

Report

**Morocco: Marriage and divorce –
legal and cultural aspects**



LANDINFO

Country of Origin Information Centre

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SUMMARY

This report concerns legal and cultural aspects of marriage in Morocco. While the Family Law (2004) regulates the legal aspects of marriage in Morocco, it has been customary that the marriage celebration has been carried out according to different ethnic and geographic traditions. Today however, local practices are progressively being replaced by a standard “national model” for celebration marriage, with more or less fixed elements. The report deals with the different stages of the marriage celebration in Morocco, from the signing of the marriage contract to the wedding reception. Although the choice of partner is generally free, the groom’s family still plays an important role in the decision. Studies of Moroccan marriage patterns show that marriages are predominantly endogamous, and that marriages between relatives are still common. The report finally concerns legal and social aspects of divorce.

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1. INTRODUCTION

The extensive topic of marriage and divorce is difficult to cover comprehensively in the context of a single report. This report is therefore not an exhaustive account of marital traditions in Morocco, but reflects issues raised by the immigration authorities to Landinfo over time. Hence the content of the report is of particular relevance to the immigration authorities.¹

Furthermore, it should be emphasised that the report mainly concerns marriages between Moroccan citizens *in Morocco*. Procedures for the registration of marriages concluded outside Morocco, either between two Moroccans or between a Moroccan and a foreign spouse, are only mentioned briefly.

The report is mainly based on information received by Landinfo during fact-finding missions to Morocco in 2011, 2013, 2014 and 2015, mainly in Rabat, Casablanca and Nador. Information from these missions is supplemented by various written sources.

The present report must be seen in conjunction with other publications on Moroccan conditions by Landinfo, including the reports on remarriage (Landinfo 2014a), migration (Landinfo 2014b) and ID documents (Landinfo 2016).

2. POPULATION STRUCTURE, ETHNIC GROUPS AND LIVING CONDITIONS

Morocco is a stable monarchy with a long tradition and history. The royal family enjoys high legitimacy within the population, and King Mohammed VI, in addition to being the country's head of state, is also its supreme religious leader. Morocco did not go through upheavals like other countries in the region during the Arab spring, but the events in countries like Tunisia and Egypt have led to increased pressure on the government to implement reforms. The king has expressed his willingness for political and social reform and has personally initiated a new constitution (2011) and new special laws, including the 2004 family law.

At the parliamentary elections in 2011, the Islamist Party Parti de la Justice et du Développement (PJD) achieved a majority in parliament, and formed a government currently led by Prime Minister S. Othmani. Throughout the six years it has been in power, PJD has proven to be a relatively moderate Islamic party and has not introduced legislative changes in an Islamist direction to any particular extent.

Morocco has about 34 million inhabitants. After a significant growth in population numbers throughout the 1900s, today population growth has come to a halt. Whereas women on average had 7 children in 1960, the number has fallen to 2.3 children on average in 2009. Despite the decline in population growth, the Moroccan population is very young. Three out of ten Moroccans are today under 15, while only one in every 20 Moroccans are over 65 years old (Landguiden a).

¹ The report is the second revision of the report *Morocco: Marriage and divorce - legal and socio-cultural aspects*, originally published in February 2012, and revised in June 2013.

The Moroccan population is becoming increasingly urban. About half of the population now live in cities, and around one third of the population live in the densely populated coastal area around the capital Rabat and the country's largest city and economic centre, Casablanca. The desert areas in the south of the country, and the mountainous areas of central Morocco, are only sparsely populated.

About three million Moroccans (almost 10% of the population) live outside Morocco, of whom about 800,000 in France. Moroccans abroad (so-called MRE, *Marocains Résidant à l'Étranger*) are a very important economic resource in Morocco, both for individual families and for society at large, due to migrant transfers (see Landinfo 2014b for more information on migration from Morocco).

Morocco is a multicultural and multilingual country. The largest ethnic groups are Berbers and Arabs. The Berbers are the original people of the Maghreb region (Morocco, Algeria, Mauritania, Tunisia and Libya), while Arabs only immigrated from the Arabian Peninsula in the eighth century. Although the majority of modern Moroccans are of mixed Berber-Arabic origin, around two-thirds of Moroccans identify themselves as Arabs, with Arabic as the first language. The remaining third identify mainly as Berbers and have a Berber dialect as their first language.² Berber groups in isolated mountain areas in the Rif and Atlas mountains have particularly retained their own culture, tradition and language. In southern Morocco there is also the Saharawi ethnic group, which speaks the Arabic dialect Hassanya (Ennaji & Sadiqi 2008; Landguiden a).

Despite linguistic and cultural differences between the different ethnic groups, they all have Islam in common. With the exception of a small Jewish minority,³ the Moroccan population is Sunni Muslim. Islam binds the different groups together and is an important part of Morocco's common national identity. Although Moroccans are personal believers to varying degrees, Islam provides shape and structure to significant aspects of life in Morocco, both in the private and in the public sphere.

As a former French and Spanish protectorate, and due to its geographical proximity to Europe, Morocco is strongly influenced by European culture. This historical impact is reinforced by the input of a significant number of Moroccans residing in Europe, who still keep in touch with their homeland – for reasons such as marriage.⁴

Morocco is ranked at 123rd place among 188 countries on the UN Human Development Index, and is classified as a “Medium Human Development” country (UNDP 2016). Morocco is characterised by a low standard of living compared to other countries in the region, such as Algeria (83th place) and Tunisia (97th place), both of which are in

² There are three distinct Berber dialects in Morocco: Tarifit (also called Dhamazighth) in the Rif Mountains in the north, Tamazight in the Atlas Mountains and Tashelhit in the south. The Berber dialects are predominantly prevalent in Morocco's mountain ranges, where they have been able to withstand the pressure of Arabic. Berbers in today's Morocco are referred to as *Amazigh* (plural *Imazighen*) while the language they speak is referred to with a generic name like *tamazigh* (Brett & Fentress 1996). Many Berber-speakers also master Arabic, and use it as a second language. Tamazigh became an official language in 2011, but does not have the same prestige as Arabic. Only Arabic and French are used as administrative languages in Morocco.

³ The Jewish population in Morocco have their own family law. As the former significant Jewish minority in Morocco today consists only of a few thousand persons due to great emigration to France and Israel after World War II, the Jewish family law will not be discussed further in this report.

⁴ In the practice, it is not possible to be released from Moroccan citizenship, so Moroccans with citizenship in another country are still considered Moroccans by the Moroccan authorities.

the “High Human Development” category of the UNDP’s ranking. Morocco scores low on several development indicators, including reading and writing skills, in particular among women. Morocco is characterised by major social differences, and a small section of the population control large parts of the country’s resources. Poverty is most prevalent in rural areas (especially in the eastern parts of the country) and in the major slums surrounding cities such as Casablanca.

In 2005, King Mohammed VI launched a major development programme called the National Initiative for Human Development (Initiative Nationale pour le Développement Humain). Despite some advances, such as providing electricity to remote areas and replacing the slum cities with cheap housing, poverty remains widespread in Morocco.

3. FAMILY STRUCTURE AND GENDER ROLES

Significant changes to the Moroccan family structure has occurred over just a few decades. Whereas women had seven children on average in the 1960s, the average today is only two children. As a result of increasing urbanisation and diminishing attachment to places of origin, more and more Moroccan families live in separate households and not in extended families, as was previously the case. But even though the trend is towards smaller families and more individual living arrangements, the extended family is still very important in a Moroccan context. A study of family relations in Morocco (HCP 2011) shows that the Moroccan (extended) family is still built on values such as mutual support and solidarity and that family ties remain strong in Moroccan families.

Despite the fact that women’s rights were strengthened in a number of areas by the 2004 Family Law, this is only to a limited extent reflected in the Moroccan family structure, which is patrilineal and patriarchal. Legitimate children belong to the father’s lineage and gain their social position through the father (Barraud 2010). The man is the head of the family, which means that he carries the main responsibility for supporting the family, make decisions on behalf of the family and represent the family officially (Dequire & Terfous 2009).

The traditional Moroccan family is hierarchically structured and rests on some core values. The most important value within the family community, which regulates the relationships between the different members of the family, is obedience. Children must show obedience to their parents, and the wife must show obedience to her spouse. In Moroccan culture there is a strong belief that obedient children receive the blessing of their parents, while disobedience can have serious consequences in the form of a parental curse and in the worst cases (threats of) expulsion from the family community (Azizi 1998; Bourqia 2006). The obedience of women to their husband and of children to their parents is also rooted in Islam. A woman’s obedience, according to religious doctrines in classical and modern Islam, “opens the gates of paradise” for her (Lamrabet 2014).⁵

⁵ The virtue of obedience is challenged, however, on a theological basis by Lamrabet (2014), among others.

Although today's demand for obedience is less absolute and gradually being replaced by an ideal of mutual respect, a survey of Moroccan values (as cited in Bourqia 2006, p. 89) shows that more than two thirds (79%) of the respondents believe that the obedience of the wife to her husband contributes to harmony within the family community.

