



Status of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in National Law

MOROCCO

Applicability of the Convention and its Optional Protocols

Convention on the Rights of the Child (CRC)	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)
Signature: 26 January 1990 Ratification: 21 June 1993	Signature: 8 September 2000 Ratification: 22 May 2002	Signature: 8 May 2000 Ratification: 2 October 2001
Declarations: On 19 October 2006, the Government of Morocco informed the Secretary-General that it had decided to withdraw the reservation made with regard to article 14 made upon ratification and replace it with an interpretive declaration. The new Declaration reads: <i>The Government of the Kingdom of Morocco</i>	Declarations: <i>Pursuant to paragraph 2 of the article concerning the involvement of children in armed conflicts, the Kingdom of Morocco declares that the minimum age required by national law for voluntary recruitment in the armed forces is 18 years.</i>	Declarations: None.

interprets the provisions of article 14, paragraph 1, of the Convention on the Rights of the Child in the light of the Constitution of 7 October 1996 and the other relevant provisions of its domestic law, as follows:

Article 6 of the Constitution, which provides that Islam, the State religion, shall guarantee freedom of worship for all.

Article 54, paragraph 6, of Act 70-03 (the Family Code), which stipulates that parents owe their children the right to religious guidance and education based on good conduct.

By this declaration, the Kingdom of Morocco reaffirms its attachment to universally recognized human rights and its commitment to the purposes of the aforementioned Convention.

The Reservation it replaces read:

The Kingdom of Morocco, whose Constitution guarantees to all the freedom to pursue his [sic] religious affairs, makes a reservation to the provisions of article 14, which accords children freedom of religion, in view of the fact that Islam is the State religion.

OPSC Status in National Law

The OPSC was published in the *Official Gazette* on 4 March 2004 (No. 5192)¹, making it enforceable under the Moroccan Constitution and superior to national law where legislation conflicts with OPSC provisions.²

Sale of Children (“any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Selling children (Art. 3.1. (a))	Selling or buying a child under 18 for any purpose, inciting or assisting parents or guardians to sell a child, or serving as an intermediary who facilitates or assists in the purchase or sale of a child is punishable by 2 to 10 years' imprisonment and a fine of 5,000 to 2 million dirhams (Criminal Code, Art. 467). ³	Article 467 of the Criminal Code was amended in 2003 to prohibit the sale of children and to provide for the current criminal sanctions. ⁴	On the criminalization of trafficking in persons: “The Committee welcomes a number of measures taken by the State party to implement and strengthen the protection of the rights covered by the Optional Protocol, including changes in the Penal Code criminalizing... trafficking in persons.” ⁵

1 Official Bulletin No. 5192 of 4 March 2004 is available in French at http://www.sgg.gov.ma/BO%5Cbulletin%5Cfr%5C2004%5CBO_5192_fr.pdf and in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5Car%5C2004%5CBO_5192_ar.pdf.

2 See Supreme Council Decision No. 49 of 1 October 1976; Decision No. 5 of 3 November 1972; Decision No. 162 of 3 August 1979.

3 The Criminal Code is available as amended through 2004 in French at <http://adala.justice.gov.ma/production/legislation/fr/penal/Code%20Penal.htm> and in Arabic at <http://adala.justice.gov.ma/production/legislation/ar/penal/%D9%85%D8%AC%D9%85%D9%88%D8%B9%D8%A9%20%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%A7%D9%84%D8%AC%D9%86%D8%A7%D8%A6%D9%8A.pdf>.

4 Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, available in French at http://www.sgg.gov.ma/BO/bulletin/Fr/2004/BO_5178_fr.pdf and in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5Car%5C2004%5CBO_5178_ar.pdf, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004, available in French at http://www.sgg.gov.ma/BO%5Cbulletin%5Cfr%5C2004%5CBO_5188_fr.pdf and in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5Car%5C2004%5CBO_5188_ar.pdf.

5 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 4, available at

			<p>On the implementation of trafficking legislation: “The Committee notes with appreciation the entry into force of new laws related to ...trafficking of persons.... The Committee is nonetheless concerned that the implementation of these laws is inadequate.”⁶ “The Committee recommends that the State party ensure a proper implementation of its legislation. Furthermore, the Committee recommends that the State party... (b) Strengthen its legislative framework by becoming a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the 2000 United Nations Convention against Transnational Organized Crime.”⁷</p>
Offering, delivering or accepting, by whatever means, a child for the purpose of:			
Sexual exploitation of the child (Art. 3.1 (a) (i) a.)	The sale of children for the purpose of sexual exploitation is not specifically prohibited under Moroccan law.		<p>On the criminalization of sex tourism and sex abuse: “The Committee welcomes a number</p>

<http://www2.ohchr.org/english/bodies/crc/crcs41.htm#opsa>.

6 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 17,

7 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 18.

