



Organisation Marocaine des  
Droits Humains

Parallel report to the list of issues  
Concerning the sixth periodic report of Morocco  
On the international covenant on civil and political rights

**To the Chairperson of the Human Rights Committee**

**Human Rights Council**

With the initiative and the coordination of the Moroccan Organization for Human Rights

The Moroccan Organization for Human Rights and the Association Adala (Justice) for the Right to Fair Trial and the Association of Anfass have previously sent you a parallel report to that of the Government of the fifth and sixth periodic reports on the International Covenant on Civil and Political Rights, dated February 9, 2016. In continuation of their advocacy, these associations along with the National Federation of Amazigh Associations in Morocco and the National association of Young Lawyers in Morocco, present their questions on issues established by your Commission after seeing the Moroccan Government answers.

#### ❖ **Constitutional and legislative framework (Articles 1 and 2):**

For the supremacy of international agreements over domestic law, it requires that those approved should be published in the Official Gazette which entails delay in their introduction in the courts.

- Hence, we must accelerate the deployment of ratified conventions in the Official Gazette and work on the appropriateness of all national laws related them and raise the awareness of all parties that have to do with it (judges, lawyers ...).
- Integrate the teaching of international humanitarian law and international human rights law in all relevant institutions including the Scientific Council as a source of legal opinion Fatwa.
- Expedite the issuance of the new law of the National Council for Human Rights, especially since several mechanisms will become under its responsibility as the Authority of Parity, the National mechanism for the prevention of torture ...
- allocate sufficient budget for this Council to ensure that does well its duties (advancement, protection and mediation ...)

If the national institutions are to give their advisory opinion to several parties as the King, the Government and the two Parliament chambers, they have to take seriously the views and recommendations of these institutions such as the National Council for Human Rights, which has made several thematic reports, however, most of the recommendations and proposals contained in these reports were not taken into account and here are examples of these memos:

- The establishment of the Authority of Parity and the Fight against all Forms of discrimination;
- Public gatherings Dahir No. 1-58-377;
- Freedom of associations in Morocco;
- Terms and conditions of employment relating to domestic workers (Bill No. 12-19) ....
- Organic Law of the petitions and legislative motions

Like the National Council for human rights and the Economic, Social and Environmental Council.

#### ❖ **Exception: (Article 4)**

If Chapter 59 of the Constitution of 2011 had stipulated certain conditions and procedures regarding the announcement of a state of exception, and the quotes to ensure basic freedoms recognized by, all in harmony with Article IV of the International Covenant on Civil and Political Rights; and in line with Morocco's international obligations, we recommend that a special law status of exception for the sake of detail and scrutiny in the formal requirements

and objectivity to declare the state of exception, and determine its duration specifying the role of the judicial supervision as what is happening in many countries, such as France and Egypt

...

❖ **Non-discrimination, equality between men and women, the protection of families and children: material 2-3-17-23-24-26**

We reaffirm our observation contained in the parallel report concerning Chapter 19 of the Constitution, which includes a reservation related to the application of international conventions and instruments in connection with the Constitution and national law, which creates confusion with the primacy of international law which was approved by the preamble to the Constitution, and, accordingly, the Government did not respect the draft laws discussed in parliament nor those approved by the latter which is the principle of equal rights and freedoms and the abolition of all forms of discrimination, particularly equality in inheritance; we believe that the social, economic and cultural considerations upon which the summit positions were based regarding the distribution of the estate among the heirs, have changed and the concrete reality experienced by the citizen in the twenty-first century must be taken into account.

The Moroccan Organization for Human Rights notes the empowerment of Soualiate women (women inheriting "collective land") the right as men with regard to the inheritance and calls for the circulation of the decree at the national level, on the one hand, and developing it to include the inheritance as a whole.

We do have noted that some Soualiate women have got their rights as man concerning inheritance, we call for the adoption of a new law regulating Soualiate land and Quiche lands, to solve the problem of gender discrimination and deprivation, which is practiced in the right of women to own this land, and developed it to include inheritance as a whole.

regarding the draft law on the Authority parity and the Fight against all Forms of Discrimination, the Organization records that:

- It does not cover the fight against all forms of discrimination against women in all positions and women's rights.
- It does not provide answers to develop a strategy for Morocco's policies regarding the fight against all forms of discrimination.
- Minimizing the Authority of Parity and combat all forms of discrimination in the limited terms of reference mechanism and the absence of effective protective side and lack of respect for the Paris principles of national institutions.

