

# The law of medically assisted procreation-the history of a legal framework to boost fertility in the face of environmental constraints in Morocco

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**Abstract.** For the first time, the Moroccan legislator officially regulated the use of medically procreative techniques in 2019, allowing couples affected by infertility to conceive outside the ordinary biological process. Aspiring relatives are betting on Law 47-14 on medically assisted procreation (ART) to facilitate access to infertility care. This article aims to demonstrate the contributions and limitations of this law and to understand its impact on the lives of infertile couples. In addition, this work highlights the position of the various parties involved in the implementation of this legislation after a controversial debate. Methodologically, we opted for a qualitative method based on reading parliamentary archives, writings, and audiovisual media, coupled with semi-structured interviews with the various stakeholders in the field of GPA. 91.7% of participants, infertile couples and practitioners of medically assisted procreation place the lack of financial reimbursement of ART acts at the top of their concern. Similarly, health professionals criticize the disciplinary sanctions stipulated in the law. Despite the strengths of this legal framework, it has not provided a solution to fight against socio-economic and gender inequalities related to access to GPA in Morocco.

**Keywords:** Infertility, ART law- medically assisted procreation in Morocco, the desire to give birth.

## Introduction:

More than 825 thousand couples experience infertility in Morocco [1]. For a very long time, aspirants to motherhood and fatherhood have advocated for a regulatory framework for medically assisted procreation (ART). These are medical techniques on which infertile couples bet to realize their kinship project and escape the social pressure not to give birth. In April 2019, Law 47-14 on medically assisted procreation (ART) was voted and published in the official gazette [2]. After sparking a legislative debate for more than two years, it was

unanimously adopted in the Moroccan parliament. A law aims to fill the legal vacuum that has lasted since the 1990s when the first medically assisted procreation (ART) techniques were carried out in Morocco. [3]

The choice of this subject comes in a context where the Moroccan legislator has framed, for the first time, the GPA. A period marked by the evolution of requests for the use of this medical technique to remedy the defects of infertility.

In the literature, the knowledge available around the law of MPA in Morocco, does not exceed the information relayed in media, written, audiovisual and electronic newspapers. They provide testimonies from all stakeholders in the field, including officials of the Ministry of Health, learned associations in the medical field, researchers in bioethics, religious, legal and representatives of associations of infertile couples. For official sources, we find the national plan of the ART in Morocco 2020-2030[4]. It demonstrates the technical side and conditions of the implementation of medical methods of medically assisted reproduction on the medical, ethical, legal and religious levels. The few available writings on MPA in Morocco have rather focused on the subject from a point of view related to bioethics law. [5] They mention the need for the establishment of a bioethical framework for the protection of people's rights in the face of new biomedical technologies.

At the global level, much research has given importance to studying the influence of religious instructions on the law framing the practice of ART techniques [7]. Others have based themselves on the rights of filiation to the test of medically assisted procreation, as is the case in studies in the African context. In addition, French-speaking researchers have opted to study the influence of sociocultural factors in the use of assisted reproduction techniques in same-sex couples in Western countries.

Other sociologists have conducted comparative studies between acts of ART authorized or prohibited by law within communities of North African origin, including Morocco and the European communities. [8]

Indeed, this research work aims to demonstrate the strengths and limitations of the ART law in Morocco and to know its impact on the lives of aspiring motherhood and paternity. The objective is to highlight the position of the various stakeholders, health professionals and infertile couples on a subject that has sparked a debate in the Moroccan parliament and has been reported by the media.

