



المجلس الوطني لحقوق الإنسان  
المجلس الوطني لحقوق الإنسان | المجلس الوطني لحقوق الإنسان  
National Human Rights Council

**Collection of CNDH Reports  
to the United Nations Treaty Bodies  
(From 2019 to July 2022)**

October 2022

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**CNDH Parallel Report to the United  
Nations Committee on Enforced  
Disappearances – June 2022**

## A. Introduction

1. The National Human Rights Council (CNDH) was established in 1990 as the national human rights institution constitutionally vested with the mandate to protect and promote human rights and prevent their violation. It has been accredited with “A” status since 1999. With 12 regional human rights commissions covering the entire national territory, the CNDH has a president, a secretary general, presidents of regional commissions and 27 members selected from among personalities known for their expertise, integrity, impartiality and commitment to human rights values and principles. Members are selected in compliance with the principles of intellectual and social pluralism as well as parity, cultural and linguistic diversity, regional representation, representation of Moroccan expatriates, youth, persons with disabilities and children.
2. The new law 76.15 reforming the CNDH, which was unanimously adopted by the Parliament in February 2018<sup>1</sup>, considerably broadens the mandate of the CNDH, particularly by entrusting it with the mandate of three mechanisms provided for by international human rights instruments. These are the National Preventive Mechanism against Torture (NPM), in line with OPCAT, the National Child Redress Mechanism, in line with General Comment 2 of the Committee on the Rights of the Child, and the National Monitoring Mechanism for Persons with Disabilities, in line with Article 33 of the Convention on the Rights of Persons with Disabilities.
3. The CNDH welcomes the national initial report on the implementation of the International Convention on the Protection of All Persons from Enforced Disappearances submitted under Article 29(1). It also welcomes the adoption of a participatory approach in the development of the report. Indeed, during the preparation phase, the CNDH took part in many consultations including with civil society organizations and human rights defenders. The CNDH issued many observations specific to the form and content of the draft national report which it later communicated to the government.
4. Nevertheless, the CNDH deplores the delay in the presentation of the initial report. Indeed, Morocco ratified the Convention on 14 May 2013 and was published on the Official Gazette on 10 February 2014<sup>2</sup>. It is worth noting

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1. Law reforming the CNDH is available at: [https://www.cndh.ma/sites/default/files/lqnwn\\_rqm\\_76.15\\_lmtlq\\_bd\\_tnzym\\_lmjls\\_lwtny\\_lhqwq\\_lnsn.pdf](https://www.cndh.ma/sites/default/files/lqnwn_rqm_76.15_lmtlq_bd_tnzym_lmjls_lwtny_lhqwq_lnsn.pdf)

2. Official Gazette, Issue No. 6229, dated 10 February 2014.

that the CNDH, in its annual report for 2019<sup>1</sup>, the CNDH drew the attention of the government to the delay in the submission of several reports to treaty bodies, including the initial report on the implementation of the International Convention on the Protection of All Persons from Enforced Disappearances that should have been submitted in June 2015. The CNDH recommended making up for this delay and submitting reports to treaty bodies on a timely manner while adopting a participatory approach in the development of those reports.

5. The Equity and Reconciliation Commission (known under its French acronym “IER”) was set up in January 2004 and ended its mandate on 30 November 2005 by issuing a final report<sup>2</sup>. The IER looked into grave human rights violations that occurred in the past during a period of time from 1956 to 1999, including enforced or involuntary disappearances. In 2006, the Advisory Council on Human Rights<sup>3</sup> was entrusted with following up on the implementation of the IER recommendations, and for this purpose, it established a follow-up committee<sup>4</sup>.
6. The CNDH continued to introduce the Moroccan experience on transitional justice to Arab and African countries. Sessions were organized recently for the national human rights institutions in Libya and Niger as well as human rights activists, judges and doctors from Sudan. The CNDH also continued to engage with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, who visited Morocco on the occasion of the 26<sup>th</sup> session of the International Publishing and Book Fair, held in Casablanca in February 2020, as well as filling out questionnaires on transitional justice processes it shared with the Special Rapporteur.
7. This report, which is based on the analysis of national context regarding the provisions of the Convention, was developed drawing on a comprehensive observation and a documentary study informed mainly by the reports of the IER as well as the annual and thematic reports, studies and memoranda of the CNDH.
8. The CNDH welcomes the normative, legal and institutional developments related to the elimination of enforced disappearances. These include mainly the establishment of the Equity and Reconciliation Commission (IER), the

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1. See paragraph 263, page 69, of the 2019 CNDH Annual Report, available at: [http://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_2019.pdf](http://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_2019.pdf)

2. Final Report of the Equity and Reconciliation Commission, available at: <https://www.cndh.ma/ar/rubriques/ltwthyq/lstdrt/tqryr-hyy-lnsf-wlmslh>

3. This is the former name of the National Human Rights Council.

4. See Royal Speech of 2006, following the end of the IER mandate.



adoption of a new Constitution in 2011 which incorporates many of the IER recommendations, criminalizes gross human rights violations including enforced disappearances, reaffirms the State's attachment to human rights as universally recognized, and provides for the supremacy of international conventions ratified by Morocco over national legislations. These developments also include the constitutionalization of several institutions, including the National Human Rights Council (CNDH) (art 161)<sup>1</sup> and the ratification of the core 9 human rights instruments, including the International Convention on the Protection of All Persons from Enforced Disappearances in 2013 as well as several protocols, including the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 2014 and the first Optional Protocol to the International Covenant on Civil and Political Rights in 2022. Morocco also withdrew several reservations, including those to Article 22 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Non-governmental organizations have played a key role in advocating for reinforcing Morocco's treaty practice.

9. The CNDH hopes that this submission will provide additional information to the Committee, be subject of constructive and fruitful dialogue with the government and serve as a reference for the Committee in drawing up its list of issues. The report recalls the historical context of the use of enforced disappearance as a means of political conflict between political stakeholders. It also provides an account of the societal forms of addressing those violations, the adoption of transitional justice principles with a view to peacefully settling the impacts of violations and the major findings reached in the area of establishing the truth and breaking with the practices of the past. Likewise, the report includes updates and issues of concern about the implementation of the IER recommendations as well as the contribution to legislative reform regarding enforced disappearances and proposed questions that the CED could address to the government and that could be the subject of a constructive dialogue between the two parties.

## **B. Historical Context for the Use of Enforced Disappearances as a Means of Conflict between Political Stakeholders**

10. Since its independence on 18 November 1956, Morocco has seen grave and systematic violations of human rights committed by State agencies against all factions of the political opposition, due to the conflict over power. These violations expanded to include a broad range of citizens who participated in social protests in major cities. Members of the army were similarly victims of

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1. Constitution of Morocco of 2011, available at:  
[https://www.cour-constitutionnelle.ma/sites/default/files/documents/constitution\\_arabe\\_2011\\_0.pdf](https://www.cour-constitutionnelle.ma/sites/default/files/documents/constitution_arabe_2011_0.pdf)

violations after the two failed coup attempts which took place in 1971 and 1972. Non-state actors were also involved in kidnappings, assassinations and violence, during the postcolonial era and during the armed conflict over the Sahara, which erupted after Morocco had regained its Southern Provinces as from 1976 and signed the tripartite agreement with Spain on 14 November 1975.

11. Since the late 50s, partisan press and lawyers' pleas in trials started to bring to light the grave human rights violations perpetrated by State agencies, and helped denounce and prevent these violations. During the second half of the 1970s, families of detainees started confronting these violations, showing solidarity with the victims, and getting involved in civil and human rights associations in their bid to face State violence. The role of the human rights movement evolved during the eighties of the last century, especially with the emergence of a new generation of human rights defenders embracing the universal human rights norms and getting inspired by the major political and intellectual transformations that the world witnessed at that time.
12. These positive developments, both at the international and national levels, have paved the way for the State to get increasingly involved in this momentum and to engage in the major international political and intellectual transformations taking place at the time. Accordingly, the State launched a series of positive initiatives aimed at breaking with the past human rights abuses. These initiatives culminated in the creation, in 1990, of the Advisory Human Rights Council (CCDH) which was mandated with supporting these changes and reinforcing Morocco's involvement in the democratic edification and the protection of human rights, by contributing to the settlement of the issues of grave human rights violations and establishing relevant mechanisms. Upon its establishment, the CCDH sought to advocate for releasing victims of enforced disappearances, shutting down illegal detention centers, setting free political detainees and allowing expatriates to return to the country.
13. As part of this dynamism, the 1992 Constitution stated in its preamble, for the first time, that the Kingdom of Morocco is attached to human rights as universally recognized. Amendments were then initiated to ensure that domestic laws are in line with international human rights instruments. In late 1999, the CCDH established the Independent Arbitration Commission to compensate a considerable number of victims of arbitrary detention and enforced disappearances and their deceased rights holders. However, this commission did not meet the aspirations of victims and their representatives neither those of human rights activists even from the NHRI itself.

14. In parallel with these changes witnessed in Morocco, the CCDH hosted extensive discussions that brought together various stakeholders represented at the CCDH to determine the appropriate pathways to continue the process of repairing past violations. These discussions resulted in the establishment of a new transitional justice mechanism tasked with revealing the truth about enforced disappearances, breaking with past practices, ensuring reparation, establishing guarantees of non-recurrence, and preserving memory.
15. IER members were installed on 7 January 2004. The IER was considered in the Royal speech as a truth committee and a transitional justice mechanism installed in light of the continuity of the same political regime, a constitutional monarchy with legal foundations and governmental and administrative institutions. The establishment of the IER came as the fruit of a gradual trend upwards in human rights reforms and a qualitative step in addressing serious past human rights violations.
16. The IER Statutes, approved by virtue of Royal Decree 1.04.42 dated 10 April 2004, determines the scope of IER work in establishing the truth about gross human rights violations, establishing the nature and scope of violations, continuing investigations into cases of enforced disappearance of victims whose fate remains unknown, and determining the responsibility of the State agencies or any other actor regarding violations and incidents being investigated.
17. Upon inception, the IER established among its priority actions the mission of revealing truth about cases of victims whose fate remained unknown and identifying burial sites of the deceased. As soon as it embarked on addressing the issue of enforced disappearances, a complicated issue due to conflicting data about circumstances of disappearances, the IER faced other challenges related to the absence of a precise definition of enforced disappearances in Moroccan law, lack of legal safeguards likely to ensure protection against enforced disappearances.
18. In order to overcome these difficulties, the IER's work was guided by the provisions of International Human Rights Law related to the protection against enforced disappearances as well as best practices and literature of truth and reconciliation commissions set up to settle and manage past conflicts in their respective countries and the jurisprudence of the Independent Arbitration Commission for Compensation that had been established to compensate victims in Morocco.