	<p>However, some activities relating to child prostitution and child pornography are offences under the criminal law (see “Child Prostitution” and “Child Pornography” sections below).</p>		<p>of measures taken by the State party to implement and strengthen the protection of the rights covered by the Optional Protocol, including changes in the Penal Code criminalizing...sex tourism, sexual abuse....”⁸</p> <p>On the incidence of sexual exploitation and the scope of protection for children under the law: “[T]he Committee... remains concerned at the high incidence of sexual exploitation in the State party. The Committee is also concerned at the fact that the legislation of the State party does not protect all children below 18 years from sexual exploitation as various ages have been set in several acts regarding sexual exploitation. The Committee is further concerned at the status of child victims of sexual exploitation who may be treated as offenders.”⁹ “[T]he Committee recommends that the State party: (a) Extend the protection from sexual exploitation in all relevant legislation to all boys and girls below the age of 18 years;... (c) Undertake studies with a view to</p>
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8 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 4.

9 CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 62, available at <http://crin.org/resources/infoDetail.asp?ID=14404&flag=legal>.

			<p>assessing the scope of commercial sexual exploitation of children...; (d) Develop and implement an integrated strategy to fight sexual exploitation of children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.”¹⁰</p>
Transfer of organs of the child for profit (Art. 3.1 (a) (i) b.)	The sale of children for the purposes of transfer of organs for profit is not specifically prohibited under Moroccan law.		
Engagement of the child in forced labour (Art. 3.1 (a) (i) c.)	<p>The sale of children for the purposes of engagement in forced labour is not specifically prohibited under Moroccan law. However, some activities relating to forced child labour are offences under the criminal law, as detailed below.</p> <p>Forcing a child under the age of 15 to engage in work that is illegal or harmful to the child's health, safety, morality, development or education is punishable by 1 to 3 years in prison and a fine of 5,000 to 20,000 dirhams,</p>	<p>Article 467 of the Criminal Code was amended in 2003 to prohibit the forced labour of children under 15 and to provide for the current criminal sanctions.¹³</p> <p>Notably, Morocco's Labour Code permits employment for children aged 15 and over (Labour Code, Art. 143), and the Government's desire to harmonise legal reforms may explain the age limit established in the prohibition on forced labour.¹⁴</p>	<p>On the implementation of child labour legislation:</p> <p>“The Committee notes with appreciation the entry into force of new laws related to child labour... The Committee is nonetheless concerned that the implementation of these laws is inadequate.”¹⁵</p> <p>On the incidence and nature of child labour:</p> <p>“While noting the efforts of the State party to prevent and combat child labour... the Committee is concerned</p>

¹⁰ CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 63.

	<p>with the possibility of a more severe sentence at the judge's discretion (Criminal Code, Art. 467-2). Notably, the nature of the harmful work described in this offence is not specifically defined, presumably leaving this determination to the judge on a case-by-case basis.¹¹</p> <p>Employers who hire children under 15 are also liable to pay fines of 25,000 to 30,000 dirhams and, for repeat offenders, to pay fines of 50,000 to 60,000 and serve 6 days' to 3 months' imprisonment (Labour Code, Art. 151).¹²</p>		<p>that the incidence of economic exploitation remains widespread in the agricultural and handicraft sectors.... The Committee is also deeply concerned at the situation of domestic servants... who are subjected to harsh working conditions and abuse.”¹⁶</p> <p>“The Committee recommends that the State party: (a) Continue to strengthen its integrated strategy to fight all forms of economic exploitation of children; (b) Bring existing laws into full compliance with ILO Conventions Nos. 138 and 182, notably by enacting the new Labour Code, strengthen its labour inspectorates in terms of quantity and quality to ensure that labour laws are enforced, and protect children from economic exploitation, particularly in the informal sectors; (c) Provide social rehabilitation for economically exploited children,</p>
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11 Michele Zirari, Guide des Procédures (undated, on file with CRIN), p. 32.

12 Dahir no. 1-03-194 of 11 September 2003 establishing law no. 65-99 amending the Labour Code, Official Bulletin No. 5210 of 6 May 2004, available in French at http://www.sgg.gov.ma/BO%5Cbulletin%5Cfr%5C2004%5CBO_5210_fr.pdf and in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5Car%5C2004%5CBO_5210_ar.pdf.

13 Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, available in French at http://www.sgg.gov.ma/BO/bulletin/Fr/2004/BO_5178_fr.pdf and in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5Car%5C2004%5CBO_5178_ar.pdf, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004, available in French at http://www.sgg.gov.ma/BO%5Cbulletin%5Cfr%5C2004%5CBO_5188_fr.pdf and in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5Car%5C2004%5CBO_5188_ar.pdf.

14 Association Marocaine de Développement Communautaire, L'Exploitation Sexuelle de l'Enfant: Cas de Marrakech, UNICEF (2006), available at http://www.unicef.org/morocco/french/Exploitation_Sexuelle1.pdf.

15 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 17.