Indeed, this work is important in terms of understanding the process of drafting this law and the arguments of the various stakeholders when discussing its content. To date, no sociological article has focused on the debate that accompanied the political and societal adoption of the framework law on medically assisted procreation (ART) in Morocco. This article is intended for different people interested in understanding this legal system: sociologists, researchers, health professionals or infertile couples. A content that will serve to understand behind the scenes of the discussion around the legal rules of AMP at the basis of a sociological approach to bring a social reason to an abstract rule. [9]

Like all studies, this research has these limitations, including time and resource constraints. The study did not focus on conducting interviews with all the parliamentary deputies who participated in the discussion and vote of the law e of the GPA in Morocco. On the other hand, a limitation related to the non-accessibility of audio-visual recordings of the session of the presentation of the first version of this law by the Minister of Health in the presence of the deputies. This session was held in camera. This does not make it possible to process the speeches and to understand and analyse their first position before the final vote.

The adoption of the ART law in Morocco demonstrates the new concerns of public policies in terms of family planning, taking into account the various factors negatively impacting the fertility rate, including environmental pollutants.

To this end, we want to know how the state has acted to remedy the problems of infertility in society through the framework law on medically assisted procreation (ART)? What were the motivations behind the adoption of this law by the large parliamentary majority? How did parliamentarians contribute to the drafting of this law?

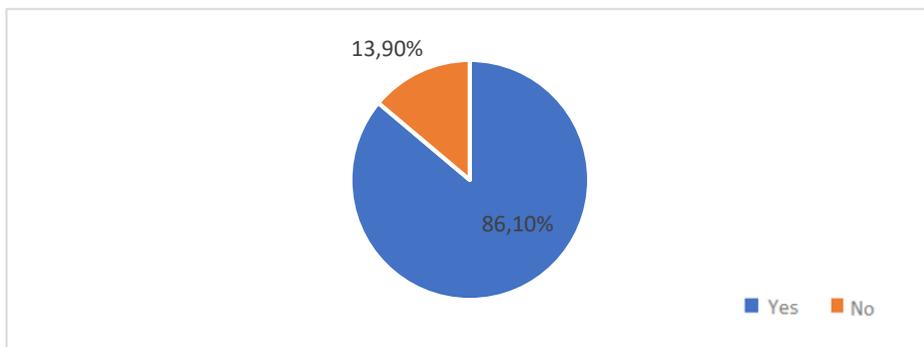
## **Methodology:**

This research opts for a qualitative sociological method based on the reading of archives, paper and audio-visual, coupled with semi-directive interviews with parliamentarians, ART practitioners and infertile couples. This research was conducted over a period of 4 months. The objective is to become aware of the place, contribution and perceptions of all actors in the making of MPA in Morocco. A tool to return to the moments of preparation, discussion and vote on the texts of this legal device. It makes it possible to understand the debate that has been controversial at several times during the process of its establishment. Also, to draw socio-medical meanings from societal changes in terms of family planning and the fight against infertility in Morocco.

The first step was to consult the reports of the parliamentary committee on social affairs, the content of the congresses and meetings organized around the law of AMP, we also watched television programs, the testimonies of parliamentarians. Similarly, we have read magazines and newspapers that have reported on the debate around this law in parliament. This is open online data. They can be downloaded using the VLC software available on our computer. This operation required several days of sorting and transcription and taking note of the different data sources. We did not stop on the differences in the editorial line of each media medium, but rather on the verification of the date of publication and the reliability of the chosen document. As for physicians, the second target population for this research, we conducted semi-structured interviews on the subject. This is our way of completing the compression of discussions around legislative texts. The interviews seemed important to us to understand the opposing debates.

