24 states that “marital tutelage is the woman’s right, which she exercises upon reaching majority according to her choice and interests.” This change draws upon the legal opinion of the Hanafi School of Islamic jurisprudence which does not oblige women to have a legal tutor (<i>wali</i>).⁵⁷</p>				
Polygamous marriages	A Muslim man may marry up to four wives at one time.	In 2015, a legislative	In November 2020, the Committee on the		The HCP report indicates that

⁵⁶ Articles 47-48 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

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Yavuz, Miyase. "Allah(God),Al-Watan(the Nation),Al-Malik(the King), and the Role Ofijtihadin the Family Law Reforms of Morocco." *The Journal of the Middle East and Africa*, vol. 7, no. 2, 2016, pp. 207–227., doi:10.1080/21520844.2016.1193687

<p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>Article 40 of the <i>Moudawana</i> prohibits polygamy when: (i) there is the risk of inequity between the wives; or (ii) when the wife stipulates in the marriage contract that her husband will not take another wife.⁶⁰</p> <p>Article 42 provides that in the absence of a stipulation by the wife in the marriage contract precluding polygamy, the husband who wishes to enter into a polygamous marriage must petition the court for authorisation. The authorisation petition should include the exceptional and objective motives that justify the request, and attach a statement on the applicant's financial situation.⁶¹</p> <p>Article 41 provides that the court will not authorise polygamy: (i) if an exceptional and objective</p>	<p>controversy arose over a decision by the Court of Cassation that allowed a polygamous husband to have a male child. The husband resorted to the Court of Cassation after the First Instance Court rejected his request and after trying again in the Court of Appeal which upheld the initial decision for lack of objective exceptional justifications allowing the husband to marry another woman. The Court of Cassation based its</p>	<p>Elimination of Discrimination Against Women recommended that Morocco amend the Family Code to prohibit polygamy and eliminate other discriminatory parameters of the code⁶⁵</p>	<p>polygamous marriages have shifted from 875 cases in 2007 to 991 cases in 2010 to 658 cases in 2020 making 0.3% of all types of marriage contracts in Morocco.⁶⁶</p> <p>Around 43% of applications for polygamous marriages were given judicial authorization in 2010 (CNDH, 2015).⁶⁷</p> <p>In November 2020, USAID/Morocco Gender Analysis Final Report indicated that The prevalence of unregistered polygamous marriages can lead to groups of women with no legal rights, vulnerable to</p>
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⁶⁰ Article 40 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁶¹ Article 42 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁶⁵ MRA Mobilising for Rights Associate in collaboration with an alliance of Moroccan NGOs s. "Morocco's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women". Submitted on 12 October 2020. Available at:

<https://mrawomen.ma/wp-content/uploads/doc/Morocco%20CEDAW%20LOI%20October%202020.pdf>

⁶⁶ Higher Commission of Planning (HCP), "La femme Marocaine en chiffres : 20 ans de progress". Available at: <https://www.hcp.ma/file/224050/>

⁶⁷ National Human Rights Council of Morocco, 'Gender Equality and Parity in Morocco', 2015, para. 6, http://www.cndh.org.ma/sites/default/files/cndh_-_r.e_-_web_parite_egalite_uk_-_pdf

	<p>justification is not proven; or (ii) if the man does not have sufficient resources to support the two families and guarantee all maintenance rights, accommodation and equality in all aspects of life.⁶²</p> <p>Articles 43 and 44 provide for the concerns of the existing wife to be heard. The court is obligated to summon the wife whose husband wishes to take another wife and to hold the hearing in a consultation room in the presence of both parties.⁶³</p> <p>The 2004 Family Code did not abolish polygamy, but introduced the option for women to include a 'monogamy clause' in marriage contracts, to legally forbid her husband from marrying another wife. A husband can circumvent this, by obtaining authorisation from a judge to take another wife, as long as the first wife is present when the husband seeks permission.</p>	<p>decision on the ground that "Since the husband has only daughters from his first wife, who agreed to his second marriage, and since there is no legal or jurisprudential prohibition against his desire to have a male child". Many Jurists and human rights activists considered that the Court of Cassation ignored the results of scientific research that proved that it is a man's "chromosomes" that determine the sex of the fetus, and stuck to an outdated thought that overlooks the human rights agreements and the</p>			<p>ostracism and community and family violence, for being unwed mothers and/or for having sexual relations outside of legal marriage.⁶⁸</p> <p>Starting from the 4th of February 2019, the 5 years of extension of working based on Article 16 of the <i>Moudawana</i>, which allows for the retrospective recognition of previously unregistered verbal marriage stopped. While this serves as a way to seal the loophole that many men exploit to marry over their wives, according to Muhammad al-Habib:</p>
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⁶² Article 41 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁶³ Articles 43-44 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁶⁸ USAID, Morocco. Country Development Cooperation Strategy (CDCS). November 15, 2013 – December 31, 2020. Available at: https://www.usaid.gov/sites/default/files/documents/1883/CDCS_Morocco_Dec_2020.pdf

		Moroccan laws about gender equality. ⁶⁴			“Nevertheless, until the year 2021, files are still accumulating on the courts with a number of cases related to recognizing previously unregistered verbal marriages as there are many cases of relationships that sometimes result in children or pregnancy during the engagement and find that documenting this relationship is over, which prompts many families to resort to the procedure of documenting the proof of parentage.” ⁶⁹
Divorce rights	The <i>Moudawana</i> provides for four different mechanisms for divorce:	In a precedent that is considered the	Some Advocates for Human Rights include in	A number of feminist activists called for	According to a report by the National

⁶⁴ The Legal Agenda website. “A legislative controversy arose over a decision by the Court of Cassation that allowed a polygamous husband to have a male child”. 2016-06-21. Available at: <https://legal-agenda.com/%d8%ac%d8%af%d9%84-%d8%ad%d9%82%d9%88%d9%82%d9%8a-%d8%ad%d9%88%d9%84-%d9%82%d8%b1%d8%a7%d8%b1-%d9%81%d8%b1%d9%8a%d8%af-%d9%84%d9%85%d8%ad%d9%83%d9%85%d8%a9-%d8%a7%d9%84%d9%86%d9%82%d8%b6-%d9%8a%d8%b3/>

⁶⁹ Al-osboue Assahafi. “Feminist voices calling for the family code to be amended”. Available at: <https://www.alousboue.ma/64797/>

<p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u></p>	<p>(i) repudiation; (ii) judicial divorce; (ii) divorce through mutual consent; and (iv) redemptive divorce (<i>khul'</i>).⁷⁰</p> <p>The <i>Moudawana</i> permits a man to divorce his wife unilaterally which must be effectuated under judicial supervision. Articles 79-93 details the procedure that must be followed when seeking a divorce through repudiation. The couple have to undergo reconciliation attempts. If the reconciliation attempts fail, the court will fix a sum of money that the husband must deposit at the court within 30 days to discharge all vested rights due to the wife and dependent children. If the husband does not deposit the court-ordered amount of money within the deadline, he is deemed to have renounced his intention to repudiate. However, as</p>	<p>first of its kind, the Court of First Instance in Safi - in southern Morocco - rejected a request for irreconcilable differences divorce (Shiqaq) submitted by a husband against his wife in 2020. The court justified its unusual decision compared to what is known in similar cases, that “the wife is pregnant,” and that the aim is to preserve “the right of the fetus to ensure its growth under the care of two parents who live under the same</p>	<p>their list of issues about Morocco’s compliance with the CEDAW convention that “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.”⁷⁹</p>	<p>the revision of the deadlines for divorce proceedings. In terms of irreconcilable differences in the type of divorce (Shiqaq), this can take up to six months at first instance. The Too long delays prolongs the period of having couples in a state of “war”.⁸⁰</p>	<p>Human Rights Council of Morocco, divorce for irreconcilable differences is a procedure that was meant to facilitate women’s access to divorce without the obligation to prove harm. However in practice, the procedure appears to be serving some other objective. On the one hand, cases where men petition for divorce for irreconcilable differences increased from 22% in 2005 to 44% in 2013. On the other hand, many judges consider divorce for</p>
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⁷⁰ Article 71 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁷⁹ MRA Mobilising for Rights Associate in collaboration with an alliance of Moroccan NGOs s. “Morocco’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women”. Submitted on 12 October 2020. Available at: <https://mrawomen.ma/wp-content/uploads/doc/Morocco%20CEDAW%20LOI%20October%202020.pdf>

⁸⁰ Sara Ibriz. “Code De La Famille : Voici Des Pistes De Réforme.” *Medias24*. 8 Dec. 2021. <https://medias24.com/2021/12/08/code-de-la-famille-voici-des-pistes-de-reforme/?fbclid=IwAR0JqP2Nuz0C64XSzDhb-1k2kHtgCnA0o-1FGsvT1P8go7iMy9OW7NnEiSc>.

