

# Universal Periodic Review – Morocco – July 2012

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**Supervision and coordination by the Driss Benzekri Foundation for Human Rights and Democracy**

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**with the support of the Friedrich Ebert Foundation (Morocco).**

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## **Introduction**

This report reviews the situation of human rights in Morocco, both based on the Moroccan government's commitments under the international conventions and protocols it has ratified and in relation to the conventions which it has not ratified yet. This work comes to crown the collective effort contributed by several Moroccan civil organizations operating in the areas covered by this report.

Associations benefited from two-day training in Morocco on the UPR process, which was conducted by the Geneva Institute for Human Rights. Then, the associations contributing to this report held coordination and consultation meetings. This collective effort has been coordinated by the Driss Benzekri Foundation for Human Rights and Democracy, with the support of the Friedrich Ebert Foundation (Morocco).

The report will address nine topics: Enforced disappearance; Amazigh cultural rights; Economic, social and environmental rights; Women's human rights; Human rights of persons with disabilities; The judiciary; Childhood; Migration; Public liberties and media.

Morocco presented the national report during the 2008 UPR process. The Human Rights Council issued 11 recommendations which this report will monitor their implementation from 2008 through 2011 along with existing deficiencies. Besides, the report presents recommendations on Morocco's commitments regarding treaty practice.

## **1- Enforced disappearance**

### **Achievements**

#### **Institutional and legislative level:**

- Article 20 of the Constitution (July 2011) provides for the right to life; Article 23 criminalizes enforced disappearance and arbitrary detention.
- Several provisions were introduced into the Criminal Procedure Code (CPC) guaranteeing protection from enforced disappearance. These concern police custody, public prosecutor's obligation to inform the detainee's family, visit by prosecutors and the examining magistrate to detention facilities, and mandatory keeping of detention records.
- Empowering the National Council for Human Rights (CNDH) by virtue of its new founding texts to visit detention facilities<sup>1</sup>.
- The "National Territory Surveillance Department" functioning according to legal provisions and empowering its agents to act as judicial police officers in accordance with Article 20 of the CPC (2011).

#### **Enforced disappearance victims**

- The CNDH released a "Follow-up Report on the Implementation of Equity and Reconciliation Commission (ERC)'s recommendations" featuring "the 2009 main report" and four annexes in 2010 the first of which deals with "Cases of Enforced Disappearances" and lists the victims between 1956 and 1999.
- A mass grave was accidentally discovered in the Civil Protection barracks of Nador (north of Morocco) containing 16 remains of victims of social riots that erupted in this city and its surroundings in 1984.
- Some victims' remains were delivered to their families, namely Abdesslam Toud and M'hammed bin Ahmed Abbass Mourrakchi, for reburial. Ceremonial reburial was held for victims of this mass grave.
- Compensation was granted to the families who admitted the findings of investigations and were convinced of their relatives' death as enforced disappearance victims.
- Medical insurance cards were issued to several enforced disappearance victims and their families.

### **Deficiencies**

#### **Uncovering the truth:**

- The fate of 9 major enforced disappearance victims is still unknown<sup>2</sup>, while the Consultative Council for Human Rights<sup>3</sup> considered that the "2009 main report" "intends to shed light on the final results and conclusions of the ERC and the Follow-up Committee". This implies concluding the investigations about their fate and that of enforced disappearance victims whose cases were not elucidated.
- Inconsistencies in names and information were identified in the findings of the Follow-up Committee on the ERC's recommendations published in the "2009 main report" and its 2010 first annex.
- Identities of dozens of social riots' victims of 1965, 1981, 1984 and 1990 are still unknown though several of them were buried in regular cemeteries or mass graves. Their number amounts to 178 persons 126 of whom are buried in the cemeteries of Casablanca and Fez, whereas the remaining might be among the remains buried in the mass grave discovered in the Civil Protection barracks of Casablanca.
- The burial places of hundreds of victims of enforced disappearance and other gross human rights violations are still undetermined. Out of 792 death cases for which the State's responsibility is recognized, 338 were buried in unidentified locations.

<sup>1</sup> Article 11 of the CNDH's founding law (March 2011) stipulates that the Council can visit prisons and detention facilities, monitor the situation and treatment of detainees, visit child protection facilities, rehabilitation centers, mental health and psychological treatment centers and detention centers for foreigners in illegal situation.

<sup>2</sup> Victims with unknown fate are: Abdelhak Rouissi, Mehdi Ben Berka, Houcine Manouzi, Atkou Ahmed ben Ali, Agoudar El Yazid, Omar El wassouli, Salhi Madani, Mohammed ES-SLAMI and Abderrahmane Derouich.

<sup>3</sup> The former Consultative Council for Human Rights and the now National Council for Human Rights (as of March 2011).