16 CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 60.

			notably by reintegrating them in the educational system; (d) Take all necessary measures to prevent and end the practice of children working as domestic servants (<i>petites bonnes</i>) through a comprehensive strategy, notably by conducting debates and awareness campaigns, providing guidance and support to the most vulnerable families, and addressing the root causes of the phenomenon; (e) Continue cooperation with ILO/IPEC.” ¹⁷
Adoption:			
Improperly inducing consent for adoption in violation of international instruments (Art. 3.1 (a) (ii))	Full adoption is prohibited under Islamic law, but Morocco's <i>kafalah</i> system allows for children separated from or without parents to be cared for by suitable adults and requires that all persons involved in international <i>kafalah</i> act in conformity with applicable international legal instruments. ¹⁸ Encouraging one or both parents to abandon a newly born or expected		

17 CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 61.

18 See Act on the Kafalah of Abandoned Children, published in Arabic in Official Bulletin No. 5031 of 19 August 2002, available at http://www.sgg.gov.ma/BO%5Cbulletin%5CAr%5C2002%5CBO_5031_ar.pdf, and in French in Official Bulletin No. 5036 of 5 September 2002, available at http://www.sgg.gov.ma/BO%5Cbulletin%5CFr%5C2002%5CBO_5036_fr.PDF.

	child or arranging the transfer of an infant for adoption for personal gain is punishable by 1 to 6 months' imprisonment and a fine of 200 to 5,000 dirhams, as is facilitating a contract whereby one or both parents would abandon an expected child (Criminal Code, Art. 466).		
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Child Prostitution (“the use of a child in sexual activities for remuneration or any other form of consideration”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Offering, obtaining, procuring or providing a child for child prostitution (Art. 3.1 (b))	<p>Although prostitution is not unlawful as such under Moroccan law, sexual relations outside marriage are punishable by between one month and one year's imprisonment (Criminal Code, Article 490).</p> <p>Moroccan law does, however, specifically criminalise aiding and abetting the prostitution of others; sharing in the proceeds of the prostitution of others or procuring others for the purposes of prostitution; employing or inciting a minor or adult, even with his or her consent, to engage</p>	<p>Article 499 of the Criminal Code was amended in 2003 to increase penalties from their previous levels of 2 to 6 years' imprisonment and fines of 250 to 10,000 dirhams and to provide for enhanced sentences for offences committed by organised groups or in conjunction with torture or barbarity.¹⁹</p> <p>Article 501 of the Criminal Code was amended in 2003 to increase penalties from their previous levels of 2 to 5 years' imprisonment and fines of 500 to 20,000 dirhams, and to introduce corporate liability.²⁰</p>	<p>On the criminalization of sex tourism and the need for greater protection: “The Committee welcomes a number of measures taken by the State party to implement and strengthen the protection of the rights covered by the Optional Protocol, including changes in the Penal Code criminalizing...sex tourism....”²²</p> <p>“The Committee welcomes an amendment to the Penal Code in 2003 introducing the crime of ‘sex tourism’ but is concerned about the information that child prostitution and sex tourism involving young Moroccans as well as</p>

¹⁹ Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004.

	<p>in prostitution; or acting as an intermediary in any form for such acts. If the victim is under 18, the offence is punishable by 2 to 10 years' imprisonment and a fine of 10,000 to 2 million dirhams (Criminal Code, Arts. 498, 499).</p> <p>Where the offence is committed by an organised group, penalties are further raised to 10 to 20 years' imprisonment and fines of 100,000 to 3 million dirhams. Sentences of life imprisonment may also be imposed where acts of sexual exploitation are committed in conjunction with torture or barbarity (Criminal Code, Art. 499).</p> <p>Owning, managing, operating, administrating or financing premises or establishments regularly used for prostitution and "sexual immorality" is punishable by 4 to 10 years' imprisonment and a fine of 5,000 to 2 million dirhams, as are soliciting clients to engage in prostitution or</p>	<p>Article 497 of the Criminal Code was amended in 2003 to increase penalties from their previous levels of 2 to 5 years' imprisonment and fines of 5,000 dirhams and to eliminate a previous requirement that actions be "habitual" in circumstances involving children aged 15 to 17 to be considered an offence.²¹</p>	<p>immigrants, especially boys, continues to be a problem."²³</p> <p>"The Committee recommends that the State party intensify its efforts to tackle the problem of prostitution of children, including in the context of sex tourism, by developing a specific strategy targeting the tourist industry, including specific messages on child rights and on the existing sanctions against child abusers."²⁴</p> <p>On the punishment of children found to be engaging in prostitution:</p> <p>"The Special Rapporteur was not advised as to penalties for boys found engaging in prostitution, but where girls are concerned, involvement in any sexual misdemeanour is treated harshly, with the onus placed upon the girl to prove that she did not consent."</p> <p>"The Ministry of Justice told the Special Rapporteur that when a female minor is caught engaging in prostitution, her motive is not really considered. Even if she is prostituting</p>
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20 Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004.

21 Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004.

22 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 4.

23 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 15.

24 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 16.