<p>Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>soon as the husband deposits the sum of money, the court authorises him to register the repudiation with the <i>adouls</i> (public notaries).⁷¹</p> <p>A husband may delegate his right of repudiation to his wife, which she can exercise by petitioning the court. The court will verify that the assignment of the right of repudiation as agreed upon by the spouses are fulfilled, order that the couple attempt reconciliation and if reconciliation attempts fail, the court will authorise the wife to petition for the certification of the repudiation and rule on her vested rights, if appropriate. The husband cannot prevent his wife from exercising the right of repudiation that he has previously assigned to her.⁷²</p> <p>Valid grounds for seeking judicial divorce by a wife include: (i) non-respect by the husband of one of the conditions in the marriage</p>	<p>roof.”⁷⁷</p> <p>A Moroccan mother of three children took legal action against her husband after he left their marital home. In his absence, the man reportedly failed to fulfil his obligations to the family. According to the Ministry of Justice’s ‘Adala Morocco’ portal, a judge in Marrakech ordered the husband to return to his wife. The judge also approved the woman’s request to fine her husband MAD 500 (\$51) for each day he failed to return home. Adala Maroc reports</p>			<p>irreconcilable differences as a divorce for harm.⁸¹ According to a civil society report, it takes about six months for the conclusion of the divorce proceedings. This is a marked improvement from the past. However, a woman still has to go to court frequently to secure maintenance for herself and her children.⁸²</p> <p>According to the report issued by the Higher Commission of Planning (HCP), divorce certificates fell from 2010 to 2020, from 22.452 to 20.372. According to the type, the acts of divorce for compensation</p>
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⁷¹ Articles 79-93 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁷² Article 89 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁷⁷ The Legal Agenda website. “Rejection of a divorce case on the pretext that the wife is pregnant in Morocco”. 2021-03-15. Available at: <https://legal-agenda.com/%d8%b1%d9%81%d8%b6-%d8%af%d8%b9%d9%88%d9%89-%d8%aa%d8%b7%d9%84%d9%8a%d9%82-%d8%a8%d8%ad%d8%ac%d8%a9-%d8%ad%d9%85%d9%84-%d8%a7%d9%84%d8%b2%d9%88%d8%ac%d8%a9-%d9%81%d9%8a-%d8%a7%d9%84%d9%85%d8%ba%d8%b1>

⁸¹ National Human Rights Council of Morocco, ‘Gender Equality and Parity in Morocco’, 2015, para. 8,

http://www.cndh.org.ma/sites/default/files/cndh_-_r_e_-_web_parite_egalite_uk_-_pdf

⁸² Droit & Justice, “Women’s Rights in Morocco”, May 2017, p. 8

	<p>contract; (ii) harm; (iii) non-maintenance; (iv) absence; (v) latent defect; (vi) abstinence and abandonment.⁷³ In addition, the wife and/or husband may petition the court for a divorce on the ground of irreconcilable differences.⁷⁴</p> <p>Pursuant to Article 114 of the <i>Moudawana</i>, the wife and the husband may petition the court for a divorce by mutual consent with or without conditions, provided that the interest of the children are not harmed. The couple will have to go through a reconciliation process. If the process fails, the court will authorise the divorce.⁷⁵</p> <p>The <i>Moudawana</i> permits a wife to seek redemptive divorce (<i>khul'</i>), whereby the wife is granted a divorce in exchange for a mutually agreed compensation to be paid to</p>	<p>that the decision is the first of its kind in Morocco.⁷⁸</p>			<p>amounted to 1,519 in 2020, before the consummation of the marriage (1,606), by mutual consent (16,280), and at the initiative of the wife exercising a right of option (55).⁸³ Divorced women are stigmatised in Morocco, with some men assuming that divorced women are “loose” (Caspani, 2013). Many women face financial strain after a divorce and have to care for their children and family members with little or no monetary support from their ex-husband (Caspani, 2013).⁸⁴</p>
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⁷³ Article 98 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁷⁴ Article 94 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁷⁵ Article 114 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁷⁸ Hekking, Morgan. “Moroccan Court Orders Man to Return to His Wife.” February, 20, 2020. Available at:

<https://www.morocoworldnews.com/2020/02/294179/moroccan-court-orders-man-to-return-to-his-wife>

⁸³ Higher Commission of Planning (HCP), “La femme Marocaine en chiffres : 20 ans de progress”. Available at: <https://www.hcp.ma/file/224050/>

⁸⁴ OECD Development Centre’s Social Institutions and Gender Index (SIGI). Morocco’s Gender Index 2019. Available at:

<https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/MA.pdf>

	<p>the husband:⁷⁶</p> <ul style="list-style-type: none"> • If the spouses agree in principle to a <i>khul'</i> divorce but cannot agree on the amount of compensation, the case must be brought before the court to attempt reconciliation. If the reconciliation attempt does not succeed, the court will grant the divorce in exchange for compensation after fixing its amount, taking into consideration the amount of the dower, the duration of the marriage, the reasons for the divorce petition and the material situation of the wife. • If the husband does not consent to the <i>khul'</i> divorce, the wife may petition the court for a divorce on the ground of irreconcilable differences. 				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Women's financial rights after divorce</p> <p><i>Is there a legal concept of</i></p>	<p>Generally, upon divorce, in addition to her delayed dower, a wife may be entitled to.⁸⁵</p>	<p>On 13 December 2007, the Court of Appeal of Marrakech (No.</p>		<p>Morocco's <i>Moudawana</i> requires the two officials attending</p>	<p>According to a civil society report, due to the short duration of <i>iddah</i> maintenance,</p>

⁷⁶ Articles 115, 120 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁸⁵ Articles 84, 132, 135 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

<p><i>matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman's role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<ul style="list-style-type: none"> Financial maintenance during the waiting period after the divorce (<i>iddah</i>). The <i>iddah</i> period depends on the women's situation e.g. whether is menstruating or pregnant and generally ranges from four months and 10 days to one year; and A consolatory gift or compensation (<i>mu'tah</i>), if the husband divorce the wife through repudiation. The amount is assessed based on the length of the marriage, the financial means of the husband, the reasons for the repudiation, and the degree to which the husband has abused this right. <p>There is no clear legal concept of matrimonial assets. Pursuant to Article 49 of the <i>Moudawana</i>, each spouse has an estate separate from the other. However, Article 49 also provides the couple with the option of entering into a written agreement that is separate from the marriage contract on a property</p>	<p>571, File 07/315) held that a former wife has the right to her entire dower. As the husband could not prove his payment of the dower, he had to pay the amount that was agreed upon between the two parties.⁹⁰</p> <p>On 23 July 2007, the Court of Appeal of Rabat (No. 584, File 126/2007) held that the previous Court did not take into consideration that the marriage has lasted for 19 years and thus the consolatory gift (<i>mu'tah</i>) has to be increased to 16,000 Moroccan Dirhams.⁹¹</p> <p>On 21 September 2010, the Court of</p>		<p>the marriage to inform the parties of provisions permitting the specification of a property regime. This is designed to address women's ignorance of the possibility of negotiating a property regime.⁹⁵</p>	<p>women without assets are particularly vulnerable to financial distress after a divorce.⁹⁶</p> <p>Based on reports by the National Human Rights Council of Morocco and civil society, women find it difficult to secure the financial rights (including child maintenance) they are legally entitled to after a divorce. This is due to the difficulties in enforcing court-ordered maintenance. A survey conducted by the Ministry of Justice and Liberties indicated that 50% of women who are entitled to financial maintenance and compensation reported that they do not regularly receive it while about a quarter</p>
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⁹⁰ Information obtained from Moroccan advocate, February 2017

⁹¹ Information obtained from Moroccan advocate, February 2017

⁹⁵ Muslim Institute, "Muslim Marriage Contract, Resources: Family Laws in Muslim Majority and Minority Contexts", <http://muslimmarriagecontract.org/laws.html>

⁹⁶ Droit & Justice, "Women's Rights in Morocco", May 2017, p. 8

	<p>regime for the management, investment and distribution of assets to be acquired during the marriage. In the absence of such agreement, it remains at the discretion of the judge whether and how to divide the property acquired during the marriage by resorting to the general rules of evidence when assessing each spouse's contribution to the development of the family assets.⁸⁶</p> <p>Following a divorce, a father is responsible for the financial maintenance of his children as well as their accommodation. The amount of child maintenance is assessed based on their standard of living and educational situation prior to the divorce.⁸⁷</p> <p>Generally, both daughters and sons are entitled to maintenance until they turn 18 or if they are</p>	<p>Appeal of Oujda (File 623/2/1/2009) held that the former wife has no right to a consolatory payment (<i>mu'tah</i>) in a divorce on the ground of irreconcilable differences. <i>Mu'tah</i> compensation is only given in cases of repudiation (<i>talaq</i> or <i>taliq</i>).⁹²</p> <p>On 22 January 2013, the Court of Cassation (Judgement No. 62; File Charfi 599/3/1/2012) held that the father can choose either to prepare a living place for his</p>			<p>said they have never received it at all.⁹⁷</p> <p>According to a study by Association Marocaine de lutte contre la violence à l'égard des femme funded by UN Women and information on the ground,⁹⁸ the use of a parallel contract to govern marital property is very low in Morocco. The reasons are:</p> <ul style="list-style-type: none"> • Couples feel embarrassed to deal with these issues while contracting marriage;
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⁸⁶ Article 49 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Leo Buskens, "Sharia and National Law in Morocco," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 115, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁸⁷ Article 85, 168, 189-190, 198 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Leo Buskens, "Sharia and National Law in Morocco," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 120, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁹² Information obtained from Moroccan advocate, February 2017

⁹⁷ National Human Rights Council of Morocco, 'Gender Equality and Parity in Morocco', 2015, para. 14,

http://www.cndh.org.ma/sites/default/files/cndh_-_r_e_-_web_parite_egalite_uk_-_pdf; Droit & Justice, "Women's Rights in Morocco", May 2017, pp. 4, 6

⁹⁸ Association Marocaine de lutte contre la violence à l'égard des femme, "Family Code in Morocco: Gender equality in the division of property", 2008; Information obtained from Moroccan advocate, February 2017

	<p>pursuing their education, until they are 25. In any case, maintenance paid to the daughter shall not cease until she can earn a living of her own or until her maintenance becomes incumbent upon her husband. The father shall continue to pay maintenance to children suffering from a handicap and unable to earn a living.⁸⁸</p> <p>In the event the father becomes wholly or partly unable to pay maintenance to his children, and the mother is affluent, the mother becomes responsible for the children's maintenance in proportion to the amount the father is unable to pay.⁸⁹</p>	<p>children or pay for it. In this case, the father insisted on paying since the family house was a shared property and would have been problematic to keep the child under custody (<i>hadanah</i>) of the mother living there. The First Instance court's decision of keeping the child and mother in the family house was wrong and not beneficial for the child.⁹³</p> <p>On 20 January 2015, the Court of Cassation (Judgement No. 22, File charii No. 580/2/1/2013) confirmed a previous decision that upheld the right</p>			<ul style="list-style-type: none"> • Lack of information of women coming from disadvantaged social classes; • Difficulties for women to find men able to assume the family economic responsibility; • Men's fear from sharing their assets with their wives; • The weak position of women while contracting marriage due to lack of formal education; • Difficulties in the implementation of Article 49 and the inexistent notion of placing a value for domestic work;
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⁸⁸ Articles 198, 209 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Leo Buskens, "Sharia and National Law in Morocco," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 120, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁸⁹ Article 199 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