## C. Outcome of Transitional Justice Process regarding the Revelation of Truth about Cases of Enforced Disappearances

19. The IER fulfilled considerable achievements in the revelation of truth. These are as follows:

- Defining enforced disappearance in the IER Statute, based on the Universal Declaration of Human Rights and International Humanitarian Law: “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law;
- Ensuring that claimants, members of their family or acquaintances do not carry the burden of proof and adopting flexible means to prove the claims by examining evidence, investigating the circumstances, the context, testimonies of witnesses; improving the procedure in force to benefit the victims and their families;
- Expanding the IER mandate to include other abuses, including the execution of death sentences pursuant to a court order, extrajudicial killings, deaths from bullet wounds sustained during social unrestful events, and rape which affects the fundamental human right to physical integrity and dignity;
- Considering the victims of social unrestful events among the cases of disappearance, since the victims’ corpses were concealed and buried in the absence of their families;
- Considering the suffering of minors endured during their detention alongside their mothers as a grave violation of the rights of the child, in line with the Convention on the Rights of the Child ratified by Morocco.
- Adopting a gender-based approach in addressing the cases of enforced disappearance and adopting positive discrimination in the estimation of the amounts of financial reparation to be granted to women.
- Compensating victims who were forced to disappear inside the national territory or to self-exile abroad to flee persecution by State agencies due to their political, trade union or association activities conducted without being legally protected.
- Compensating surviving victims and right-holders of deceased victims of enforced disappearance who were imprisoned outside the Moroccan territory during the armed conflict which erupted after recovering the Sahara, based on the theory of risks whereby the State is responsible for protecting its nationals;

- Compensating victims who were detained in severe conditions without trial in an illegal detention center despite the fact that their detention does not fall in the scope of the IER's competence, given that the victims had no direct affiliation to any political, associative or union activity.
20. Given the interdependence between the right to know the truth and right to reparation and redress, the number of beneficiaries of the individual reparation programs, as at 30 July 2022, totaled:
- 20,339 victims and rights holders received MAD 1,309,905,878.93 in financial compensation (almost USD 127.7 million);
  - 8,844 health care cards were delivered to 19,852 beneficiaries. These cards costed the State general budget MAD 215,000,000.00 (almost USD 21 million);
  - 1,502 victims and rights holders benefited from social integration programs, including 183 persons who were integrated into the public and semi-public sectors, of whom 99 were above the age of 40 on the date of their recruitment. These required additional efforts embodied in the launch of the supplementary retirement plan for the victims by virtue of an agreement signed on 4 May 2021 by the CNDH, the Chief of the Government, the Deposit and Management Fund (CDG), a body in charge of running this retirement plan;
  - 510 victims who were fired from their employments because of their union or political affiliation have had their administrative and financial situation settled;
  - 386 enforced disappearance victims who were detained for long years in illegal detention centers were released. Those victims were a major source of testimonies about fellow victims who died during detention;
  - Enhance the process of the revelation of the truth regarding most of the cases received by the IER and its follow up committee from various sources (surviving victims/victims' families/national and international organizations/official archives/investigations of the IER and the follow up committee), following the procedures, principles and foundations of the international law related to the right to truth.
21. The overall total of the victims of enforced disappearances the IER and its follow up committee investigated in depth to find their whereabouts reached 805 cases, broken down as follows:
- 51 victims died during their kidnappings or detention by political groups due to the conflicts that erupted between contending political forces in the wake of the independence of Morocco;
  - 16 persons died during the unrestful events of the Rif in 1958;

- 9 persons died in armed confrontations in the early 1960s;
  - Assassination and concealment of the body of one (1) person outside the national territory;
  - Assassination of 2 guards who were involved in the escape of prisoners, victims of enforced disappearances;
  - 224 persons died in the prolonged arbitrary detention during the period from 1961 to 1992;
  - 86 persons executed by a court order and buried in the absence of their family members;
  - 144 persons died fighting during armed confrontations during the conflict over the Sahara;
  - The lack of the responsibility of the State in one case of disappearance which has no connection with enforced disappearance;
  - Lack of certainty of the State's responsibility in the disappearance of 2 persons in 1997 and 1999.
22. The CNDH contributes to providing all the necessary information and documents regarding victims of enforced disappearances referred to the authorities by the Working Group on Enforced or Involuntary Disappearances or the International Committee of the Red Cross.
23. Regarding community reparation and memory preservation, secret detention centers were revealed and shut down and some of them were converted into memory preservation spaces, including the detention centers of Tazmammart, Agdez and Kelaâ M'gouna. Also, cemeteries and burial sites where the remains of victims are buried, were revealed, including two mass graves that have been rehabilitated as memory spaces: the first in Casablanca and the second in Nador.
24. Over 23 months, the IER was working on cases of victims of enforced disappearances that took place from the independence of Morocco to 1999 (43 years) and recommended the creation of a mechanism to follow-up on the implementation of its recommendations, including truth-seeking and investigating cases for which the truth remained unknown. The establishment of a committee to follow up on the implementation of the IER recommendations, after the termination of its mandate, is a human-rights gain and a key safeguard for ensuring the implementation of those recommendations. The Committee is hosted and maintained by the CNDH which increased its human resources. In the CNDH's current mandate, the CNDH President issued, on 3 September 2020, a decision to reorganize the Committee, reinforce its administrative staff and ensure its full dedication to speeding up the implementation of the remaining recommendations and overcome the lax implementation by successive governments of some recommendations and programs.

#### **D. Developments and Concerns regarding the Implementation of the IER Recommendations and Contribution to the Legislative Reform on Enforced Disappearance:**

25. To overcome the reluctance of previous governments to support the remaining programs linked to the implementation of the IER recommendations, the CNDH launched a new dynamic during the current mandate to implement the programs and recommendations relevant to the preservation of memory. This new momentum, launched by the CNDH in coordination with local and national authorities, helped speed up the progress made especially with regards to the “memory preservation space” of the former detention center of Tazmamart, which is almost ready to open and host communal reparation projects associated with it. It also helped rehabilitate several memory preservation spaces and launch the second phase of the construction of Al Hoceima Museum.
26. In implementation of the CNDH strategy adopted since 2019, guided by the constitutional provisions and with a view to finalizing the transitional justice process in Morocco, the CNDH adopted a productive scientific approach to shed light on the elements which raise confusion or still seem blurred in the contemporary human rights history in the country. In this regard, the CNDH further strengthened the follow-up committee by establishing a new administrative unit specialized in archives and contemporary history, which included in its membership a former member of the Equity and Reconciliation Commission and experts in archives and history. One of the Unit’s missions is to engage with experts, historians and specialists in order to contribute to evoking the issues of the contemporary history of human rights in Morocco, provide perspectives and analysis of violations, preserve the collective memory and transform it into a pillar of productive construction, thus opening new governance horizons and enriching local and human development.
27. According to Article 25 of its founding law, the CNDH shall make opinions on the bills and draft laws relevant to human rights, particularly with a view to bringing them into compliance with international human rights instruments. In this respect, the CNDH issued in 2019 its opinion regarding the draft penal code No. 10.16 through a supplementary memorandum<sup>1</sup>. The CNDH recommended criminalizing enforced disappearances, a cornerstone of the State’s efforts to meet its obligations resulting from the ratification of the International Convention on the Protection of All Persons from Enforced Disappearances. In

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1. See page 27 and 28 of the Memorandum on the CNDH proposals and recommendations on the amendment to the penal code. Available here:  
[http://www.cndh.org.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](http://www.cndh.org.ma/sites/default/files/cndh_-_web_code_penal_va.pdf)

this respect, the CNDH believes that it is necessary to accelerate the adoption of a law which is in line with the CNDH recommendations contained in its memorandum of 2019, in conformity with the constitutional provisions and international human rights standards.

28. In line with its opinion on the draft law, the CNDH would like to reaffirm the following:

- The need to accelerate the reform of the justice-related measures, in implementation of the constitutional provisions of 2011, in such a manner as to strengthen the criminalization of enforced disappearance;
- The need for the upcoming penal Code to adopt the same definition of enforced disappearance as stipulated in the International Convention on the Protection of All Persons from Enforced Disappearances;
- The need to criminalize enforced disappearances when perpetrated by persons or groups of persons acting without the permission or support or approval of the State, in application of the Article 3 of the International Convention on the Protection of All Persons from Enforced Disappearances and the constitutional provision criminalizing enforced disappearances;
- Providing for holding superiors accountable for the crime of enforced disappearance perpetrated by subordinates in line with the conditions specified in article 6 of the Convention, as no order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance, while sensitizing subordinates of the atrocity of this crime and holding them responsible of their obligations to respecting human rights;
- The necessity to reaffirm that no superior order or instruction of any public authority may be invoked to avoid penal liability and clearly provide for the protection of victims of enforced disappearance.

#### **E. Questions that may be addressed to the Government by the Committee on Enforced Disappearances and can be Discussed between the Two Parties:**

- What are the measures taken by the State Party to ensure engagement with the CNDH recommendations relevant to the crime of enforced disappearances as contained in the CNDH memorandum on the amendment of the Penal Code?
- What are the measures that have been taken by the State Party with a view to harmonizing the draft penal code with the provisions of the International Convention on the Protection of All Persons from Enforced Disappearances?



- What schedule is in place to adopt the draft penal procedure code and draft penal code?
- What are the measures the State Party has taken to implement the remaining recommendations of the Equity and Reconciliation Commission, including the yet three unresolved cases of past enforced disappearances, including through international cooperation?
- What are the efforts being made by the State as part of awareness and training for judges and law enforcement officials to prevent enforced disappearances?

**CNDH Submission to the Committee  
on the Elimination of Discrimination  
against Women – For List of Issues –  
October 2020**

## A. Introduction

1. The National Human Rights Council of Morocco (CNDH) is a constitutional institution for the promotion and protection of human rights<sup>1</sup>. It was established in 1990 and has been accredited to “A” status since 1999, testifying to its full compliance with the Paris Principles of 1993. The CNDH has 12 regional human rights commissions, which cover the entire national territory and whose new members, composed mainly of civil society representatives, have been installed in September and October 2020. A new law 76.15 reforming the CNDH was adopted unanimously by the parliament in February 2018<sup>2</sup>. This law considerably broadens the powers of the CNDH, particularly by entrusting with the mandate of three mechanisms provided for by international human rights standards. These are the National Preventive Mechanism against Torture (NPM), in line with OPCAT, National Child Redress Mechanism, in line with General Comment 2 of the Committee on the Rights of the Child, and National Monitoring Mechanism for Persons with Disabilities, in line with Article 33 of the Convention on the Rights of Persons with Disabilities.
2. The CNDH welcomes the combined 5<sup>th</sup> and 6<sup>th</sup> periodic reports, due in 2014. Nevertheless, it regretted the delay registered in this regard. In its 2019 annual report, the CNDH drew the government’s attention to the delay in reporting to several treaty bodies, including the Committee on the Elimination of Discrimination against Women (CEDAW). It recommended that the government submit national reports on time, while adopting a participatory approach and a simplified procedure in reporting, given the importance of this procedure in optimizing the dialogue between treaty bodies and the government<sup>3</sup>.
3. The CNDH has engaged in several discussions with UN mechanisms working on women’s rights, whether directly or through the Global Alliance of National Human Rights Institutions. Thus, in 2016, CEDAW, through its member Ms. Nahla Haidar, participated in a workshop organized by the CNDH on the role of NHRI in Sustainable Development Goals and Climate Change. The CNDH also participated in meetings of the CEDAW Working Group on NHRIs, with a view to formalizing cooperation between NHRIs and CEDAW. Regarding the interaction with the Commission on the Status of Women (CSW), the CNDH joined other NHRIs and regional networks, particularly Asia-Pacific Forum

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1. See article 161 of the Constitution : [https://www.amb-maroc.fr/\\_docs/\\_Nouvelle\\_Constitution\\_%20Maroc\\_2011.pdf](https://www.amb-maroc.fr/_docs/_Nouvelle_Constitution_%20Maroc_2011.pdf)

2. [https://www.cndh.org.ma/sites/default/files/loi\\_76-15\\_relative\\_a\\_la\\_reorganisation\\_du\\_cndh\\_1.pdf](https://www.cndh.org.ma/sites/default/files/loi_76-15_relative_a_la_reorganisation_du_cndh_1.pdf)

3. More details are available in page 63, para 263, of the CNDH Annual Report : [https://www.cndh.org.ma/sites/default/files/rapport\\_annuel.pdf](https://www.cndh.org.ma/sites/default/files/rapport_annuel.pdf)

of NHRIs, to make advocacy for participation rights at CSW. This was done through the participation in side events on the margin of the CSW sessions and engagement with the Permanent Mission of Morocco in New York.<sup>1</sup> At the annual GANHRI meeting of 2019, a CSW Taskforce of NHRIs was established with the aim of ensuring that NHRIs have independent participation rights at CSW, similar to the UN Human Rights Council. The CNDH and the NHRI of Liberia represent Africa in this Taskforce.

4. The present input is based on an analysis of the national context since the last review of Morocco by CEDAW in 2008. It takes stock of the situation of women's rights in Morocco, based on CNDH reports, memoranda, advisory opinions, studies, seminars, observations, debates and awareness-raising activities. Women's and girls' rights were addressed in a cross-cutting manner in the CNDH publications, including the 2019 Annual Report, which devoted a specific chapter to women and girls<sup>2</sup>. The CNDH hopes that this input will constitute additional information for the Committee, inform the interactive dialogue with the government and be a reference for the Committee in drawing up its list of issues. It remains at the disposal of CEDAW for additional information.