	<p>making premises available to someone knowing that they will engage in prostitution. The licenses of any businesses involved in prostitution must be revoked, and any premises used are also subject to closure (Criminal Code, Art. 501).</p> <p>“Provoking, encouraging, or facilitating the corruption or prostitution” of children under age 18 is also a criminal offence punishable by 2 to 10 years’ imprisonment and a fine of 20,000 to 200,000 dirhams (Criminal Code, Art. 497).</p>		<p>herself in order to survive, she is still considered to have carried out an illegal act. However, any measures taken against her will normally be of a protective nature, and a social inquiry will be carried out of the child’s background. The family will be interviewed, and the presence of a parent throughout the court procedure is vital in order for the court to determine whether the girl can return to her family. If this is deemed not to be possible, the girl will be sent to... a closed facility which has the effect of imprisoning, and therefore penalizing the child.²⁵</p>
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Child Pornography (“any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography (Art. 3.1 (c))	Inciting, encouraging, or facilitating a child's participation in the production of pornographic materials is punishable by 1 to 5 years' imprisonment and a fine of 10,000 to 1	Article 503 of the Criminal Code was amended in 2003 to prohibit the production, distribution, importing, exporting, offering, sale, and possession of child pornography and to	On the criminalization of child pornography: “The Committee welcomes a number of measures taken by the State party to implement and strengthen the

²⁵ E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, paras. 83, 84, available at <http://www.ohchr.org/EN/Issues/Children/Pages/CountryVisits.aspx>.

	<p>million dirhams, as is producing, publishing, disseminating, exporting, importing, displaying, selling or possessing pornography involving children in any medium. Any pornographic material involving children must be confiscated and destroyed, and judges may close any businesses or establishments involved in the production of these materials and publish the names and sentences of persons convicted (Criminal Code, Art. 503-2).</p> <p><i>Definition</i> Child pornography covers the representation by whatever means of a child engaged in real, simulated or perceived sexual activity, or the representation of the sexual parts of a child for sexual purposes (Criminal Code, Art. 503-2).</p>	<p>provide for the current criminal sanctions.²⁶</p>	<p>protection of the rights covered by the Optional Protocol, including changes in the Penal Code criminalizing child pornography....²⁷</p> <p>On the implementation of child pornography legislation: “The Committee notes with appreciation the entry into force of new laws related to...child pornography.... The Committee is nonetheless concerned that the implementation of these laws is inadequate.”²⁸ “The Committee recommends that the State party ensure a proper implementation of its legislation. Furthermore, the Committee recommends that the State party: (a) Consider adopting specific legislation on the obligations of internet service providers with a view to prohibiting child pornography on the Internet”²⁹</p>
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26 Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004.

27 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 4.

28 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 17.

29 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 18.

Liability for Prosecution

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
<p>Attempt, complicity and participation in cited activities prohibited (Art. 3.2)</p>	<p>For offences related to the “corruption of youth” or prostitution under Articles 497 to 503 of the Criminal Code and the sale or forced labour of children under Article 467, attempt is punishable by the same penalties as commission (Criminal Code, Arts. 467, 504).</p> <p>For prostitution offences, accomplices are also liable to receive the same sentences as primary offenders (Criminal Code, Art. 501).</p>		
<p>Legal persons liable to be prosecuted (Art 3.4)</p>	<p>Legal persons involved in prohibited activities regarding the sexual exploitation of children are subject to fines of 10,000 to 3 million dirhams, accessory penalties, and “protective measures” (Criminal Code, Arts. 127, 501).</p>	<p>Article 501 of the Criminal Code was amended in 2003 to introduce corporate liability for offences related to child prostitution.³⁰</p>	

³⁰ Dahir no. 1-03-207 of 11 November 2003 establishing law no. 24-03 amending the Criminal Code, as amended and corrected in Official Bulletin No. 5188 of 19 February 2004.

Additional Considerations

MEASURE	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Aggravating factors	For certain offences, the young age of a child and relationship of the offender to the child where the offender is in a position of authority may constitute aggravating factors ³¹ , and the latter is provided by law in the case of child pornography offences, where penalties are doubled (Criminal Code, Art. 503), and indecent assault (Criminal Code, Art. 487).		
Suspension of rights	For offences relating to the abandonment of children and family under Articles 459 to 462 and 479 to 482 of the Criminal Code and “corruption of youth” or prostitution under Articles 497 to 503, penalties may also include a 5 to 10 year suspension of certain “civic, civil or family rights”, including: exclusion from civil service, public office or public employment <ul style="list-style-type: none"> • loss of the right to vote and “all civil and political rights in general” 		

31 CRC/C/OPSA/MAR/1, 15 July 2005, Report of State party to the Committee on the Rights of the Child, para. 33, available at <http://www2.ohchr.org/english/bodies/crc/crcs41.htm#opsa>. The Government's assertion that the young age of a child victim is considered an aggravating factor has not been verified, and could possibly be realised via judicial discretion rather than legislative mandate.

