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**Shadow report by women's rights NGOs
as part of the review of the Moroccan government's
consolidated 5 and 6 report on Morocco's implementation of the CEDAW Convention**

Developed by
The HARMONIZATION NOW Dynamic

Coordinated by
The Association Démocratique des Femmes du Maroc (ADFM)

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TABLE OF CONTENTS

CONTRIBUTING AND SIGNING ASSOCIATIONS AND COALITIONS

INTRODUCTION

PART I (Article 1 - 6)

- **Discrimination and the Legislative Arsenal**
- **Morocco's International Commitments**
- **Access to Justice**
- **Institutional Mechanisms and Public Policies for the Advancement of Women**
- **Special Temporary Measures**
- **Stereotypes and Harmful Practices**
- **Trafficking and Prostitution Exploitation**
- **Gender-based Violence**
- **Recommendations**

PART II (Articles 7-8-9)

- **Participation in Political and Public Life**
- **Nationality Code**
- **Recommendations**

Part III (Article 11 - 14)

- **Education and Training**
- **Healthcare**
- **Employment**
- **Economic and Social Empowerment**
- **Rural Women**
- **Other particularly Disadvantaged Categories of Women**
- **Recommendations**

PART IV (Article 15-16)

- **Equality before the law**
- **Marriage and Family Life**
- **Recommendations**

APPENDIXES

CONTRIBUTING AND SIGNING ASSOCIATIONS AND COALITIONS (*associations in bold are members of the Harmonization Now Dynamic*):

Coalitions:

- COALITION PRINTEMPS DE LA DIGNITE

Organizations

1. ACTION FEMMES DES ASSOCIATIONS DE QUARTIERS DU GRAND CASABLANCA (AFAQ).
2. ASSOCIATION ADALA POUR LE DROIT À UN PROCÈS ÉQUITABLE
3. ASSOCIATION AMAL FEMME
4. ASSOCIATION ASPIRATIONS FÉMININES
5. ASSOCIATION ASSANAA
6. ASSOCIATION AWAL HOURIATE
7. ASSOCIATION DE LUTTE CONTRE LE SIDA (ALCS)
8. **ASSOCIATION DEMOCRATIQUE DES FEMMES DU MAROC (ADFM)**
9. **ASSOCIATION FEMMES DU SUD**
10. **ASSOCIATION FORUM MAROCAIN DES FEMMES**
11. **ASSOCIATION INITIATIVE POUR LA PROTECTION DES DROITS DES FEMMES (IPDF)**
12. **ASSOCIATION INSAT BENI MELLAL**
13. ASSOCIATION JEUNESSE DE SEGANGANE POUR LA CULTURE ET LE DEVELOPPEMENT
14. **ASSOCIATION MAINS LIBRES**
15. ASSOCIATION MAINS SOLIDAIRES
16. **ASSOCIATION MAROCAINE DES DROITS HUMAINS (AMDH)**
17. **ASSOCIATION MAROCAINE POUR LES DROITS DES FEMMES (AMDF)**
18. **ASSOCIATION NEAMA**
19. **ASSOCIATION SOLIDARITE FEMININE (ASF)**
20. ASSOCIATION TAHADI POUR L'ÉGALITE ET LA CITOYENNETE -ATEC
21. ESPACE ASSOCIATIF
22. EUROMED DROITS
23. FORUM ASSOCIATIF
24. **FORUM DE LA FAMILLE MAROCAINE**
25. FORUM DES ALTERNATIVES MAROC, FMAS
26. FORUM DES FEMMES MAROCAINES (FFM)
27. MOUVEMENT ALTERNATIVES CITOYENNE, ALCI
28. OBSERVATOIRE MAROCAIN DES PRISONS (OMP)
29. ORGANISATION MAROCAINE DES DROITS DE L'HOMME (OMDH)
30. ORGANISATION POUR LES LIBERTÉS D'INFORMATION ET D'EXPRESSION (OLIE)
31. RESEAU AMAZIGHE POUR LA CITOYENNETE - AZETTA
32. RESEAU ASSOCIATIF POUR LE DEVELOPPEMENT ET LA DEMOCRATIE ZAGORA

Introduction:

- 1- This parallel report, prepared in conjunction with the review of the Moroccan government's consolidated report 5 and 6, focuses on Morocco's implementation of the CEDAW Convention, the recommendations made during the review of the 3rd and 4th combined report in 2008, and other relevant UN recommendations.
- 2- This report, coordinated by the Democratic Association of Moroccan Women (ADFM) - an association with ECOSOC status - was prepared by the "#HarmonizationNow" dynamic, and with the contribution of **33** coalitions, networks and feminist NGOs in accordance with the CEDAW harmonized reporting guidelines (HRI/GEN/2/Rev.6, chapter V) as well as the guidance note for reporting under article 18 of CEDAW in the context of the SDGs (CEDAW/C/74/3).
- 3- It aims at drawing the Committee's attention to the concerns and recommendations of Moroccan feminist NGOs to eliminate discrimination against women, especially those related to the List of Issues and Questions relating to Morocco's fifth and sixth periodic reports¹.

PART I (Article 1 - 6)

Discrimination and the Legislative Arsenal

- 4- The 2011 constitution advocates for the primacy of international conventions ratified by Morocco. It dedicates more than 18 provisions in favor of gender equality and the fight against violence and discrimination made towards women, and opens up a vast area of reforms to discriminatory national legislation. However, Morocco does not have a **comprehensive** legislative framework that defines, **prohibits and sanctions discrimination against women**, in accordance with Article 1 of CEDAW. In fact, many discriminatory provisions persist in its legislative arsenal in violation of the Constitution and the International Conventions that have been duly ratified.

