



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Sixth periodic reports of States parties due in 2008**

**Morocco\***, \*\*

[Date received: 15 June 2015]

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\* The present document is being issued without formal editing.  
\*\* The annexes may be consulted at the secretariat.

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## Introduction

### I. Developments since the fifth periodic report

1. There have been significant developments in Morocco since it submitted its fifth periodic report on 25 October 2004. These developments include three key events in particular: the conclusion of the work of the Equity and Reconciliation Commission; the submission of the advanced regionalization plan; and, in July 2011, the adoption of a new Constitution.

2. By a decision of 21 June 2011 of the Parliamentary Assembly of the Council of Europe, Morocco was accorded “Partner for Democracy” status, and tripartite cooperation between Morocco, the Council of Europe and the European Union was set in place.

#### 1. The Equity and Reconciliation Commission

3. The Equity and Reconciliation Commission (IER) is a national commission for truth, equity and reconciliation which has non-judicial powers. Set up in 2004 following royal approval of a recommendation by the Consultative Council on Human Rights, it was active from January 2004 to 30 November 2005.

4. In less than two years, IER was able to provide a detailed account of the abuse suffered by the victims of serious human rights violations that took place systematically or on a wide scale; it investigated some 17,000 cases and compensated more than 9,000 victims. It took care of the physical and psychological rehabilitation of victims and provided community reparations for certain regions and communities. It collected data on the victims and on the circumstances and conditions of the abuse. On 30 November 2005, IER made its final report to the King (annex 12).

5. The achievements of IER:

- The number of beneficiaries in receipt of the compensation due to them between 2006 and 2012 has reached 17,776;
- Medical cover: the number of medical cover cards distributed so far has reached 6,035 and the number of beneficiaries is estimated at 13,385;
- Social reintegration: number of beneficiaries – 1,248;
- Regularization of administrative situations: 540 persons have benefited;
- Community reparation: several regions have benefited from development projects;
- IER has shed light on several instances of forced disappearance.

6. A body specifically set up to house archives, called Morocco Archives, was set up under Act No. 69/99 of 30 November 2007.

7. A museum dedicated specifically to the Rif region has recently been proposed. Former prisons and detention facilities have been converted into social centres or places of remembrance.

8. The provisions of the 2011 Constitution have been influenced by IER.

## **2. Moroccan initiative for negotiating an autonomy statute for the Sahara region**

9. On 11 April 2007, the Kingdom of Morocco transmitted to the Secretary-General of United Nations the “Moroccan Initiative for Negotiating an Autonomy Statute for the Sahara Region” (annex 2). Based on this, an advanced regionalization proposal was drawn up by the Consultative Committee on Regionalization and submitted to the King in March 2011. The bill on the basic law for the regions is being considered by Parliament.

## **3. 2011 Constitution**

10. The 2011 Constitution confirmed political and constitutional developments by introducing significant innovations.

### **A. Confirmation of the pluralist nature of Morocco**

11. According to the preamble: “A sovereign Muslim State, attached to its national unity and to its territorial integrity, the Kingdom of Morocco intends to preserve, in its plenitude and diversity, its one and indivisible national identity. Its unity is forged by the convergence of its Arab-Islamic, Amazigh, and Saharan-Hassanic components, nourished and enriched by its African, Andalusian, Hebraic and Mediterranean influences.”

12. Since the 1990s, institutions answerable to the public authorities and consistently tasked with promoting cultural diversity have been set up, including the Centre for Hassanic Study and Research and the Centre for Andalusian Study and Research.

13. The Amazigh language has been made an official language of the Kingdom alongside Arabic (art. 5).

### **B. Reinforcing due process**

14. Any citizen seeking justice may challenge the constitutionality of the law (art. 133).

### **C. Human rights consolidated**

15. Morocco reiterates its commitment to universal values, reaffirming “its attachment to human rights as universally recognized, as well as its determination to continuing to work towards preserving world peace and security” (preamble).

16. The Constitution incorporates the following principles:

- Prohibition of all discrimination based on gender, colour, belief, culture, social or regional origin, language or disability;
- Primacy of the international agreements duly ratified by the Kingdom within the framework of domestic legislation (preamble);
- Confirmation of the following rights and freedoms: the right to life; the right to security of the person and of property; prohibition of torture and all serious and systematic violations of human rights; presumption of innocence and right to a fair trial; guarantee of fundamental rights in relation to detention and custody; protection of private life and all forms of communication; freedom of thought, opinion and expression; freedom of the press and the right to access information; freedom of gathering and assembly, peaceful demonstration, association and trade union and political affiliation;

- Extension of economic, social and environmental rights: right to health care, social welfare and health-care cover; right to a modern, accessible and high-quality education; right to decent housing; right to work and public authority support in that regard; right to access public office; right to a healthy environment and to sustainable development.

#### **D. Enhanced democratic legitimacy**

17. Parliament is the legislative body, and executive power is now exercised by a Head of Government who must be drawn from the parliamentary majority. The Head of Government may now dissolve the House of Representatives and is fully answerable to it for his actions (arts. 47, 70, 78, 87 and 104).

18. Under article 10, the rights of the parliamentary opposition are both guaranteed and extended.

19. Participatory democracy has been made a reality by way of new rights including the right to table legislative proposals and the right to petition the public authorities (arts. 14 and 15).

#### **E. Clearer separation of powers**

20. According to article 107, “the judiciary shall be independent of the legislature and of the executive. The King shall guarantee the independence of the judiciary”.

21. A High Council for the Judiciary, presided over by His Majesty the King, ensures that the guarantees accorded to the judiciary are put into effect. The Council’s Vice-President is now the First President of the Court of Cassation rather than the Minister of Justice. The composition of the Council has been extended to include individuals from outside the judiciary, including the Chair of the National Council on Human Rights (CNDH) and the Ombudsman. The Council’s powers have been extended beyond merely managing the career of members of the judiciary and now include monitoring and assessing the state of the justice and judicial systems. It may make recommendations in that regard. Female members of the judiciary are represented on the Council in proportion to their numbers within the judiciary (arts. 113 to 116).

22. In addition, members of the judiciary are given robust guarantees enabling them to act in complete independence (arts. 107 to 128).

### **4. Electoral process**

23. The parliamentary elections of 25 November 2011 marked an important milestone in the political process of democratization in Morocco. The elections were monitored by 4,000 national and international observers. According to the reports of the observers from the National Democratic Institute, the authorities organized a proper electoral process that enabled voters to vote without fear of manipulation or breach of electoral procedure.

### **5. Current state of ratifications and reservations**

#### **A. Ratification and accession**

24. Morocco has continued the process of gradually becoming integrated into the international and regional human rights systems, and has done so by ratifying the following instruments:

- International Labour Organization (ILO) Conventions Nos. 150, 151, 154 and 162 (3 April 2009);
- The Convention on the Rights of Persons with Disabilities and its Optional Protocol (8 April 2009);
- The Additional Protocol to the United Nations Convention against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (5 March 2011);
- The two Additional Protocols to the 1949 Geneva Conventions (3 June 2011);
- The Optional Protocol to the Convention on the Rights of the Child on a communications procedure (signed in 2012);
- The International Convention for the Protection of All Persons from Enforced Disappearance (14 May 2013).
- The Optional Protocol to the Convention against Torture (24 November 2014).

25. During the new parliamentary term, Morocco has acceded to five conventions and protocols open to non-member States of the Council of Europe:

- The Council of Europe Convention on Contact concerning Children, concluded on 15 May 2003 in Strasbourg;
- The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in Lanzarote on 25 October 2007;
- The European Convention on the exercise of children's rights, adopted in Strasbourg on 25 January 1996;
- The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data;
- The Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

#### **B. Declarations or reservations that have been withdrawn**

26. On 8 April 2011, Morocco withdrew the reservations it had entered to the Convention on the Elimination of All Forms of Discrimination against Women, as they had ceased to be pertinent because of the legislative progress achieved.

27. In 2006, Morocco withdrew its reservation concerning the competence of the Committee against Torture to undertake investigations (arts. 20 and 21) under the terms of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and recognized, in a declaration, that the Committee is empowered to receive and consider communications from individuals whose rights guaranteed by the Convention have been violated (art. 22).

28. In 2006, Morocco withdrew its reservation relating to article 14 of the Convention on the Rights of the Child, namely concerning the right of a child to choose his or her religion, and replaced it with an interpretative declaration.

29. In 2006, Morocco recognized the competence of the Committee to receive and consider communications from individuals pursuant to article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

## II. Information relating to articles 1 to 27 of the Covenant

### Article 1

#### Right to self-determination

##### Reply to the Committee's observation/recommendation

#### 1. The principle of self-determination

30. The Charter of the United Nations and the relevant resolutions of the General Assembly (1514 and 1541 of 1960 and 2625 of 1970) leave the United Nations a margin of discretion in regard to the forms and procedures by which the right to self-determination is to be implemented. According to this criterion of the United Nations, self-determination is not at all the same as independence. In point of fact, the right to self-determination, as it has evolved in the law and practice of the United Nations, takes a variety of forms — equal in value — including integration “with an independent State” (resolution 1541).

31. Sahara has been an integral part of the Kingdom of Morocco since time immemorial.

32. Having been colonized on three fronts — by the French in central Morocco, and the Spanish in the north and south of the country — as well as having an international administration placed over the city of Tangier, the Kingdom of Morocco has had to negotiate the retrocession of these different parts of its territory in stages, in full accord, moreover, with the principles and objectives of the Charter of the United Nations.

33. Recovery of the Sahara followed that procedure. At legal level, the Sahara was thus decolonized on the basis of negotiation with the administering power (Spain), after the signing, in 1975, of the Madrid Accords, of which the General Assembly of the United Nations took note (in resolution 3458/B).

34. Citizens of the Kingdom's southern provinces enjoy all civil and political rights without any discrimination, just like other citizens throughout the Kingdom's regions. They take part normally and freely in all local and national elections, whether political (local, provincial, regional and parliamentary elections) or for trade unions and professional associations (chambers of industry, commerce and services, crafts industries and so on). All elected officers, members and presidents of these councils and chambers come from those southern provinces.

#### 2. The Moroccan initiative for negotiating an autonomy statute for the Sahara region

35. On 11 April 2007, after years of deadlock in attempts to settle the regional dispute over the Sahara, and in response to calls from the United Nations Security Council, and following the establishment of the Royal Advisory Council for Saharan Affairs, Morocco transmitted to the Secretary-General of United Nations the “Moroccan Initiative for Negotiating an Autonomy Statute for the Sahara Region”.

36. The initiative is the product of a wide-ranging process of consultation at national and local level, involving the political parties and the people and elected representatives of the Saharan region, in an effort to determine their views on the plan to implement an autonomy statute for the region. The process of consultation at national level was also accompanied by regional and international consultations designed to establish the views of countries affected and concerned by this regional dispute.

37. Morocco's initiative has had the merit of giving fresh impetus to efforts to resolve the deadlock and embark on a process of negotiation between the parties involved in the Saharan dispute (four rounds of negotiation and nine informal meetings).

38. The adoption of resolutions 1754 (2007), 1783 (2007), 1813 (2008), 1871 (2009), 1920 (2010), 1979 (2011), 2044 (2012), 2099 (2013) and 2152 (2014) of the United Nations Security Council confirms, within the United Nations context, the international community's genuine support for and clear interest in Morocco's initiative. The resolutions define the basic parameters of the search for a negotiated political solution to the regional dispute over the Sahara, namely:

- The preeminence of Morocco's autonomy statute initiative;
- Negotiation as the only means of reaching a negotiated political solution to the dispute over the Moroccan Sahara;
- The commitment of the parties to enter into intense and substantive negotiations, based on realism and a spirit of compromise in order to maintain the current impetus and with an eye to developments since 2006;
- The call on the parties and the States of the region to continue to cooperate fully with the United Nations and with each other to resolve the current deadlock and move towards a political solution.

