

# Legal Empowerment Working Papers

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Legal Empowerment of  
Unwed Mothers:  
Experiences of Moroccan  
NGOs

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International Development Law Organization  
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## **LEGAL EMPOWERMENT WORKING PAPERS**

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# LEGAL EMPOWERMENT OF UNWED MOTHERS: EXPERIENCES OF MOROCCAN NGOS

Stephanie Willman Bordat and Saida Kouzzi<sup>1</sup>

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## Executive Summary

This chapter examines Moroccan non-governmental organization (NGO) initiatives that promote the rights of unwed mothers with children born out of wedlock. Social stigmatization, criminal repression and legal discrimination marginalize these women and their children, and impact on their ability to obtain official identity papers. Without such legal identity, they cannot access a host of other fundamental rights, and legal empowerment can be impossible.

In focusing on child registration and Family Booklet<sup>2</sup> procedures as they affect unwed mothers, this chapter argues that law and development initiatives should take into account complex, intimidating legal realities that disadvantaged populations such as these women and children face, including: existing laws that may not be applied in reality, that are discriminatory on their face, that are unclear and open to disparities in their interpretation or that are silent on an issue and thereby create legal voids.

Four youth-led local women's rights NGOs created in the past five to eight years in diverse regions across Morocco, in collaboration with an international human rights capacity-building organization, currently implement grassroots-level human and legal rights education and launched a pilot Court Accompaniment Program in 2006 primarily for illiterate women in their respective communities. Initial indicators of impact of these two initiatives hint at shifts in attitudes and behavior among unwed mothers and local authorities charged with helping them access their legal rights.

The popular discourse in Morocco claims that the main obstacle to people making use of their rights is their ignorance of the laws and their rights; this could be remedied by legal education campaigns. The experience of these NGOs working with unwed mothers illustrates how knowledge of the laws alone is not sufficient. In order to access their rights, people need concrete help in navigating government services and bureaucracies that are often indifferent, intimidating or even hostile.

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<sup>1</sup> The authors are respectively Regional Director and Regional Legal Officer of the Maghreb Field Office of Global Rights, an international human rights capacity building NGO. Since 2000, they collaborate with diverse local women's rights NGOs, development associations and lawyers in Morocco, Algeria and Tunisia to develop their capacities to promote women's legal and human rights in traditionally underserved communities. They have designed and implemented Arabic language programs of grassroots level human and legal rights education for illiterate women, strategic litigation in domestic courts using international law, legislative advocacy for a violence against women act, and strategic use of detailed marriage contracts to protect women's rights. Ms. Willman Bordat has lived and worked with local NGOs in the United States, France, England, Pakistan, Egypt and the Netherlands, was a Fulbright Fellow in Morocco, and has civil and common law degrees from Columbia University and Paris I-Sorbonne. Prior to joining Global Rights, Ms. Kouzzi worked at a leading human rights law firm in Rabat and was a long time active member of the *Association marocaine des droits de l'homme*. She has a law degree from the *Université Mohammed V* in Rabat. Many thanks to Houda Benbarek, Global Rights Maghreb Program Officer, for her valuable research assistance, support and helpful comments on this chapter. Gratitude, admiration and thanks always to our local partner NGOs in Morocco for their collaboration, energy and creativity promoting women's rights at the grassroots level in their local communities.

<sup>2</sup> The Family Booklet is the main and most important official document proving one's legal identity and civil status. Created upon marriage, it contains all personal information about the Family Booklet's owner, spouse(s) and descendants.

In addition to providing legal information to unwed mothers, these and other NGOs play a critical intermediary role between women and local authorities, both in facilitating various processes for unwed mothers as well as serving as a watchdog over these authorities. In areas where the law is unclear, NGOs encourage the more advantageous interpretations of laws. Where there is a legal void, they apply strategies and encourage solutions that benefit women's rights. By accompanying and otherwise assisting unwed mothers, NGOs also help them avoid humiliation at public administration offices, navigate complex procedures, and help protect them from corruption and abuse of authority by civil servants.