	<ul style="list-style-type: none"> • ineligibility to serve as a juror, expert, or witness in a court of law, except to provide factual information as necessary • prohibition from caring for children other than one's own • loss of the right to carry arms and exclusion from serving in the armed forces or as a teacher, administrator, or supervisor in any school or learning institution for children. <p>(Criminal Code, Arts. 26, 40, 467, 482, 504).</p>		
Removal of parental authority	Where a parent has been convicted of an offence against his or her child that is punishable by imprisonment, the judge may strip the offender of parental authority by finding that his or her behavior has placed the child in physical or moral danger (Criminal Code, Art. 88).		
Statute of limitations	The statute of limitations for offences relating to the “corruption of young persons” under Articles 497 to 504 of the Criminal Code, and for all other offences described in this report, is 5 years (Code of Criminal Procedure,	In 2003, the Code of Criminal Procedure was amended to extend the statute of limitations for offences against children where the offender is in a position of authority over the child. ³³	

	Art. 5; Criminal Code, Arts. 16, 111). ³² If the offender is an older relative or person with authority over or custody of the child, this period does not begin running until the child has reached the age of majority (Code of Criminal Procedure, Art. 5).		
Closure of premises	As described in the “Child Prostitution” and “Child Pornography” sections above, premises used in connection with offences related these activities may be closed (Criminal Code, Arts. 501, 503-2).		

Jurisdiction

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Offences committed in territory or aboard registered ship or aircraft (Art. 4.1)	Courts are competent to try all offences where at least one constituent element was committed on Moroccan territory, including aboard a ship in port or registered to Morocco or an aircraft landing in Moroccan territory		

32 The Code of Criminal Procedure is available as amended through 2003 in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5CAr%5C2003%5CBO_5078_ar.pdf. The revised Code of Criminal Procedure has yet to be published in French, although a French version of the code published in Dahir no. 1-58-261 of 10 February 1959 is available at <http://adala.justice.gov.ma/FR/DocumentViewer.aspx?id=D:\production\html\fr\87865.htm%40frcoll>.

33 Dahir no. 1-02-255 of 3 October 2002 establishing law no. 22-01 amending the Code of Criminal Procedure, Official Bulletin No. 5078 of 30 January 2003, available in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5CAr%5C2003%5CBO_5078_ar.pdf.

	or registered to Morocco (Code of Criminal Procedure, Arts. 704-706).		
Offender is a national or resident (Art. 4.2 (a))	Nationals who have committed any criminal offence abroad may be prosecuted and tried in Morocco if their actions would also constitute a criminal offence under Moroccan law (Code of Criminal Procedure, Arts. 707-708).		
Victim is a national (Art. 4.2 (b))	Foreign nationals who have committed crimes against Moroccan citizens may be prosecuted and tried in Morocco (Code of Criminal Procedure, Art. 710).		
Offender is in territory and no provisions for extradition (Art. 4.3)	There do not appear to be any provisions in Moroccan law for trying foreign national offenders who commit offences abroad, are currently in Moroccan territory, and are not extradited to their home countries for trial.		
Extradition (Art. 5)	In general, persons committing or attempting to commit offences in Morocco may be extradited provided that certain conditions and procedural requirements are met (Code of		On the number and nature of extraditable offences: “The Committee is concerned about the compliance of the State party’s law and practice with article 5 (1) of the

	<p>Criminal Procedure, Articles 718, 720). Notably, these requirements include that:</p> <ul style="list-style-type: none"> ⤴ the offence committed is criminalised under both the laws of the requesting state and the laws of Morocco, is punishable by one or more years' imprisonment, and is not of a political nature, ⤴ the statute of limitations has not lapsed, ⤴ the offence was committed outside Moroccan territory, ⤴ the offender is not a Moroccan national, and ⤴ the offender has not already been tried under Moroccan law <p>Morocco has also concluded a number of bilateral agreements on extradition.</p>		<p>Optional Protocol, notably that all the offences referred to in article 3, paragraph 1 of the Optional Protocol be considered as extraditable offences.”³⁴</p> <p>“The State party should take all necessary steps to ensure that its extradition policies are in conformity with the requirements set out in article 5 of the Optional Protocol.”³⁵</p>
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Child-Friendly Justice

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Procedures adapted to children's special needs as	Moroccan police appoint certain individuals specifically to handle		On the criminalisation of child victims:

³⁴ CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 19.