Morocco's International Commitments

- 5- In 2011, Morocco withdrew its reservations to articles 9 (paragraph 2) and 16 of CEDAW. However, it maintained its interpretative declarations on article 2 and 15 (paragraph 2) and did not deposit the instruments relating to the OPs to CEDAW or to the International Covenant on Civil and Political Rights (ICCPR), in spite of the adoption of the laws² approving the said protocols and their publication in the Official bulletin No. 6387 of 07/07/2015.
- 6- Morocco has made very little effort to disseminate the Convention to professionals in the justice system, key stakeholders, and the general public. It has not developed an action plan or defined a timetable for implementing the CEDAW Committee's recommendations. In addition, it has been more than six years late in submitting its combined reports 5 and 6³.

Access to Justice

- 7- Several types of obstacles contribute to limiting women's access to justice. These include **financial constraints** (lack of legal aid outside of criminal cases, costs incurred by travel, etc.); **procedural barriers** (complexity and heaviness of legal procedures); **legal restrictions** (burden of proof resting on the victim; medical certificate on order of the King's prosecutor stating a minimum of 21 days of incapacity for registration of the complaint is required from victims, etc.); **logistical challenges** (difficulties of access for rural women who are forced to travel to the city and for women with disabilities, etc.); **linguistic difficulties** (exclusive use of the Arabic language posing a problem for litigants who do not master this language; in addition to the juridical language that is often

¹CEDAW/C/MAR/Q/5-6.

²Law No. 125/12 approving the Optional Protocol to CEDAW and Law No. 126/12 approving the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR).

³The deadline for submitting the report was set for 21/07/2014.

unintelligible for victims, etc.); and **cultural barriers** (family and peer pressure, especially in cases of economic dependency; unawareness of legal rights due to the lack of information and awareness, etc.).

Institutional Mechanisms and Public Policies for the Advancement of Women

- 8- The appointment of a " **Ministry of Solidarity, Social Integration and the Family (MSISF)** " in charge of the promotion of women's rights (on 7/10/2021) perpetuates the politico-intentional approach of treating women's rights as a social sector issue. The feminist movement has repeatedly pointed out the structural weaknesses of this mechanism, which hinders its capacity to effectively lead, animate and coordinate public policies dedicated to equality between women and men.
- 9- **The Authority for Parity and the Fight against All Forms of Discrimination (APALD), created under Article 19 and 164 of the Constitution (Law No. 79.14⁴ de 2017),** has not yet been established. Moreover, despite the memoranda of feminist associations and the opinions of national institutions⁵, the law makes it a mere consultative mechanism whose governance is not established according to the Paris principles of independence and impartiality.
- 10- **The National Action Plan on Democracy and Human Rights (PANDDH)**, adopted at the end of 2017⁶, refers to "equality of opportunity" instead of gender equality, and considers the revision of discriminatory provisions of the Family Code (CdF)⁷ as "controversial." However, remains silent on provisions relating to inheritance inequality.
- 11- The **National Strategy for Sustainable Development (NSSD, 2030)** does not establish gender equality and the empowerment of women and girls as one of its priorities. The UN Economic Commission for Africa report notes that the NSSD does not specifically address SDG 5⁸.
- 12- The **Governmental Plans for Equality GPE1 (2012-2016) and GPE2 (2017-2021)** were designed using a non-equality and non-participatory approach. Furthermore, they were implemented without any real convergence of the actions of the various departments involved. They are totally dependent on foreign funding⁹; thereby, jeopardizing their sustainability.

Special Temporary Measures

- 13- Despite the constitutionalization of parity and equality between men and women in 2011 and the positive discrimination policies undertaken, including quotas and seats reserved for women as well as the support fund to encourage women's representation¹⁰, have not led to a true significant participation of women in elected bodies, **nor are they accompanied by binding mechanisms**. It is important to underline, in this respect, that the Constitutional Council rejected the organic law project N°66-13 related to the Constitutional Court, which expressly stated the respect of the representation of women among its members¹¹, for violation of the principle of non-discrimination.

Stereotypes and Harmful Practices

- 14- Several measures to combat gender stereotypes have been initiated since 2008 by public institutions¹² and civil society. **Law n°69.14 amending law n°77.03 on audiovisual communication (2015)** obliges public and private operators to promote the culture of equality and the fight against gender-based discrimination, among other stereotypes detrimental to women's dignity.

⁴Official Bulletin, 2018-02-01, n° 6644.

⁵See: CNDH, Opinion on draft law n° 79-14 relating to the Authority for parity and the fight against all forms of discrimination, 2015; CESE, project law n°79-14 relating to the Authority for Parity and the Fight against all Forms of Discrimination, Request n°20/2016.

⁶With a delay of 10 years since the development of its first draft by the Advisory Council for Human Rights in 2007.

⁷In particular, the following articles: 20 authorizing the marriage of minors, 49: relating to the division of property; 175: relating to the forfeiture of the right of custody in the event of the marriage of the mother, and articles 236 and 238, relating to guardianship over the children.

⁸*Economic Commission for Africa, First Report on Achieving the Sustainable Development Goals in the Maghreb, 2018.*

⁹CESE, Eliminating violence against girls and women: A national emergency, Auto-Saisine n°00/2020.

¹⁰Decree No. 2-13-533 relating to the Support Fund for the Encouragement of Women's Representation, September 2013.

¹¹Decision No. 943/14 of July 25, 2014 on the draft organic law relating to the Constitutional Court.

