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Child marriage in Morocco

Lauryn C. Holgado

In Morocco, 16% of women are married underaged, well above the region's average. In many cases, these unions result in both physical and mental trauma for the bride. Due to legal loopholes and cultural practices, many girls still fall victim to this generational custom. Morocco needs to remove contradictory laws and reject underage marriage on an international stage. Suggested efforts in concert with the government, international organizations, and regional initiatives are necessary to spark change.

Introduction

In Morocco, many parents send underage daughters to be married to men twice their age. Girls are often pressured into these relations, stripped of their rights, and forced to think it is for their best interest. Despite the devastating reality of underage marriage, Morocco continues to shirk its responsibility to address this problem while the public cries out for help. Morocco is not unique in this regard, for there are 650 million child brides around the globe. Underage marriage is an issue that should be at the top of government and international agendas. Decades ago, child marriage was the norm in many countries in the Middle East and North Africa (MENA) region. Although the prevalence rates are in a slow decline, there are still 40 million total child brides in the MENA region, many of whom were forced into a union (UNICEF, 2022). Child marriage has detrimental physical and mental health effects on the young girl involved along with her children. No young girl should be forced to marry because of societal shame, a dowry, or pressures from her family. A young girl's life should not be chosen for her. An underage marriage takes away opportunity, independence, and autonomy from young women.

In 2021, 13.7% of the women in Morocco between the ages of 20 and 24 years old were married before the age of 18 (UNICEF, 2018). On average, each year from 2006 to 2018, parents submitted 32,000 requests for marriage of a minor to the family courts, and 85% were approved (UNICEF, 2021). Many marriages of underage girls are undocumented, so these statistics likely could be much higher. In Morocco, child marriage is a prevalent issue that is exacerbated by low education levels, poverty, family honor, and other social pressures (Girls Not Brides,

2023). Despite the magnitude of this issue, the Moroccan government has done little in recent years to tackle this problem. Moroccan legislation leaves loopholes for young girls to be married before the age of 18. Morocco needs to address this problem plaguing its communities, learn from other countries, and implement a nationwide plan to end this generational issue.

The issue of child marriage

Underage or child marriage is defined as the union of two people, where one or both are under the age of 18. While both young boys and girls are married underaged, girls are more often affected by this practice. Disproportionately, child marriage affects young girls; upward of 99% of underage marriage cases in Morocco involve girls and less than 1% involve boys (Economic, Social, and Environmental Council [ESEC], 2019). This is due to the social standards upheld for girls and women in many households.

Families and communities can practice underage marriage in many ways. Compared to other countries in Africa, Morocco has the greatest number of types of child marriage practiced within its borders. Child marriage can manifest itself in marriages that are temporary, are consanguineous, involve bride kidnapping, are polygamous, are part of cultural ceremony, are forced, or are by choice (UN Women, 2019).

- Temporary marriage in Morocco takes the form of *zawāj al-mut'ah* (marriage of convenience), which is backed by the Quran. A marriage of convenience consists of a verbal agreement to accomplish goals unrelated to objectives associated with a typical marriage. For instance, the parties of the marriage receive money because

of the union or the promise of marriage termination once the bride or groom emigrates to another country successfully (Rissouni & Kareem al-Zanki, 2015).

- Consanguineous marriages (cousin marriages) involve the marriage of blood relatives. According to UN Women, 50% of consanguineous marriages involve close cousins (UN Women, 2019).
- In some communities in Morocco, underage marriages occur through abduction. The girl is chosen by the groom and kidnapped by the groomsmen. The soon-to-be bride is forced to have sexual relations with the groom (UN Women, 2019). Sexual intercourse before marriage is illegal in Morocco. Therefore, the bride has no other choice but to marry.
- Polygamy is the practice where men have multiple wives. The underage girl to be married is usually much younger than the man and other wives. Therefore, she is used for childbearing and free labor (UN Women, 2019).
- Ceremonial marriages like *Al Fatiha*, an unregistered religious marriage, are another form of child marriage in Morocco (ESEC, 2019).
- The coercion of one or both parties of the marriage constitutes a forced marriage, whereas marriage by choice involves no pressure for the union (Sabbe et al., 2013). Typically, it is the bride's family that coerces the young girl into thinking that marriage is necessary.