- The number of identified victims' remains is very limited. Only 189 remains were exhumed and subjected to superficial anthropological examination. Though bone samples were taken, DNA analyses were conducted on limited cases and proved positive in only 12<sup>4</sup>.
- The burial places of victims who were declared dead<sup>5</sup>, the circumstances of their death, their detention places and their kidnappers were not disclosed. Their remains weren't delivered to their families either. Anthropological and DNA tests weren't conducted on victims whose families still persist in requiring that (families of Tazmamart victims).
- Findings of analyses conducted on remains have not been delivered to their presumed relatives. They were not conclusive in the identification process.
- The families were not granted access to files of investigations carried out by the ERC and the Follow-up Committee.
- Several reparation files were not settled such as pensions for Tazmamart victims, social integration and complementary medical insurance.

#### **Legal and legislative level:**

- Morocco has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).
- Death sentence was not abolished though the constitution provides for the right to life.
- Morocco has not ratified the Rome Statutes establishing the ICC which consider enforced disappearance as a crime against humanity.

#### **Recommendations**

##### **Enforced disappearance victims**

- Creating another mechanism pursuant to the ERC's recommendation on pursuing investigations into enforced disappearance cases, to conduct investigations about the nine cases of persons with unknown fate, and uncover truth about remaining cases; and granting the necessary powers to this mechanism, mainly to summon witnesses and have judicial orders issued to oblige them, in case of refusal to cooperate, to appear and make statements. It shall be entrusted with:
  - 1- Remedying the major deficiencies in the lists of enforced disappearance victims and persons with unknown fate published in the ERC's final report and the 2009 main report and its 2010 first annex, by revealing the identity of victims, as well as the circumstances and places of their abduction, detention, death and burial and the parties responsible for these acts.
  - 2- Localizing the burial places of enforced disappearance victims who were declared dead in the CNDH's report and revealing the circumstances of their death and the parties responsible for their abduction.
  - 3- Conducting anthropological and DNA tests on the remains whose identity is disputed by families.

#### **Legal and legislative level:**

- Ratifying the ICPPED and expressly providing in the Penal Law for criminalization and imprescriptibility of enforced disappearance; penalties proportionate to its extreme seriousness through suing offenders in competent ordinary courts; and non-invocation of orders to justify this crime.
- Implementing the recommendations of the Working Group on Enforced or Involuntary Disappearances<sup>6</sup>, including express provisions that deprivation of liberty other than in an official facility be prohibited and punished.
- Enforcing the provisions of the Penal Law and the CPC concerning protection from enforced disappearance and arbitrary detention.
- Ratifying the Rome Statutes.
- Devising a strategy against impunity to guarantee non-reoccurrence of enforced disappearance crimes.
- Establishing the national mechanism for torture prevention contained in the Optional Protocol.
- Adopting a national strategy against impunity consistently with the ERC's recommendations.
- Strengthening prevention from torture through training and sensitization programmes for law enforcement officials.

## **2. Amazigh linguistic and cultural rights**

### **Achievements**

Amazigh civil society organizations have pressured the government to honour its commitments, amend its policies on linguistic and cultural rights and harmonize laws with international instruments. Morocco acceded during the period covered by the report to some basic demands, namely:

- Recognizing Tamazight as an official language and the various dimensions of Moroccan identity and civilization.
- Providing Tamazight teaching programmes and launching a public Amazigh-speaking channel since 2010.

### **Deficiencies**

Recognizing Tamazight as an official language is a major step towards the promotion of Amazigh cultural rights in Morocco. However, there is urgency to remove all forms of discrimination through integration of

<sup>4</sup> M'hammed bin Ahmed Abbass Mourrakchi and eleven other persons who were found in the mass grave in Nador.

<sup>5</sup> Cases of Abdellatif Salem, Mustapha El Amrani, Ouhbaz Boujemaa, Mohammed Boufousse...

<sup>6</sup> Report of the Working Group on Enforced or Involuntary Disappearances, Mission to Morocco, A/HRC/13/31/Add.1, 5 January 2010.