Drawing on these experiences, the chapter cautions that appropriate program objectives and desired results of any law and development initiative depend on establishing an accurate legal baseline from the outset. Voices of unwed mothers themselves also suggest that their desired outcomes sometimes differ from those of some NGOs. This has powerful implications for how one chooses to measure success and define legal empowerment for marginalized populations. In a long-term strategic process to respond to unwed mothers' priorities, future legal empowerment initiatives for them should focus on access to the justice system, broadly defined to include local government and administrative offices and the courts. Future work should build on the pilot experiences implemented at the local level and current, unofficial practices to support a legislative reform process to consolidate women's rights in law.

## Introduction

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This chapter<sup>3</sup> examines local NGO initiatives that protect the rights of unwed mothers in Morocco. Both the topic and country profiled raise interesting and timely questions about women's legal empowerment and NGO strategies for its promotion.<sup>4</sup>

The term "unwed mother" is used here to refer to women who have children outside the framework of legal marriage.<sup>5</sup> They and their children – defined by law as "illegitimate" – are among the most legally and socially marginalized people in the Middle East and North Africa (MENA) region, not just in Morocco.

One must legally exist before being able to benefit from any rights contained in the law. Without such a legal identity, legal empowerment can be impossible. Unwed mothers and their children are not legally recognized because they lack the legal identity necessary to assert a host of other fundamental rights; at best, neither officially exists; at worst, unwed mothers can be and often are criminally prosecuted for having had sexual relations outside of marriage.

This legal invisibility combined with social taboos result in a complete absence of any reliable statistics on numbers of unwed mothers and their children in Morocco, with the few available sources conveying primarily sensationalist and anecdotal information. One article claims that in 2003 in Casablanca, there were 5,000 unwed mothers, although this is clearly underestimated given the current Moroccan administrative and social context.<sup>6</sup>

This chapter focuses on laws and NGO programs in the country. But the social status and legal framework surrounding unwed mothers is similar to those in other countries where women live under Muslim laws. Given recent legal improvements to women's status, such as the 2004 promulgation of the new Family Code, the international community, foreign governments, donors and NGOs often refer to Morocco as an example for reform efforts in other countries in the MENA region.

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<sup>3</sup> This chapter is based on the authors' nine years of working in Morocco with local NGOs designing and implementing programs to develop their capacities to promote women's legal and human rights. Information presented here is based on written quarterly progress reports submitted by local partner NGOs, regular site visits and assessment missions by the authors to the NGOs, monthly implementation assessments of telephone programs, and anecdotal evidence. Baseline information for this chapter was gathered during a United Nations Development Programme (UNDP) and Association for the Development and Enhancement of Women regional study on women, *Gender and Citizenship in the Arab World: To Be or Not to Be: Women's Legal Existence and their Compromised Citizenship* (2004), involving focus groups with women and structured interviews with decision-makers. Updated information, supplemental details and clarifications were gathered by the authors in May and June 2009 through a detailed six-page questionnaire sent to the four partner NGOs profiled here. Finally, the authors followed up on the questionnaire through telephone interviews with NGO staff and several local lawyers.

<sup>4</sup> The authors depart from their usual practice of citing and thanking the partner NGOs by name for their program work and contributions to this chapter. As described below, the work of these NGOs with unwed mothers is based on maintaining good relationships with local authorities and could be compromised by too much public attention. In addition, the chapter describes how one aspect of NGO efforts involves convincing local authorities to provide unwed mothers rights not specifically allowed in the law. NGOs thus requested anonymity out of concern that local authorities might cease cooperating in this manner.

<sup>5</sup> The term 'unwed mothers' as used here does not therefore include divorced or widowed women who had children while legally married to the father.

<sup>6</sup> Unnamed survey referred to in J Abbiateci, 'Maroc: l'impossible combat des mères célibataires', *Basta!* (18 February 2007) <<http://www.bastamag.net/spip.php?article154>> at 10 January 2010. As a point of reference, Casablanca represents approximately 10 percent of the total Moroccan population of 32 million (authors' note).

For these reasons, the Moroccan experience may be useful for initiatives to promote women's rights in other countries in the MENA region. This does not assume that what has been implemented and applied in Morocco will necessarily work elsewhere. Rather, the chapter shares examples of strategies used by local NGOs to obtain individual justice for single women in a complex legal environment with the aim to inform and inspire other NGOs creating their own strategies. Indeed, this chapter illustrates how some provisions presented publicly as positive reforms may be, in reality, be anything but, and encourages activists in other countries to consider this when advocating for legal reforms in their own domestic systems.