Despite the fact that under the new family law the spouses have equal responsibility for the family, the husband is *in reality* regarded as the head of the family and has a – if not legal – then at least a social and religious duty to maintain and provide for the family. The husband's duty to provide for his spouse (*nafaqa*) is rooted in Islam (Azizi 1998). Dahl points out that spousal maintenance is a fundamental premise for gender roles in Islamic societies:

It is the obligation of spousal maintenance that gives the husband a superior position in Islamic law. The duty to provide the bridal price, mahr, is supplemented by the absolute and unilateral requirement in the Qur'an for the husband to provide for the wife during the marriage, nafaqa. Together, these two types of financial obligations give him a superior position in the marriage, with the right to demand her obedience and with final decision-making rights over the family and the home [...]. Spousal maintenance is a unilateral and absolute responsibility of the husband. The wife has, as already mentioned, no duty to support herself, her husband or the children, even if she has her own means through inheritance, gifts or salary (Dahl 1992, pp. 127-28).

The ability to provide for one's spouse is therefore a precondition for marriage. As Morocco is a country characterised by high unemployment and low income for those who are fortunate enough to have work, many men acquire such capacity only late in life, or never. Lack of capacity for spousal maintenance and the increased costs of marrying are therefore believed to be one of the main reasons for the rise in average marriage age, and for the fact that many people never get married at all (El Harras 2006). The consequences of the dramatic rise in average marriage age and that many people remain unmarried, is that large groups within each cohort year never get started with establishing a family and adult life.

4. MARRIAGE

Marriage is a virtue in Islam and, according to the Prophet Muhammad, constitutes "half of faith". All Muslims are expected to marry, and celibacy is regarded as an undesirable civil status. Marriage is not only a religious but also a social virtue. Men are expected to continue the family line, and there is a strong expectation to have male descendants. Unmarried – and childless – persons gain little social respect (El Harras 2006).

Marriage constitutes a transitional ritual that marks the transition from being a child to becoming an independent adult. An unmarried person will never be fully regarded as a responsible adult, irrespective of age, and will never be able to take on serious, respectable positions in society, such as the dutiful task of leading the Friday prayer, which is only entrusted to married men (El Harras 2006). A male adult's social status is strongly linked to his role as a provider, and if he fails in his role of provider his

value as a man will be diminished (sociologist Soumaya Guessous, meeting in Casablanca in June 2014). There is a clear commitment to, and expectation of, reproduction in the Moroccan community, and the woman's social status is particularly related to her role as a mother.

Extramarital sexual relations (*zina*) are both prohibited by the Criminal Code and socially unacceptable, and only occur in secret. Cohabitation between two of the opposite sex is practically non-existent. Marriage is therefore the only legal and socially accepted context for sexuality. Feminine purity, symbolised through virginity until marriage, is still very important in Moroccan society (Carey 2010).

A marriage is meant to last for life, and thus one must choose a spouse with great care. A marriage is not only a relationship between two individuals, based on mutual attraction and romantic feelings, but also a relation between two families. A marriage, therefore, in addition to being the only socially, religiously and legally accepted context for sexuality and for having children, is intended to maintain or develop relations between the two families involved.

Following a brief review of the family law, which regulates legal matters related to marriage, the choice of spouse is discussed in more detail.

5. FAMILY LAW OF 2004 (MOUDAWANA)

Marriage is governed by the 2004 Family Law (Code de la famille 2004), also called Moudawana.⁶ The family law is the only law in contemporary Morocco based on Islamic law; other laws are mainly based on French (and to a lesser extent Spanish) law and case law (Buskens 2010).⁷

The family law is based on Sharia, but also represents a new interpretation of Islamic law in many areas. As the law regulates relationships of great value and symbolic significance, such as gender roles and the organisation of family life, the introduction of the law has led to extensive discussion and debate in Moroccan society. During the preparation of the law, Moroccan society was divided between “modernists” who wanted to strengthen women's rights and “traditionalists” who believed that traditional gender roles are rooted in religion and Moroccan tradition and identity (Pedersen 2013). Illustrative of this division is the removal of a mandatory guardian for women as she enters marriage. The removal of guardians for adult women was seen by liberally minded Moroccans as a confirmation of the woman as an independent legal person, with the ability to take her own decisions. Conservative forces, in turn,

⁶ French term for the Arab “Mudawwana”, which is an abbreviated form of mudawwanat al-ahwal al-shakhsiyya (Personal Status Act).

⁷ Morocco was a French protectorate from 1912 and until the country became independent in 1956. In the same period, Spain had control over a smaller area north of the town of Tetuan, and up until 1975 an area similar to today's Moroccan-controlled Western Sahara (the regions Cap Juby, Seguia el Hamra and Rio de Oro). The city of Tangier was an international zone.

regarded the removal of guardian as contrary to Moroccan tradition and identity, but also to Islam.⁸

However, despite a fierce and sometimes tense public debate during the drafting of the law, it was unanimously approved by the Parliament in January 2004, mainly because the head of state, King Mohammed VI, supported and facilitated the reform efforts. When the law was passed in 2004, it represented the most emblematic legislative change in the context of family in North Africa and the Middle East since Bourguiba's progressive personal status legislation of 1956 in Tunisia.

Important changes in the law that are intended to strengthen women's legal rights include:

- The matrimonial age of women is raised from 15 to 18.
- Polygamy is only possible with the permission of the court and only under certain conditions.
- The male's right to divorce the wife without a court order is abolished and replaced with the right to divorce for both sexes (albeit not on equal terms).

Other legislation, such as the Citizens' Act (2007), and ratification of international conventions, such as *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), helps strengthen women's legal position in Morocco.

Morocco initiated a reform of the justice sector, including the Criminal Code and Criminal Procedure Act, in 2013. Some provisions of the revised Criminal Code are relevant to marriage and family life, such as new provisions on forced marriage, abortion and domestic violence. The reform has been controversial, and Moroccan women's organisations have criticised the authorities – and especially Justice Minister Mustafa Ramid of the Moderate Islamic Party PJD – for not living up to the principles of CEDAW, which Morocco has committed to (ADFM, meeting in Rabat in June 2014; Lefébure 2016).

5.1 ENFORCEMENT OF THE FAMILY LAW

Morocco is praised for having one of the Arab world's most progressive family codes. However, despite the fact that the law represents a strengthening of women's legal rights, it is not always enforced as intended (Buskens 2010; Global Rights meeting in Rabat in November 2011). As Buskens points out:

Not all Moroccans endorse the new vision according to which women and children have increased rights, while men are forced to accept stricter obligations. In fact, the significance of the reform largely depends on the way in which judges and 'udul [adoul] apply the law in practice. [...] Due to their education in classical law, the 'udul also generally adhere to a more conservative vision of Islam. Likewise, it appears that not all judges of the old guard are prepared to apply the new visions espoused by the most recent version of the Mudawwana. [...] [A] report from a Moroccan women's organisation indicates that judges do frequently give preference to

⁸ For a review of the many controversies around the law, see Buskens 2010 and Pedersen 2013.

interpretations of the law, which go back to earlier visions of family life (Buskens 2010, p. 121).

This view is shared by organisations working with women's rights, including rights related to marriage and divorce (Association Amal, meeting in El Hajeb in November 2011; Global Rights, meeting in Rabat in November 2011). Despite the fact that the law strengthens women's rights in many areas, family structure has in practice remained traditional, and the organisation of family life is in most respects similar to the organisation found in other parts of the Arab world. Conservative attitudes among those who enforce the law, especially judges, limited precedents in court decisions, combined with the fact that the legal texts leave significant room for interpretation, leads to a situation in which the law is interpreted and enforced differently in different parts of Morocco and according to the judge's personal value base. The fact that women generally have lower education, fewer acquaintances and less experience with public authorities than men also helps to weaken women's legal protection.

6. ESTABLISHING A RELATIONSHIP

The rules for interaction between the sexes vary in different parts of Morocco, but also between different generations and social groups. While practices and values resemble Western ones in some of the economically and culturally affluent layers of society in the big cities, the poor countryside is characterised by profound religiosity and strict divisions between women and men (Landguiden b).

Gender segregation is widespread in Morocco, both historically and in present day.⁹ The physical divide between women and men, and the absence of common arenas for their interaction, has traditionally meant that marriages are arranged by the relatives of the future spouses. Today, gender roles have changed to a certain extent, and women and men participate to a greater extent than previously in common arenas, such as school, universities, the workplace and in public. Women's freedom of movement has increased, which has had an impact on the possibility of establishing relationships and of choosing a spouse by oneself. But still the opportunity to mix with the opposite sex and initiate a relationship will vary according to geographical and social environment. In rural areas where social ties are strong and social control is significant, the practical possibility to meet are limited, with the exception of social events such as weddings and similar. In urban areas, and especially in the major cities, conditions are more adapt for meeting persons of the opposite sex, but here too interaction between persons of the same sex is subject to significant social control (Carey 2010).

Sex before marriage is unacceptable from a moral and religious point of view. Chastity, virginity and "a good reputation" are still the most important requirements a man has for his future spouse, and a woman's biggest asset in the marital market. A

⁹ As Dahl (1992, p. 85) points out, gender-based segregation in Muslim society takes place by many ways and means, and occurs both physically and psychologically, socially and economically. According to Dahl, this means, among other things, strict division of labour between the sexes, clear rules of residence, routines and regulations on dress codes, and a series of expectations and demands on women's and men's different perceptions, types of behaviour and actions.

woman who wants to marry one day must take care of her reputation, otherwise her value on the marital market will decline and she may risk becoming “unmarriageable” (Carey 2010). If a woman’s reputation is compromised, her family will lose face and reputation in their network, feel shame and be ostracised and ridiculed in the local community. Requirements for female purity and impeccable behaviour mean that women must show restraint in dealing with men, even in friendly relationships.

