

RABAT DECLARATION

February 25, 2023

Conference under the theme

“Morocco for women: Family Code between the urgency of the overhaul and cultural and social resistance”

I. Preamble

Expressing deep concern about the growing number of applications for authorization of the marriage of minors approved in 2022 which amounts to 13,6521 and the number of domestic violence, in particular the 56% of housewives having been victims of violence at the hands of of their husband²

Noting that physical and sexual violence against women costs households 2.85 billion dirhams and 22.8% of women have had to bear, themselves or their families, direct or indirect costs of violence.³

Noting that Morocco has just recorded a record of 27,000 divorce cases in 2021 alone.⁴ A figure never reached since the entry into force of the Moudawana.

Welcoming Morocco's efforts to combat underage marriage and gender-based violence despite cultural resistance.

Stressing that the Family Code, considered avant-garde and revolutionary, now requires a complete reform 20 years after its adoption in 2004, in order to guarantee the rights of all, men and women, while taking into account the best interests of children.

Recalling all the speeches of HM the King on the promotion of women's rights including the last speech addressed to the Nation on the occasion of the 23rd anniversary of the Throne Day calling for a reform of the Mudawana.

Noting that *“the spirit of the reform of the Family Code does not consist of granting women free privileges, but, much more precisely, of ensuring to them the full enjoyment of the legitimate rights conferred on them by the Law, because in the Morocco today, it is in fact no longer possible for it to be deprived of it, ”* as it was specified by HM King Mohammed VI in his speech addressed to the Nation on the occasion of the 23rd anniversary of Throne Day

Recognizing that the Family Code “ is *not specific to men or women but is dedicated to the entire family* ”, requiring strong mobilization and commitment from all stakeholders, mainly to help change mentalities in matters of equality between women and men and strengthening positive masculinity

Noting that the framework for equality between men and women must be included in the guiding principles of the Family Code

¹ 2022 report from the Moroccan public prosecutor

² Human Rights Report presented by the Azzahrae Forum Network in 2022

³ HCP national survey on violence against women and men - 2019

⁴ Minister of Justice in response to a written question in parliament, September 2022

Recalling that the Code today requires not only alignment with developments in Moroccan society but also compliance with the laws in force with the 2011 constitution and Morocco's international commitments.

Highlighting the efforts made by Morocco to improve conventional practice characterized by a strong desire to align national legislation with international conventions.

Noting that Morocco has ratified the nine fundamental conventions which constitute the hard core of human rights, as well as five annexed protocols.

Recalling that the problems linked to the application and interpretation of the Family Code limit the full participation of women in the development of the country.

Let us judge that civil society plays a vital role in raising awareness, popularizing and moralizing public life in order to combat stereotypes based on gender and normalization with persistent inequalities in the relationship between men and women which can manifest itself in the management of family relationships.

Capitalizing on efforts led by civil society, particularly advocacy campaigns for gender equality, non-discrimination, the empowerment of women, the fight against violence against women and the political participation of women, as well as the in-depth reform of the Moudawana adopted in 2004, by putting forward issues such as age of marriage, child custody, and guardianship.

We are the participants in this regional conference on the Family Code between the urgency of the overhaul and cultural and social resistance organized by the ConnectinGroup in collaboration with the International Center of Diplomacy with the participation of around 100 NGOs specialists in issues related to equality, women's rights and human rights in general and development representing different regions of the Kingdom of Morocco, in addition to jurists, and academic researchers.

WE CALL FOR:

1. Complete the ratification procedure of other protocols annexed to basic conventions and align national legislation with the instruments of international law, including the parallel revision of the Family Code, law 103-13 as well as the provisions of the Code criminal.
2. Examine, revise, modify and repeal all laws, regulations, policies, practices and customs which are discriminatory against women and which have, or may have the effect of discrimination against women and put the equality at the heart of the guiding principles of the reform of the Family Code.
3. Accelerate the implementation of article 19 of the Constitution and activate the establishment and operation of the Authority for parity and the fight against all forms of discrimination and the Advisory Council for the Family and 'childhood.
4. Strengthen the role of women at all levels of the decision-making process
5. Integrate the culture of equality and human rights into school textbooks as an educational means of promoting gender equality and the fight against stereotypical and sexist images and content.
6. Ensure a balance between religious legitimacy and openness to modernity through the establishment of the principles of equality between men and women in accordance with international conventions.