39. The Moroccan initiative for an autonomy statute has also been recognized as innovative and relevant at international and regional level since:

- It is in tune with international law:
  - The Moroccan initiative for an autonomy statute is consistent with international law, the Charter of the United Nations and the resolutions of both the General Assembly and the Security Council;
  - It is an initiative based on compromise which satisfies the principle of self-determination, being based on a process of intense negotiation and being substantive in terms of its content which takes account of the modern interpretation of self-determination;
  - The autonomy statute of the Sahara region will be the subject of negotiations and of referendum-based consultation for the population groups affected.
- It is consistent with the guidelines of the Security Council, as it advocates a solution that is political, negotiated and mutually acceptable and calls on the parties to "demonstrate realism and a spirit of compromise in order to achieve progress in the negotiations".
- It is democratic and open in nature, as it is the result of a wide-ranging process of consultation at internal level supplemented by discussions at regional and international level designed to determine the views of countries concerned and affected by this regional dispute.
  - It is designed to bring about the conditions conducive to a process of dialogue and negotiation in order to achieve a mutually acceptable political solution.
- The philosophy behind it is consistent with the concept of the third force, focusing on a compromise solution with "neither winners nor losers" and taking the path of reconciliation.
- In terms of its geostrategic vision, it seeks to bring about the integration of the five Arab Maghreb countries, to enhance the security, stability, prosperity and development of the Maghreb and the way in which it interacts with its neighbours.
- Its meaningful and substantial content meets international norms, guaranteeing the population groups affected extensive rights when it comes to the legislature,

executive and judiciary, to be exercised through democratic and representative institutions.

### 3. Advanced regionalization

40. Advanced regionalization in Morocco is a key element in the ongoing process of reform and democratization of political and social life in the Kingdom. This is a new framework that marks a complete break with the past in terms of both its conception, goals and expectations and its objectives.

41. The objective of advanced regionalization is to turn Morocco's regions into institutions with first-rate and highly-qualified management structures capable of providing their respective regions with the best possible administration.

42. On the basis of this innovative scheme, Morocco is seeking, among other major objectives, to make the "reclaimed" provinces of the south of the Kingdom some of the prime beneficiaries of advanced regionalization.

43. Morocco also sees regionalization as the pathway to resolving the dispute. It represents a "transitional stage" towards autonomy for the Sahara. Implementation of regionalization goes hand in hand with Morocco's dynamic and sustainable proposition for resolving the Saharan conflict.

44. The rationale behind this is demonstrated, in particular, by the decision dating back several years to embark on regionalization in order to establish territorial democracy in Morocco and avoid the creation of major disparities between the Kingdom's regions overall.

45. Democratic in essence, regionalization is designed to enhance the role of the region in Morocco; it involves major changes in the way power is distributed between the central State and local players. From that perspective, the principle of autonomy of decision-making and financial independence will mark an important step forward in establishing effective powers for the regions.

46. In order to achieve the objectives of regionalization, the proposal involves extending the powers of regional council presidents who will be granted executive powers. They will no longer be answerable to governors and *walis* (prefects). They will have full management of local assembly budgets and will be accountable to the people and before the law. Similarly, enshrining managerial and administrative autonomy in the Constitution helps establish the principle of the separation of powers and their distribution between Central Government and local authorities.

### 4. The new regional development model for Morocco's southern provinces

47. Launched on 6 November 2012, the new development model for the southern provinces (annex 3) constitutes the counterpart of the major institutional project of advanced regionalization in the Moroccan Sahara. This initiative offers prospects of prosperity, human development and self-fulfilment for the local population.

48. The new model is fully consonant with the 2011 Constitution. It takes account, among other things, of the contribution of civil society. It will contribute to the success of the autonomy plan for the provinces affected by the United Nations process put forward by the Kingdom in 2007.

49. The keystone of this model of multifaceted development is the respect and promotion of fundamental human rights, construed in the broadest sense, including economic, social, cultural and environmental rights.

50. In establishing the parameters of an integrated and sustainable development plan, genuinely based on citizens' participation in managing their own local affairs, this development model strives to contribute to the vital collective endeavour to meet the challenges of social cohesion, prosperity and fairness in terms of benefiting from the assets of the Kingdom of Morocco's southern provinces.

51. An approach that is based on consultation, inclusion, listening, cooperation and interaction will give local people a fundamental role in devising the model and putting it into effect.

## **Article 2**

### **Implementation of the Covenant within the country**

52. In the context of Security Council resolution 1979 of 27 April 2011 extending the mandate of the United Nations Mission for the Referendum in Western Sahara, Morocco undertook to ensure "unqualified and unimpeded access to all Special Procedures of the United Nations Human Rights Council".

53. Morocco's commitment and its receptiveness to the United Nations system, and to the Special Procedures more particularly, was reaffirmed on submission of the national report at the second stage of the universal periodic review, in May 2012.

54. In the context of its interaction with the Treaty bodies and Special Procedures, Morocco has welcomed nine mandate holders under Special Procedures, seven of them after 2004, including five after the 2011 Constitution was approved, namely:

- The Special Rapporteur on the right to education (2006);
- The Working Group on Enforced or Involuntary Disappearances (2009);
- The Independent Expert in the field of cultural rights (September 2011);
- The Working Group on discrimination against women in law and in practice (February 2012);
- The Special Rapporteur on torture (September 2012);
- The Special Rapporteur on trafficking in persons, especially women and children (June 2013);
- The Working Group on Arbitrary Detention (December 2013).

55. At the time of submission of this report, Morocco is in discussion with other mandate-holders.

56. As part of the follow-up to the recommendations arising from the second stage of the universal periodic review and other United Nations procedures, a national action plan has been adopted and an interim report was transmitted to the Human Rights Council of the United Nations, in June 2014, on progress in implementing the recommendations that flowed from the universal periodic review.

#### **1. Institutions for implementing human rights**

##### *A. Interministerial Unit on Human Rights*

57. The Decree of 11 April 2011 set up the Interministerial Unit on Human Rights which reports to the Head of Government (annex 4), and is responsible for the following:

- Coordinating with the relevant organizations and ministerial departments to prepare and implement government policy for the defence, protection and promotion of human rights and international humanitarian law;
- Proposing all measures needed to implement the international conventions on human rights and international humanitarian law to which Morocco is a party;
- Undertaking actions and initiatives of all kinds capable of promoting respect for human rights in the implementation of public policies.

B. *National Human Rights Council*

58. The National Human Rights Council (CNDH) was set up by the Dahir of 1 March 2011 (annex 5). It replaces the Consultative Council on Human Rights. The Council is a national institution with responsibility for defending and promoting human rights and freedoms in Morocco in conformity with the Paris Principles governing national human rights institutions.

59. Now a constitutional body, CNDH has been equipped with wide-ranging powers and responsibilities at national and regional level ensuring it has more autonomy and a greater impact in protecting and defending human rights. Its monitoring and reporting role covers the entire country through 13 regional committees.

C. *Institution of the Ombudsman*

60. The Institution of the Ombudsman of the Kingdom, which is a constitutional body, was established by the Dahir of 17 March 2011 (annex 6) with the aim of modernizing the institution of the *Diwan Al-Madhalim* (Office of the Ombudsman) by converting it into a national, independent and specialist institution, attuned to international standards.

61. The main task of the Ombudsman is to ensure that the principles of integrity and transparency are incorporated into the management of public services and to encourage effective communications, between, on the one hand, natural persons and legal entities, whether acting individually or collectively, and, on the other, the public authorities, local authorities, public institutions and bodies exercising elements of State authority.

**Reply to the Committee's observation/recommendation concerning the Office of the Ombudsman**

62. In an official annual report, the Office of the Ombudsman of the Kingdom sets out statistical information on the complaints received from citizens who consider that their rights have been infringed by the authorities and on the outcome of their complaints, as well as on its general activities; this is presented to His Majesty the King and subsequently published in Morocco's Official Gazette (*Bulletin officiel*).

63. Internally, complaints are managed, recorded and handled on a regular basis, making it possible to compare and evaluate a range of statistics in relation to previous years, but also to classify cases based on their relevance to the Office and to establish a breakdown by region.

64. Since being set up, the Office of the Ombudsman of the Kingdom, has recorded more than 104,354 complaints and grievances over the period from 2004 to the end of 2013. Of the 104,354 recorded, only 26,083, or 39 per cent, meet the criteria for admissibility.

65. After carefully scrutinizing the evidence and supporting material provided, the Office referred 10,110 complaints to the relevant authorities requesting them to regularize the situation of the complainants and meet their demands.

66. Since late 2013, there have been four regional offices based in the towns of Laayoune, Tangiers, Meknès and Casablanca.

*D. Other institutions*

67. The following institutions involved in giving effect to human rights have also been established since the fifth report was submitted:

- The National Commission for International Humanitarian Law;
- The National Supervisory Commission for the Protection of Personal Data (art. 17);
- The Royal Consultative Council for Saharan Affairs;
- The National Observatory for Human Development;
- The Central Unit for the Prevention of Corruption;
- The Economic, Social and Environmental Council;
- The Competition Council; and
- The Council for the Moroccan Community Abroad.

68. There are plans to establish the following constitutional bodies also:

- The Authority for Equality and Preventing All Forms of Discrimination;
- The Consultative Council for Youth and Voluntary Action;
- The National Council for Languages and Moroccan Culture; and
- The Consultative Council for the Family and Children.

**2. Spreading a human rights culture**

69. A number of national players, including CNDH, are responsible for spreading of a human rights culture through partnership agreements with the relevant ministerial departments.

70. In schools, Morocco has opted for curricula which demonstrate the diversity of Moroccan culture and its openness to differing regional and international cultures. The reform of curricula has been based on the National Charter for Education and Training to include within their system of reference values of human rights and the universal principles underpinning them. A number of measures have been embarked upon and implemented in consequence:

- The introduction and general roll-out of human rights and citizenship clubs;
- Awareness-raising activities for students on human rights issues;
- The celebration of national and international human rights day;
- Arts-based activities to raise awareness of human rights values.

71. In 2007, Morocco adopted a “Citizen’s Platform for the Promotion of a Human Rights Culture”. Developing the platform took almost 20 months. It is structured around some 30 types of activity conducted on the basis of five-yearly planning covering three major themes: education, the training of professionals and raising public awareness.

72. The pilot stage extended over the three years from 2012 to 2014; the aim now is to implement the activities relating to the three key components of the platform.

73. The evaluation stage is designed to assess, spread and communicate proposals and recommendations in a way which surmounts obstacles and capitalizes on what has been achieved so far.

74. The following measures have been taken in relation to the security sector:

- A set of training sessions has been organized by the Ministry of Justice and Freedoms, the Royal Gendarmerie, the Directorate-General of National Security and the General Delegation for the Prison and Rehabilitation Services, in partnership with the European Union, Penal Reform International and the Mohammed VI Foundation for the Rehabilitation of Detainees, and working with civil society associations such as the Centre for People's Rights (Centre des Droits des Gens), etc. The aims of the training included informing staff of those services about respect for human rights, the international machinery for the protection of human rights, human trafficking, terrorism and human rights, etc.
- A programme of awareness-raising about human rights has been drawn up by the Inspectorates of the Auxiliary Forces of the Northern and Southern Regions.

### **Article 3**

#### **Equality between men and women**

##### **1. Recent achievements**

###### *A. Constitutional advances*

###### a. Constitutional status for the principle of equality

75. According to article 19 of the Constitution, "men and women shall enjoy civil, political, economic, social, cultural and environmental rights and freedoms on an equal basis [...]. The State shall act to make equality between men and women a reality. For this purpose, an Authority for Equality and the Prevention of all Forms of Discrimination shall be established". A bill on the Authority for Equality and the Prevention of all Forms of Discrimination is in the process of being adopted.

###### b. Family law

76. Among the measures taken to improve the application of the Family Code, adopted on 3 February 2004, was the introduction, in 2011, of a Family Assistance Fund for divorced women in poverty.