### **1.Data collection and analysis:**

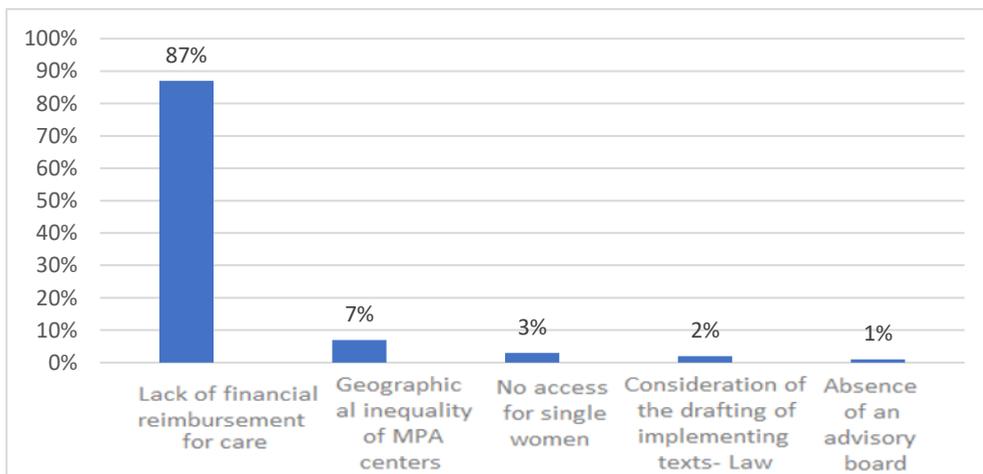
88.9% of the participants in this research are infertile couples between 20 and 40, 8% of them are between 40 and 50 years old. 11.1% of participants are healthcare professionals. We asked participants to send us their answers in relation to their perceptions around the law, their accessibility to the ART after the adoption of the law and their expectations. One of the first concerns of infertile couples, since the adoption of the law framing medically assisted procreation is the financial management of infertility as shown in the following figure:



**Fig. 1: Accessibility to reimbursements of MPA techniques after the adoption of Law 47-14**

86.1% of participants in this research say that the law did not allow them to benefit from a financial reimbursement of all acts of the AMP against 13.9% who were able to access a refund. Despite the adoption of Law 47-14, 83% of the participants could not benefit from medically assisted procreation. Only 16.7% were able to use these medical methods. While the medical scene has seen the establishment of several fertility centers offering services to infertile couples. To this end, 72.2% aspire to the opening of local fertility centers near the cities of residence of infertile couples. 63% expect the law not to discriminate against women by age when they apply for an ART service. 41.7% expressed the need to clarify the relationship between doctor and patient and 25% expected protection of the rights of practitioners, doctors and biologists, at the time of the exercise of ART.

Regarding the strengths of this law, 61.1% of participants feel that the law has contributed to the establishment of several private fertility centers. 52.8% see that it has allowed men to adopt a positive view in terms of the use of ART. As for the limitations of this legal text, the graph below places the lack of reimbursement always at the top of the list.



**Fig. 2: The limits of the law of AMP 47-14 in Morocco**

87% of participants place the lack of financial reimbursement as the first weak point of this law, 7% consider that the law has not protected the infertile from geographical inequalities. They continue to travel from their cities of residence to cities where fertility centers are concentrated. 3% of participants mentioned the silence of the law towards the access of single

women to ART techniques. The implementation of the law remains limited for participants due to the delay in the drafting of implementing texts (2%) and the absence of an advisory council on medically assisted reproduction (1%).

On the other hand, archival documents and interviews have shown that the drafting, discussion and voting phase on this text law took a long time before its adoption by parliament. Throughout the discussion of the law, AMP practitioners strongly criticized the disciplinary sanctions stipulated by the law. According to them, "the legislator has exaggerated in terms of sanction. The law places doctors *"on the same level as traffickers."* Parliamentary reports show that the Ministry of Health reasons the determination of sanctions by that they are made in line with the penal system.

As for the members of Parliament. A first category proposes to lighten penalties, while the second defended sanctions to put an end to illegal practices including the mixing or marketing of gametes. »

