

MOROCCO



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The colour codes indicate whether the laws comply with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women, and recommendations of the country's Universal Periodic Review.

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, and it requires survivors to file a complaint for a criminal prosecution to obtain protection. The Law could be strengthened by criminalizing marital rape as a form of violence against women and by clarifying the definition of domestic violence.

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.

Marital rape

Marital rape is not criminalized. The position is ambiguous. Marital rape is sometimes prosecuted under rape or other laws.

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.

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 against her will. The definition of rape should be revised as it is currently limited to imposed sexual penetration.

Femicide: Mitigation of penalty (so called 'honour' crimes)

Article 418 of the Penal Code provides that a husband or wife benefits from a mitigated sentence if they murder, injure or beat their spouse who is caught in an act of adultery. Some articles of the Penal Code allow for reduced penalties for so called 'honour' crimes. There are concerns that the application of this provision will benefit more male offenders than female offenders.

Sex work and anti-prostitution laws

Prostitution is prohibited by Article 498 of the Penal Code.

Exoneration by marriage

There is no 'marry-your-rapist / 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.

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.

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 provides women with the option of not having a male marriage guardian. The provision on the role of the male marriage guardian is optional.

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.

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.

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.

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.

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.

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.