

MOROCCO



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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.

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.

CRIMINAL LAWS

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.

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.

Exoneration by marriage

There is no 'marry-your-rapist / abductor' provision in 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.

Human trafficking

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

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.

Adultery

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

Female Genital Mutilation / Cutting (FGM/C)

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

Sex work and anti-prostitution laws

Prostitution is prohibited by Article 498 of the Penal Code.

Sexual orientation

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

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 16 has been used by some courts to recognize child marriage.

Male guardianship over women

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

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.

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.

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.

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.

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.

LABOUR LAWS

Right to equal pay for the same work as men

Article 346 of the Labour Code prohibits discrimination in remuneration between men and women.

Dismissal for pregnancy

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

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.

Domestic workers

Domestic workers are not protected by the Labour Code. Under the Law on Domestic Workers of 2016, domestic workers have some rights, including entitlement to written contracts and a minimum wage.

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.