⁹³ Information obtained from Moroccan advocate, February 2017

		<p>of a wife to indemnity upon proving that she played an important role in acquiring the marital house.⁹⁴</p>		<ul style="list-style-type: none"> • While it is the responsibility of the two officials attending the marriage to inform the couple of the option of entering into a separate agreement to govern assets acquired during the marriage, the absence of sanctions for failing to do so highly limits the practice in real life. <p>In December 2020, Al-Zahraa Forum for Moroccan Women launched a pleading campaign aimed at submitting a legislative petition to Parliament to amend Article 49 of the Family Code in order to end the “injustice” suffered by Moroccan women due to the failure to activate the</p>
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⁹⁴ Information obtained from Moroccan advocate, February 2017

				<p>agreement on the management of resources acquired during the Marriage. Most comments about this issue tend to demand turning Article 49, which provides the right to attach a separate agreement about how to manage assets acquired during the period of marriage into an obligatory provision. This is backed up by the statistic that only 0.5 of couples sign this separate optional document.⁹⁹ Aziza Bekkali, the head of this forum, announced that they are constantly shocked by the existence of cultural resistance fuelled by a deeply rooted patriarchal mentality. Unfortunately, this</p>
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⁹⁹ Erraji, Mohamed. Hesperess Newspaper. December 24, 2020. "A forum supports the idea of sharing 'common money' upon divorce".. Available at: <https://www.hesperess.com/%D9%85%D9%86%D8%AA%D8%AF%D9%89-%D9%8A%D8%A4%D9%8A%D8%AF-%D8%AA%D9%82%D8%A7%D8%B3%D9%85-%D8%A7%D9%84%D8%A3%D9%85%D9%88%D8%A7%D9%84-%D8%A7%D9%84%D9%85%D8%B4%D8%AA%D8%B1%D9%83%D8%A9-%D8%B9%D9%86-755138.html>

					mindset uses sometimes the religious cover to gain legitimacy, which hinders the advancement of the status of women ¹⁰⁰
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u></p>	<p>During the marriage, both parents have custodial rights over their children.¹⁰¹ Upon a divorce, a mother has priority right over the custody of her children (followed by the father and then maternal grandmother) until the children reach the age of 15. Thereafter, the child may choose either the mother or father to be his or her custodian.¹⁰²</p> <p>A mother risks losing custody of her child if she remarries and her new husband is not a close blood relative of the child or the child's legal representative.¹⁰³</p>	<p>In 2011, the Court of Cassation in El-Jadida ordered the rejection of a request from the husband that his wife, who got married after their divorce, to lose custody over their child who became older than 7 years. The court based its decision on an investigation that revealed that the child is very attached to his mother and he is sick (Anemia), so it</p>			<p>In October 21, 2021, the democratic association of Moroccan women (ADFM), mentioned in its notice about revising the family code that depriving the woman from the right of custody after remarrying perpetuates discrimination against women.¹⁰⁷</p> <p>A number of feminist activists were surveyed and declared that the divorced mother who,</p>

¹⁰⁰ Al-Estiklal Newspaper. Interview on 28/09/2021. "Aziza Bakkali; On the Efforts of Moroccan Islamic Feminist Associations in Boosting the Role of Women in the Political and Legal Domains". Available at: <https://www.alestiklal.net/en/view/10575/aziza-bakkali-on-the-efforts-of-moroccan-islamic-feminist-associations-in-boosting-the-role-of-women-in-the-political-and-legal-domains>

¹⁰¹ Article 164 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹⁰² Articles 166, 171 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Leo Buskens, "Sharia and National Law in Morocco," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 119, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

¹⁰³ Article 175(3) of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹⁰⁷ Statement of the Democratic Association of Moroccan Women (ADFM). "For a comprehensive and urgent reform of the family code". October 11, 2021. https://euromedrights.org/wp-content/uploads/2021/10/communiqu-10-octobre-2021_.pdf

<p>Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>		<p>estimated that the best interest of the child is to remain with his mother relying on Article 175 of the family code that states "Should changes occur in the status of the custodian that are likely to cause harm to the child, child custody shall be withdrawn and awarded to the next eligible person"¹⁰⁴</p> <p>On 30 May 2005, the Court of appeal in El-Jadida (Judgement No. 06-362), confirmed a previous decision that upheld that the woman's custodian's right ends by losing one of the conditions of her entitlement stipulated in Article 173 of the Moudawana (the woman's remarriage and her daughter</p>		<p>when she remarries, loses custody of her child is a provision which does not apply to the father since he "can remarry without fear of losing the custody".¹⁰⁸</p>
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¹⁰⁴ Maroclaw website. "Court of Cassation: Marriage of a custodial mother does not forfeit her custody of her sick child". July 22, 2020. Available at: <https://adala.justice.gov.ma/production/jurisprudence/ar/famille/%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA%20%D8%A7%D8%B3%D8%AA%D9%86%D8%A7%D9%81%D9%8A%D8%A9%20%D8%AE%D8%A7%D8%B5%D8%A9%20%D8%A8%D8%A7%D9%84%D8%AD%D8%B6%D8%A7%D9%86%D8%A9.pdf>

¹⁰⁸ Medias24 website. "Family Code, Here Are Some Avenues for Reform." Dec 8, 2021. Available at: <https://medias24.com/2021/12/08/code-de-la-famille-voici-des-pistes-de-reforme/?fbclid=IwAR0JqP2Nuz0C64XSzDhb-1k2kHtgCnA0o-1FGsvT1P8go7iMy9OW7NnEiSc>

		<p>reached 10 years by the time of issuing the court's decision). The appellant did not prove that her daughter was harmed from her separation, and it cannot be predicted that this damage will occur after that. The basis for the loss of the mother's custody after her new marriage is her preoccupation with her husband's rights over the custody. And since the father comes in the second place among those entitled to custody, and the basis for his entitlement to this right as a male is that he is married and his wife would serve as his daughter's custodial, according to the Maliki school of thought.¹⁰⁵</p> <p>On June 06, 2016 an interesting case of paternity filiation was initiated and later</p>			
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¹⁰⁵ Decisions of the Court of Appeal. Decision of the Court of Appeal in El Jadeeda No.: 117 issued on February 13, 2007 in File No. 2006-746-16. Available at: <https://adala.justice.gov.ma/production/jurisprudence/ar/famille/%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA%20%D8%A7%D8%B3%D8%AA%D9%86%D8%A7%D9%81%D9%8A%D8%A9%20%D8%AE%D8%A7%D8%B5%D8%A9%20%D8%A8%D8%A7%D9%84%D8%AD%D8%B6%D8%A7%D9%86%D8%A9.pdf>

		<p>caused a legislative controversy. A woman claimed before the Family Judiciary Department in Tangiers that she had given birth to a daughter from the defendant on November 27, 2014 and requested the paternity of the girl to her father based on a genetic test that she submitted. The defendant replied that the pregnancy resulted from a corrupt relationship (meaning adultery), and that he was already convicted and sentenced for this charge.</p> <p>On January 30, 2017 the First Instance Court in Tangier decided to accept the petitioner's request, and ordered that the girl's paternity was established by her biological father, and obligated him to pay a compensation of 100,000 dirhams to the mother, equivalent to about \$10,000. On October 09, 2017 the Court of Appeal in Tangiers issued a</p>			
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		<p>decision to annul the initial order after an appeal by the biological father, who raised in his appeal memorandum that the decision of the First Instance Court violates the family code, which states in Article 158 that "Paternity is proven by the conjugal bed (Firash), the father's acknowledgement, the testimony of two public notaries (adouls), oral testimony, and by all other legal means, including judicial expertise. The petitioner submitted a request to set aside the decision of the Court of Appeal, based on the claim that it violates the requirements of international agreements ratified by Morocco because the decision that "filiation has equal effects on the mother, whether it results from a legitimate or illegitimate relationship, while it does not have any</p>			
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		<p>effect on the father's right if it is illegitimate" is against the principle of equality stipulated in the Constitution and in the Universal Declaration of Human Rights. It also held that the contested decision violates the requirements of Article 7 of the Convention on the Rights of the Child, which gives them the right to know their parents. The memorandum also invoked that the decision goes in contrary to the provisions of the Constitution, which states in its preamble that international conventions ratified by Morocco have the primacy over the internal law upon their publication.</p> <p>The Court of Cassation upheld the decision issued by the Court of Appeal, which annulled the first Instance Court decision based on the following arguments:</p> <ul style="list-style-type: none"> • The principle of the supremacy of ratified 			
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		<p>international conventions over internal laws is conditioned by the necessity of working on adapting these laws with the requirements of the ratification process;</p> <ul style="list-style-type: none"> Chapter 32 of the Constitution states that “the family, based on a legal marriage relationship, is the basic cell of society,” and Article 148 of the Family Code states: “Illegitimate filiation to the father does not produce any of the effects of legitimate filiation”, which makes the decision of filiating the girl born out of wedlock to her biological father an unjustified decision, neither by Sharia nor by law; Chapter 32 of the Constitution deals with equality 			
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		<p>regarding the enjoyment of civil rights and the provision of rights as conferred by the legislature, each within the framework established by law;</p> <ul style="list-style-type: none"> The Court of Appeal applied the rules of the law and the rules of the Islamic jurisprudence, which in turn are considered a law, which stipulate that the child of adultery is attached to the mother because of his/her separation from her by birth, regardless of the reason for the pregnancy, legitimate or illegitimate, and does not follow the father. <p>Accordingly, the Court of Cassation, in its decision issued on November 29, 2020, rejected the cassation request submitted by the petitioner.</p>			
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		<p>Commenting on this decision, it was mentioned that this reflects a habitual position governed by sticking to the literal meaning of the legal text based on a traditional jurisprudential reference. Even before the issuance of the Family Code, the Court of Cassation completely refused to accept the genetic test in paternity cases, despite its scientific credibility, adhering to Chapter 91 of the Personal Status Code, which states: “The judge relies in his ruling on all legally prescribed means to deny filiation”. The genetic test obviously is not included in the phrase “the legally prescribed means” (الوسائل المقررة شرعا) because the Islamic jurisprudence did not know the genetic testing in its early ages. Part of the legal debate on this issue focused on the constitutionality of</p>			
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		<p>Chapter 148 of the Family Code which refuses to produce effects of legitimate filiation on the father (not the mother) in case of illegitimate filiation. While this seems to go against the principle of equality between spouses, the Court of Cassation resorted to Chapter 32 of the Constitution which deals with equality regarding the enjoyment of civil rights and the provision of rights as conferred by the legislature, each within the framework established by law. Commentators drew attention that the jurisdiction to decide on the constitutionality of laws usually belongs to the Constitutional Court, not to the Court of Cassation. This raises the problem of the delay in bringing the law on the unconstitutionality of laws in Morocco into existence.</p>			
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		<p>In regard to the principle of supremacy of international conventions over internal laws, the Court of Cassation presented its interpretation by considering that this principle is conditioned by working on adapting these laws with the requirements of the ratification process. This seems like an act of responsabilizing the legislator of the task of the immediate implementation of ratified international conventions not the judiciary. This is a position that differs from the official discourse preached by the Court of Cassation and the examples of <i>ijtihadi</i> jurisprudence decisions which reinforce the supremacy of international conventions over internal legislation in the work of the many courts. The decision of the Court of Cassation is expected to open a</p>			
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		public debate on the situation of children growing outside the institution of marriage, coinciding with the numerous demands from civil society activists to amend the Family Code after 17 years of its issuance, and to launch campaigns to advocate single mothers by several women's associations from different intellectual trends. ¹⁰⁶			
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>Article 163 states that “Custody preserves the child from harm and ensures his or her education and the protection of his or her interests. The custodian must take all necessary measures to guarantee the physical and psychological security of the child in his or her custody, manage his or her interests in the absence of the legal tutor, and as necessary when then interests of the child in</p>	<p>On October 14, 2021, the Deputy Crown Prosecutor at the Court of First Instance in Missour – eastern Morocco – issued an authorization for a mother to transfer her two children from an educational</p>		<p>A mother cannot travel outside the country with her children without the permission from the children's father.¹¹⁴</p> <p>In this regard, Nouzha Skalli states that “Guardianship acts as a means of holding the woman</p>	<p>The National Human Rights Council of Morocco in its first thematic report on the state of gender equality and parity in Morocco highlighted the fact that mother can only exercise their right to guardianship over their children under very restrictive</p>

