



## Family Law Reform in Morocco: A Case Study on Child Marriage Law

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### Abstract

The research on family law reform in Morocco aims to analyze the changes in family law in Morocco after the reform in 2004. The study discusses child marriage and the impact of the reforms on society, particularly in relation to gender equality and legal protection for women and children. This research is normative-explanatory and explains family law reform in Morocco by using a literature review to analyze policies. The results show that family law reform in Morocco has improved gender equality and provided better legal protection for women and children. However, there are still some challenges in the application of the law, such as changing attitudes towards tradition and culture and difficulties in applying the law in remote areas. This research can contribute to an understanding of the changes in family law in Morocco and can be used as a reference in efforts to improve legal protection for women and children in other countries that have similar legal systems.

**Keywords:** Reform, child marriage, Morocco, Family law

### Abstract

Penelitian tentang reformasi hukum keluarga di Maroko bertujuan untuk menganalisis perubahan hukum keluarga di Maroko setelah dilakukannya reformasi pada tahun 2004. Penelitian ini membahas pernikahan anak, dan dampak reformasi tersebut terhadap masyarakat, khususnya terkait dengan kesetaraan gender dan perlindungan hukum bagi perempuan dan anak-anak. Penelitian ini merupakan penelitian normatif-eksplanatoris yang menjelaskan reformasi hukum keluarga di Maroko dengan menggunakan studi literatur kepustakaan dengan menganalisis kebijakan. Hasil penelitian menunjukkan bahwa reformasi hukum pernikahan anak di Maroko telah meningkatkan kesetaraan gender dan memberikan perlindungan hukum yang lebih baik bagi perempuan dan anak-anak. Namun, masih ada beberapa tantangan dalam penerapan hukum, seperti perubahan sikap masyarakat terhadap



tradisi dan budaya serta kesulitan dalam penerapan hukum di daerah-daerah terpencil. Penelitian ini dapat memberikan kontribusi pada pemahaman mengenai perubahan hukum keluarga di Maroko dan dapat dijadikan acuan dalam upaya meningkatkan perlindungan hukum bagi perempuan dan anak-anak di negara-negara lain yang memiliki sistem hukum yang sama.

**Kata kunci:** reformasi, pernikahan anak, Maroko, Hukum Keluarga

## Introduction

The Family law in Morocco is part of The Moroccan Law which known as *Moudawana* or Family compilation. This family law regulates everything relating to family, such as marriage, divorce, women's and children's right, inheritance, and so on. Before the reformation of *Moudawana* in 2004, the family law in Morocco was more favorable to the male side whether in marriage case or divorce case. The women were, very often, having unequal right as man to marry the person they love, to request for divorce, or to gain the custody of their own children.<sup>1</sup> However, the reformation of *Moudawana* in 2004 had brought significant change in the family law of Morocco. The reformation had been given the new right for women and children, such as to refuse the arranged married, the right to request the divorce, the right to own their own asset, and the right to have the custody for their own children.<sup>2</sup>

Family law reformation, according to experts, is based on several thoughts, such as: *first*, to anticipate a legal vacuum caused by the absent norms contained in *fiqh* books which do not regulate the current case, while the community's need for law related to current issues is very crucial to implement. Second, the influence of globalization, science, and technology that leads to the necessity of certain rules of law that regulates it phenomena, especially for the updated issues in which there is no law that regulates it before. Third, the impact of the reformation in many various fields that provide opportunities for Islamic law to become a reference material in making national law. Fourth, the influence of the renewal of Islamic legal thought carried out by *mujtahids* (Islamic Scholar), both at the international and national levels.<sup>3</sup> Salah satu fenomena yang muncul pada abad ke-20 adalah upaya reformasi hukum keluarga (perkawinan, perceraian, pewarisan) di negara-negara mayoritas Muslim. Sebagian besar negara melaksanakan reformasi ini dalam bentuk undang-undang, yang lain dengan keputusan, dan di beberapa negara inisiatif reformasi mengambil bentuk pengadilan. One of the phenomena that emerged in the 20th century was efforts to reform family law (marriage, divorce, inheritance) in

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<sup>1</sup> Khoiruddin Nasution, *Status Wanita Di Asia Tenggara: Studi Terhadap Perundang-Undangan Perkawinan Muslim Kontemporer Di Indonesia Dan Malaysia* (Leiden-Jakarta: INIS, 2002), 122-23.