Researchers like Carey (2010) and Remacle (2005) point to the dilemmas that arise when the ideal of free choice of spouse collides with a limited range of common meeting places and strict social codes for interaction between the sexes. According to Remacle, the ambivalent and conflicting signals faced by young persons who contemplate marriage lead to considerable frustration and powerlessness in many. As public relationships and cohabitation are socially unacceptable phenomena, the question of marriage will, directly or indirectly, underlie any relationship between two people of the opposite sex. This leads to a suspicion about intentions and to tension between the sexes: the woman must feel confident that the relationship will end in marriage in order not to lose her honour whereas the man feels pressured and wants to avoid a marriage he is not necessarily ready for.

Mobile technology and social media are important for the establishing of contact between women and men in Morocco (Association d'Appui à La Femme en Difficulté, meeting in Nador in November 2015; Carey 2010). In Morocco, and in the Muslim world in general, there are electronic matchmaking services with a Muslim profile. One example is the service *inshallah.com* whose motto is “Un mariage, si Dieu le veut”/”Get Married, God Willing”, specializing in transnational marriages within the Muslim world, with pages in English, French, Arabic, Turkish, Dutch and German. The actual number of marriages which has come about after initial contact through a matchmaking service is uncertain.

7. CHOICE OF SPOUSE

7.1 ARRANGED MARRIAGE VERSUS FREE CHOICE OF SPOUSE

As previously mentioned, the capacity to provide for his spouse is a precondition for a man to be able to get married. The search for an appropriate marriage candidate therefore begins only when the man is ready to take on the financial obligations a marriage entails. It is always the man, and possibly his family, who takes the initiative to marriage, never the woman or her family (Association d'Appui à la Femme a Difficulté, meeting in Nador in November 2015).

While the parents previously chose a suitable marriage candidate for their sons, it is common practice today that the man chooses a spouse without *direct* interference from the parents. Nevertheless, the parents play an important advisory role, and the parents’ acceptance and blessing is decisive for most people (Azizi 1998). As mentioned above, obedience to parents remains an important value in Moroccan culture, and few will want to take the burden of going through with a marriage that the parents object to. Azizi (1998) explains the role of the family in the choice of spouse as follows:

Although the majority of respondents have made a free choice [of spouse], most of them have made a choice in accordance with the parents' wishes and expectations for a future spouse. An individual project can only be carried out successfully if supported by the husband's family. The latter reserves the right to examine the chosen girl's background. Before they give their consent, they examine, just as in earlier times, the reputation of the chosen girl and her family's status and origin. If the results of the examinations are satisfactory, the young man's mother takes responsibility for initiating the marriage process. Her role as intermediary is important in the initial phase of the marriage, and crucial for creating trust in the girl's family. The girl's parents do not negotiate directly either with the suitor or with anyone outside his family. This is because they are not giving away their daughter to an individual but to a family, with a status and ancestry that resembles their own (Azizi 1998, p. 265).

It is, as mentioned, the man who takes the initiative for the marriage, never the woman. While it was previously the woman's father who accepted marriage offers on her behalf, the woman today will in the vast majority of cases also get the last word on who she wants to accept a marriage offer from, even though there are cases where she is exposed to pressure to marry someone she does not want (see chapter 14 for more information on forced marriage).

However, for many Moroccan women, the fear of *not* getting married is greater than the fear of not finding the ideal partner (Guessous 2013). As mentioned earlier, the ability to provide for one's spouse is a precondition for a man to be able to marry, but difficult economic times and high unemployment result in a continuing increase in marriage age and that many people remain unmarried. The fear of not getting married "before it is too late", according to Guessous (2013), leads some women to accept marriage offers from suitors who, objectively speaking, are not "ideal".

7.2 ENDOGAMOUS MARRIAGE PATTERN

Studies of marriage patterns in Morocco show that endogamous marriages, that is, marriages within one's own social group, still prevail (Hami, Soulaymani & Mokhtari 2007; HCP 2014). Spouses have predominantly the same social and economic background and position and are often relatives.

The principle that there should be social and economic equality between bride and groom is central to Islam through the doctrine of *kafa'a* (compatibility) (Dahl 1992, p. 65), which is considered a precondition for a harmonious and robust marriage. If there is inequality between the spouses, this should be in the favour of the man. If a woman concludes marriage with a man of a higher social status than her, she will be raised to the groom's level. A man of a lower social position than the woman, on the other hand, is not socially accepted. So-called *mésalliances*, i.e. marriages where the inequality of the spouses is too large or goes in favour of the wrong spouse, should be avoided as far as possible, according to both social and religious norms.

The religious norm of compatibility and balance between the spouses is deeply rooted in Moroccan culture and tradition. The Moroccan society has traditionally been patrilocal, which means that spouses establish themselves at or near the man's family. From this perspective, equality between the spouses is a guarantee for both families. The wife's family will have knowledge of the husband and his family's ability to

support their daughter while the husband's family will feel confident that the wife will be able to find her place in her new family and live up to the expectations of her in it. Too many differences between the spouses will, on the other hand, lead to disharmony and division, not just between them, but within the extended families.

As mentioned earlier, Morocco is a country with major social differences and strong awareness of social hierarchies. From the perspective of social structure, equality between spouses is also important. In a socially tiered and hierarchically structured society like the Moroccan, it is imperative that marital relationships do not cross class divisions, which would be inappropriate for both parties.

7.3 AGE DIFFERENCE BETWEEN SPOUSES

The average marital age for first-time marriages in Morocco in 2010 was 31.4 years for men and 26.6 years for women. The average age in rural areas is lower (29.5 years for men and 25.5 years for women), but the higher average marital age in urban areas raises the average (HCP 2014).

The average age difference between spouses is thus around five years in favour of the man (5.1 years in urban areas and 4.4 years in rural areas) (HCP 2014). The age difference in the man's favour is deeply rooted in Moroccan culture, reflecting the traditional gender role model characteristic of the Moroccan family. As mentioned earlier, Moroccan family structure is based on a patriarchal model in which gender roles are clearly defined and complementary. The man's role is related to providing for the family, while the role of the wife is related to children and their upbringing. From this perspective, it is convenient for a woman to marry early in terms of fertility, whereas the husband's capacity to provide is likely to increase with age.

Thereby, there is a clear expectation in Moroccan culture that the difference in age goes in favour of the man. Marriages where the woman is older than the man, and especially if she is divorced and has children, have a low status in the Moroccan context and are considered inappropriate by society at large. Such marriages, which are very rare, often lead to gossip and suspicion (Guessous 2013).¹⁰

In a Moroccan context, the central purpose of marriage is to create a legal framework for creating a family. There is also a clear expectation of reproduction when the marriage is concluded, and the spouses' social position is linked to the roles of father and provider, mother and caregiver, respectively. From this perspective, first-time marriages with women past fertile age are very rare (Guessous, meeting in Rabat in November 2011). It is unlikely that a man will refrain from establishing his own family in order to marry an elderly woman past fertile age, and such marriages seem to occur primarily in connection with migration, and not among two Moroccans who intend to live together in Morocco.

¹⁰ Reference is often made to the marriage between Prophet Muhammad and the rich, older widow Khadija in this context. According to A. Lamrabet, who researches women in Islam (meeting in Rabat June 2014), the Prophet's example is not reflected in the Moroccan marriage pattern, where the woman is generally younger than the man at the start of the marriage.

7.4 MARRIAGE BETWEEN RELATIVES

Marriage between relatives is common throughout North Africa, including in Morocco. In a study conducted in Rabat (Hami, Soulaymani & Mokhtari 2007) in 2004-2005, it appears that about 20% of the respondents are married to a relative. Two thirds of these marriages are between siblings. The preferred spouse is the daughter of the father's brother, followed by the daughter of the mother's sister.

Marriage between relatives appears, according to Hami et al., to be motivated by the desire to prevent the fragmentation of property and other assets, as well as to strengthen alliances and solidarity within the family. In a patrilocal society like that of Morocco, it is easier to integrate a daughter-in-law from your own family, sharing the same expectations of marriage and cohabitation, than a woman from outside. Hence a marriage with a relative represents both economic and social stability for the husband's family. The wife's family, in turn, has the confidence that they are handing over their daughter to a family they know and who can be expected to treat her well.

However, the law sets limitations on some forms of marriage between relatives. Relatives in the direct upward and downward line cannot conclude marriage with one another, nor can a husband conclude marriage with his spouse's child by another man. A man also cannot be married to two sisters at the same time, or with a woman and her aunt. In addition, there is a ban on marriage between persons who share the same wet nurse (Code de la famille 2004, Art. 36-39).

7.5 CHOICE OF SPOUSE ACROSS RELIGIOUS, SOCIO-ECONOMIC AND CULTURAL NORMS

With the exception of very small groups of Moroccan Jews and Christians, Moroccans are Sunni Muslims. Marriage across religious divides is therefore rarely an actual issue, and occurs almost exclusively in connection with migration.

While a Muslim Moroccan man can marry a Christian or Jewish woman, a Muslim Moroccan woman cannot marry a non-Muslim man. For a Muslim woman to be able to conclude marriage with a foreign man in Morocco, there must be proof that the future spouse has converted to Islam.