¹⁰⁶ The Legal Agenda website. “The Court of Cassation in Morocco negatively decides on the filiation of a natural child”. 2021-04-20. Available at: <https://legal-agenda.com/%D9%85%D8%AD%D9%83%D9%85%D8%A9-%D8%A7%D9%84%D9%86%D9%82%D8%B6-%D8%A8%D8%A7%D9%84%D9%85%D8%BA%D8%B1%D8%A8-%D8%AA%D8%AD%D8%B3%D9%85-%D8%B3%D9%84%D8%A8%D8%A7-%D9%81%D9%8A-%D8%A8%D9%86%D9%88%D8%A9-%D8%A7/>

¹¹⁴ Droit & Justice, “Women’s Rights in Morocco”, May 2017, p. 4

	<p>his or her custody are jeopardized”¹⁰⁹</p> <p>Article 229 also states that “Legal representation of a minor shall be exercised by the legal tutor, the testamentary guardian or a court-appointed guardian.”¹¹⁰</p> <p>There are three types of legal representation of children: Legal tutorship, the dative tutorship and testamentary guardianship.¹¹¹</p>	<p>institution to another.</p> <p>In her petition to the court, the mother reported that she was in a dispute with her husband, and was forced to move from the marital home to her family’s with her two children, and tried to obtain the “leaving certificate” from the school administration to register them at the school near her family’s place. She was surprised by the refusal of the school director, who stipulated that the legal representative (the father) should be present. She added that the</p>		<p>by the nose, especially after divorce. Even when the father is absent he can prevent his children from obtaining their passports and leaving the country. For the mother, it is necessary not only to take care of the child, but also to bear the weight of this guardianship”¹¹⁵</p>	<p>conditions, despite the fact that under the <i>Moudawana</i>, if the mother is “well-off”, she has an obligation to cater for the children’s needs.¹¹⁶</p> <p>In 2021, Moroccan human rights advocates and mothers launched a campaign on social media under the slogan “I am a Moroccan mother in 2021” to demand changes to chapters in the Family Code that limit the mother’s guardianship of her children. This is backed up by statements like “I am not allowed to make decisions about my children’s education,</p>
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¹⁰⁹ Article 163 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹¹⁰ Article 229 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹¹¹ These types of representation are explained in the documented downloaded via this link https://adala.justice.gov.ma/production/guides_manuels/fr/plaquetteang.pdf

¹¹⁵ Sara Ibriz. “Code De La Famille : Voici Des Pistes De Réforme.” *Medias24*. 8 Dec. 2021.

<https://medias24.com/2021/12/08/code-de-la-famille-voici-des-pistes-de-reforme/?fbclid=IwAR0JqP2Nuz0C64XSzDhb-1k2kHtgCnA0o-1FGsvT1P8go7iMy9OW7NnEiSc>.

¹¹⁶ National Human Rights Council of Morocco, ‘Gender Equality and Parity in Morocco’, 2015, para. 7, http://www.cndh.org.ma/sites/default/files/cndh_-_r_e_-_web_parite_egalite_uk_-_pdf

		<p>administration's adherence to this condition would jeopardize the children's right to continue their studies, requesting the intervention of the Public Prosecution. The Public Prosecution Office responded to the request and this issued the authorization which was justified based on provisions from the constitution and international conventions, as it relied on the following reasons:</p> <p>The right to education is one of the rights guaranteed constitutionally and protected by</p>		<p>extracurricular activities, and medical treatment. I'm not allowed to give them a passport, set up a savings account, and go on a trip without permission". Also, "When I pay for medical consultations: the father is compensated. When I contribute more than 50 percent of the household expenses, it is the father who receives the family compensation."¹¹⁷</p> <p>The Authenticity and Modernity group in the House of Representatives (PAM party), the second chamber of the Moroccan parliament, called for amendments on the Family Code so that the custodial woman can travel outside Morocco</p>
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¹¹⁷ Guenine, Amal. Hespress Newspaper. March 31, 2021. "Moroccan women demand amendments to the Family Code to recognize the roles of motherhood". Available at: <https://www.hespress.com/%D9%85%D8%BA%D8%B1%D8%A8%D9%8A%D8%A7%D8%AA-%D9%8A%D8%B7%D9%84%D8%A8%D9%86-%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA-%D8%B9%D9%84%D9%89-%D9%85%D8%AF%D9%88%D9%86%D8%A9-%D8%A7%D9%84%D8%A3%D8%B3%D8%B1-801419.html>

		<p>international conventions, especially the 1989 Convention on the Rights of the Child, ratified by Morocco in 1993; The Moroccan legislator has worked on harmonizing its internal legislation with the Convention on the Rights of the Child through Article 54 of the Family Code, which obliges both parents to take all measures to provide a decent life for the child, including the right to education.</p>			<p>without the permission of her ex-husband, in addition to granting her, like her ex-husband, the right to “grant her children the authorization to obtain their identification and nationality documents and passport.”¹¹⁸</p>
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¹¹⁸ Anass Redouane. The Legal Agenda website. “A proposed law to allow a custodial mother to travel with her newborn outside Morocco without the permission of her ex-husband”. 2019-12-23. Available at: <https://legal-agenda.com/%d9%85%d9%82%d8%aa%d8%b1%d8%ad-%d9%82%d8%a7%d9%86%d9%88%d9%86-%d9%8a%d9%8f%d8%aa%d9%8a%d8%ad-%d9%84%d9%84%d8%a3%d9%85-%d8%a7%d9%84%d8%ad%d8%a7%d8%b6%d9%86%d8%a9-%d8%a7%d9%84%d8%b3%d9%81%d8%b1-%d8%a8/>

		<p>The state's responsibility to take the necessary measures to protect children and to ensure their rights in accordance with the law through the role of the Public Prosecution Office as a major party in family issues.</p> <p>The principle of the best interest of the child and the reduction of school wastage which requires responding to the request, especially that the results of the social investigation carried out by the Public Prosecution showed that the father is unable to bear the family's expenses,</p>			
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		<p>including the children's school fees.</p> <p>Commentators on this case noted that this decision will contribute to reducing the difficulties that mothers face in carrying out the urgent interests of their children by relying on the automatic intervention of the Public Prosecution as a main party in family cases. This role can be strengthened through the coordination mechanism within the cells that support women and children in the courts, which are headed by the Public Prosecution and include representatives of various ministerial sectors, including</p>			
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		<p>the Ministry of Education. It is worth noting that School directors who refuse to provide mothers the “leaving certificate” adhere to a ministerial memorandum that restricts the right to obtain these certificates by the presence of the father who is the legitimate guardian according to the Family Code. This memorandum has prompted several human rights activists to lobby launch a campaign called “Atfalna bjouj”¹¹² in the Moroccan dialect which means “children of both of us”, to demand revising the family</p>			
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¹¹² “children of both of us”: Moroccan women demand full guardianship over their children. *Skynewsarabia*. Accessed on 14, 01, 2022. Available at: <https://www.skynewsarabia.com/middle-east/1429422-%D8%A7%D9%94%D8%B7%D9%81%D8%A7%D9%84%D9%86%D8%A7-%D8%A8%D8%B2%D9%88%D8%AC-%D9%85%D8%BA%D8%B1%D8%A8%D9%8A%D8%A7%D8%AA-%D9%8A%D8%B7%D8%A7%D9%84%D8%A8%D9%86-%D8%A8%D8%A7%D9%84%D9%88%D9%84%D8%A7%D9%8A%D8%A9-%D8%A7%D9%84%D9%83%D8%A7%D9%85%D9%84%D8%A9-%D8%A7%D9%94%D8%A8%D9%86%D8%A7%D9%8A%D9%94%D9%87%D9%86>

		code and the adopting the joint guardianship of the spouses over their children. ¹¹³			
<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>Article 51 of the <i>Moudawana</i> obligates spouses to consult one another on decisions concerning the management of family affairs, children, and family planning.¹¹⁹</p> <p>Abortion is strictly prohibited unless it is to save a pregnant woman's life or to preserve her health.¹²⁰</p>				<p>According to World Bank data, the total fertility rate decreased from 7.1 children per woman in 1960 to 2.5 in 2015.¹²¹</p> <p>According to the UN Population Division's 2015 Trends in Contraceptive Use Worldwide:¹²²</p> <ul style="list-style-type: none"> • 68% of married women aged 15-49 are using a method of contraception,