<sup>2</sup> Ali Trigiyatno et al., "Pergeseran Hukum Keluarga Di Maroko Dari Mudawwanah Tahun 1957-1958 Ke Mudawwanah Tahun 2004," *Al-Qānūn: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 25, no. 2 (2022): 238, <https://doi.org/https://doi.org/10.15642/alqanun.2022.25.2.233-247>.

<sup>3</sup> Arip Purkon, Ahmad Hidayat Buang, and Mohd. Hafiz Jamaludin, "The Role of Supreme Court Jurisprudence in Development of Islamic Family Law in Indonesia," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 2 (2022): h. 368, <https://doi.org/10.32505/qadha.v9i2.4111>.

Muslim-majority countries. Most countries implemented this reformation, some by decree, and in some other countries reform initiatives took the form of courts.<sup>4</sup>

Despite reformation, family law in Morocco is still a controversial topic, especially regarding child marriage and polygamy. Although polygamy is legal in Morocco, under the *Moudawana* reformation, men must meet certain requirements before they can practice polygamy. Meanwhile, child marriage is also a controversial issue, although in 2019, a new law was passed to ban child marriage in Morocco. Overall, family law in Morocco is constantly changing and evolving, especially in terms of the rights of women and children, according to modern values and gender equality. Prior to the reformation of family law in Morocco, the family law in Morocco was based on Islamic law, also known as *Sharia* law. This family law covers aspects such as marriage, divorce, inheritance rights, and child custody. However, the interpretation and application of *Sharia* law in Morocco may vary from region to region and it also vary between different groups of people.

One example of family law that was controversial before the reformation was the practice of under aged marriage or what is known as child marriage. At that time, Islamic law permitted marriage for children who had reached the age of puberty, although in practice, many children were married off at a very young age, even under the age of puberty. The practice of child marriage is associated with local traditions and culture, as well as social and economic factors. In addition, in the case of divorce, Moroccan family law makes it difficult for women to obtain their rights such as their child custody right and support after divorce. At that time, the law gave advantages to the men side, therefore so many women were trapped in a difficult situation after divorce.<sup>5</sup>

In 2004, Morocco undertook a major reformation of family law through the *Moudawana* reformation, which provided new rights for women and children. In 2019, a new law was passed banning child marriages in Morocco. Previously, the minimum marriage age for women was 16 years and 18 years for men. *Moudawana* reformation provided new rights for women, such as the right to refuse an arranged marriage, the right to request a divorce, the right to own assets, and the right to obtain custody of their children. *Moudawana* reformation also provided children with new rights, such as the right to choose a parent who will be their guardian if their parents' divorce and the right to choose the surname from both parents.

In general, all countries struggle in reforming their family law to improve the rights of women and children, but these countries differ in the process and level of progress in family law reformation. In fact, according to Tahir Mahmood, Muslim countries are struggling to achieve the desired legal reformation using existing teachings of Islamic jurisprudence, such as *musawat al-madzahib* (The Equality of Islamic Fiqh Practice), *istihsan*, *masalih al-mursalah* (public interest), *siyasa syar 'iyah* (national legislative policy), *istidlal* (legal reasons), *tawdi'* (laws and

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<sup>4</sup> Ihab Habudin, "Menimbang Metode Tematik-Holistik dalam Pembaruan Hukum Keluarga Muslim (Telaah Pemikiran Khoiruddin Nasution)," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 8, no. 1 (2015): h. 49, <https://doi.org/10.14421/ahwal.2015.08104>.

<sup>5</sup> Nasution, *Status Wanita Di Asia Tenggara: Studi Terhadap Perundang-Undangan Perkawinan Muslim Kontemporer Di Indonesia Dan Malaysia*, 122-23.

regulations), *tadwin* (compilation) and others. Technique and method of reformation apart from *ijma*, *qiyas* and individual or collective *ijtihad* (development of new legal principles based on old legal principles), several principles were also adopted e.g. *tahayur* (eclectic choice of legal principles) different sharia law and *talfiq* (combination of two or more parallel laws that create new laws).<sup>6</sup>

Morocco, Tunisia, Indonesia, and Turkey are countries that have advanced progress in term of family law reformation, while Egypt and Saudi Arabia still have significant limitations in their family laws. It should be noted that the above comparisons provided only a general and limited overview of family law reformation in these countries, and that there are still many factors and nuances to consider when comparing family law reformation in different countries. However, family law reformation in Morocco is unique in its approach to education, eliminating gender discrimination in family law, increasing inheritance rights, and involving community groups in the reformation process. This shows that Morocco has taken innovative and progressive steps in its efforts to improve women's rights and reduce gender discrimination in the family law. The family law reformation in Morocco is considered one of the most progressive family law reformations in the Muslim world.