## **Geographical inequality and environmental impact:**

In Morocco, geographical access to MPA is not widespread throughout the country. In addition, infertility treatments are almost absent in rural areas. As a result, infertile couples are forced to travel to private infertility centers and laboratories. The goal is to make consultations, carry out analyzes and heal. This displacement towards the major cities of Morocco, is not without negative impact. The majority of these centers are centralized in the Rabat and Casablanca axis. It increases the moral burden on infertile couples, as it increases their financial expenses for housing and food during their care stay, which lasts between 8 to 15 days in the cities of fertility centers. [10] In the same way, this displacement has an impact on energy consumption and the natural resources of our environment. A behavior that also increases the bill for the use of diesel. Couples who do not have the possibility of staying near fertility centers are forced to go to shuttles during the days of treatment. These shuttles are done using a car, personal or rental. The use of cars remains a way to avoid the stress associated with the use of public transport. Again, to keep the intimacy of the couple who needs to make stops adapted to the schedules of their injection. However, several studies confirm that the car is a mode of transport that pollutes human health and the planet. [11]

The frequent travel of patients, in general, reveals a problem where social, medical and the optimization of energy resources mix. This energy waste seems to be avoidable by the adoption of government measures targeting the implementation of infertility care at the local and local level.

## **Results:**

One of the most striking results of this work is that there is a lack of full coverage of ART expenses and strong differences between the provision of medically assisted reproductive care between the public and private sectors. Similarly, there are differences between insured and non-medically insured couples.

Access to ART is not for all women in Morocco. Participants expressed *"a feeling of discrimination in the use of ART"* because of their age. They say: *"In reality, we women still have many obstacles to overcome, not only the financial budget, social pressure but also our*

*distance from the ART process because we are past the 38 years or we are in quarantine."* For their part, ART practitioners criticize the silence of the legislator around fertility preservation in single women for social reasons, including late marriage.

The subject of gamete conservation has raised questions. Some Members have mentioned the difficulty of accepting the recourse of single women to freeze their eggs. For it is: *"difficult in our Moroccan society to accept the use of unmarried women to take drugs and egg freezing techniques. This raises questions about the preservation of virginity while the puncture of oocytes requires vaginal penetration of a medical device."* In the parliament's reports, the Minister of Health explained that the preservation of eggs for single women *"is a new topic"*. However, the health official noted that *"the desire for procreation is an individual decision before becoming collective. As a result, every person has the right to save their gametes in case of undergoing fertility-threatening treatment."* The Moroccan legislator did not have the total courage to put in place a clear article on this issue. Article 25 remains very vague, allowing it to be interpreted in such a way as to give married names the opportunity to safeguard their gametes outside the case of a disease, including single women. A way in which the legislator wanted to find a solution to a socio-medical request.

Similarly, the parliamentarians lingered in their discussion on the work authorized on gametes: ova and spermatozoa. Gamete donation divides views in Moroccan scientific society. One category of doctors sees the need to meet the high demand for donation in early menopausal women where women have no oocytes at all. However, this opinion was not shared by gynecologists who point out the incompatibility of these techniques with the Muslim religion in Morocco. [12]

In this regard, a member of parliament from the Justice and Development Party (PJD) expressed his conviction about gamete donation. He said: *"... We are a Muslim society that can accept or not accept certain things... Anything extramarital is forbidden.... It is inevitable that the law will provide for sanctions against doctors who go against "religious dogmas"*. [13] On their part, gamete donation has not been a point of the demands of the civil association that represents infertile couples in Moroccan society. During this period of discussion of Law 47-14, the Moroccan Association of Aspiring Maternity and Paternity (MAPA) urged parliament to vote positive *"in order to recognize infertility as a disease and allow infertile couples to free themselves from this taboo "*.

On the other hand, several changes have taken place with the adoption of the ART law in Morocco, confirm the participants in this research, in this case infertile couples. Unlike the version adopted in 2016, the latest version recognized infertility as a disease. It is for aspiring relatives *"an open door to access to financial reimbursement of ART techniques"*. [14] As a result, the Ministry of Health adopted a list of medicines reimbursable by the health insurance funds. A measure perceived as the first fruit of the legal recognition of infertility. However, infertile couples and practitioners of ART speak of a *"fight that is far from over with a view to achieving democratization for the use of medically assisted procreation"*, express several participants in this research.

