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**Human Rights Watch Submission to the Committee on the Elimination of Discrimination
against Women's Review of the Kingdom of Morocco's periodic report for the 79th Pre-
Session
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We write in advance of the 79th pre-session of the Committee on the Elimination of Discrimination against Women and its review of the Kingdom of Morocco's compliance with the Convention on the Elimination of All Forms of Discrimination against Women.

1. Violence Against Women and Girls (Articles 1, 2, 3, and 12)

Domestic Violence

Over half of Moroccan women aged 18 to 65 have been subjected to some form of violence, in public and private spaces, according to Morocco World News which reported on data from a survey conducted between January and March 2019 and presented by the Minister of Family, Solidarity, Equality and Social Development.¹ The survey was reportedly conducted to inform implementation of the 2018 law on violence against women, Law No. 103-13. The law's positive aspects include a broad definition of violence against women: "any act based on gender discrimination that entails physical, psychological, sexual, or economic harm to a woman." However, the law is inadequate in other ways. It does not provide a definition of domestic violence and does not explicitly criminalize marital rape. Additionally, it requires survivors to file for criminal prosecution to obtain protection orders, something many women are unable to do partly because of challenges survivors face in gaining help from the police, yet the law also does not set out the duties of police, prosecutors, and investigative judges in domestic violence cases. Moreover, the orders can be cancelled if spouses reconcile which only adds more pressure on women to drop such orders. It also does not provide funding for emergency shelter or longer-term accommodation.²

Human Rights Watch documented Moroccan women and girls' experience with domestic violence in September 2015, in an investigation that included interviews with over 20 women and girls as well as 25 lawyers, activists, and representatives of organizations providing shelter and services to survivors of domestic violence.³ The women and girls described being raped, punched, kicked, burned, stabbed, or otherwise abused by their husbands or other family members. Of the 20 survivors Human Rights Watch interviewed, only one said that her abuser had been arrested. She had a medical report indicating she was incapacitated for 21 days after her husband punched her

¹ Safaa Kasraoui, "New Survey Shows High Rates of Violence Against Women in Morocco," Morocco World News, May 15, 2019, <https://www.moroccoworldnews.com/2019/05/273120/survey-high-rates-violence-women-morocco/> (accessed September 28, 2020)

² "Morocco: New Violence Against Women Law; Progress, but Some Gaps; Further Reform Needed," Human Rights Watch News Release, February 26, 2018, <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law>

³ Human Rights Watch Report, "Morocco: Tepid Response on Domestic Violence; Strengthen Laws; Provide Protection, Justice, Services," February 15, 2016, <https://www.hrw.org/news/2016/02/15/morocco-tepid-response-domestic-violence>

and broke her nose while she was pregnant.⁴

The 20 women and girls described encountering a myriad of barriers when they tried to report violence. Most of the domestic violence survivors Human Rights Watch interviewed said they had sought help from police, prosecutors, or courts. But many said police officers refused to record their statements, failed to investigate, and refused to arrest domestic abuse suspects even after prosecutors ordered them to. In some cases, police did nothing more than tell victims to return to their abusers. In several cases, when women went to public prosecutors, the prosecutors did not file charges, nor directly communicate with the police but rather directed the victims to deliver documents to police to tell them to investigate or arrest the abusers. In some cases, police did not follow through, leaving women to go back and forth between the police and prosecutor.

Several survivors said that their neighbors had seen or heard the violence, but even when they said so to the police, the police did not interview witnesses, visit the crime scene, or conduct any investigation. With only one exception, the women interviewed said that the police neither provided nor paid for transport to medical services or the public prosecutor. Several women and girls said they could not go to the prosecutor because they had no money for transport, or believed they could not lodge a complaint without identification documents, which were with their abusers.

Reported cases of domestic violence in Morocco have increased since lockdown measures were put in place to try to contain the Covid-19 pandemic in late March 2020. Since then, Moroccan organizations providing support and resources to women in abusive situations reported receiving double and triple the number of usual calls, mainly from women reporting “physical, sexual, psychological and economic abuse, primarily by husbands and male partners.”⁵

Violence Against Domestic Workers, Including Children

A law that took effect in 2018, Law No. 19-12, provides domestic workers with labor protections, including mandatory contracts and days off, minimum age, minimum wage, and maximum working hours guarantees.⁶ It imposes fines on employers who violate the law, and prison sentences for some repeat offenders. Despite these positive measures, the new law offers less protection to domestic workers than the Moroccan Labor Code does for all other workers. The new law allows a maximum of 48 hours of work a week for adult domestic workers, compared with 44 for other workers, and sets a minimum wage 40 percent lower than the minimum wage for jobs in manufacturing, commerce, and free trade sectors. These discrepancies disproportionately harm women and girls, who likely comprise the majority of domestic workers in Morocco, though no official statistics regarding the age and gender breakdown of domestic workers exist.

