

Amina Filali and Violence Against Women in Morocco

Jennifer Prestholdt, Deputy Director, The Advocates for Human Rights

The recent suicide of teenager Amina Filali led to an immediate outcry that has reverberated far beyond her small hometown in northern Morocco. According to reports,¹ Amina was raped last year at the age of 15 by a man 10 years her senior. Instead of seeing her rapist prosecuted for his crime, however, Amina was forced to marry him. The rape that she endured during her five months of marriage was further compounded by physical and emotional violence by her rapist/husband and his family. The victim of multiple forms of violence, Amina took her own life by swallowing rat poison.

Under Article 475 of the Morocco Penal Code, a perpetrator of rape on a minor (a “kidnapper”) is allowed to escape punishment if he marries the victim. While it may not be a provision of Moroccan law that is used frequently, it is a violation of human rights that attracted international scrutiny before and has been the focus of much of the media around Amina's tragic death.

The real issue, however, is the widespread and persistent violence faced by Moroccan women like Amina every day and the government's failure to take action to stop it. A 2011 national study on the prevalence of violence against women found that 62.8% of women in Morocco of ages 18-64 – more than 10 million women, not including minors like Amina - had been victims of some form of violence during the year preceding the study.²

Although the Moroccan government promised a comprehensive Violence Against Women (VAW) law in 2006, there are currently no laws that provide effective protection from domestic violence. Throughout the justice system, there is a lack of intervention and adequate response to complaints of domestic violence. No civil remedies such as [Civil Protection Orders](#) exist and cases of domestic violence, categorized as misdemeanors, require the victim to suffer "disabling" injury in order to be prosecuted. Further, Moroccan laws that criminalize actions to hide or harbor married women effectively make shelters illegal.

The Moroccan Penal Code provides insufficient protection against rape and sexual assault, which are often unreported and prosecutions not pursued. Spousal (also called marital or conjugal) rape is not specifically considered a crime in the Penal Code nor is it prosecuted in practice. Women are deemed to have consented to all sexual relations with their husband by the fact of marrying them. Women do not seek help when they are raped by their husbands because of the social stigma associated with rape, the difficulty in proving rape, and the futility in reporting an act that the Moroccan Government does not even recognize it as a crime.

Rape cases in general are difficult to prove in Morocco, as actual physical injuries are required to prove non-consent. Under the Penal Code, rape is considered a crime against morality and not identified as a crime against persons. Women are deterred from reporting rape cases because of the lack of response from law enforcement and the criminal justice system. Even when a rape case is investigated, the perpetrator is not always punished.

Furthermore, sexual relations outside of marriage are illegal in Morocco, and penalties are increased if one or both people engaged in the affair are already married. Thus, there is a strong disincentive for a woman like Amina to report a rape as she risks being prosecuted for illicit sexual relations if she does not prevail in proving her rape case and she is not married to her rapist.

Amina's story is a tragedy. But the media attention and international outrage it has drawn is a cause for hope. Amina's story has raised awareness both inside and outside of the country about violence against women. The government has promised to abolish Article 475 and there is a reinvigorated campaign to move forward with the draft VAW law that is currently stalled in InterMinisterial consultations. There is a [Facebook page](#) and an [online petition](#). In March, there were demonstrations throughout the country and a sit-in at the Parliament.³

The silver lining to Amina's story would be that the internal and external pressure on the Moroccan government finally results in the passing of a Violence Against Women law in Morocco that contains both criminal and civil provisions.

(First published in on Jennifer's personal blog: The Human Rights Warrior, www.humanrightswarrior.com, where she writes about her experiences in fighting for human rights and how she is trying to bring those lessons home to her kids.)

The following specific recommendations were made to the United Nations in MOROCCO: Challenges with addressing domestic violence in compliance with the Convention Against Torture 47th Session of the Committee Against Torture (31 October – 25 November, 2011), [Joint Written Statment submitted by The Advocates for Human Rights and Global Rights, in collaboration with an alliance of Moroccan NGOs](http://www.theadvocatesforhumanrights.org/uploads/final_shadow_report_to_c_at_re_morocco_response_to_dv_oct_14_2011_sent_to_geneva_2.pdf) at http://www.theadvocatesforhumanrights.org/uploads/final_shadow_report_to_c_at_re_morocco_response_to_dv_oct_14_2011_sent_to_geneva_2.pdf

The Moroccan Government should pass a specific violence against women law that contains both criminal and civil provisions.

- Care should be taken that that the new law does not contain provisions that would cause further harm to victims.
- The new law should expand the definition of violence against women and ensure various types of relationships are covered by the law.
- The new law should establish civil remedies, including comprehensive Civil Protection Order provisions for women who are victims of violence.

Morocco's Penal Code should be amended to:

- explicitly criminalize conjugal rape;
- abolish criminal prosecutions for illicit sexual relations;
- eliminate laws that criminalize those who assist or harbor married women;
- abolish provisions that allow a perpetrator of rape to escape prosecution for marrying his victim; and

- eliminate discriminatory legal provisions that place heavy burdens of proof solely on the victim of violence.

¹ Moroccan girl commits suicide after being forced to marry her rapist, Al Arabiya News, March 14, 2012 <http://english.alarabiya.net/articles/2012/03/14/200577.html>.

² Moroccan *Haut Commissaire au Plan*, “Principaux résultats de l’Enquête Nationale sur la Prévalence de la Violence à l’Egard des Femmes (version française)”, (January 2011), *available at* http://www.hcp.ma/Conference-debat-consacree-a-l-etude-de-la-violence-a-l-egard-de-femmes-au-Maroc_a66.html (last visited October 6, 2011); see also, UN Women, “Moroccan Government Release Extensive Gender-Based Violence Study”, (10 January 2011), *available at* <http://www.unwomen.org/2011/01/moroccan-government-releases-extensive-gender-based-violence-study/> (last visited October 6, 2011).

³ Morocco protest after raped Amina Filali kills herself, BBC News, March 15, 2012 <http://www.bbc.co.uk/news/world-africa-17379721>.