This research was a normative-explanatory study that examined and explained <sup>7</sup> the family law reformation in Morocco through the literature study by analyzing child marriage law which was conducted qualitatively.<sup>8</sup> The aim was to figure out a legal system that is more just, effective, and in accordance with the needs of society.

### **The Background and the Purpose of the Family Law Reformation in Morocco**

Morocco is a country with a population of around 32.6 million. Besides being known for its capital Rabath, this country also has a large city called Dar al-Baidha or better known as Casablanca as a trading center city with dirhams. This country has an area of 710,850 square kilometers. The main languages are Arabic and Berber, French and Spanish. Most of the population is Muslim.<sup>9</sup> It is currently ruled by King Mohammed V.<sup>10</sup> The history of the family law in Morocco is largely based on the traditional interpretation of Islamic law. Family law that applies in Morocco and in several countries is manifested in different forms, namely through written law (codified law) and in the form of unwritten law (uncodified law). This is due to differences in beliefs and circumstances between each country. So that in its application, the

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<sup>6</sup> Nurrohman et al., *Transformasi Dan Integrasi Hukum Islam Dalam Hukum Nasional Kajian Atas Model, Problem, Dan Reformasi Hukum Islam Di Indonesia* (Bandung: Pusat Penelitian dan Penerbitan UIN SGD Bandung, 2018), 63, <http://digilib.uinsgd.ac.id/17705/>.

<sup>7</sup> Bambang Waluyo, *Penelitian Hukum Dalam Praktek* (Jakarta: Sinar Grafika, 2008), 8-9.

<sup>8</sup> Jefry Tarantang, "Teori Dan Aplikasi Pemikiran Kontemporer Dalam Pembaharuan Hukum Keluarga Islam," *Transformatif* 2, no. 1 (2018): 29, <https://doi.org/10.23971/ta.v2i1.882>.

<sup>9</sup> M. Atho' Muzdhar dan Khairuddin Nasution, *Hukum Keluarga Di Dunia Islam Modern* (Jakarta: Ciputat Press, 2003), 96-97.

<sup>10</sup> Trigiyatno et al., "Pergeseran Hukum Keluarga Di Maroko Dari Mudawwanah Tahun 1957-1958 Ke Mudawwanah Tahun 2004," 235-36.

sources of family law can be distinguished into written sources of law and unwritten sources of law, this is also happen in Morocco.<sup>11</sup>

In Morocco, Islam is strongly identified with kingdom and state that forms the national identity of the Moroccan nation.<sup>12</sup> However, some significant changes have occurred over the centuries, mainly because of colonial influences and globalization. Prior to the 20th century, family law in Morocco was mainly governed by Islamic law applied by religious scholars or leaders. During the colonial era, Western laws such as French and Spanish laws began to be applied in Morocco and influenced the family law system. After its independence in 1956, Morocco began to rebuild its legal system and introduce new laws. However, these laws are still based on traditional interpretations of Islamic law and are often discriminatory against women. Similarly, many girls and women in Morocco suffer from violence and its consequences because of their gender and their unequal status in society.

According to a national study conducted by the Moroccan Higher Planning Commission, National Institute for Statistical Analysis in 2011 on the prevalence of violence against women, 62.8% of women in Morocco aged 18-64 years had become victims of some form of violence during the year prior to the study and 48 % have experienced psychological abuse (Morocco Haut Commissaire au Plan 2011). The same study found that 55% of acts of violence were perpetrated by the victim's husband, and violence was reported by the wife in only 3% of the cases. In 2011, another report identified that in cases of violence against women, from ten cases, eight cases were perpetrated by the husband of the victims. Women who have experienced physical, sexual, or psychological violence suffer from a variety of health problems, very often they suffered in silent. They are in poorer physical and mental health, suffer more injuries and use more medical resources than women who are not abused (Human Right Watch 2012).<sup>13</sup>

Therefore, in 1993, the Moroccan government created a commission to reform Moroccan family laws, led by former Minister of Education Azzedine Laraki. After a lengthy consultation process with various community groups, including women's activists and human rights organizations, in 2004 the Moroccan government passed a new family law known as *Moudawana* with the full name *Mudawwanah Al-Ahwal Asy-Syakhshiyah Al-Jadidah Fi Al -Maghrib*. It passed on February 3, 2004 and contains 400 articles.<sup>14</sup> The *Moudawana* law provides new rights for women in terms of marriage, divorce, child custody, and inheritance. This is a major step in improving women's rights and gender equality in Morocco.