77. In accordance with Act No. 41-40 laying down the conditions and procedures for accessing payments from the Family Assistance Fund, the Fund, which has a budget of 160 million dirhams, is responsible for making subsistence payments to women and children below the age of majority, in place of husbands who fail to do so after a marriage has been dissolved. The aim is to meet the needs of the family until the justice system can force the husband to meet his maintenance obligations. The budget of the Fund and level of benefits will be progressively increased.

78. Beneficiaries of the Fund number 4,622, and payments total in excess of 38,830,000 dirhams.

*B. Advances in the representation of women*

a. Legislation

79. The 2011 basic law on political parties encouraged the parties to strive to ensure that one-third of the members of their governing bodies were women, in order gradually to make the principle of equality between men and women a reality in the longer term. That provision applies both to the parties' national bodies and their regional structures. Similarly, the basic law requires the parties to provide, in their statutes, for the establishment of an equality and equal opportunities committee.

80. On the occasion of the 2011 parliamentary elections, and in accordance with constitutional provisions, the basic law on the House of Representatives introduced a mechanism providing for the election of 60 women on the national list.

81. A regulation has also been introduced which provides that the amount of public funding payable to each political party, which is calculated on the basis of the number of seats won, must be weighted so that it is increased fivefold for every seat won by women candidates on local lists, as compared with seats won by men.

82. The basic law on the House of Counsellors also instituted the principle that the lists of candidates presented should alternate between women and men, failing which, it will be rejected.

83. The basic law on the election of members of local authority councils reintroduced the principle of a supplementary list to secure the representation of women on local councils. For all bodies at prefectural or provincial level, it introduced an all-women list covering a number of seats equivalent to at least one-third of the seats on the regional council to be filled at those levels. In addition, an equal opportunities committee is set up within each municipality.

b. Political representation of women and the electoral process

84. The adoption of national lists of candidates for parliamentary elections has led to an increase in the number of seats held by women from 35 in 2002 to 67 in 2011.

85. Of 20,326 women standing at the municipal elections of 12 June 2009, 3,424 were elected as councillors, a twenty-sevenfold increase since 2003, when they held only 127 seats. This increase marked an historic milestone in the political representation of women. Twelve women were elected chairs, 83 per cent in rural and 17 per cent in urban areas. At national level, 54 per cent of successful candidates are educated to secondary or higher level, compared with 46 per cent in 2003. Among women elected to office, this proportion is higher, at 71 per cent, and 33 per cent of women elected are below 35 years of age. Of a total of 1,289 prefectural and provincial councillors, 29 (or 2.2 per cent) are women. On the regional councils, 27 out of 1,220 councillors (or 2.2 per cent) are women.

86. Following the 2011 parliamentary elections, women hold 66 seats in the House of Representatives. The overall representation of women in the lower house has increased from 12.3 per cent to 16.7 per cent. Currently in Morocco, two political parties are led by women.

87. After the 2007 parliamentary elections, seven women were appointed as ministers, for the first time with diverse portfolios which did not restrict them to the social sectors. In 2012, only one woman was a member of the Government, compared with 6 female ministers in the 2014 and 2015 reshuffles.

c. Representation in decision-making posts

88. Article 4 of the basic law, Act No. 02-12 on senior public appointments, establishes the following principles for appointment: equality of opportunity, merit, transparency and equal treatment for all candidates, male or female; the prohibition of discrimination in any form in the selection of candidates of either gender for senior public appointments, on grounds including political or trade union affiliation, language, religion, gender, disability, or any other criterion inconsistent with the principles of human rights, the Constitution and the principle of equality between men and women.

89. By royal decision, women have had access, since 2006, to appointment as agents invested with State authority. Women are also represented in the world of religion: they have been represented on the Supreme Ulema Council since 2004. Further women were appointed to the Council in 2009.

90. The 2013 report on human resources in the public services shows progress in women's representation. Indeed, with an increase from 34 per cent in 2002 and 37 per cent in 2009 to 38.6 per cent in 2012 and 39.4 per cent in 2013, there has been a rise of 5.4 per cent in 11 years. Women's access to senior posts is constantly expanding, from 10 per cent in 2002 to 15.3 per cent in 2010 and 16.4 per cent in 2013, when women accounted for 89.9 per cent of posts of head of division or service, 9.7 per cent of directors-general and 10.4 per cent of directors.

91. Representation of women within the judiciary is improving, although at decision-making level it remains low, with 559 women judges of a total of 3,000.

**2. Replies to the Committee's observations/recommendations**

A. *Freedom of marriage*

92. Freedom of marriage is guaranteed in its various forms by the Family Code. Women have the right of matrimonial guardianship (*wilaya*). Once a woman has attained majority, she may exercise that right as she chooses and in accordance with her interests: she may contract marriage herself or delegate this to her father or someone else close to her.

93. Since the Family Code came into force, there has been an increase in marriages contracted by adult women themselves, from 20.87 per cent in 2012 to 21.96 per cent in 2013.

B. *Polygamy*

94. In Moroccan law, there must be objective grounds for polygamy and prior judicial approval must be obtained. In any event, an application for a second marriage allows the first wife to obtain a divorce automatically should she reject her husband's second union. Polygamy is not possible if the husband gave a prior commitment not to enter into a second marriage at the time of a first marriage.

95. The incidence of polygamous marriages has fallen compared with previous years, and accounts for no more than 0.25 per cent of the total number of marriages; there were 787 polygamous marriages in 2013 compared with 806 in 2012.

C. *Equality in relation to inheritance and divorce*

96. Morocco has withdrawn its reservations in relation to article 16 of the Convention on the Elimination of All Forms of Discrimination against Women and made an interpretative declaration on article 2 relating to the constitutional provisions governing succession to the throne and the question of inheritance.

97. According to official statistics, legal divorce on the application of one of the parties on grounds of discord (*shiqâq*) accounted for 56.04 per cent of applications made by wives compared with 43.96 per cent of applications by husbands. This remains the most common form of judicial divorce, accounting for 63.38 per cent of all divorces during 2013.

#### **Article 4**

##### **Derogation in time of public emergency**

###### **State of emergency**

98. States of emergency in Morocco are governed by a constitutional provision. The wording of the provision barely differs from the relevant provisions of the constitutions of democratic countries (art. 59).

#### **Article 5**

##### **Prohibition of narrow interpretation of the Covenant**

99. In its preamble, the 2011 Constitution establishes the primacy of international over national law.

100. Morocco has undertaken to ratify the various international conventions protecting human rights and to meet international standards on human rights. Accordingly, since the Constitution was revised in 1996, it has included a reference to human rights values as an integral part of the internal standards of the justice system by affirming in the preamble “its commitment to human rights as universally recognized”; the 2011 Constitution gave this even greater legal force by making the preamble an integral part of its normative framework.

#### **Article 6**

##### **Right to life**

###### **Reply to the Committee’s observations/recommendations**

###### **1. Capital punishment**

101. The Kingdom of Morocco has not carried out the death penalty since 1993, and the national courts pass the death sentence only in rare and exceptional cases and with great care and caution.

102. The question of the abolition of the death penalty is one of the most important issues for the many seminars relating to the national debate on a fundamental and comprehensive reform of the justice system.

103. The law on military justice now provides for only five crimes that are punishable by death. The proposed amendment to the Criminal Code would also reduce the number of cases in which the death penalty may be handed down and restrict it to the gravest and most appalling crimes. Out of 36 articles, the proposed amendment would retain the death penalty for only 10 crimes. In addition, the proposed amendment to the Code of Criminal Procedure contains a large number of provisions designed to restrict the imposition of the death sentence, including a requirement for unanimity on the trial bench.

104. The Royal message to participants in the World Human Rights Forum, held in Marrakesh, from 27 to 30 November 2014 stressed that the debate on the death penalty being pursued by the various components of civil society, parliamentarians and jurists will

make it possible to complete an in-depth consideration of the issues raised by the death penalty.

105. Individuals condemned to death whose sentences were commuted to either life imprisonment or a fixed term of imprisonment between 1994 and 2011 number: 195 (in 1994), 3 (in 2000), 25 (in 2005), 9 (in 2007), 31 (in 2009) and 5 (in 2011).

## **2. Enforced disappearance and impunity**

### *a. Legal developments*

106. In addition to making enforced disappearance a crime under the 2011 Constitution (art. 23, para. 2), Morocco has ratified the International Convention for the Protection of All Persons from Enforced Disappearance on 14 May 2013.

107. Act No. 35-11 accorded officials of the Directorate-General of Territorial Surveillance the status of judicial police officers, with the result that their investigations can be monitored by the public prosecutor's office.

108. The draft Code of Criminal Procedure contains 18 new measures dealing with subjects including the non-applicability of statutory limitation to crimes of a particular nature such as war crimes and genocide. Moreover, article 653-1 of the Code provides for the non-applicability of statutory limitation to penalties which are not time-barred under the law or in accordance with an international convention ratified by the Kingdom of Morocco.

109. In keeping with Morocco's international undertakings, the proposed amendment to the Criminal Code has provided for a range of offences which were not previously categorized as such to be deemed to be criminal offences, including the crime of enforced disappearance.

### *b. Reply to the Committee's observation/recommendation*

110. Morocco's acknowledgement that disappearances have occurred, the compensation of victims and of the families of the disappeared who died in detention, and the closure of the former secret detention facilities at Kalaât M'Gouna, Derb Moulay Cherif and Tazmamart demonstrate its determination to prevent any repetition of all the serious breaches of human rights committed in the past.

111. Driven by the political will to achieve a process of successful transitional justice aimed at national reconciliation and a transition to democracy, and drawing on the experience of IER, Morocco has chosen to determine the extent of the involvement of State bodies.

112. Morocco considers that the reference to articles 6 and 7 of the Covenant is inappropriate in the context of transitional justice, the purpose of which is not to apply the penalties of ordinary criminal law. The first task of IER was to identify the victims and families to be compensated. In order to do this, it adopted an approach based on dialogue with the victims and their legal successors and compensating them.

## **Article 7**

### **Prohibition of torture**

#### **1. More robust legal provisions**

##### *A. International law*

113. Morocco acceded to the Optional Protocol to the Convention against Torture on 24 November 2014.

##### *B. Constitution*

114. Article 22 criminalizes torture and prohibits ill-treatment.

##### *C. Legislation*

115. Since 2006, torture has been a specific criminal offence under the Criminal Code pursuant to Act No. 43-04 (annex 7). No circumstance can justify torture in any form even if orders have been received from a superior or a public authority, as the Act makes it a criminal-law offence and provides for both criminal and disciplinary penalties in relation to those who bear administrative responsibility.

116. The draft Code of Criminal Procedure introduces a new set of provisions stepping up the prevention of torture, including articles 45, 67, 67-2, 73, 74-1 and 82. In addition, a bill on forensic medicine will contribute considerably to the effective investigation of allegations of torture or ill-treatment.

##### *D. Public policy*

117. Visiting Morocco between 15 and 22 September 2012, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment confirmed that a human rights culture is developing in the country. He also congratulated Morocco on the creation of CNDH, which is the most significant institutional contribution to this emerging culture. The Moroccan authorities took part in the interactive dialogue with the Special Rapporteur during the twenty-second session of the Human Rights Council of the United Nations.

118. On that occasion, Morocco also stated that the recommendations of the Special Rapporteur, which were received by the authorities in a spirit of cooperation, partnership and sustained and constructive dialogue, were for the most part covered by the process of comprehensive reform set under way by the Kingdom in strategic and irreversible fashion. To that end, an action plan has been adopted for the considered, coordinated and comprehensive implementation of the recommendations of all the human rights bodies of the United Nations.

119. A project for the modernization and refurbishment of the facilities of the Directorate-General of National Security (DGSN) began back in 2008, with five-year plans for 2008–2012 and 2013–2017 for the refurbishment and reorganization of police premises to ensure that citizens are dealt with properly and accessibly. A project for upgrading of all custody cells has been launched by DGSN, covering ventilation, lighting, lavatories, bedding, the introduction of female staff and the physical separation of those detained on the basis of factors such as age and gender. The project includes training, awareness-raising and information for the staff concerned, aimed at achieving a better understanding of the extremely serious character of the offence of torture.