Despite a current prohibition on employing children under the age of 15, thousands of children under that age—predominantly girls—reportedly still work as domestic workers.⁷ When Human Rights Watch documented conditions for child domestic workers in 2005 and 2012, child workers as young as 8 – known locally as “petites bonnes” – said that their employers frequently beat and verbally abused them, would not let them go to school, and sometimes refused them adequate

⁴ “Letter from Human Rights Watch to the Government of Morocco on Domestic Violence Law Reforms,” Human Rights Watch, February 15, 2016, <https://www.hrw.org/news/2016/02/15/letter-human-rights-watch-government-morocco-domestic-violence-law-reforms>

⁵ Anna Mitchell, “In Morocco, Domestic Abuse Remains Behind Closed Doors,” U.S. News, June 18, 2020, <https://www.usnews.com/news/best-countries/articles/2020-06-18/coronavirus-pandemic-fuels-surge-in-domestic-abuse-in-morocco> (accessed September 29, 2020)

⁶ “Morocco: New Domestic Workers Law Takes Effect,” Human Rights Watch News Release, October 4, 2018, <https://www.hrw.org/news/2018/10/04/morocco-new-domestic-workers-law-takes-effect>

⁷ “Thousands of Moroccan girls work as ‘slave’ maids instead of going to school,” Theirworld, April 26, 2018, <https://theirworld.org/news/morocco-thousands-girls-work-as-maids-instead-of-being-in-school-child-slavery> (accessed September 28, 2020)

food. Some said they worked for 12 hours a day, seven days a week, for as little as 100 Moroccan dirhams (US\$11) per month.⁸ Most child domestic workers in Morocco come from poor rural areas. Intermediaries frequently recruit them to work in cities, often making deceptive promises about their working conditions.

Human Rights Watch recommends that the Committee ask the government of Morocco:

- What public awareness measures is the government taking to ensure that domestic workers and employers are aware of the domestic workers law provisions?
- What training programs, materials, and resources is the government providing to labor inspectors and other officials to enforce the domestic workers law, and to publicize penalties against employers who violate the law's provisions?
- Do labor inspectors have the authority to inspect anywhere a domestic worker is employed, and to interview domestic workers privately about their working conditions?
- What mechanisms are in place to identify children domestic workers?
- What steps is the government taking to revise the violence against women law to include a definition of domestic violence, explicitly criminalize marital rape, and make protection orders available without requiring survivors to first file for criminal prosecution?
- What steps is the government taking to set out duties of prosecutors, police, and other authorities to support domestic violence survivors and effectively implement the violence against women law?
- What measures has the government taken or is taking to prevent and respond to gender-based violence, including domestic violence and abuse against domestic workers, during the Covid-19 pandemic? What is the government doing to assist women and girls who have lost employment due to the economic consequences of the pandemic, including domestic workers?

2. Criminalization of Adult Consensual Relations Outside of Marriage (Article 1) and abortion (Articles 11, 12 and 16)

Under the Moroccan penal code, performing or undergoing an abortion is a crime punishable by imprisonment unless the procedure is “a necessary measure to safeguard the health of the mother.”⁹ The National Human Rights Council recommends that the exception be broadened to include cases in which the abortion is in the interest of the woman’s “physical, mental and social health.”¹⁰ This wording, the council notes, comes from the World Health Organization’s constitution, which defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”¹¹ However, the authorities have yet to change the law. Six to eight hundred abortions take place every day in Morocco, two-thirds of them performed by licensed doctors.¹²

⁸ “Lonely Servitude: Child Domestic Labor in Morocco,” Human Rights Watch Report, November 15, 2012, <https://www.hrw.org/report/2012/11/15/lonely-servitude/child-domestic-labor-morocco>

⁹ “Morocco: Landmark Proposals on Individual Freedoms; Repeal Laws that Compromise Privacy, Freedom of Conscience,” Human Rights Watch News Release, December 4, 2019, <https://www.hrw.org/news/2019/12/04/morocco-landmark-proposals-individual-freedoms>

¹⁰ Ibid.