## **B. Positive Aspects and Challenges related to the Implementation of CEDAW in Morocco**

5. The CNDH welcomes the constitutional, legislative and institutional progress made since 2008, when the combined third and fourth periodic reports of Morocco were reviewed. By virtue of the 2011 Constitution, Morocco undertakes to ban and combat any discrimination against anyone, including on grounds of sex. The principles of equality and parity between women and men are entrenched under the Preamble of the Constitution and its Articles 6, 19, 32 and 164. In addition, the constitution comes up with the principle of the primacy of international conventions duly ratified by Morocco over domestic laws. Ms. Amina Bouayach, president of the CNDH, and Ms. Amina El Messaoudi, a CNDH member, were members of the Constitutional Review Commission.
6. Several normative developments have also taken place since the last review. In addition to the withdrawal of reservations regarding Articles 9 and 16 of CEDAW, Morocco has acceded to two international instruments: The Convention on the Protection of All Persons from Enforced Disappearance in 2013 and Optional Protocol to the Convention against Torture in 2014. In 2019, the CNDH urged

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1. [https://www.asiapacificforum.net/media/resource\\_file/CSW\\_61\\_NHRI\\_Side\\_Event\\_Invitation.pdf](https://www.asiapacificforum.net/media/resource_file/CSW_61_NHRI_Side_Event_Invitation.pdf)

2. See recommendation on page 58, CNDH Annual Report 2019: [https://www.cndh.org.ma/sites/default/files/rapport\\_annuel.pdf](https://www.cndh.org.ma/sites/default/files/rapport_annuel.pdf)

the government to finalize the process of ratifying three other international protocols, namely the Optional Protocol to CEDAW<sup>1</sup>, First Optional Protocol to the International Covenant on Civil and Political Rights<sup>2</sup> and Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure<sup>3</sup>. It also encouraged the government to adhere to the Council of Europe's Convention on preventing and combating violence against women and domestic violence. Furthermore, the CNDH urged the government to publish the report of the Sub-Committee on the Prevention of Torture, who carried out a visit to Morocco in October 2017, and to address a standing invitation to special procedures mandates holders.

7. The legal arsenal in Morocco also saw a significant progress related to the provisions of CEDAW. Thus, a series of laws have been adopted in the field, in particular:
- Law No. 103.13 relating to combating violence against women in 2018;
  - Law No. 79.14 establishing the Authority for Parity and Fight against All Forms of Discrimination (APALD) in 2017;
  - Law No. 78.14 establishing the Advisory Council for Family and Children (CCFE) in 2016;
  - Law No. 12.19 fixing the working and employment conditions of domestic workers in 2016;
  - Law No. 62.17 relating to administrative supervision over Soulaliyate communities<sup>4</sup> and the management of their property in 2019;
  - Organic law relating to the House of Representatives, which made it possible to strengthen the political representation of women (81 seats, or 21% of the total number of members of the current house of representatives);
  - Organic laws on territorial communities, which enabled 6,669 women to be elected to municipal councils (21.16%) in the September 2015 elections. Seats reserved for women in regional councils represent 37% in total;
  - Law No. 66.16 modifying and supplementing Law No. 77.03 relating to audiovisual communication, which enshrines the promotion of a culture of gender equality and the fight against discrimination based on sex.

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1. This protocol was the subject of an approval law 12.125, published in BO N. 6387, dated 17 August 2015.

2. This protocol was the subject of an approval law 12.126, published in BO N. 6387, dated 17 August 2015.

3. This protocol was the subject of an approval law 12.59, published in BO N. 6140, dated 4 April 2013.

4. In Morocco, some tribes and rural villages called Soulaliyate still apply laws based on outdated customs and habits including deprivation of many Soulaliyate women of obtaining their share in inheritance under the pretext of fearing that they marry persons from outside the tribe and consequently the ownership of the land goes to strangers. Those patriarchal customs and habits grant men the right to deprive women of their right to inherit their parents' property. This custom, which goes back to the French colonial era, is applied by more than four thousand tribes.

8. Despite this legislative development, some laws need to be brought into compliance with international standards. Thus, Organic law 12.02 (2012) relating to the appointment to senior posts does not provide for provisions relating to parity. The implementing decree relating to this law does not contain incentive measures to strengthen the representation of women in positions of responsibility. It highlights the criterion of seniority, which is in itself a discriminatory measure against women. According to a government report on human resources released in October 2020<sup>1</sup>, the number of women appointed, by decree, to senior positions, after deliberation in the Council of Government, amounts to 137 appointments for the period 2012-2020, or a feminization rate of 11.8%. This rate is contradictory to the constitutional principle of parity.
9. Law 103.13 on combating violence against women, which entered into force in 2019, does not provide for provisions relating to the criminalization of marital rape. However, courts use jurisprudence in this respect. Tangier court of appeal took a decision criminalizing this type of rape<sup>2</sup>. The CNDH calls on courts to keep using international instruments in their jurisprudences. The CNDH remains concerned that the rates of violence against women is still high and impunity persists, due to challenges related to the burden of proof and non-reporting of cases to the competent authorities and institutions. The preliminary results of the second national survey on the spread of violence against women in Morocco, published in May 2019, showed that 54.4% of Moroccan women were victims of violence during the 12 months preceding the survey, in particular married women. It was striking in this survey that an extremely high rate of victims (93.4%) do not file a complaint.
10. To address this situation, further efforts need to be exerted in terms of awareness raising and capacity building for various stakeholders on the legal provisions combating violence against women. In October 2019, the CNDH organized together with the Office of High Commissioner for Human Rights and Office of the Public Prosecutor a workshop in this regard, attended by government officials and civil society organizations<sup>3</sup>. The CNDH also contributed to developing a course on gender-based violence destined for judges, lawyers and public prosecutors, as part of the Council of Europe Program on Human Rights Education for Legal Professionals.

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1. [https://www.finances.gov.ma/Publication/db/2021/10-%20Rapport%20Ressources%20Humaines\\_Fr.pdf](https://www.finances.gov.ma/Publication/db/2021/10-%20Rapport%20Ressources%20Humaines_Fr.pdf)

2. <https://legal-agenda.com/%D9%85%D8%AD%D9%83%D9%85%D8%A9-%D8%A7%D8%B3%D8%AA%D8%A6%D9%86%D8%A7%D9%81-%D8%B7%D9%86%D8%AC%D8%A9-%D8%AA%D8%AC%D8%B1%D9%91%D9%85-%D8%B5%D8%B1%D8%A7%D8%AD%D8%A9-%D8%A7%D9%84%D8%A7%D8%BA%D8%AA%D8%B5/>

3. <https://www.cndh.org.ma/ar/blgt-shfy/wrsh-ml-hwl-qnwn-mhrb-Inf-dd-lns-fy-lmgrb-tzyz-lhmy-wlmn-fy-lqnwn>

11. Other laws need to be adopted or amended. These include a comprehensive anti-discrimination law that takes into account the grounds of discrimination provided in the Constitution and relevant international standards. It should define and punish discrimination and provide for legally binding, proportionate and dissuasive sanctions. The Family law should be also amended so as to grant women the same rights granted to men, especially in terms of formation and dissolution of marriage as well as inheritance matters.
12. On the institutional level, two constitutional bodies dealing with women's rights need to be operational. These are the Authority for Parity and Fight against All Forms of Discrimination (APALD) and Advisory Council for Family and Children (CCFE) whose relevant founding laws were respectively adopted in 2017 and 2016. The CNDH had published in 2015 an advisory opinion on Bill No. 79.14 relating to APALD<sup>1</sup> and another one on Bill No. 78.14 relating to CCFE<sup>2</sup>. The CNDH highlights that these bodies should be provided with adequate human and material resources so that they can discharge their mandate in the best possible conditions. Furthermore, the benefits of the family solidarity fund should be extended to children born out of wedlock. The CNDH is also a member of several national institutions, which enables it to integrate the gender perspective in their work. These institutions include the Higher Council for Judicial power, National Press Council, National Commission for the Fight against and Prevention of Trafficking in Human Beings and Right to Information Access Commission.
13. At the policy level, the government continued to develop a gender-sensitive budgeting (BSG) since 2001. The Government Plan for Equality (PGE) "ICRAM 2" for the period 2017-2021 and the Plan of Action on Democracy and Human Rights 2018-2021 were adopted in 2017. The CNDH recommends that equality and parity be entrenched in public policies in accordance with the Constitution and CEDAW. The gender approach needs to be systematically mainstreamed in the development, implementation, monitoring/evaluation of national and territorial policies and strategies. In all these processes, which should be participatory and inclusive of all stakeholders, including civil society, priority should be given to the most vulnerable women, including the disabled, those living in rural areas, those suffering from serious diseases, such as AIDS, agricultural workers, etc.
14. With a view to contributing to the dialogue on the new development model, the CNDH submitted, in August 2020, a memorandum entitled "*Effectiveness of Rights and Freedoms in Morocco: for a New Social Contract*" to the Development

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1. <https://www.cndh.ma/fr/memorandums/avis-du-cndh-sur-le-projet-de-loi-ndeg-79-14-relatif-lautorite-pour-la-parite-et-la>

2. <http://www.cndh.ma/fr/memorandums/avis-du-cndh-sur-le-projet-de-loi-ndeg-78-14-relatif-au-conseilconsultatif-de-la>

Model Committee<sup>1</sup>. The memorandum provides for the perspective of the CNDH aimed at making the realization of rights and freedoms a basic entry point to guarantee the right to development. In this memorandum, the CNDH called for the territorial implementation of human rights policy measures, such as the fight against sexual harassment, stereotypes in media and school curricula and violence against women<sup>2</sup>. The CNDH also published, in October 2015, a thematic report on the “*State of equality and parity in Morocco*”<sup>3</sup>. The report underlined the progress made in terms of equality and the issues that still compromise women’s rights in Morocco. The outstanding concerns include the marriage of minors, the difficulty of women’s access to legal guardianship, divorce for discord (*chikak*)<sup>4</sup>, unequal inheritance legislation and rules governing collective lands.

15. Regarding the marriage of minors, official figures indicate that the number of marriage requests concerning minors stood at 32,000 in 2019, 81% of which were accepted. Of these, the percentage of female requests is 99.46%<sup>5</sup>. Almost 67% of these requests come from rural areas. This phenomenon prompted the CNDH to organize a nationwide campaign in 2019, under the theme: “*Marriage of minor girls: Cancelling derogation ... establishing the legal rule*”. As part of this campaign, 30 awareness-raising activities and panel discussions over two weeks. The campaign benefited more than 1000 participants from various government sectors, judges, students, journalists, etc. in 27 prefectures and provinces. It also saw great interaction on social media and electronic platforms at the local, regional and international levels.<sup>6</sup> It should be recalled that the Moroccan legislator has fixed 18 years as the legal age of marriage and allowed marriage of minors in exceptional cases. Article 20 of the Family Law stipulates that the family judge in charge of marriage may allow the marriage of a girl or a boy under majority age (18) by virtue of a reasoned decision.
16. Within the same framework, the CNDH and the United Nations Population Fund signed, in April 2020, a partnership agreement for the period 2020-2021. The partnership aimed to strengthen advocacy to fight against the marriage of minors, promote rights to sexual and reproductive health, and strengthen mobilization for the implementation of the recommendations of international human rights mechanisms in this area.

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1. [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

2. [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

3. [http://www.cndh.ma/sites/default/files/cndh\\_-\\_etat\\_egalite\\_final22.pdf](http://www.cndh.ma/sites/default/files/cndh_-_etat_egalite_final22.pdf)

4. A procedure intended to facilitate women’s access to divorce without the obligation to establish proof of harm.

5. Statement by Minister of Justice before the House of Representatives in January 2020.

6. More details are available on the CNDH Annual Report of 2019, para. 160, 161 and 162, pp. 41 and 42.



17. Regarding women's right to education, despite the efforts made by the government in recent years, illiteracy continues to prevail among women with 42.1%, as against 22.2 for men<sup>1</sup>. The education of girls is still a key challenge, especially in rural areas. According to government statistics, the enrolment rate for children aged between 6 and 11 stood at 99.7% during the academic year 2018-2019. This high rate is partly attributed to the financial support provided by the government to vulnerable families. However, girls suffer from school dropouts, especially in the phase of transition from the primary to the preparatory school. This is mainly due to economic and cultural factors, as some families are unable to cover the education costs for several children at the same time, and hence they prefer to keep boys on the expense of girls.
18. In terms of women's access to employment, the CNDH welcomes the decision taken in July 2018 to allow women to access the profession of *Adul* (Muslim notaries), a profession hitherto reserved exclusively for men, a precedent in the Muslim world. Today, 299 women hold this profession. However, the CNDH reported in 2019 that many challenges still prevent the women's enjoyment of the right to employment. In the second quarter of 2020, Morocco has 18 million women (50.3%), of which 13.6 million are at working age (15 years and over). Analysis of the situation of women in the labor market reveals a low participation of women in economic activity. Indeed, their participation rate is only 20.8% in October 2020, well below that of men (69.7%). The labor market is less feminized, as out of an employed labor force of around 10.5 million, the number of women employed reached around 2.4 million in the second quarter of 2020 (i.e. a feminization rate of 22.7%).<sup>2</sup> Likewise, the rate of women entrepreneurs is remarkably very low.
19. While the State has deployed great efforts in ensuring a health cover for all, through two main systems: Compulsory Health Insurance (AMO) and Medical Assistance System (RAMED), the health cover was still limited to only 62% of the whole population in July 2019<sup>3</sup>. The new social protection reforms announced by His Majesty the King on 9 October 2020<sup>4</sup> will ensure a total health cover for all Moroccans by the end of 2022 at the latest. Certainty, this will benefit women, especially vulnerable women living in rural areas, who will be able to access to

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1. According to the general census of population and housing of 2014.