¹¹³ The Legal Agenda website. "The Public Prosecution Office authorizes a mother to change a school for her two children in Morocco". 14-10-2021. Available at: https://legal-agenda.com/%d8%a7%d9%84%d9%86%d9%8a%d8%a7%d8%a8%d8%a9-%d8%a7%d9%84%d8%b9%d8%a7%d9%85%d8%a9-%d8%aa%d8%a3%d8%b0%d9%86-%d9%84%d8%a3%d9%85%d9%91-%d8%a8%d8%aa%d8%ba%d9%8a%d9%8a%d8%b1-%d9%85%d8%af%d8%b1%d8%b3%d8%a9/?utm_source=Facebook&utm_medium=social&utm_campaign=post&utm_content=al-niyaba-al3ama-ta2zan-li2om-bitaghyeer-madrasat-waladaiha-al-maghreb&fbclid=IwAR3FP6nfzhdI6ZD6HJT5Oce4W Uya6oZ1mje9Eh5sYIQar8yBp60dYBQYo

¹¹⁹ Article 51 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹²⁰ Centre for Reproductive Rights, "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

¹²¹ The World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

¹²² United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

				<p>with women mainly using a modern method (58%);</p> <ul style="list-style-type: none"> • 10% of married women aged 15-49 have an unmet need for family planning services; and • 75% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception. <p>According to the United Nations Population Fund (UNFPA), there is an increased availability and use of integrated sexual and reproductive health services (including family planning, maternal health and HIV) that are gender-responsive</p>
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					<p>and meet human rights standards for quality of care and equity in access. The total spending on these services is \$1,270,274, 3% (\$32,360) is implemented by the government, 10% (\$124,818) implemented by NGOs, and 88% (\$1,113,096) implemented by UNFPA¹²³</p> <p>According to <i>Irene Capelli</i>, “Currently, the notion of SRH is more widely used than that of “family planning,” both by public health agencies and NGOs, suggesting that the country is shifting its approach from one of population control (adopted in the 1960s) to one of individual rights.¹²⁴</p>
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¹²³ UNFPA, *Key results of Morocco in 2020* (2020). Available at <https://www.unfpa.org/data/transparency-portal/unfpa-morocco>.

¹²⁴ Capelli, Irene. 2022. *Non-marital Pregnancies and Unmarried Women’s Search for Illegal Abortion in Morocco*. [online] Health and Human Rights Journal. Available at: https://www.hhrjournal.org/2019/12/non-marital-pregnancies-and-unmarried-womens-search-for-illegal-abortion-in-morocco/#_ednref21

<p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>Article 19 of the Constitution provides for the equal enjoyment of civil, political, economic, social, cultural and environmental rights and freedoms by both men and women.¹²⁵</p> <p>Article 31 of the Constitution obligates the State to facilitate the equal access of all Moroccans to exercise, among other rights, their right to work.¹²⁶</p> <p>In the law there is no indication that prevents the wife from personal rights like working, choosing a profession, travelling, driving, receiving health services, studying, etc. However, both spouses can set a condition related to these matters in a written document separate from the marriage contract. Evidently, very few women are aware of this option or are willing to include conditions on the first day of marriage that might protect their rights. Social practices, on the other hand, attest to the existence of a deeply rooted patriarchal mindset that perpetuates male's dominance and consequently less freedom and</p>	<p>A dispute between a Moroccan-Jewish couple was raised to the Hebrew Chamber of the Court of First Instance in Casablanca, which made a reconciliation between the two parties and included it in the court decision, according to which the spouses committed themselves to leaving their mobile phones unlocked. The wife also made the commitment to take "selfies" on her personal phone with her children and husband, not alone, in addition to stop establishing friendship with foreign people or divorced women, and obliging her to enroll in</p>			<p>According to the World Economic Forum's Global Gender Gap index, Morocco scored 0.407 and was ranked 148 out of 156 countries in terms of Economic Participation and Opportunity</p> <p>Female labour force participation rate is 23% compared to 74.9 for the male's.</p> <p>As for Wage equality for similar work, Morocco was ranked 78 out of 156 countries.¹²⁸</p> <p>In her article "Economic empowerment of Moroccan women beyond the drive for compassion" Bouchra Rahmouni suggests that While the Covid-19 health crisis has</p>
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¹²⁵ Article 19 of Morocco's Constitution (2011), https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

¹²⁶ Article 31 of Morocco's Constitution (2011), https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

¹²⁸ World Economic Forum. Global Gender Gap Report 2021. Insight report. March 2021. https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

	more restrictions on women to exercise these rights. Moroccan women keep their birth name upon marriage and usually keep their family name unless they want to change it through an official procedure	women-only sports halls. This decision by Moroccan Judge David Al-Haddad opened a wide discussion on social media as some supporters argued for the need to generalize this unique jurisprudence of the Hebrew Chamber to the family justice departments in the rest of the Moroccan courts in order to limit the alarming rise of the phenomenon of divorce and divorce. ¹²⁷			widened pre-existing gaps, it also might have offered opportunities to improve female access to employment via digital and technological channels. ¹²⁹
Inheritance rights <i>Are women and men in the same degree of relationship to a</i>	Generally, inheritance rights between women and men are unequal. A woman inherits half of what a man in the same position	According to Anass Saadoun, deputy prosecutor general at the Court of First			In March 2018, a tense debate was sparked about the issue of inheritance in

¹²⁷ The Legal Agenda website. “what limits to privacy in married life? A court decision in Morocco prevents a wife from taking a “selfie” without her husband and her family”. 2017-04-17. Available at:

<https://legal-agenda.com/%d8%a3%d9%8a-%d8%ad%d8%af%d9%88%d8%af-%d9%84%d9%84%d8%ae%d8%b5%d9%88%d8%b5%d9%8a%d8%a9-%d9%81%d9%8a-%d8%a7%d9%84%d8%ad%d9%8a%d8%a7%d8%a9-%d8%a7%d9%84%d8%b2%d9%88%d8%ac%d9%8a%d8%a9%d8%9f-%d8%ad%d9%83/>

¹²⁹ Rahmouni, Bouchra. Economic empowerment of Moroccan women beyond the drive for compassion. Policy Center for the New South. Policy Brief. March 2021, PB-08/21. Available at: https://www.policycenter.ma/sites/default/files/PB_08-21_Rahmouni%20EN.pdf

<p>deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>inherits.¹³⁰</p> <p>The children of a parent who has predeceased their own parent (i.e. the children's grandparent) can inherit from their grandparent through an obligatory bequest.¹³¹</p> <p>The current Moroccan inheritance law is based on traditional Islamic jurisprudence of Ta'sib, which grants women half of what it gives men in inheritance, while making men financially responsible for women.¹³²</p> <p>Among the mutual rights and duties between spouses stated in the family code "the right to inherit from each other."¹³³</p> <p>According to Dar-Alifta, the difference in inheritance is not based on the gender of the heir,</p>	<p>Instance in Souk Larbaa city affirmed that cases brought before the courts pertain only to problems of division. As for shares, it is not reasonable to raise a dispute about them, because the religious text is clear.</p>			<p>Islam following a petition that was created seeking to abolish certain inheritance practices such as taasib, or "residues" in English. The taasib is the residual inheritance following a bequest. Assabat are typically distant relatives of the deceased owner of the estate, who benefit after the immediate family members have received their respective shares.¹³⁵</p> <p>The petitioners cited the multiple</p>
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¹³⁰ Leo Buskens, "Sharia and National Law in Morocco," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 120,

<https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

¹³¹ Article 369-372 of the Moroccan Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>; Nadjma Yassari, "Intestate Succession in Islamic Countries", in *Comparative Succession Law: Vol. II: Intestate Succession*, eds. Kenneth Reid, Marius de Waal, Reinhard Zimmermann, (Oxford: Oxford University Press, 2015), Footnote 160, pp. 436-437; Leo Buskens, "Sharia and National Law in Morocco," in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 120,

<https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

¹³² North Africa Post. March 23, 2018. "Equal Inheritance Rights, Next Battle for Morocco's Women". Available at:

<https://northafricapost.com/22834-equal-inheritance-rights-next-battle-moroccos-women.html>

¹³³ Article 51 of the Family Code (*Moudawana*) (2004), <http://www.hrea.org/wp-content/uploads/2015/02/Moudawana.pdf>

¹³⁵ Kasraoui, Safaa. Morocco World News. April 08, 2018. "Inheritance Debate and the Call for Gender Equality Persist in Morocco". Available at:

<https://www.moroccoworldnews.com/2018/04/244028/inheritance-debate-call-gender-equality-persist-morocco>

	<p>but on three primary conditions:</p> <ol style="list-style-type: none"> 1) The degree of kinship to the deceased; 2) The generation to which the heir belongs; 3) Financial Responsibility. <p>Dar-Alifita notes that:</p> <ol style="list-style-type: none"> 1. There are only four cases where a male inherits double the share of a female. 2. There are many cases where a female inherits a share equal to that of a male. 3. There are more than ten cases where a woman inherits more than that of a male. 4. There are cases where a woman inherits a share, but the man inherits nothing.¹³⁴ 			<p>discriminatory aspects inflicted on women due to such an “outdated” rule, saying for instance that “orphans without a male sibling are obliged to share inheritance with their grandparents and the relatives of the deceased...even if they are unknown to them”</p> <p>Due to the Ta’sib rule, some parents proceed to the registration of their property in the names of their daughters.¹³⁶</p> <p>Moroccans can circumvent discriminatory splitting of inheritance in a few ways including 1) putting property in a girl’s name, while still alive, 2) “gift” one’s estate/property etc.,</p>
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¹³⁴ Dar al-Iftaa Al-Missriyyah’s website. “Do Women take Unequal Shares of Inheritance in Islam?”. Available at: <http://eng.dar-alifita.org/foreign/ViewArticle.aspx?ID=120>