120. In addition, DGSN has made basic modules on human rights an integral part of the training courses delivered to its staff at all levels.

121. Officers conducting criminal investigations are aware that confessions must be supported by material evidence and are not in themselves sufficient. Any confession made spontaneously by an accused person is considered alongside the facts of the case, including evidence from the crime scene.

122. Since 2004, in an effort to boost its capacity for establishing the facts and determining the truth, DGSN has been running a project to upgrade police forensic services. The use of forensic experts at crime scenes has become more or less automatic, and this is reflected in the large number of samples sent to laboratories (13,030 cases recorded during 2013).

123. To date, 88 teams of scene-of-crime technicians have been set up in the criminal identification services attached to the external services of the criminal investigation service, with 630 trained technicians.

#### **Reply to the Committee's observation**

124. The Committee refers to "allegations". Allegations alone are not enough to justify administrative or criminal action or penalties against the persons concerned. Before such allegations can give rise to penalties in relation to individuals suspected of acts of torture or ill-treatment, criminal responsibility for the wrongful or criminal acts must be established by the courts. In accordance with article 2 of the Convention against Torture, Morocco has taken legislative, administrative and judicial measures, including new constitutional guarantees (art. 22) to prohibit all forms of torture. Moreover, under Moroccan law, no circumstance can justify torture in any form, even in cases where orders are received from a superior or a public authority.

125. In all cases where there are serious concerns that an act of torture has been committed, the Moroccan authorities carry out any necessary investigations and, where appropriate, take them forward first by administrative and then by legal action. A whole raft of legal measures is already in place in relation to all complaints alleging acts of torture. The complaints trigger investigations conducted by the appropriate authorities, namely the public prosecutors' offices, which oversee the conduct of the investigations in liaison with the criminal investigation service. Prosecutors' offices will not hesitate to order expert medical opinions in relation to allegations of torture, or to prosecute anyone who proves to have been involved in acts of torture.

126. The Ministry of Justice and Freedoms issued a circular concerning allegations of torture to prosecutors-general and prosecutors on 29 May 2014. The circular calls on them to ensure that the relevant constitutional and legislative provisions are scrupulously applied so that the rights and freedoms of persons in custody are safeguarded, and so that all necessary steps are taken, including medical investigations and opinions, whenever signs of torture are detected or such investigations or opinions are requested.

127. Similarly, the Prosecutor-General's Office does not hesitate to instigate the necessary investigations whenever irregularities are noted in relation to persons under arrest and placed in custody. By way of example, in 2010, the prosecutor's office ordered an investigation before the Casablanca Court of Appeal in the course of which six gendarmes were prosecuted for "the crime of torture committed collectively by public servants on a person in administrative custody with the intention of forcing the individual concerned to confess to acts of which that person was suspected".

128. As indicative figures, the Prosecutor-General's Office ordered expert medical opinions in relation to 20 people in 2010, while investigating judges ordered medical tests on 21 individuals, and, in 2011, the Prosecutor-General's Office and investigating judges ordered medical examinations in relation to 13 and 3 people respectively.

129. In 2014, the prosecutor's office ordered 48 expert medical opinions under articles 73 and 74 of the Code of Criminal Procedure. In addition, investigating judges ordered 14 expert medical opinions under article 134 of the Code.

130. Several judgments have already been handed down in relation to public servants for crimes of torture, among them officers from the criminal investigation service and other police services, agents invested with State authority and prison staff. Two public servants (from the police services) were prosecuted before the Laayoune Appeal Court in 2007 for "using a weapon to cause bodily harm resulting in unintentional homicide" and were sentenced to ten years' imprisonment. In another case, in 2006, six prison officers in Meknès were prosecuted for "acts of torture, rape and violence".

131. In its fourth report to the Committee against Torture, in 2011, Morocco described a number of measures and procedures in relation to individuals who were prosecuted for acts of torture. Similar action was taken in 14 cases in 2004, 20 in 2005, 17 in 2006 and again in 2007.

132. In 2014, five prosecutions were undertaken against law enforcement officers under article 231 of the Criminal Code, which makes torture a criminal offence.

133. In his communiqué at the end of his visit in 2012, the Special Rapporteur on torture recognized that the Moroccan authorities had given him their full cooperation, including by proving him with full access to all places of detention and arranging for him to hold unrestricted meetings with detainees in conditions of complete confidentiality.

## **Article 8**

### **Prohibition of slavery**

#### **1. International conventions**

134. Morocco is party to the following:

- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 21 March 1950;
- ILO Convention No. 29 concerning Forced or Compulsory Labour;
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery;
- ILO Convention No. 105 on the Abolition of Forced Labour;
- The United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;
- The Convention on the Rights of the Child and its optional protocols on the involvement of children in armed conflict and on the sale of children, child pornography and child prostitution.

#### **2. Legislation**

135. Trafficking in persons is a criminal offence under article 274-2 of the Criminal Code. Sexual exploitation and forced labour are also criminal offences under that Code and under the Labour Code. A bill on combating human trafficking is also in the process of being adopted.

136. Act No. 02-03 on the entry and residence of foreigners in Morocco and illegal emigration and immigration provides for exemplary penalties against any person implicated

in the exploitation and transport of those seeking to emigrate illegally or of victims of human trafficking (arts. 51–54).

### 3. Public policy

137. In 2007, a national strategy was put in place to combat human trafficking; this has enabled Morocco to align itself with international norms and standards for the protection of victims of trafficking in persons, vulnerable individuals and potential victims, including women and children and asylum seekers. It also made it possible for Morocco to lay the basis for the process-management of issues including prevention, combating trafficking networks and victim protection, in order to secure the effectiveness and mutual reinforcement of the programmes and measures put in place under a productive partnership between public bodies and private-sector players.

138. Methods of identifying and suppressing trafficking networks have been developed, and procedures have been put in place for referring victims to reception and support centres provided by the social sector. Three surveys on trafficking were conducted in 2009, 2010 and 2014, one by the Moroccan authorities in collaboration with the International Organization for Migration, another by the Consultative Council on Human Rights and the third by the Moroccan authorities and UN Women.

## Article 9

### Right to liberty and security of person

#### 1. Expulsion and extradition of foreigners

##### A. *Expulsion and deportation (see below: new policy on migration)*

139. Act No. 02-03 draws a distinction between deportation and expulsion (annex 8). Pursuant to article 21 of the act, deportation may be ordered by the authorities, on the basis of a decision that is reasoned, individual and justified by circumstances that are predefined and specific. The authorities may order expulsion if the presence of a foreigner on Moroccan territory represents a serious threat to public security or is necessary for compelling reasons of State security or public security (arts. 25 and 27).

140. Article 26 of the act lists those persons who may not be expelled, including pregnant women and minors.

141. A bill on migration is in the process of being adopted in order to bring the provisions of the act into line with international law.

##### B. *Legislation on refugees (see below: new policy on migration)*

142. As soon as Morocco acceded to the Geneva Convention relating to the Status of Refugees, a decree on the implementation of the Convention was adopted in 1957. The decree set in place the Office for Refugees and Stateless Persons (Bureau des réfugiés et apatrides) which falls under the auspices of the Ministry of Foreign Affairs. The Office can accord refugee status to any person who falls under the mandate of United Nations High Commissioner for Refugees (UNHCR) or is caught by the definitions set out in article 1 of the Convention. The Office is also responsible for issuing to such persons the documents needed to enable them either to engage in the various activities of civic life, or to apply the provisions of domestic legislation or international agreements relating to their protection. The decree established an appeals committee made up of the relevant parties. The committee's responsibilities include reviewing the decisions of the Office for Refugees and Stateless Persons.

143. The Social Security Act of 22 December 1959 accords some refugees the same rights as Moroccan nationals. Similar provisions in the employment sector enable them to access jobs in the public and private sectors. Following the signing of the headquarters agreement between the Government of Morocco and UNHCR in July 2007, the latter has had a full representation in Morocco.

144. Under article 29 of Act No. 02-03, a refugee granted the right of asylum cannot be expelled.

145. A reference to the right of asylum has been included in the Constitution (art. 30). A bill on refugees is in the process of being adopted.

C. *Extradition*

146. Moroccan legislation contains a range of provisions on procedures relating to international judicial cooperation on extradition in cases of torture or attempted torture.

147. Morocco has bilateral extradition agreements with other countries. Moroccan law accords precedence to international instruments over national legislation on international judicial cooperation, subject to establishing that the persons to be extradited are not at risk of torture in the requesting country.

2. **Police custody**

148. Police custody is regulated by articles 66 *et seq.* (cases where the perpetrator is caught in the act), and 80 *et seq.* (preliminary investigation) of the Code of Criminal Procedure. General speaking, custody lasts for 48 hours which may be extended once by 24 hours. Exceptionally, if State security is jeopardized, custody may last for 96 hours which can be extended once only and, in cases of terrorism, custody lasts for 96 hours and can be extended twice. In all circumstances, the period of custody can be extended only with the approval of the Public Prosecutor's Office.

149. Detainees are accorded guarantees, such as the right to remain silent, to be assisted by a lawyer, to inform their families and to be informed of the reasons for their arrest. In the case of foreign nationals, as well as notifying their families if present or resident in Morocco, the diplomatic representation of their country of origin is notified in accordance with the relevant international agreements.

150. These guarantees have been improved by the new draft Code of Criminal Procedure by a process of rationalizing the use of police custody, including by reducing the number of cases in which it is employed and reaffirming that it must be an exceptional measure. To that end, the draft provides for a raft of measures and procedures designed to monitor custody cases (audiovisual recording of police interviews and a person's right to contact a lawyer immediately on arrest, a right which is no longer contingent on authorization from the Public Prosecutor's Office, etc.).

151. The Public Prosecutor's Office carries out regular checks on detention facilities at least twice a month. Registers are inspected during each visit, and regularly once a month. The registers are signed and initialled by the Crown prosecutors. Daily records of persons in custody are transmitted to the relevant prosecutors' offices on a daily basis. Certain information must be recorded in custody registers, including identity; reason for detention in custody; duration of custody; duration of police interviews; rest periods; detainee's physical condition and state of health; nourishment provided and signature of the detainee.

3. **Terrorism**

152. The competent authorities are aware that security requirements must not impact negatively on respect for human rights. Consequently, in cases of terrorist offences, the

criminal investigation service always complies with the rules on custody periods, and the Public Prosecutor's Office carries out thorough checks on this.

153. Terrorist offences require very detailed investigation and thoroughgoing surveillance operations that generally call for longer custody periods.

## **Article 10**

### **Rights of detainees and treatment of persons deprived of their liberty**

#### **A. Legislation**

154. Under Act No. 23/98 on the organization and functioning of prison establishments and the implementing decree, when carrying out their duties, staff must accord detainees good treatment and conduct themselves properly in such a way as to gain the respect of detainees and be a good influence on them.

155. Moroccan law also requires the judge responsible for the enforcement of sentences and the Crown prosecutor to visit detainees at least once a month to ensure that detention is taking place lawfully and that prison registers are being properly kept.

156. A regional monitoring commission, chaired by the *wali* and assisted by the president of the court of first instance, the Crown prosecutor and the judge responsible for the enforcement of sentences, is basically responsible for ensuring proper sanitation, safety, the hygiene and diet of detainees and their living conditions. The commission informs the Ministry of Justice of its observations or criticisms and notifies it of abuses that must cease and of improvements to be made.

157. The Crown prosecutor and his deputies may make unannounced visits to police stations and the premises of the Royal Gendarmerie. The following statistics record the number of visits made by prosecutors' offices to police stations and the premises of the Royal Gendarmerie: 414 visits in 2001, 599 in 2002, 569 in 2003, 798 in 2004, 621 in 2005, 726 in 2006, 259 in 2007, 519 in 2008, 434 in 2009, 1,392 in 2010 and 308 visits in 2011. Visits to prison establishments by members of the judiciary at various levels numbered 1,026 in 2012, 1,332 in 2013 and 1,200 in 2014.

