

CHAPTER VII: Marriage Rights

A woman's rights within marriage and the family greatly affect her ability to control her life and make voluntary, informed reproductive choices. Equal rights within marriage were among the first human rights pertaining to women's status to be explicitly recognized under international law. One of the basic principles governing marriage under human rights law is that no one may be forced to enter into a marriage against his or her will.¹ Moreover, according to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, men and women have equal rights upon entry into marriage, during marriage, and at its dissolution.²

This chapter discusses the duty of governments to ensure women's marriage rights. It begins by examining the international legal framework that supports these rights and then documents four main obligations of governments under international law: 1) guaranteeing that marriages are entered into with the free and full consent of both parties, 2) broadly construing the right to marry so that marital privileges and responsibilities apply to less formal and same-sex unions, 3) assuring that both partners in the marriage enjoy equal rights, and 4) removing legal barriers to divorce and to the protection of equitable property distribution once a divorce is obtained. This chapter illustrates each of these governmental obligations through recent examples of national-level legal reforms.

Facts about Marriage

- Among women aged 15–24, the percentages who were married before age 18 were 48% in South Asia, 42% in Africa, and 29% in Latin America and the Caribbean.³
- Girls married before the age of 18 receive less formal education than do those married after the age of 18. In Nigeria, women who were at least 18 when they married spent 9.3 years in school. In contrast, those married before the age of 18 completed only 2.5 years of schooling.⁴

HUMAN RIGHTS FRAMEWORK

The **right to consent to marriage** is explicitly recognized in principal human rights treaties. In all cases, consent must be full and informed, accompanied by an understanding of the consequences of entering into marriage. Where one or both of the parties to marriage is a child, the conditions of consent are presumably not present.

For international legal foundations of the rights marked in bold, see Appendix B

The **right to marry and found a family** is a recognized human right. Because this right extends to all persons, the benefits of marriage should not be denied arbitrarily. Failure to recognize legitimate unions, including those between same-sex couples, denies individuals participation in an important social institution and jeopardizes the economic well-being of members of those unions.

Women have the **right to freedom from discrimination** upon entry into marriage, during marriage, and at its dissolution. To achieve equality with men within marriage, married women need to have the right to manage, own, and inherit property, and have the right to work outside the home and travel without their husband's permission. Initiating divorce must be an option for women, as well as for men, and laws must protect women's rights during divorce proceedings. In addition, the right to nondiscrimination entitles same-sex couples to the same rights in marriage as heterosexual couples.

These legal principles give rise to the following duties of governments:

- **Guarantee that marriages are entered into with free and full mutual consent.** Steps necessary for protecting a woman's right to consent to a marriage include addressing cultural practices that condone the marriage of underage girls; changing laws that set different marriage age requirements for boys and girls; and adopting policies to prevent the paying of bride-price.
- **Broadly construe the right to marry to require recognition of de facto unions and same-sex marriages.** The right to marry is a basic human right and as such governments need to extend the benefits of marriage to a broader category of unions to ensure that all people can enjoy this right. This includes extending legal protections and privileges associated with marriage to de facto unions, such as domestic partnerships between opposite-sex couples, and to same-sex couples.
- **Ensure that partners enjoy equal rights within marriage.** Ensuring equal rights within marriage obligates governments to make sure that women have the same rights and responsibilities that married men have and to remove legal and cultural barriers that reinforce women's subservience to their husbands.
- **Develop mechanisms that allow for divorce and protect the equitable distribution of property.** Governments that do not allow for divorce, or that only permit men to institute divorce proceedings, force women to stay in abusive or oppressive relationships. Furthermore, limiting the grounds on which divorces are granted or favoring men when distributing property after a divorce discourage women from seeking divorce, which is an indirect violation of their rights.

1. FREE AND FULL CONSENT OF BOTH PARTIES TO MARRIAGE

Where customary or religious law govern matters relating to marriage and the family, the consent of the bride and groom may not be required prior to marriage. This occurs, for example, in the context of child marriage, defined in international law as the marriage of a person who is below the age of 18.⁵ An adolescent may be pressured by her family to marry a man whom they have chosen for her. Even a child who willingly enters into marriage may lack the knowledge or understanding required to make an informed decision about a matter of life-long consequence. Another practice that nullifies a woman's right to consent to marriage is the custom of "widow inheritance," whereby a woman whose husband dies is forced to marry one of his close surviving relatives. Similarly, the practice of compensating a woman's family in return for marrying her can place extreme pressure on the woman to marry against her will.

