**MOROCCO**

**Gender Justice & The Law**

**DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?**

- **YES** The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

- **NO** The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

- **Partly** Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

- **No available data or inadequate information.**

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country’s respective Universal Periodic Reviews.

**Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

Morocco ratified CEDAW in 1993 and maintains a reservation to Article 29(1) (relating to process for resolving disputes), and a declaration to Article 2, stating that the government of Morocco is ready to apply the provisions of the Article as long as these do not conflict with Islamic law.

**Constitution**

The 2011 Constitution includes a commitment to the protection of human rights and the prohibition against all forms of discrimination, including discrimination because of sex. Article 19 addresses equality between women and men.

**NATIONALITY LAW**

**NATIONALITY**

Women enjoy equal rights with men to confer their citizenship on their children under the Nationality Law. Women do not enjoy equal rights with men to confer citizenship on a foreign spouse. A Bill proposing to amend the Nationality Law to provide equal rights to women has been drafted.
**Gender Justice**

**PROTECTION FROM GENDER EQUALITY AND MOROCCO**

The Elimination of Violence against Women and country recommendations under the country’s profile with international human rights standards, the recommendations of the UN Committee on the Colour-coded representation below provides a comparison of the laws identified in the country

**NATIONALITY LAW**

No available data or inadequate information.

The law provides for gender equality and/or protection measures.

**PERSONAL STATUS LAWS**

**Minimum age of marriage**

Article 19 of the Family Code provides that the legal age for marriage for males and females is 18 years. Courts can approve marriage of minors. Article 19 has been used by some courts to recognize child marriage.

**Guardianship of children**

The father is the legal guardian of his minor children. The mother is guardian if the father is absent or is deprived of capacity.

**Male guardianship over women**

The Family Code does not require women to have a male marriage guardian.

**Custody of children**

In the event of divorce, child custody is awarded first to the mother, and children can choose to be in the custody of the mother or father when they reach 15. A mother loses custody if she remarries unless conditions specified in the Family Code are met.

**Marriage and divorce**

Women enjoy equal rights in most aspects of marriage and divorce. A court may grant divorce based on mutual consent or on specified grounds. A man wishing to divorce unilaterally must apply for court permission. If the wife wants divorce but her husband does not consent, divorce may be granted if the wife pays compensation.

**Inheritance**

The Family Code requires Sharia rules of inheritance to be applied. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive. The child of a deceased mother inherits from the maternal grandparents in the same way as a child of a deceased father.

**Domestic violence**

Women and girls are protected by the Law on Combating all Forms of Violence against Women, Law No. 103-13. However, it does not address marital rape. The law could be strengthened by criminalizing marital rape as a form of violence against women and by clarifying the definition of domestic violence.

**Rape**

Marital rape is not criminalized.

**Sexual harassment**

Article 503 of the Penal Code criminalizes sexual harassment.

**Human trafficking**

Law No. 27-14 on Combating Trafficking in Persons criminalizes human trafficking and addresses trafficking prevention and protection measures.

**Sex work and anti-prostitution laws**

Prostitution is prohibited by Article 498 of the Penal Code.

**Abortion for rape survivors**

Article 449 of the Penal Code criminalizes abortion. There is no specific exception for rape. The Penal Code does not penalize abortion if it is necessary to preserve the health of the mother when a doctor performs the abortion with the permission of the husband.

**Female Genital Mutilation / Cutting (FGM/C)**

There is no legal prohibition. There are no documented cases.

**Domestic workers**

Domestic workers are not protected by the Labour Code. Under the Law on Domestic Workers of 2018, domestic workers have some rights, including entitlement to written contracts and a minimum wage.

**Medical abortion**

A doctor performs the abortion with the prescription of the father until he reaches 18 years, or 25 years if he is unable to provide it. Medical abortion is permitted in cases of rape, risk of pregnancy to undermine morality.

**Legal restrictions on women’s work**

Women are restricted from participating in some occupations, including mining. The Labour Code prohibits the employment of women in occupations listed in regulations, including work that poses excessive risk, is considered beyond their capabilities, or is likely to undermine morality.

**Labour laws**

**Right to equal pay for the same work as men**


**Paid maternity leave**

Women have the right to 14 weeks of paid maternity leave under Article 152 of the Labour Code. This meets the ILO recommendation for paid maternity leave.

**Dismissal for pregnancy**

Employers are prohibited from dismissing women because of pregnancy by Article 152 of the Labour Code.

**Exoneration by marriage**

There is no ‘mony-your-rape / abductor’ provision in the Penal Code.

**Adultery**

Adultery is an offence under Article 491 of the Penal Code.

**Sexual orientation**

Homosexual conduct between consenting adults is a criminal offence under Article 489 of the Penal Code.

**Cutting (FGM/C)**

There is no legal prohibition. There are no documented cases.

**Marital rape**

Marital rape is not criminalized.

**Sexual harassment**

Article 503 of the Penal Code criminalizes sexual harassment.

**Rape (other than of a spouse)**

Article 486 of the Penal Code criminalizes rape, which is defined as sexual intercourse between a man and a woman without her consent.

**Honour crimes: Mitigation of penalty**

Article 418 of the Penal Code provides that a husband or wife benefits from a mitigated sentence if they kill their spouse caught in an act of adultery. Article 420 provides for a reduced sentence for a head of a household who assaults a person he finds in his home engaged in illegal sex.

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**Adultery**

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**Sexual orientation**

Homosexual conduct between consenting adults is a criminal offence under Article 489 of the Penal Code.

**Polygamy**

Polygamy is permitted by the Family Code, subject to strict conditions. The husband must provide a court with evidence of an “exceptional justification” for the marriage and to prove he has sufficient financial resources to cover family expenses, housing, and to ensure equal treatment of his wives.

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**Domestic violence**

Women and girls are protected by the Law on Combating all Forms of Violence against Women, Law No. 103-13. However, it does not address marital rape. The law could be strengthened by criminalizing marital rape as a form of violence against women and by clarifying the definition of domestic violence.

**Rape for rape survivors**

Article 449 of the Penal Code criminalizes abortion. There is no specific exception for rape. The Penal Code does not penalize abortion if it is necessary to preserve the health of the mother when a doctor performs the abortion with the permission of the husband.

**Female Genital Mutilation / Cutting (FGM/C)**

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