¹²These are the initiatives of the High Authority for Audiovisual Communication (HACA), national television channels (the National Society of Radio and Television, Soread 2M and MédiaTV).

- 15- Despite this progress, several studies¹³ agree on two observations: the stereotypical portrayal of women in the media and the continuing disparity in the presence of women in decision-making positions in media companies.
- 16- School curricula and programs confine women to **traditional and** strongly **stereotyped roles**, tend to overlook women's contributions to the various areas of life and rarely present models of female success¹⁴. This traditional distribution of status and roles is highlighted by the survey of the High Commission for Planning, which reveals that more than half of men consider that "the most important role of women is to take care of household affairs¹⁵".
- 17- In addition, **harmful practices** such as the authorization by magistrates of marriages¹⁶ under the legal age of 18 continue to be rampant, ignoring the recommendations and observations¹⁷ of various UN mechanisms. This "marriage," which is subject to authorization by a judge after medical examination or social investigation, and which is not subject to appeal¹⁸, is a major concern. In practice, only 12.42% of married minors received an investigation by a social worker, while 87.56% were only heard by a judge¹⁹.
- 18- Applications for marriage authorization for minors increased from 30,312 in 2006 to 32,104 in 2018²⁰ and represented, in 2015, 10% of all marriage certificates issued²¹. Nearly 85% of the applications filed between 2011 and 2018 were authorized²² and involved in their vast majority girls (94.8% of the total minors married)²³. These statistics do not include informal marriages ("with Al Fatiha", "by Contracts") nor those established through the procedure of recognition of marriage (Article 16²⁴ of the Family Code) which alone represent 15% of marriages of minors concluded between 2015 and 2019²⁵.

Trafficking and Prostitution Exploitation

- 19- **The adoption of Law No. 27-14 on the fight against human trafficking**²⁶ (2016) is certainly a step forward; however, it does not constitute a specific law that explicitly addresses the dimensions of "criminalization", "prevention", "protection", including assistance, rehabilitation and compensation of victims. Moreover, this law does not include foreign victims²⁷ and conditions medical care and victims' state assistance to the availability of resources (Article 4)²⁸.

Gender-based Violence

- 20- **Violence against girls and women** records alarming rates, though it has decreased slightly by approximately 6 points compared to the 1st prevalence survey in 2009. In 2019, 7.6 million women and girls between 15 and 74 years old (57.1%) experienced at least one act of violence in the 12 months preceding the survey, with psychological violence predominating (47.5% of cases²⁹). However, **Law**

¹³See: HACA (2016), Gender stereotypes through advertising spots, Analysis of 138 television spots; HACA (2017), National Report on the Global Media Monitoring Project GMMP 2015 "Who makes the news? Global Gender and Media Alliance (2020), Gender, Media and ICT Status and Recommendations, Morocco National Report, prepared by Amina Lemrini.

¹⁴ADFM, Parallel report of Moroccan NGOs on the implementation of the Beijing Declaration and Platform 1995-2020, 2019.

¹⁵HCP, National Survey on Violence against Women and Men, 2021.

¹⁶The FC defines the legal age for marriage at 18 years with derogation authorized by the judge for marriage before the legal age.

¹⁷In this case, General Recommendation No. 30 of the CEDAW Committee and General Comment No. 18 of the Committee on the Rights of the Child (2019).

¹⁸Family Code, article 20.

¹⁹ Presidency of the Public Ministry, Synthesis of the diagnostic study on underage marriages, 2021.

²⁰Hearing from the Ministry of Justice. In: CESE, what to do about the persistence of child marriage in Morocco? Self-referral n°41/2019", 2019.

²¹ HCP, "The Moroccan woman in figures. Trends in demographic and socio-professional characteristics, 2016.

²² CESE (2019), *Idem*.

²³HCP, RGPH, 2014.

²⁴Article 16 of the FC is fraudulently used to circumvent the provisions of the law on the authorization of polygamous marriage and that of minors.

²⁵Presidency of the public ministry, Op. cit.

²⁶Official Bulletin n° 6526 of 15/12/2016, p. 1952.

²⁷ADFM, *Op.cit.* 2019.

²⁸30 National Observatory for Human Development (ONDH), Intersectional discrimination against women in Morocco, 2021.

²⁹HCP, National survey on the prevalence of violence against women (ENVEF), 2019.

103.13 on combating violence against women³⁰ (2018) does not include any specific provisions criminalizing this type of violence.

- 21- Women are exposed to **gender-based violence in all spaces**, including the virtual world (13.8% of victims of cyber violence). However, the marital and domestic context remains the most marked by gender-based violence (prevalence of 52.2%)³¹.
- 22- Despite the seriousness of this phenomenon, **victims tend not to report it or file a complaint** to the competent authorities. Only 11.3% of them report non-conjugal violence, 8% report conjugal violence and only 3% report sexual violence³². This contributes to social acceptance of GBV and impunity of the aggressors.
- 23- In addition to social and family pressure, several other considerations encourage victims to remain silent, particularly in cases of domestic violence. This includes the complexity and slowness of legal proceedings, ignorance, the cost of these proceedings, the presence of children, the risk of losing income, the deficiencies of the care system, etc.³³
- 24- In light of this situation, **the government's strategy** in this area does not meet the needs of victims and does not take into account the structural nature of violence. **Law 103-13 on combating violence against women** only revises certain articles of the criminal law without meeting international standards, regardless of the numerous observations and proposals made by NGOs³⁴, national institutions, as well as those of the "Working Group on the Elimination of Discrimination against Women in Law and Practice and the Special Reporter on Violence against Women, its Causes and Consequences"³⁵, (see **Appendix 1 on Law 103-13**).
- 25- During the **Covid-19 pandemic**, domestic violence was exacerbated by social isolation and movement restrictions, as well as the economic and social pressures that followed. Poor and disadvantaged women's ability to report such violence was particularly affected by their difficulty of accessing existing care units and their lack of familiarity regarding new communication technologies.