Tamazight into public life and into the institutional and legal systems. In this regard, there are still several impediments to such integration namely:

- Amazigh first names are still rejected. This violates Moroccans' right to choose an Amazigh name for their children and constitutes a form of racial discrimination<sup>7</sup>.
- Tamazight teaching programmes are inadequate and adopt selective patterns that prevent its introduction into all Moroccan schools. Accordingly, these programmes neither illustrate Tamazight's cultural and historical dimensions nor guarantee equal opportunities for all Moroccan students. Besides, several curricula in Morocco still entrench a sense of discrimination and exclusion vis-à-vis Amazigh history, civilization and culture.
- Tamazight is not introduced into public administrations and facilities such as hospitals, police stations and courts, based on the Dahir of 1965.
- Moroccan government has not honoured provisions of Articles 11 and 14, second paragraph, of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) concerning the establishment of a national body to consider petitions from victims of discrimination. This impedes the full implementation of the Convention and invalidates a number of its provisions.
- The constitution doesn't provide for the Royal Institute for Amazigh Culture (IRCAM), and its legal status has not been harmonized with the national institutions concerned with human rights protection based on the Paris principles.
- Moroccan legislation comprises laws that explicitly discriminate against the Amazigh language and culture<sup>8</sup>. For example, the judge's obligation to exclusively conduct proceedings in Arabic and the obligation for the Amazigh party to litigation to present its petitions in Arabic.

### **Recommendations**

- Enforcing the provisions of Article 14, second paragraph, of ICERD; and implementing the recommendations of the Committee on the Elimination of All Forms of Racial Discrimination regarding the Moroccan government's periodic reports on 17-18/08/2010, and those of the Committee on Economic, Social and Cultural Rights in 2006 on the necessity to officially recognize Amazigh linguistic and cultural rights by including Tamazight as an official language, enabling Moroccans to learn and be taught in Tamazight and establishing equality of languages and cultures.
- Clearing up the confusion noted in Article 5 of the constitution by implementing measures and laws that would place Tamazight on equal footing with Arabic as an official language.
- Establishing an independent institution, pursuant to the Paris principles, with extensive political and legal powers to standardize and unify Tamazight and archive the national Amazigh cultural, legal and artistic heritage as a step towards fully integrating Tamazight into all spheres of daily life.
- Amending the Dahir of 25/01/1965 so that Tamazight may be used in Moroccan courts and administrations, abolishing all amendments to the CPC which prohibit the use of Tamazight in courts and its integration into training institutes.
- Abolishing the High Commission for Civil Status, enjoining civil status officials to respect the Amazigh's right to legal identity, lifting prohibition on Amazigh personal and places names.

### **3. Economic, social and environmental rights**

#### **Achievements**

**At the level of treaty practice**, Morocco has gradually pursued its engagement in the international human rights system. In this regard, it ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Convention 150 on Labour Administration, and the Convention 154 on Collective Bargaining. It also ratified the International Convention against Corruption, the Convention 151 on Labor Relations in the Public Sector, the WIPO Copyright Treaty, the UNESCO Convention on the Protection of the Underwater Cultural Heritage and the Second Protocol of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

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<sup>7</sup> The law on the Civil Registry provides that the given name must be "Moroccan in character", which is usually interpreted by Civil Registry officials that this means "Arab-Muslim names".

<sup>8</sup> - Dahir (royal edict) on Moroccanization, Unification and Arabization, dated on 25 January 1965, which obliges public administrations, institutions and authorities to exclusively use Arabic.

- Dahir promulgating law NO 1-93-364 of 6 October 1993 establishing Hassan II Academy of Science and Technology, particularly paragraph 9 of the preamble, Dahir promulgating law NO 1-77-229 of 8 October 1977 establishing the Academy of the Kingdom of Morocco, Law NO 37.99 on the Civil Status System, particularly article 21 thereof, Law NO 28.08 organizing the practice of the profession of lawyer, particularly Article 18, paragraph 2.4, Article 73, par. 3; Article 4, par.6; Article 120; and Article 318 of the Criminal Procedure Code, Law NO 62.06 on Moroccan Nationality (Article 11, Chapter II), Law 77.03 on audiovisual media, Law NO 1.93.227 of 20 September 1993 establishing AL Akhawayn University in Ifrane (paragraphs 3 and 7 of the preamble), Law NO 147-467 establishing the statutes of magistrates, Decision NO 2185.03 of 22 December 2003 by the Minister of Justice on the number of seats assigned for each language (German, Portuguese, Dutch, Russian, Spanish, French and English to the exclusion of Tamazight).

Besides, the "Official Bulletin" published the Vienna Convention for the Protection of the Ozone Layer and the International Convention on Plant Genetic Resources for Food and Agriculture.

Morocco's accession to the 2003 Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage and ratification of the International Convention against Doping in Sport are approved in principle. Furthermore, Morocco ratified the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and established the National Office for Food Safety; this initiative contributed to endorsing the law on consumer protection.

**At the level of the constitution:** the new constitution provides for most economic and social rights (preamble, paragraph 1; Article 6, paragraph 2; Article 13; and Articles 31, 33, 34, 35).

**At the level of government programmes:** Moroccan government has developed a strategy for the gradual fight against poverty and exclusion suffered by a section of the population. This is reflected in the budget share allocated to social sectors (53% in 2009 compared with 39% in 1993), establishment of development agencies and launch of several programmes<sup>9</sup>. Besides, several initiatives were undertaken in education, health and housing. One of the latest achievements is the development of legislation for the protection of house maids, particularly little girls.