Increasingly, countries are reforming laws that allow minor girls or adolescents to marry, as **Turkey** did when it reformed its civil code. They are also taking action against traditional marriage

arrangements such as polygamy and the payment of bride-price, which discriminate against women and undermine their ability to consent to marriage or to achieve equality within marriage.

A. Turkey Reforms Civil Code to Abolish Child Marriage

Years of successful campaigning by women's groups in Turkey led the Turkish Grand National Assembly to adopt, in late 2001, a new Turkish Civil Code that dramatically overhauled the existing marriage laws. That same year, article 41 of the constitution was amended to read, "[t]he family is the foundation of Turkish society and is based on equality between the spouses."⁶ The new Turkish Civil Code makes consent to marry a central element of ensuring equality within marriage.

The Turkish Civil Code, which previously had granted men supremacy in marriage and deprived women of their basic civil, economic, and social rights, now embodies principles of gender equality in accordance with international human rights norms.⁷ The civil code sets out the following provisions.

Age of consent

The minimum age of marriage was raised from 17 for men and 15 for women to 18 for both sexes.⁸ A judge from the Court of Peace can make an exception and lower the age limit to 16 under extraordinary circumstances and for compelling reasons. Where possible, the judge hears the opinions of parents and guardians before making a decision. In doing so, the judge considers the minor's psychological and physiological maturity. Pregnancy alone does not justify an exception. Even if the judge decides in favor of an exception, the minor can still refuse to marry.⁹

Registration and open declaration of free will

A civil marriage ceremony must precede a religious ceremony.¹⁰ For civil marriages, the couple must jointly apply to the marriage registry office in the region where one of them is a resident. Upon obtaining authorization, the marriage registry official conducts the ceremony. During the ceremony, the official asks the man and the woman to openly declare their free will in front of the official and two witnesses.¹¹

Bride-price

The practice of paying a bride-price to the bride's family is not legally valid in Turkey, and the bride has the legal right to refuse to marry even if a bride-price has been offered. If she declares that she is not marrying of her own free will during the marriage ceremony, no one can legally make her marry.¹²

Annulment

Minor and adult women who have nonetheless been pressured to marry can file for an annulment, claiming that they had been coerced into matrimony.¹³

2. MEASURES TO EXTEND THE BENEFITS OF MARRIAGE TO DE FACTO UNIONS

A woman's rights in marriage may depend on whether the marriage is legally recognized. Similarly, a woman's rights to maintenance and property if the union should dissolve are determined in large part by the legal recognition of the marriage. As a result, people in informal partnership arrangements can find it difficult to claim the rights and benefits that often accrue with marriage. The lack of formal recognition for domestic partnerships can create extreme hardship, especially for socially and economically vulnerable women. Hardship may arise upon the death of a partner if the surviving partner is unable to inherit property or collect a deceased partner's benefits.

Through legal and policy instruments, governments can extend the benefits of marriage to a broader category of domestic partners. **Bolivia** recently did so with the adoption of a new family code.

A. Bolivian Family Law Recognizes Domestic Partnerships between Women and Men

Some countries recognize and regulate domestic partnerships to ensure that the rights of domestic partners are protected. A number of countries in Latin America, including Colombia, Peru, and Mexico, regulate and protect domestic partnerships, which are known in Spanish as uniones de hecho.¹⁴ Bolivian family law provides another example by explicitly recognizing indigenous domestic partnership arrangements.

Bolivian family law protects domestic partnerships, defining such partnerships as occurring “when a man and a woman voluntarily constitute a home and live together in a monogamous and stable way” for a minimum period of two years.¹⁵

Requirements

The requirements for legal recognition of a domestic partnership are that both partners must have attained legal majority; neither partner can be married to another person; and neither partner can have been convicted of the homicide of the ex-spouse of the other partner.¹⁶

Privileges and duties

The privileges and duties of domestic partners are the same as in a legal marriage, both in terms of the relationship between the spouses and of property rights. The civil code recognizes inheritance rights between domestic partners¹⁷ and provides that “the individuals in a domestic partnership recognized by the Constitution and the Family Code are treated similarly to persons who are married with respect to rights of succession to the property of their partner.”¹⁸ Other forms of domestic partnership are legally recognized by Bolivian law, such as the arrangements known as *tantanacú* and *sirvinacu*, which are prevalent in the indigenous communities of the Andes. The legal effects of such unions are similar to those of formal marriages.¹⁹