26- Recommendations:

- Adopt and ensure the effective application of a comprehensive law against direct and indirect discrimination as defined in Article 1 of the CEDAW and systematically incorporate it into laws and regulations clauses prohibiting and, where appropriate, penalizing discrimination against women and girls;
- Withdraw interpretative statements about Article 2 and 15 (paragraph 4) of CEDAW and ensure its wide dissemination and implementation by legal professionals;
- Deposit the instruments of adherence to the OPs to the CEDAW and the ICCPR with the United Nations Secretariat General and ratify the Optional Protocol to the ICESCR and ILO Conventions 189 and 190 on domestic workers, violence and harassment respectively;
- Harmonize the entire legal arsenal with the provisions of the Constitution and Morocco's international commitments;
- Establish institutional mechanisms in charge of gender equality, with the necessary capacities to ensure inter-sectoral coordination, as well as the monitoring and evaluation of the implementation of public policies in this area;
- Amend the law that established APALD to provide it with protection, prevention, and promotion mandates along with the powers and capacities to guide, monitor, and evaluate the implementation of all legislation and public policies in accordance with constitutional requirements and the Paris Principles;
- Implement special interim measures in accordance with the Constitution and Article 4 of CEDAW;

³⁰Dahir No. 1-18-19 of February 22, 2018, promulgating Law No. 103-13 on the fight against violence against women.

³¹ *Idem*.

³² *Idem*.

³³ ONDH, 2021, *Idem*.

³⁴See, for example, the Memoranda of the Spring of Dignity Coalition, relating to Bill 103-13.

³⁵Communication addressed on 4/07/2017 to the Charge d'Affaires of Morocco in Geneva Mr. Boukili, in accordance with HRC resolutions 15/23 and 32/19 (REFERENCE: OL MAR 2/2017).

- Make the promotion of equality and the fight against discrimination, sexist stereotypes and GBV a national priority, translated into a comprehensive and cross-cutting public policy with a substantial budget;
- Urgently overhaul criminal legislation and Law 103.13 on combating violence against women in accordance with international standards;
- Establish institutionalized service chains throughout the country with adequate human and material resources and implement specific procedures to facilitate women's access to justice;
- Increase public awareness on gender-based violence: Integrate it in school textbooks and in the trainings of all social actors as well as those in charge of law enforcement;

PART II (Articles 7-8-9)

Participation in Political and Public Life

- 27- **The political and public participation of Moroccan women** has improved relatively since 2008. However, despite the revision of the electoral system, women still face structural and legal obstacles and remain largely under-represented in elective mandates and decision-making positions, ranking Morocco 112th out of 193 states in 2021³⁶.
- 28- The **Organic Law No. 27-11 relating to the House of Representatives**³⁷ provides for 90 reserved seats for women out of 395, but has not significantly improved the proportion of women in the first chamber (17% in 2011 and 24.3% in 2021).
- 29- Despite the principle of alternation advocated by **organic law no. 28-11 on the 120-member Chamber of Councilors**, the representation of women, which is already insignificant (14 in 2015), has been reduced to 13 women councilors in 2021.
- 30- In addition, only one woman out of eleven and four out of fourteen are **members of the boards of the 2nd and 1st chambers of the parliament**. None of the eight parliamentary groups or groupings in the House of Representatives is chaired by a woman, and only one of the 11 in the House of Councilors is chaired by a woman.
- 31- **Women's access to decision-making positions in the executive branch** has improved (from 12.8% in 2011 to 16.7% in 2019 and 25% in 2021) with six women members of the October 7, 2021 government, several of whom are in charge of important portfolios such as Economy and Finance. On the other hand, **the rate of feminization of senior positions** during the period 2012-2020 does not exceed 11.8%³⁸. Implementing Decree No. 02-12-412 of Organic Law No. 02-12 on the procedure for appointment to senior positions does not require parity in the composition of the commission for the examination of applications, nor does it require compliance with a quota of women candidates. On the contrary, it requires prior experience in a senior position. Women are grossly underrepresented in these positions, which constitutes blatant indirect discrimination.
- 32- **With regard to the representation of women in the judiciary system**, although the Ministry of Justice has a feminization rate of 43.9%³⁹, the ratio of women in judicial positions has only increased by one point in a decade, from 23.9% in 2011 to 24.9% in 2020. In 2010, three women out of 36 (8.33%) sat on the Supreme Court, the current "Court of Cassation", with only one woman out of 41 magistrates in 2020.
- 33- The **Constitutional Court** has only one woman out of 12 judges. Similarly, no woman has been elected president, although the statistics of the Ministry of Justice indicate that the number of women in this profession is 24%⁴⁰.

³⁶ Inter-Parliamentary Union Ranking, In. <https://data.ipu.org/women-ranking?month=8&year=2021>.

³⁷ Adopted and amended in 2021.

³⁸ Ministry of Economy, Finance and Administration Reform, Human Resources Report, Draft Finance Law for the Budget Year 2021.

³⁹ *Idem*.

⁴⁰ Albayane Press, *Elections for change, but no women barristers*, 20/12/2020.

- 34- **Female representation internationally** has seen an upward trend between 2009 and 2018⁴¹ in embassies (12% to 25.1%) and in the country's consulates (5.8% to 35.5%).