158. The Crown prosecutor may order a judicial investigation and, if appropriate, prosecute those responsible.

159. Within the framework of the powers devolved on it, CNDH may carry out visits to places of detention and prison facilities and monitor the condition of detainees and their treatment. Such visits may be made unannounced.

160. Visits may be carried out by civil society associations whose remit is to support and develop educational assistance for detainees, provide them with moral comfort and contribute to their rehabilitation, and by non-governmental organizations (NGOs), subject to authorization by the General Delegation of the Prison and Rehabilitation Service.

#### **B. Public policy**

161. The General Delegation of the Prison and Rehabilitation Service (DGAPR) has replaced a directorate which came under the auspices of the Ministry of Justice and now answers to the Head of Government.

162. Since it was first set up, DGAPR has constantly made significant efforts to improve conditions of detention. An extensive programme for the restoration, extension and construction of prison establishments has been set under way to improve the conditions of

detention of the prison population, including in terms of their accommodation, diet, health care and vocational training.

163. Currently, DGAPR covers 76 prison establishments, 2 central prisons for prisoners serving long sentences, 61 local prisons for individuals in pretrial detention and short-term prisoners, 7 prison farms designed to provide vocational training in agriculture and prepare certain prisoners for release, 4 reform centres for minors (aged under 20) and 2 women's prisons.

164. Given that the prison population is rising sharply, and in fact increased from 57,563 detainees in 2009 to 70,099 detainees in September 2014, the problem of prison overcrowding should be eased by carrying out, during the period 2014–2017, new projects which are designed to increase net space per detainee to three square metres.

165. Work has been done on medical supervision: the number of doctors and paramedical staff has increased from 60 doctors in 2008 to 96 doctors in 2014, that is to say one doctor per 730 detainees.

166. In August 2011, a multidisciplinary medical centre was set up at Oukacha prison in Casablanca by DGAPR in partnership with the Mohammed VI Foundation for the rehabilitation of prisoners requiring total investment of 15 million dirhams.

167. Working with the Mohammed VI Foundation for the rehabilitation of prisoners, DGAPR is introducing training programmes appropriate to the specific features and needs of the prison population. A number of agreements have been concluded with the various departments involved in prisoner education.

## **Article 11**

### **Imprisonment for inability to fulfil a contractual obligation**

#### **1. International law**

168. Under the 2011 Constitution, international law takes precedence over domestic law.

#### **2. Domestic legislation**

169. A circular from the Ministry of Justice dated 2 April 2003 was sent to prosecutors at the Kingdom's courts prompting them to apply the international conventions ratified by Morocco, including article 11 of the International Covenant on Civil and Political Rights.

170. The Dahir of 20 February 1960 was amended by the Act of 22 November 2006 and now provides that a person who is unable to fulfil a contractual obligation may not be subject to imprisonment.

#### **3. Case law**

171. A number of judgments and decisions of Morocco's courts demonstrate that the principle whereby international law takes precedence over domestic law was being applied even before it was enshrined in the 2011 Constitution:

- Judgment of the Rabat court of first instance of 16 April 1990: "An application for the imprisonment of a debtor has ceased to be lawful since Morocco ratified the International Covenant on Civil and Political Rights of 16 December 1966, and, more specifically, article 11 thereof, according to which no one is to be imprisoned on the sole ground of inability to fulfil a contractual obligation";
- Judgement of the Supreme Court of 26 September: the Court overturned the appeal court's decision to imprison the person concerned for failing to pay rent.

## **Article 12**

### **Liberty of movement and freedom to leave one's country and return to it**

#### **Liberty of movement**

172. Article 24 of the Constitution guarantees freedom of movement and freedom of establishment in the national territory.

173. Morocco's administrative courts have established the right to free movement. According to the Meknès administrative court: "Freedom of movement is a constitutional right pursuant to article 9 of the Constitution, and may be restricted only in accordance with the law." Consequently, the authorities' refusal, over a period of more than 16 months, to issue a passport without legal justification represents an abuse of authority, as a result of which that decision may be annulled (Meknès administrative court, 22 February 1996, Dame Réragui).

## **Article 13**

### **Prohibition on the expulsion of aliens without legal safeguards**

#### **1. Legislation (see below: new policy on migration)**

174. Under Act No. 02-03, operations to deport migrants who are illegally present in Morocco are conducted in full compliance with the regulations and legislation, including the condition that a court and administrative order must be obtained to ensure that the rights of the persons concerned are respected.

175. Deportation is ordered, by reasoned decision, in respect of foreigners who have entered Morocco illegally or are staying illegally in the national territory. A foreigner may apply to the president of the administrative court, sitting in chambers, to annul such a decision. A foreigner subject to a deportation order is removed to the country whose nationality he or she possesses or to the border point at which he or she originally entered Morocco.

176. As regards voluntary return, Morocco has set in place extensive logistical pre-departure arrangements providing medical assistance, accommodation and food, as well as payment for air tickets. Since 2004, that policy has benefited more than 9,200 foreign migrants extricated from trafficking networks. These voluntary return operations are coordinated with the accredited embassies which identify the persons concerned and issue consular passes.

#### **2. New policy on migration**

177. On 10 September 2013, His Majesty King Mohammed VI called upon the Government to draw up a new general policy on issues of immigration and asylum, to be based on a humanist approach in accordance with Morocco's international commitments and to respect the rights of immigrants.

178. The policy takes the form of an operational plan of action comprising four main strands, namely: the situation of the refugees and asylum seekers; the question of foreigners in an unlawful administrative situation; combating human trafficking; and improving the situation of foreigners who are legally present in the country.

179. Those four strands led the Government to set up four subcommittees, on 17 September 2013:

- Subcommittee on diplomatic action: tasked with finalizing the proposals of the Kingdom of Morocco in the main fora dealing with issues of migration and promoting regional and international cooperation;
- Subcommittee on the regularization of illegal aliens: tasked with giving effect to the exceptional measure announced by the Kingdom on the regularization of foreigners illegally present in Morocco in early 2014;
- Subcommittee responsible for regularizing the situation of asylum seekers recognized as such by UNHCR: the subcommittee has undertaken to consider 853 cases of individuals recognized as having refugee status by the representation of UNHCR in Rabat;
- Subcommittee responsible for updating the legal and institutional framework on immigration, asylum and combating human trafficking.

180. The subcommittees work closely with CNDH and the Interministerial Unit on Human Rights, and in collaboration with national NGOs active in the field of migrant rights.

181. At an institutional level, the Government of Morocco set up for the first time, on 10 October 2013, a structure responsible for questions of migration, thereby extending the powers of the Ministry for Moroccans Living Abroad.

### **3. Progress achieved in implementing the new policy on migration**

#### *A. Regularizing the situation of asylum seekers*

182. The subcommittee responsible for regularizing the situation of asylum seekers began its work within the Office for Refugees and Stateless Persons, and started, on 23 September 2013, by interviewing an initial total of 853 refugees recognized as such under the mandate of UNHCR.

183. On 22 July 2014, the ad hoc committee considered the cases of 554 refugees recognized by UNHCR, that is to say 63.89 per cent of the total number of refugees on the list initially transmitted by the representation of UNHCR in Rabat. The remainder could not be contacted for a variety of reasons (return to their country, transit to Europe, death, etc.).

184. The committee recommended regularizing the status of 546 individuals. It also recommended granting derivative refugee status to three babies born to female refugees whose status had been recognized by the committee. Subsequently, as a result of the continuing hostilities in Syria, UNHCR registered a number of Syrian nationals as refugees. A process of regularizing the situation of Syrian asylum seekers was set under way on Wednesday 25 June 2014. On 23 December 2014, the committee interviewed 381 Syrian refugees.

#### *B. Exceptional regularization*

185. On 11 November 2013, the process of exceptionally regularizing the situation of foreigners illegally present in Morocco was officially launched.

186. The process took place from 1 January to 31 December 2014. As part of the process, 83 immigration offices (bureaux des étrangers) were opened within the prefectures to take receipt of and review applications for regularization; this was possible, in particular, because the necessary human (3,000 officials) and logistical resources were provided. In addition, an appeals committee was set up under the supervision of CNDH and with input from the relevant associations.

187. According to statistics dating from 18 December 2014, the numbers involved in the operation for regularizing the situation of illegal immigrants in Morocco are as follows:

- Number of applications: some 27,332;
- Nationalities: more than 103;
- Number approved: 17,916.

*C. Updating the legal and institutional framework*

188. The relevant subcommittee drafted three legal instruments relating to asylum, combating human trafficking and immigration.

189. The three instruments were prepared in accordance with international human rights standards and are currently undergoing the approval procedure.

*D. Integration of migrants*

190. Integration is the main focus of this policy, and the integration scheme is designed, among other things, to:

- Accord immigrants the right to benefit from civil, political, social, economic and cultural rights;
- Guarantee equality of opportunity as between nationals and non-nationals;
- Combat discrimination in all sectors and foster diversity and tolerance.

## **Article 14** **Equality before the law and right to a fair trial**

### **1. Independence of the judiciary**

*A. Replies to the Committee's observations*

191. In Morocco, the principle of the separation of powers has always been recognized as a constitutional principle.

192. Under the Constitution, the judiciary, which used just to be an authority, is now as an independent power: article 107 of the Constitution reads as follows: "The judiciary shall be independent of the legislature and of the executive. His Majesty the King shall be the guarantor of the independence of the judiciary." The Constitution devotes a whole title (Title VII) to the judiciary. Eleven of the 22 articles contained in Title VII relate to the independence of the judiciary and concern:

- The special features of the status of members of the judiciary (art. 112);
- The fact that judges may not be removed (art. 108);
- Impartiality (art. 109);
- Autonomy in relation to judgments (art. 110);
- Organizational autonomy (art. 115);
- Administrative and financial independence (art. 116);
- Self-regulation (art. 113).

**B. Public policies****a. Comprehensive plan for reform of the judicial system for the period 2012–2016**

193. The Government has prepared a draft comprehensive plan for reform of the judicial system for the period 2012–2016, in the wake of the national debate on reform of the justice system. The draft plan, which comprises 13 strategic lines of action, is designed to bring the justice system closer to citizens, facilitate access to judicial bodies and procedures, accelerate the process of updating judicial and administrative structures and improve human resources and the business environment.

**b. The Moroccan High Commission on National Dialogue tasked with reform of the justice system**

194. On 8 May 2012, His Majesty the King established a Commission on National Dialogue (*Haute instance du dialogue national*) tasked with the comprehensive and in-depth reform of the justice system. The Commission has 40 members, including the Minister of Justice and Freedoms, members of the legal profession and the judiciary, teachers, NGOs and experts.

195. The national dialogue involved more than 200 actors from different walks of life. National conferences made it possible to draw up proposals for reform which are designed to consolidate the guarantees of independence, update structures, improve human resources and ensure that the rules governing the moral integrity of the justice system are firmly established.

196. As regards reform of the judicial system, the Commission on National Dialogue recommends that, in order to achieve the objective of the reform, it is necessary to work towards the attainment of six main strategic objectives:

- Consolidating the independence of the judiciary;
- Ensuring the moral integrity of the justice system;
- Stepping up the protection of rights and freedoms by the justice system;
- Improving the effectiveness and efficiency of the justice system;
- Developing the institutional capacities of the judicial system;
- Modernizing the administration of the judicial system and improving its governance.

**2. Fair trial; legal developments**

197. Following its amendment by Act No. 35-11 in October 2011, article 66-1 of the Code of Criminal Procedure requires that all persons arrested or taken into custody must be informed immediately, in a language that they understand, of the reasons for their detention and of their rights, including the right to remain silent, the right to have access to a lawyer and to contact a relative.