### **Deficiencies**

- Morocco has not lifted reservations on the Optional Protocol to the ICESCR.
- Morocco has not ratified yet the Convention 87 on Freedom of Association and Protection of the Right to Organize, the Convention 102 on Social Security, the Convention 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security.
- Morocco has not lifted the reservation on Article 92, paragraph 1, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and Article 22 of the ICERD as it refuses the ICJ's competence to resolve any dispute regarding the interpretation of this Convention.
- Morocco is facing difficulties in honouring its commitments in debt service which consumes a greater portion of the GDP. This prevents it from fulfilling its commitments under the Covenant.
- Morocco doesn't take into account its commitments under the Covenant in its negotiations with international financial institutions.
- The guaranteed minimum wage is too low to ensure an adequate standard of living for workers and their families.
- Restrictions are still imposed on the right to strike provided for in Article 8 of the Covenant.
- Increased rate of persons living below the poverty line, particularly in rural areas.
- Economic and social rights are still infringed due to the continued policy of expropriation and the populations' limited right to development. This provoked conflicts between the population and the authorities<sup>10</sup>.
- Statistical data point to the high rate of vagabondage and forced eviction cases, while taking into account the general comment of the commission on the right to an adequate standard of living (Article 11, paragraph 1, of the Covenant).
- No national health plan was adopted. The State-managed medical insurance covers only 20% of the population.
- Primary medical care is limited, particularly in rural areas.
- High maternal and infant mortality rates.
- Legislative and administrative measures do not guarantee sufficient monitoring of food-producing factories.
- High illiteracy rates, particularly among rural women.

### **Recommendations**

- Adopting legislative and other measures to enforce all ICESCR provisions.
- The State should observe its commitments under the Covenant in negotiations with international financial institutions to safeguard economic and social rights.
- Taking measures to remove the huge discrepancies noted in the guaranteed minimum wage paid to different categories of workers; and raising it to ensure an adequate standard of living for workers and their families, in accordance with Article 7 of the Covenant.
- Removing restrictions on the right to strike.
- Intensifying efforts to address poverty and illiteracy, particularly in rural areas.

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<sup>9</sup> The urgent social programme, the National Initiative for Human Development, the government support programme ...

<sup>10</sup> Riots of Sidi Ifni region, M'ritt region, Imider region, Bensemim region etc....

- Intensifying efforts to improve housing conditions, particularly through improving access of low-income categories to low-cost housing and moralizing loan granting procedures.
- Adopting a national strategy on health to expand medical insurance scope, especially in rural areas.
- Taking all necessary measures to address maternal and infant mortality in Morocco.
- Taking appropriate legislative and administrative measures to guarantee food-producing factories' adherence to international standards.
- Benefiting from the assistance offered by the UNHCHR and other UN specialized agencies to enforce economic, social and cultural rights.
- Highlighting the status of the Covenant within the national legal system, while providing information on cases submitted to the courts regarding violations under the Covenant.
- Establishing an independent authority for statistics to produce statistics on social sectors.
- Providing data on the mechanisms adopted by the government to control private social security systems.
- Improving efficiency, scope and control of social security.
- Providing details on measures to ensure alternative housing for families benefiting from the programme to fight slum housing and sub-standard housing.
- Providing additional data on the spread of AIDS, curbing measures, and the State support to AIDS-affected people.

#### 4. Women's human rights

##### Political measures and institutional framework for women's rights

- In fulfillment of its commitments under the 2008 Review, Morocco made an assessment of the National Strategy for Gender Equality and Parity in 2008, and developed an agenda for equality and for activating the 2010-2015 strategy. Morocco also devised medium-term programmes to institute gender equality in national education, media and sector modernization areas. Besides, it drew up a programme on gender budgeting and a charter to improve women's image in media in 2010, and conducted the national survey on the "spread of violence against women" in June 2009 and January 2010.
- Morocco commissioned gender issues to the State Secretariat in Charge of Family, Development and the Handicapped, which made a number of initiatives, namely establishing an institutional information system similar to the information system by the civil society, supporting listening and legal counsel centres, setting up a hotline, and launching sensitization campaigns. However, the multiplicity and variance of tasks, along with lack of autonomy in terms of budget and decision, prevented the development of a public policy for equality and gender violence elimination.
- Moroccan Constitution grants treaties a constitutional status comprising interesting aspects relating to women's human rights such as the call for combating all forms of discrimination. Articles 6, 19, 164 and 30 provide for gender equality, women's enjoyment of civil, political, economic, social, cultural and environmental rights and liberties, and establishment of an authority for parity and fight against discrimination.
- The Interior Minister issued a note whereby *soulaliyates* (women belonging to ethnic groups) are granted the right to benefit from collective lands.
- The Penal Law witnessed a number of modifications, most importantly incriminating gender discrimination, conjugal violence and sexual harassment.