Nationality Code

- 35- Amended in 2007, article 6 of this code recognizes, for the first time, the right of a woman to transmit her nationality to her children. Under this code, a foreign wife can acquire the nationality of her Moroccan husband, whereas this right is not recognized for the Moroccan woman's foreign husband (Article 10).
- 36- Moreover, article 19 of the Code introduces a new discrimination by stating that *"Moroccan women who marry a foreigner and acquire, as a result of their marriage, the nationality of the husband, and who have been authorized by decree prior to the conclusion of the marriage, to renounce their Moroccan nationality, shall lose their Moroccan nationality."*

37- Recommendations:

- Implement special interim measures to ensure gender equity and equality, in accordance with the Constitution and Article 4 of CEDAW;
- Recognize the right of women to transmit their nationality to their foreign spouses under the same conditions required for men.

Part III (Article 11 - 14)

- 38- Despite the progress made since 2008, women and girls still face unequal treatments compared to men in the dimensions related to SDGs 3, 4, 5 and 8.

Education and Training

- 39- **Illiteracy** affects mostly women, especially in rural areas (46.1% of women versus 25.4% of men in 2019)⁴². Nearly 20.5% of girls between 4 and 17 are **out of school** (compared with 17.3% of boys) and the **overall pre-school enrollment rate for girls** (2019-20) is 7 points lower than that of boys (73% versus 80.1%). This 15-point gap in rural areas (57.4% for girls versus 72.4% for boys) is accentuated at the **secondary level, with a specific enrollment rate** among 15–17-year-olds of 39.2% for rural girls (50.5% for boys) versus 68.7% for urban girls (i.e., a 29.5-point gap)⁴³.
- 40- On the other hand, 55.2% of girls and women aged 12 and over **have not completed primary education** (+13 points compared to boys and men); 67.8% of them aged 15 and over **have not completed college education** (+10 points compared to boys and men); and 81.5% of those aged 18 and over **have not completed qualifying secondary education** (+5 points compared to men)⁴⁴.

Healthcare

- 41- Despite the progress made since 2008, **maternal mortality** at the national level remains very high in rural areas (111.1 deaths per 100,000 live births compared to 44.6 in urban areas).
- 42- In addition, more than one out of four rural women (28.4% compared to 11% of urban women) gave birth outside a health facility. The proportion of rural women who received **qualified prenatal care** was 79.6% (95.6% of urban women) and only 15.6% of rural women received **postnatal care** (27.2% of urban women)⁴⁵.

⁴¹ HCP, *Moroccan women in figures, 20 years of progress*, 2021.

⁴² HCP, (2021), *Op.cit.*

⁴³ MEN, *Education Indicators 2019-2020*.

⁴⁴ ONDH (2021), *Op.cit.*

⁴⁵ Ministry of Health, *National Family Health and Population Survey (NFHS)*, 2018.

- 43- To escape the stigma of an unmarried birth, hundreds of Moroccan women resort to clandestine **abortion**⁴⁶, which is the main cause of death among teenagers and one of the major factors in maternal mortality. The recurrence of this practice, which affects all marital and social categories, is estimated at 50,000 and 80,000 per year among women aged between 15 to 44 years old⁴⁷.

Employment

- 44- Despite the progress in women's education, Morocco is lagging far behind in terms of **women's participation in the labor market** with, more worryingly, a downward trend in their activity rate (26.6% in 2008 to 19.9% in 2020, compared to 70.4% for men)⁴⁸. The **employment rate** for women does not exceed 16.7% compared to 62.9% for men. In 2020, **the female unemployment rate** reached 16.2%⁴⁹ compared to 10.7% for men⁵⁰.
- 45- **The jobs held by women** are generally precarious and informal⁵¹. They are over-represented in domestic service (54.1% in 2020), in unpaid jobs (35% compared to 8.6% for men) and under-represented as employers (7.6%), sole traders (11.2%) and self-employed (17.7% compared to 39.8% for men)⁵².

Economic and Social Empowerment

- 46- Morocco ranks 148th out of 152 in terms of economic participation and opportunity for women⁵³. In 2019, only 12.8% of **organized businesses are run by women**⁵⁴. The inclusion of women in the body of directors of public companies does not exceed 5%, 7% in large private companies and 5.7% in the governance bodies of listed companies⁵⁵. It should be noted, however, that the amendment to the law governing public limited companies (Law No. 19.20 amending and supplementing Law No. 17-95 on listed public limited companies)⁵⁶ sets mandatory quotas (30% and 40% female representation respectively in 2024 and 2027) to ensure gender diversity on the boards of public limited companies⁵⁷, which should improve the situation if the law is effectively implemented.
- 47- Women have difficulty obtaining **bank credits** for their businesses. About 50% of women's businesses are entirely self-financed and only one third of the financing comes from external resources⁵⁸. Microcredit, an alternative source of financing, sets the legal ceiling for loans at 50,000 dirhams; thus, limiting women's support possibilities for the creation of their businesses, especially given the lack of bank alternatives⁵⁹.
- 48- Women **own/manage only 9,000 to 10,000 businesses**, most of which are very small or small/medium enterprises (10.2%⁶⁰) with a turnover generally below 20 million dirhams⁶¹.

⁴⁶ In the absence of official figures, the Moroccan Association for the Fight against Clandestine Abortion reports 600 to 800 cases of clandestine abortion per day.

⁴⁷ Moroccan Family Planning Association, *Analytical desk study on unsafe abortion in Morocco*, 2015

⁴⁸ Information notes from the High Commission for Planning, 8 March 20021

⁴⁹ It was only 9.8% in 2008.