## **Discussion:**

Infertile couples in Morocco believe in science. They bet on medically assisted procreation to cope with fertility problems and acquire a social status and enjoy a parenthood so hoped for within the couple in Moroccan society. [15] The Moroccan legislator adopted this law in a social and legal context experiencing a changing nature of kinship and the contemporary

family, in terms of remedying the defects of infertility and responding to the desire for children.

However, this new legislation did not provide a solution to address the socio-economic inequalities related to financial access to the GPA. The cost of a single attempt per menstrual cycle, in the private sector, varies between 25,000 and 45,000 Dirhams]. Like the majority of infertile couples in Africa, only wealthy families can access infertility care, while the desire to be a mom and dad is far from being conditioned by economic wealth or social status. Thus, disadvantaged couples are forced to abandon therapy and their kinship project, either to go into debt or even to give up their property in order to hope to have a child [16].

Similarly, the use of infertility centers is not guaranteed in small towns and rural areas. As a result, many couples move to urban care centers. They get there after travelling hundreds of kilometers to stay often in hotels, which increases the costs associated with travel, with serious psycho-social consequences [17]. Public policies seem unable to meet the different needs of infertile couples. Public fertility centers do not guarantee a high quality of services due to the frequent interruption of the supply of care due to lack of consumables and medicines. Also, couples wait more than a year to hope for an attempt in these MPA units [18].

Societal reactions to the content of the MPA law have been diverse between the conservative group and progressives. The first refers to religion, while the second mobilizes approaches of men's rights and women's rights. Morocco is a country with a strong influence of Islam and traditional values. In this context, some ART practitioners find it early to open the debate on the possibility of equalizing certain medical practices such as egg donation. For them it is a taboo subject, like many in the world [19].

In the same vein, the ART law does not allow the single person to resort to medically assisted procreation. This law does not recognize parenthood outside the institution of marriage. To this end, MPA legislative measures are influenced by religion and traditional values in Moroccan society. [20] The law has put restrictions on the use of ART including the use of eggs or sperm of others, including gametes and embryos, surrogacy and preimplantation diagnosis.

Despite this social dynamic in the use of ART, the law has kept the same family structure in Morocco. It is only allowed for a heterosexual couple, married and living during the ART process. However, the ART law in Morocco has not established age restrictions for both men and women. But, some health practitioners limit some women's access to ART care at the basis of their age.

This restriction is not a gendered legal measure in the law but rather a practice of some exercising this technique. Indeed, the implementation of the implementing texts seems important to preserve the rights and obligations of everyone in the interactions between the various actors in the field of ART. On the other hand, perceptions around medically assisted procreation have changed somewhat since the promulgation of this law. Series of Moroccan soap operas address the subject of infertility. An artistic work that would change the perceptions of Moroccan society. Thus, civil society, media discourse and artistic production contribute to raising awareness around ART, in this case fertility conservation.

## Conclusions:

People using assisted reproduction in Morocco are especially married couples without children, mostly from the social and economic background and from the middle class and disadvantaged. One of the striking results of this work is that Law 47-14 on medically assisted procreation does not offer overall coverage of ART expenses. This law has not solved socio-medical inequalities. The fieldwork confirms the existence of differences between the offers of infertility care between the public and the private, between insured and non-medically insured couples.

The practice of ART requires the implementation of the implementing texts of Law 47-14 to improve the accessibility of infertile couples to ART services and strengthen the quality of their care. Indeed, it is necessary to take into consideration the social and family dynamics in Morocco in order to meet the new needs of kinship among the population affected by infertility. The desire to have children makes it necessary to establish socio-legal measures in a way adapted to societal expectations while opening the discussion around medical, bioethical and cultural topics in society.

This work remains a beginning in the attempt to study sociologically the law of AMP in Morocco. Research can continue on several issues such as bioethics as legislative and ethical measures to understand how legislators and society can contribute to a balance between the medical and social in the Moroccan context in the use of ART. The goal is to understand the practices that are unanimous and those that divide.

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