Overall, the history of family law in Morocco reflects the social and political changes that have taken place in the country over the centuries. Although there are still many challenges that need to be overcome in terms of women's rights and gender equality, family law reformation in Morocco is an important step in correcting gender inequality and promoting gender equality in Morocco. Prior to family law reformation in Morocco, Moroccan family law was based on

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<sup>11</sup> Mustofa Hasan, *Pengantar Hukum Keluarga* (Bandung: CV. Pustaka Setia, 2011), 4.

<sup>12</sup> Ira M. Lapidus, *Sejarah Sosial Ummat Islam* (Jakarta: PT. RajaGrafindo Persada, 1999), 250.

<sup>13</sup> Hayat Naciri, "Gender-Based Violence in Morocco: Domestic Violence as a Case in Point," *Culture & Society* 9, no. 1 (2018): 57-58, <https://doi.org/10.7220/2335-8777.9.1.3>.

<sup>14</sup> Trigiyatno et al., "Pergeseran Hukum Keluarga Di Maroko Dari Mudawwanah Tahun 1957-1958 Ke Mudawwanah Tahun 2004," 242.

Islamic law which was traditionally interpreted and often discriminated against women. For example, in education; women in Morocco still have difficulty accessing better education equal to men. They often do not have access to schools and lack support from their families to continue their education. Another example is in getting a job; women in Morocco strongly struggle in entering the workplace and finding jobs on an equal footing with men. They are often treated unfairly in terms of wages. This causes a lot of gender inequality to occur in the marriage, divorce, child custody, and inheritance systems in Morocco. In 2004, Morocco underwent significant family law reformation to improve women's rights and gender equality. This reformation resulted in a major change in Moroccan family laws known as *Moudawana*.

Moroccan family law reformation in *Moudawana* is the transformation of family law reasoning into statutory regulations which is part of *siyasa Syariah*, namely as government policy to implement beneficial regulation to the people and do not conflict with sharia at the same time. This is suitable with the context of Morocco, a country that has implemented Islamic family law reformation.<sup>15</sup> Moreover, the model of transformation in family law, so far, has been exclusive or inclusive, some have been conservative, some have reformed, and some have even been radical or extreme. This exclusive view assumes that law is perfect and covers all aspects of life, so there is no need to absorb other elements from outside. The inclusive view assumes that Islamic law is imperfect and therefore open to improvement or incorporation of external elements into Islamic law. Conservatives try to apply Islamic law contained in religious texts, while reformists try to grasp the spirit or purpose behind the provisions of the text, so that if necessary, they adapt to modern life which must be maintained at a higher level.<sup>16</sup>

The background to family law reformation in Morocco is gender inequality situation that embedded in the Moroccan family law system which claimed to be based on Islamic law that interpreted traditionally, where somehow it leads to women discrimination act. Since its independence in 1956, Morocco has strived to modernize and improve various aspects of social life, including family law transformation. In 1993, the Moroccan government created a commission to reform Moroccan family laws, led by former Minister of Education Azzedine Laraki. After going through a lengthy process of consultation with various community groups, including women's activists and human rights organizations, in 2000 the Moroccan government began preparing to amend the family law. This reformation was finally legalized in 2004, and gave women new rights in terms of marriage, divorce, child custody, and inheritance. Family law reformation in Morocco was also influenced by social and political changes that taking place in the country, including the development of women's rights and gender equality awareness.<sup>17</sup> These reformations were also the result of international pressure and international campaigns led by global human rights organizations such as Amnesty International and

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<sup>15</sup> Summa, *Hukum Keluarga Islam Di Dunia Islam*, h. 164.