**Based on this, we call for:**

- The need to evoke all of the declarations and international covenants and conventions ratified by Morocco in the development of this law, pursuant to its obligations.
- Commitment to the constitutional requirements regarding the equality of men and women in the civil, political, economic, social, cultural, environmental and non-discrimination and the fight against all forms discrimination.
- Uplifting by this law to fight against all forms of discrimination against women while making the Authority of parity an established mechanism in accordance with the Paris Principles, as well as emphasizing its strategic role of prevention and protection and advisory binding in this area and check their relations in all sectors and related institutions.

- Regarding the positive discrimination, we record the important steps taken in this area for the advancement of the status of women and to devote their political participation and support, but the lack of respect of some political parties for this initiative, punitive measures should be taken in parallel with what the Government has done to encourage the parties that elect the largest number of women.
- Based on official figures that have been announced about marrying off underage girls in excess of more than 33 thousand marriages, we demand the abolition of marrying off underage girls and gender equality in the age of marriage by adopting a uniform of majority age in 18 years.
- If we are still not against polygamy, the positive steps included in the Family Code to reduce and rationing cases of polygamy to limit and reduce the phenomenon; the practice has shown that there are cases to circumvent the law in front of the continuation of the possibility to prove the marriage once cast their witnesses without Forensic document, for this reason we call to take punitive measures against whoever violates the law and this applies to the licensing cases polygamy by some judges, which we consider a violation of the dignity of women, strengthening the position of the man and the weakening of the principle of equality. We emphasize again the abolition of polygamy.

#### ❖ **Violence against women: material (3-6, 7)**

The House of Representatives approved the 103.13 draft law on combating violence against women and were referred to the House of Councilors, which has not yet included it for discussion. We record the following:

- That the mechanisms stipulated in the project, both of which the National Committee or the regional and local committees excluded the participation of women's right associations and and organizations that have relation with anti-violence against women organizations as a component of these committees.
- Not to determine the membership of the national committee likewise with regional and local committees, limiting the designation of the Chairman of the Committee only;
- The limited role of these committees to take care of violated women only;
- The complaint of the injured person from the crime should exclusively be enough;
- Regarding typed, telephonic and electronic messages as means of proving harassment and punish those responsible for it.

#### **Hence, we emphasize:**

- The need to involve women's and human rights organizations and relevant to the protection of violating women and anti-violence against gender of the National Committee and committees of regional and local organizations;
- Develop a national strategy for the advancement of women's rights and the rejection of violence against women, a strategic interest to all government departments and national institutions for the prevention of violence against women;
- Support civil society organizations working in this area to do the advancement and protection, monitoring and evaluation of the hearing and the reports of the National Commission and regional and local committees and track their work;
- Accept complaints of organizations engaged in the field and consider their testimony as credible, hence, implementing their role of protection, monitoring and advocacy;

- when repeated no compromise on the complaint should put an end to the judicial follow-up and due to the strength of the judicial acquired res judicata in the case of issuance;
- lifting the legal impediments to the right to lodge complaints and in access to justice and redress (the case of single mothers, for example);
- Not to consider written messages or telephone or electronic or pictures or recordings of a sexual nature or sexual purposes offense at all on the grounds that sharing a love letter or impress between two parties linked by a relationship of friendship and love can be located under punishment due to the fact that the text is too broad and subject to several interpretations and explanations, thereby infringing the principle of legitimacy and a violation of individual freedom as contained in the second paragraph of Chapters 1-531 of the bill.