⁵⁰ HCP, (2021), *Op.cit.*

⁵¹ ONDH (2021), *Op.cit.*

⁵² HCP, (2021), *Idem.*

⁵³ Global Gender Gap Index 2021

⁵⁴ Information note from the High Commission for Planning on the occasion of March 8, 2021

⁵⁵ Ministry Delegate with the Head of Government in charge of General Affairs and Governance (MAGG), UN Women, study of Gender analysis of legal and regulatory texts relating to the governance bodies of large public and private companies, 2019.

⁵⁶ BO N° 7014, of Aug. 19, 2021.

⁵⁷ <https://blogs.worldbank.org/fr/arabvoices/big-step-forward-womens-leadership-morocco>

⁵⁸ OCP Policy Center and Department of Studies and Financial Forecasts, *Gender Equality, Public Policies and Economic Growth in Morocco*, 2017.

⁵⁹ *Idem.*

⁶⁰ *Idem.*

⁶¹ *Idem.*

Rural Women

- 49- Most **rural women** work in low-paying and/or unpaid jobs that do not qualify them for social benefits⁶². Despite some improvement, in 2019 they are three times more vulnerable to poverty than urban women (12.4% vs. 4.8%). In addition, their life expectancy is 4.3 years less than that of urban women (75.3 years versus 79.6 years)⁶³.
- 50- Female **agricultural workers** work in extremely precarious and dangerous conditions. They are subjected to sexual harassment and/or assault and are often transported in worn-out, overcrowded vehicles with no safety standards.
- 51- As a result of the application of patriarchal customary law, **women in the “Soulaliyates” ethnic communities**, most of whom are poor, did not benefit from the usufruct of the lands and were not entitled to compensation following land transfer/rental operations. After several years of mobilization for the recognition of their rights, **Law 62.17, on the administrative management of collective lands** (July 2019), stipulates that members of these communal lands, both women and men, can take advantage of the property of their community.
- 52- Despite this achievement, the law does not explicitly mention gender equality and, therefore, does not sufficiently protect the rights of Soulaliyates. Moreover, its implementing **decree (no. 2.19.973, 2020)**, which makes "residence on the lands of the ethnic community" a criterion for recognition of community membership, nullifies the recognition of women as rightful owners, since to establish such status, it is necessary to have a dwelling on a parcel of land of which one has full use and benefit. However, Soulaliyates were not recognized as rights holders and, therefore, could not legally claim a personal dwelling on the territory of the community.
- 53- The contributions of law n°62.17 have also been limited by **ministerial circular n°6303 (May 13, 2020)** which stipulates that the acquisition of private ownership of collective land in non-irrigated areas is conditional on the status of rightful owner, permanent residence on the said land, the exercise of an agricultural activity and the full enjoyment of community plots of land whose surface area must not be less than 10 hectares; conditions that the overwhelming majority of them do not meet. Thus, what the law 62-17 conceded, its text of application and the circular n°6303 canceled it.

Other particularly Disadvantaged Categories of Women

- 54- **Women with disabilities (WWD)**, who number 859,965⁶⁴, face multiple and intersecting forms of discrimination. Eight out of ten of them have no education (compared to 53.4% of men with disabilities (MWM))⁶⁵ and only 16% are in school (54.1% of MWM). They are nine times less likely to find a job than MWM (employment rate of 2.7% compared to 22% for MWM)⁶⁶. Mechanisms dedicated to victims of violence, health services, psychological and social support or legal services remain insufficient and ineffective⁶⁷.
- 55- **Older women** face double discrimination on the basis of age and gender. They are likely to experience longer periods of precariousness and social isolation. In 2020, 64.8% of women lived alone and 91.05% of widowers aged 60 and over were women, compared with 8.95% of men⁶⁸ who were married even at a very advanced age. They find it difficult to recover their rights (retirement pension, social security and access to health care, etc.). Their vulnerability is exacerbated by poverty, divorce, widowhood and

⁶² HCP, *Plan Briefs, About Rural Women in Morocco*, October 2019.

⁶³ *Idem*.

⁶⁴ HCP, *People with special needs in Morocco according to data from the general population and housing census of 2014*

⁶⁵ *Idem*.

⁶⁶ MSFFDS, *National Disability Survey 2014*, Feb. 2015.

⁶⁷ Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Morocco, CRPD/C/MAR/CO/1, 25 Sep. 2017.

⁶⁸ HCP, National Employment Survey. In *Moroccan women in figures, 20 years of progress*, 2021

inequality in inheritance, in particular the lack of maintenance of the marital home for the surviving spouse. Despite this, they are not really taken into account in public policies. For example, direct aid to widows is conditional on the care of their orphaned children

56- More than two years after the enactment of **Law No. 19.12**⁶⁹ **establishing the conditions of work and employment of domestic workers** (October 2, 2018), the National Social Security Fund has registered only 3,253 declarations as of 2/03/2021⁷⁰. In addition, the said law, which sets the working age at 18 years, allows a transition period of five years in which it will still be possible to employ minors between 16 and 18 years of age.

57- Single mothers face social stigma fueled by current legislation, including Article 490 of the penal code, which criminalizes sexual relations outside marriage. Their children are not entitled to their father's name even if he is known and are only registered under the mother's surname with the permission of the mother's father or brother. DNA testing is not considered legal proof of parentage outside of marriage and the alleged father may refuse to submit to it⁷¹.