2. According to information published in October 2020 by the High Commission for Planning : [https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-La-journee-nationale-de-la-femme-du-10-octobre-2020\\_a2602.html](https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-La-journee-nationale-de-la-femme-du-10-octobre-2020_a2602.html)

3. Statement by the Minister of Health, on 18 June 2019 : <http://www.mapexpress.ma/actualite/activite-gouvernementale/generalisation-du-ramed-permis-datteindre-taux-couverture-medicale-62-population-marocaine/>

4. See Speech of His Majesty King Mohammed VI: <https://www.maroc.ma/en/royal-speeches/hm-king-delivers-speech-occasion-parliament-opening-full-text>

Basic Health Insurance, which covers the costs of care, drugs, hospitalization and treatment.

20. In July 2020, the CNDH submitted to the parliament its recommendations and observations regarding draft Law No. 72.18 related to the system for targeting beneficiaries of social support programs and establishment of the National Records Agency<sup>1</sup>. This memorandum revolves around twelve (12) recommendations stating that this system should take into account the principles of equality and non-discrimination.
21. The phenomenon of unsafe abortion poses risks to the life as well as the physical and psychological health of women<sup>2</sup>. In its memorandum to the Parliament on Bill No. 10.16 amending and supplementing the penal code corpus, the CNDH recommended, among other things, that the legal text relating to abortion should be based on the concept of health, as defined by the Constitution of the World Health Organization: “*Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*”.<sup>3</sup>
22. The quarantine caused by Covid-19 has several impacts on women, especially those at risk or with vulnerabilities. In this regard, the Office of the Public Prosecutor has been playing a key role in addressing violence against women during the pandemic crisis. Indeed, it addressed a circular to public prosecutors in various courts and developed digital platforms to receive complaints from women victims of violence<sup>4</sup>. Based on information available to the CNDH, 7482 cases of violence against women and girls were being investigated by the National Police Department (DGSN) between March 2020 to 24 June 2020.
23. In addition, the pandemic crisis is likely to increase gender inequalities in Morocco, as much of informal employment is held by female workers (sale of domestic products and seasonal workers, etc.). Also, the majority of health and social service personnel are women, and therefore they have been exposed to the greatest risk and under a state of considerable stress. Most of them are also mothers and care for family members. The burden of family responsibilities, already disproportionate in normal times, continues to fall on them.

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1. <https://www.cndh.org.ma/ar/actualites/lmjls-lwtyny-yqdm-llbrlmm-bgrfthy-twsyth-wmlhzth-bshn-mshrwlqnwn-rqm-7218>

2. More details are available on the CNDH Annual Report of 2019, para. 163, p. 42.

3. PP. 29-32 : [https://cndh.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](https://cndh.ma/sites/default/files/cndh_-_web_code_penal_va.pdf)

4. <http://www.pmp.ma/%d8%b1%d8%a6%d9%8a%d8%b3-%d8%a7%d9%84%d9%86%d9%8a%d8%a7%d8%a8%d8%a9-%d8%a7%d9%84%d8%b9%d8%a7%d9%85%d8%a9-%d9%8a%d8%b5%d8%af%d8%b1-%d8%aa%d8%b9-%d9%84%d9%8a%d9%85%d8%a7%d8%aa-%d8%ac%d8%af%d9%8a%d8%af/>

24. The CNDH has paid particular attention to vulnerable groups within the context of Covid-19, including the homeless, children, women, the elderly, refugees and migrants, people with disabilities and people in places of deprivation of liberty. At the end of its meeting of 1 April 2020, the CNDH Bureau proposed to the Moroccan authorities to extend the financial support measures taken by the government to all these groups. To be noted that a Covid-19 management fund of more than 3 billion euros was set up by Morocco to support, among other things, the vulnerable groups.
25. The CNDH has been also monitoring the measures taken by the Prison Administration and Reintegration (DGAPR) to fight the spread of the virus. These include the establishment of a digital platform to provide remote psychological support to prison staff and detainees; limitation of the number of visits to one visit each month; limitation of the number of visitors to one family member, and awareness-raising actions aimed at detainees. The CNDH National Preventive Mechanism conducted 12 field visits to various places of deprivation of liberty during the period of Covid-19. Conclusions and recommendations have been shared with competent authorities.
26. It should be recalled that a total of 5654 inmates were granted an exceptional Royal Pardon in the context of COVID-19. The criteria adopted to grant the pardon took into account age, health condition, gender and vulnerability. The CNDH welcomed this Royal Pardon<sup>1</sup>. Additional 1785 prisoners from various regions of Morocco were granted Royal Pardon on the occasion of various religious and national holidays.
27. The CNDH has also engaged with the authorities to ensure the protection of sub-Saharan migrants in an irregular administrative situation in the period of Covid-19. Many migrants, including women, were admitted to several reception centers, in Laayoune for example. The CNDH also intervened with local authorities in order to meet requests for support for access to basic foodstuffs, from migrants from different sub-Saharan communities, particularly widowed women, parents of children with disabilities and the elderly.
28. The CNDH has published on its social networks a series of video spots to raise awareness about the prevention of COVID-19 as well as containment and state of emergency measures. These include videos in several languages, namely French, English and Spanish as well as Wolof and Lingala, the two most common languages spoken by sub-Saharan migrants, including women<sup>2</sup>.

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1. <https://www.cndh.org.ma/fr/rubriques/rubriques/activites/communiqués>

2. <https://www.facebook.com/watch/?v=230072775043929>

29. Regarding Soualilyate women and their right to land, the CNDH received 62 complaints about collective lands, of which 30 complaints from Soualilyate women who complained about being deprived of their rights to land property and exploitation. These complaints were handled and referred to the governors of provinces as per territorial competence to take the necessary measures. Overall, the CNDH notes that complaints from Soualilyate women has been on the decrease. This might be attributed to the implementation of the Ministry of the Interior's Circular No. 60 of 25 October 2010 requiring that Soualilyate women should enjoy their right to compensations in cash and in kind on an equal footing with men. Law No. 62.17 relating to administrative supervision over Soualilyate communities and the management of their property was adopted and is likely to resolve the issues related to this subject.
30. While the technological development has largely contributed to improving access to information and opening new fields of expression for human rights defenders, it has created environments for occasional violations of private life. The gravity of these violations increases when they involve women. This situation was addressed in the CNDH annual report of 2019 and in its memorandum on the draft Penal Law. The CNDH recommended that the protection of individuals be reinforced against the exploitation of their personal information without their consent by Internet companies and data brokers, and ensuring the accountability of such companies and brokers in case of committing such acts in application of the principle of responsible business conduct.
31. The CNDH followed up on the issue of consensual sexual relationships between adults. The great number of judicial prosecutions in this regard draw the CNDH's attention. Considerable societal changes in Morocco and the requirements of the protection of private life require that the criminalization of consensual sexual relationships between adults be reviewed. The CNDH recommended amending the Penal Law in a way that ensures the decriminalization of all consensual sexual relationships. The CNDH specifies that the reform of the Penal Code should, however, maintain the penalization of all forms of sexual exploitation.
32. Women human rights defenders and their associations have been playing a key role in advancing women's rights and gender equality in Morocco. The CNDH has been cooperating with them, especially in terms of capacity building. In this context, the CNDH and the Embassy of Canada in Morocco signed, in January 2020, a Memorandum of Understanding concerning a project entitled "*Voice and Leadership of Women in Morocco*". The objective of this project is overall to advance gender equality in Morocco. It also aims to strengthen the management capacities of women NGOs. As part of this project, five NGOs have benefitted

from grants to undertake actions on the protection of women's rights during the Covid-19 period. The CNDH also organized a capacity building workshop in October 2019 in collaboration with OHCHR for women human rights defenders in the Arab region.

### C. List of Issues that the Committee May Consider

- What steps has the government taken to finalize the process of ratifying international protocols, namely the Optional Protocol to CEDAW, First Optional Protocol to the International Covenant on Civil and Political Rights and Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure?
- What are the measures the government has taken to respond to the NHRI recommendation to amend the Family Law, especially Article 20 which stipulates that the family judge in charge of marriage may allow the marriage of a girl or a boy under majority age (18) by virtue of a reasoned decision?
- Do you plan to adopt any comprehensive anti-discrimination law which criminalizes the grounds of discriminations provided for in the national constitution?
- What are the time frames for the establishment of the Authority for Parity and the Fight against All Forms of Discrimination (APALD) and Advisory Council for Family and Children (CCFE)?
- What measures have you taken to implement the recommendations of the CNDH contained in its various publications, including its memorandum on the amendment of the penal code and Annual Report of 2019, especially regarding issues of private life, right to land (Soulalyate lands), marriage of minors and abortion?
- Provide information on the implementation of the Government Plan for Equality (PGE) "ICRAM 2" for the period 2017-2021 and the Plan of Action on Democracy and Human Rights 2018-2021, especially measures related to women's rights and the approach that will be implemented in assessment, if any?
- What measures has the government taken to ensure that children born out of wedlock benefit from social support programs given that they do not benefit from the family solidarity fund?
- Please provide information on the most recent data regarding violence against women, including during the period of Covid-19 and the corrective measures taken to address this phenomenon and ensure justice for victims?
- What are the measures that you are planning to take to reinforce the political representation of women in the next legislative and communal elections?

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- Provide information on measures taken to ensure women's access to positions of responsibility and decent jobs in innovative and high-productivity sectors as well as to encourage the creation by women of their own businesses?
- Provide information on girls' school dropouts in various educational levels?
- Provide information on how courts have used the provisions of CEDAW in their jurisprudences?
- Provide information on the social, economic and psychological impacts of the pandemic crisis of Covid-19 on women's rights and how the government has addressed such impacts?



**CNDH Parallel Report  
to the Committee on the Elimination  
of All Forms of Discrimination against  
Women – May 2022**



## A. Overview

1. The National Human Rights Council of Morocco (CNDH) welcomes the opportunity to make this submission to the Committee on the Elimination of Discrimination against Women (CEDAW). It is intended to complement the parallel report it submitted in October 2020<sup>1</sup> and the dialogue it has with CEDAW in November 2020 with a view to adopting the list of issues (LoI). In this submission, the CNDH formulates recommendations that the Committee may wish to include in its concluding observations and makes comments on the replies provided by the Government and issues raised by the Committee.
2. The CNDH is a constitutionally mandated, independent and pluralistic national human rights institution (NHRI), working for the promotion and protection of human rights and freedoms throughout Morocco. It was established in 1990 and has been accredited since 1999 to an “A” status NHRI by the Global Alliance of National Human Rights Institutions (GANHRI), whose secretariat is ensured by the Office of the United Nations High Commissioner for Human Rights. Status “A” testifies that the CNDH functions in full compliance with the United Nations Paris Principles of 1993.
3. The CNDH has 12 regional human rights commissions, which cover the entire national territory and whose members, composed mainly of civil society representatives and human rights defenders, have been installed in September and October 2020.
4. A new law 76.15 reforming the CNDH was adopted unanimously by the Parliament in February 2018. This law considerably broadens the protection mandate of the CNDH, particularly by entrusting it with three mechanisms provided for by international human rights standards. These are the National Preventive Mechanism against Torture (NPM), in line with OPCAT<sup>2</sup>, the National Child Redress Mechanism, in line with General Comment 2 of the Committee on the Rights of the Child<sup>3</sup>, and the National Monitoring Mechanism for Persons with Disabilities, in line with Article 33.2 of the Convention on the Rights of Persons with Disabilities<sup>4</sup>.

