

# كسر القوالب Breaking the mold

#Breaking\_The\_Mold

## Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: Morocco

### A Reading Law No. 12.19 Stipulates Labor and Employment Conditions for Domestic Workers in Morocco

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#### DOMESTIC WORKERS: SUFFERING FOR DECADES

The dilemma of employing domestic workers, particularly minors, has been an obsession and disruptive for both civil organizations and government sectors, following the reports and statistics that informed the public opinion about a part of the suffering of this vulnerable group, especially the terrible crimes that disturbed the society, including the torture of the child, Zeinab, with fire by a judge's wife (2009) in Oujda, the death of Khadija (2011) in El-Jadida and Fatima (2013) in Agadir, and Nassima's attempted suicide (2013) in Casablanca, as a result of an assault against them by their employers.

In 2000, and although the law prohibits child labor for those under 15, the highest rates of child labor in the Arab world were recorded in Morocco. However, the government statistics confirmed, at that time, almost 600,000 children between 7 and 14 years old<sup>1</sup>. In 2005, Human Rights Watch conducted a study that estimated, at the time, the number of girl child maids to be 13,500 in the Casablanca and almost 86,000 others within Morocco<sup>2</sup>. On the other hand, and in cooperation with UNICEF, the High Commission for Planning mentioned in a report, during 2000 and 2001, that their employers beat 55% of the housemaids, 86% of them were insulted and slandered, and 4.2% were subjected to sexual assault by their employers<sup>3</sup>.

The Minister of Solidarity, Women, Family and Social Development confirmed that the number of young girl domestic workers in 2013 reached 92,000. In 2012, a study conducted by the Moroccan Coalition for Banning the Employment of Underage Housemaids estimated their number at 30,000<sup>4</sup>. In another study in 2015, the same coalition estimated their number between 66 and 88 thousand; 38% of them are between 8 and 12 years old, and 62% are between 13 and 15 years old<sup>5</sup>.

According to these data showing the exacerbation of this phenomenon, and its consequences leading to problems and suffering that affect human rights, in the absence of a public policy addressing this category that is increasing daily, and in a social context characterized by a transformation towards nuclear families, which doubled the demand for this type of workforce, the Ministry of Employment and Vocational Training conducted a study concluding that 30% of girl domestic workers are between 18 and 25 years old, 25% are between 26 and 30 years old, and 15% are between 41 and 49 years old. However, 8% was recorded for those aged 56 years and over. Single girl workers are ranked at the top of the hierarchy with 41%<sup>6</sup>. What is disturbing is that 74% of the employers enjoy a comfortable living standard and can employ people over 16 years old, and 61% of the employers have a high level of education and full knowledge of child rights<sup>7</sup>.

1 هيومون رايتس ووتش. 2005. داخل المنزل، خارج القانون (إساءة معاملة خادمت المنازل الأطفال في) -

(المغرب) <https://www.hrw.org>

2 - (The same reference)

3 الزعلي. 2010. 29 جمعية و شبكة جمعوية تعترم تقديم مذكرة ضد تشغيل الطفلات -

<https://www.maghress.com>

4 <https://raseef22.com> (ياسين. 2016. خادمت المنازل القاصرات في المغرب) -

5 (قماس. 2015. الفقر في المغرب يقذف بالأطفال إلى خدمة المنازل) <https://www.alaraby.co.uk>

6 (وزارة التشغيل والتكوين المهني، 2011، مرجع سابق، ص 25) -

7 <https://elaph.com> (التهامي. 2011. خادمت البيوت في المغرب... عبودية من نوع جديد) -

In addition to these data shedding light on this phenomenon's causes, the crimes that many underage girls were subjected to by their employers played a prominent role in arousing national public opinion after the civic organizations interacted with the victims.

Based on the foregoing, it can be said that the international and national civil organizations and the Ministry of Employment and Vocational Training had a vital role in framing the issue of domestic girl workers through their studies and including them in the government's agenda, through the draft Law No. 19.12.