## 1. Legal context

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It is important to analyse the Moroccan legal context surrounding unwed mothers and understand it accurately in order to establish a reality-based starting point from which to establish appropriate measures of progress and definitions of successful results. Many research studies, needs assessments and strategic plans only conduct a superficial analysis of laws, and give limited attention to ascertaining what legal texts actually state.

Not only can the actual language of laws be challenging to grasp for people from a different legal tradition or linguistic background, but vague and erroneous public descriptions of laws may be repeated so frequently that they become commonly accepted and cited as reality. Explanations of laws in Morocco often avoid accurate interpretation, intellectual debate, or plausible differences of opinion. Moral imperatives, political propaganda goals, and a desire to have one's own organization or institution receive credit for legal reforms are among many reasons that the state, Islamist groups or NGOs themselves may sometimes contribute to the circulation of legal misinformation in the country. Widespread misconceptions and claims that do not reflect the actual language of the laws camouflage reality, encourage inaccurate conclusions, and mislead legal development efforts.

For example, numerous on-line articles about the status of unwed mothers in Morocco congratulate the country on its reforms. Many sources specifically claim that unwed mothers now have the legal right to obtain a Family Booklet and to request DNA testing to prove paternity of children conceived out of wedlock. As shown below, neither of these is actually provided for by law.

Even laws that currently exist on paper and that protect women's rights in theory are often not applied in reality. Local NGOs have documented the frequent non-application of laws by courts in practice.<sup>7</sup> In addition, no mechanisms have been put into place to monitor and control the implementation by the relevant authorities of reforms related to women's rights, which accounts for the tenuousness of these legislative gains.

### 1.1 Relevant laws

Both criminal and civil laws in Morocco severely repress behavior associated with being a unwed mother and have gaps that prevent unwed mothers from accessing their rights, leading to their social invisibility and legal inexistence.

The religious exceptionalism created for issues related to women is one factor impacting on their status. The Moroccan Family Code governing marriage,

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<sup>7</sup> See, for example, the Ligue démocratique des droits des femmes, *Rapports Annuels sur la mise en place du Code de la famille* (2005, 2006, 2007, 2008).

divorce, child custody and guardianship, parentage, inheritance, and marital property is the only law in the country inspired by religious precepts and that provides for broad judicial discretion to interpret and apply Islamic jurisprudence and reasoning.<sup>8</sup> All other legislation governing areas such as contracts, torts, administration and commerce is derived from secular, European-style civil codes.

For example, the Family Code does not recognize either adoption or “natural” paternity. Furthermore, the Penal Code bans sexual relations outside of marriage and outlaws abortion. These facets of the laws are often – whether correctly or incorrectly – attributed to religious precepts. As a result, the sacred nature of these laws makes them more difficult to contest and advocate for change.

### 1.1.1 Penal Code

Sexual relations outside of marriage are illegal in Morocco, with increased penalties where one or both parties are married to another person.<sup>9</sup> In addition, rape is classified as a crime against morality.<sup>10</sup> Non-consent is difficult for victims to prove in order to establish rape, often requiring actual physical injury. If rape is not proven, charges may be brought against the victim for having engaged in illicit sexual relations.

In addition to the fact that people – mainly women – are still actually imprisoned under these provisions, the mere threat of arrest and definition of sexual relations outside of marriage as illegal impacts on people’s behavior, attitudes, health and access to their rights. This is particularly true for unwed mothers, as illustrated below.

The Moroccan Penal Codes also criminalizes abortion as a public morality offense.<sup>11</sup> Abortion is illegal unless deemed necessary to protect the mother’s health and conducted by a medical doctor.<sup>12</sup> It is not legally permitted in cases of rape or incest, fetal impairment, for economic or social reasons, or simply upon request. As a result, many single women may be forced to be mothers, whether the pregnancy resulted from illicit sexual relations between two consenting parties or rape, due to the lack of access to legal, safe and affordable means by which to end unwanted – and in this context, illegal – pregnancies.