198. The draft amendment to the Code of Criminal Procedure provides for new guarantees to rationalize the use of custody, including by reducing the number of instances in which it is used and reaffirming that custody must be an exceptional measure. On that basis, the draft provides for a raft of measures and procedures designed to monitor custody cases (audiovisual recording of police interviews and a person's right to contact a lawyer immediately on arrest). Similarly, the draft seeks to rationalize pretrial detention on the basis of a number of procedures designed to establish the exceptional nature of this measure (for example, the introduction of new conditions and restrictions on the power of examining magistrates and public prosecutors to order pretrial detention).

### 3. The new law on military justice

199. Published in Morocco's Official Journal in January 2015, the new law on military justice meets international standards and complies with the relevant recommendations of the agencies of the United Nations. Military justice now forms part of the national judicial system and is categorized as specialist and independent, in accordance with the Constitution, which calls for the judiciary to be properly independent.

200. The most important advances in the legislation on military justice include:

- Repeal of the special provisions for referring civilians to the military court in peacetime, regardless of the nature of the offence and status of the perpetrator, whether the principal perpetrator or that person's associate, or indeed the accomplice of a member of the military;
- Referral of members of the military and persons of similar status to civilian criminal courts if they commit a crime under the ordinary law;
- Military courts have absolutely no jurisdiction to try minors under the age of 18 regardless of their status or the nature of the offence committed;
- Specific referral to the provisions of the Criminal Code and the Code of Criminal Procedure;
- More civilian judges at hearings, particularly before appeal courts;
- Repeal of the penalty of temporary or permanent forced labour, now replaced by custodial sentences.

#### Article 15

##### Principle of non-retroactivity of the law

201. The principle of non-retroactivity of the law has consistently been upheld and guaranteed in Morocco's constitutions. The 2011 Constitution formally restates it once more: according to article 6, paragraphs 3 and 4: "The principles of constitutionality, of hierarchy and of the obligation to publish legal provisions shall be confirmed. The law may not have retroactive effect."

#### Article 16

##### Right to recognition as a person before the law

202. Under the Civil Status Act of 3 October 2002, the foster parent (*Kafil*) may give his family name to the foster child (*makfoul*) in accordance with the procedure for changing a family name; a child born to a Moroccan mother and a foreign father has the right to be registered in the Moroccan register of births under the father's family name; and a Moroccan mother may transmit her nationality to her child (see below, art. 23).

#### Article 17

##### Right to privacy

203. The right to privacy is a fundamental right established by article 24 of the 2011 Constitution.

204. The Act of 18 February 2009 on the protection of individual personal data has updated the legislative framework, bringing it into line with international and, in particular, European standards (annex 9).

205. The act established the National Commission for the Control and Protection of Personal Data whose main remit is to ensure that individuals' fundamental freedoms and rights are respected in relation to personal data.

206. Since it was set up, the Commission has been working to flesh out the right to privacy and the protection of individual personal data on the basis of five main lines of action, namely:

- Information and awareness-raising;
- Supervision of the processing of individual personal data;
- Monitoring and investigation;
- Giving advice and making proposals;
- Legal and technological monitoring.

## **Article 18**

### **Freedom of thought, conscience and religion**

#### **1. Freedom of religion, belief and conscience**

207. Article 3 of the 2011 Constitution guarantees all people freedom of worship. In the same vein, article 41 provides that His Majesty the King is the guarantor of freedom of worship.

#### **2. Military conscientious objection**

208. The issue of conscientious objection to military service has yet to arise in Morocco. As the Committee noted, since compulsory military service is simply a fallback option, the fact that Morocco does not recognize the right to conscientious objection has no practical impact. In addition, the military authorities have yet to record an instance of conscientious objection.

209. Since the issue of conscientious objection is raised by the Committee only as a matter of principle, the Moroccan State, which is bound by its unreserved ratification of the International Covenant on Civil and Political Rights, takes the view that its position of principle on the matter is consistent with the Covenant and will formalize it in legislation at the appropriate juncture.

## **Article 19**

### **Freedom of opinion and expression**

#### **1. Developments**

210. The following developments have taken place in this field since the fifth periodic report.

##### *A. At a constitutional level*

211. The Constitution establishes, for the first time, the right to access information; according to article 27: "All citizens shall have the right to access the information held by the public authorities, and by elected and public-service bodies. The right to information

may only be restricted by law, in order to secure the protection of all aspects of national defence, of the internal and external security of the State, and of individual privacy; to prevent infringements of the fundamental freedoms and rights set out in the present Constitution and to protect the sources of information and the domains specifically determined by law.”

212. Similarly, article 28 stipulates that: “Freedom of the press shall be guaranteed and may not be restricted by any form of prior censorship. Every person shall have the right to express and freely disseminate information, ideas and opinions, subject only to the limits specifically laid down by law.”

213. Pursuant to article 165: “The High Authority for Audiovisual Communication is the body responsible for ensuring respect for the pluralist expression of currents of opinion and thought, and the right to information in the audiovisual sector, in compliance with the basic cultural values and laws of the Kingdom.”

*B. In terms of legislation*

214. In accordance with the provisions of article 27 of the Constitution, a bill on the right to information is in the process of being adopted.

215. The enactment of the Dahir of 31 August 2002 establishing the High Authority for Audiovisual Communication and the Decree-Law of 10 September 2002 bringing to an end the State monopoly over the audiovisual media were followed by the enactment, on 7 January 2005, of Act No. 77-03 on audiovisual communications which is designed to:

- Support and develop national audiovisual production and focus on the use of national resources and skills;
- Support the creation of high-quality original work;
- Promote cultural heritage and national artistic creativity and help extend their influence at both domestic and international level (annex 10).

216. Bill No. 83-13 supplementing Act No. 77-03 is in the process of being approved.

217. On the basis of Act No. 77-03, Moroccan radio and television and the independent advertising service have been converted into a single entity, in the form of a private limited company (la Société nationale de radiodiffusion et de télévision, SNRT). SOREAD-2M has been given a public service remit, making it, together with SNRT, a focal point for the public audiovisual sector.

218. Creation of the Amazigh channel “Tamazight”: launched in January 2012, the channel’s remit is to promote and conserve Amazigh culture in Morocco and in the north African region.

219. Since being launched in 2004, Laayoune TV has been the first regional channel in the Maghreb. It aims to be a community-based channel covering all of the southern provinces, and to offer, with a largely regional voice, a general and diverse schedule targeted more particularly on the people of the southern provinces.

*C. Public policy*

220. The scope of press freedom has been extended, particularly following:

- The emergence of private publications for 15 years now and of two private radio stations authorized to broadcast since the airwaves were freed up in 2002;
- The award of the first broadcasting licences to private radio stations by the High Authority for Audiovisual Communication, in 2006.

221. In that context, following the conclusion of a new contract, the television channel Medi 1 TV is becoming a private television channel with a national and international remit.

222. The result has been significant diversification in terms of what is on offer in public-service broadcasting (radio: 4 general national radio stations including one in the Amazigh language; 1 specialized national radio station (Koran); 1 specialized regional station broadcasting music and 9 regional stations). There are currently 17 private radio stations.

223. Morocco has a national library of more than 500 press publications and an audiovisual sector providing 17 private radio stations, 10 public-service television channels and around 15 regional and specialized radio stations.

224. From 1987, Morocco began providing aid to trade union associations and their press bodies. The aid consists of a direct annual subsidy and other benefits accorded to the media. The grant of this aid has been regulated since the conclusion, in 2005, of a programme contract between the State and the Moroccan Federation of Newspaper Publishers (FMEJ).

225. The annual subsidies to the press under the programme contract signed after the 2005 conference amount to 50 million dirhams. More than 60 publications benefited from this direct State aid in 2010.

226. In 2013, a programme contract 2013–2017 for improving press standards was signed by the Ministry of Communications and the FMEJ. The purpose of the programme contract is to improve the institutional framework for governance in relation to public support for the press, to adopt a support system that is diversified, effective, transparent and contract-based, and to cement the economic model for the press.

## **2. Reply to the Committee's observation**

227. The draft press code, which is in the process of being adopted, establishes the new constitutional provisions and constitutes an important stage in the process of reform based on a participatory approach.

228. It consists of five pieces of legislation: the Act on the press and publishing; the Act defining the status of professional journalist; the Act on the National Press Ethics Council; the Act on the electronic media and, finally, the Advertising Act.

229. The draft code is designed, among other things, to amend articles concerning penalties, fines, seizure and suspension, the right and obligations of journalists and special protection for certain rights. The draft also meets the expectations of professionals in the sector, and includes provisions in line with international standards of press freedom. It is also designed to establish an independent body for press self-regulation which will take the form of a "National Press Council". It will be responsible for professional ethics in accordance with international standards. The new draft code includes provisions relating to the electronic media, the right to information and the different categories of press operatives such as printers, distributors and advertisers.

## **Article 20 Prohibition of propaganda for war**

230. "The Kingdom of Morocco calls for peaceful coexistence between the States, for tolerance and understanding between peoples, and for dialogue and closer ties between religions and cultures, and, consequently, condemns the use of force and violence, denounces all forms of extremism and terrorism and anything that might jeopardize international security and stability" (His Majesty King Mohammed VI).

231. Morocco has reaffirmed its total commitment to the process of negotiation, a process with which its autonomy initiative for resolving the Sahara question is very much in keeping, within the framework of its sovereignty. Given that it has made this overture and taken a conciliatory approach, Morocco is dismayed at the current impasse, with all that it implies in terms of consequences for the peoples of and for peace and security in a region threatened by the dangers of balkanization, terrorism and instability. The dangers of terrorism threaten the countries of the Sahel and of northern Africa, since it has become a refuge for armed groups with different allegiances and for separatist organizations that threaten the territorial unity of the countries of the region and have no hesitation in employing violence to achieve their ends.

232. In March 2012, the Security Council appointed Morocco Africa's representative on the Peacebuilding Commission for one year. This will enable the Kingdom to continue to act as a recognized player in maintaining and consolidating peace in Africa. It also reinforces the role of Morocco as a force for peace in Africa, as it is chairing the Security Council's Working Group on Peacekeeping.

## **Article 21**

### **Right of peaceful assembly**

233. Public gatherings are regulated by Act No. 76-00 which distinguishes between public meetings and public demonstrations.

234. Public meetings may be freely held, and all that is needed before they can be convened is a simple declaration.

235. Public demonstrations, which have been limited (since 2002) to known and recognized organizations (political parties, trade unions, professional associations and bodies), are more restricted because they take place on the public highway and may cause disruption and conflict with other freedoms (freedom of movement and the freedom to engage in trade and industry, etc.) and infringe important human rights (physical integrity, dignity, etc.). This has led the legislature to contain the exercise of this freedom.

236. A ban may be imposed if the authorities have evidence to suggest that a demonstration may disrupt public security. Their decision can be appealed, as the organizers may apply to the administrative courts to have the administrative decision lifted.

## **Article 22**

### **Freedom of association and trade-union rights**

#### **1. Freedom and right of association**

237. Associations in Morocco are governed by the Dahir of 15 November 1958 regulating the right of association. The Dahir has been amended on a number of occasions and, most importantly, in 2002.

238. Taking account of international standards in the field, the legislation on associations has set in place a very extensive legal framework, with new rules guaranteeing transparency and legality in relation to the diversification of associations' financial resources, enhancing the role of the judiciary and preserving the sanctity of national values, by banning racism, hate, violence, discrimination based on religion or ethnicity and infringements of the freedom of others.

239. According to article 12 of the 2011 Constitution: "civil society organizations and non-governmental organizations shall set up and exercise their activities in complete

freedom in compliance with the Constitution and the law; they may be suspended or dissolved by the public authorities only on the basis of a court decision”.

240. The conditions and procedures for setting up associations are laid down by the law, according to which associations may set themselves up freely and possess legal capacity once they have been declared to the local administrative authority within whose jurisdiction the association concerned has its headquarters.

241. The legislation has provided for a “declaratory regime”, whereby the founders of associations have only to notify the authorities in whose jurisdiction the association’s headquarters are located that they have been set up. When the declaration form has been completed, the relevant administrative authority issues an acknowledgement.