¹³⁶ North Africa Post. March 23, 2018. “Equal Inheritance Rights, Next Battle for Morocco’s Women”. Available at: <https://northafricapost.com/22834-equal-inheritance-rights-next-battle-moroccos-women.html>

				<p>an act that is not subject to any conditions, or 3) “bequest” up to one-third of one’s estate by way of a will to a specific heir.¹³⁷</p> <p>In December, Driss Lachgar, secretary general of the Socialist Union of Popular Forces, an opposition party, demanded the repeal of laws that discriminate against women and called for a national debate on the inheritance law. Although his message stirred some controversy, no national or legislative debate ensued.¹³⁸</p> <p>The World Bank reported that “Women’s legal inability to inherit equally to men can</p>
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¹³⁷ Zaireg, Reda. *Al-Monitor*. February 9, 2014, “Morocco’s inheritance dilemma”. Available at: <http://www.al-monitor.com/pulse/culture/2014/02/morocco-debate-inheritance-law-women.html>

¹³⁸ Alami, Aida. March 16, 2014. The New York Times. “Gender Inequality in Morocco Continues, Despite Amendments to Family Law”. Available at: <https://www.nytimes.com/2014/03/17/world/africa/gender-inequality-in-morocco-continues-despite-amendments-to-family-law.html>

					<p>significantly undermine their economic security and independence, as well as their access to economic opportunity".¹³⁹</p> <p>The USAID/Morocco Gender Analysis Final Report points out that customs and traditions denying women any rights to inheritance may be enforced by violence, with women pressured to renounce their rights or threatened to be evicted from the home.¹⁴⁰</p>
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such</i></p>	<p>Article 22 of the Constitution states that:¹⁴¹</p> <ul style="list-style-type: none"> The physical or moral integrity of anyone may not be infringed 	<p>An unprecedented court order was issued by the court of appeal in Tangier sentencing a</p>	<p>The Government of Morocco has made contradictory statements as to whether or not marital rape is a crime. In</p>		<p>According to a Shadow Report by the Advocates for Human Rights and MRA Mobilising for Rights</p>

¹³⁹ Cited in Kathryn, S. et al., (2020). "Legal Discrimination in Morocco and the United States". Department of Public Health, Indiana University. PBHL-S 635: Biosocial Approach to Global Health. Dr. Turman. April 27, 2020. Available at:

<https://international.iupui.edu/doc/partnerships/curriculum-internationalization/turman-class-project-example.pdf>

¹⁴⁰ USAID, Morocco. Country Development Cooperation Strategy (CDCS). November 15, 2013 – December 31, 2020. Available at:

https://www.usaid.gov/sites/default/files/documents/1883/CDCS_Morocco_Dec_2020.pdf

¹⁴¹ Article 22 of Morocco's Constitution (2011), https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

<p><i>as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>in whatever circumstance that may be, and by any party that may be, public or private;</p> <ul style="list-style-type: none"> No one may inflict on others under whatever pretext that may be, cruel, inhuman, or degrading treatments or infringements of human dignity. <p>Morocco has not adopted specific legislation to criminalise acts of domestic violence. There is a draft law on violence against women (103-13 bill) but is still a work-in-progress.¹⁴²</p> <p>The 1962 Penal Code contains some general prohibitions that may be applied to domestic violence.¹⁴³ These include the following:</p> <ul style="list-style-type: none"> Articles 404 and 414 that establish spousal relationship as an aggravating circumstance for sentencing purposes in assault 	<p>husband to 2 years for raping his wife. The court's decision was based on Articles 485 and 400 of the penal code. Article 400 states: "Any act of violence or assault, even if it caused no disability or illness is punishable by imprisonment from one month to one year in addition to a fine of MAD 200 to 500". Although the Law 103-13 to eliminate violence against women does not list marital rape as a punishable crime, the court's decision was considered as a step towards</p>	<p>November 2011 the Moroccan government declared to the United Nations Committee on Torture that marital rape was in fact a crime under the Moroccan Penal Code. However, during a meeting with an alliance of Moroccan NGOs in March 2013, the Minister of Justice declared that it was be impossible to criminalise marital rape because "you can't deprive a man of what is rightfully his."¹⁵³</p>	<p>Associates:¹⁵⁴</p> <ul style="list-style-type: none"> Available data indicate a relatively high incidence of violence against women in Morocco: <ul style="list-style-type: none"> - A 2011 national study found that 63% of women aged 18-64 had been victims of some form of violence in 2009, with 55% of these acts of violence being committed by a victim's husband and only 3% of the violence being reported by the wife; - A 2011 report
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¹⁴² Human Rights Council Working Group on the Universal Periodic Review, U.N. Doc. A/HRC/WG.6/27/L.4 (2017), paras. 6.915, 6.197, https://www.upr-info.org/sites/default/files/document/morocco/session_27_-_may_2017/a_hrc_wg.6_27_l.4.pdf

¹⁴³ Advocates for Human Rights and MRA Mobilising for Rights Associates, "Morocco", *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session*, 2015, para. 17, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

¹⁵³ Advocates for Human Rights and MRA Mobilising for Rights Associates, "Morocco", *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session*, 2015, para. 22, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

¹⁵⁴ Advocates for Human Rights and MRA Mobilising for Rights Associates, "Morocco", *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session*, 2015, paras. 15-16, 19-20, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

	<p>and battery cases;¹⁴⁴</p> <ul style="list-style-type: none"> • Article 446 of the Penal Code which requires health workers to report suspected abuse;¹⁴⁵ and • Article 475 of the Penal Code prohibits rapists from escaping prosecution through marriage with underage victims.¹⁴⁶ <p>The Penal Code does not specifically criminalise marital rape.^{147,148}</p> <p>The year 2019 was marked by the entry into force of Law 103.13 relating to combating violence against women. On March 28, 2019 the implementing decree of this law was issued and was published in the Official bulletin No. 6774 on May 2, 2019.</p>	<p>criminalizing marital rape in Morocco. The importance of this unprecedented decision is that it put an end to a frequent judicial jurisprudence not to criminalize marital rape, based on a conservative interpretation of the text which excluded the marital relationship from the possibility of applying the text of criminalizing rape, based on the belief that the marriage contract makes the wife in a state of presumed consent regarding any</p>			<p>identified that in cases of violence against women, the perpetrator is the husband in eight out of ten cases.</p> <ul style="list-style-type: none"> • Available data also shows that there is an overall acceptance of domestic violence and a distrust of the justice system that make it unlikely that a victim will report domestic violence: <ul style="list-style-type: none"> - One survey found that 33% of respondents believed that a
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¹⁴⁴ Articles 404, 414 of the Penal Code (1962), http://www.imolin.org/doc/amlid/Morocco/Morocco_code_penal_1962.pdf

¹⁴⁵ Article 446 of the Penal Code (1962), http://www.imolin.org/doc/amlid/Morocco/Morocco_code_penal_1962.pdf

¹⁴⁶ Article 475 of the Penal Code (1962), http://www.imolin.org/doc/amlid/Morocco/Morocco_code_penal_1962.pdf

¹⁴⁷ Human Rights Council Working Group on the Universal Periodic Review, U.N. Doc. A/HRC/WG.6/27/L.4 (2017), paras. 6.32, 6.185, 6.195, 6.197, https://www.upr-info.org/sites/default/files/document/morocco/session_27_-_may_2017/a_hrc_wg.6_27_l.4.pdf; Droit & Justice, "Women's Rights in Morocco", May 2017, p. 9

¹⁴⁸ Droit & Justice, "Women's Rights in Morocco", May 2017, p. 8

	<p>This law includes initial judicial applications such as criminalizing the coercion to marry and sexual harassment in the public space and through social media, in addition to implementing protective measures such as protecting the victims of violence and placing the abuser in a psychiatric institution. In 2018, law 65.15 was published in the Official Bulletin to regulate social protection institutions. However, it did not come into force since its regulatory texts never saw the light of day.¹⁴⁹</p>	<p>sexual relationship with her husband.¹⁵⁰ Notably, although the court of appeal explicitly convicted the perpetrator of marital rape, but it transferred his sentence on appeal to a suspended sentence, which means that he will leave prison. The Court justified the commutation of this sentence by wanting to continue the marital bond as the wife gave up her previous complaint, which makes this decision an admission of marital rape, but without</p>			<p>man is sometimes justified to beat his wife;</p> <ul style="list-style-type: none"> - Another study found that of those women who have experienced domestic violence, 68% expressed a distrust of the justice system. • Barriers to prosecuting violence against women include: <ul style="list-style-type: none"> - The requirement
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¹⁴⁹ Morocco Latest News. August 29, 2021. "A specification defining the general conditions". Available at: <https://moroccolatestnews.com/a-specification-defining-the-general-conditions/>

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The Legal Agenda website. "Tangiers Court of Appeal explicitly criminalizes marital rape". 2019-12-19. Available at: <https://legal-agenda.com/%d9%85%d8%ad%d9%83%d9%85%d8%a9-%d8%a7%d8%b3%d8%aa%d8%a6%d9%86%d8%a7%d9%81-%d8%b7%d9%86%d8%ac%d8%a9-%d8%aa%d8%ac%d8%b1%d9%91%d9%85-%d8%b5%d8%b1%d8%a7%d8%ad%d8%a9-%d8%a7%d9%84%d8%a7%d8%ba%d8%aa%d8%b5/>