<sup>16</sup> Nurrohman Nurrohman, "Syari'at Islam Dan Hukum Nasional: Problematika Transformasi Dan Integrasi Hukum Islam Ke Dalam Hukum Nasional," *Tajdid* 26, no. 2 (2019): h. 240-241, <https://doi.org/10.36667/tajdid.v26i2.333>.

<sup>17</sup> Trigiyatno et al., "Pergeseran Hukum Keluarga Di Maroko Dari Mudawwanah Tahun 1957-1958 Ke Mudawwanah Tahun 2004," 242.

Human Rights Watch. Overall, the background for family law reformation in Morocco was driven by efforts to solve the gender injustice that occurred in the family law system and improve women's rights and gender equality in Morocco.

Morocco has undergone a series of legal reformations in recent years, including the reformation of their family law. The Moroccan family constitution, known as *Moudawana*, was revised in 2004 and significant changes were introduced to improve women's rights and gender equality. Prior to the 2004 reformation, Moroccan family law was heavily based on traditional Islamic law, which was often interpreted in a restrictive and discriminatory manner against women. Under the *Moudawana* revised version, women gained greater rights in marriage, divorce, child custody and inheritance. Some of the key changes introduced including: The legal age for marriage was raised to 18 for both men and women, and child marriage required the approval of a judge. Women are given the right to initiate divorce under certain conditions, such as domestic violence or abandonment by their husbands. The principle of shared responsibility for household chores and child caring was introduced, and both partners were asked to contribute to family expenses. Women are given the same inheritance rights as men, which were previously limited by Islamic law.

The reformation of Moroccan family law adopted the method of adaptive renewal of sect unification and carried out internal doctrinal reform (intra-doctrinal reform).<sup>18</sup> Furthermore, according to Nurrohman Syarif regarding intra-doctrinal reformation is also adapted in other countries besides Morocco, such as Indonesia, Malaysia, Algeria, Iraq and Pakistan.<sup>19</sup>

The reformation carried out by Moroccan law firm includes tightening the polygamy permission requirement, marriages registration, divorce in court, and a minimum age limit of 15 to 20 years for child marriage.<sup>20</sup> Some of the main content in this reform include:

1. Minimum age for marriage: the reformation increased the minimum age for marriage from 15 to 18 for both women and men. This aims to prevent underage marriages which often worsen the health and education conditions of children.
2. Women's rights in divorce: the reformation provides women greater rights in cases of divorce, such as the right to request a divorce and the right to inherit a deceased husband. This aims to reduce violence and discrimination against women in the context of divorce.
3. Polygamy: the reformation established more stringent requirements for polygamy practice, including the consent of the first wife and court authorities to reject polygamy applications. This aims to limit the practice of polygamy which often causes injustice and instability in the household. The background of this reformation was the development in the Islamic world that based on Abdul and Qassem Amin's

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<sup>18</sup> Nurrohman et al., *Transformasi Dan Integrasi Hukum Islam Dalam Hukum Nasional Kajian Atas Model, Problem, Dan Reformasi Hukum Islam Di Indonesia*, 86.

<sup>19</sup> Nurrohman Syarif, "The Discourse and Practice of Islamic Family Law in Indonesia," *Psychology and Education Journal* 58, no. 1 (2021): 5205, <https://doi.org/10.17762/pae.v58i1.1774>.

<sup>20</sup> Nurrohman et al., *Transformasi Dan Integrasi Hukum Islam Dalam Hukum Nasional Kajian Atas Model, Problem, Dan Reformasi Hukum Islam Di Indonesia*, 202.

progressive thoughts on polygamy; they have become a source of inspiration for the reformation of Islamic countries, including Morocco.

4. Inheritance: The reformation provides women greater rights in terms of inheritance, by limiting the influence of customary law which often limited women's rights. This aims to reduce inequality in terms of inheritance and provide protection for women in cases of divorce and deceased husband.
5. Citizenship: the reformation provides women greater rights to grant citizenship to their children. This aims to reduce discrimination against women and children in terms of citizenship and provide equal rights for all citizens.
6. The divorce process: the reformation expedites the divorce process and set stricter conditions for husbands wishing to delay or refuse divorce. This aims to reduce injustice and discrimination against women in the context of divorce.<sup>21</sup>