### DRAFT BILL NO. 19.12: A LONG PATH ON THE AGENDA OF DECISION-MAKING INSTITUTIONS

The first version of Law No. 19.12 relies on the outputs of the workshop organized by the Ministry of Employment and Vocational Training on July 17 and 18, 2006, in the wake of the exacerbation of child labor in Morocco, which was highlighted by some international organizations, such as the International Labor Organization that conducted a study focusing on this phenomenon in 2004<sup>8</sup>. That led the Ministry of Employment and Vocational Training to draft a bill related to labor conditions for domestic girl workers, within the framework of activating the provisions of Article 4 of the Labor Code, as it was submitted for the first time to the General Secretariat of the Government on August 9, 2006. Some ministries offered new proposals and opinions. Accordingly, a second version was submitted to the Government's General Secretariat on May 29, 2008, ratified by the Government on October 12, 2011, and referred to the Parliament on October 27, 2011. However, after its inauguration in 2012, the Brotherhood government re-examined the bill, in its meeting held on March 15, 2012, amended based on the observations of the Ministry of Justice and Freedoms regarding some of its provisions and returned it to the General Secretariat of the Government in June 2012. The Council ratified it only on May 02, 2013, to refer it to the House of Councilors on August 08, 2013, when the latter ratified it on January 27, 2015, and returned it to the Parliament that approved it on May 31, 2016, and referred it to House of Councilors, within the framework of the second reading, to ratify it on July 26, 2016. Entered into force on October 02, 2018, Law No. 19.12 included five parts: Part One was related to the general provisions concerning the domestic workers' definitions, the employer and domestic labor. It also determined the assigned work of the workers. Part Two identified domestic workers' employment conditions. Part Three focused on labor duration, weekly rest, annual leave and holidays. Part Four focused on wages, and Part Five concluded with methods of control and penalties.

In terms of its implementation procedures for this law, it is worth mentioning that the government issued Decree No. 2.17.355, defining the work contract for the domestic workers, and Decree No. 2.17.356, completing the list of tasks in which the employment of domestic workers between 16 and 18 is prohibited. On January 10, 2019, it ratified draft Decree No. 2.18.686, defining the conditions for applying the social security system for domestic workers.

By tracking the path of law ratification, and the tensions between the constitutional institutions, we noticed the interaction of many international and national civil organizations and some public institutions with its draft by shedding light on some of its provisions, which are incompatible with international conventions, particularly those ratified by Morocco. UNICEF called on the Moroccan government and Parliament to pass the law in its first version and raise the age for domestic employment to 18 years



old<sup>9</sup>. This is what the Federal League for Women's Rights called for when it issued a memorandum regarding the national dialogue on reforming the justice system<sup>10</sup>. As for the two memoranda submitted by the Economic, Social and Environmental Council and the National Council for Human Rights, they focused, on the one hand, on compatibility's necessity of the bill provisions with the international conventions ratified by Morocco, and on adopting, on the other hand, an anticipatory approach that adopts the relevant international conventions that Morocco has not ratified, particularly the Decent Work Convention for Domestic Workers<sup>11</sup>.

### THE ROLE OF CIVIL ACTORS IN PLEADING THE RIGHTS OF DOMESTIC WORKERS

Civil organizations have engaged in pleading domestic workers' rights by calling on the government to promulgate a law that protects this category from the exploitation they are exposed to. The Coalition for Banning the Employment of Underage Housemaids was a pioneer in this field. On June 12, 2010, it organized a campaign to collect one million signatures from opposing girl child labor as domestic servants while raising the slogan "Let us unite today to ensure a future for them"<sup>12</sup>, which aimed at pushing the government to accelerate the bill issuance it had drafted since 2008, after conforming it to the relevant international conventions. Civil actors were not only satisfied with recommendations' submission to the government, but they also formed coalitions, which turned this issue into their primary goal. The establishment of the Coalition for Banning the Employment of Underage Housemaids included 34 associations and association networks, in February 2009, by the Moroccan Association for Human Rights, Amnesty International-Morocco, Insaf Association and the East-West Foundation, is nothing but a piece of true evidence. It assisted the victims by considering itself as a civil party before the courts. It also adopted the policy of signing petitions, issuing reports, notifications, memoranda and calls to institutional actors, civic organizations, and all society components

9 - (فرانس 24، 2016). البرلمان المغربي يصادق على قانون يسمح بعمل القاصرات كخاديات بالمنازل ( ) - <https://www.france24.com>