Unconventional marriages, where the spouses are different in terms of age, origin and socio-economic status (see subchapters 7.2 and 7.3), or which violate expectations of spousal maintenance or reproduction, are viewed with scepticism by the wider society. In a Moroccan context, where the desire for migration is strong among many, the loss of social prestige from an unconventional marriage can be counterbalanced by the prospect of migrating.

In view of this, the willingness to break with norms and expectations concerning a suitable spouse must be seen in relation to what can be achieved by breaking them. As all other legal immigration routes are in practice closed to Moroccans, starting a family in a Western country, either with a foreigner or with a person of Moroccan background, is one of the few possibilities Moroccan citizens have to legally establish themselves in Europe (see Landinfo 2014b for more information on migration from Morocco). In this context, the desire to migrate can outweigh the demands usually made on a spouse's appropriateness, with regard to age, previous marriage, education, origin and so on.

Family and social circle can also to a larger extent accept differences between spouses if the marriage enables migration, than if both spouses are planning to live together in Morocco. In some cases, the family itself can initiate an unconventional marriage if it opens the possibility for migration, as having a relative in a Western country will benefit the entire family financially (Guessous, meeting in Rabat in November 2011).

In the tourist areas of Morocco, relationships are formed between Moroccan men and western women which completely break with socially accepted forms of interaction between women and men in a Moroccan context. Examples of such behaviour may, for example, be a proposal for marriage after a short period of acquaintance, that the man asks the woman for money or gifts, relationships with significantly older women or with divorced women with children. In relations between women and men, relationships of this kind breach social conventions on several key issues:

- A Moroccan man takes the initiative for marriage only after careful consideration and with his family's blessing.
- He will never ask his fiancée for money during the engagement period.
- Based on statistics on age differences between spouses, as well as current cultural norms, there is little likelihood that he would value marriage with a woman older than himself, especially if she has previously been married and has children.

In summary, we have seen that marriage in a Moroccan context is an important event not only for the spouses, but also for their respective families. The husband starts the search for an appropriate spouse once he is able to assume responsibility and provide for a family. He is increasingly free to choose a spouse himself, but within the limits of what is acceptable to the family, and the final choice must be approved by the parents. Equality between spouses, both in terms of origin and socio-economic position, is rooted in both Islam and Moroccan culture. The age difference should be in the favour of the man.

In what follows, the various stages in a Moroccan marriage ceremony are presented, from engagement to signing the marriage contract, the bride price and the wedding ceremony. Moroccan law allows polygamy and marriage with minors under certain conditions, and this is addressed in chapters 12 and 13. Forced marriage still occurs in Morocco, and is discussed in chapter 14.

8. ENGAGEMENT

Engagement is hardly regulated by the law at all, and has no special legal status. The law states that breach of engagement does not establish a claim to compensation (Code de la famille 2004, Art. 5-9).

8.1 MARKING THE ENGAGEMENT

The engagement is usually marked with a small private gathering with only close family and friends present (traditional wedding advisor, meeting in Nador in November 2015). It is common to include reading of al-Fatiha (opening prayer of the Qur'an). According to Guessous (meeting in Rabat in November 2011) and Azizi (1998), the husband and his family give gifts such as clothes and jewellery to the woman and sugar, honey and other sweets to her family. During the engagement period, the two families agree on the bride price and other economic and practical aspects related to the marriage.

There is great variation in the length of the engagement period. In an arranged marriage, the two families may have agreed on the marriage even before the children were born, while other arranged marriages are agreed only when the children are ready to be married. Guessous (meeting in Rabat in November 2011) explained that when the spouses first get engaged, the girls' parents will often press for the marriage to take place as quickly as possible, out of fear of pregnancy or other unwanted events. On the other hand, a Moroccan wedding is expensive and requires extensive planning, which can drag the wedding planning out in time. The wedding season in Morocco is during the summer, preferably in connection with the summer holidays so that relatives abroad can join the celebration. It must therefore be planned in good time, sometimes several years in advance, to rent the most popular premises, catering companies and similar (traditional wedding advisor, meeting in Nador in November 2015).

8.2 TO WHAT EXTENT DO THE FUTURE SPOUSES KNOW EACH OTHER?

Morocco is a socially layered and hierarchically structured society, with major economic, social and cultural differences. As mentioned earlier, the Moroccan marriage pattern is endogamous, i.e., as a general rule, marriage is concluded within your own social group, and quite possibly within the same family.

The spouses will therefore have good knowledge of each other and each other's families in terms of origin, reputation, economic situation, educational level and so on. If the marriage is arranged, the families will know each other even if the spouses do not necessarily know each other on a purely personal level. The rationale for arranged marriages is precisely that the families share a common interest in that the children should marry each other, interests that are usually linked to the preservation of economic assets and social position. Knowledge of, and knowledge about, the future in-laws is therefore at the core of arranged marriages.

If the spouses have chosen each other freely without direct involvement of the family, they have made a conscious choice based on the personality, appearance, reputation and social position of the future spouse and will therefore of course possess knowledge of each other. The man will seek confirmation that the woman is a girl from a respected family with good reputation and obtain information about this before taking the initiative to conclude the marriage. The woman will want information about the man's social position and ability to provide, if this is not known already, before accepting an offer of marriage.

However, even if the spouses know a lot about each other when it comes to origin, social and economic status, character and personality, it is not a given that they will have detailed knowledge of each other in matters outside the home, for example leisure

activities and similar. Women and men have traditionally lived their social lives in separate spheres in Morocco, and traditionally have different interests, tasks and roles. Whereas women have been linked to the domestic sphere, men dominate public spaces, in the cafes, on the football pitch and so on. It is considered inappropriate for a woman to be interested in the man's life outside the home, and there is also no expectation that men should be interested in women's daily lives.

On the other hand, gender roles are evolving, in Morocco included. As women increasingly take education, participate in working life and in arenas previously reserved for men, women's and men's social spheres will gradually approach each other, and consequently they will gain more knowledge of each other. However, women and men still predominantly move in different social spheres, and lack of detailed knowledge of each other's social life does not necessarily mean that there is no real relationship (Guessous, meeting in Rabat in November 2011).

9. BRIDE PRICE

The bride price (*sadaq*) involves a transfer of assets from the husband (or his family) to the woman upon entering marriage. The bride price is the woman's own property, and works as an insurance for the woman in the event of divorce or if the husband dies.¹¹

The bride price is a mandatory element in the contracting of a Moroccan marriage. Without the bride price, the marriage will not be legally concluded under the applicable law. The legal aspects of the bride price are regulated in the family law, Articles 26-27.

The amount of the bride price must be stated in the marriage contract. It should also show how much of the bride price has already been paid and what remains to be paid.

According to the law, the bride price should have a symbolic and not a material value, and the spouses are encouraged to be moderate in setting the bride price. However, this is not observed in practice.

The amount of the bride price varies greatly, between both ethnic groups (Arabs, Amazigh and Hassanya), geographical origin and social strata.

Dahl (1992, p. 65) demonstrates that the bride price in Islam is usually determined by criteria such as social origin, age, beauty, reputation and the price for sisters married earlier. That is the situation in Morocco too. An "ideal" marriage candidate (a young woman who has never been married and comes from a family with a good reputation) will normally get a better bride price than a less attractive marriage candidate within the same ethnic group and social stratum.

However, in a Moroccan context, the ethnicity of the spouses appears to be the most important single factor that determines the size of the bride price. In the Arab population, the average bride price is around 5000 MAD (around 4000 NOK), from

¹¹ The bride price thus differs from the dowry, which is defined as the wealth that a woman's parent or family gives her on marriage (SNL 2009).

1000-3000 MAD in less wealthy families to 10,000-20,000 MAD in more wealthy families. In some areas and social strata, the bride price is symbolic, such as one louis d'or (gold coin) in Arab upper-class families in the city of Fez (Guessous, meeting in Rabat in November 2011; consular source, phone call October 2014; Sakhi 2013; Adoul K. Enouiri, meeting in Témara in November 2015).

In the Amazigh population in Northern Morocco, the bride price is generally higher than in the Arab population groups. While the bride price in low-income families is around 10,000 MAD, there is in principle no upper limit in affluent families (Association d'Appui à la Femme et l'Enfant en Situation Difficile, meeting in Nador in November 2015).

Studies of the marriage pattern of Belgian citizens of Moroccan background (Descheemaeker et al., 2009, p. 34) show that practices concerning the bride price often change in a migration context. When a Moroccan woman from Morocco marries a Belgian citizen of Moroccan origin, the bride price is oftentimes dropped. In the opposite case, when a woman with a regular stay in Belgium marries a man residing in Morocco, the bride price is often very high. This is mainly due to the fact that the marriage allows migration. According to a well-informed Norwegian-Moroccan cultural historian (meeting in Oslo in November 2015), this pattern is also found in Norway, especially among Berber from the Nador and Al Hoceima area in the north, an area that many Norwegian Moroccans come from.¹²

10. PROCEDURES FOR ENTERING MARRIAGE

Marriage in Morocco is a private legal contract between two persons and not a sacrament, as it is, for example, in Catholicism. Although there are religious elements in the wedding ceremony, such as the requirement for two Muslim witnesses, the contractual aspect is nevertheless more important in an Islamic marriage than the religious and ceremonial one.