242. Currently, nearly 120,000 associations in Morocco are working in different fields, including the economic, social and cultural fields.

243. To illustrate this development: in 2012, there were 10,067 associations, but, in 2013, their number increased significantly with the creation of 10,919 associations over the national territory.

244. The national dialogue on civil society and its new constitutional rights (2013–2014), which was based on a broad process of consultation, resulted in four legal platforms, including, essentially, a legal platform on the voluntary sector (Voluntary Sector Code) which has benefited from international benchmarking with the support of a number of international bodies and been underpinned by extensive internal and external consultations.

## **2. Trade-union rights**

245. Morocco has ratified international conventions of the ILO relating to trade-union rights, namely: the Right to Organize and Collective Bargaining Convention (No. 98); the Workers’ Representatives Convention (No. 135); the Collective Bargaining Convention (No. 154); the Rural Workers’ Organizations Convention (No. 141) which is in the process of being approved; and the Labour Relations (Public Service) Convention (No. 151) which concerns the protection of the right to organize and the procedures for determining conditions of employment in the public service.

246. Article 29 of the Constitution guarantees freedom of association and the freedom to belong to a trade union. In addition, under Title 1 of Book 3 of the Labour Code more particularly (arts. 396 to 429), all workers are guaranteed the freedom and right of association and the right to form coalitions without prior authorization. Moreover, article 36 of the Labour Code provides that membership of a trade union is not a valid reason for disciplinary measures or dismissal. Under article 9 of the Labour Code, anti-union discrimination is a punishable offence and may result in a fine of up to 60,000 dirhams.

247. Trade unions and employers’ associations are established in all areas of economic activity and play an active part in meetings of committees of inquiry and investigation, as well as in the work of the Consultative Council responsible for monitoring the social dialogue, of CNDH and of the National Commission for Social Dialogue.

248. In July 2012, a trade union coalition was formed between the Democratic Workers Organization (ODT) and Immigrant Workers at the first national congress setting up the Democratic Organization of immigrant workers in Morocco affiliated to the ODT, for the purpose of defending and protecting the rights of migrant workers in Morocco.

## Article 23

### Protection of the family

#### 1. Developments

249. In an effort to raise awareness of the importance of registering marriages, a second national campaign on the recognition of marriage 2013–2014 was launched in coordination with all of the relevant courts, government departments, professional bodies and associations. The campaign resulted in 27,121 judgments recognizing marriages and 434 hearings by mobile courts during the period between 1 January and 5 February 2014.

250. The Civil Status Act implements the International Covenant on Civil and Political Rights by:

- Abolishing the dual regime and establishing a single regime applicable to all births in Moroccan territory without distinction as to religion or nationality;
- Establishing the equality of women and men as regards the right to register their children;
- Making it possible for a woman (spouse, widow or divorcee) to obtain a duplicate of the family record book, and for a single mother to register her child and give that child her family name;
- Selecting the first name of fictitious parents for children of unknown paternity or parentage;
- Requiring the Crown prosecutors to register children abandoned at birth and to give them fictitious family and first names (a measure designed to protect them and facilitate their social integration);
- Making it possible for the foster parent (*Kafil*) to give his family name to the foster child (*makfoul*) (foster child).

#### 2. Reply to the Committee's observation

##### A. Right to education

251. A number of institutional, organizational and operational measures have been taken to secure the right to education. For instance, the budget allocation for education saw an annual increase from 5 per cent to more than 20 per cent as of 2008.

252. There is a national strategy to combat illiteracy, which is a major component of the "National initiative for human development" launched by Morocco in 2005.

253. A total of more than 5,280,000 individuals took part in literacy programmes during the period 2002–2003 to 2010–2011.

254. The number of children benefiting from non-formal education was 63,488, including 30,282 girls, in 2012–2013, and, in 2014, the figure was 65,000, more than 46 per cent of them girls.

255. A law adopted in May 2010 established a national agency to combat illiteracy. The agency is tasked with coordinating activities carried out in this field by the relevant authorities and the various non-governmental players, with establishing and developing partnerships and with contributing to the development of research and study in this area.

B. *Abortion*

256. Under the Moroccan Criminal Code, abortion is an offence save in the cases for which 453 thereof provides: “Abortion shall not constitute a punishable offence where it is a measure necessary to safeguard the mother’s health and is openly carried out by a doctor or surgeon with the spouse’s consent.”

257. That then is the general principle; however, in the context of the proposed amendment to the Criminal Code, other cases that may, exceptionally, not result in prosecution, could be envisaged.

C. *Violence against women and domestic violence*

a. *Violence in general*

258. The Constitution has stepped up safeguards against violence on the basis of article 21 which establishes the right to personal security, and article 22 which specifically prohibits all forms of violence.

259. The Constitution has strengthened the institutional framework for promoting and protecting women’s rights by creating the Authority for Equality and the Prevention of All Forms of Discrimination and the Family and Children’s Advisory Council.

260. The Criminal Code contains general prohibitions that can be applied to domestic violence, including provisions making it clear that a marital relationship constitutes an aggravating circumstance for the purposes of conviction in cases of violence and assault. It makes several kinds of violence against women criminal offences, including rape (art. 486), indecent assault (arts. 484-485-488); the exploitation of women for the purposes of prostitution (procuring); sex tourism (art. 501); and sexual harassment in all its forms (art. 503-1 added by Act No. 24.03).

261. A bill on combating violence against women and another on domestic labour are in the process of being adopted.

262. In terms of education, more than 3,066 counselling centres have been set up in educational establishments, particularly at primary and secondary level, and watchdogs for violence have been generally introduced into educational establishments in the 16 regional education and training districts.

b. *Domestic violence*

*Legislation*

263. Following the adoption of the Family Code, article 406, which was added to the Criminal Code, stipulates that a husband who beats or injures his wife will have his sentence doubled, whatever the medically certified duration of the wife’s incapacity.

264. According to the results of the National Survey on the prevalence of violence against women, conducted by the Office of the High Commissioner for Planning (HCP) in 2009: of a population of 9.5 million women between the ages of 18 and 64, almost 6 million, that is to say 62.8 per cent had been subject to an act of domestic violence in one form or another during the 12-month period preceding the survey, 3.8 million of them in urban and 2.2 million in rural areas.

Table 1

<i>Form of violence</i>	<i>Rate (%)</i>	<i>Number of victims</i>
Psychological	48	4.6 million
Violations of individual freedoms	31	3 million
Violence related to the application of the law	17.3	1.2 million
Physical	15.2	1.4 million
Serious physical violence (assault with a blunt instrument, burns)	1.9	177,000
Sexual	8.7	827,000
Forced sexual relations	0.4	38,000
Economic	8.2	181,000

*Source:* HCP, National Survey on the prevalence of violence against women, 2009.

### Public policy

265. The Government drew up an operational plan for combating violence against women in 2004, as part of the process of implementing the national strategy for combating violence against women.

266. A number of counselling and assistance centres for female victims of violence have been set up by the Government and NGOs. A freephone number was introduced, in 2005, for women and girls who are the victims of violence. The counselling centres receive financial support from the State to improve the care of women victims of violence.

267. The Ministry of Justice and Freedoms has undertaken to improve the reception and care of women victims of violence by: setting up counselling and communication units in connection with the counselling centres; providing in-service training for judges; providing legal aid for women who lack the resources to pay; and providing mediation in relation to domestic violence for women victims of violence.

268. Since 2004, units made up of judges with experience in matters concerning women and women's rights have been set up at prosecutors' offices. Those same judges have been made responsible for investigating and dealing with cases involving violence against women generally. Social workers working within the units are responsible for supporting the women.

269. Launched in 2008, the TAMKINE programme is designed progressively to eradicate violence against women.

270. In 2014, there were 88 of the abovementioned units in Morocco and more than 170 units at all of the Kingdom's police services.

271. A gender focal point and a special unit to combat violence against women have been established by DGSN. Morocco's police stations have been asked by DGSN to record all instances of violence against women and to provide it with monthly statistics.

272. Multifunctional facilities for women have been set up. They provide both facilities for various local players working in this field and a way of systematizing the multisectoral and integrated care of women in difficulty.

273. In addition, a National Observatory for the prevention of violence against women was set up in 2014 in keeping with the objectives set by the second strand of the Governmental plan for equality towards the attainment of gender parity "ICRAM" 2012–2016.

274. Reception units for women victims of violence have been set up in all State hospitals to provide medical, psychological and forensic care for female victims of violence in all of Morocco's regions.

275. The role of the health-care services in detecting, diagnosing and treating injuries resulting from violence has been gradually becoming more significant, following the general introduction, on a statutory basis, of integrated care units for female victims of violence into provincial, regional and university hospitals (86 units in the 16 regions).

## **Article 24**

### **Protection of children**

#### **1. New legal and institutional elements**

276. The 2011 Constitution provides for significant guarantees in relation to protecting the rights of the child (arts. 32 and 34). A bill on the Family and Children's Advisory Council is currently in the process of being adopted.

277. Set up by decree as a national coordinating mechanism for State action on children, the interministerial commission tasked with overseeing the implementation of national policies and plans for the promotion and protection of children is responsible for monitoring the integrated public policy programme for child protection in Morocco, not only in terms of designing the programme, but also in terms of drafting and implementing it in coordination with all relevant professional sectors. The commission's responsibilities include monitoring the application of the international conventions on children ratified by Morocco, and issuing recommendations on legislation and regulations to be adopted in order to promote and protect them.

#### **2. Article 475 of the Criminal Code**

278. Article 475 of the Criminal Code relates not to rape but the crime of abducting a female minor: in other words, a minor who leaves her parents' home to be with someone and agrees to marry him. Under article 475, unless the girl has agreed to marry the man, and her parents must also have given their consent, the abduction results in prosecution.

279. In January 2014, the House of Representatives unanimously adopted a bill repealing one paragraph of article 475 of the Criminal Code concerning a girl's marriage to her abductor. That bill, tabled by the House of Counsellors, has repealed the following paragraph: "In cases where a marriageable minor thus kidnapped or abducted has married her abductor, the latter can be prosecuted only on the basis of a complaint from persons entitled call for the marriage to be annulled and cannot be convicted until after the marriage has actually been annulled."

#### **3. Replies to the Committee's observations**

##### *A. Child labour*

##### *a. Legislation*

280. It should be borne in mind that Morocco has ratified ILO Convention No. 138 which prohibits children under 15 from working, and that Morocco's labour legislation sets the minimum working age at 15.

281. A decree listing the hazardous work which children under 18 may not perform was adopted in 2004 and revised in 2010; the list sets out 33 types of hazardous work. Against that background, and with the support of ILO and the International Programme on the

Elimination of Child Labour (IPEC) and of the United Nations Children's Fund, 16,283 children have been removed from the world of work since 2002, with viable alternatives provided, and 24,560 children have been removed as a preventive measure. With the support of the ADROS project, 4,215 children were taken out of work, and 4,215 taken out as a preventive measure during the period 2006–2010.

282. A bill is currently under consideration in Parliament; it defines the nature of domestic work, prohibits children under 16 from working and guarantees enforcement action against offenders. It prohibits the employment of children between the ages of 15 and 18 in forms of hazardous domestic work which will be listed in regulations. Criminal-law penalties are provided for persons who act as intermediaries in relation to the employment of under-15s.

283. At an institutional level, the Government has set up a National Office for the Prevention of Child Labour within the Ministry of Employment and Social Affairs to coordinate all action at national level designed to prevent child labour. A supervisory and monitoring system has been introduced, involving the social partners and NGOs working in the field, and 51 focal points have been set in place by the Ministry of Employment and Social Affairs among the labour inspectorates within the Regional Labour Directorates.

b. Public policy

284. Preparation of a National Action Plan for Children (2005–2015); the plan has set 10 collective objectives to improve the well-being of children in Morocco:

- Reduction of extreme poverty and hunger;
- Provision of primary education for all;
- Promotion of gender equality and empowerment of women;
- Reduction in infant mortality;
- Reduction in the number of children under 15 at work by 10 per cent per annum to 2015;
- Improvement in the situation of families in poverty by 5 per cent per annum;
- An increase in and optimization of the budgetary and human resources allocated to implementing the rights of the child in partnership with civil society;
- Development of a system of information and a system for monitoring the exercise of the rights of the child.