فيدرالية الرابطة الديمقراطية لحقوق المرأة، 2013. مذكرة من أجل إصلاح يحقق الإنصاف والعدالة للنساء) - 10

<http://bayanealyaoume.press.ma> (ويحميه من العنف والتمييز

المجلس الوطني لحقوق الإنسان، 2013. مذكرة حول المشروع رقم 19.12، بتحديد شروط الشغل) - 11

[www.cndh.ma](http://www.cndh.ma) (والتشغيل المتعلقة بالعمال المنزليين

المجلس الاقتصادي والاجتماعي والبيئي، 2013. رأي حول المشروع رقم 19.12، بتحديد شروط الشغل والتشغيل

<http://www.ces.ma> (المتعلقة بالعمال المنزليين

وكالة المغرب العربي للأنباء، 2010. حملة لجمع التوقيعات بالرباط لمناهضة تشغيل الطفلات كخاديات) - 12

<https://www.maghress.com> (في البيوت

to prevent the injustice that affected – and is still affecting- young housemaids<sup>13</sup>. In the same direction, and in 2014 by the call to form a network concerning the bill, the seminar's outcomes organized by the YELLY organization for girl protection in 2014, after its amendment, were entered into force<sup>14</sup>.

During the discussion of the bill, in February 2016, it was remarkable the engagement of the National Observatory of Child Rights, headed by Princess Meryem, by calling the Members of Parliament to “abstain from voting on a law allowing domestic child labor”, considering that the ratification of this law is incompatible with the contents of the Convention on the Rights of the Child, which Morocco has ratified. According to some sources, this call played a major role in limiting the possibility of employing minors between the ages of 16 and 18 years old during a transitional period of five years.

It should be noted that the Federal League for Women’s Rights, which includes more than 540 women’s associations, also demanded from members of the first chamber some amendments to the contents of the bill, in line with the international requirements, including raising the age of employment for domestic workers to 18-year-old<sup>15</sup>.

In addition to issuing statements and appeals, many civil organizations have resorted to organizing protests in front of the courts to express their solidarity with girl child domestic workers who have been tortured or killed by their employers. For instance, but not limited to, the Association “Do Not Touch My Child” and the “Moroccan Association for Human Rights” organized several protests in front of the Court of Appeal in Oujda and other areas in the city, denouncing the torture of the minor Zainab Lshit, (2009), by her employer (a judge’s wife)<sup>16</sup>. In the same context, local and national human rights organizations organized a protest on September 28, 2011, in front of the Court of Appeal in the Al-Jadida, in solidarity with the minor girl, Khadija Gaddim, the victim of physical abuse by her employer, which led to her death<sup>17</sup>.

Based on the foregoing, it is genuinely evident the concerted efforts of civil organizations that operate legally with some governmental institutions, such as the National Council for Human Rights and the Economic, Social and Environmental Council, and the Ministry of Employment and Vocational Training. It seems that the left-wing ideological joint united civil organizations vision, which led to their harmony with the global system. On the other hand, the inclusive civil coalitions that adopted multiple approaches, by issuing statements, seminars, petitions, and leading protests, legal and media pleadings, had a real impact in amending the bill to ensure minimum domestic rights workers.

### ENTRIES TO STRATEGY AND TACTIC: FROM ESTABLISHMENT TO IMPACT

The promulgation of a law protecting domestic workers was a central goal for all civil actors that rely on the universal reference for human rights. Some strategies were required to achieve this goal and form a wide front to exert pressure on the decision-maker. To accomplish this bet, we noticed that civil organizations used several tactics to reinforce their demands.; they mainly focused on the results of studies and statistics that show the extent

of the suffering that affects female domestic workers, particularly minors. As the outputs, on the one hand, were shared on media and social media, and through direct contact with citizens during the signing of petitions and organizing seminars and protests, on the other hand, to public opinion, which led to the interaction of public awareness, despite its traditional character in this topic.

At the strategic level, this situation emanated from demanding the promulgation of a law to demanding fundamental amendments to its contents, after the vision of national and international civil actors “were in harmony”, on the one hand, and in terms of the relevant constitutional advisory institutions, on the other hand. Concerning the tactics, it can be said that from the moment of establishment, civil organizations have transformed by the coalitions and the petitions into the phase of action and impact through the ability to mobilize in the field and to establish themselves as a civil party to defend before the courts for workers who are victims of abuse.