3. LEGAL RECOGNITION OF SAME-SEX UNIONS

Governments' refusal to allow same-sex couples to marry or to accord them marital protections and benefits raises compelling human rights issues. Along with other detrimental effects, the lack of official recognition of same-sex partnerships can negatively influence access to government and employment benefits, immigration status, and adoption applications. Governments have addressed some of these issues by recognizing same-sex partnerships in a variety of ways. While only a

handful of countries have legalized same-sex marriage, many others, including Croatia, Finland, France, Germany, Hungary, Iceland, Norway, and Portugal recognize same-sex partnerships in law.²⁰ Other countries extend some benefits to same-sex partners, or contain jurisdictions that do so. These include Argentina, Australia, Brazil, Colombia, Costa Rica, Israel, Italy, and New Zealand.²¹

Some legislative initiatives to accord benefits to same-sex partners have been prompted by litigation brought to guarantee rights for people in same-sex unions, as occurred in **South Africa**. While according benefits to same-sex partners can address some of the inequalities inherent in not permitting same-sex marriage, those seeking these benefits can still encounter waiting periods and scrutiny of their relationships. Only where governments have legalized same-sex marriage at the national level, as **Spain** recently did, are all couples entitled both to benefits and to participation in a socially important institution.

A. South African Army Gives Benefits to Same-Sex Partners

The decision to amend the South African National Defence Act to accord the same benefits to same-sex partners as heterosexual partners followed a Constitutional Court decision on a benefits policy for same-sex partners of judges.²² In Satchwell v. President of The Republic of South Africa, the Constitutional Court upheld a lower court's finding that an act that granted benefits to judges' heterosexual spouses, but not to their same-sex partners, discriminated on the basis of sexual orientation, and was thus unconstitutional.²³ The Constitutional Court stated that there was no legitimate reason for providing benefits to heterosexual spouses while denying those same benefits to same-sex partners that exhibit "reciprocal duties of support."²⁴ The concept of "reciprocal support" was also used in defining a life partner relationship in the amendment to the army regulations.

Based on the Constitutional Court decision, the General Regulations for the South African National Defence Force were amended in May 2004 to accord same-sex partners the same benefits as heterosexual partners.²⁵

Expanded definition of "married status"

The definition of "marital status" now includes, in addition to single, divorced and widowed, the category of life partners. A life-partnership relationship can be with a person of the same or the opposite sex and has to "involve a commitment to reciprocal support in a relationship."²⁶

Expanded definition of "spouse"

The term "spouse" is now defined to include a life partner of the same or opposite sex, excluding parents and other family members, where the partnership is established in a duly signed notarial agreement, or is registered in accordance with any of the specific legislation regarding life partnerships.²⁷

B. Spain Legalizes Same-Sex Marriage

Spain's same-sex marriage law is the most liberal in Europe.²⁸ Passed by a parliamentary vote in 2005, the law had the strong support of Prime Minister José Luis Rodríguez Zapatero, who emphasized that the law was about freedom and equality. In addressing members of parliament before the vote, Zapatero said the legislation was not for "remote, unknown people" but was about "expanding opportunities for the happiness of our neighbors, our work colleagues, our friends, our relatives."²⁹

The introduction to the law recognizes that Spanish society is more pluralistic and dynamic than it was when the civil code was established in 1889; it states that the legislature seeks to establish conditions for same-sex couples in accordance with constitutional guarantees of equality.³⁰ The law modifies the existing civil code in several ways.

Recognizing same-sex marriage

The following sentence has been added to the civil code: “Marriage will have the same requirements and results when the two people entering into the contract are of the same sex or of different sexes.”³¹ Additionally, references to husband and wife are replaced with gender-neutral words such as spouse and partner.

Equal rights

The law affirms the equality of both spouses in the marriage in terms of rights and obligations, and allows gay couples to adopt children and receive inheritances.³²

4. EQUAL RIGHTS WITHIN MARRIAGE, INCLUDING PROPERTY OWNERSHIP AND INHERITANCE

Women may be prevented from enjoying equality with their husbands within marriage. Discriminatory marriage laws can have far-reaching effects on women’s lives. Some laws impede a woman’s right to manage, own, and inherit property, while others require her to obtain her husband’s permission to travel or work outside the home. A number of laws explicitly endorse the subservience of women to their husbands. There is, however, a growing trend to reform these laws.