##### Deficiencies

- In the absence of public gender policies, existing initiatives are considered as inconsistent and limited in scope. With the lack of mechanisms enabling civil society to monitor implementation of social plans and programmes, achievements regarding gender equality are still fragile and likely to shrink amidst a power balance threatened by expanding fundamental movements in Morocco and the absence of clear stances on equality in the programmes of the majority of political bodies, governmental and non-governmental<sup>11</sup>.
- There were disparate action in Morocco between 2006 and 2011. Hesitancy to issue a private law or a framework law against gender violence, or make amendments to the Penal Law, constituted an institutional violence against women<sup>12</sup>.

<sup>11</sup> According to report by Morocco's High Commissioner for Planning, 62.8% of women are exposed to violence, with psychological violence, violence associated with law enforcement, and conjugal violence accounting for 48%, 17.3% and 55% of it respectively. If we add violence by fiancés, divorcee or boyfriend, violence during "intimate" relationship may scale up to a rate of 80%.

<sup>12</sup> 16 years after the Beijing conference and 10 years after developing the National Strategy against Violence have elapsed without a local legislation being developed to ban gender violence and ensure protection for women victims.

## Recommendations

- Adapting local legislation to the CEDAW, and implementing the constitution articles on instituting gender equality.
- Establishing a mechanism for equality and parity, according to articles 19 and 164 under the Constitution, and introducing deterring measures against institutions that prevent enforcement of parity measures.
- Developing institutional mechanisms on gender, equality and gender violence elimination to activate public policies regarding equality and enable coordination between sectors, in line with a public integrated policy, with special focus on women's needs in rural areas.
- Activating the National Strategy on Combating Violence and the National Plan for Human Rights and Democracy, and launching initiatives to amend chapters in the Family Law inconsistent with the CEDAW, especially regarding inheritance, polygamy, lineage, and property sharing.
- Accelerating enactment of a law against gender violence consistently with the Universal Declaration on Non-Violence.
- Improving women's social and economic conditions based on a human rights and gender approach.
- Enacting a law guaranteeing *soulaliyates'* right to collective lands.

## 5. Human rights of persons with disabilities

### Achievements

- Morocco ratified the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol, which was published in the Official Bulletin. The new Constitution introduced new advances relative to disability namely:
- The Preamble stipulates that all forms of discrimination, including disability<sup>13</sup>, must be banned. Article 34 provides for the rights of persons with disabilities.
- Article 34 stipulates that public authorities must develop and implement policies geared to categories with special needs. Special focus will be on rehabilitating and integrating persons with physical, sensory, mobility or mental disability into social and civil life, and enabling them to enjoy the rights and freedoms recognized for all persons.

### Deficiencies

- Some social care laws are not based on a human rights approach.
- The government has not yet presented its preliminary report, which should have been produced by 2011, two years after its ratification of the Convention.
- The Draft Law on Promoting Rights of Persons with Disabilities which was developed following broad consultations between governmental sectors and parties active in the field of disability rights was blocked.
- There are no official documents on the extent to which persons with disabilities are enjoying such basic rights as access to education, training, qualification, rehabilitation, employment, health and social security.

### Recommendations

- Enforcing the Constitution's stipulations regarding persons with disabilities.
- Passing the National Law on Promoting Rights of Persons with Disabilities consistently with the Convention, and abolishing previous laws.
- Expediting presentation by Morocco of the preliminary report on rights of persons with disabilities to the UN relevant Commission.
- Establishing an independent, national authority consistent with the Paris Principles to monitor CRPD implementation.
- Developing a national inclusive policy.

## 6. The Judiciary

### Achievements<sup>14</sup>

- Recognizing the judiciary as independent of the legislative and executive powers.
- Establishing the "Supreme Council for the Judicial Power" (SCJP) in replacement of the Supreme Council for the Judiciary; providing it with administrative and financial autonomy and extensive powers; empowering the Court of Appeal's President to act as the Council's Deputy President instead of the Justice Minister.

<sup>13</sup> The preamble of the 2011 constitution stipulates that all forms of discrimination on grounds of gender, colour, faith, culture, social or regional background, language, disability or any personal condition whatsoever, must be banned and combated. Article 34 provides that public authorities must develop and implement policies aimed at persons and categories with special needs. In this regard, they should give special focus on rehabilitating and integrating persons with physical, sensory, mobility or mental disability into social and civil life, and enabling them to enjoy rights and freedoms recognized for all persons.