### CIVIL ACTION: FROM IMPACT TO TRANSFORMATION

Many factors contributed to the bill No. 12.19 and the amendment of some of its contents to ensure the minimum rights of domestic workers, the most prominent of which is the data of the international context against women exploitation and calling for the adoption of universal and international treaties, on the first level, and the legal reforms during the reign of Mohammed VI, (some believe that he has a more liberal mindset than his father concerning women), such as the Family Law and the constitutionalizing the combat of all forms of discrimination against her, on the second level, and reports of international organizations, on the third level, and recommendations of constitutional institutions, on the fourth side.

The international reports that focus on female domestic workers, particularly minors, reflected the extent of this category’s suffering constituted a helping factor in pushing national institutions and local organizations to interact with this phenomenon, which is widespread in Morocco. That was added to the main factor represented in heinous crimes that many underage girls were subjected to by their employers, which prompted the decision-maker to promulgate Law No. 19.12, after three successive ministers worked it, and it took 11 years of repetitive work among the constitutional institutions.



13 - <http://www.assahraa.ma> (الصحراء المغربية. 2013. تشكيل ائتلاف جمعي من أجل تجريم تشغيل الطفلات خادمات) -

14 (طواف. 2014. 70 في المائة من خادمات البيوت يتعرضن لمختلف أشكال الاستغلال المادي والمعنوي) - <https://www.maghress.com>

15 (جاوات. 2016. 540 جمعية نسائية تطالب الدولة بحماية القاصرات من «أشكال العبودية») - <https://www.maghress.com>

16 (وجدة المدينة. 2009. وجدة : الجمعيات الحقوقية تتضامن مع الطفلة الخادمة زينب) -

<http://www.oujdacity.net>

17 (الراوي. 2011. هيات حقوقية وجمعية تحتج أمام محكمة الجديدة) - <https://www.pjd.ma>

## POLICY OUTCOMES AND PLEADING

Civil society's efforts resulted in the promulgation of Law No. 19.12 and the relevant decrees. The civil actors agreed that the law consisted of a set of positive requirements, which can be summarized in the legislation of a new designation, a domestic worker, instead of a domestic servant, in line with the global human rights system, on the one hand, and filling the legal void that domestic workers were suffering from, on the other hand. It also set the minimum age for domestic labor at 18 years old; it criminalized private persons' mediation in exchange for a fee in this field. It stipulated a set of fines and sanctions on those who violate the rights of this category<sup>18</sup>. Furthermore, it specified the labor conditions, working hours, weekly rest, and supervision assigned to labor inspectors. However, it shed light on some negative requirements by stipulating a transitional period for five years, from 02 October 2018 to 02 October 2023, during which minors between 16 and 18 years old are permitted to work, although it specified conditions for their employment. It also forbade women from maternity leave, although it allocated her a break to breastfeed her child, on the other hand, as well as the constraints that labor inspectors may face while carrying out their duties, especially in light of their lack of awareness-raising skills, tracking and monitoring capabilities, and employers' response.

## LESSON OUTCOMES

By studying this case, the following is evident:

- Establishing inclusive coalitions dealing with a specific topic that has an effective impact in conveying the proposals of civil organizations to the decision-maker, which was evident through the pleading of civil organizations regarding the removal of Law No. 19.12 and its relevant decrees, to ensure a part of the rights of domestic workers;
- The role of constitutional advisory institutions, and the engagement of an organization close to the royal institution, had a real effect in amending the provisions of the Bill No. 19.12, especially that their demands corresponded with the demands of international and national civil organizations, according to investment in national constitutional profits, on the one hand, and the outcomes of global treaties, on the other hand;
- The recurrence of torture and murder cases affected some domestic workers, especially minors. Civil actors were able to use this issue in their pleadings in an international context in support of minors' rights, which served as helping factors in the promulgation of Law No. 19.12.



18 - الائتلاف الجمعي من أجل تشغيل الخادمت القاصرات. 2016. من أجل مغرب بدون خادمت بيوت) - 18  
<https://www.e-joussour.net> (قاصرات

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## BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

## THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

## THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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