### 1.1.2 The Family Code

The Family Code only recognizes legitimate paternal filiation, by which children are attributed to a father when he is legally married to the mother at the time of conception. “Illegitimate” or “natural” paternity does not exist in Moroccan law, and children born to unwed mothers have no rights from their biological fathers, such as the right to bear his name, receive financial support, or inherit. In

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<sup>8</sup> *Code de la Famille* 2004 (La Moudawana) Dahir No.1-04-22 du 12 Hija 1424, full text available at <<http://www.justice.gov.ma/MOUDAWANA/Frame.htm>> at 10 January 2010. Please see the unofficial English language translation of the Family Code available at <[http://www.globalrights.org/site/DocServer/Moudawana-English\\_Translation.pdf?docID=3106](http://www.globalrights.org/site/DocServer/Moudawana-English_Translation.pdf?docID=3106)>.

<sup>9</sup> *Code Pénal* 1962 Dahir No. 1-59-413 du 28 Joumada Ii 1382 (26 Novembre 1962) Portant Approbation du Texte du Code Penal, as modified by Dahir N° 1-03-207 du 16 Ramadan 1424 (11 Novembre 2003) Portant Promulgation de la Loi N° 24-03. Art. 490 punishes sexual relations between unmarried persons of the opposite sex with a prison sentence of one month to one year. Code Pénal 2003 Art. 491 punishes adultery with a with 1–2 year prison sentence.

<sup>10</sup> *Code Pénal* 1962 Art. 486-488.

<sup>11</sup> In Morocco, abortion is covered by Code Pénal 1962 Art. 449–458, in the section “Crimes and Misdemeanours against Family Order and Public Morality”.

<sup>12</sup> *Code Pénal* 1962 Art. 449-452 punish performing an abortion with 1–5 years’ imprisonment (doubled if the person performing the abortion does so habitually), and medical professionals may also be barred from exercising their profession temporarily or permanently.

contrast, mothers are legally affiliated to and responsible for their children merely by the fact of giving birth to them.<sup>13</sup>

The law provides for DNA testing to establish paternity, but only to prove or contest the parentage of a child conceived during a legal marriage.<sup>14</sup> The 2004 reforms to the Family Code attribute legitimate paternity to a child conceived during the parents' "engagement period", taking steps to protect children's rights and acknowledging that in reality couples may have sexual relations before marriage. However, the law does not provide for court-ordered paternity testing of a biological father against his will upon the unwed mother's or her child's request.

As a result, the only way for children to benefit from "legitimate" paternity if their parents are not legally married is to claim that they were engaged at the time of conception. Evidence of an engagement may be required, such as photos, videos, sworn statements by family and neighbors and, most importantly, the biological father's consent to cooperate. In the case of unwed mothers, this is definitely not an assumed fact.

Finally, the fact that adoption is not legal in Morocco further limits options available to unmarried women who become pregnant.<sup>15</sup>

### 1.1.3 Civil Status Laws and Procedures

Another law of interest here is the Civil Status Law, which sets out all administrative procedures related to one's legal identity and civil status, including birth, marriage, divorce, and death.<sup>16</sup> Readers familiar with the French legal system will recognize the heavy bureaucracy and large amount of paperwork involved, where the smallest act in daily life requires obtaining copies of official documents on one's identity and legal status from the local Civil Status Office.

The two main procedures impacting on unwed mothers and their children relevant to this discussion are: registering a child's birth and obtaining a Family Booklet.<sup>17</sup>

First, for a child to legally exist, the birth must be registered at the Civil Status Office where s/he was born. While the previous Civil Status Law did not explicitly provide for registration of out-of-wedlock children, 2002 reforms introduced specific provisions allowing a unwed mother to register her child's birth.

Registration requires a birth attestation written by a doctor or midwife and legalized by the local authorities, as well as a copy of the parents' marriage certificate. Births must be registered within 30 days, after which time a court petition must be filed to obtain a judicial declaration of birth. Failure to register a birth within the legal limits is punishable by a 300–1,200 dirhams fine.<sup>18</sup>

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<sup>13</sup> *Code de la famille* 2004, Art. 142–162.

<sup>14</sup> *Code de la famille* 2004, Art. 153, 156.

<sup>15</sup> *Code de la famille* 2004, Art. 149 provides that: "Adoption has no legal value and does not result in any of the effects of legitimate filiation."