In Morocco, a marriage is subject to judicial review. Traditionally concluded marriages that have not been examined and registered by the authorities are not legally valid (see chapter 15 below for more information on religiously concluded marriages).

Upon getting married, the future spouses will contact an *adoul* (notary public).¹³ The *adoul* assists with the examination of the conditions for marriage in court based on

¹² It may occur that benefits, either in the form of material values or in the form of labour, from the husband of the woman in connection with a marriage, are not entered into in the marriage contract. It may, for example, be the case in connection with the marriage being mainly concluded to give the other party a residence base in a western country. In such cases, the contractual bride price may be moderated in order not to raise the authorities' suspicions, while the "bride price" is in fact much higher (Norwegian-Moroccan cultural historian, meeting in Oslo November 2015). Landinfo has no knowledge of the extent of "black" bride prices among population with Moroccan background in Norway.

¹³ An *adoul* holds a degree in law and/or Islamic law, in Islamic studies or in Arabic language and literature, in addition to having passed a national entrance examination. He has public approval to carry out notary assignments within various legal fields, for example within family law. In connection with marriages, the *adoul* has responsibility for obtaining permission to conclude marriage in court, draw up the marriage contract, as well as witness the marriage ceremony (Adoul K. Enouiri, meeting in Témara in November 2015).

documentation from the spouses. The adoul then draws up a marriage contract according to the wishes of the parties, including how much is agreed as the bride price and when it is to be paid. The spouses also have the opportunity to set separate conditions, in terms of both economic aspects and the rights and duties of the couple to each other. When the spouses agree on the marriage contract, they sign it. At least two Muslim witnesses are required. Often two adouls act as witnesses, but there may also be other witnesses present according to the wishes of the couple. The marriage contract can be signed anywhere; at the adoul's office, in a private home or, as is common in Northern Morocco, at the entrance to the mosque in connection with Friday prayers (Hajji 2008).¹⁴ The adoul then takes the marriage contract to the court, the judge signs it and the marriage is registered. This process usually takes from one to two weeks (Adoul K. Enouiri, meeting in Témara in November 2015).

It is common but not necessary for the marriage contract to be signed in conjunction with the wedding celebration.

From a legal point of view, the parties are considered married when they have signed the marriage contract and are registered with the authorities. From a social point of view, however, they are regarded as married after the wedding celebration.

10.1 MARRIAGE BY PROXY

According to the law, the spouses must give oral consent to the marriage by personal attendance. The judge may, however, authorise the marriage to be concluded by proxy in special cases where one party is prevented from attending. Neither the law nor the code of conduct (Royaume du Maroc 2004) make clear what constitute "special cases". The absent party must draw up a power of attorney, for which a number of formal requirements are imposed, including that it has been examined by a judge (Code de la famille 2004, Art 11, 17; Maatouk 2011).

According to the legal group Jeunes Avocats de Khémisset (meeting in Khémisset in November 2011), marriage by proxy is relatively rare and, as far as they know, occurs almost exclusively in circumstances when at least one of the spouses live outside Morocco.

10.2 REGISTRATION OF MARRIAGES CONCLUDED ABROAD

Moroccan law recognises marriages concluded under the family law of a foreign country, as long as the marriage does not come into direct conflict with Moroccan law. Examples of such conflict can be a marriage between two people of the same sex, or marriage between a Moroccan woman and a non-Muslim man.

In a Norwegian context, the marriage must be concluded with two Muslim witnesses present and be registered in Morocco through the local Moroccan embassy within three months after the marriage was entered into. The Norwegian marriage certificate must

¹⁴ Women are separated from men in the mosque. It is therefore not actually possible to carry out a wedding ritual in a mosque, as is done in a church, for example, without the woman being represented by a male deputy or guardian. Although the celebration of a Moroccan marriage contains several religious elements (recitation of the Qur'an's opening prayer, religious songs, blessings), the marriage itself is a civil law contract between two parties. The signature of the marriage contract is therefore, from a legal point of view, the most important act of a Moroccan marriage ceremony, and corresponds, in some important respects, to a priest or judge's speech ("I hereby pronounce you husband and wife").

be translated into Arabic by a state authorised translator and confirmed by the Norwegian authorities. The Moroccan embassy will alter the Norwegian marriage document in accordance with Moroccan law. The bride price and the names of two Muslim witnesses are entered in the marriage certificate. The document is then sent to Morocco for registration in a local court. This procedure may take a long time, up to two years (Moroccan Embassy, meeting in Oslo in December 2013).

11. WEDDING CELEBRATION

The wedding celebration is very important in a Moroccan context. Although, from a legal point of view, the spouses are considered to be married once they have signed the marriage contract and are registered with the authorities, they are only considered to be a married couple from a social point of view after the wedding.

In earlier times, the wedding celebration was strongly influenced by distinctive ethnic and geographical traditions. Increased mobility and contact between different ethnic and social groups has today led to a more uniform way of celebrating weddings. In recent decades, a “national ritual” has emerged, in which geographical, ethnic and social peculiarities are moderated in favour of a common model that appears as an ideal for the entire population. According to Azizi (1998), this model is based on the marriage ceremony of middle-class families in the royal cities (Fes, Marrakech, Meknès and Rabat), which in the public consciousness are thought to be particularly refined. Royal weddings, and especially the weddings of the king’s three sisters in the 1980s, have, according to Azizi (1998), abetted in constituting the “national wedding rite”. In recent times, the wedding of King Mohammed VI with Lalla Salma in 2002, and the wedding of the king’s brother, Prince Moulay Rachid, in 2014, had the same impact on both wedding trends and rituals.¹⁵

Below is a brief description of the main elements that make up the national wedding rite. The description is based on information from a traditional wedding advisor, a so-called *neggafa* (meeting in Nador in November 2015), who has organized hundreds of weddings in Nador, as well as academic sources (Azizi 1998; Guessous, meeting in Rabat in November 2011; Hajji 2008). It must be emphasised that only the *main elements* in the ceremonial protocol are described below, and that the celebration is still characterised by a certain geographical and social variation.

In addition to signing the marriage contract, a wedding ceremony consists of three main elements: visits to a hammam (public bath), the henna party and a wedding party. While a Moroccan wedding ceremony previously lasted for seven days or more, it is now common for the celebration to last for three days, from Thursday to Saturday. While the timing of weddings in earlier times followed the agricultural calendar, it is now usual for weddings to be celebrated in the summer, especially in emigration areas,

¹⁵ In addition to the purely superficial aspects, such as attire, decorations and the like, this influence also has a religious dimension. Morocco’s king is the supreme religious leader in Morocco, which means that the royal family legitimises behaviour also from a religious perspective. When there is a conflict between traditional and modern rituals and elements of the wedding celebration, women in particular point to royal weddings to justify that their wishes are in accordance with Islam (Azizi 1998).

so that relatives living elsewhere in Morocco or abroad can participate in the celebration.

11.1 **HAMMAM AND HENNA PARTY**

The wedding celebration begins on the Thursday with the bride's unmarried female relatives taking the bride to a hammam, a public bath. The bath is reserved for the occasion, and before the bride makes her entrance, it is common for her relatives to prepare the room for the celebration and burn incense to drive out demons.¹⁶ The bride is accompanied to the bath with an entourage of female relatives and friends who sing and make merry. Through various treatments of her skin and hair with ghassoul (a type of clay) and traditional soap, the bride makes herself beautiful for the wedding party. The hammam visit also has an important ritual cleansing function before the celebration.

The next stage in the celebration is the henna party. This part of the celebration also takes place with female relatives and friends, often at the bride's home or at the home of some of her relatives. The bride has her hands and feet decorated with henna by a specialist called *naqqasha*, and there is singing and dancing and serving of tea and cakes. Older married women give the bride advice about marriage and cohabitation. It is common for the bride to cover her face while the henna is drawn to protect her from the evil eye.

11.2 **WEDDING PARTY**

The last and most important stage of the wedding celebration is the wedding party. The wedding party is a major family event and it is expected that the party will be lavish. The party has an important function, as it serves as a notification and official announcement that the spouses are married. It is therefore only after the wedding party that the spouses really begin their marital partnership.

There are usually many guests in a Moroccan wedding. Extended family, friends, neighbours and other networks are invited to the wedding party. The wedding party is meant to be seen and heard throughout the neighbourhood, including through merrymaking and music.

It is common to use a traditional wedding planner or adviser (*neggafa*). The wedding planner assists the bride with both the planning and carrying out of the wedding celebration and makes sure that the wedding is conducted according to tradition.

The wedding party can be held in a reception room or in a private home, often with additional party tents. Traditionally, women and men have been segregated during the wedding party, and this still occurs, in whole or in part, in some families, but it is increasingly common for women and men to celebrate together.

The menu varies according to personal taste and budget, but common party food includes couscous, tajine (meat, chicken or vegetables cooked in a bowl of glazed clay), pastry (pie with various types of filling) and mashwi (whole grilled meat)

¹⁶ The belief in supernatural powers, such as the evil eye (*ayn* or *nafs*), witchcraft (*sihr*) and the djinn (*jinn*) is still prevalent in Morocco, and expulsion is an important element in many celebrations and selections (Radi 2013).

followed by cakes, fruit and tea (traditional wedding advisor, meeting in Nador in November 2016; Guessous, meeting in Rabat in November 2011).