285. The National Plan of Action for Children pays particular attention to street children by implementing specific programmes such as:

- “Inqad” for working children and young girls working as domestic servants. The strategic objective of the programme is “Zero tolerance for the employment of young girls as domestic servants”.
- “Idmaj”, launched in 2005, for street children.
- Establishment of a network of 700 “Dar Taliba” and “Dar Talib” institutions which provide residential centres for children from rural areas to support their education.

286. In 2011, the Government undertook a midterm assessment of the National Plan of Action for Children 2006–2015 “A Morocco fit for its children”. Following that assessment, a proposal for an integrated public policy on child protection was drawn up.

287. The Ministry of Employment and Social Affairs is involved in child protection via efforts to prevent child labour, including removing under-16s from the world of work and returning them to education, and using non-formal education and vocational training to improve the working and living conditions of 16 to 18 year-olds.

288. The data from the standing national employment survey, conducted in 2013 by HCP, indicate that 86,000 children aged between 7 and under 15 are in work, accounting for 1.8 per cent of all children in that age group. That is a marked drop since 1999 when the figure was 9.7 per cent of all children in that age group. However, it remains a largely rural problem. In rural areas, 3.6 per cent of children (76,000) were working in 2013 compared with 16.2 per cent in 1999 (452,000 children), whereas in urban areas, the percentage was only 0.4 (10,000) compared with 2.5 per cent in 1999 ((65,000 children).

Table 2

**Indicators on children at work aged between 7 and under 15**

<i>Indicators</i>	<i>1999</i>			<i>2013</i>		
	<i>Urban</i>	<i>Rural</i>	<i>National</i>	<i>Urban</i>	<i>Rural</i>	<i>National</i>
Numbers of children aged between 7 and under 15 (in thousands)	2,554	2,785	5,339	2,579	2,092	4,671
Actively employed children (in thousands)	65	452	517	10	76	86
Involvement of girls (as a percentage)	32.5	49.1	47.0	10.2	46.8	42.8
Structure (as a percentage) of employment by economic sector:						
Agriculture, forestry and fishing	7.8	94.8	83.9	6.9	94.0	84.4
Industry (including crafts)	41.9	3.1	8.0	22.2	2.9	5.0
Construction	1.2	0.2	0.3	5.4	0.4	0.9
Services	48.6	1.8	7.7	65.5	2.7	9.7
Others	0.5	0.1	0.1	0.0	0.0	0.0
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

*Source:* HCP: National employment survey.

**B. The right to nationality**

289. In 2007, Morocco's Nationality Code underwent a significant reform which introduced extensive amendments to the relevant legislation (Act No. 62.06 enacted by Dahir No. 1.07.80 of 23 March 2007 amending and supplementing Dahir No. 1.58.250 of 6 September 1958 establishing the Moroccan Nationality Code).

290. In terms of amendment, the main reforms were made to articles 6, 9 and 19.

291. As far as the acquisition of Moroccan nationality as nationality of origin is concerned, article 6 of the code specifically establishes equality between men and women on an unrestricted and unconditional basis. A mother therefore transmits Moroccan nationality to her children in all circumstances.

292. Article 9 of the code introduced the acquisition of Moroccan nationality for a child born outside Morocco of unknown parents. This provision is consistent with articles 2 and 7 of the Convention on the Rights of the Child, and basically provides for the elimination and reduction of cases of statelessness in Morocco.

293. Article 19 lays down procedures in regard to a declaration on retention of the nationality of one parent by a Moroccan mother or by a child deriving his or her nationality through maternal filiation. Article 19 has taken into account the position of Moroccans living abroad in order to make life easier for them in the host country, given that some countries opt for a single nationality, or adopt legislation requiring individuals to give up their nationality of origin if they wish to obtain that of the host country.

294. According to statistics dating from late November 2014, a total of 333,286 individuals had obtained Moroccan nationality through maternal filiation.

## **Article 25**

### **Right to take part in the conduct of public affairs**

#### **1. New constitutional guarantees**

295. Right to initiate legislation: under article 14, all citizens have the right to submit legislative proposals.

296. Right of petition: under article 15, citizens may petition the public authorities.

297. From 13 March 2013 to 20 March 2014, the Moroccan Government held a national dialogue on civil society and its new constitutional rights. The process was conducted by an independent national commission on a participatory basis, involving a broad process of consultation with the civil society organizations and the various players working in this field.

298. Drawing on the platforms and recommendations which the dialogue produced, three bills were drafted: a draft basic law concerning the right to petition, a draft basic law on the right to submit legislative proposals and a framework law on public consultation.

299. Votes for Moroccans living abroad: the 2011 Constitution introduced the right of Moroccans living abroad to take part in electoral processes, as well as their right to vote and stand for office (art. 17). The basic law on the House of Representatives provides that any Moroccan citizen resident abroad who is entered on the electoral register of a municipality or district of the Kingdom may, if absent from the country at the time of the poll, exercise his or her right to vote from the host country by proxy vote. That possibility is also included in the basic law on the election of municipal councils.

300. The right of associations involved in public affairs, and of NGOs, to contribute to the drafting, implementation and evaluation of the decisions and proposals of elected bodies and the public authorities [has been introduced] (art. 12).

301. Foreign nationals enjoy the basic freedoms accorded to all Moroccan citizens, in accordance with the law (art. 30).

#### **2. Legislative developments**

302. The 2011 basic law on the political parties confirms the role accorded to them by the Constitution and further defines their responsibilities in relation to providing citizens with guidance and education in politics (art. 3). The parties must reserve a quota for women and young people in their managerial apparatus and hold regular meetings of those bodies.

## Article 26 Prohibition of discrimination

### 1. Preventing discrimination against women

#### A. Legislation

303. The 2011 Constitution gives a more solid basis to public policy to benefit women (art. 34).

304. The legal guarantee of equality between men and women has been enhanced (see above, art. 3).

#### B. Public policy

305. “Genderization”: the Moroccan Government has taken steps to devise and implement a national strategy for gender parity and equality, by including the gender factor in all of its development policies and programmes since 2006. The strategy has had the support of the public authorities on the basis of a circular from the Prime Minister (currently the Head of Government) published in 2007 and calling on all ministerial departments to incorporate gender in plans, action programmes and projects, thereby systematically applying the gender approach in many ministerial departments. An Interministerial consultation network tasked with ensuring that the principle of equality is taken into account in human resource management has been set up; a National Observatory for the Gender Approach in the Public Service has been established; and sectoral action plans for the systematic introduction of machinery for implementing the principle of equality in communications, the public service, finance, employment, vocational training, State education and justice have been drawn up. As the body supervising the establishment of the national strategy for gender parity and equality and coordinating its implementation, the Ministry for Solidarity, Women, the Family and Social Development has set up “gender” focal points in the ministerial departments. In 2005, it also conducted the first gender study in three ministerial departments.

#### Measures

- Appointment of seven women ministers in 2007.
- Publication, in 2007, of the Comprehensive review of gender-sensitive statistics.
- Adoption, in June 2013, of an equality agenda for the period 2011–2015 which lists 9 priority spheres, 30 strategic objectives and 100 key measures for equality, and of a Governmental plan for equality towards the achievement of gender parity “ICRAM” 2012–2016, working with all of the relevant ministerial departments.
- Creation of equal opportunity committees in all municipal councils.
- Creation of the Interministerial Equality Commission as the body responsible for monitoring and implementing the Government’s Equality Plan, supported by an Interministerial Technical Committee and a monitoring information system.
- Establishment, in 2014, of the National Observatory for improving the image of women in the media.
- Establishment, as of 2008, by the Ministry of Communications, of a unit tasked with “Developing and reinforcing the gender approach” and introducing focal points.
- The Ministry for the Modernization of the Public Sector has launched a reform of civil service regulations following the adoption of Act No. 50.05 (May 2011), which

is designed to expand the use of competitive examinations for recruitment to the public service to ensure equality of opportunity, and to increase maternity leave from 12 to 14 weeks. A decree has also been adopted on the procedures for appointment to senior posts in the administration, and it requires the mandatory participation of at least one woman on selection boards. Three other measures by the Ministry should be flagged up: an Interministerial consultation network tasked with ensuring that the principle of equality is taken into account in human resource management was set up in 2010; a National Observatory for Equality was set up in 2011; and it is planned to increase the percentage of women in senior positions in the public service from 15.8 per cent to 22 per cent by 2014.

- Completion of a review on discrimination in relation to pay by the Ministry of Employment and Social Affairs with the support of ILO/IPEC.
- The Strategy for mainstreaming equality at the Ministry of Education was deemed to be good practice by the United Nations Educational, Scientific and Cultural Organization in 2010.
- Drawing attention to the plight of rural women, the Minister said that a series of measures will be introduced to ensure that they receive a financial consideration for their work.

#### Programmes

- Governmental plan for equality towards the achievement of gender parity “ICRAM” 2012–2016.
- The Minister of Solidarity, Women, the Family and Social Development announced, in March 2012, that her department was working on a governmental plan designed to establish gender equality and parity and make it binding on all government sectors.

#### Anti-discrimination measures

306. The Soulaliyate women (women who are demanding their right to benefit from the collective lands of which they were deprived on the basis of a customary practice): following the privatization of the collective lands regulated by the Dahir of 27 April 1919, and the exclusion of women from benefitting from that process, the women in question, known as Soulaliyate women, challenged that discrimination. The Government decided to remedy the situation, and, on 23 July 2009, the department responsible sent the *wali* of the Gharb-Chrarda-Beni Hssen region a circular calling upon him to include the women in the list of beneficiaries, on the same basis as men, so that they too could benefit from the land transfers. In 2009, despite strong opposition, 792 Soulaliyate women in the Gharb region (Kasbah of Mehdia) received compensation in respect of land transfer. A Ministry of the Interior circular, published on 12 November 2010, reinforced this development.

307. Women have had access to the Royal Institute of Territorial Administration since 2006. There are currently 80 women senior officials working at both central and territorial level.

308. A woman has also been appointed *wali*, and there are currently three female governors.

## **Article 27**

### **Rights of minorities**

309. Morocco has signed up to the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (adopted by the General Assembly of the United Nations in resolution 47/135 of 18 December 1992).

310. The rights of religious, ethnic and other minorities are protected under the various provisions set out earlier in this report.

311. Certain issues do not fall within the category of “rights of minorities”: ethnically speaking, the Amazigh cannot be regarded as a minority. Citing the groups that make up the Moroccan nation, the 2011 Constitution does not classify them as minorities; it refers to “Arab-Islamic, Amazigh, and Saharan-Hassanic components”.

312. It should, however, be made clear that greater cultural recognition has been accorded to these components. The teaching of the Amazigh language at primary level during the period 2009–2010 involved 17,630 classes, that is to say 15 per cent of pupils — though this falls short of expectations. Specialized programmes are being developed at the arts faculties in Agadir, Tétouan, Oujda, Fez and Rabat.

313. The television channel TV Tamazight was set up in 2010. Its remit is to promote and preserve the Amazigh culture in Morocco and northern Africa. A number of private radio stations broadcasting in the Amazigh language have been granted licences. Provisions on cultural diversity are included in the contractual terms and conditions of national public companies in the audiovisual communications sector. In addition, the creation, in 2001, of the Royal Institute of Amazigh Culture, in Ajdir, has enhanced cultural rights in Morocco.

314. Scientific research centres on other cultural components of the Moroccan nation have also been set up, including by establishing the Mohammed VI Academy of the Arabic Language (Dahir No. 1-03-119 of 18 Rabii II 1424 (19 June 2003) enacting Act No. 10-02), and, very recently, the Centre for Andalusian Studies at Chefchaouen.

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