<sup>16</sup> Loi de Statut Civil 2002 Loi No 37-99 relative à l'état civil, Dahir 1-02-239 du 25 rejev 1423 (3 October 2002).

<sup>17</sup> In French, the *livret de famille*, and in Arabic, the *dftar ailli*. It is worth noting that the previous law referred to a *carnet d'état civil* in French and *hala madania* in Arabic, which translates as Civil Status Book.

<sup>18</sup> Approximately US\$40–150 as of January 2010. The legal, yet unenforced, monthly minimum wage in Morocco is approximately US\$250.

Unwed mothers may register their child's birth, but must choose a first name for the child's fictional biological father that begins with *Abd*.<sup>19</sup> In contrast, prior to the 2002 Civil Status Law reforms, the child of a unwed mother was registered as the child of "father unknown" or "xxx."

Second, the Family Booklet is the main official document proving one's legal identity and civil status, and is of utmost importance in one's daily life. It is drafted upon marriage and contains all personal information about the Family Booklet's owner (the husband), his wife/wives, and any children born of the marriage(s).<sup>20</sup> Names, places and dates of marriage, eventual divorce, births, and deaths of each family member are recorded and, if necessary, modified later. Only one original Family Booklet is issued – in the husband's name, given to him, and deemed his property. A wife, divorced woman, widow or legal tutor may request a *legalized copy*.

The Family Booklet is the single most essential document in people's lives – it is on this basis that other official papers attesting to one's legal identity and civil status necessary to carrying out most daily acts may be obtained. The Family Booklet is required for, *inter alia*, obtaining a National Identity Card, a passport, a driver's license, free medical care and other social services, legal aid assistance in courts, and a vaccination booklet. Also, to request an official birth, marriage or residence certificate, one needs to present the Family Booklet. A consultation of Moroccan Government websites reveals no fewer than 12 official documents related to civil status that are required for certain routine activities, and for which one needs to present a Family Booklet. It is also necessary as proof of identity to be able to obtain employment, register for government literacy classes, be admitted to the hospital, start a business, purchase a home or other property based on credit, get married, open a bank account, receive money transfers, and claim inheritance rights from one's parents. Registration in a Family Booklet is generally required to enroll children in school. Without a Family Booklet, people simply do not legally exist.

Finally, it is actually illegal not to have official identity papers on one's person. People can be stopped by the police, asked to produce identity papers, questioned and imprisoned if they are not carrying them.

A central question here is whether or not unwed mothers have the legal right to obtain a Family Booklet for themselves and their children. Unwed mothers are not addressed in the law's provisions on the Family Booklet, although as mentioned above, the law does specifically allow them to register their children's births. It is worth noting that under the pre-2002 Civil Status Law, any single person, man or woman, could obtain their own Family Booklet. In contrast, the current law restricts the drafting and granting of a Family Booklet to a married man only; there are a few exceptions where his wife may obtain a copy.

In May 2009, interviews conducted by the authors with several practicing lawyers in Morocco resulted in contradictory or "I don't know" responses and thus do not help answer the question of whether or not the law actually allows unwed mothers to obtain a Family Booklet. The text of the law makes no specific provisions for unwed mothers to do so, and leads some to conclude that they do not legally have the right to obtain one. Others argue that there is a void that

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<sup>19</sup> Examples include *Abdellah* or *Abdassalam*: *Abd* means "slave of" and is followed by one of the sacred names for God.

<sup>20</sup> A person is registered in his or her own father's Family Booklet until and unless they get married, at which point they are registered in a new Family Booklet created for them and their spouse.

invites creative and active interpretation of the law,<sup>21</sup> reasoning that, since this provision in the previous law was not explicitly repealed, the legal possibility for single persons to get a Family Booklet still exists.