Some of the greatest successes of the women’s rights community in recent years have been in the area of family law. Reforms of long-standing family and civil codes, as occurred for example in **Guatemala**, have led to clear declarations of women’s equality with men within marriage. In addition, these reforms have led to more specific protections against discrimination in areas such as work, parental authority, and, as in the case of **Colombia**, property rights.

A. Guatemala Reforms Its Civil Code to Provide Women More Rights within Marriage

The Guatemalan Constitution provides that the government should promote equality between spouses³³ and the civil code recognizes that both spouses should enjoy equal rights and obligations within marriage.³⁴ However, until it was reformed in 1998, the Guatemalan Civil Code also provided that the husband’s role was to protect and support his wife, including providing all the resources to sustain the household while the wife’s role was to care for and raise children and oversee domestic tasks.³⁵ The previous civil code also provided that husbands could legally object to their wives working outside the home³⁶ and that only husbands could legally represent the married couple.³⁷

The 1998 reform of the civil code was brought about by a successful advocacy campaign by women’s rights groups. While not eliminating all of the code’s discriminatory regulations,³⁸ it does contain many provisions giving women more rights.

Civil rights

The reforms extended to both spouses the right to legal representation of the married couple and the care of minor children.³⁹ Both spouses were also given the right to administer the household’s financial resources, jointly or separately,⁴⁰ as well as the joint exercise of paternal authority, guardianship, and administration of assets.⁴¹

Access to credit

The civil code reforms eliminated the obstacles to accessing credit, since now both spouses can legally represent the married couple and administer jointly held property.⁴²

Labor rights

The reform also repealed the clause that allowed a husband to object to his wife working outside the home when, in his opinion, doing so would cause her to neglect household and child-care activities.⁴³

Shared parental duties

The reformed civil code also stipulates that both spouses have the duty to attend to and care for minor children.⁴⁴

5. ACCESS TO LEGAL DIVORCE

Just as women face discrimination in marriage, they often encounter discrimination in divorce. Where legal divorce is not recognized—as in Malta and the Philippines⁴⁵—women are denied the opportunity to end unions that are abusive or otherwise oppressive. Moreover, marriage laws that limit women’s ability to end a union while allowing men to repudiate marriages verbally or arbitrarily are clearly discriminatory. Limiting the grounds on which couples may divorce or requiring the consent of both parties to the divorce can also impose hardship. In some cases, women can unilaterally request a divorce, but they are forced to abandon any claim to maintenance or support. Similarly, mandated attempts at reconciliation present barriers to divorce and can be especially problematic in abusive marriages.

In many countries, women face enormous economic difficulties when they divorce. A number of countries do not ensure a division of property that allows a woman to subsist independently of her spouse. Furthermore, custody laws that favor men can discourage women from seeking divorce. Finally, following a divorce, the laws in some countries force a divorced woman to undergo a waiting period before she can remarry in order to ensure that she is not pregnant from the previous marriage.

Some governments have sought to address discrimination in the process of marriage dissolution and remove obstacles for women seeking to end their marriages, as did **Morocco** when it reformed its Family Code to address women’s unequal rights within marriage.

A. Morocco Reforms Its Family Code to Remedy Women’s Unequal Rights within Marriage and Divorce

*Morocco’s groundbreaking family law addresses many of the manifestations of women’s unequal status in marriage, including discrimination in the process of dissolving a marriage. Advocacy for the new law emphasized the way in which equality within marriage accorded with, rather than ran counter to, Islamic ideals.*⁴⁶

In February 2004, Morocco adopted a new family law that promotes equality in family responsibility, rights, and obligations.⁴⁷ Among other things, the new family code, or *Moudawana*, enables women to initiate divorce proceedings and creates protections for women after the dissolution of marriage.