¹¹ World Health Organization Constitution, <https://www.who.int/about/who-we-are/constitution> (accessed October 16, 2020)

¹² Ahmed Benchemsi, “Morocco: An Insufficient Royal Pardon,” L’Obs, https://www.nouvelobs.com/monde/20191019.OBS20009/tribune-maroc-de-l-insuffisance-d-une-grace-royale.html?fbclid=IwAR3wK_dxhLsvevCH3QyHMMiVMvDATOGy5SOhM5A3rX9KyTurqD3rbmla65Q (Accessed September 28, 2020)

In Morocco, consensual sex between adults who are not married to one another is punishable by up to one year in prison. Article 489 of the penal code imposes prison terms of six months to three years for “lewd or unnatural acts with an individual of the same sex.” Article 490 of the penal code criminalizes extramarital sex, and article 491 criminalizes adultery. In June 2019 report, the Office of the General Prosecutor stated that 7,721 adults were prosecuted for having non-transactional sexual relations outside of marriage in 2018.¹³ The number includes 3,048 persons charged with adultery, 170 with same-sex relations, and the rest for sex between unmarried persons.

Criminalization of sex outside marriage has a discriminatory gender impact, including because rape survivors risk prosecution if they file charges that are not later sustained. Women and girls also face prosecution if they are found to be pregnant or have children outside marriage. Women who were in unregistered marriages or in relationships told Human Rights Watch that they were worried about reporting domestic violence or seeking help from the authorities in case they were prosecuted for having a relationship outside of wedlock.

A 30-year-old woman told Human Rights Watch in 2015 that when she found out she was pregnant outside of wedlock, she attempted to abort it herself and even attempted suicide. She said she went to a man for an abortion, but he asked her to either pay \$10,000 or have sex with him. She refused and went through with the pregnancy but could not return to her family for fear of what they may do, as the father of her child refuses to recognize her daughter.

In more recent years, authorities have used the criminalization of sexual relations and abortion to prosecute critics, journalists and dissidents of the state as well as to smear them.

The Case of a Woman Journalist, 28

Police in Rabat arrested a 28-year-old journalist on August 31, 2019, and interrogated her about her intimate life. She was taken to Rabat’s Ibn Sina hospital, where she was subjected to a gynecological examination without her consent. Two days later a prosecutor charged her with having an abortion and sex outside marriage, and a judge ordered her detained. On September 30, 2019, a court in Rabat sentenced her to one year in prison for having an abortion and for sex outside marriage.¹⁴ A prosecutor publicly disclosed deeply personal details about her sexual and reproductive life, and a judge refused to provisionally release her pending trial. The court also sentenced her fiancé to one year in prison. The doctor accused of performing the woman’s abortion received a two-year prison sentence, while a medical assistant and an office assistant both received suspended sentences for their involvement with the procedure. All the individuals denied the charges, and the woman, her fiancé, and the doctor were freed on October 16 after receiving a royal pardon. The case was possibly motivated by the woman’s being a journalist at *Akhbar Al Yaoum*, a daily newspaper that authorities have targeted repeatedly for its independent reporting and commentary, and her being a relative of high-profile dissidents.

Criminalization of same-sex conduct

On October 27, 2016, two girls, aged 16 and 17, were charged for suspected same-sex conduct and detained for one week before being released on bail. They were acquitted on December 9,

¹³ Human Rights Watch World Report 2020: Morocco – Events of 2019, January 2020, <https://www.hrw.org/world-report/2020/country-chapters/morocco/western-sahara>

¹⁴ “Morocco: Trial Over Private Life Allegations; Jailed Journalist Accused of Non-Marital Sex, Abortion,” Human Rights Watch News Release, September 9, 2019, <https://www.hrw.org/news/2019/09/09/morocco-trial-over-private-life-allegations>

2020. Morocco's courts frequently prosecute men under the country's anti-homosexuality laws; this was the first known case involving girls.¹⁵

The mother of C, one of the girls, brought her and B, the other girl, to a police station in Marrakesh. Police reports state that C's mother told police that she suspected the girls of homosexual behavior because she had seen a photo in her daughter's phone of them kissing and had noticed a red mark on her daughter's neck. B told the Aswat Group for Sexual Minorities, a Moroccan group, that C's mother and sister beat both girls before taking them to the police. Both girls were immediately arrested and detained for 48 hours on suspicion of homosexual conduct; C's mother and sister were not arrested for domestic violence. B's mother was not advised of B's detention for the first 24 hours. On October 29, the girls appeared before the prosecutor, who brought charges under article 489 of Morocco's penal code. He also charged B with vagrancy.