The process of family law reformation in Morocco has been progressing for long period of time, developed based on the times change. This is because some of the norms contained in *fiqh* books are felt to be no longer able to provide solutions to new problems that occur. Of course, the family law reasonings developed from the complexity of family problems in the contemporary era.<sup>22</sup> In addition, social changes in Islamic family law create another gap between old and new values, it also creates a gap between Islamic law which is considered to be well established (*fiqh*) and the social reality which continues to change along the times.<sup>23</sup>

The goal of family law reformation in Morocco is to improve women's rights and reduce gender discrimination in family law. These reforms aim to strengthen the protection of women's rights and address injustices related to existing family laws. Some of the main goals of family law reformation in Morocco are increasing women's rights, reducing gender discrimination, strengthening social justice, and increasing children's right protection. Overall, the goal of family law reformation in Morocco is to create a more just, inclusive, and egalitarian family law that provides greater protection and rights for both women and children. Even though there has been significant reformation of family law, there are still problems in its implementation in the society. Some families still practice polygamy and child marriage below a certain age, especially in rural areas. In addition, there is still discrimination against women in other fields, such as education and employment. However, it must be admitted that the family law reformation that had been established in Morocco is an important step in fighting for women's rights and fighting the gender discrimination. Apart from that, *Moudawana* can also be an inspiration for other countries in North Africa and the Middle East to establish the similar family law reformation for the better future.

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<sup>21</sup> Nasiri, "Perkawinan Di Maroko," *Jurnal Pendidikan Dan Pranata Islam* Volume 8 N (2017): 26-33.

<sup>22</sup> Fauzan Fauzan, "Progressive Law Paradigm in Islamic Family Law Renewal in Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 7, no. 2 (2020): h. 187, <https://doi.org/10.29300/mzn.v7i2.3617>.

<sup>23</sup> Masyhadi, "Permasalahan Hukum Keluarga Islam Kontemporer," *Scholastica* 2, no. 1 (2020): h. 45.

## Child Marriage in Family Law Reformation in Morocco

Of course, the dynamics of family law reformation in Morocco went through several phases, including;

The first Phase (2000-2003), started in 2000 when King Mohammed VI announced the establishment of the Special Commission for Family Law Reformation. The task of this commission was studying and analyzing family law in Morocco and providing recommendations for the reformation. In 2003, Morocco's parliament approved a revised law on family law that was the first to be amended since Morocco's Independence Day in 1956.<sup>24</sup>

The second Phase (2004-2008), started in 2004 when the Moroccan government approved the revision of the law on family law, which became known as *Moudawana*. *Moudawana* provided the security for women to obtain their rights in marriage, divorce, inheritance, and property ownership. This reformation also abolished several traditional practices such as child marriage and polygamy without the approval of the first wife.

The third Phase (2009-2011), started in 2009 when the Moroccan government adopted a series of reformation to strengthen the *Moudawana* implementation. These reforms included the increasing of accessibility to family courts, improving mediation practices and monitoring of women's rights, and strengthening the authority of judges to fight for women's rights in family law cases.

The fourth Phase (2012-present), started in 2012 when the Moroccan government adopted additional reformation to strengthen *Moudawana* implementation. These reforms resulted in improvements in family justice practices, such as eliminating discrimination against women in court, increasing accessibility to legal services, and strengthening judges in family law cases.

The phases of family law reformation in Morocco showed the existence of complex dynamics and politics towards child marriage; meaning that family law reformation in Morocco is a dynamic process that involved various forces and stakeholders, such as the role of King Mohammed VI in family law reformation which was very significant.<sup>25</sup> The king gave full support to the reformation and led the process of reformation through special commissions formed for this purpose. Besides, pressure from human rights activist groups and women's groups played an important role in fighting for family law reformation in Morocco. These groups highlighted the problems of gender inequality in family law and held campaigns to fight for women's rights in family law practice.

In addition, *ulama* as the Islamic religious scholars and leaders in Morocco, played crucial role in the family law reformation process. They gave their approval to the reformation and provided religious support for them. However, there were also some *ulama* who maintained conservative views and opposed the family law reformation.

Indeed, the family law reformation in Morocco took place in a complex social and political context. The country has experienced significant social and political changes in recent decades,

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<sup>24</sup> Masyhadi, 43.