Repudiation

Husbands are no longer able to repudiate a marriage verbally but instead must have judicial approval, and spouses are subpoenaed to make attempts at reconciliation. If these attempts fail, the court determines the amount of money that the husband must deposit with the court to discharge his financial obligations to his wife and children.⁴⁸

Divorce

A wife may now seek a divorce if her husband fails to observe the conditions of the marriage contract or harms his wife through lack of financial support, abstinence from sex, abandonment, perpetration of violence, or other deeds considered wrongful.⁴⁹ Where a woman cannot show harm, she may seek a divorce based on irreconcilable differences.⁵⁰ The family code also addresses other ways of dissolving a marriage, the determination of maintenance, child support and custody, and spousal and parental duties.⁵¹

Polygamy as grounds for divorce

The new law allows the continued existence of polygamy, subject to a judge's findings that there is "an objective and exceptional justification" in a particular case and that the husband will be able to treat his first and second wives and their children equally. However, a woman can make her acceptance of a marriage offer contingent upon her potential husband's pledge that he will not take any other wives. When a husband decides to marry a second wife, the first wife has the option to ask for a divorce for any harm suffered.⁵²

CONCLUSION

In order to meet their international commitments, governments should ensure that they are not perpetuating discrimination and inequality in the family realm. Laws governing the formation of marriage, rights within marriage, and the dissolution of marriage must treat both women and men equally and fairly. Marriages should be entered into only with the free consent of both intending spouses, and legislation should prohibit the marriage of children who are below the age of 18. Governments should protect women's property and inheritance rights, and grant women and men identical legal capacity in all civil matters. Laws governing marriage must protect the rights of people de facto unions and same-sex partnerships. Religious or customary laws should not conflict with guarantees of nondiscrimination within marriage and the family under national constitutions and international law. Laws pertaining to the termination of marriage should protect women's ability to divorce and ensure that the laws regarding maintenance and custody treat women fairly and do not penalize them for seeking divorce.