As of 2022, the percentage of women in Morocco who were married before the age of 18 was 16%, above the average of 13.3% in the MENA region (UNICEF, 2022). Reflecting the scale of this issue, in 2019 there were 27,623 formal requests to the courts for permission to have an underage marriage (UNICEF, 2021). However, statistics on informal manifestations of child marriage are difficult to collect. Therefore, the magnitude of this issue is much greater than implied by formal data. To attempt to resolve the problem of child marriage, it is first necessary to understand why so many young girls get married.

Causes and effects

The motivations behind why girls marry so young are complex. Child marriage is fueled by social and cultural norms, economic incentives, needs of the family, contradictory laws, and a lack of enforcement of laws (UNICEF, 2022). Some communities in Morocco insist their women remain virgins before marriage (UN Women, 2019). To avoid damaging a

girl's status, parents marry their daughters young. For some girls, marrying and moving abroad at a young age provide chances for a better life, future, and path to financial stability, and they will seek to convince judges to approve their underage marriage. Especially in large families, fathers will marry off their daughters to lessen the financial burden on the family and to receive a dowry (Sabbe et al., 2013). The needs of the community also play a role, as girls living in rural areas are more likely to marry young compared to girls living in urban areas. A study conducted by the National Observatory for Human Development (NOHD) of Morocco found that 80% of women married before the age of 18 are from rural areas (NOHD, 2022), a circumstance caused by a lack of accessible education and need for labor in rural communities. Legal barriers and contradictions in Moroccan family law (discussed later) are other factors increasing the number of child marriages.

The consequences of child marriage for the bride and her children are severe and reflected in the stories of many child brides. Mothers ages 15 to 19 years old are twice as likely to die during pregnancy or childbirth compared to mothers 20 years old and above. Following this trend, infant mortality rates are higher if the mother is underaged. Young girls are exposed to domestic violence both physically and mentally. However, according to Morocco's ESEC, the government does not collect data on this subject, so the consequences of underage marriage could be far greater. Furthermore, young brides typically drop out of school early (ESEC, 2019). Clearly, underage marriage takes an immense physical and mental toll on the young brides.

The Moroccan Family Code

In 1958, male religious scholars compiled the Moroccan *Moudawana* (Family Code). Many clauses in this document were based on the Maliki school of thought from Sunni Islam. The Family Code reflected extreme interpretations of the text. For instance, the code outlined the right to coerce a daughter into marriage, set the marriage age at 15 for girls and 18 for boys, legalized polygamy, and described a wife's duty to obey her husband. Although it has since been rewritten, the original Family Code portrays women as subordinate to men and strips them of their rights (Murphy, 2020).

In 2004, Morocco introduced a major reform to the Family Code, intending to increase the rights of women. Article 19, the most important reform, establishes the minimum legal age to marry as 18 years old for both men and women (ESEC, 2019).

Unfortunately, the reform did not result in progress. In 2004, the number of judicial approvals for underage marriages was 18,341. After the reform to the Family Code, this number continuously increased to 39,031 in 2011 (NOHD, 2022). The reform aimed to decrease the number of child marriages, but the opposite occurred. Recent legislation has tried to offset this discrepancy.

Recent legislation

In more recent years, Morocco has enacted several laws and amendments to address the issue of underage marriage. Article 475 of the Moroccan Penal Code essentially legalizes forced child marriage (Sabbe et al., 2013). As originally written under this article, if an underage girl is raped, the rapist will not be punished if the two enter a marriage. In 2012, a young teenager committed suicide because her family forced her to marry her rapist. Outraged, the Moroccan public through protests and petitions called on the government to amend Article 475 (Johnson, 2014). As a result, in 2014, Article 475 was amended by abolishing the second paragraph, which means that rapists are now punished for their crimes even if they marry the survivor (Kingdom of Morocco, 2019).