<sup>14</sup> These achievements, especially regarding the new constitution, still are not brought into effect and many depend on organic texts that have not been issued yet.

- Recognizing the judges' right to engage in associative action and establish professional associations.
- The decisions by the SCJP, regarding individual situations, are appealable on grounds of abuse of power before the highest administrative judicial authority in the Kingdom.
- Raising the Constitutional Council to the status of "Constitutional Court" with enlarged functions.
- Checking international conventions for consistency with the Constitution, and settling disputes between the State and regions.
- Fixing one year as a deadline for settling electoral disputes.
- Including constitutional provisions incriminating use of power, money or any other means to influence court decisions.
- Forbidding establishment of exceptional courts and providing in the constitution for the right to fair trial and to a judgment rendered within reasonable time.

### **Deficiencies**

- The constitution preamble contains contradictory stipulations concerning international conventions<sup>15</sup>.
- Absence of constitutional guarantees against issuance or enforcement of texts contrary to the constitution.
- The constitution does not refer to legal sanctions for the administration's refusal to implement judicial rulings.
- The constitution does not provide for control by the Constitutional Court of independent organizational decrees issued by the Executive.
- The legal and juridical systems are still orchestrated on security danger pretexts.
- Bribery and nepotism are rampant within the judiciary, which fails to counter impunity and corruption.
- Rulings are lacking in quality and difficulties are met in notifying and enforcing them. Beside the multitude of cases, human resources are inadequate in number and the judicial assistance system is weak.
- Judges are still prevented from establishing unions and non-professional associations.
- Lawyers are still prevented from assisting suspects at police stations when summoned or arrested.
- The CPC stipulations regarding protection of juveniles are not implemented.
- Juvenile cases are not entrusted to a specialized deputy of the King's Attorney, as provided by the law. Instead, they are referred to public prosecution judges.
- The right to change protection, control and review measures regarding juveniles (Articles 501 to 504 of the CPC), is not enforced.
- Prisons do not deduct the period that is actually spent at children's protection centres from the overall punishment.
- Enforcement of the decision to transfer a juvenile in an incarceration institution to the children's protection centre usually takes a long time. Consequently, the juvenile stays in the prison for a longer time, which is contrary to his/her interest<sup>16</sup>.

### **Recommendations**

- Forming judges' councils and social organs via free elections and according to a gender approach.
- Improving conditions of judiciary staff potential, and providing them with adequate legal framework and institutional capacities.
- Enabling access for citizens to information and procedures, including developing e-administration rules.
- Providing simplified mechanisms to enable citizens to file complaints to the judiciary regarding administrative actions, while establishing normative procedures at each court.
- Developing and implementing mechanisms for preventing bribery.
- Establishing a unit to monitor property declarations and submit findings to the Office of the SCJP.
- Developing objective mechanisms to run judicial facilities, such as prison administration, the pardon procedure and the procedure for granting nationality.
- Acknowledging and enforcing the right to immediate, effective judicial equity as a tool to localize persons deprived of their freedom, take stock of their health conditions, or identify the authority having ordered their imprisonment.
- Ensuring access by human rights organizations to detention facilities and other places where detainees and enforced disappearance victims are likely to be found.

<sup>15</sup> The constitution preamble provides for "making international conventions (as ratified by Morocco, in line with the constitution, the Kingdom's laws and solid national identity) gain primacy upon publication over national legislation, and adapting national legislation to ratified conventions."

<sup>16</sup> See Article (66) of the law on prison management.



- Stipulating that officials allegedly responsible for enforced disappearance be referred to civil penal courts.
- Establishing special courts to consider juvenile cases in big cities.
- All stakeholders in the juvenile justice system must possess specialized knowledge in the matter.
- Simplifying texts and procedures to clarify the legislators' intents and major trends in adopting international conventions.
- Establishing registers at detention facilities to record observations by inspecting judges.

## 7. Childhood<sup>17</sup>

### Achievements

Morocco exerted considerable efforts in implementing relevant conventions through enacting the law on compulsory basic education till age 15. Special stipulations under the CPC and Labour Law fix work age at 15, prohibit child employment in dangerous activities, establish a list of activities forbidden for underage children, and impose sanctions against exploitation of children in work.

Public debate has been initiated regarding economic and sexual exploitation of children, violence against children, and child's dropout. In the past years, the government and many national institutions have, along with civil society, made several positive initiatives to promote child rights.

### Deficiencies

Morocco is still facing major challenges regarding mother and child mortality, education quality and child employment. Here are some illustrative figures of gross disparities:

- Death of children aged less than 5 years, among 20% of the poorest categories, is three times higher than among 20% of the richest categories.
- Malnutrition among 20% of the poorest categories is three times higher than among 20% of the richest categories.
- Child birth assisted by qualified staff in urban areas exceeds by two thirds similar child births in rural areas.