### ❖ **The right to life**

- We record that 23 death row inmates (among them a woman) benefited from of the Royal Pardon by converting the sentence to life imprisonment;
- We record converting the death penalty to life imprisonment in the case of participation, and the punishment of 30 years in the case of attempt;
- We continue to record the informal voluntary termination of the implementation of the death penalty;
- We demand the implementation of the recommendations of the Equity and Reconciliation Commission regarding the abolition of the death penalty, which was approved by the higher authorities twice by adopting the report of the Commission, on the one hand, and, on the other hand, the speech of 8 March 2011.
- Pursuant to the Constitutional requirements of especially Chapter 20, which protects the right to life, and chapter 21 related to physical integrity and moral in any circumstances by any views which prohibits cruel, inhuman or degrading treatment as these dire punishment in the humanity of man.
- Although the number of death sentences ever known to rise and fall over the years, the implementation of the death sentence did not exceed 57 cases, of which "cases involving crimes of public rights and the rest is for political reasons and therefore is a catalyst for the cancellation of this shameful punishment.

### ❖ **Abortion:**

The draft law No. 16-10 requires change and fulfill the Criminal Law Group was disappointing because instead of reducing clandestine abortions, which led to tens of deaths along with health and physical complications resulting from it came to devote the same approach (after stipulating to open a court regulation for each case and keeping a special register with numbered pages to be signed and before starting its use by Crown Prosecutor at the Court of First Instance, whose public hospital or clinic are located in its headquarters). Even though it responded to some of the demands of the women's rights movement, we demand the following:

- Ensure women's right to life, enjoyment of good reproductive health, the right to physical and mental health, and this by enabling them to exercise their right to stop their pregnancy whenever this pregnancy threatens their life or health according to the standard health concept;

- Replace the word “abortion” with “stop pregnancy” because of their bad payload in the eyes of society;
- unify the proper time to stop pregnancy in all Chapters in 21 weeks (90 days for the 1-453 chapter and 120 days in the first paragraph, and 22 weeks in the third paragraph of Chapters 3-453);
- the voluntary termination of pregnancy should be free of charge;
- Introduction of voluntary termination of pregnancy within the public health services and therefore the transfer of its requirements from the Criminal Code to the Health Code.

**❖ Prevent torture and other cruel, transactions and humanitarian treatment of prisoners and other detainees**

- We record the prosecution of some of the police or gendarmerie regarding the testimonies of their involvement in torture; some of them have been convicted during 2015 and this year.

**In this context:**

- We call on the public authorities to mainstream the news of the condemnation of such people, on the one hand, to be an example for their colleagues and on the other hand, to encourage those who have been subjected to torture to expose their perpetrators;
- Mainstreaming and rationing the publication of the Ministry of Justice, dated 29 May 2014 and the Memorandum of the Director General of National Security, dated 8 September 2014 regarding the implementation of articles 73, 74 and 134 of the Criminal Procedure Code systematically.

Morocco ratified the Optional Protocol to the Convention against Torture and other cruel, inhuman or cruel, inhuman or degrading punishment on 24 November 2014; it is necessary to respect the timeframe to bring out the national mechanism for the prevention of torture, so we demand urgently concerning this matter:

- the need for convenient definition in the Criminal Code, which concerns the concept of torture as required by the Convention against Torture and other cruel, inhuman or cruel, inhuman or degrading punishment;
- note the importance of a review of the law governing prisons and the launch of dialogue between the High Commission of Prisons and the National Council for Human Rights and human rights and civil organizations, also we appreciate the full exposition of the rules of Mandela;
- We call on the legislator not to highlight the security aspect in this law, as well as the need to make way for civil society organizations to visit the penitentiary institutions and taking into account the proposals and recommendations of the civil society in this regard;
- we call for the recycling of the employees working in the penitentiary institutions and staff, enabling them to minimum knowledge of human rights and give effect to the protection of inmates from violations and abuses;
- We call for the issuance of amnesty for people who suffer from cancer and mental illnesses.

## ❖ Freedom and security of people and protection against arbitrary detention and enforced disappearance (Articles 7 and 9)

- We express our concern regarding the information that the National Council for Human Rights which will close the follow up of the implementation of the recommendations of the Equity and Reconciliation Commission file, especially since the truth is not yet revealed concerning some cases of forced disappearance, among them - cases including: Mehdi Ben Barka, Al-Hussein Almanusi, Abdul Haq Rouissi ,  
...
- We call for the creation of a mechanism to track this file and be the link between the public authorities and the family of the disappeared.

Morocco ratified the International Convention for the protection of all people from enforced disappearances in the May 14, 2013, but did not abide by the requirements of Article 29, which obliges state parties two years after the ratification to report on measures taken to implement their obligations under this Convention.

