

Chapter Sixteen

Early Marriage in Morocco

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Early marriage in Morocco was the theme of a seminar organized by the Nour Association for Solidarity with Rural Women (ANSFR) on March 8, 2013, on the occasion of International Women's Day. The seminar highlighted the risks to women's health from pregnancies occurring before the age of 18 and was also an opportunity to reflect on early marriage and its harmful effects on young girls. Early marriage and pregnancy deprive girls of their childhood rights, including the right to education, to play, and to protection and tenderness, as well as natural development, but also exposes them to various physical, mental, and sexual violations.

Despite the fact that Morocco has signed international conventions and is committed to achieving their implementation—which has resulted in a major revision of legislation such as the *moudawana* (Family Code) and the Penal Code, especially as it concerns the fight against discrimination and the protection of children's rights as well as economic and social rights, it remains that there are still loopholes devoted to discrimination against women. We find many contradictions in the legislation, as is the case in Articles 19, 20, and 21 of the *moudawana*. Indeed, while the first items mentioned emphasize the sanctity of marriage, the joint participation of both spouses and dedicated capacity to marry at age 18, Articles 20 and 21 give a family judge the power to allow marriages before the legal age as an exception—an exception that revolted feminist associations.

Simply put, the exception has become the rule. The number of early marriages exceeded 47,000 in 2009 and continues to increase year by year, comprising 12 percent of marriages in 2011. In addition, judges grant leave in 92 percent of applications for girls not older than 14, which is unacceptable, as ANSFR castigates. "This is a crime that we all commit together. In most of these early marriages, the age difference between spouses is very important, whether the girl is married

as a second wife or married (especially in rural areas), divorced during the first summer, and remarried the following year.”

The marriage of minors has negative psychological effects on the girl. The wedding night alone should be considered rape. We must not forget that before age 18, the girl is still considered a child. Whether puberty has come does not make one a mature adult. Apart from psychological consequences, early marriage in general and early pregnancy in particular can be dangerous to the health of the girl. According to ANSFR statistics, it has been demonstrated that the first pregnancy, if occurring before the age of 18, may damage the young mother as well as her child. In addition to psychological and sociological effects of early marriage, early pregnancy may result in osteoporosis, anemia, increased risk of abortion and preterm births, hypertension, and increased cases of maternal mortality.

Following this presentation of the facts at the seminar, the ANSFR presented its recommendations in relation to marriage and early pregnancy. Indeed, the Association calls for coordination between national and international conventions ratified by Morocco and legislation to revise the Criminal Code and Family Code, the development of a law that protects women against all types of violence, awareness of the proper application of laws to recognize the responsibilities of the family, as well as companies, and conviction of parents who force their daughters to marry early.

Landmarks

- Article 19 of the *moudawana* reads: “Legal capacity is acquired for boys and girls enjoying their mental faculties at eighteen [18] Gregorian years.”
- Article 20 reads: “The family judge in charge of the marriage may authorize a marriage of a boy and girl before the age of legal capacity to marry under Article 19 above, by reasoned decision specifying interest and reasons for this marriage, if he has first heard the minor’s parents or legal representative. Similarly, he will arrange for a medical expert or a social survey. The judge’s decision authorizing the marriage of a minor is not subject to appeal.

In 2006, judges agreed to 90 percent of requests for underage marriage. Thus, 12 percent of girls between the ages of 15 and 19 have the status of wife in Morocco—a very disturbing trend. Underage marriages comprise 8.34 percent of all marriages, or 21,660 out of a total 259,612 in the country. The response of the previous Minister of Justice, the late Mohamed Bouzoubaâ, in 2006 was meant to be reassuring: “This phenomenon is an exception. The increase in marriage applications is due to a transition period characterized by the entry into legal force of the *moudawana*.”

Several years on, the new provisions do not appear to be well understood. The Democratic Women’s Association of Morocco (ADFM) does not hide its concern. In a statement issued on the occasion of International Women’s Day (again on March 8th) in 2008, the NGO noted that marriage licenses issued to minors in Morocco could seriously undermine the Family Code, adopted in 2004. However, the law is clear. Article 19, as noted earlier, states that “men and women enjoying their mental faculties and 18 Gregorian years of age, have the ability to acquire [sic] marriage.”

Both sexes are therefore placed on an equal footing, unless an exemption age is provided for in Article 20 of the Family Code. Many parents take advantage of this age exemption despite the complexity of the process. Marriages of minors are in fact subject to prior judicial authorization, dependent on the interest and reasons involved. The judge must hear the mother and father to ensure the marriage is not a danger to the girl—hence the importance of expert medical and social investigation.