More recently, in 2018, Law 103.13 was passed to fight violence against women (United Nations, 2022). This law encompasses punishing perpetrators, preventing violence, and caring for the survivors and includes protecting women from forced marriage. However, this law does not explicitly refer to child marriage (Girls Not Brides, 2023). Furthermore, in 2020, the Permanent Mission of Morocco published a statement to the UN to adopt the 2030 agenda for sustainable development, which includes ending child marriage. The 2030 agenda for sustainable development addresses issues of gender violence, but Morocco does not explicitly state that it will take on the issue of child marriage. Instead, Morocco's statement mainly focuses on environmental issues (Permanent Mission..., 2020).

Morocco's current Constitution also sheds light on how the Moroccan government is trying to fight child marriage. Several articles in Morocco's constitution reflect the government's desire to protect the rights of unmarried and married women. Article 19 states that men and women equally share rights in the political, economic, social, and cultural landscape of Morocco. Article 22 encompasses gender violence, such as forced child marriage, stating that people cannot harm others physically or mentally. Aiming to protect families and children, Article 39 reflects the importance of family and ensures the protection

of all children regardless of their family situation (ESEC, 2019).

According to the NOHD, approvals for child marriage have been gradually decreasing. In 2020, there were 13,335 legally approved marriages by family court judges, according to the Ministry of Justice, compared to 39,031 in 2011. Unregistered and informal marriages, such as marriages under *Al Fatiha* and marriages of convenience, are not counted by the Moroccan government (NOHD, 2022). Thus, the number of approved marriage applications reflects a lower prevalence than in reality. Despite the decrease in officially approved child marriages, the issue persists. Barriers to the implementation of new laws explain this discrepancy.

Barriers to implementation

Within the Moroccan Family Code, Constitution, and Penal Code, there exist laws that encourage and provide legal justification for child marriage. Legal deterrents to enforcing the minimum marriage age of 18 partially explain the increase in underage marriages for several years after the 2004 Family Code reform and why they have come down, but only slowly, since the peak in 2011. Additionally, cultural sentiments and social norms adopted by generations of Moroccans continue to pose obstacles to the implementation of laws regarding underage marriage. With help from the Moroccan government and international organizations, these hurdles might be overcome.

Legal barriers

Morocco has taken a paradoxical stance on child marriage through its implementation of laws. A strong position against child marriage supported by clear laws is the first step in fighting child marriage, and contradictions in the current legal systems have been a barrier to progress. Contradictions within the Family Code offer a clear explanation for a continuation of child marriages after its reform. Articles 20 and 21 directly oppose the progress of Article 19, allowing for judges to approve marriages regardless of whether a girl's legal guardian gives permission. The judge must give a valid reason for the union, but the parameters for approval are broad, leaving much open for interpretation (ESEC, 2019). To formally authorize a marriage, a judge must order a medical investigation of the bride and possibly seek information on her social circumstances to determine if she is marrying of her own accord (UN Women, 2019). Unfortunately, judges rarely follow this rule and approve marriages without abiding by the correct procedure (Sabbe et al., 2013).

Additionally, under Article 16 of the Family Law, unregistered marriages can be legalized (ESEC, 2019). This article permits retroactive registration of marriage. Therefore, judges are forced to recognize marriage under *Al Fatiha*, customary marriages that are unregistered, regardless of a woman's age when she was first married. In practice, Article 16 leads to the legal registration of child marriages that were left unregistered until the woman turned 18 (ESEC, 2019). Therefore, while the 2004 reform of the Family Code was presented as progress for women's rights, in reality, little changed to help young girls who are vulnerable to underage marriage.