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1. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=INT%2fCEDAW%2fFL%2fMAR%2f43614&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=INT%2fCEDAW%2fFL%2fMAR%2f43614&Lang=en)

2. [https://treaties.un.org/doc/Treaties/2002/12/20021218%2002-38%20AM/Ch\\_IV\\_9\\_bp.pdf](https://treaties.un.org/doc/Treaties/2002/12/20021218%2002-38%20AM/Ch_IV_9_bp.pdf)

3. <https://www.refworld.org/docid/4538834e4.html>

4. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities#article-33>

## B. Recent key developments regarding women's rights

5. With regard to **treaty practice**, the CNDH notes with satisfaction Morocco's ratification of the Optional Protocol to CEDAW as well as the Optional Protocol to ICCPR in April 2022. This is a response to one of the CNDH structuring recommendations provided in its last three annual reports, including its annual report of 2021<sup>1</sup>.
6. The principles of equality and parity between women and men are entrenched under the Preamble of the Constitution. In addition, the constitution comes up with the principle of the **primacy of international conventions** duly ratified by Morocco over domestic laws. Ms. Amina Bouayach, president of the CNDH, and Ms. Amina El Messaoudi, a CNDH member, were members of the Constitutional Review Commission. This principle of primacy paves the way for courts to mainstream international norms in their judgments and decisions. In this regard, the CNDH reported in 2021 the criminalization of psychological violence as a distinct act by virtue of a judicial ruling, the first of its kind<sup>2</sup>. In addition, the CNDH welcomed a decision rendered by the Court of Cassation<sup>3</sup>, considering that "a minor wife who has been involved in an illegal relationship with an adult person" is a victim of a crime of indecent assault according to Article 484 of the Criminal Code. The Court added that she enjoys a criminal protection appropriate to the condition of the minor child, consistent with the Convention on the Rights of the Child.
7. The CNDH addressed in its various reports<sup>4</sup> recommendations to courts, with a view to entrenching the mainstreaming of international human rights instruments duly ratified by Morocco and applying the principle of primacy of these norms over domestic legislation in application of the preamble of the constitution.
8. The **legal arsenal** in Morocco also saw a significant progress related to the provisions of CEDAW. Thus, a series of laws have been adopted in the field, as mentioned in the national report. Despite this legislative development, some laws need to be brought into compliance with international standards. Thus, Organic law 02.12 (2012) relating to the appointment to senior posts does not

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1. See page 303 of the 2021 Annual Report available here : <https://www.cndh.org.ma/ar/rubriques/twthtyq/lsdr/tqyr-snw>

2. Judgment by the Court of First Instance of Fez, File N. 3936, dated 17 November 2020.

3. Decision N. 1006/3 dated 16 June 2021, Criminal file N. 20823/2019.

4. See page 34 of the Annual Report of 2019, available here: [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_2019.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_2019.pdf)

provide for provisions relating to parity. Law No. 103.13 relating to combating violence against women (2018), which is a positive step towards the fight against impunity, does not provide for provisions relating to the criminalization of marital rape.

9. **On the institutional level**, two constitutional bodies dealing with women's rights have not been operational since the adoption of their respective founding laws in 2017 and 2016. These are the Authority for Parity and Fight against All Forms of Discrimination (APALD) and Advisory Council for Family and Children (CCFE). The CNDH highlights that these bodies should be provided with adequate human and material resources.
10. Concerning the family solidarity fund, the CNDH highlights that its benefits should be extended to children born out of wedlock. The CNDH is also a member of several national institutions, which enables it to integrate the gender perspective in their work. These include the Higher Council for Judicial Power, National Press Council, National Commission for the Fight against and Prevention of Trafficking in Human Beings and Right to Information Access Commission.
11. The CNDH remains concerned that the **rates of violence against women** is still high and impunity persists, due to cultural patterns as well as challenges related to the burden of proof, which rests with victims, and non-reporting of cases to the competent institutions. According to statistics made public by the National Police Department (Known under its French acronym DGSN)<sup>1</sup>, since the beginning of 2021 to 25 November 2021, a total of 61,388 cases of violence against women and girls in all its forms have been recorded, involving 62,383 victims, 7% of whom are minors.
12. The CNDH launched a national campaign to combat violence against women, from November 25, 2021 to November 25, 2022, with the aim of encouraging victims of violence to report violence and combat impunity. The campaign contained testimonies documenting the suffering of survivors of violence. The CNDH and its regional commissions also launched a series of discussions on the effectiveness of the right to remedy for survivors of violence and the fight against impunity, attended by relevant authorities, including universities, media and law enforcement officials. The CNDH and its regional commissions have also engaged with the public prosecutors in various regions of Morocco in order to ensure the protection of victims of violence in all its forms.

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1. See article available on the website of MAP, Morocco's official news agency, seen in May 2022, [www.mapnews.ma](http://www.mapnews.ma)

13. The CNDH and its National Mechanism for the Protection of the Rights of Persons with Disabilities launched two **online campaigns**<sup>1</sup>, lasting eight weeks for each. The first one was carried out in 2020 to combat all forms of discrimination against women and girls with disabilities. This campaign is a response to the recommendation made by the United Nations Committee on the Rights of Persons with Disabilities (CRPD) to conduct public awareness-raising campaigns to combat stereotypes, prejudices and myths about women and girls with disabilities. The second one was held in 2021 on the participation of women with disabilities in political and social spheres. Arabic, Amazigh and sign languages were used in these campaigns.
14. In its memorandum to the Parliament on Bill No. 10.16 amending and supplementing the penal Law corpus<sup>2</sup>, the CNDH noted the importance of recommendations made by treaty bodies, including CEDAW and the Human Rights Committee, and recommended that marital rape be criminalized.
15. Following cases of sexual harassment in some colleges, universities and higher-education institutes, CNDH regional commissions held hearings with several women student victims as well as meetings with student associations and several professors. The CNDH notes the immediate measures taken by the Ministry of National Education, Vocational Training, Higher Education and Scientific Research to conduct the necessary administrative investigations with subsequent disciplinary measures. Also, several investigations were launched by the public prosecutor and prison sentences were rendered by courts. The CNDH reported on these cases of sexual harassment in its Annual Report of 2021<sup>3</sup> and in its website<sup>4</sup>.
16. The CNDH also continued to monitor the phenomenon of **child marriage**. Official statistics confirmed a decrease in the number of marriage contracts for minors registered in courts, from 33,489 contracts in 2014, to 12,600 contracts in 2020, which constitutes 6.48% of the total concluded marriage contracts. However, serious concerns persist that these marriages take other ambiguous forms, such as *Al-Fatiha* marriage<sup>5</sup>, which constitutes legal violence against girls.

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1. Available here: <https://www.youtube.com/watch?v=isaWxFfO2c0&feature=youtu.be>

2. Available here: [https://cndh.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](https://cndh.ma/sites/default/files/cndh_-_web_code_penal_va.pdf)

3. See page 120, paragraph 288, of the Annual Report of 2021 available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_2021\\_va.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_2021_va.pdf)

4. See communiqué by the CNDH dated 4 January 2022 available here : <http://www.cndh.ma/an/article/sexual-extortion-against-women-students-supporting-reporting-abuse-civil-action-against>

5. A religious marriage ceremony conducted without a written contract.

17. Concerning **political participation**, ahead of the national elections of September 2021, the CNDH led a nationwide campaign to promote the political participation of women. In this regard, it organized six regional meetings and an international meeting on the topic. These meetings aimed mainly at analyzing the reality of parity in the light of electoral laws as well as social, economic and cultural data.
  
18. The CNDH is a legally-mandated institution that observes **elections**. In this respect, the CNDH made a gender-based observation of elections and published a relevant report<sup>1</sup>. Legal developments regarding Communal, Regional and Legislative Elections of 2021 enhanced women's political participation (allocation of regional lists to women in legislative elections, creation of lists for women and supplementary seats in communes where uninominal suffrage is applied). Statistical data also reflect the relative progress of women's **political participation**. The percentage of women elected to the councils of territorial collectivities moved up from 21% in 2015 to 26% in 2021, while that of women representation in the House of Representatives increased from 20% in the legislative elections of 2016 to 24% in the legislative elections of 2021. However, this data confirms a persistent gap between legal developments and mindsets in society. This is evidenced by the weakness of women's nominations outside the regional lists designated exclusively for women. The CNDH also expressed its deep concern on the unprecedented event concerning the images of women, which were blocked on election posters: "faceless candidates".
  
19. The CNDH reinforced the capacities of 25 NGOs, including those working on women's rights in order to observe the 2021 elections. Indeed, it organized capacity-building sessions for 2500 observers of both sexes, on reporting as well as independent and neutral observation. It also provided financial support to some of these NGOs to conduct the observation. To be noted that all these NGOs developed relevant reports.
  
20. While **access to justice** is guaranteed to all, the CNDH notes the persistence of several challenges, including the lack of a law governing legal assistance that can be applied in all stages of litigation and on all types of appeal as well as the burden of proof which should be borne by women survivors of violence. Due to cultural patterns, women hesitate to file cases of violence with the public prosecutor.

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1. Report on elections available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_exe\\_rapport\\_election\\_-.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_exe_rapport_election_-.pdf)

21. Regarding the national human rights **policy framework**, the new government committed itself in 2021 to updating the National Plan of Action on Democracy and Human Rights. The CNDH believes that this plan constitutes an appropriate framework for advancing human rights in general and women's rights in particular. The CNDH hopes that the plan will respond to its recommendations on women's rights as well as the recommendations that the CEDAW will make. The CNDH addressed a letter in October 2021 to the Chief of Government containing recommendations that would advance human rights, including women's rights.
22. With a view to contributing to the dialogue on the **new development model**, the CNDH submitted, in August 2020, a memorandum entitled "*Effectiveness of Rights and Freedoms in Morocco: for a New Social Contract*" to the Development Model Committee<sup>1</sup>. In this memorandum, the CNDH called for the territorial implementation of human rights policy measures, such as the fight against sexual harassment, stereotypes in media and school curricula and violence against women<sup>2</sup>. The annual reports of the CNDH underlined issues that still compromise women's rights in Morocco. The outstanding concerns include the marriage of minors, the difficulty of women's access to legal guardianship, divorce for discord (*chikak*)<sup>3</sup> and unequal inheritance legislation.
23. The phenomenon of **unsafe abortion** poses risks to the life as well as the physical and psychological health of women<sup>4</sup>. In its memorandum to the Parliament on Bill No. 10.16 amending and supplementing the penal Law corpus, the CNDH recommended, among other things, that the legal text relating to abortion should be based on the concept of health, as defined by the Constitution of the World Health Organization: "*Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*".<sup>5</sup> Concerning the rights to **sexual and reproductive health of women and girls**, the CNDH worked to strengthen the capacities of its members, staff and civil society associations in this field, especially in monitoring aspects of discrimination related to this right. In this context, the Council, in partnership with the United Nations Population Fund, organized several training sessions in 2021, including for young women on the Universal Periodic Review and the mainstreaming of women's rights in reporting.

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1. [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

2. [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

3. A procedure intended to facilitate women's access to divorce without the obligation to establish proof of harm.

4. More details are available on the CNDH Annual Report of 2019, para. 163, p. 42.

5. Available here : PP. 29-32 : [https://cndh.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](https://cndh.ma/sites/default/files/cndh_-_web_code_penal_va.pdf)

24. The CNDH followed up on the issue of **consensual sexual relationships** between adults. The CNDH recommended amending the Criminal Law in a way that ensures the decriminalization of all consensual sexual relationships. The CNDH specifies that the reform of the Criminal Law should, however, maintain the penalization of all forms of sexual exploitation.
25. Regarding women's **right to education**, despite the efforts made by the government in recent years, illiteracy continues to prevail among women with 42.1%, as against 22.2 for men<sup>1</sup>. The education of girls is still a key challenge, especially in rural areas. According to government statistics, the enrolment rate for children aged between 6 and 11 stood at 99.7% during the school year 2018-2019. This high rate is partly attributed to the financial support provided by the government to vulnerable families. However, the CNDH expresses its deep concern about the continued school dropout in public education, moving up from 304,545 students in the 2019-2020 school year to 331,558 in the 2020-2021 school year, especially in the primary school, which saw an increase of 2.9%. School dropouts affect girls more than boys, and this is primarily due to cultural considerations. These figures are recorded in light of the efforts made at the social level to encourage the continuation of schooling, especially the provision of transportation, food and financial assistance, including in rural areas, and the One Million School Bag Initiative.
26. In its annual reports, the CNDH reported that many challenges still prevent the women's enjoyment of **the right to employment**. In the second quarter of 2020, Morocco has 18 million women (50.3%), of whom 13.6 million are at working age (15 years and over). Analysis of the situation of women in the labor market reveals a low participation of women in economic activity. Indeed, their participation rate is only 20.8% in October 2020, well below that of men (69.7%). The labor market is less feminized, as out of an employed labor force of around 10.5 million, the number of women employed reached around 2.4 million in the second quarter of 2020 (i.e. a feminization rate of 22.7%).<sup>2</sup> Likewise, the rate of women entrepreneurs is remarkably very low.
27. The CNDH welcomes the importance that the government has given in its program to **social security**, by generalizing it to all workers and extending health coverage to the inactive persons, including women. Implementing these measures would further enhance and protect the right to social security for

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1. According to the general census of population and housing of 2014.

