

Family Code (Moudawana), Law No. 70-03

Reference: Dahir No. 1-04-22 of 12 Hijja 1424 (3 February 2004) promulgating Law No. 70-03 on the Family Code

Official Bulletin: Official Bulletin (B.O.) No. 5184 of 5 February 2004 (Arabic); No. 5358 of 6 October 2005 (French translation)

Practice areas: Family law, Civil law

The Moudawana governs marriage and its dissolution, birth and its effects, legal capacity and legal representation, wills and inheritance. It places the family under the joint responsibility of both spouses and makes the best interests of the child the central criterion for the decisions of the family judge.

Scope of application

The Code applies to all Moroccans, including those holding another nationality, to refugees and stateless persons, to couples in which one spouse is Moroccan and to Moroccan couples in which one spouse is Muslim (Art. 2). Moroccans of the Jewish faith are governed by Moroccan Hebraic personal status law.

Marriage

- Capacity to marry is reached at 18 full years for both men and women (Art. 19); the marriage of a minor requires a reasoned authorisation from the judge (Arts. 20 and 21).
- Polygamy is prohibited where injustice between the wives is to be feared or where the wife has stipulated a monogamy condition; otherwise, it requires the court's authorisation (Arts. 40 to 46).
- The spouses may agree, in a document separate from the marriage contract, on how property acquired during the marriage will be managed (Art. 49). Failing such agreement, each spouse retains his or her own assets, and the judge takes into account the work and effort contributed to developing the family's assets.

Dissolution of marriage

- Divorce (talaq) is exercised by the husband or by the wife, under the statutory conditions and subject to the court's supervision (Art. 78).
- Divorce for discord (chiquaq) allows either spouse to seek dissolution in the event of a persistent dispute; the court rules within six months (Arts. 94 to 97).
- The wife may seek divorce for breach of a condition of the contract, harm, failure to pay maintenance, absence, a redhibitory defect or an oath of abstinence (Art. 98 et seq.).
- Divorce by mutual consent (Art. 114) and divorce in return for compensation (khol', Arts. 115 to 120).

Children: custody, maintenance and filiation

- Custody (hadana) is granted first to the mother, then to the father, then to the maternal grandmother, although the court may decide otherwise in the child's best interests (Art. 171).
- Custody ends at majority; a child aged fifteen may choose which parent will have custody (Art. 166).
- Maintenance (nafaqa) of the children is the father's responsibility (Art. 198), then the mother's if the father is unable to pay (Art. 199).
- Paternal filiation is established by conjugal relations, acknowledgement by the father or relations by mistake, and may be proven by any means, including expert evidence (Arts. 152 to 158).

Ongoing reform

A major revision of the Family Code was launched in 2023-2025 (age of marriage, polygamy, custody, property acquired during the marriage, housing of the wife). The firm follows the final adoption of the texts and will inform you of their impact on your case.

Key articles

ART. 4

Marriage is a covenant based on mutual consent with a view to establishing a lawful and lasting union between a man and a woman, aimed at a life of mutual fidelity, purity and the founding of a stable family under the guidance of both spouses.

ART. 19

Capacity to marry is acquired, for a boy and a girl of sound mind, at eighteen full Gregorian years.

ART. 49

Each spouse has his or her own separate estate. The spouses may, however, agree on the conditions for growing and distributing property acquired during the marriage, in a document separate from the marriage contract.

ART. 94

Where both spouses, or one of them, ask the court to settle a dispute between them that risks leading to discord, the court shall make every attempt to reconcile them.

ART. 171

Custody is granted first to the mother, then to the father, then to the child's maternal grandmother. Failing these, the court decides according to the best interests of the child.

Points to watch

- Conciliation and expert-assessment timeframes vary between family divisions; filing a complete file with the petition (marriage certificate, birth certificates, proof of income) avoids months of adjournments.
- The property management agreement (Art. 49) must be concluded before or during the marriage; it is the only effective way to protect the spouse who financed the family's assets.
- For Moroccans living abroad, a foreign divorce judgment only takes effect in Morocco after exequatur (Art. 128).

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General information document and unofficial English translation. Only the version published in the Official Bulletin of the Kingdom of Morocco is authoritative; the articles cited may have been amended since this sheet was written. Last updated : 13 October 2026.