- As it did not declare its recognition of the competence of the Committee on enforced or involuntary disappearances, as referred to in Article 31 of the Convention, and call to do so as soon as possible, especially since the draft law No. 16-10 requires change and complement a group of criminal law which has stipulated a set of provisions that criminalize the phenomenon of enforced disappearances;

We record issuance of the Minister of Justice and freedoms of a reminder of the memorandum on the regulation of physical coercion in civil cases received by Crown Prosecutors in Morocco when the criminal is unable to pay his due, and call for including within the applicable laws.

## ❖ Right to a fair trial and the independence of the judiciary (Article 14)

We re-emphasize the valuation of the constitutional provisions regarding the separation of powers, although they have not been up to the demands that we expressed in our memorandum submitted to the Advisory Committee to amend the Constitution, the demands include the emphasis on real separation of powers and strengthen the field of law and the legislature and the independence of the judiciary principles, and in this context, we emphasize that the adoption of the rules of true independence lies in:

- disengagement with the Justice Department, especially the independence of the Public Prosecution;
- ensure freedom of expression for judges and their right to assembly and association; need to revise the Code of Criminal Procedure in order to avoid imbalances highlighted by judicial practice, especially with regard to guarding theory and pretrial detention and the rights of the accused and to ensure the right of defense and the dye peremptory rules and procedure relating to the rights and freedoms of individuals which require the explicit text of the invalidity of the minutes of the judicial police against them instead of annexation of the essence, and the abolition of the absolute authentic to these minutes as a breach of innocence, and cannot convict someone based on only a fair trial where all the guarantees are available;
- Abolition of the so-called original regulations emphasizing on the inadmissibility of the testimony of an accused against an accused.
- Reducing the adoption of reserve arrest which overcrowds prisons.

## ❖ Treatment of foreigners, especially refugees and asylum seekers: (7.6.12 and 13 articles)

We work for the legal and administrative assistance for refugees and asylum seekers since 2007 in partnership with the High Commissioner for Refugees and our observations emanating from monitoring fact:

- for deportation to the homeland recently, we recorded only one deportation of a Cameroonian after his release from prison with a group of migrants in the issue of common rights and the document of his request of asylum when deported was already expired;
- deportation of a group of Syrians into Turkey and Lebanon immediately after entering from the eastern border in 2014; the authorities have not responded either to our request or to that of the National Council for Human Rights;
- we face real problems about the Syrian refugees as it can be divided into two parts:

The first one integrates quickly as they want to work ; most of them came from rural areas and that the level of education does not exceed primary schooling; they exercise certain professions and some of them have some small projects funded by the UNHCR ....

The second one exercise begging as a profession and employs women and children in it;

- We ask the Government regarding the urgency of issuing a law for the protection of refugees and their recognition; the UNHCR has recognized about four thousand among ten thousand asylum seekers; there is a need to create an institutional mechanism to undertake them;
- We record the ratification of the law on trafficking in human beings and the inclusion in the draft Law No. 16.10 to change the completion of a group of criminal law and the requirements of a criminal offense and punishes the smuggling of migrants in the strongest terms the sanctions (chapters: from 16 to 25 -231), we also call to quickly remove the updated special law migrants 03-02 and its relevance with the International Convention on the protection of the rights of migrants;
- We call for a commitment not to escort to the border or deportation except in cases where the judiciary pending with the need to take into account the destination that will leave them as to its safety and to preserve the rights and fundamental freedoms.

## ❖ Freedom of religion and belief (Article 18)

If Morocco had signed in March 2014 on a new resolution of the Council of Human Rights (L'A /HCR/25/L.19) at its 25th session on freedom of religion and belief, and if the Constitution has explicitly acknowledged the freedom of thought, the draft law Criminal has included the requirements of a very serious discrimination between religions when it incriminates all those who destabilize Muslim creed while not referring to the destabilization of another religion.

In this regard, the organization emphasizes the observations and proposals contained in the memorandum submitted to the Ministry of Justice concerning the draft of this law.