One of the defense lawyers said the girls reported that police had coerced them into signing statements they had not read. B told the Aswat Group for Sexual Minorities that she was made to sign five statements, none of which she was allowed to read, after she had been transferred to an adult prison. The statement taken by police, reviewed by Human Rights Watch, were identical, except for the names of the girls—both offering identical testimonies and confessing to “sexual deviancy.”

Human Rights Watch recommends that the Committee ask the government of Morocco:

- What steps is the government taking to reform legislation to fully decriminalize abortion, or at least to broaden the exception in accordance with the National Human Rights Council's and World Health Organization's recommendations?
- What efforts are being taken to decriminalize consensual sexual relations among adults outside of marriage, with respect for the right to privacy as guaranteed under the International Covenant on Civil and Political Rights, which Morocco has ratified?
- What efforts are being made to repeal article 498 of the penal code, which criminalizes same-sex relations?
- What efforts are being made to introduce legislation protecting people from discrimination on the basis of sexual orientation and gender identity?
- Are specific protections for women and girls held in detention centers included in the trainings, rules, policies, and manuals for detention center staff?
- What mechanisms are in place to identify children in detention?
- What protections are there to ensure children are detained only as a last resort and for the shortest appropriate period of time and that conditions of detention do not violate their rights as children? How are conditions of detention monitored to ensure that these rights are respected in practice?
- How do authorities and detention center staff ensure children have access to appropriate food and medical care and can communicate with their families?

3. Freedom of expression (Articles 3, 7 and 15)

Arrests of women activists, journalists, and civilians

Moroccan authorities have routinely used a law designed to keep people from falsely claiming professional credentials to bring criminal charges against people trying to expose abuses. In one case, a woman who is affiliated with the activist group Equipe Media in El-Ayoun, Western

¹⁵ “Morocco: Drop Homosexuality Charges Against Teenage Girls; Could Face Three Years in Prison,” Human Rights Watch News Release, November 25, 2016, <https://www.hrw.org/news/2016/11/25/morocco-drop-homosexuality-charges-against-teenage-girls>

Sahara, was placed on trial on May 20, 2019, for allegedly falsely calling herself a journalist.¹⁶ Police arrested her on December 4, 2018, as she livestreamed on Facebook from Western Sahara denouncing Moroccan “repression.” She was released after four hours in police custody. The police confiscated her smartphone, which contained video of a policeman chasing her.

Authorities had previously arrested the woman in 2016, as she covered a women’s demonstration in El-Ayoun for Equipe Media. The authorities held her overnight, confiscated her camera and memory card, then released her without charge.

Article 381 of Morocco’s penal code forbids “claiming or using a title associated with a profession that is regulated by law ... without meeting the necessary conditions to use it,” and imposes prison sentences of three months to two years. Article 381, when it is used to restrict journalism, is incompatible with Morocco’s obligations under international human rights law to respect the right to seek, receive, and impart information and ideas.

A woman journalist was charged with abortion and sex outside of marriage (see in Section 2) seemingly in response to her journalism and family affiliations. She said police questioned her about her journalism and her relatives, asking questions that revealed she had been under surveillance.

In early April 2020, a young Moroccan woman posted a 15-second video on TikTok in which she imitated the “Caïda Houria,” a local female security figure who gained notoriety from her unique way of scolding Moroccans who did not comply with the Covid-19 restrictions in place at the time. A few days later, the young woman was arrested and sentenced to two months in prison in Errachidia. The main charge against her is that during the sketch, she wore a military uniform, in violation of article 382 of the penal code prohibiting “unauthorized public wearing of an official uniform.” The uniform she wore in the video belonged to a friend who was a member of local security forces.¹⁷

Human Rights Watch recommends that the Committee ask the government of Morocco:

- What steps is the government taking to ensure respect for the constitutional right of freedom of expression and to convey information and commentary freely?
- What steps is the government taking to ensure that officials do not use Morocco’s legal framework to curb freedom of expression (via Articles 381 and 382, among others)?