In relation to specific articles in the Family Code, we call for :

1. Delete article 148 of the family code, which considers illegitimate filiation to be null for the father. Consider genetic experience via DNA as grounds for paternity rights, not just as a means of proving paternity based on marriage.
2. Categorically and definitively prohibit the marriage of minors under the age of 18, and therefore delete articles 20 and 21 of the Family Code and provide clear language on the prohibition of marriage of minors.
3. Launch awareness campaigns with a view to changing cultural behaviors that contribute to Fatiha marriage, check and contract and provide sanctions in the penal code for these acts
4. Consider legal representation (all decision-making concerning the child, whether administrative (exit from the territory, etc.), school, health or property) as a common right between the parents during the marital relationship and after its termination, within the framework of the principle of the best interests of the child
5. Propose a alimony reform that would specify the amount of alimony, so that it is proportional to the parents' income, by providing a percentage on income.
6. Delete articles 173 and 175 of the Family Code and replace them with articles which would allow the remarried mother to benefit from shared custody, and provide, among other things, a more precise definition of custody conditions.
7. Establish a separate law on matrimonial regimes covering all legal or conventional provisions which regulate the property relations between spouses and provide for a separate act attached to the marriage certificate including the separation of property. Spouses are supposed to be in a system of community property.
8. Eliminate forms of divorce that are not activated and unify divorce procedures to put an end to the different forms of discrimination between spouses upon marriage breakdown. Even if the Code provides for several forms of divorce (divorce due to **chiqaq discord**, divorce by **mutual consent**, Rijii revocable divorce), the most common forms are **Chiqaq** and **mutual consent**.
9. Fight against judicial stereotypes that blame victims rather than punish the guilty and change any type of discriminatory terminology that harms the wife and children, such as: paternal filiation arising from: 1- marital relations (Al Firach); 2- from the confession of the father (Iqrar); 3- sexual relations by mistake (Choubha). ; the gift of consolation (Mout'â) which will be evaluated according to the duration of the marriage; the term "abandoned" which is a value judgment, a negative and discriminatory terminology which refers to the lakit (foundling). Any identification of the child must take into consideration his future and be a path to his reconstruction and not a psychological trauma.
10. Involve key actors in the reform process through the participation of civil society organizations, political and religious actors, in the reform process that can help find consensual solutions and overcome resistance.
11. Institutionalize preventive family mediation in a transversal manner to avoid certain divorces and family breakdown and preserve the interests of the children who are taken

in the spiral of disputes (referring to the 2011 constitution and international conventions)

12. Provide premarital training for future brides and grooms on the various responsibilities in a couple as well as the breakdown of family structures, resulting from gender-based violence. This will firmly reduce the divorce rate.
13. Intensify training for judges, prosecutors and lawyers in order to implement international human rights instruments before national courts, and strengthen the specialization of judges in family law.
14. Pay special attention to the problems of women living abroad in countries where the marriage certificate is not recognized by Moroccan law, and where the latter is registered in a country which does not have a convention with Morocco. This problem could deprive children of benefiting from their mother's Moroccan nationality and all related rights. Thus, strengthening the registration of marriage or divorce of Moroccans around the world in Morocco's consultants abroad without worrying about traveling to Morocco.
15. Ensure better representativeness of the Council of the Moroccan Community in Abroad (CCME) in the commissions responsible for revising laws in order to adapt the provisions of the Family Code with the reality in the host countries while preserving national identity especially with regard to the conflict aspects of the legal and jurisdictional regime of marriage or divorce, the execution of legal judgments of the family, financial rights of spouses and children and alimony, child custody and visitation rights.
16. Include gender equality in the testimony of marriage and divorce procedures, while welcoming Morocco's efforts to allow women to exercise the profession of Adoul, of which 277 women among 800 graduates of the Higher Institute of Magistracy joined the professional field in 2020.
17. Recognize the woman's testimony before a traditional notary for the procedure "Lafif Adli" equal to that of the man through regulation of the profession of Adouls, and reduce the number of 12 witnesses in a case that must be authenticated by adular act and include women among the witnesses .
18. Repeal article 400 of the Family Code which stipulates that judges are required to draw inspiration from the Maliki rite whenever the written rule of law is absent, incomplete, or imprecise, thus leaving the door open to judgments which go against the aims of the 2004 reform and those of the 2011 Constitution.

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