But women’s rights activists openly criticize this exception. The basis on which authorizations are granted—especially as many violations in procedures are identified—is not well understood. According to a 2005 report by the Democratic League for Women’s Rights, the conditions under which hearings are conducted and investigations with minors do not allow them to explicitly express their will, in violation of Articles 10 and 11 of the Code. The medical report usually replaces the demand for medical expertise stipulated by Article 20 of the Family Code. There is no precise and thorough investigation that would identify any pressure or the existence of material or moral constraints. Most of the time, impressions emerging from the statements

of the father of the minor are the most critical. The same report lists the reasons given by the judges to allow the underage marriage. They are frequently associated with the physical capacity to bear the obligations of marriage, social and economic conditions of the minor, the existence of a relationship between the engaged, and dominant traditions in some regions. The causes of rejection of applications are limited, in turn, to the extreme immaturity of the minor and physical disability preventing entrance into marriage.

Violations

To prevent abuse, women's rights activists assert that child marriage should simply be banned, as in their view it is "hidden, authorized pedophilia." UNICEF argues the same: "It violates their rights to personal freedom and growth," insists Carol Bellamy, former UNICEF Executive Director. Presumably, lawyers are reluctant to go against tradition. It was not so long ago, in the minds of families, that the most obvious outcome for girls was intended to be marriage. And the earlier it occurred, the more it was worth—especially since even the girls who had the opportunity to pursue graduate studies and enter the labor market faced marriage imposed by their parents.

Poverty is also on the minds of the accused; in addition, marriage is a way to preserve virginity, which is fundamental in rural areas. In Taounate in the region of Fez, the average age of girls at marriage is 15 years—a practice not without consequence. It cuts at the root opportunities through study and personal growth opportunities. In addition, in girls, early marriage is almost always synonymous with pregnancy, the cause of high rates of maternal mortality and premature births as well as a lifetime of domestic and sexual servitude. Teenage girls are also more likely than mature women to acquire sexually transmitted diseases.

In its latest report on the situation of children in the world in 2011, UNICEF paints an alarming picture, starting with the marriage of adolescents. In Morocco, 11 percent of girls between ages 15 and 19 are married. In this regard, UNICEF noted in its report that "girls run the risk of ending up in a situation of powerlessness within the family home of their husbands away from their friends of the same age

and other sources of support. This inability makes them even more vulnerable to abuse and they can be ordered to carry a disproportionate share of the housework.” Attitudes toward violence and pregnancy are affected by this climate. The paper highlights that 64 percent of adolescents between ages 15 and 19 in Morocco believe that a husband is justified in hitting his wife under certain circumstances. With regard to HIV, only 12 percent of 15- to 19-year-old Moroccans have any knowledge of the disease.

According to UNICEF, Moroccan adolescents (aged 10-19 years) number 6.2 million, comprising 20 percent of the total population. The report also provides an overview of child labor in Morocco. Nine percent of boys aged between 5 and 14 years work compared to eight percent of girls. “Teenagers performing an excessive number of hours of work or working in hazardous conditions are unlikely to complete their studies, thereby reducing their chances of escaping poverty,” the report says. As in most developing countries, Moroccan adolescents face many challenges, particularly related to the current economic downturn, climate change and environmental degradation, rapid urbanization and migration, aging societies, the rising costs of health care, and escalating humanitarian crises. According to the report, if one invests in favor of the 1.2 billion adolescents aged 10 today to 19 years, it will be possible to stop the cycle of poverty. “Adolescence is a crucial period—it provides an opportunity to consolidate the gains made during infancy but it is also a time during which these assets may volatilize,” said Anthony Lake, the Director General of UNICEF. He added, “We need to focus more on how to reach adolescents—especially girls—on investments in education, health and other measures to engage them in the of process improving their own lives.

Conclusion

When, then, will be the end of this charade? At age 15, a girl or boy should be at their school desk. Youth in Morocco face all of the challenges listed above; the added pressure of early marriage is a threat to their life chances. Early marriage also affects debate and building social understanding of related issues like divorce, polygamy, sharing responsibility between spouses, and property rights. Suspicions about

divorce and co-responsibility in marriage encourage male resistance to change. Early marriage is an impediment to progress.

The statistics are sobering, and rates of child marriage are rising. Morocco is not the only country facing early marriage as a social issue, and there is opportunity to tackle the problem together across borders. The Mediterranean Women in Leadership and Civil Society Conference helped draw attention to the issue in the Mediterranean Basin, and ANSFR will continue to work with partners in the United States, including the Middle East Partnership Initiative (MEPI), to eliminate early marriage.