58- Women prisoners represent 2.48% of the total prison population (2110 in 2020)⁷². Of the 77 prisons, only two are exclusively dedicated to women⁷³. In detention, they face poor access to feminine hygiene products, contraceptives and sanitary facilities. Without family support, women prisoners who give birth in prison are dependent on humanitarian aid to support their children, who also suffer from inadequate childcare and entertainment facilities⁷⁴. Opportunities for vocational training and social reintegration are almost non-existent or limited to occupations traditionally considered female⁷⁵.

59- Recommendations:

- Guarantee the effectiveness of the law on compulsory schooling, starting at the preschool level, through a strategy that takes into account the deficits in access, retention and success of girls;
- Develop and implement action plans for the promotion of reproductive health in accordance with the International Conference on Population and Development (ICPD 1994), CEDAW and its Committee's General Recommendation 24 (1999) on "Women and Health";
- Implement a proactive national plan to make increasing women's economic activity a national priority;
- Broaden women's access to various social and family benefits, including those excluded from the scope of labor legislation;
- Provide for ad-hoc measures to reduce situations of disparity, exploitation and precariousness affecting rural women and disadvantaged female categories.

PART IV (Article 15-16)

Equality before the law

60- The 1962 **Penal Code** reflects a patriarchal vision, which infringes on freedoms and is discriminatory in its provisions. The criminal legislation does not criminalize marital rape or certain forms of violence, and

⁶⁹ BO N° 6493 of Aug. 22, 2016.

⁷⁰ Le Matin Newspaper of March 9, 2021.

⁷¹ Situation enshrined by the Court of Cassation, which overturns the judgments of courts of first instance using case law (see paragraph 29 of this report). Decree No. 275/1 issued on 29 September 2020 by the Personal Status Chamber of the Court of Cassation (File No. 365/2018/1/2/365), according to which the "illegitimate" child cannot claim any rights vis-à-vis the biological father, neither by paternal nor parental filiation. This decision came after the Court of First Instance of Tangier had confirmed, three years ago, the paternal filiation of a girl born out of wedlock and had ordered the biological father to pay compensation in the amount of 100,000 dirhams. The Court of Appeal having annulled this far-sighted judgment, the mother had to appeal to the Court of Cassation, which confirmed the decision of the Court of Appeal rejecting the recognition of filiation.

⁷² General Delegation for Prison Administration and Reintegration (DGAPR), *Activity report 2020*.

⁷³ The Moroccan Observatory of Prisons (OMP), *The situation of prisons and detainees in Morocco for the year 2019, 2020*.

⁷⁴ *Idem*.

⁷⁵ CNDH, *Gender Equality and Parity in Morocco Preserving and implementing the aims and objectives of the Constitution*, 2015.

does not allow indigent women easy access to protective institutions and legal aid. The provisions on rape introduce a hierarchy between victims (married and unmarried, virgins and non-virgins). The crimes of rape and 'indecent assault' are described as offences against 'family order and public morality'. The criminalization of sexual relations outside marriage, adultery and abortion is still in force (see **Appendix 2**).

Marriage and Family Life

The Family Code (FC), which came into force in 2004, has been widely criticized for its remaining discriminatory provisions as well as for its application:

- 61- Polygamy**, which is detrimental to the dignity of women, is maintained even though polygamous unions concern only 2% of women⁷⁶.
- 62- Marriage of minors**: See Part I, paragraphs 17 and 18.
- 63- Custody and guardianship of children**: According to it, the marriage of the mother entails the forfeiture of her right to custody (article 175). The father, legal guardian of the child (article 236), is deprived of this right in favor of the mother in certain very limited cases (death, absence, loss of capacity, etc.) (article 238).
- 64- The division of property acquired during the marriage**: article 49 of the FC leaves it up to the spouses to agree, at the time of the completion of the marriage, on how they wish to divide it. However, in 2019, only 0.25% of marriages were accompanied by such contract⁷⁷ due to the lack of information or to the refusal of families to establish such an agreement at the time of marriage. In the absence of such an agreement, the same article states that "*recourse is made to general standards of evidence, taking into consideration the work of each spouse, the efforts made as well as the responsibilities assumed in the development of the family assets.*" This ambiguous wording allows the judge to require tangible proof of the wife's financial contribution and to disregard, as shown by several decisions of the Court of Cassation, her contribution through her domestic and care work
- 65- Discriminatory inheritance legislation** stipulates that women inherit half the share of men with the same degree of relationship to the deceased. Male heirs are entitled to the entire inheritance, while female heirs are only entitled to a share determined by law according to their degree of relationship to the deceased and the status of the other heirs.
- 66-** In addition, women can be exiled through **the system of "Awqafs"**⁷⁸, historically used to circumvent the rules of inheritance and favor male offspring. Despite the 2010 reform, the law (Moudawana des Awqaf)⁷⁹ maintains several discriminations against women⁸⁰.

67- Recommendations:

- Revise the Penal Code in its totality and repeal its discriminatory and liberticidal provisions;
- Amend the Family Code to grant women the same rights in the formation of marriage, in its dissolution, in the relations with children and in matters of inheritance, in conformity with article 19 of the Constitution and article 16 of the CEDAW.

⁷⁶ Ministry of Justice, *In. HCP*, (2021), *Op.cit.*

⁷⁷ LesEco.ma, April 5, 2021. In. <https://leseco.ma/maroc/partage-des-biens-entre-epoux-pourquoi-faut-il-amender-la-loi.html>.

⁷⁸ Assets that are temporarily or permanently immobilized.

⁷⁹ Dahir No.1.09.236 of Feb. 23, 2010 forming the Habous Property Code (مدونة الأوقاف).