### Recommendations

- According priority to children's best interests in national legislation.
- Enabling children to enjoy their full rights and protecting them from ill-treatment within national legislation, in line with the international law.
- Developing public policies guaranteeing children's right to education<sup>18</sup> till age 15, and building necessary infrastructure, with the State covering schooling expenses for needy families.
- Reinforcing support programmes for children's schooling and/or vocational training for children in difficult situation.
- Adopting ILO's key principles to combat worst forms of child employment.
- Providing necessary infrastructure and human resources to guarantee free health care for children and reduce child mortality.
- Providing support to needy families to preserve their children's rights.

## 8. Migration and refugees<sup>19</sup>

### Achievements<sup>20</sup>

- Moroccan constitution recognizes migrants' rights. However, Morocco did not sign extradition agreements of migrants to their countries of origin.
- The UNHCR, in coordination with the Moroccan government, developed assistance programmes for refugees. Two centres for legal assistance were established in Rabat and Oujda, in partnership with the Moroccan Organization for Human Rights (OMDH).
- Support is extended to refugees in income-generating projects, in coordination with the AMAPPE. Humanitarian support was also provided to vulnerable refugees by Caritas, Doctors without Borders the East West Foundation and the *Terre des hommes* Foundation.

### Deficiencies

<sup>17</sup> Morocco ratified the UN Convention on the Rights of the Child, which focuses on protecting children from discrimination, requires from public authorities to take heed of child's interest, calls for working to ensure child's right to life and welfare, and provides for children's right to expression regarding matters concerning them.

<sup>18</sup> Every year, approximately 380.000 students drop out of school. There is also a low rate of enrolment in primary schools: less than 50% of children of both sexes do not enjoy regular education.

<sup>19</sup> Official statistics by the UNHCR indicate that Morocco counts more than 800 refugees who have refugee identity cards, while more than 600 others are asylum seekers whose cases still are under investigation. Legally recognized persons include 185 children accounting for 25% of the overall number of refugees, and more than 134 women representing 18%. Illegal residents are some 10,000.

<sup>20</sup> Most of which are not made by the Moroccan government.

- Between a refugee and an asylum seeker<sup>21</sup>, the concept of refugee remains obscure. Though with refugee identity card, African refugees suffer detention and persecution. Also, the documents provided to them by the UNHCR do not entitle them to medical treatment, education for their children, food and employment<sup>22</sup>.
- Refugees do not enjoy basic rights such as obtaining stay or work permit. Major impediments can be summed up as follows:
  - Procedures for refugee status recognition are not respected.
  - The rights of illegal migrants and official refugees under international conventions are not respected.
  - Signing conventions on extraditing minors to their countries of origin and incriminating the right of movement by law 02.03.
  - Extradition conditions to countries of origin are not observed.
  - Such basic rights as health care, education and movement are not respected.
  - Non-functioning of the Foreign Ministry's Office of Refugees and Stateless Persons (ORSP).
  - Adoption of Moroccan migrants' vote by proxy.
  - Morocco's government did not produce the report on migration which it was to submit in 2004.

## **Recommendations**

- Presenting regular reports on migration by the Moroccan government.
- Recognizing basic rights for migrants and refugees, consistently with international conventions.
- Reviewing the migration law to reinforce guarantees for appeals against administrative decisions, and dissociating migration from crime.
- Activating the ORSP.
- Defending migrants' rights within host countries.
- Granting Moroccan migrants the right to direct vote.

## **9. Public liberties**

### **Achievements**

#### **The Constitution recognizes<sup>23</sup>:**

- Respect for fundamental liberties and rights.
- Freedom of thought, opinion and expression.
- Freedom of press without restraint by any prior censorship.
- Right to access to information available within public administration, elected institutions and public utilities.
- Freedom of gathering, assembly, peaceful demonstration, association, and political and union affiliation.
- Initiating the CNDH, and developing its structure according to the Paris Principles<sup>24</sup>.

### **Institutional Level**

- Granting royal pardon to some political detainees sentenced to imprisonment (Driss Shahtan, a journalist; Chakib Khiari; Tamek group and the six detainees in the Belliraj case).
- Conducting national debates on the press and media.

### **Deficiencies**

#### **Freedom of association**

- Refusal to deliver acknowledgement receipts to applicants for association establishment.
- Refusal to deliver final acknowledgement receipts to several associations on union affiliation, cultural and belonging grounds<sup>25</sup>.

#### **Freedom of press and expression**

- Issuing non-judicial decisions and sanctions against many newspapers.
- Inflicting financial constraints on certain independent newspapers and obstructing their advertisement outlets, which resulted in bankruptcy of many newspapers (*Nichane* and *Le Journal Hebdomadaire*).
- Prosecuting many journalists under the Penal Law, and barring some journalists from practicing journalism.