<sup>25</sup> Jan Michiel Otto, "Introduction: Investigating the Role of Sharia in National Law," in *Sharia Incorporated A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden: Leiden University Press, 2010), 21.

including the development of gender awareness and the struggle for changes in their family law reformation.<sup>26</sup> However, the change was not as convenient as turning the palms, because there were still conservative groups who opposed the change. It became real challenges for the reformation to be implemented and accepted wholly through out the country. This is due to factors such as tradition, culture, and lack of understanding of women's rights in society. Given these dynamics, the family law reformation in Morocco requires continued efforts to ensure the effective implementation and monitoring of the law. It should be noted that the existence of family law reformation through legal transformation into statutory regulations is certainly based on the spirit of legal certainty for the better community. Indeed, it hoped to ensure the realization of family law that is just and beneficial to the people, especially the law concerning women (gender)<sup>27</sup> and child protection<sup>28</sup> which seem to be neglected in the texts and fiqh books.

Overall, the Moroccan government played crucial role in reforming family law in the country and struggling to ensure that the rights of women and children are respected and protected. The Moroccan government established a Family Law Reformation in 2004 known as *Moudawana*. It was also a political product<sup>29</sup> that brought significant changes in family law practice in Morocco as a tool to justify the political vision of their leader.<sup>30</sup> This law provided new rights for women and children and stipulated strict requirements for polygamy. The Moroccan government also monitored the implementation of the family law reformation to ensure that the rights granted by this law are respected and protected. The Moroccan government was also working to increase public awareness of the rights of women and children in the context of family law.

Furthermore, the Moroccan government was also promoting gender equality in family law practice, by increasing the representation of women in family courts and strengthening laws that protect women's rights. The Moroccan government also supported non-governmental organizations fighting for the rights of women and children, such as by providing financial assistance and assisting in the implementation of social programs. The Moroccan government was also strengthening the international cooperation with other countries in terms of reforming family law and protecting the rights of women and children.

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<sup>26</sup> Musthafa Usman, "Pembaharuan Hukum Keluarga Di Maroko," *Syakhsia: Jurnal Hukum Perdata Islam* 20, no. 1 (2019): 49–60.

<sup>27</sup> Solikul Hadi, "Bias Gender Dalam Konstruksi Hukum Islam Di Indonesia," *Palastren* 7, no. 1 (2014): h. 27.

<sup>28</sup> Hani Sholihah and M Ag, "Perlindungan Anak Dalam Perspektif Hukum Islam," *Al-Afkar, Journal for Islamic Studies* 1, no. 1 (2018): h. 38, <https://doi.org/10.5281/zenodo.1161556>.

<sup>29</sup> Budi Juliandi, Fauzun Jamal, and Saifuddin Herlambang, "Mudawwanah Al-Ushrah Dan Pemihakan Terhadap Hak-Hak Perempuan Di Maroko," in *Proceedings of Annual Conference for Muslim Scholars*, 2017, 123.

<sup>30</sup> Moh. Mahfud MD, *Membangun Politik Hukum, Menegakan Konstitusi* (Jakarta: Rajawali Press, 2012), 63–69.

## Effects of Family Law Reform in Morocco

The family law reformation in 2004 was the most important achievement in the field of Islamic law in Morocco since the *Mudawwana* Codification in 1957-1958.<sup>31</sup> This reformation marked a significant change in Moroccan family law, especially with regard to the status of women and their rights in divorce, inheritance rights, and child custody. Before the reformation was established, the family law in Morocco was strictly patriarchal and based on a conservative interpretation of Islamic law. These reforms resulted in significant changes in women's rights, including efforts to suppress the practice of child marriage. In addition, the reformation introduced new institutions such as family courts and child custody courts, which helped strengthen women's rights in the family law. These reforms provided an example for other Arab countries to inspire their efforts in improving regulation of the child marriage.

Child marriage law reformation in Morocco has differences and similarities with other countries. For example, Tunisia and Egypt which had been establishing family law reformation to improve women's rights and reduce gender discrimination. However, family law reformation in Tunisia began in 1956, long before Morocco. Tunisia had removed several genders-biased practices in family law, such as banning polygamy, increasing the minimum age for marriage, and providing women with fairer divorce rights. In other hand, Egypt's family law reformation had begun in the 1920s, but it did not experience significant developments until the 2000s. These reforms aimed to improve the rights of women and children, by reducing restrictions on polygamy and increasing women's inheritance rights.