2. According to information published in October 2020 by the High Commission for Planning : [https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-La-journee-nationale-de-la-femme-du-10-octobre-2020\\_a2602.html](https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-La-journee-nationale-de-la-femme-du-10-octobre-2020_a2602.html)

women. Also, the CNDH issued a thematic report on the effectiveness of the **right to health**<sup>1</sup>, which presents the obstacles faced by citizens to access their right to health. It also proposes recommendations that guarantee the right to health for all, including the right to sexual and reproductive health.

28. **Women human rights defenders** have been playing a key role in advancing women's rights and gender equality in Morocco. The CNDH has been cooperating with them, especially in terms of capacity building. In this context, the CNDH and the Embassy of Canada in Morocco signed, in January 2020, a Memorandum of Understanding concerning a project entitled "*Voice and Leadership of Women in Morocco*". The objective of this project is to strengthen the capacities of women NGOs.
29. CNDH and UNFPA signed, in April 2020, a partnership agreement for the period 2020-2021, to strengthen advocacy to combat the marriage of minors, promote rights to sexual and reproductive health, and strengthen mobilization for the implementation of the recommendations of international human rights mechanisms in this area.

### C. Key Recommendations that the Committee may wish to address to the Government in the concluding observations:

- Adhere to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention);
- Ratify the ILO Convention No. 190 on the elimination of violence and harassment in the workplace;
- Operationalize Authority for Parity and Fight against All Forms of Discrimination (APALD) and Advisory Council for Family and Children (CCFE);
- Amend the Family Code, particularly by repealing the exception provided for in Article 20 that allows child marriage;
- Revise the provisions of the Criminal Procedure Code, the Civil Procedure Code and the Legal Aid Law by incorporating provisions that guarantee the right of women and girls, especially in vulnerable situations, to obtain legal and judicial assistance;
- Adopt a gender-based approach in a crosscutting manner in the development, implementation and evaluation of national policies, while taking into account the most vulnerable women;
- Accelerate the adoption of a national strategy to combat and prevent trafficking in human beings, with a focus on women and based on a participatory approach;

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1. <https://www.cndh.org.ma/an/article/cndh-presents-its-report-effectiveness-right-health-morocco>



- Mobilize all stakeholders, including CSO, to raise awareness among families to fight against school dropout;
- Establish a state-financed fund to compensate victims of gender-based violence in the event that the perpetrator is unable to pay compensation, in order to consolidate the right of victims to obtain redress and reparation;
- Promote women's political participation and take concrete measures to ensure women's access to senior positions;
- Ensure that law enforcement authorities take measures for the protection and respect of confidentiality and privacy of survivors of violence in general, and survivors of digital violence in particular, so that they are encouraged to report and to ensure that whistle-blowers are not criminalized;
- The legal text relating to abortion should be based on the concept of health, as defined by the Constitution of the World Health Organization: "*Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*".

**CNDH Submission to the Committee  
on the Protection of the Rights  
of all Migrant Workers and Members  
of their Families – for List of Issues  
– January 2021**

## A. Introduction

1. The National Human Rights Council (CNDH), with its 12 regional human rights commissions, is a constitutionally mandated, independent and pluralistic national human rights institution (NHRI) functioning in full compliance with the Paris Principles<sup>1</sup>. It has been accredited as an “A” status NHRI by the Global Alliance of National Human Rights Institutions (GANHRI) since 1999. The CNDH mandate relates to all topics linked to the protection and promotion of human rights throughout Morocco, including the rights of migrant workers and members of their families.
2. A new law 76.15 reforming the CNDH was adopted in 2018<sup>2</sup>. This law significantly broadens the mandate of the CNDH, by entrusting it with the functions of three mechanisms provided for by international human rights instruments. These are the National Preventive Mechanism against Torture, the National Child Redress Mechanism and the Monitoring Mechanism for Persons with Disabilities.
3. The CNDH has an administrative division in charge of the protection of the rights of foreigners, functioning under the supervision of the protection and monitoring department. This division is vested with handling complaints from migrants, guidance, monitoring and reporting on human rights of migrants.
4. The CNDH welcomes the government approach to adopting the simplified reporting procedure and encourages the State to adopt this procedure in its engagement with all treaty bodies, as recommended by the CNDH in its annual report of 2019<sup>3</sup> and in the informal consultation with States, NHRIs and NGOs, organized on 28 August 2020, in Geneva, by the co-facilitators of the treaty body system reform process, the permanent missions of Morocco and Switzerland to the United Nations in New York. The CNDH was among six NHRIs who submitted a written contribution regarding this reform<sup>4</sup>.
5. The present contribution, based on an analysis of the national context in relation with the provisions of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (Convention), was prepared on the basis of the CNDH working tools, including the annual report, thematic reports, studies, seminars, debates and awareness raising activities, as

1. <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>

2. [https://www.cndh.org.ma/sites/default/files/loi\\_76-15\\_relative\\_a\\_la\\_reorganisation\\_du\\_cndh\\_1.pdf](https://www.cndh.org.ma/sites/default/files/loi_76-15_relative_a_la_reorganisation_du_cndh_1.pdf)

3. See Annual Report of 2019, p. 63: <https://www.cndh.org.ma/fr/communiqués/rapport-annuel-du-cndh-sur-la-situation-des-droits-de-l'homme-au-maroc-titre-de-l'année>

4. <https://www.ohchr.org/EN/HRBodies/HRTD/Pages/Co-Facilitation-Process.aspx>

well as its actions related to the protection of the rights of migrants, including complaint handling and monitoring.

6. The CNDH hopes that this input will provide additional information to the Committee and will constitute a material for engaging a constructive and fruitful dialogue with the Government and for drawing up its list of issues. This contribution reflects the perspective of the CNDH since the adoption of the Committee's Concluding Observations regarding Morocco in 2013.

## **B. Progress and challenges regarding the rights of migrant workers and members of their families since 2013**

7. The CNDH welcomes the positive legal, institutional and policy developments related to the rights of migrant workers and members of their families since 2013. These include the Law No. 27-14 on combating human trafficking, which came into force on August 25, 2016. The CNDH had provided an opinion to the House of Councilors (Upper chamber of the Moroccan Parliament) on the draft of this law<sup>1</sup>, based on the constitution and relevant international human rights standards. This law set up the National Committee against Trafficking in Human Being, to which the CNDH is a member and whose mission is to propose legal, institutional and policy reforms aiming to fight against and prevent trafficking in persons.
8. Two other draft laws are being adopted, namely the draft law 72.17 on the entry and stay of foreigners in Morocco and the draft law 66.17 on asylum and conditions for granting asylum. In its annual report of 2019, the CNDH recommended to the government to expedite the adoption of these laws in line with the Constitution, Convention and Global Compact for Safe, Orderly and Regular Migration (GCM).
9. At the policy level, following the publication of the CNDH report: "*Foreigners and Human Rights in Morocco: for a Radically New Asylum and Migration Policy*"<sup>2</sup> in 2013, the Moroccan Government launched a new migration policy, which helped improve the situation of migrants' workers and members of their families in Morocco through two regularization processes. Official figures indicate that both processes resulted in 50,000 people receiving formal status<sup>3</sup>.

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1. [https://www.cndh.ma/sites/default/files/11-cndh\\_-\\_traite\\_uk\\_-\\_pdf](https://www.cndh.ma/sites/default/files/11-cndh_-_traite_uk_-_pdf)

2. [https://www.cndh.ma/sites/default/files/foreigners\\_and\\_human\\_rights-\\_summary.pdf](https://www.cndh.ma/sites/default/files/foreigners_and_human_rights-_summary.pdf)

3. More details are available here : <https://www.gfmd.org/pfp/ppd/10974>

10. This multi-stakeholder process has given important roles to the CNDH, civil society and migrants themselves. Thus, the CNDH chaired the National Monitoring and Appeals Committee that reviewed applications from migrants in irregular status, which had been rejected by the prefectural and provincial committees for the regularization process. This Committee adopted more flexible criteria that made it possible to increase the number of people receiving formal status. In addition, two associations sat on each of the 80 provincial and prefectural commissions, which were charged with examining requests for regularization, at first instance and several civil society actors, including migrants, participated in the National Monitoring and Appeals Committee. At the conclusion of her mission to Morocco from 13 to 21 December 2018, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance underlined in her statement that Morocco's measures in this regard are worthy of emulation by other States.<sup>1</sup>
11. The National Immigration and Asylum Strategy, adopted by the government in 2014, is a reference document which laid the foundations for a national public policy on migration. However, some challenges were identified by the CNDH regarding its implementation. These relate mainly to the territorial anchoring of its various programs and actions and the effective implementation of certain measures relating to the social, economic and cultural integration of migrants in Moroccan society.
12. The CNDH engaged in ongoing discussions on the new development model in Morocco. It published in this regard a memorandum highlighting the need to mainstream human rights in any upcoming development model in Morocco.<sup>2</sup> The memorandum proposed several recommendations likely to improve the rights of migrants to education, employment and health, among others, so that they can contribute effectively to the development of the country.
13. Circular N° 13-487 from the Ministry of National Education was issued on October 9, 2013 to promote the integration of foreign children into Moroccan public schools. However, it focused on the integration of foreign students from Sahel and sub-Saharan countries into the Moroccan school system. While this circular was a major step forward allowing a significant increase in the number of foreign children enrolled in the Moroccan public education system, it poses certain difficulties in schooling for children from other countries. These difficulties lead families to enroll their children in the informal education system not by choice but because of administrative difficulties, which continue when the child wishes to re-enter the formal system later.

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1. <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24043&LangID=E>

2. [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

14. Also, on October 5, 2018, the Ministry of National Education published Note 139X18 relating to the integration of children coming from abroad into Moroccan schools. This note recalls the possibilities of facilitation, such as exemption from Islamic education for non-Muslim children. It particularly enjoins the facilitation of the registration of children who do not have civil status proof, on the basis of a simple declaration on the honor of their guardian. However, these measures need to be integrated into common law, namely the law N° 04-00 relating to compulsory basic education, in such a manner as to enact access to schooling for all children, regardless of their nationality.
15. Concerning the conditions of work, the CNDH notes with satisfaction the government's ratification in June 2019 of the International Labor Organization Convention (No. 97) on Migration for Employment<sup>1</sup>. It also notes that a foreigner must be in possession of a contract and cannot have a job likely to be held by a national<sup>2</sup>. Nationals of some countries, such as Senegal, are not subject to this procedure due to reciprocity agreements. This exemption has been extended for certain categories of foreigners, such as those whose situation was regularized in 2014 and 2017.
16. In addition, the Ministry of Labor and Professional Integration has been engaged for several years in reforms aimed at simplifying procedures for foreigners to gain access to employment. Indeed, the CNDH notes that a portal called *Taechir*<sup>3</sup> supporting these procedures was established, a guide to recruiting a foreign employee in Morocco<sup>4</sup> was published in 2018 and updated in January 2020 and the duration of work visas was extended for holders of an open-ended contract. This last measure tends to be in line with Article 52 of the Convention.
17. With a view to supporting the pursuit of these reforms, the CNDH organized, in October 2018, a workshop on “Access of foreigners to the labor market in Morocco: regulatory framework and issues related to the protection of foreigner employees”. This brainstorming workshop ended with a report capitalizing on the recommendations of the participants. The report was shared with the Ministry of Employment.

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1. It entered into force in 14 June 2020.

