



## » MOROCCO

### Situation report on violence against women

#### 1. Legislative framework

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

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

In 2014, following efforts conducted since 2012 by civil society and certain parliamentary groups, the Moroccan Parliament adopted a legislative amendment repealing subparagraph 2 of Article 475 of the Penal Code according to which rapists can no longer avoid prosecution by marrying their victim if she is at least 18 years of age.

In June 2016, the government council adopted a new version of the draft Penal Code reform (No. 10-16). The text simply made a few amendments to the current Penal Code, relating in particular to alternative penalties, voluntary termination of pregnancy, and tougher penalties for persons accused of sexual assault on minors. Civil society has challenged the government's methodology, which did not use the required participatory approach, and the fact of fragmenting the draft Penal Code reform instead of revising the Code in its entirety.

The Parliament adopted draft Act 103.13 on combating violence against women on 20 July 2016. It ignores the opinions of the national institutions and the advocacy of civil society, both of which has denounced that the fact that this project was highly insufficient in terms of protective measures, remedies, and sanctions for domestic violence in particular; does not cover all types of violence; makes no reference to legal protection for several categories of women, including mothers, unmarried women, migrant women and disabled women.

Although Morocco is a signatory State of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and, since July 2015, of its optional Protocol, the country only acknowledges its obligation to eliminate discrimination against women to the extent that it is not contradictory with Sharia law. However, the Moroccan



government has withdrawn its reservations regarding Article 9 on women's right to nationality and to transfer their nationality to their descendants, as well as regarding Article 16 on marriage and family life in April 2011.

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

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

## 2. Political framework

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

In 2009, Morocco's Higher Planning Commission (Haut-Commissariat au Plan) conducted a national study<sup>1</sup> on the prevalence of violence against women. This was the public authorities' acknowledgment of the extent of the phenomenon of violence and of its consequences. This study revealed that out of a population of 9.5 million women between the ages of 18 and 64, close to 6 million (i.e. 63%) had experienced an act of violence during the twelve months preceding the study, and 3.7 million (55%) among them has experienced conjugal violence.

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

A 2008 convention between the Ministry of Social Development, Families and Solidarity, the police, the Royal Gendarmerie and the Ministries of Justice and Health established coordination between these various services within the framework of the information system, coordinated by the Ministry of Social Development, for collecting data and drawing up an annual report in the occasion of the UN's 16 Days of Activism against Gender-Based Violence.

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

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

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

In addition, a situation report on equality and gender equality in Morocco published in October 2015 by the National Human Rights Council (CNDH) encouraged Morocco to withdraw the interpretative declarations of the CEDAW, to enact a specific law for combating violence against women, and to ratify the Istanbul Convention of the Council of Europe, as well as to accelerate the process for the creation of the Authority for gender equality and combating all forms of discrimination (APALD) and the Advisory Council on Families and Children.

<sup>1</sup> [http://www.hcp.ma/downloads/Violence-a-l-egard-des-femmes\\_t13077.html](http://www.hcp.ma/downloads/Violence-a-l-egard-des-femmes_t13077.html)

### 3. Protection framework and access to justice

#### *Protection system and counselling, psychological support and empowerment services*

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

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

#### *Prevention and training of professionals in contact with victims*

The Government Agenda for Equality's third priority area involves updating the education and training system on the basis of equity and equality.

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

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

The training of professionals has improved, in particular through the implementation of training programmes by UN Women and the UNFPA.

#### *Access to a non-discriminatory judicial and police system*

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

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

In addition, 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.

#### *Specific vulnerabilities*

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

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

Rural women are among those most affected by violence, and they have little or no access to protective mechanisms and are less aware of their rights.

Girls, particularly those from rural areas, are at risk of being exploited as «little maids» by their families or other employers. This phenomenon, which is regularly denounced by women's rights associations, is worryingly widespread in Morocco. The Domestic Workers Act adopted in 2016 provides for legal protection and will prohibit work under the

age of 18 after a 5-year transition period, although it does not seem to provide any concrete solutions for combating the phenomenon of clandestine domestic work and the exploitation of minors.

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

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

##### ***Cooperation with the European Union***

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

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

##### ***Cooperation with the Council of Europe***

Gender equality is one of Morocco's priorities for 2015-2017 in the framework of cooperation with the Neighbourhood of the Council of Europe. For instance, the Morocco asked the Council of Europe to present the Istanbul Convention and to provide expert knowledge on the draft Act for combating violence against women. The priorities for 2015-2017 include the improvement of the legislative framework, the strengthening of institutional powers and of the professionals concerned in order to prevent and combat violence against women, access to justice and the creation of a national Observatory for combating violence against women.



## 5. Recommendations to the Moroccan State

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