³⁵ CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 20.

witnesses (Art. 8.1 (a))	criminal investigations involving children, although the law is unclear as to whether these special investigators work on cases involving child victims or only those where children are alleged to be in conflict with the law (Code of Criminal Procedure, Arts. 19, 460). ³⁶		<p>“The Committee is concerned about the information that child victims of crimes covered by the Optional Protocol are often stigmatized and socially marginalized and may be held responsible, tried and placed in centres for the deprivation of liberty.”³⁷</p> <p>“The Committee recommends that the State party ensure that child victims of exploitation and abuses [sic] are neither criminalized nor penalized and that all possible measures be taken to avoid the stigmatization and social marginalization of these children.”³⁸</p> <p>“The Committee is further concerned at the status of child victims of sexual exploitation who may be treated as offenders.”³⁹</p> <p>“[T]he Special Rapporteur is concerned that many legislative weaknesses which have the effect of further victimizing the child still remain, and that the assurances she received that an abused child is never treated as an offender are inaccurate. Of particular concern is the treatment of...those caught up in sexual exploitation. The most common</p>
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36 See also <http://www.damascusbar.org/AlMuntada/showthread.php?t=4149> (in Arabic).

37 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 23.

38 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 24.

39 CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 62.

		<p>problem relates to vagrant children who are forced to...prostitute themselves in order to survive. These children are more likely to be treated as delinquents than victims.”⁴⁰</p> <p>“All legislation, particularly penal legislation, needs to be closely examined to ensure that children who are victims of abuse and exploitation are not held culpable criminally.”⁴¹</p> <p>On the length of judicial proceedings: “Judicial proceedings remain long.”⁴²</p> <p>On recommendations for measures to accommodate child witnesses: “The Committee invites the State party to modify its procedure in order to protect child victims and witnesses at all stages of the criminal justice process. It further recommends that the State party be guided in this respect by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.... Inter alia, the State party should: (a) Limit as much as possible that a child</p>
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40 E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 82.

41 E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 167.1.

42 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (undated, on file with CRIN).

			<p>victim of crimes covered under the Optional Protocol has to testify in Court; (b) Use child-sensitive procedures, including interview rooms designed for children;</p> <p>(c) Ensure that trials take place as soon as practical, unless delays are in the child's best interest; (d) Avoid direct contact between child victims and witnesses and the alleged perpetrators at any point in the justice process; (e) Introduce a systematic use of audio and video recording of the declarations of child victims."⁴³</p> <p>"Weaknesses in the law which discourage the filing of a complaint against abusers must be corrected. For example, under Moroccan law, a girl complaining of rape must produce at least two witnesses to corroborate her story, and if she is pregnant, and cannot prove that she was raped, she runs the risk of being charged with having unlawful sex."⁴⁴</p>
Children informed of rights/role and scope/timing/progress/disposition of cases (Art. 8.1 (b))	There do not appear provisions in Moroccan law that would require child victims to be informed of their rights, their role in legal proceedings, and the		<p>On public awareness of the laws on the sale of children, child prostitution, and child pornography:</p> <p>"The law remains little known among</p>

43 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 28.

44 E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 167.

	scope, timing, progress, and ultimate disposition of cases that involve them.		children themselves and persons who care for them.” ⁴⁵
Children's views/needs/concerns presented (Art. 8.1 (c))	<p>Children involved in legal proceedings are expected to appear in person with their legal representative and counsel unless the court provides otherwise, but the law is unclear as to whether this requirement applies to child victims, children alleged to be in conflict with the law, or both (Code of Criminal Procedure, Art. 478).</p> <p>Pursuant to an agreement with The Ministry of Justice, the Moroccan League for the Protection of Children regularly appears in court as a third party to defend the rights of children who are victims of abuse or neglect.⁴⁶</p>		<p>On the lack of respect for the views of the child: “The Committee...remains concerned that respect for the views of the child remains limited owing to traditional societal attitudes towards children on the part of schools, courts, administrative bodies and, especially, the family.”⁴⁷ “The Committee recommends that the State party...(b) Promote and facilitate, within the family, the schools, the courts and administrative bodies, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention; (c) Develop skills-training programmes in community settings for teachers, social workers, local officials and religious leaders to enable them to assist children to express their informed views and opinions and to take those views into consideration...”⁴⁸</p>

45 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (undated, on file with CRIN).

46 CRC/C/93/Add.3, 12 February 2003, State party report to the Committee on the Rights of the Child, para. 305, available at <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/93/Add.3>.

47 CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 30.

48 CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 31.

Support services provided throughout legal process (Art. 8.1 (d))	As a part of the proceedings, the public prosecutor, judge or the child's lawyer may seek a medical/ psychological examination of the child to “determine the nature and extent of the harm suffered by the child and see whether there is a need for treatment in view of the child’s current and anticipated state,” ⁴⁹ and the judge may order the child to undergo these tests in an appropriate facility (Code of Criminal Procedure, Art. 510).	On the need for counselling services: “While the Committee welcomes the establishment in urban and rural communities of Child Protection Units that are in charge of receiving and counselling children who are victims of physical and sexual abuse, it is concerned that these Units have not yet been established throughout the country.” ⁵⁰ “The Committee recommends that child victims are assisted within social and medical structures, including the recently established Child Protection Units, which should be expanded throughout the country.” ⁵¹	On the establishment and operation of a child helpline: “The Committee welcomes the establishment by the National Observatory on the Rights of the Child of a round-the-clock free-toll helpline number to assist child victims. In this regard it recommends that the State party ensure that children are aware of and can access the helpline and facilitate the collaboration of the
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49 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 70.