Previous interviews conducted by local NGOs representatives with Civil Status Officers directly charged with issuing Family Booklets had yielded similarly confusing results.<sup>22</sup> When asked whether or not unwed mothers may obtain an individual Family Booklet in their own name in which to register their children, a Civil Status Officer from one major city answered, "Unmarried mothers...now have the legal right to have a Family Booklet." In contrast, a Civil Status Officer from another town stated,

The mother of illegitimate children has no right to have a Family Booklet, because the pre-requisite for obtaining a Family Booklet is the marriage license. In the past, the mother of illegitimate children could obtain a Family Booklet so that she could have registration references and or for guardianship purposes. Now she cannot have a Family Booklet because, as I have just explained, the essential condition for obtaining one is the marriage license.<sup>23</sup>

As recently as June 2009, yet a third Civil Status Officer in a small city replied that he did not know whether or not the law allowed unwed mothers to obtain a Family Booklet. In his opinion, they cannot, and at the Civil Status Office where he presides, they do not give Family Booklets to them.<sup>24</sup>

## 1.2 Implications for setting baselines and assessing change

It is essential that practitioners, policymakers and donors give sufficient attention to obtaining a solid picture of the legal reality in any given country as a necessary first step to any legal rights-oriented development initiative. Appropriate program objectives, measures of progress and desired results depend on establishing an accurate legal baseline from the outset, and should take into account the following possible circumstances:

- existing laws that are clearly written but not applied in reality, whether beneficial or detrimental for women's rights;
- laws that are apparently discriminatory;
- laws that are poorly drafted and therefore unclear and open to disparities in their interpretation and divergences in their application;
- laws that are silent on an issue and create legal voids; and
- contradictions between laws that make their respective application impossible. In a context of recent legal reforms, changes to one code may be contradictory to dispositions in another, older law that has not yet been amended to reflect or be consistent with the new law. For

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<sup>21</sup> Taking into consideration, however, that Moroccan authorities, operating in a civil law country and not a common law country, are charged with merely applying the law, and there are major limitations in both law and its practice, as well as in interpreting them to expand rights or to disregard those they consider unpropitious.

<sup>22</sup> UNDP and Association for the Development and Enhancement of Women, above n 3.

<sup>23</sup> The Civil Status Officer interviewed objected to the term 'unwed mother', preferring to use the term 'mother of illegitimate children'.

<sup>24</sup> In following up on an interview conducted by a practicing lawyer and member of a local NGO, this Civil Status Officer sent a written request to the Ministry of the Interior posing the question and requesting official legal guidance. At the time this paper was submitted, he had not yet received a response.

example, while the Civil Status Law allows unwed mothers to register their children, the Penal Code still criminalizes sexual relations outside of marriage.

Project objectives, strategies and definitions of success will be determined according to the respective legal circumstances, This chapter discusses local NGO programs with unwed mothers, and reflects on their lessons learned that have implications on choices in measuring impact and defining success within any given legal and social context.

## 2. Social context

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Women's status in Morocco, just as worldwide, is characterized by inequality, discrimination, economic dependence and marginalization. High illiteracy rates in particular among women, in particular in rural populations, as well as significant disparities between urban and rural areas in the availability and proximity of infrastructures, justice system personnel, education and transportation also affect women's ability to access their rights. Rural women are physically remote from public and private services, and illiteracy hinders women in general from knowing their legal rights and makes them vulnerable to misinformation and propaganda.

Of particular interest here are the policies and attitudes of control over women's bodies and sexual behavior by individual men, the family and the state. As one beneficiary of a local NGO's services stated:

Society belittles women and has the commonly held view that a woman's place is in her home, believing that a woman is born to live under the authority of her father, or her brother, and later on that of her husband. The result of this belief is that a woman remains dependent on her father's or her husband's legal documents.

The conservative legal, social and religious context surrounding women's rights and sexuality means that many issues have been considered too sensitive to address openly and directly. A major recent development in Morocco is that several topics and social phenomena previously considered taboo are increasingly debated openly, popularized through the press and cultural media, addressed by local NGO programs, and even integrated into official speeches.

### 2.1 The virginity discourse

The legal prohibition of sexual relations outside of marriage and the importance placed on female "intactness" before marriage combined with the increasing number of single people in their late 20s and 30s, and changing social norms can and do lead to inconsistent, even contradictory reporting on sexual behavior and attitudes about female virginity.<sup>25</sup>

For example, a perusal of recent editions of national Moroccan magazines such as *TelQuel*, *Femmes du Maroc*, *Citadine* and *Ousra* reveals numerous articles describing the extent to which virginity is still important for women yet claiming that sexual relations prior to marriage are becoming increasingly frequent. Explanations for this include the increasing age of marriage, women's decreasing financial dependence on their families or a prospective husband, and the

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<sup>25</sup> There is no cultural or social imperative for men to remain virgins before marriage.

possibility that one may never get married.<sup>26</sup> As one article describes it, although “arriving intact” at one’s marriage is still a strong social imperative in Morocco, an increasing number of couples make alternative mutual agreements.