At the same time, the organization reported harassment of some adherents of Christianity and Shiite Islamic doctrine, which affects the principle of the protection of freedom of belief and to ensure that the practice of religious rites and rituals in the framework of respect, equality and tolerance (speeches by some imams, some preachers in websites)



The Moroccan Organization for Human Rights recommends: decriminalization all reactions may be an expression of freedom of conscience as contained within the parameters of international law;

- State's neutrality regarding religion.
- Realization of criminal intent in crimes related to contempt of religion, and the protection of the expressions that do not mean required in criminality;
- Incriminating the exploitation of religion in order to protect freedom of belief;

freedom of each and everyone to enjoy the right not to be offended or threatened or persecuted or prosecuted for just a desire to be different from others in the selection of his convictions and beliefs and to express them;

- criminalize incitement and fatwa of excommunication and murder on Friday sermons, whether against citizens for political or ethnic reasons, or against people of other faiths who share with us their belonging to this country or to humanity from a universal point of view;

#### ❖ **Freedom of expression, assembly and association and movement: (Material: 9-12-19-21-22)**

We emphasize the need to take the observations and recommendations made by the National Council for Human Rights in his memorandum regarding public gatherings (Dahir No. 1.58,377) for the convenience of law with the new constitutional requirements in this regard and in line with the International Covenant on Civil and Political Rights, and mainly including:

- consecration of the law governing the freedom of assembly and peaceful demonstration the basic principles on the use of force, particularly the principles of necessity and proportionality;
- accelerate giving the right to organize demonstrations in public roads for individual and legal persons;
- Give the demonstrators the right to access public space according to the modalities it can be determined by the law or a decree or an agreement between the demonstrators and the administration and put mechanisms suitable for this purpose;
- We also stress the need for the commitment of the executive branch and the legislature of the observations and recommendations of the National Council for Human Rights included in its memorandum on freedom of association in Morocco, which was adopted by most of human rights organizations.

#### ❖ **Rights of the Child, the elimination of slavery (Material: 7/8/24)**

- Initially, we appreciate the ratification by parliament of the laws 12-19 on the job to determine the conditions and operating on female workers and domestic workers and stipulate to respect a minimum age of 18;
- We consider allocating five years as a transitional phase long, especially since it did not prevent the operation of the girls and children renewed during this period;
- We call to prevent the employment of children in all productive sectors, implementing the recommendations of the Committee on the Rights of the Child concerning the review of Morocco's report containing the combined third and fourth periodic reports

to the Committee on 14 October 2014, pursuant to the Convention on the Rights of the child;

- the allocation of human and financial effort to support the Ministry of Employment to carry out sensitization campaigns and campaigns inspection in front of the shortfall suffered by the ministry as regards human resources, mainly the labor inspectors;
- make effort to integrate children in the education and training centers to lift them out of this scourge;

❖ **Right to participate in public life and the rights of minorities (articles 25, 26 and 27)**

- The Constitution provides for clear principles make it the cornerstone of equality in dealing with the citizens;

- Chapter V stipulates as follows: «The Amazigh is an official language of the state, as a shared asset of all Moroccans, without exception. The organic law defines the phases to activate the official character of the Amazigh, and how to incorporate it in the field of education, in the areas of public life priority, in order to enable it to do its job in the future as the official language;

- The enjoyment of the rights, including cultural rights means that we are in the rule of law, which calls for the presence of Tamazight in all developmental areas: economically: economic projects in the mother tongue will contribute to the revitalization of the economy; socially :the use of Tamazight language in health, education, administration and the judiciary ... means the consolidation of citizenship;

linguistically and culturally: Tamazight development means to contribute to the Moroccan and the world's cultural richness;

- Therefore, we urge the legislative and executive branches to uplift laws which mean the implementation of the official character of the Amazigh to meet these goals, in reasonable deadlines;
- Uplifting the Royal Institute for Amazigh to the ranks of the Academy Mohammed VI, implementing fairness of equality between the two official languages of Arabic and Amazigh;
- avoid inconsistencies in the requirements that govern the implementation of Tamazight language such as referring the Law of the Council of Language and Culture concerning teaching Tamazight language to the Supreme Council for Education and Training and Scientific Research, while the latter refers it to the first. Hence, it is necessary to develop a national strategy to realize that by combining all the involved ministerial sectors and national institutions.
- Remove all forms of prevention of Amazigh names.