<sup>21</sup> Most African refugees in Morocco are from Côte D'Ivoire (36%), and the Democratic Republic of Congo (27%), residing for the majority in Rabat, Salé and Casablanca. Statistics indicate that women and children represent 18% and 25% of the overall number of refugees, respectively. A number of the 10,000 illegal refugees residing in Morocco work in trade, construction and household activities, but a major portion turn to prostitution, theft and begging.

<sup>22</sup> According to the document for refugee status recognition, refugees should be provided protection from forced extradition to their countries of origin, as this can pose a threat to their lives or freedom. Refugees should accordingly be provided any such services. But UNHCR officials stress that the document is only "symbolical" and has no binding force.

<sup>23</sup> Articles 20, 25, 27, 28, and 29 of the Constitution (approved in July 2011).

<sup>24</sup> The Dahir issued on 1 March 2011.

<sup>25</sup> The association of unemployed graduates, Amazigh rights associations, as well as cultural and educational associations, on grounds of one or more individuals from the association's bureau belonging to Al-Adl Wa Al-Ihsane community, the Group against Racism and for Assisting and Defending Foreigners and Migrants (GADEM), and the Judges' Club Association.

- Pronouncing exaggerated fines and compensation for cases of slander, which caused many newspapers and magazines to go bankrupt.
- Banning newspapers and magazines and destroying publications, illegally, on grounds of offence against religion and morality<sup>26</sup>, and imposing prior illegal censorship by requiring publishers to control newspaper and magazine content.
- Resorting to provisions and considerations not falling within the ambit of the judiciary, when banning and seizing foreign newspapers (*Le Monde*, 4/8/2009 and 22/10/2009; *El País*, 26/10/2009), and interdicting satellite channels (such as Al Jazeera) from broadcasting.
- Stipulating that associations and parties have no right to own a radio station or TV channel, which contradicts Article 19 of the UDHR, and Article 19 of the International Covenant on Civil and Political Rights.
- Several bloggers suffered prosecution and severe judgments<sup>27</sup>, and web pages and personal emails were assaulted.
- Banning some lectures and gatherings: banning Kamal Jandoubi from entry to Morocco to attend the tribute ceremony organized by the OMDH, gathering of Moroccan Judges' Club, and Transparency prize award ceremony to Chakib Khiari.

### **Religious and cultural liberties**

- Deporting many Protestant clerks, in 2010, without trial on grounds of their breaching evangelization banning law.
- Continued restrictions on religious and doctrinal liberties, on account of the unity of the Malekite rite.

### **Peaceful demonstration and assembly**

Severe crackdown by public forces was mounted in many cities to disperse and ban sit-ins by the unemployed movement, and protesters claiming economic and social rights.

### **Recommendations**

- Abolishing press liberty depriving sanctions and reducing severe fines.
- Recognizing freedom of press and the right to information, by abolishing censorship, and journalists' right to access to information sources.
- Abolishing administrative seizure and conferring its enforcement to the judiciary.
- Stipulating that reparation in defamation cases should be proportionate to the damage caused, and repealing ambiguous legal texts<sup>28</sup>.
- Endorsing publication authorizations by either registered mail or bailiff.
- Subjecting establishment of foreign associations to the simplified procedure applied to legally recognized associations.
- Providing for the possibility of sending demonstration and sit-in organization authorization via registered mail or by a bailiff.
- Harmonizing the law on association establishment with the constitution.
- Recognizing the right for all citizens to conduct demonstrations, explicitly defining the conditions for interdicting demonstrations to limit the administration's discretionary power (Article 13), and recognizing the right to peaceful assembly and non recourse to force to disperse it.
- Recognizing religious and doctrinal pluralism and respect for freedom of opinion and thought.
- Endorsing legal rules that guarantee respect for intellectual and political pluralism in public and private sectors, and imposing sanctions against breaching institutions.
- Publishing the outcomes of the national dialogue on media and society.
- Ensuring pluralism in public media.

<sup>26</sup> Issues 113 and 114 of *Tel Quel* and *Nichane* were confiscated.

<sup>27</sup> Mohamed Raji was prosecuted for disrespect for the King and sentenced to two enforceable years of imprisonment by the Court of First Instance and was acquitted by the Court of Appeal; Bachir Hazzam was sentenced to a four-month imprisonment (reduced on appeal to two months); Abdullah Boukfou was sentenced to one enforceable year of imprisonment at the First Instance Court (reduced on appeal to eight months).

<sup>28</sup> The Press Code, in Article 41, entitles the indictment authority and the judiciary to stop or ban periodicals.