		<p>actually criminalizing it.¹⁵¹ Another unprecedented sentence, the Court of First Instance in Fez issued the first judicial sentence punishing psychological violence according to Law 103.13 on combating violence against women, in one of the cases of gender-based violence during the health emergency period. the court considered that “preventing the complainant from going to her home, wanting to spend the rest of the night with her, without her consent,” in itself constitutes “psychological violence against her because of her</p>			<p>that a victim suffer injuries that result in more than 20 days of disability in order to bring an assault complaint;</p> <ul style="list-style-type: none"> - The requirement that a victim meet a high standard to prove the result of violence i.e. a physical injury as opposed to the act of violence itself; - The lack of police powers to intervene immediately in domestic abuse cases unless there is an
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¹⁵¹ Lakhdar, Youssef. Hespress Newspaper. December 20, 2019. “A Moroccan court criminalizes marital rape. The perpetrator leaves prison”. Available at: <https://www.hespress.com/%D9%85%D8%AD%D9%83%D9%85%D8%A9-%D9%85%D8%BA%D8%B1%D8%A8%D9%8A%D8%A9-%D8%AA%D9%8F%D8%AC%D8%B1%D9%85-%D8%A7%D9%84%D8%A7%D8%BA%D8%AA%D8%B5%D8%A7%D8%A8-%D8%A7%D9%84%D8%B2%D9%88%D8%AC%D9%8A-%D9%88%D8%A7-532708.html>

		<p>gender within the meaning of Chapter One of Law 103.13. The court ordered that the defendants be punished so the first person was sentenced to five months in prison and a fine of 1,000 dirhams, and the second was sentenced to three months in prison, and a fine of 1,000 dirhams.¹⁵²</p>		<p>imminent threat of death;</p> <ul style="list-style-type: none"> - The lackadaisical treatment of cases regarding violence against women that includes lengthy proceedings, lack of protection measures, attitudes blaming the victim, and high rates of cases closed without investigation or follow-up deter women from reporting and prosecuting violence. <p>According to Droit & Justice, the 103-13 bill</p>
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¹⁵² The Legal Agenda website. "The first court sentence criminalizing psychological violence in Morocco". 2021-01-26. Available at: <https://legal-agenda.com/%d8%a3%d9%88%d9%84-%d8%ad%d9%83%d9%85-%d9%82%d8%b6%d8%a7%d8%a6%d9%8a-%d9%8a%d8%ac%d8%b1%d9%85-%d8%a7%d9%84%d8%b9%d9%86%d9%81-%d8%a7%d9%84%d9%86%d9%81%d8%b3%d9%8a-%d8%a8%d8%a7%d9%84%d9%85%d8%ba%d8%b1/>

				<p>has been:¹⁵⁵</p> <ul style="list-style-type: none"> • Severely criticised by feminist and human rights groups “due to the absence of exhaustive definitions of some forms violence, the continuous denigration of women through gender stereotypes, as well as the persistence of certain obstacles to access justice and providing services to victims.”; • Approved by the Government Council but still needs to be approved by the house of councilors. <p>Prior to its deletion in February 2014, Article 475(2) of the Penal Code provided that whoever “abducts or deceives” a minor,</p>
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¹⁵⁵ Droit & Justice, “Women’s Rights in Morocco”, May 2017, p. 2

				<p>without using violence, threat or fraud, can escape prosecution and imprisonment if (i) the abductor marries the victim, and (ii) those persons who have a right to request annulment of the marriage do not file a complaint.¹⁵⁶ The deletion of Article 475(2) was prompted by the public outcry that ensued as a result of the suicide of 16-year-old Amina Filali who was forced to marry her rapist.¹⁵⁷ The amendment of Article 475 of the Penal Code appears to have the unintended consequence of preventing rapes of minors from coming to the attention of the police because rather than reporting the rape first, the respective families negotiate</p>
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¹⁵⁶ Advocates for Human Rights and MRA Mobilising for Rights Associates, "Morocco", *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session, 2015*, para. 46, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

¹⁵⁷ Nora Fakim, Morocco Amends Controversial Marriage Rape Law, *BBC News*, 23 January 2014, <http://www.bbc.com/news/world-africa-25855025>

				<p>informally the marriage between the victim and her aggressor.¹⁵⁸</p> <p>In 2019, the ministry of Solidarity, women, Family and Social Development conducted the second national research on The prevalence of violence against women in Morocco which concluded that more than half of Moroccan women are subjected to violence in, reaching 54.4%, and more than 90% of victims do not file complaints, especially married women. The research reported the existence of various forms of violations against women, ranging from rape and physical assaults to wage discrimination and deprivation of inheritance, and</p>
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¹⁵⁸ Advocates for Human Rights and MRA Mobilising for Rights Associates, “Morocco”, *Submission to the Committee on Economic Social and Cultural Rights for the 56th Session*, 2015, para. 47, <http://www.tanmia.ma/wp-content/uploads/2015/09/AHR-MRA-Morocco-ESC-Shadow-Report-FINAL.pdf>

				<p>psychological, physical and economic violence. The analysis of social representations of this phenomenon highlighted the existence of a kind of acceptability of violence against women, among both men and women.¹⁵⁹ In its annual report about human rights in Morocco, the National Human Rights Council mentioned some positive measures and actions taken by the country to combat gender based violence. This includes launching a platform for reclamations at the level of the Public Prosecutions, National Security and the Royal Gendarmeries, in</p>
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¹⁵⁹ Ministry of Solidarity, women, Family and Social Development. "The second national research on the prevalence of violence against women in Morocco. –preliminary results-". May 14, 2019. Available at: https://docs.euromedwomen.foundation/files/ermwf-documents/9022_5.101.%D8%A7%D9%84%D8%A8%D8%AD%D8%AB%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A7%D9%84%D8%AB%D8%A7%D9%86%D9%8A%D8%AD%D9%88%D9%84%D8%A7%D9%86%D8%AA%D8%B4%D8%A7%D8%B1%D8%A7%D9%84%D8%B9%D9%86%D9%81%D8%B6%D8%AF%D8%A7%D9%84%D9%86%D8%B3%D8%A7%D8%A1%D8%A8%D8%A7%D9%84%D9%85%D8%BA%D8%B1%D8%A8%E2%80%93%D8%A7%D9%84%D9%86%D8%AA%D8%A7%D8%A6%D8%AC%D8%A7%D9%84%D8%A3%D9%88%D9%84%D9%8A%D8%A9.pdf

				<p>addition to creating a sensitization capsule on Moroccan TV channels to combat violence against women. The Public Prosecution also issued Periodical No. 20 on April 30, 2020, related to violence against women in homes during the quarantine period. However, the same report highlights the persistence of some obstacles that hinder the implementation of the law, most notably the lack of generalization of shelters for women victims of violence at the level of all appeal circuits, their weak capacity to receive a large number of women, and the behavior of some authority representatives in placing the burden of proof on survivors of violence, which usually prevents them from access to justice.</p>
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				<p>Also, the weakness of the legal system in what matters related to consoling or compensating survivors of violence, in addition to the difficulty in reporting cases of physical violence by women over the phone because of the fear of the husband and/or the lack of a place where women can go with their children after leaving the marital home.¹⁶⁰</p> <p>The Federation of Women's Rights League, a local feminist NGO, declared that during the period between March 16 and April 24 2020, it received, through various phone lines, 240 phone calls to declare violence by 230 women across the country. According to the federation, psychological violence</p>
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¹⁶⁰ The National Human Rights Council (CNDH). Annual report on the state of human rights in Morocco (March 2020). "Covid 19: an exceptional situation and a new human rights exercise". Available at: https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_-_cov_19_-_5_mai_1.pdf

				<p>constituted the highest percentage with 48.2 percent, followed by economic violence with 33 percent, then physical violence, which exceeded 12 percent, not to mention some cases of sexual violence. There are also "cases of expulsion from the marital home, as an act that was noted and urgently called for intervention to provide shelter services for women."¹⁶¹</p> <p>The Moroccan Association for Human Rights also revealed that women are more vulnerable during the period of quarantine, in addition to bearing the consequences of closing educational</p>
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¹⁶¹ Najdi, Adel. Al-Araby Al-Jadid Newspaper. April 28, 2020. "Psychological violence tops the forms of violence against Moroccan women in the "health emergencies state" period". Available at: <https://www.alaraby.co.uk/%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%A7%D9%84%D9%86%D9%81%D8%B3%D9%8A-%D9%8A%D8%AA%D8%B5%D8%AF%D8%B1-%D8%A3%D8%B4%D9%83%D8%A7%D9%84-%D8%AA%D8%B9%D9%86%D9%8A%D9%81-%D8%A7%D9%84%D9%85%D8%BA%D8%B1%D8%A8%D9%8A%D8%A7%D8%AA-%D9%81%D9%8A-%22%D8%A7%D9%84%D8%B7%D9%88%D8%A7%D8%B1%D8%A6-%D8%A7%D9%84%D8%B5%D8%AD%D9%8A%D8%A9%22>

					<p>institutions at the expense of their physical and psychological health.¹⁶²</p> <p>A positive side of the lockdown period was traced by the High Commission for Planning which revealed that 19.3% of men stated that they did household chores for the first time during the quarantine, while 40.1% stated that they had allocated more time to it, compared to 32.5% who kept doing the same as before the quarantine, and 8.1% who allocated less time to household chores.¹⁶³</p>
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¹⁶² Ben Faris, Hind. Banassa Newspaper. April 17, 2020. "AMDH: Homes are becoming unsafe for women and children during quarantine period". Available at: <https://banassa.com/societe/19224.html>

¹⁶³ Higher commission of planning (HCP). "Social relations in light of the COVID-19 pandemic". The second phase of research on the impact of the Corona virus on the economic, social and psychological situation of families. 2020. Available at: https://www.hcp.ma/file/217073/?fbclid=IwAR3Yyb6k0x7KPU4r20nGNfrOOK1cqTCV_j15_aAitnuq-5NgTg6upVn97q0

<p>Nationality rights</p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>Children were allowed to take the nationality of their mother at birth when the 2007 Nationality Code was established.¹⁶⁴</p>			<p>The procedure by which a child born of a Moroccan mother and a non-Moroccan father is detailed in the Public Service website of the Moroccan government.¹⁶⁵</p> <p>Foreign spouses of Moroccan men are automatically entitled to Moroccan citizenship. However, Moroccan women must initiate complicated administrative procedures to pass nationality to their foreign spouses, creating a unique burden on them versus Moroccan men married to non-Moroccan women. Without going through this process, foreign spouses of</p>	<p>While the UN Committee on the Rights of the Child welcomed the changes in the Nationality Code, it expressed concern that in 2014 rural women often remained unaware of their right to transmit Moroccan nationality to their children, while 14 percent of births were unregistered. Discrimination between men and women in relation to transmission of nationality to spouses still remains.¹⁶⁷</p>
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¹⁶⁴ Moroccan Nationality Code. Ministry of Justice: <http://ejustice.justice.gov.ma>. Issued on 01-08-2007. Available at:

<https://learningpartnership.org/sites/default/files/resources/pdfs/Morocco-Nationality-Law-Morocco-2007-French.pdf>

¹⁶⁵ Kingdom of Morocco, "Acquisition of a Moroccan citizenship: case of persons born in Morocco from a Moroccan mother and a foreign father", <https://goo.gl/qgznam>

¹⁶⁷ Citizenship Rights in Africa Initiative. Morocco section. Available at: <http://citizenshiprightsafrika.org/region/morocco/>

				Moroccan women face obstacles related to residency in Morocco and access to employment and public services. ¹⁶⁶	
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ACCESS TO JUSTICE (please include sources to information as much as possible)

SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p><i>How are Muslim family law (i.e. marriage and family related) cases administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</i></p> <p>According to Chapter 18 of the Civil Procedure Code, “The courts of first instance - taking into account the special competences entrusted to the governors of the communes and the governors of the provinces - are competent to hear all civil, family, commercial, administrative and social cases at first, final or first instance, while</p>	<p><i>Are the procedures pertaining to family matters (e.g. divorce, maintenance etc) are defined in the family law and/or are there guidelines/policies available for judges/Kadhis?</i></p> <p>Article 400 of the family code states that “For all issues not addressed by a text in the present code, reference may be made to the Malikite School of Jurisprudence and to <i>ijtihad</i></p>	<p><i>What are some key challenges that Muslim women face in accessing justice on family law matters? (E.g. lack of accessibility, costly, bad procedures, delayed processes, gender insensitive judges, etc?)</i></p> <p>Anass Saadoun, deputy prosecutor general at the Court of First Instance in Souk Larbaa city declares that the main challenge that women face in accessing justice is to get the help related to legal and judicial matters.</p>	<p><i>Are there any good practices, procedures or policies that you would like to share pertaining to how courts in your country deal with family law cases?</i></p> <p><i>(E.g. prioritising certain types of cases, timely delivery of decisions, clear procedure, etc)</i></p> <p>Especially in cases of divorce and conflict-based issues between the couples, the Moroccan law</p>

¹⁶⁶ World Bank, “Morocco: Mind the Gap – Empowering Women for a More Open, Inclusive and Prosperous Society”, 2015, p. 72, <http://documents.worldbank.org/curated/en/798491468000266024/pdf/103907-WP-P144621-PUBLIC-Non-BOARD-VERSION-Morocco-Gender-ENG-3-8-16-web.pdf>

<p>preserving the right of appeal.¹⁶⁸ Therefore, Muslim Family law is administered by family justice departments which are courts linked to the courts of first instance in. These courts were gradually created starting from 2001 until 2004 with the launch of the Family Code Law, which deals with family and child affairs and the personal status of individuals, replacing the Personal Status Law that was in force before this date.¹⁶⁹</p> <p><i>How many courthouses/court rooms around the country that administer Muslim family law cases?</i></p> <p>By 2018, 68 first instance courts in Morocco exercised general jurisdiction over civil, social and commercial matters, and hear personal status and real property cases.¹⁷⁰</p>	<p>(juridical reasoning) which strive to fulfill and enhance Islamic values, notably justice, equality and amicable social relations.”</p> <p><i>In general practice do judges/Kadhis follow procedures?</i></p> <p>Yes they follow the procedures¹⁷⁴</p> <p><i>How much judicial discretion do judges/Kadhis have over marriage and family matters?</i></p> <p>There are matters that are legally set by the family code, but there are matters that are</p>	<p>In June 2019, the International Commission of Jurists in Geneva issued a report titled “Obstacles to Women’s and Girls’ Access to Justice for Gender-based Violence in Morocco”, where it states that “the judiciary continues to grapple with the effective investigation and prosecution of gender-based crimes, including the discriminatory attitudes women often encounter as they seek justice, reparation and remedy for their sufferance.”¹⁷⁵</p> <p>In their factsheet about violence against women in Morocco, the Euromed rights network stated the following:</p> <p>“Women have access to free legal assistance provided by the Public Prosecutor. They can file complaints for violence, but the judge may not continue</p>	<p>“reinforces the mechanisms for reconciliation and mediation both through the family and the judge”. This in itself can be seen as a good practice. However, experts have always noted that the large number of cases in front of the judges makes it hard for them to execute this practice. Therefore, one can recommend that an ideal way to make this a practical Moroccan good practice is to allocate the reconciliation and mediation process to special civil society NGO’s and social assistance agents in the country. I would consider that the reform of the nationality law is a good practice which can help in cases of Moroccan women who are married</p>
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¹⁶⁸ The Moroccan Civil Procedure Code. Chapter 18. Available at: <https://adrare.net/XYIZNWSK/codecivile.htm#:~:text=%D8%A7%D9%84%D9%81%D8%B5%D9%84%2018&text=%D8%AA%D8%AE%D8%AA%D8%B5%20%D8%A7%D9%84%D9%85%D8%AD%D8%A7%D9%83%D9%85%20%D8%A7%D9%84%D8%A7%D8%A8%D8%AA%D8%AF%D8%A7%D8%A6%D9%8A%D8%A9%20%2D%20%D9%85%D8%B9%20%D9%85%D8%B1%D8%A7%D8%B9%D8%A7%D8%A9,%D8%A7%D8%A8%D8%AA%D8%AF%D8%A7%D8%A6%D9%8A%D8%A7%20%D9%85%D8%B9%20%D8%AD%D9%81%D8%B8%20%D8%AD%D9%82%20%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D8%A6%D9%86%D8%A7%D9%81>.

¹⁶⁹ Berrada, Rachid. « Family judiciary in Morocco ». December 22, 2013. Available at : https://www.marocdroit.com/%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A1-%D8%A7%D9%84%D8%A7%D8%B3%D8%B1%D9%8A-%D8%A8%D8%A7%D9%84%D9%85%D8%BA%D8%B1%D8%A8_a4396.html

¹⁷⁰ Netty Butera and Kevashinee Pillay. “UPDATE: Introduction to the Moroccan Legal System”. Hauser Global Law School Program, New York University School of Law. Published May/June 2018. Available at: <https://www.nyulawglobal.org/globalex/Morocco1.html>

¹⁷⁴ Affirmed by Anass Saadoun, deputy prosecutor general at the Court of First Instance in Souk Larbaa city.

¹⁷⁵ The International Commission of Jurists (ICJ). Geneva, Switzerland. June 2019. “Access to Justice for Gender-based Violence in Morocco”. Available at: <https://www.icj.org/wp-content/uploads/2019/06/Morocco-Obstacles-GBV-Publications-Reports-Thematic-report-2019-ENG.pdf>

<p><i>If civil or Kadhi courts - what cases are handled by what courts?</i></p> <p>Family courts, which are linked to first instance courts, deal with all family and civil status cases.</p> <p><i>How many Muslim family law-related judges? Are there women working within the court system as judges/marriage registrars e.t.c?</i></p> <p>According to Anass Saadoun, deputy prosecutor general at the Court of First Instance in Souk Larbaa city, there are no specific statistics about this because judges working in family justice departments can work in other departments. However, in general, the number of Moroccan judges is 4000, including 1000 female judges. According to the report of the Kingdom of Morocco in the 65th session of the Commission on the Status of Women, At the level of the, the employment of women in the judiciary body reached 49% in 2017, and the percentage of women judges constituted 24%, while the percentage of female graduates in 2018 reached 28,75%. In 2018, for the first time; women could access quasi-judicial professions, namely public notaries, after 299 of females could</p>	<p>dependent on the discretion of the judges, for example, determining the compensation and alimony amounts.</p> <p><i>Are there appeal processes?</i></p> <p>Yes</p>	<p>the investigations if the complaint is withdrawn.</p> <p>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, the unequal distribution of courts across the country, women's lack of awareness of their rights, and lack of education are all obstacles to access to justice for women victims of violence."¹⁷⁶</p>	<p>to refugee men living in Morocco. Having women able to pass their nationality to their children/and husbands can spare a lot of administrative problems in many countries.</p>
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¹⁷⁶ EuroMed Rights Network. "Situation Report on Violence Against Women in Morocco". Fact sheet report 2017. Available at: <https://www.euromedrights.org/wp-content/uploads/2017/03/Factsheet-2017-VAW-Morocco-EN.pdf>

<p>pass the exam, representing 37%.¹⁷¹</p> <p><i>Do lawyers represent clients?</i></p> <p>Yes</p> <p>Yes, self representation is possible especially in cases in which the lawyer is not mandatory, for example, alimony cases and some work issues disputes.</p> <p>In Morocco, there is a legal aid procedure, whereby legal aid can be granted to needy people who provide a certificate of need and a certificate of non-taxability, and thus get an exemption from paying judicial fees and a lawyer.¹⁷² Some researchers point out that despite the effectiveness of the decree that regulates this matter, there are many difficulties represented in the complexity of the procedures, the multiplicity of documents that may cost additional expenses to litigants, the lack of assistance in some stages of the case, and the dominance of the Public Prosecution Office over legal aid offices.¹⁷³</p>			
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¹⁷¹ Ministry of Solidarity, women, Family and Social Development. Morocco's report in the 65th session of the Commission on the Status of Women on 21 March 2021. Available in Arabic at <https://social.gov.ma/wp-content/uploads/2021/03/Rapport-Maroc-CSW-avec-couv-vf.pdf>

¹⁷² The procedure of legal aid services is detailed in the Royal Decree No. 65-514 dated 17 Rajab 1386, November 16, 1966. Available at: <https://adala.justice.gov.ma/production/legislation/ar/civil/assistancejudar.htm>

¹⁷³ See for example: Zakariae EL Admi. "Judicial and legal assistance between the operative text of the legal text and its effectiveness in Moroccan courts". *law and business journal*. <https://www.droitentreprise.com/21066/>