50 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 25.

51 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 26.

			<p>helpline with child-focused NGOs, the police as well as health and social workers.”⁵²</p> <p>On the need for response mechanisms and training of law enforcement personnel: “Response mechanisms should be put in place to enable children to seek help. In this connection police and law enforcement officers must be trained and sensitized to respond to children’s calls for assistance and not just ignore them as being out of their domain when they involve purely domestic matters....”⁵³</p>
<p>Privacy/identity protected (Art. 8.1 (e))</p>	<p>While proceedings involving children alleged to be in conflict with the law are closed to the public and confidential, Moroccan law does not appear to provide the same protections to child victims (Code of Criminal Procedure, Art. 479).</p> <p>However, records of any proceedings involving children may not be published or publicised by any means, and violations are punishable by a fine</p>		<p>On the lack of protection for children testifying in court: “Collecting children's testimony does not guarantee either their protection or their privacy ([there is] no video recording).”⁵⁴</p>

52 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 31.

53 E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 167.

54 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (undated, on file with CRIN).

	<p>of 10,000 to 50,000 in the first instance or 2 months' to 2 years' imprisonment for a second offence within one year of the first (Code of Criminal Procedure, Art. 466). Final judgments may be published without any indication of the identity of the children involved, and violators are liable to pay fines of 1,200 to 3,000 dirhams (Code of Criminal Procedure, Art. 466).</p>		
<p>Providing for safety of victims/families involved (Art. 8.1 (f)/ Art. 8.5)</p>	<p>In the interests of protection, judges may place child victims under the age of 18 outside the home during trial proceedings against the offender in question. Notably, these measures cannot be appealed while the verdict remains pending (Code of Criminal Procedure, Art. 510).</p> <p>If an offender is convicted of a crime against a child, the public prosecutor, parent or legal guardian of that child may bring the child's situation to the attention of a juvenile judge in the best interests of the child. The judge may order "whatever measures are deemed appropriate" with immediate effect. Appeals against this decision may be</p>		<p>On the need for protection of child victims and witnesses: "The Committee, while welcoming the fact that children have the possibility of directly filing a complaint when they are victims of the practices prohibited under the Optional Protocol, is concerned about the need for appropriate measures of protection for children victims and witnesses."⁵⁵ "The Special Rapporteur was advised that on the few occasions when the girl is brave enough to file a complaint, she has normally run away from the place of abuse first, or turns to the police after having been raped on the streets. As previously discussed, the vast majority of child maids are illiterate</p>

⁵⁵ CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 27.

	<p>filed with court of appeal's criminal chamber (Code of Criminal Procedure, Art. 511).</p>		<p>and work in cities far from their home villages; they rarely know their employers' addresses and, having run away through unfamiliar streets, often cannot retrace their steps. Even when they can point to the location of the house where they have been abused they are unlikely to reveal it through fear of being sent back to the same situation, or to their families who might reject them, especially if they have been sexually abused. Very few complaints are successfully prosecuted, and those that are usually arise from allegations of physical rather than sexual abuse, given the lower standard of proof which has to be presented and the risks of unsuccessfully alleging sexual abuse. Where she does choose to file a complaint of sexual abuse, she must produce two witnesses to corroborate her story. If she is pregnant and cannot prove that she was raped, she is then at risk of being charged with having had unlawful sex, defined as any sexual encounter outside of marriage.”⁵⁶ “Even where the girl can name her assailant, she still is not given the opportunity to prove that he is the</p>
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⁵⁶ E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 87.

			father of her child as paternity testing is illegal in Morocco. The Special Rapporteur was advised that a girl who accuses her employer will rarely be believed, and that the authorities will be more likely to think that the child was fathered by a street boy. When a pregnant girl goes to the police, or if she is thrown out by her employers, she usually cannot return home, as in many cases her family will not take her back. However, in some cases where the girl abandons her child, her family might allow her to go home.” ⁵⁷
Avoid delay in disposition/compensation (Art. 8.1 (g))	There appear to be no provisions in Moroccan law that relate to avoiding delay in reaching a disposition for cases involving child victims or providing compensation to these victims.	The Moroccan National Action Plan now calls for legislation to expedite the processing of files and monitor the execution of judgments that involve child victims. ⁵⁸	
Best interests a primary consideration (Art. 8.3)	Best interests are not articulated as one clear principle, but do appear sporadically in legislation and administrative codes.		On the need to make the best interests of the child a primary consideration in all actions concerning children: “The Committee is concerned that in actions concerning children, the general principle of the best interests

⁵⁷ E/CN.4/2001/78/Add.1, 7 November 2000, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 88.

⁵⁸ CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para 99.