2. This principle is not applicable for certain categories of foreigners listed by a ministerial decree dated 2005, as it is the case for Tunisians, Algerians and Senegalese, by virtue of establishment of agreements, or even spouses of Moroccans, business owners, footballers or recognized refugees.

3. <https://taechir.travail.gov.ma:4433/admin/login>

4. [http://www.mites.gob.es/ficheros/ministerio/mundo/consejerias/marruecos\\_archivos/GUIDE-POUR-RECRUTER-UN-SALARIE-ETRANGER-AU-MAROC.pdf](http://www.mites.gob.es/ficheros/ministerio/mundo/consejerias/marruecos_archivos/GUIDE-POUR-RECRUTER-UN-SALARIE-ETRANGER-AU-MAROC.pdf)

18. The CNDH monitored also decisions issued by courts on questions related to foreigners' conditions of work. For example, the Court of Cassation rendered a decision dated July 24, 2018 in favor of a foreign employee who claimed severance payments linked to his open-ended contract. This jurisprudential trend is confirmed by a decision of the Court of Cassation of October 16, 2018 (judgment N° 683/1).
19. Despite this progress, migrant workers and members of their families are still facing challenges related to their employment. In particular, difficult working conditions remain in the informal sector, including lack of social protection and medical cover, especially for migrants working in low-skilled professions. In addition, certain categories of migrants, just like Moroccans, still suffer from unemployment, which exacerbates their already-vulnerable situation.
20. Concerning the right to residency, the CNDH notes the measures taken on issuing residence permits for 3 years for beneficiaries of exceptional regularization operations mentioned above, which constitute a factor of stability and legal protection. However, based on complaints received from migrants and handled by the CNDH, some migrants still face procedural difficulties to obtain and renew their stay permits. These challenges are likely to prevent migrant workers, especially those working in the informal sector and legally residing in Morocco from reuniting their families. More efforts are needed to facilitate relevant procedures.
21. As to access to healthcare, the CNDH notes that despite the procedural measures taken to facilitate migrants' access to healthcare services, some difficulties still impede the effectiveness of this right, some of which are due to the challenges faced by the Moroccan healthcare system in general. The convention signed in 2015 to enable foreigners to benefit from a healthcare coverage equal to the Medical Assistance System (RAMED) is not practically implemented. The CNDH found disparities among the Morocco's regions in effective access to the right to healthcare as well as some difficulties associated with provisions relating to documents and procedures. The CNDH drew attention to this issue by organizing a workshop in November 2019, entitled "*Towards a comprehensive healthcare coverage: issues and challenges to the inclusion of foreigners*"<sup>1</sup>.
22. Concerning non-discrimination, the adoption of the 2011 Constitution was a major step in advancing the rights of foreigners, by affirming the principle of non-discrimination in its preamble. The CNDH launched in cooperation with

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1. <https://twitter.com/CNDHMaroc/status/1199984908350951424>

FIAPP and AECID, two Spanish public institutions, a project financed by the European Union and entitled “*Living together without discrimination: an approach based on human rights and gender dimension*”. The project aims at promoting mechanisms and policies designed to combat racism and xenophobia.

23. Regarding birth registration and nationality, the CNDH found that some public hospitals do not deliver birth certificates, unless the fees are paid by the healthcare service beneficiaries. This measure is contrary to Circular 108 issued by the Ministry of health on 11 December 2008, which stipulates that the right to normal delivery and caesarian-section are free in public hospitals. The non-delivery of the birth certificate is a violation of a number of rights including the registration of the child in the civil status records, the right to education and access to most of the services associated with the rights of the immigrant child.
24. The CNDH drew the attention of the government to this issue by organizing workshops aiming to explore ways to facilitate the registration of foreigners in civil status records, especially children. The CNDH also disseminated information among civil society groups concerning the national campaign entitled “*registration in the family booklet is a constitutional right: I am registered therefore I exist*”. It also intervened with certain hospitals to support the issuance of birth certificates not given for non-payment of delivery costs.
25. As to the right to form associations and trade unions, pursuant to article 416 of the Labor Code, foreigners cannot take up administrative and managerial positions in trade unions, which de facto prohibits them from forming trade unions. Also, legal restrictions exist on the creation of associations by foreigners. The amended Dahir No. 1-58-376 of November 15, 1958 regulating the right of association provides that an association is considered foreign if its leaders, or half of its members, are foreigners. The association is in this case subject to the application of a derogatory system of prior authorization, allowing the competent authorities to oppose its creation and operation. These provisions are therefore inconsistent with international law, in particular article 40 of the Convention. However, in recent years, the Interior Ministry has regularized the situation of 25 immigrant associations thanks to interventions by the CNDH.
26. Concerning the right to vote and to be elected, Article 30 of the Constitution provides that foreign nationals can participate in local elections by virtue of the law, international conventions or reciprocity practices. The CNDH proposes to amend law 57.11 related to the general electoral lists and registration in electoral lists, so that all foreigners regularly residing in Morocco for a period of no less than 5 years can participate in local elections.



27. Regarding data and statistics, the CNDH welcomes the establishment of the African Migration Observatory in Rabat on 18 December, 2020. This observatory will constitute a resource and data center for all stakeholders, including NHRIs, to better address migration issues. This would respond to the need for scientific research on African migration. It would produce reliable scientific data and generate knowledge that allows a better understanding of the migratory phenomenon and therefore a better preparation for its management.
28. In 2019, the CNDH received 173 complaints relating to migrants in general regardless of their status. More than 50% of them are related to the exceptional regularization processes. Some of these migrants complained that they would have faced procedural difficulties in obtaining or renewing the residence permits. Other migrants alleged that they would have found difficulties to obtain a visa for family reunification (see *para. 20 above*) and to have access to health, education and employment as well as procedural difficulties to prove identity. The CNDH has been following up with the authorities to resolve admissible complaints.
29. The CNDH and its regional commissions<sup>1</sup> received in 2019 some testimonies on the arrest of a number of foreigners in different places (at home, in the street) and in different ways (individually or collectively), who were transferred without their prior consent to cities other than those where they live or deported outside the national territory. The CNDH expressed its concerns that these operations might involve abuses of the rights of migrants. According to the competent authorities, these operations involved undocumented migrants and not migrant workers and members of their families.
30. In its annual report of 2019<sup>2</sup>, the CNDH welcomed the government's decision to reject the clustering of migrants in specific detention centers and to establish asylum-processing centers within Moroccan territory. This decision was also commended by the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, in her country visit report of May 2019<sup>3</sup>. Indeed, she commended the decision of Morocco to reject the warehousing of migrants in immigration detention centers, and instead to adopt a formal policy aimed at integrating migrants into its society. The Special Rapporteur also commended the decision by Morocco to reject European Union attempts to locate offshore asylum processing or "regional disembarkation"

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1. The Regional Commissions of Tangier, Nador, Oujda, Agadir, Casablanca, Beni Mellal and Errachidia.

2. See para. 138. of the CNDH Annual Report of 2019: [https://www.cndh.ma/sites/default/files/rapport\\_annuel.pdf](https://www.cndh.ma/sites/default/files/rapport_annuel.pdf)

3. See para. 46 of Report A/HRC/41/54/Add.1 of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance.

centers within Moroccan territory. The Special Rapporteur addressed two recommendations to the European Union to cease putting pressure on African Governments to restrict the freedom of movement of Africans, and to enforce inhumane migration border securitization priorities in Africa, including on a racially discriminatory basis; and to implement a human rights-based regional approach to governing migration that includes legal pathways to migration.

31. Like migrants from other countries, Moroccan expatriates, especially in Europe, are facing challenges related to hate speech and xenophobia, exacerbated by declarations and statements of representatives of some political parties. The fact that no developed European country has ratified the Convention leaves a legal vacuum preventing migrant workers and members of their families from accessing an international protection system.
32. Concerning the protection of migrants in the context of Covid-19, at the initiative of His Majesty, Morocco set up a Covid-19 solidarity fund. The CNDH proposed in April 2020 to the Moroccan authorities to extend the financial support measures taken by the government to all vulnerable groups, including migrants and refugees.
33. The CNDH notes with satisfaction the start of the vaccination operation in Morocco, given by His Majesty the King on 28 January 2021. It also notes with appreciation that upon the instructions of His Majesty the King, vaccination against Covid-19 is free of charge. It is conducted gradually and benefits all Moroccan citizens and foreigners residing in Morocco whose age varies between 17 and over 75 years old.
34. During the Covid-19 period, the CNDH published a “*call for commitment to human rights in the world of labour after lockdown: diligent companies for a resilient society*”<sup>1</sup>. In its call, the CNDH draws the attention of the Government and businesses to migrant workers who are likely to find themselves in precarious working conditions and disproportionately affected by unemployment or underemployment due to the pandemic. The CNDH also approached the Ministry of the Economy, Finance and Administration Reform, being responsible for the Economic Watch Committee (CVE), established within the context of Covid-19, to include foreigners in a precarious situation in the assistance systems dedicated to informal workers.

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1. <https://www.cndh.ma/an/highlights/cndh-call-commitment-human-rights-world-labour-after-lockdown-diligent-companies>

35. On 16 March 2020, the CNDH informed the public that in light of the circumstances related to Covid-19, it had established a special telephone number and e-mail address to receive complaints or information from the public. In the same vein and concerning the migrants' rights in the context of Covid-19, the CNDH established a task force to monitor human rights situation and another one to monitor the implementation of the measures taken as part of the state of health emergency in Morocco. The outcome of this monitoring will be reflected in the CNDH annual report of 2020, which is being developed.
36. Within the context of Covid-19, the CNDH approached the Ministry of Interior about the closure of the foreign control services and requested that the validity of identity documents be extended implicitly. Within the same context, the CNDH requested the suspension of all measures of deportation and expulsion from the Moroccan territory.
37. The CNDH also published video spots in French, English and Spanish as well as in two of the languages most spoken by migrants, Wolof and Lingala, to raise their awareness about hygiene, quarantine and state of emergency measures within the context of Covid-19<sup>1</sup>.
38. The CNDH regional commission engaged in efforts aiming to support migrants in the period of Covid-19. For example, Dakhla-Oued Dahab regional commission received requests for support for access to basic foodstuffs from migrants belonging to sub-Saharan African countries. This Commission cooperated with civil society associations and the public authorities in order to provide these people with the necessary assistance. A total of 322 people were able to benefit from this aid up to May 2020, including 252 Senegalese migrants, mainly women, and 60 Ivorian migrants.
39. As part of sharing experiences and good practices, the CNDH, in its capacity as chair of the Working Group on Migration of the Network of African National Human Rights Institutions (NANHRI) organized a webinar on "*Protecting and promoting the human rights of migrants and refugees during COVID-19: role and practices of national human rights institutions*". The NHRIs of Egypt, South Africa, Kenya, Nigeria and Morocco shared their experiences in this regard. The webinar also saw the participation of the International Organization for Migration and African Commission on Human and Peoples' Rights.

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1. <https://web.facebook.com/CNDHMaroc.ar/videos/vb.241212672715310/230072775043929/?type=2&theater>

40. The CNDH developed a briefing note on its actions related to the protection and promotion of the rights of migrants during the period of Covid-19. This note was shared in May 2020 with sister national human rights institution across the world. It is available on *Fuse*, an online platform set up by GANHRI<sup>1</sup>.
41. Regarding the CNDH engagement on regional and international levels, the CNDH plays a key role in migration issues within the international and regional networks of NHRIs. Thus, it represented NANHRI within the GANHRI's Task Force on Migration, which made statements reflecting the positions of NHRIs during the process of the adoption of the Global Compact for Safe, Orderly and Regular Migration<sup>2</sup>. This engagement resulted in the GCM highlighting, seven times, the role of NHRIs in fulfilling the goals of the GCM through partnerships, complaint handling and prevention of violations<sup>3</sup>.
42. In 2018, the CNDH was elected Chair of NANHRI Working Group on Migration, which leads discussions of African NHRIs on their roles and responsibilities for the protection and promotion of migrants' rights. The CNDH was also a key stakeholder in drafting NANHRI Final Declaration on "*The Global Compact on Migration: African NHRIs common vision, opportunities and challenges in its implementation*", adopted following NANHRI 12<sup>th</sup> Biennial Conference, held in Cairo, from 5 to 6 November 2019<sup>4</sup>. This Declaration contains recommendations on the different roles that NHRIs can play in the promotion and protection of the rights of migrants in general and in the contribution to the implementation of the GCM in particular<sup>5</sup>.
43. NANHRI Working Group on Migration developed a plan of action to be implemented on short, medium and long terms. This plan was elaborated on the basis of a consultative and participative approach through a roadmap and a questionnaire to which took part 14 African national human rights institutions. The plan was adopted by NANHRI General Assembly in November 2019 in Cairo.