The lack of statistics and people’s hesitation to speak openly about their own experiences make it difficult to draw an accurate picture of reality.<sup>27</sup> One survey reported that 62 percent of young Moroccans think that having a premarital sexual relationship would be complicated, the major obstacles being the reactions of their family (43 percent) and neighbors (23 percent). The same survey found that 67 percent of Moroccan men claimed to have had sexual relations before marriage, while the same percentage of Moroccan women claimed not to have.<sup>28</sup>

People will rarely openly admit that they were not virgins upon marriage, although most people will talk about how they know someone who was not. Indeed, practices such as obtaining virginity certificates or operations by gynecologists to reconstruct the hymen illustrate the extent to which some women will go to preserve appearances.

The focus on technical virginity has implications for knowledge on sexuality and reproductive and sexual health. A recent survey found that 68 percent of Moroccans have never received any sexual education, and that 31.5 percent think that such education is harmful for children.<sup>29</sup> Typically, false stories and rumors circulate on sexuality in communities.

In addition, one article suggests that less than half of young couples in Morocco use some form of contraception<sup>30</sup> although the lack of comprehensive surveys and taboos surrounding the topic make it difficult to assess. Moreover, official government policy treats contraceptive use as a family planning method to space pregnancies within the context of marriage only, rather than as a form of birth control for unmarried couples. As a result, awareness-raising campaigns are not designed to target unmarried couples, who may lack sufficient knowledge about safe sex practices and may be hesitant to seek out advice and contraception from pharmacists, doctors or public health clinics.

It is within these legal and social contexts that women in Morocco may be unwed mothers for a variety of reasons – from sexual relations with a boyfriend based on promises of marriage to rape of domestic workers by their employers. These contexts also have implications for how unwed mothers view themselves, and for how they are treated by their family, society and the state.

The next sections describe the behavior of different actors and their attitudes toward unwed mothers in Morocco, with a particular focus on establishing a baseline on which to assess changes in the communities assisted by the local NGOs of interest. Personal, familial, social and administrative obstacles identified below all have implications for programs designed to promote the empowerment of unwed mothers in Morocco.

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<sup>26</sup> N Lamlili, ‘Virginité. Est-ce encore un tabou?’, *Tel Quel* (28 July 2007) <[http://www.telquel-online.com/284/couverture\\_284](http://www.telquel-online.com/284/couverture_284)> at 10 January 2010.

<sup>27</sup> J Mdidech, ‘Relations sexuelles avant le mariage, les jeunes en parlent’, *La Vie Eco* (6 May 2007) <<http://www.bladi.net/12617-relations-sexuelles-mariage-jeunes.html>> at 10 January 2010.

<sup>28</sup> Survey conducted by *L’Economiste* as reported in Lamlili, above n 26.

<sup>29</sup> *Ibid.*

<sup>30</sup> Mdidech, above n 27.

## **2.2 Unwed mothers**

### *2.2.1 Description*

Unwed mothers frequently isolate themselves from friends and family out of shame and fear, or are actively ostracized and abandoned by them once their pregnancy is discovered. Also, many are unemployed, either because they have been fired or have resigned to avoid scandal at the workplace, or to give birth. Those who flee from their family homes may move far away where they are without connections or a social network, placed at risk of homelessness and turning to sex work. Considered by many as criminals who deserve their fate, unwed mothers are thus frequently without social or financial resources to support themselves and their children.

Unwed mothers who approach local NGOs usually request financial and material assistance in raising and supporting their children. They also ask for help officially registering a verbal marriage, obtaining housing and medical care, and enrolling their children in school. Many ask the NGO to facilitate employment for them, fearing that employers will refuse to hire them if they discover that they are unwed mothers.

Others who have abandoned their children at birth ask for the NGO's help in regaining custody. One result of society's marginalization of unwed mothers is that – with no support from the state, families, employers or the children's fathers – unwed mothers may abandon their children.