The most important moment at the party is when the bridal couple are presented to the guests (a ceremony called the *berza* ceremony). The couple are carried in on a chair, accompanied by religious songs, music, laughter from the women and applause from the men. The bridal couple are then placed on a platform so that they can be admired by the guests. It is expected that the bride will change outfits several times during the party. In the most beautiful and most expensive weddings, the bride changes outfit seven times, in different colours and styles, where each change of outfit represents a geographical area within Morocco (Fes, Marrakech) or outside it (Tunisia, India). The outfits are often very expensive (Azizi 1998), but it is also possible to rent outfits from a *neggafa* at a cheaper price. With each new outfit, the bride walks around the room to greet the guests, and the husband introduces her to his family to show what a good choice he has made (Hajji 2008). Men usually wear a white *djellaba* (Moroccan caftan).

During the party various rituals are performed, such as the spouses sharing a bowl of milk or dates as a symbol of the bond between them. The husband's gifts to the wife are displayed. Singing and dancing play a central role in Moroccan weddings, and weddings are an occasion where Moroccan women can dance in the presence of men without risking getting a bad reputation (Hajji 2008).

After the wedding party, the woman is sent to her new home, or she is collected by her husband in her family home the day after the party. The different rituals around this vary both geographically, ethnically and socially.

In the days after the party, the couple will often make courtesy visits to family and friends, with various rituals and gifts. It has also become common practice to go on honeymoon.

11.3 EXPENSES FOR THE WEDDING CELEBRATION

There is an expectation of and a pressure to arrange grand weddings in Morocco. A great wedding party is meant to confirm, or give an illusion of, wealth and prosperity, and is important for maintaining social status. The vast majority of Moroccan families will therefore go to great financial length to arrange a lavish wedding party (Azizi 1998; Hajji 2008).

The ambitions for the party always exceed the financial resources, and the outcome is often long-term negotiations within the family and between the families of the future spouses on expenses. Even in economically vulnerable families, women will push and demand a minimum from the future husband's family, often supported by the argument that maintaining traditions is important. An expensive wedding is especially important for the girl and her family because it is considered an insurance against divorce (Guessous 2013).

As the party also reflects the "value" of the bride in the marriage market, it is particularly important for her mother, who has raised her. It is largely the women in the bride's family who determine the form of the party, and thus also the expenses involved. It is common for the spouses' families to share the costs of the wedding. If the woman is older and afraid of being left unmarried, it may happen that her family

pays for everything to secure that the marriage takes place at all without her husband losing face (Guessous 2013).

In addition to renting the premises, catering, numerous outfits for the bride and the services of a wedding planner, the families must pay for a band or DJ, photographer, flowers and other decoration, cakes and sweets and so on.

Guessous (meeting in Rabat in November 2011) assumed that a moderate wedding will cost around 150,000 MAD (around 125,000 NOK) while a more magnificent wedding will cost around 400,000 MAD (330,000 NOK) or more. In her master's thesis on the Moroccan wedding ceremony, Hajji (2008) estimates a somewhat more moderate cost of between 50,000-80,000 NOK. It is not uncommon to take bank loans to finance the wedding celebration.

The celebration and cost of the wedding is a source of negotiation and conflict between the sexes and generations in many families, both in terms of content (traditional rituals vs. modern elements) and expenses (Azizi 1998; Guessous, meeting in Rabat in November 2011). Azizi (1998) tells of a conflict in a family where the father had engaged male Qur'an readers, which excluded female singing and dancing, to the indignation of the female family members. The wish for photography and video recording of the party may conflict with female covering and photography ban in conservative Islam. Thus the planning of the wedding celebration often involves long-term negotiations on a content that meets the highest number of requirements, without conflicting with the family's religion and value base, and this at an affordable price.¹⁷

11.4 ARE THERE REASONS TO REFRAIN FROM HAVING A WEDDING PARTY?

Since the wedding celebration has a notification function and the couple is only considered to be married by their surroundings after the wedding party, it is very unusual not to mark the marriage with a wedding party. Even very poor families will go a long way to organise the best party possible. Since the celebration serves this function, a marriage not celebrated by a wedding reception will be viewed with scepticism. Modest and discreet wedding parties with few guests are also rare in Morocco, for precisely the same reason.

There is also superstition attached to the consequences of failing to celebrate a marriage as tradition calls for. Many women therefore go through with all the main elements of the wedding celebration for fear of criticism and gossip, but also for fear of accidents and bad luck later in their married lives, although they initially want a more modest wedding (Hajji 2008).

If a wedding is planned and a sad event such as illness or death in the close family of the couple occurs, it is also not usual to cancel or postpone the wedding celebration. The celebration is often planned a long time ahead, and advance payments are made for the rent of the premises, catering and other services. The surroundings therefore understand that the party must be held as planned despite sad events in the family. Nevertheless, due to respect for the sick or deceased person, it is still possible to tone down the party, for example through less song and dance, but it is not expected to

¹⁷ Conflict between the "traditional" and the "modern" in a Moroccan wedding celebration is described in detail in the doctoral dissertation of Azizi (1998). Although the dissertation is almost 20 years old, it is still a relevant issue in Morocco, and is confirmed, among others, by Guessous (meeting in Rabat in November 2011).

cancel the party (Norwegian-Moroccan cultural historian, meeting in Oslo in November 2015).

Migration and geographic distance between the future spouses give no reason for fewer preparations and a less extensive wedding party, or for abstaining to hold a wedding celebration. According to Guessous (meeting in Rabat in November 2011), in fact, there is even greater demand for a large and extravagant wedding celebration when one or both parties live abroad, because the couple will then presumably have more financial resources.



Traditional Moroccan bridal chair
(Photo: Anne Moseng Knutsen).



Modern Moroccan bridal chair
(Photo: Anne Moseng Knutsen).

12. MULTIPLE MARRIAGES (POLYGAMY)

According to law, a man has the right to under certain conditions marry up to four women (Code de la famille 2004, chapter II).

In concluding the marriage, women may demand that the marriage be monogamous by law. This must be stated in the marriage contract.

If the woman does not have such a clause, the man may apply to the court for permission to conclude marriage with more than one woman. He must be able to refer to “special” and “objective” reasons for the judge to be able to grant a permit. The judge must refuse the application if he considers that there is reason to fear that the man cannot treat his spouses equally and fairly or if there is reason to believe that he has insufficient financial resources to support two or more families. The husband’s

spouse is entitled to be informed and is entitled to divorce with prior mediation if she does not accept the marriage.

Officially, polygamy is declining in Morocco. According to Moroccan authorities (as quoted in Bladi.net 2014) 787 polygamous marriages were concluded in 2013, which accounts for 0.25% of all marriages in that year. The decline is probably related to the tightening of the law.

However, several sources (consular source, meeting in Rabat in November 2015, Midech 2015) state that so-called hidden polygamy is widespread. As there is no national public registry in Morocco, and spouses only state their marital status through an affirmation, a man can marry a new woman in a new place on the basis of false information. Thus, the man has not concluded a legal polygamous marriage, as the conditions for marriage have not been tried in court, and consequently, the marriage is not included in official statistics of polygamous marriages. The main reason for such “hidden polygamy”, according to the lawyer interviewed by Midech (2015), is an attempt to avoid having to pay maintenance in the event of divorce. It is also known that there are cases where men married in Morocco have concluded marriages abroad without first divorcing (consular source, meeting in Rabat in November 2015).

13. CHILD MARRIAGES

The minimum marital age is 18 for both sexes, as against the previous legal limit of 15. However, a judge may grant a minor permission to marry. In such cases, the judge must obtain permission from the parent or legal guardian of the minor and request a medical examination and a survey of the social circumstances (Code de la famille 2004, Art.19).

According to the Association Amal pour la Femme et le Développement (meeting in El Hajeb in November 2011), the judge will in reality only ask the girl if she knows what marriage means (that is, whether she is physically able to have sexual intercourse and bear a child), as well as obtaining permission from the girl’s father.

According to figures from the Moroccan authorities (as cited in Chambost 2015), 35,000 marriages were concluded with a minor in 2013, which corresponds to 11% of the total number of marriages concluded that year. However, the numbers do not specify whom the minor girls marry (peers or older men) or other circumstances of the marriage.

In a survey conducted among 40 family members, it appears that, although the judges consider it important to conduct an individual assessment of each case, they often refuse when the age difference between the spouses is too high and/or when the girl is going to school. They often permit it when the relationship is “socially accepted” and in cases where there has been a (voluntary) sexual relationship, and thus a mutual attraction, between the parties prior to marriage (Chambost 2015).

Child marriages are probably far more widespread than the official figures indicate. According to Global Rights and Guessous (meetings in Rabat in November 2011), it is not uncommon for minors to conclude a religious marriage, rather than for their guardians to apply for permission from the court beforehand. The couple then legalise

the marriage in court when the girl has turned 18 years old. From a religious and social point of view, the couple is considered to be married by their community and if the couple has children before the marriage is registered with the authorities, the girl's family can prove that the child was conceived while the couple was legally regarded as engaged and the child is considered to be legitimate (Guessous 2007; Lovett & Duffau 2015).