Current articles in the Moroccan Penal Code indirectly result in underage marriage. Article 490 of the Criminal Code criminalizes sex before marriage (UNICEF, 2021). Knowledge of a girl who lost her virginity, is pregnant, or entered into sexual relations before marriage damages her and her family's reputation. As a result, if the family believes its daughter to have already engaged in sexual relations, many judges authorize a child marriage, claiming they did so for the benefit of the girl. In addition, many family court judges approve marriages on the basis that the girl looks mature and able to run a household, even though she may be as young as 14 years old, further revealing the autonomy judges have on matters of child marriage (Sabbe et al., 2013).

Cultural barriers

In addition to legal loopholes, cultural and traditional sentiments present challenges to reform, especially in rural and remote areas. This issue of child marriage is related not only to laws and reforms but also to the public's view of women and girls and ultimately is a battle for gender equality. A Moroccan teacher explains: "A woman's identity has historically been linked to men. New laws or codes will not change that fact from one day to the next" (Sabbe et al., 2013). This problem cannot be solved just by lawmakers declaring that child marriage is illegal. Underage marriage has been ingrained in the beliefs and practices of many families. Laws can be the foundation to build on, but attitudes and beliefs toward child marriage and women's and children's rights need to change for the laws to be effective.

Well-intentioned reforms, such as the ability of a woman to ask for a divorce, are met with unintended social barriers. Although freedom of divorce seems to be a step in the right direction, the perception of unwed mothers in Morocco is a major obstacle to reversing a marriage. Single mothers, whether divorced or never married, are grouped in the same

moral class as prostitutes (Feather, 2021). Society views divorced women as lesser than men and married women (Soukayna, 2018). Unwed mothers are shunned by society and at the same time do not have rights in Morocco. For instance, the mother or child is not entitled to any of the former husband's money or property. Additionally, it is not the mother's right to name her child or declare her child's nationality; that right belongs with the child. This lack of maternal rights emphasizes the powerlessness of a single mother, because laws give more responsibility and trust to a young, inexperienced, naive, child as opposed to the mother (Feather, 2021). Therefore, a child bride divorced from her husband may find herself in a worse situation than if she had remained married.

Solving the generational problem

Legal reforms are met with loopholes and a continuation of generational practices. Norms imbedded in Moroccan culture make the issue of child marriage one that cannot be solved overnight. The battle against underage marriage is a continuing struggle and will take several decades of work to yield results. Morocco is not the only country facing this issue in the MENA region. Learning from these other countries can inspire new courses of action. Additionally, underage marriage should be tackled from many angles: legislation, cultural changes, and international help. There is not a single solution that will end child marriage, but a combination of increased efforts on many fronts will make a difference in the long run.

Lessons from the MENA region

Countries around the world have been fighting against child marriage for decades. Their continuous work has resulted in steep declines in their child marriage rates. Algeria and Tunisia, Morocco's close neighbors, are close to eradicating child marriage, with prevalence rates of 3% and 2%, respectively (UNICEF, 2022). The explanations for these low percentages are many, including increasing gender equality and governmental commitment to this issue. Especially in Algeria, there has been a commitment to end child marriage, including ratification of the African Charter on the Rights and Welfare of the Child in 2003. In 2017, Algeria ratified the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The ratification of these two documents signals the clear prohibition of child marriage. Morocco has yet to ratify either of these initiatives. Additionally, the minimum marriage age for women is 19 in Algeria (Girls Not Brides, 2023). As

seen in Morocco's case, legislative changes are not the only actions required to end underage marriage. Legal action opens opportunities for social and cultural changes. Algeria has been able to combat this generational practice through the commitment of a government that fosters new cultural practices. Without support from its own government, the public has no foundation to change social norms.