			<p>of the child contained in article 3 of the Convention is not always a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests)."⁵⁹</p> <p>"The Committee recommends that the State party in its review of legislation and administrative measures ensure that article 3 of the Convention is duly reflected therein and taken into consideration."⁶⁰</p>
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Remedial Measures

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Assistance given to facilitate victims' recovery (Art. 9.3)	The Ministry of Health and the National Observatory on the Rights of the Child operate ten regional centres "responsible for diagnosing the various physical, psychological and sexual violations suffered by children." These centres are able to take children into care where necessary and treatment programmes are offered to rehabilitate and reintegrate child victims, although there is an admitted lack of financial		<p>On the limitations of social reintegration and recovery programmes for child victims:</p> <p>"The Committee is also concerned about the difficulties the State party encounters due to budget constraints and limited human resources with respect to programmes concerning social reintegration and recovery for child victims."⁶²</p> <p>"The Committee urges the State party</p>

⁵⁹ CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 28.

⁶⁰ CRC/C/15/Add.211, 10 July 2003, Concluding observations of the Committee on the Rights of the Child, para. 29.

	and human resources. ⁶¹		to give priority to allocating budgetary resources so that adequate services are available for child victims, including physical and psychological recovery, social reintegration and repatriation when appropriate. The State party should also provide assistance to NGO [sic] providing counselling, recovery and reintegration services to children abused and exploited.” ⁶³ “Recovery services for children are not systematic. Programs providing psychological care for child victims are insufficient, and are often the work of civil society organizations.” ⁶⁴
Child victims have access to procedures to seek compensation from offenders (Art. 9.4)	Child victims can seek compensation and file complaints with the courts; these civil proceedings can also be initiated alongside criminal proceedings subject to certain conditions (Code of Criminal Procedure, Arts. 7 - 14). ⁶⁵ Public interest associations are permitted to file civil actions on behalf of child victims where criminal	Article 7 of the Code of Criminal Procedure was amended in 2003 to provide public interest associations the opportunity to file civil actions on behalf of child victims alongside criminal proceedings. ⁶⁷	On the need to remove barriers to children bringing complaints against offenders: “The Gendarmerie advised the Special Rapporteur that if a minor wishes to file a complaint, permission must be granted by his or her parents or guardians and the complaint must go through them. This contradicts information received from the Ministry of Justice which advised the Special

61 CRC/C/OPSA/MAR/1, 15 July 2005, Report of State party to the Committee on the Rights of the Child, paras. 93-95.

62 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 29.

63 CRC/C/OPSC/MAR/CO/1, 17 March 2006, Concluding observations of the Committee on the Rights of the Child, para. 30.

64 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (undated, on file with CRIN).

65 See also CRC/C/OPSA/MAR/1, 15 July 2005, Report of State party to the Committee on the Rights of the Child, para. 71.

	<p>proceedings have been brought, and child victims may themselves lodge complaints of violence (Code of Criminal Procedure, Article 7).⁶⁶</p>		<p>Rapporteur that a child can bring proceedings by him or herself. It would be of great concern to the Special Rapporteur if a child were placed in a situation whereby he or she would be unable to seek a remedy against his or her abuser without first gaining the permission of perhaps that very same person.”⁶⁸ “Weaknesses in the law which discourage the filing of a complaint against abusers must be corrected.”⁶⁹ “Mechanisms for redress and reporting [violations] are insufficient and inaccessible to the most vulnerable children.”⁷⁰</p>
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Further Resources

<p>Association Marocaine de Développement Communautaire, L'Exploitation Sexuelle de l'Enfant: Cas de Marrakech, UNICEF (2006), available at http://www.unicef.org/morocco/french/Exploitation_Sexuelle1.pdf.</p> <p>ECPAT UK, Child Sex Tourism in Morocco (2005), available at http://www.ecpat.org.uk/sites/default/files/morocco05.pdf.</p>
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66 See also Written Replies of the Government of Morocco, CRC/C/OPSC/MAR/Q/1/Add.1, p. 4, available at <http://www2.ohchr.org/english/bodies/crc/crcs41.htm#opsa>.

67 Dahir no. 1-02-255 of 3 October 2002 establishing law no. 22-01 amending the Code of Criminal Procedure, Official Bulletin No. 5078 of 30 January 2003, available in Arabic at http://www.sgg.gov.ma/BO%5Cbulletin%5CAr%5C2003%5CBO_5078_ar.pdf.

68 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 96.

69 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mission to the Kingdom of Morocco, para. 167.

70 Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (undated, on file with CRIN).

Secrétariat d'Etat chargé de la Famille, de l'Enfance et des Personnes Handicapées, La Protection de l'Enfant contre la Violence: Bilan Législatif et Institutionnel, UNICEF (2005), available at http://www.unicef.org/morocco/french/Protection_de_l'enfant_Bilan_legislatif2005.pdf.

U.S Department of Labor, Laws Governing Exploitative Child Labor Report: Morocco (2004), available at <http://www.dol.gov/ilab/media/reports/usfta/childlaborreport.pdf>.