The reason why parents and relatives allows underage girls to marry – in addition to the tradition of marrying early in some areas and population groups in Morocco – is mainly economic. Young girls who do not go to school and where there are not enough domestic tasks to keep her preoccupied at home can be married so that the family avoids the financial strain of having her inactive at home. In very poor families getting a daughter married also means one less mouth to feed. The small amount that the family receives through bride price for the girl can also come in handy. Fear of sexual relations, and at worst, children out of wedlock can also be a motivation to marry minor girls (Guessous 2007; Lovett & Duffau 2015).

14. FORCED MARRIAGES

Spouses must give their consent to the conclusion of marriage, usually in the form of verbal consent by personal attendance (Code de la famille 2004, Art. 11). A marriage that is concluded by force may be dissolved (Code de la famille 2004, Art. 63). Landinfo does not know, however, whether this statutory provision has been tried in the judicial system.

In the Criminal Code currently under review, the penalty for forced marriage is imprisonment for one month to six years, as well as fines of up to 20,000 MAD. If the girl is a minor, the punishment for forced marriage – which is understood by law as the use of pressure, violence or threats of violence for the purpose of forcing someone to marry – doubles up to twelve years' imprisonment and fines of up to 40,000 MAD (Bladi.net 2015a).

Forced marriages occur in Morocco, but the extent is uncertain. It is especially minors or young girls in remote, rural areas that are exposed to forced marriages. Older girls and women are not at risk in the same way. If the girl is aware of her rights, for example through schooling, she will have more resources to oppose the pressure than that of a girl without or with only limited schooling (Association Amal pour la Femme et le Développement, meeting in El Hajeb in November 2011).

14.1 ASSISTANCE TO VICTIMS OF FORCED MARRIAGES

The primary strategy of the Moroccan authorities aimed at limiting child marriages and forced marriages is to facilitate education for girls, as education reduces the likelihood of girls getting married, both because they are made aware of their rights through schooling and because the judges are more restrictive in granting an exemption for the age requirement when the girl is receiving education. Morocco has made great progress in this field, and there are dedicated financial support schemes (the so-called *Taysir* scheme) aimed at helping financially vulnerable families to keep their children

– and especially girls – at school (see Landinfo 2013 for more information about the scheme and the situation for children in general).

There are, as far as Landinfo is aware, no state institutions that have specialised in helping victims of forced marriage in particular, only social centres (*établissements de protection sociale*) with a general profile. There are public social centres throughout Morocco, but these are of a generally low standard and are only sought in extreme emergency situations.

However, Morocco has a strong organisational sector and there are a number of organisations working on women’s rights, including women who want help to get out of an unwanted marriage. There are few privately operated emergency shelters in Morocco, but there are many day centres run by various women’s organisations where women can get legal counselling, psychosocial support, childcare assistance and different types of training for income-generating activities so that they can be independent. The availability of such offerings varies, of course, geographically, but women’s organisations are present in all Moroccan regions.¹⁸

15. RELIGIOUS MARRIAGES AND URFI MARRIAGES

Religious marriages, or traditional marriages, which in a Moroccan context is often referred to as *Fatiha* marriages (after the opening prayer of the Koran), is a religiously concluded marriage where the conditions for marriage have not been assessed by the authorities and are not registered in public records. Such marriages have no legal validity in Morocco.

The actual marriage takes place by reading the al-Fatiha in the presence of two witnesses, paying the bride price and making the marriage publicly known, thus fulfilling the basic conditions for a marriage in Islam (Guessous, meeting in Rabat in November 2011). From a religious and social point of view, the spouses are considered to be married, but not from a legal point of view (Lovett & Duffau 2015).

Such traditional marriages are concluded especially in rural areas where traditional culture is strong and where the authorities have limited presence, such as in the Rif and Atlas Mountains. In these areas, there has traditionally been little contact with the authorities, and it is often both inconvenient and expensive to go to town to settle the administrative and legal aspects of marriages. The marriage is celebrated according to tradition, and it is legitimate from both a religious and a social perspective.

After the family law was reformed in 2004, the authorities have run information campaigns to get religious and urfi marriages registered, also with a view to enabling women to assert their statutory rights in the event of a divorce. In 2004, Parliament decided that there should be an amnesty period of five years allowing for late

¹⁸ Landinfo visited three centres during the fact-finding mission to Morocco in November 2011, a centre in the Orangers district of Rabat, run by the Association of Democrats of the Femmes du Maroc (ADFM)/Reseau Anaruz, a centre in Témara, south of Rabat run by the Union de l'Action Feminine, and a centre in the city of El Hajeb in the province of Meknés, run by Association Amal pour la femme et le développement. In 2015, Landinfo visited two advisory centres in Nador, Northern Morocco, centre d'Ecoute Horizon (Drawn by Association Horizon) and Centre d'Etudes Coopératives pour le Développement Local (CECODEL).

registration of traditional marriages. The scheme has been extended in two rounds: in 2011 and in 2015, on both occasions for five new years (Bladi.net 2015b). According to figures from Moroccan authorities (as cited in El Hourri 2016), Moroccan courts legalised 185,000 unregistered marriages between 2004 and 2013 and continue to do so extensively.

Until recently, traditional marriages have been concluded in isolated locations of the country, often in the mountainous areas, by groups of persons who have little contact with the wider society and authorities. But since the Arab Spring in 2011 and Islamism and Salafism's progress in the region, a new type of marriages, the so-called *urfi* marriages (after *urf*: custom in Arabic), have gained renewed relevance, especially in Islamic-oriented student environments. Marriage is concluded by signing a makeshift marriage contract in the presence of two witnesses (often friends, not family). The husband pays a symbolic bride price, and the wife renounces her own rights and the rights of any potential child, such as alimony in the case of divorce and inheritance. Moroccan women's organisations warn against such marriages, as it leaves the woman very vulnerable and deprived of rights, should her husband leave her. Although the phenomenon seems to be more prevalent in other countries in North Africa, including Tunisia, than in Morocco, it also occurs here. There are no indications, however, that the number of *urfi*-marriages is increasing, and probably the spread of this form of marriage was greatest immediately after the Arab spring in 2011, as a result of the progress of Islamists during that period.

Another type of temporary marriage is the so-called *misyar* marriage, or "travel marriage", which refers to temporary marriages between Moroccan women and foreign men, especially from the Gulf, on holiday in Morocco (Belabd 2012). The number of travel marriages also seems to be relatively limited.

16. DIVORCE

According to Islamic tradition and jurisprudence, divorce is unfortunate and should be avoided as far as possible, but is nevertheless permitted.¹⁹

In Morocco, divorce is governed by the family law (Code de la famille 2004), also called Moudawana, Livre II: De la Dissolution du Pacte de Mariage et de ses Effets (The dissolution of the marriage agreement and its effects). The family law is the only Moroccan law based on Islamic law, all other laws being, in essence, based on the French legal tradition.

Moroccan divorce rules are relatively complicated. When the family law was to be reformed in 2004, Parliament approved several new divorce types to the existing Sharia-based types that existed in earlier family laws. The law is a compromise between conservative societal forces, who consider the Sharia-based divorce types to be divinely instituted and thus irremovable, and liberal forces who wish to give women greater access to divorce (Busken 2010).

¹⁹ According to Prophet Muhammad, divorce is the most disliked of all the things God has allowed (Eggen 2010).

In today's Morocco, divorce is only granted if licenced by a judge, or by judgement. A divorce in which the man orally and with no stated reason divorces the woman by stating *talaq*, without supervision of a competent court of law, is not valid under current Moroccan law, as it was previously (Busken 2010).

Unlike in Norway, where a civil authority (county governor) grants licence for a divorce, it is only the court that can grant a divorce in Morocco. The court can grant divorce in two different ways:

1. One of the spouses (or both) submits a petition to the court which, if the conditions are met, grants the divorce.
2. Divorce by judgement (*tatliq*).

16.1 DIFFERENT TYPES OF DIVORCE

Below is a simplified representation of the various types of divorce found in Moroccan law, based on Buskens (2010) and Rude-Antoine (2010):

Divorce at the request of one or both spouses:

- *Talaq*. The man, or the woman if she is given this right by the husband in the marriage contract, petitions for divorce from a judge, who gives prior permission for an adoul (notary public) to draw up a divorce document. The judge grants the divorce and signs the divorce document if the husband adheres to the financial compensation the court has imposed on him in connection with the divorce.
- *Khul'*. The woman divorces the spouse by giving him financial compensation. As a rule, the compensation corresponds to the remaining balance of the bride price.
- Divorce by mutual consent. The spouses agree on divorce and the conditions for it, and the judge grants the divorce.

Divorce by judgement (*tatliq*):

- *Shiqaq*. In the event of serious and persistent conflict between spouses, one or both spouses may contact the court with a view to resolving the conflict. If reconciliation is not possible, a divorce judgement is issued.
- The woman can bring an action against the spouse to get a divorce if:
 - The husband violates one or more terms of the marriage contract.
 - The man causes the woman material or moral damage.
 - The man does not fulfil his maintenance duty.
 - The man has been absent for more than one year, has been in prison for more than two years or has been sentenced to a prison sentence of more than three years.
 - The man suffers from a serious illness.
 - The husband denies the wife marital cohabitation.