Endnotes

1. Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217A (III), art. 16, U.N. Doc. A/810 (1948) [hereinafter Universal Declaration]; International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, art. 23, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171 *entered into force* March 23, 1976), [hereinafter Civil and Political Rights Covenant]; International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, at 49, art. 10(1), U.N. Doc A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Mar. 23, 1976) [hereinafter Economic, Social and Cultural Rights Covenant]
2. Universal Declaration, *supra* note 1, art. 16; Civil and Political Rights Covenant, *supra* note 1, art. 23.
3. UNICEF, EARLY MARRIAGE: A HARMFUL TRADITIONAL PRACTICE 4 (2005).
4. Shelly Clark et al., *Protecting Young Women from HIV/AIDS: The Case Against Child and Adolescent Marriage*, 32 INTERNATIONAL FAMILY PLANNING PERSPECTIVES 79, 82 (2006).
5. Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General Recommendation 21, Equality in Marriage and Family Relations*, 13th Sess., para. 36, U.N. Doc A/49/38 (1994) [hereinafter CEDAW General Recommendation on Marriage]; Convention on the Rights of the Child, *adopted* Nov. 20, 1989, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, at 166, art. 1, U.N. Doc.A/44/49 (1989) (*entered into force* Sept. 2, 1990) [hereinafter Children's Rights Convention].
6. WOMEN FOR WOMEN'S HUMAN RIGHTS, THE NEW LEGAL STATUS OF WOMEN IN TURKEY 5 (2002), *available at* <http://www.wvhr.org/images/newlegalstatus.pdf>.
7. *Id.* at 5.
8. *Id.* at 9 *citing* Civil Code, OFFICIAL GAZETTE, December 2, 2001, art. 124 [Turkey] [hereinafter Turkish Civil Code].
9. *Id.* *citing* Turkish Civil Code, arts. 126, 128.
10. *Id.* at 11 *citing* Turkish Civil Code, art. 143.
11. *Id.* at 10-11 *citing* Turkish Civil Code, arts. 134, 136-37, 142-43.
12. WOMEN FOR WOMEN'S HUMAN RIGHTS, *supra* note 6, at 11.
13. *Id.* at 11 *citing* Turkish Civil Code, art. 151.
14. CENTER FOR REPRODUCTIVE RIGHTS & DEMUS, ESTUDIO PARA LA DEFENSA DE LOS DERECHOS DE LA MUJER, WOMEN OF THE WORLD: LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES: LATIN AMERICA AND THE CARIBBEAN 79, 154, 174 (1997).
15. Family Code Decree, Aug. 23, 1972, elevated to the status of law on Apr. 4, 1988, art. 158 (Bol.).
16. *Id.* art. 172.
17. CIVIL CODE, Decree Law No.12760, Aug. 6, 1975, art. 1083 (Bol.).
18. *Id.* art. 1108.
19. Family Code Decree, *supra* note 15, art. 160.
20. HUMAN RIGHTS WATCH, NON-DISCRIMINATION IN CIVIL MARRIAGE: PERSPECTIVES FROM INTERNATIONAL HUMAN RIGHTS LAW AND PRACTICE 2-3 (2004), *available at* <http://hrw.org/backgroundunder/lgbt/civil-marriage.htm>.
21. *Id.*
22. Barry Streek, *Queer Equality in South African Army*, MAIL & GUARDIAN, Jan. 11, 2002, *available at* <http://www.q.co.za/2001/2002/01/11-gaysoldiers.html>.
23. *Satchwell v. President of The Republic of South Africa South Africa* 2003 (4) SA 266 (CC).
24. *Id.* para. 10.
25. Amendment to the General Regulations for the South African National Defence Force, Government Notice (GN) R 631 of May 31, 2004 (S. Africa).
26. *Id.* ch. XV(1).
27. *Id.*
28. Renwick McLean, *Spain Legalizes Gay Marriage; Law is among the Most Liberal*, N.Y. TIMES, July 1, 2005.
29. *Spanish MPs Approve Gay Marriages*, BBC NEWS, June 30, 2005, *available at* <http://news.bbc.co.uk/2/hi/europe/4636133.stm>.
30. *Ley 13/2005 por la que se modifica el Código Civil en materia de derecho a contraer matrimonio* [Law amending the Civil Code on the right to enter into marriage], July 1, 2005, BOE No. 157, July 2, 2005 (Spain), *available at* http://www.unex.es/unex/gobierno/direccion/vicedoc/archivos/ficheros/igualdad/legislacion/ley13_2005.pdf
31. *Id.*
32. Jennifer Green, *Spain Legalizes Same-Sex Marriage*, WASH. POST, July 1, 2005, at A14.
33. CONST. OF GUATEMALA, art. 47.
34. CIVIL CODE, approved by Decree Law No. 106, Sot. 14, 1963, art. 79 (Guat.).
35. *Id.* art. 110.
36. *Id.* art. 114.
37. *Id.* art. 109.
38. Decree No. 80-98, Nov. 19, 1998, DIARIO DE CENTRO AMERICA, No. 56, Dec. 23, 1998 (Guat.), *available at* <http://www.congreso.gob.gt/archivos/decretos/1998/gtdcx80-1998.pdf>. The Code still features discriminatory regulations, such as Article 89, which stipulates that women may not obtain authorization to marry until 300 days after the dissolution of a previous marriage. With regard to guardianship, Article 299 stipulates that it must be awarded first and second to the paternal and maternal grandfathers, respectively, and third and fourth to the paternal and maternal grandmothers, although it is possible to change this order on a case-by-case basis with the minor's best interest in mind.
39. *Id.* art. 1; *see also* arts. 2, 4.
40. *Id.* art. 5. The amended article leaves a contradiction between the first paragraph, which grants administration rights to the husband in the case of absolute community of property, and the second paragraph, which refers to alienation of assets or liens on real estate: "Under absolute community of property, or community of earnings, both spouses shall administer the

- household's joint property, together or separately.”
41. *Id.* art. 8.
 42. *Id.* art. 1.
 43. *Id.* art. 3.
 44. *Id.* art. 2.
 45. BBC News, *Chile introduces right to divorce*, Nov. 18, 2004, available at <http://news.bbc.co.uk/2/hi/americas/4021427.stm>.
 46. H.M. King Mohammed VI, King of Morocco, Speech at the opening of Parliament, Fall Session (Nov. 13, 2003), available at <http://wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-21950%20&cmd%5B189%5D=x-189-21950>; Karby Leggett, *Women Win New Rights in Morocco by Invoking Islam*, WALL ST. J., Sept. 22, 2004.
 47. Moudawana [Family Code] 2004 (Mor.) (unofficial translation by Global Rights), available at http://www.globalrights.org/site/DocServer/Moudawana-English_Translation.pdf?docID=3106.
 48. *Id.* arts. 78-83.
 49. *Id.* art. 98-112.
 50. *Id.* art. 94.
 51. *Id.* arts. 114-120, 166-168.
 52. *Id.* arts. 40-46.