Access to Education during the Covid-19 Pandemic (Article 10)

In April and June 2020, Human Rights Watch conducted remote interviews with students and teachers in multiple locations in Morocco to learn about the effects on children’s education of school closures in response to the Covid-19 pandemic. Limited internet access has seriously limited children’s ability to study and teachers’ ability to teach using online platforms.

Human Rights Watch spoke to “Nawal L.,” a 16-year-old girl living in a middle-class neighborhood of Marrakesh. Her school organized online classes, but she said some teachers were inconsistent in their teaching. One of her teachers did not have reliable internet access; another defaulted on her teaching duties entirely, with no explanation. These inconsistencies meant that Nawal’s education suffered. Similarly, “Hynd M.,” an 18-year old student in a lower income neighborhood

¹⁶ “Morocco/Western Sahara: Law Misused to Silence Reporters; Woman Who Filmed Police Faces 2 Years in Prison,” Human Rights Watch News Release, May 16, 2019, <https://www.hrw.org/news/2019/05/16/morocco/western-sahara-law-misused-silence-reporters>

¹⁷ Ahmed Benchemsi and Nissaf Slama, “Humor Comes at a Price in Morocco and Tunisia,” May 13, 2020, <https://www.hrw.org/news/2020/05/13/humor-comes-price-morocco-and-tunisia>

of Casablanca, said only six out of ten of her teachers set up distance learning.¹⁸ Both Hynd and Nawal estimated that about half of students did not attend the online classes due to connection issues or lack of interest.¹⁹

A teacher in Rabat said that some of his students were unable to attend online classes because they lacked electronic devices or internet access. Other students had difficulty troubleshooting technical difficulties, or owned outdated and unreliable devices.²⁰

Another teacher at a school in a lower-income neighborhood of Morocco's capital, said the government did not provide technology to the students or teachers, nor financial support to pay for internet usage and access, even though he was expected to teach his students online.²¹

Human Rights Watch recommends that the Committee ask the government of Morocco:

- How does the government plan to remedy learning time lost by children in Morocco due to Covid-19 related school closures, in particular for girls with disabilities and girls living in rural areas or from low-income families?
- What laws protect children's education data and other private information collected online in connection with online learning?

Protection of Education from Attack (Article 10)

Attacks on students and schools, and the use of schools for military purposes disproportionately affect girls, who are sometimes the focus of targeted attacks and are more likely to be kept out of school due to security concerns.²² The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict;²³ the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.²⁴ Morocco endorsed the Safe Schools Declaration in September 2019.

As of August 2020, Morocco was contributing 2,110 troops and 9 staff officers to UN peacekeeping operations around the world. Such troops are required to comply with the UN Department of Peacekeeping Operations "UN Infantry Battalion Manual" (2012), which includes the provision that "schools shall not be used by the military in their operations."²⁵

Morocco's peacekeeping troops are deployed in the Central African Republic and the Democratic Republic of the Congo — both countries where attacks on students and schools, and the military use of schools by local parties have been documented as problems.²⁶

¹⁸ Human Rights Watch interview with Hynd M. (pseudonym), 18, Casablanca, Morocco, June 18, 2020

¹⁹ Human Rights Watch interview with Nawal L. (pseudonym), 16, Marrakesh, Morocco, June 19, 2020.

²⁰ Human Rights Watch interview with a teacher, "H", Rabat, Morocco, June 17, 2020.

²¹ Human Rights Watch interview with teacher, Rabat, Morocco, June 14, 2020.

²² UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 30, Access to Education, U.N. Doc. CEDAW/C/GC/30 (2013), para. 48.

²³ Safe Schools Declaration, May 28, 2015,

https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed January 23, 2020).

²⁴ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed January 23, 2020).

²⁵ United Nations Infantry Battalion Manual, 2012, section 2.13, "Schools shall not be used by the military in their operations."

²⁶ Education Under Attack: 2020, The Global Coalition to Protect Education from Attack, 2020, https://protectingeducation.org/wp-content/uploads/eua_2020_full.pdf

Human Rights Watch recommends that the Committee ask the government of Morocco:

- What protections for schools from military use are included in the pre-deployment training provided to Morocco's troops participating in peacekeeping missions?
- What Moroccan military regulations or trainings provide explicit protection for schools and universities from military use during armed conflict?