Several other countries also have begun initiatives. In Mali, students and teachers lead a child marriage rescue team for classmates that has found success and proves the value and importance of regional efforts to end child marriage. Students and teachers in Southern Mali have been working together to save girls from forced underage marriage, by convincing men to decide against marrying a young girl (UN Women, 2019). In Tanzania, schoolteachers have emphasized the importance of reporting suspected child marriages to the Agape Frontiers organization. This NGO provides support for girls opposing child marriage and is a wealth of information for the people of Tanzania (UN Women, 2019). From these education efforts, there have emerged several accounts of girls advocating for themselves and rejecting marriage proposals in Niger (UN Women, 2019). These three examples highlight the importance of local action and of individual empowerment.

Educational programs

As seen in Niger, education is a major determinant of the likelihood of a girl marrying underaged (Sabbe et al., 2013). It is important for girls to learn their rights and speak up against family and friends forcing them into an unwanted situation. A girl's own autonomy and agency play an integral role in the fight against child marriage. Because many families make decisions for their daughters, giving the power back to the young girl is essential in avoiding underage marriage (UNICEF, 2018). Providing accessible education to girls so they can advocate for themselves in an effective manner is a crucial element in the effort to combat child marriage.

The entire burden should not be placed on a young girl, however. Many solutions focus on the actions girls and young women can take to prevent child marriage, yet these solutions ignore the other half of the underage marriage equation. Educational programs should also be set in place for boys in areas of high child marriage prevalence. Teaching about gender equality and human rights to inspire boys to be part of a better future can be impactful (UN Women, 2019). Recognizing the impact of a groom's actions, the violation of rights, and the disregard for

equality and autonomy can persuade men to decide not to marry a young girl. Additionally, in most cases, fathers are the main characters in forcing a girl to marry young. Therefore, educating men about the advantages of waiting to marry and the opportunities that arise from women's education and success will aid in the fight against child marriage.

Looking to the future

Morocco must show its commitment to eliminating child marriage. One way to do so must be to ratify the African Charter on the Rights and Welfare of the Child and the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Social and cultural changes are built on a foundation of a supportive government with legal commitments. Underage marriage must be addressed by the Moroccan government through appropriate legislation. In particular, one major flaw in the Family Code needs to be addressed. Currently, Articles 16, 20, and 21 permit underage marriage either through delayed marriage licensing or judge approval. A second reform to the Family Code is necessary to remove contradictions regarding the minimum age requirements for women. The presence of this loophole legalizes underage marriage in practice. Additionally, cultural or religious marriages should not go unregistered. All marriages should be formally documented to ensure that the bride is at least 18 years of age. New laws need to be implemented to protect young girls from too-early marriage and proper resources and support from the government are necessary to enforce these policies (Roudi-Fahimi & Ibrahim, 2013).

Child marriage should be confronted at a cultural level as well. For example, decriminalizing sex before marriage will aid in reducing familial reasons for underage marriage. However, as discussed previously, changing a law does not imply full or rapid implementation. Much work is needed to change cultural sentiments of sex before marriage, especially in cases of rape and sexual assault. Learning from the child marriage rescue team in Mali, an environment of support and acceptance of victims of child marriage can open the eyes of a community to this issue and empower others to make changes themselves.

There are also opportunities for international NGOs to assist with the process of awareness in Morocco, although such opportunities come with challenges. There is a strong sense of pride and ownership within the country. If approached in the wrong way, the public or the government may see work from NGOs as attacks on Morocco's capability of solving this issue. However, collaboration is the key to solving any issue on a global scale. International and governmental organi-

zations need to work together to solve this long-term problem.

Girls may feel the need to marry young to relieve financial burdens from home, to avoid shame from society, or to resolve pressures from family, people they deeply trust. This one decision affects a girl's entire life. Many times, young girls are left with abusive husbands and are more likely to die in childbirth because of their young age. Despite these horrific truths of underage marriage, the Moroccan government continues to keep contradictory laws in place, allowing families and family court judges to marry young girls. The Moroccan government needs to address these contradictions and take a strong stance against child marriage. Underage marriage will not be eradicated soon; it may take generations. However, continuous efforts to empower women, to incentivize regional programs, and to provide education can ultimately lead to a healthier outcome.

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