When compared to Indonesia, family law reformation in Indonesia began in 1974 with the issuance of the Marriage Law. This law provided new rights for women in marriage, such as the right to refuse marriages arranged by their parents. In 2002, Indonesia also established the Child Protection Law, which aimed to protect children from violence and exploitation. Likewise, compared to Saudi Arabia, it has a very conservative family law system and still follows a strict religious interpretation. In 2019, the government of Saudi Arabia removed several restrictions in family law, such as giving women the right to travel abroad without permission from their male guardian and removing the requirement for permission from a male guardian for marriages to women over the age of 21. Turkey has established several reforms in family law in the 2000s to improve the rights of women and children. Some of these reforms include eliminating gender discrimination in marriage and divorce laws, as well as providing more equitable inheritance rights for women.

Indeed, the Family Law Reformation in Morocco has been in the spotlight internationally because of the significant changes made in Moroccan family law, especially regarding women's rights. This reformation has become an example for other countries, both Muslim and non-Muslim countries, in efforts to improve legal protection for women in the family context. International organizations, such as the United Nations (UN), have appreciated the reformation as a step forward in protecting women's rights in Morocco. The United Nations has recognized that family law reformation in Morocco has the potential to influence other countries to

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<sup>31</sup> Darussalam Syamsuddin, "Transformasi Hukum Di Indonesia," *Al-Qadau* 2, no. 1 (2015): 2, <https://doi.org/https://doi.org/10.24252/al-qadau.v2i1.2542>.

improve women's rights in the family context. Likewise, it was also justified by the groups that support human rights treaties and international conventions on the elimination of all forms of discrimination against women (CEDAW: Convention on the Elimination of All Forms of Discrimination Against Women).<sup>32</sup>

In addition, the family law reformation in Morocco has also been the focus of international meetings and conferences, such as the UN-hosted International Forum on Women's Rights and Development. Many international conventions had supported Muslim countries that established the transformation and reformation of their family law. Firstly, ICCPR (International Covenant on Civil and Political Rights), secondly, ICESCR (International Covenant on Economic, Social and Cultural Rights), thirdly, CRC (Convention on the Rights of the Child), and fourthly, CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)<sup>33</sup> Therefore, Morocco has transformed the family law which were no longer relevant to current developments with the updated one so that they could be accepted and brought benefits for the society.<sup>34</sup>

This reformation had become an important example in the discussions about women's rights and legal protection in the context of child marriage law around the world. Overall, family law reformation in Morocco had gained international recognition as a step forward in protecting women's rights in the family context. This reformation has served as inspiration for the other countries to transform their family laws for the better. It is because the family law reformation in Morocco is considered one of the most progressive family law reformations in the Muslim world.

## Conclusion

The Child Marriage Law Reformation in Morocco in 2004, otherwise known as the *Moudawana* Reformation, has brought significant development to Moroccan family laws. It increased legal protection for women and improved gender equality in Morocco. Some of the main developments made under this reformation include the additional minimum age requirement for marriage, women's rights in divorce cases, restricted requirements for polygamy practice, women's rights in matters of inheritance and citizenship, and an accelerated divorce process. The *Moudawana* reformation is considered one of the most progressive family law reformations in the Muslim world and has inspired and influenced other countries to improve legal protection for women in the family context. However, there are still some weaknesses in the implementation of these reforms, such as gaps between law and practice in society, a lack of access to a justice system for poorer groups of society, and challenges in changing the mindset and culture that support gender discrimination. Overall, the reformation

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<sup>32</sup> Juliandi, Jamal, and Herlambang, "Mudawwanah Al-Usrah Dan Pemihakan Terhadap Hak-Hak Perempuan Di Maroko," 123.

<sup>33</sup> Nurrohman et al., *Transformasi Dan Integrasi Hukum Islam Dalam Hukum Nasional Kajian Atas Model, Problem, Dan Reformasi Hukum Islam Di Indonesia*, 91 and 111.

<sup>34</sup> Jihad Khufaya, Muhammad Kholil, and Nurrohman Syarif, "Fenomena Hukum Islam Di Masa Modern; Upaya Harmonisasi Antara Eksistensi Dan Relevansi," *Mutawasith: Jurnal Hukum Islam* 4, no. 2 (2021): 145-46, <https://doi.org/10.47971/mjhi.v4i2.366>.

of family law in Morocco is an important step in improving women's rights and gender equality in the Morocco. However, further efforts are still needed to improve the implementation and promotion of awareness and social development in support of these reforms.

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