⁸⁰ Habous Property Code, 2010 (Articles 110 and 113).

APPENDIX 1:
Main Limitations of the Law No.103-13 on Combating Violence against Women

- 68- Does not adopt universal definitions of discrimination against women, gender-based violence, harmful practices, economic exploitation, etc., "leaving broad power of discretion to law enforcement officials in a societal context that is heavily imbued with a "patriarchal" culture"⁸¹;
- 69- Adopts a repressive approach consisting in increasing fines and prison⁸² sentences to the detriment of prevention (only one article is dedicated to this), protection and care of victims;
- 70- Excludes the possibility of protection orders in civil proceedings and limits the use of protection orders to the initiation of criminal proceedings;
- 71- Does not take into account the standard of "due diligence" that requires all the authorities involved to investigate, punish the perpetrators and repair the harm suffered;
- 72- Provides for three new articles in the Penal Code (Articles 481-1, 503-2-1 and 526-1), which allow for the automatic cancellation of any legal proceedings if the victim withdraws the complaint; thus, increasing the risk of pressure on the victim;
- 73- Does not provide for the reversal of the burden of proof, especially for offences such as rape or sexual harassment, which has a deterrent effect on victims in filing a complaint;
- 74- Does not provide for any obligations or sanctions against the competent authorities that do not comply with or fail to implement the provisions of Law 103-13;
- 75- Limits the ability of associations to act as civil parties in cases of violence by requiring them to have public benefit status and the victim's authorization.

⁸¹CESE, 2020, *Idem*.

⁸² In particular for the sanctions defined in Articles 431, 436, 503-1, 425, 426, 427, 429 and 407 of the Penal Code.

APPENDIX 2:

Discriminatory Provisions in the Penal Code

- 76- The criminal legislation is patriarchal and detrimental to individual freedoms in its philosophy, structure and provisions:
- 77- a. **sexual relations between people of different sexes not bound by a marriage act** are considered as “debauchery” (الفساد) under Article 490 which states: “All persons of the opposite sex who are not related by marriage, and have sexual relations with each other, are punishable by imprisonment for one month to one year⁸³”.
- 78- b. **Sexual relations between persons of the same sex**, under article 489 of the Criminal Code: “*Anyone who commits a lewd or unnatural act with an individual of the same sex shall be punished by imprisonment for a period of six months to three years and a fine of 200 to 1,000 dirhams, unless the act constitutes a more serious offence.*”
- 79- c. **the adulterous relationship** (Articles 491 and 492) by stating in Article 491 of the Criminal Code (paragraph 1): “*Any married person convicted of adultery shall be punished by imprisonment of one to two years. Prosecution shall be carried out only on the complaint of the offended spouse*⁸⁴”.
- 80- Rape victims are obliged to produce evidence and witnesses to the crime to prove their non-consent. If they fail to do so, they risk criminal prosecution for sexual relations outside matrimony. On the other hand, the criminal complaint is not admissible without a medical certificate attesting that the injuries suffered have led to more than 20 days of disability.
- 81- The provisions on rape maintain a hierarchy between victims (married and unmarried, virgins and non-virgins) and do not criminalize marital rape. Thus, if the defloration follows rape or indecent assault, the penalty is doubled in each case (Article 488 of the Penal Code). The criminalization of adulterous relations benefits from extenuating circumstances, by granting a kind of immunity - akin to ‘impunity for crimes of honor’ - to the ‘head of the family’ who surprises an illicit carnal trade in his home if he commits murder ‘with or without intention to cause death’ or catches rape or attempted rape in flagrante delicto, by virtue of Articles 420⁸⁵ and 421⁸⁶.
- 82- Compensation for victims of rape and/or sexual violence is governed by general rules set out in the Code of Criminal Procedure. There are no specific provisions for women victims, which raises real problems of fairness and effectiveness, particularly in the absence of precise criteria for assessing damages and the existence of a wide discretionary power on the part of judges, which in practice often benefits the perpetrator of rape and/or sexual violence. Thus, the victim's appearance, background, profession, the fact that she does not act as a civil party, etc., are often interpreted as mitigating circumstances for the perpetrator.
- 83- Women victims of rape and/or sexual violence also suffer in practice from the problem of the non-execution of judicial decisions regarding the awarding of damages to ensure that the victim is compensated for the harm caused by the crime, particularly in the case of the perpetrator's indigence or flight, as the State does not have a fund to support victims of rape and sexual assaults.

⁸³ Article 490 of the Moroccan Penal Code, which criminalizes sexual relations outside marriage, even between consenting adults, discriminates against women, who are more likely to be prosecuted if such relations lead to pregnancy. Civil society has consistently called for its amendment. The Working Group on Discrimination against Women, in their report (A/HRC/20/28/Add.1), recommended its repeal.

⁸⁴ This provision is supplemented by paragraph 2 of the same article (491), which states: “However, when one of the spouses is away from the territory of the Kingdom, the other spouse who is known to have adulterous relations may be prosecuted ex officio at the request of the Public Prosecutor”.

⁸⁵ Article 420 of the Penal Code: “Injuries done or blows given without intention to give death, even if they have caused it, are excusable when they have been committed by a head of family who surprises in his home an illicit carnal trade, whether the blows were given on one or the other of the culprits”.

⁸⁶ Article 421 of the Penal Code: “Injuries and blows are excusable when they are committed on the person of an adult caught in the act of indecent assault or attempted indecent assault, with or without violence, on a child under the age of eighteen. The same acts are excusable when committed against an adult caught in the act of rape or attempted rape.”