On all occasions – except when the husband's whereabouts are unknown or if the spouses have agreed to *khul'*, where terms are settled – the court has a statutory duty to mediate between the spouses before a judge can grant a divorce or a ruling. For married couples without children who agree on the terms of divorce, such mediation

can take a short time, but for couples with children, the judge will usually make several mediation attempts.²⁰ This difference also affects duration of proceedings – for spouses without children the divorce procedure can take as little as one week, but if the couple has children it takes longer (TelQuel 2013). Divorce by judgement may, however, take a long time, often several years, because the proof requirements are very high (Global Rights, meeting in Rabat in November 2011).

According to figures from the Moroccan authorities (HCP 2014), divorce by mutual consent is the most common type of divorce (57.9%), followed by *khul'* (17.6%). More than half of divorces are initiated by women (Cabinet Mrini 2016).

In a sociology study conducted at the Casablanca family court (as cited in El Haiti in 2016), it appears that the main reason for divorce is persistent irreconcilable differences (69.5%), lack of maintenance (31.4%), violence (21%) and long absence (13.7%). Lack of common housing, sterility and the woman leaving home without permission are also mentioned, to a lesser extent, as reasons for divorce.²¹

16.2 REVOCABLE AND IRREVOCABLE DIVORCE

Moroccan law has retained the distinction in classical Sharia law between revocable and irrevocable divorce. Some types of divorce are revocable, while others are irrevocable.

Divorce by judgement is irrevocable and means that the spouses must marry each other and enter a new marriage contract if they wish to get back together. Divorce by petition is, with few exceptions, revocable. A revocable divorce means that the spouses – within a period of three months (called *'idda*) – can come back together and continue the marriage. The husband draws up a revocation document, and the spouses do not need to conclude a new marriage contract to continue their relationship. If none of the spouses take any action (towards reconciling) during the course of *'idda*, they are considered divorced. If the spouses wish to marry each other at a later date, they must sign a new marriage contract (Adoul Khalid Enouiri, meeting in Témara in November 2016).

16.3 APPROVAL OF FOREIGN DIVORCE

Spouses who have married in Morocco and live abroad may apply for divorce in Morocco according to the applicable rules and procedures there, or apply to have a foreign divorce approved in Morocco. In order to have a foreign divorce approved in Morocco, an *exequatur* is required, that is, a ruling by a Moroccan court that the foreign judgement can be enforced in Morocco.²²

²⁰ The family unit is strong in Islam and in Moroccan culture, and divorce is considered the last resort. Mediation is statutory for most divorce types. Secular oriented women's organisations are often sceptical of mediation in connection with divorce, especially if violence is the cause of the divorce. When the judge – directly or indirectly – puts pressure on the woman to come back to her husband again – a woman who is exposed to violence in marriage may feel the pressure to return to the spouse who exposes her to violence (LDDF, meeting in Rabat in November 2015).

²¹ The total exceeds 100% because you can give several reasons at the same time.

²² In certain cases, a Norwegian divorce is not recognised in Morocco. This is due to the divorce by a civil authority (county governor) in Norway, while only a judge can grant divorce in Morocco. The practice, however, varies at

16.4 SPOUSAL MAINTENANCE (ALIMONY) AND CHILD SUPPORT

Separation of property is the usual asset settlement in concluding a marriage in Morocco. The spouses may, however, conclude separate agreements on the matrimonial property regime in the marriage contract.

According to the law, the woman is entitled to the following compensation after divorce, irrespective of the property regime applicable between the spouses:

- Alimony (Arabic *mut'a*, French *don de consolation*). A one-off allowance (or compensation) from the husband to the wife determined by the judge based on, for example, the length of the marriage, the spouses' financial situation, the causes of the divorce and other factors.²³
- Remaining balance of the bride price.
- Maintenance allowance during the *'idda* period.

A father is required to pay child support for his sons until they are of legal age (18) or up to 25 if they are studying. For daughters, the duty to support applies until they have their own financial means or marry. The contribution must cover food, clothing, medical treatment, education and other necessary expenses. Expenditure on housing is determined separately, and lapses if the mother remarries.

The child support is determined based on an overall assessment of the family's economic situation before the divorce and the former spouses' financial situation after the divorce. In reality, the contribution is often set too low in relation to the man's income, and it is not rare for the man to "manipulate" his reported earned income to pay the lowest possible contribution. There are also cases where men conclude a new marriage without divorcing their first wife, to avoid paying remuneration and child support (consular source, meeting in Rabat 2015). The wife has the opportunity to take legal action against a former spouse who does not pay child support, and according to the women's association Association Horizon (meeting in Nador in November 2015) this does succeed "occasionally".

If the woman has day-to-day care for the child and the father does not pay child support after the divorce, the wife must provide for herself and the child. There are only limited financial support schemes for families in a difficult financial situation, including for divorced women with responsibility for children. A programme called Taysir (facilitating in Arabic) aims to help economically disadvantaged families – including households led by women – in poor areas to keep the children at school. Each family receives between 60 to 140 MAD in cash per child, depending on school grade (Badrane 2016). In addition, there are arrangements for free school equipment. Families or persons with scarce resources can also get free basic health services through the Regime d'Assistance Médicale programme (abbreviated RAMED). The Moroccan state subsidises basic goods such as bread, household gas and similar, but these subsidies are not earmarked for special groups (Social, Women and Family Department, Rabat May 2013). Besides Taysir and RAMED, there are no individual

this point in Morocco, and some courts approve Norwegian divorces even if they are granted by a civil authority (Morocco Embassy, meeting in Oslo December 2013).

²³ The woman does not receive *mut'a* in connection with divorce by judgement, but she may be entitled to compensation for moral or physical damage from the divorced husband.

support schemes for economically disadvantaged persons and households in Morocco. Most people therefore depend on their own income and/or support from family networks to make ends meet.

16.5 CUSTODY

If the spouses do not agree on the custody of the children after divorce, the court must determine this. Moroccan legislation distinguishes between daily care (*hadana*) and the legal right of guardianship (*wilaya*) (Buskens 2010). According to the law, daily care should preferably be granted to the mother, especially if the child is under seven years of age, then to the father and then to the grandmother of the child. If none of these is able to care for the child on a daily basis, the court must, after an assessment of the best interests of the child, grant the care to the closest relative suitable for the task. According to the organisation Global Rights (meeting in Rabat in November 2011), the mother will practically always be given care for the child on divorce. When the child is 15 years old, the law allows it to choose which of the parents it wishes to live with (Code de la famille 2004, Art 166).

The parent who does not have the daily care for the child is entitled to have access. If the parties do not agree, it is the court that decides the nature and extent of the access (Code de la famille 2004, Art 180-186).

The father retains parental responsibility (legal guardianship) for the child after the divorce, in accordance with classical Islamic law, if he is not denied this right by the court. This means that he has decision-making authority in important decisions relating to the child (Union de l'Action Féminine, meeting in Rabat in November 2011).

If the mother remarries, the father may, in accordance with the family law, §§ 171-186, claim custody for children over seven years, provided that the transfer of custody is not harmful to the child. The demand for transfer of custody must be submitted to the court within one year after the father became aware that her mother has concluded a new marriage (Code de la famille 2004; Lamrabet, meeting in Rabat in June 2014; Maatouk 2010). The fear of losing child custody and the loss of financial support from former spouse upon remarriage means that some women are hesitant to remarry after divorce (Guessous 2013; Lamrabet, meeting in Rabat in June 2014).²⁴

16.6 SOCIAL POSITION OF DIVORCED WOMEN²⁵

The divorce rate in Morocco is around 10% (HCP 2014).

Attitudes towards divorced women vary according to geographical area, social group and family values. Individual circumstances, such as whether the woman is held responsible for the divorce, may also affect the attitude of the surrounding community towards the woman. Different families experience different levels of conflict caused

²⁴ See Landinfo 2014a for more information about remarriage.

²⁵ This section is a brief review of the most important aspects of divorce in the Arab-Berber population of Morocco. In the Sahrawi population of southern Morocco, the view on divorce and remarriage is different from that of the majority population. Among the Sahrawis, divorce is common and is usually marked with a party. Divorced women have a high social position, and it is common for both women and men to marry several times during life (Daoudi, meeting in Laayoune May 2014; Harter 2004).

by divorce, from unproblematic divorces based on mutual consent, to harrowing conflicts that last for several years.

Having the status of a divorcee is not socially beneficial, especially not for a woman, but divorce has become more common and more accepted in recent decades, especially since the new family law of 2004, which made it easier for women to divorce. While divorced women were previously shunned by the community and had to live with their shame as they moved back to their family, today, if they have financial means, they can establish themselves with their own household and live an ordinary life after divorce (S. Guessous, meeting in Casablanca in June 2014; TelQuel 2013).

Around one in five households are led by a woman. More than half of these women are widows, while around 12% are divorced (HCP 2014). It is therefore not uncommon for a divorced woman to establish her own household after divorce. According to Global Rights (meeting in Rabat in November 2011), divorced women can freely rent or own housing, take paid work and manage their own lives, but they have to deal with the same challenging property and labour market as other Moroccans. In certain circumstances, women's access to the labour and housing market can in fact be more limited than that of men, because women have smaller networks than men, in a society where access to work is mainly achieved through networks.

Women's organisations with whom Landinfo has discussed the topic consider that a woman's financial situation after divorce is a greater challenge than any loss of social status (LDDF, meeting in Rabat in November 2014).

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