Finally, unwed mothers also ask NGOs to help them register their children's birth and obtain Family Booklets. They describe how persons who lack Family Status Booklets are considered non-existent and how they feel as though they are not full citizens. They see themselves as societal outcasts, deprived of their rights, often feeling inferior without an identity.

### *2.2.2 Obstacles to unwed mothers seeking out NGO services*

Personal obstacles to soliciting assistance from local NGOs include the difficulty unwed mothers frequently have in breaking the silence surrounding their situations and speaking openly about their problems. A unwed mother may be reluctant to seek out the services of an NGO located in the neighborhood where she lives for fear of public knowledge of her situation. She may well prefer to solicit help from an NGO in a distant neighborhood where people do not know her.

At times, unwed mothers first come to ask for advice "on behalf of a friend" until they are convinced of the NGO's credibility and trustworthiness and only then admit that they are seeking assistance for themselves. Such hesitation is fueled by reports by unwed mothers who feel they are "interrogated" and "judged" when they have approached NGOs for help, as well as by a case widely reported in the newspapers in 2003 where local NGO staff were prosecuted for trafficking in children born to unwed mothers.

### *2.2.3 Family reactions and treatment*

Typically, a unwed mother's family will reject her once they learn of her pregnancy. Several local NGOs even describe violent treatment of such women by their families. While individual family members may secretly help her, often she will be forced out of the household to live with another relative or friend, or in a brothel.

Anecdotal evidence from local NGOs suggests that in rare instances where the family accepts the situation, the unwed mother works to provide an income to support herself and her child. Acceptance is also reported to be more likely in families where there are no brothers pressured to defend the family honor who would force her to leave home or whose violent behavior causes her to flee.

Similarly, the biological father usually denies having had a sexual relationship with the unwed mother. He and his family may even deny knowing her, even when the relationship may be common knowledge in the community. Even in cases of *ourfi*<sup>31</sup> marriages, where the couple is considered married by their families and community, but does not have official paperwork to prove the marriage, sometimes the child's father and his family deny that the woman is his common law wife or that the child is his. They will accordingly refuse to acknowledge the child's existence and refuse to register the child's birth or obtain a Family Booklet.

## **2.3 Attitudes and behavior of relevant institutions towards unwed mothers**

### *2.3.1 Hospitals and health personnel*

Frequent reports from local NGOs as well as the few published studies on unwed mothers in Morocco describe verbal abuse, insults and humiliation inflicted on unwed mothers by hospital personnel and health professionals, as well as corruption practiced by these persons.<sup>32, 33</sup> Women who go to hospitals to give birth without a husband accompanying them or official proof of marriage are frequently interrogated by hospital staff to determine if they are legally married or not.

In addition, unwed mothers who do not request a birth attestation from the hospital where the child was born at the time of birth frequently encounter difficulties obtaining this attestation from the hospital later on.

### *2.3.2 Police*

When hospital staff suspect that a pregnant woman who has come to give birth is unmarried, they often alert the police, who go to the hospital to question her. If they determine that she is in fact a unwed mother, police in rural areas particularly often then arrest her and launch a criminal prosecution of her for illicit sexual relations. In major cities, however, one study<sup>34</sup> and reports from local NGOs indicate that police interventions at hospitals are increasingly limited to preventing child abandonment, verifying the mother's identity, and ensuring registration of the child's birth.

One woman – the daughter of a unwed mother and without any identity papers – describes how whenever she travels to visit her family in another city, she is terrified when gendarmes stop the bus, for fear that they will ask her to present her identity papers.

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<sup>31</sup> These marriages, concluded orally with the reading of the *Fatiha* and in the absence of a written marriage contract, are no longer recognized as valid after the 2004 Family Law reforms.

<sup>32</sup> Haut Commissariat au Plan, Direction régionale du Grand Casablanca, *Etude sur les mères célibataires et les enfants nés hors mariage dans la Wilaya de Casablanca* (2002).

<sup>33</sup> Some corruption practices include asking for bribes in order to provide basic hospital services, minimal medical care, or even hospital admission. This is relatively widespread and standard, but unwed mothers are impacted more than other people by such practices, because their illegal status makes them particularly vulnerable to such extortion and their disadvantaged economic status means that they have fewer means to pay such bribes.

<sup>34</sup> Haut Commissariat au Plan, above n 32.

