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1. [https://ganhri.fuseuniversal.com/users/sign\\_in](https://ganhri.fuseuniversal.com/users/sign_in)

2. Statements are available here: <https://nhri.ohchr.org/EN/News/Lists/News/DispForm.aspx?ID=290&ContentTypeId=0x0104006A3D2D731523E24B9C932DE5D6E5EDFF>

3. [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/73/195](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195)

4. <https://www.nanhri.org/resource-centre/declarations-2/>

5. *Idem*

### C. List of Issues that the Committee Might Consider

The Committee may request the government to provide information on the following list of issues:

- What are the measures that the government is taking to implement the recommendations of the CNDH included in its annual report of 2019, especially:
  - *Accelerate the adoption of the draft law 72.17 on the entry and stay of foreigners as well as migration, in such a manner as to ensure that migrants enjoy their fundamental rights, while taking into account the relevant constitutional provisions, the international human rights law and the GCM;*
  - *Accelerate the adoption of the draft law 66.17 on asylum and conditions for granting it, in such a manner as to effectively recognize the status of refugee granted by the UNHCR, while taking into account the relevant constitutional provisions, the international law related to refugees and the Global Compact on Refugees;*
  - *Remove the indication to the Moroccan nationality from Article 1 of Law 04-00 relating to compulsory basic education, in such a manner as to ensure access to schooling for all children, regardless of their nationality;*
  - *Take measures to ensure respect for the principle of free-of-charge delivery of migrant women in public hospitals;*
  - *Ensure the respect for the principle of non-refoulement of asylum seekers.*
  
- What actions has the government taken to address the complaints related to migration issues referred to it by the National Human Rights Council? Please provide information on the measures the government has taken in order to enhance accountability for rights violations, especially where violations of the rights of migrant workers and members of their families occur?
  
- Law 02-03 in force on entry and stay of foreigners in Morocco, emigration and irregular immigration<sup>1</sup> provides in article 34 for the detention of certain foreigners in places that are not falling under the responsibility of the prison administration and specifies that the headquarters of these places and the terms of their operation shall be fixed by law. However, no regulatory text has been adopted to this effect since 2003. In the absence of a relevant legal framework, what measures have the authorities taken to guarantee the rights of foreigners who may be detained according to

1. <https://adala.justice.gov.ma/production/legislation/fr/penal/immigration%20clandestine.htm>

this article, in particular access to a lawyer, an interpreter, the asylum-seeking procedure?

- Please provide measures that the government has taken to address the challenges related to the implementation of the National Immigration and Asylum Strategy at the territorial level?
- Please provide information on the exact number of cases regularized as part of the migration policy launched following the thematic report published by the National Human Rights Council in 2013?
- Please provide information on whether migration is taken into account in the new development model that the government is preparing?
- What are the financial and human resources you have dedicated for the operationalization of the African Migration Observatory? What links of coordination, cooperation and exchange of data and information will be established between this Observatory and the national migration observatory?
- Please provide information on whether the government has provided sufficient human and financial resources to the National Commission to Combat and Prevent Trafficking in Persons, so that it can fulfil its missions in full and effectively?
- Please provide information on whether the government is planning to allow migrant workers and members of their families to participate in the next communal and regional elections, in line with Article 30 of the Constitution?
- What are the measures that the authorities are planning to take to guarantee access to justice for vulnerable categories of migrants? (Legal assistance, legal advice, interpretation, etc.).
- What are the measures taken by the authorities in order to standardize the administrative practices related to the stay of foreigners, which sometimes differ from one competent prefecture to another, particularly in terms of the conditions required and the documents to be provided for the renewal of residence permits?

- Taking into account that Morocco has been increasingly a country of residence, the question of setting up adequate premises for the reception, information, guidance and support for migrants is becoming of importance in view of Morocco's commitment to a radically new migration and asylum policy in accordance with international human rights law. To this end, what measures the government is considering to take to establish these premises, especially in territorial areas with high number of migrants?
- What specific actions the government has taken to protect the rights of migrant workers and members of their families within the context of Covid-19?

**Input to the Subcommittee on the  
Prevention of Torture - October 2020**



1. The present update is provided by the National Human Rights Council of Morocco (CNDH), which carries out the missions of the National Preventive Mechanism against Torture (NPM). It includes an update on the CNDH/NPM activities and responses to questions addressed to the CNDH/NPM by the United Nations Subcommittee on the Prevention of Torture (SPT), following the note it shared with the SPT on 22 April 2020, regarding “*Advice of the SPT to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic*”. This input also comes after the participation of the CNDH/NPM in an online meeting between African NPMs and SPT and the regular exchange of information between the SPT and CNDH/NPM.
2. It should be recalled that at its first ordinary session held on 21 September 2019, in Rabat, the CNDH General Assembly installed the NPM, whose coordinator and members were chosen from among the members of the CNDH, on the proposal of its President, and approved by the CNDH General Assembly in accordance with the CNDH founding Law No. 76-15<sup>1</sup> and internal regulations<sup>2</sup>. The NPM is now operational, has separate offices within the CNDH headquarters and is provided with the necessary logistical means, financial autonomy and a highly-qualified support team.
3. The CNDH published its annual report of 2019 on 17 April 2020, with a chapter devoted to the activities carried out by the NPM<sup>3</sup>. The CNDH recommended to the government that the SPT Report following its visit to Morocco in 2017 be made public. The CNDH believes that the publication of such a report is of practical importance in the promotion of human rights and prevention of any violations that may occur. The CNDH continues to carry out advocacy with the competent authorities to make this this report public.
4. After the conclusion of a partnership with the Danish Institute against Torture (Dignity) to strengthen the medical monitoring capacities of the NPM team and national doctors, the CNDH has been discussing other partnerships, delayed by Covid-19, including with the Council of Europe, Association for the Prevention of Torture and Geneva Center for Security Sector Governance.
5. During the Covid-19 period, the CNDH announced to the public that it would receive complaints online and by telephone. In response to an SPT question, the complaint handling procedure is detailed in the aforementioned founding

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1. [https://www.cndh.ma/sites/default/files/loi\\_76-15\\_relative\\_a\\_la\\_reorganisation\\_du\\_cndh\\_2.pdf](https://www.cndh.ma/sites/default/files/loi_76-15_relative_a_la_reorganisation_du_cndh_2.pdf)

2. [https://cndh.ma/sites/default/files/lnzm\\_ldkhly\\_cndh\\_2.pdf](https://cndh.ma/sites/default/files/lnzm_ldkhly_cndh_2.pdf)

3. See recommendation on page 58, CNDH Annual Report 2019: [https://www.cndh.org.ma/sites/default/files/rapport\\_annuel.pdf](https://www.cndh.org.ma/sites/default/files/rapport_annuel.pdf)

law and internal regulations. When the complaint is received, it is handled to see whether it is admissible. The complainant may be given a hearing, if need be. When the complaint is admissible, the CNDH engages with the competent authorities to resolve the issues arising from the complaint and the complainant is informed of the outcome of this engagement. A follow-up is conducted by the CNDH to see whether the complaint is resolved.

6. Since 7 October 2019, the NPM team has held 19 working meetings in person or online. Following these meetings, a plan of action 2020 was adopted, including, among other things, the organization of regular visits to places of deprivation of liberty. During the period of Covid-19, the NPM has carried out **12 field visits** to places of deprivation of liberty, located in the north, center and south of Morocco. The table below outlines information about these visits:

7.

Date	Place of deprivation of liberty	City	Visiting team
23/04/2020	Abdeslam Bennani Child protection center	Casablanca	5 persons
03-04/06/2020	Tetouan Local Prison 2	Tetouan	5 persons
05-06/06/2020	Tangier I Local Prison	Tangier	5 persons
16/07/2020	Elderly Center	Settat	5 persons
17/08/2020	Central police station	Rabat	5 persons
18/08/2020	Police station for juvenile offenders	Rabat	5 persons
27/08/2020	Central police station	Casablanca	5 persons
28/08/2020	Errahma police district	Casablanca	5 persons
21-22/09/2020	Local prison	Dakhla	4 persons
23/09/2020	Provincial police station	Dakhla	4 persons
24/09/2020	Gendarmerie Royale station	Dakhla	4 persons
25/09/2020	Provincial police station	Dakhla	4 persons

8. The objectives of the visits were to prevent practices likely to lead directly or indirectly to any form of torture and ill-treatment, to verify whether the preventive measures recommended by the public authorities against Covid-19 are in place in compliance with international standards and to engage in a constructive dialogue with the authorities responsible for such places. The visits took into account the “do no harm” principle. Indeed, the NPM took several measures to respond to the situation caused by COVID-19 in order to protect

the staff of the institutions visited and the persons deprived of their liberty. The visiting team was provided with infrared thermometers to measure the temperature of its members before any visit, medical masks, hydro-alcoholic gels, disposable latex gloves and wipes. They also received training on preventive measures against COVID-19.

9. Concerning the methodology of visits, the NPM team has developed questionnaires specific to each type of the place visited in order to facilitate data collection. The content of these questionnaires is based on relevant international, regional and national laws as well as the advice of the SPT regarding Covid-19. Individual and group interviews were held with the staff and residents in places of deprivation of liberty. He NPM was also equipped with technical tools, including laser thermometers to measure the temperature of people and premises, hygrometers for humidity and laser rangefinders. Specific vests were used by the NPM team as distinctive signs. The visiting teams represented different backgrounds, including medical, legal, judicial and human rights, etc.
10. In response to an SPT question, visits were carried out to prisons, where cases of Covid-19 were confirmed. The CNDH/NPM was able to consult their medical files and to assess the quality of their care: conditions of hospitalization and preventive measures. The reports as well as the medical files of the deaths were analyzed and discussed with the prison and Ministry of Health doctors.
11. At the end of the visit, the delegation, a debriefing meeting is held with the head of the place visited in the presence of his staff. It focused on the positive aspects, shortcomings and the preliminary recommendations for improvement. A draft report of findings is sent to the establishment visited for remarks. The NPM annual report of 2020 is being elaborated and will be integrated in the CNDH annual report.
12. In response to an SPT question regarding new prisons, the CNDH/NPM conducted a visit to Dakhla Local Prison, which is being constructed. The CNDH/NPM found that the premises of this prison meet the conditions of an appropriate prison stay, including good design for aeration. It also contains hygiene facilities, a health facility, a separate place allocated to mother prisoners with their children and another location to visiting families. The CNDH/NPM recommended that construction works in this new prison should be accelerated, considering that the current operating prison suffers from overcrowding and does not meet the conditions of appropriate stay.

13. In line with the UN messages and guidelines, particularly those of the UN High Commissioner for Human Rights relating to the urgent action States need to take to reduce the number of people in detention, a total of 5,654 inmates were granted an exceptional Royal Pardon due to COVID-19. The CNDH welcomed the criteria adopted to grant this pardon, which took into account humanitarian considerations, including age, gender, health condition and vulnerability<sup>1</sup>. Additional 1,785 prisoners were granted Royal pardons on the occasion of various religious and national holidays in Morocco in July and August 2020. Also, the CNDH contributed to advocacy with the authorities for the review of judicial measures relating to the placement of children in conflict with the law and in difficult circumstances in child protection centers. Thus, out of a total of 673 placed in these centers, 325 children were returned to their families, or 48%.
14. In response to a question by the SPT and based on information available to the CNDH/NPM, the prison population in Morocco total 83,346, including 37,507 prisoners awaiting trial, or 45% of the total prison population. A rate of 97.66% of this population are male adults, 2.34% are women and 1.26% are juvenile offenders. There are 77 penitentiary institutions, including 2 central prisons, 65 local prisons, 7 prison farms and 3 centers for juvenile offenders. The number of confirmed cases of Covid-19 in penitentiary institutions total 479, while deaths are so far limited to 3 cases. The CNDH/NPM approached the competent authorities and was provided with information about all places of deprivation of liberty in Morocco. It is currently developing a related database.
15. The new members of five regional human rights commissions (out of 12 regional commissions) have been formally installed in September and October 2020: Laayoune-Sakia El Hamra, Dakhla-Oued Eddahab and Guelmim-Oued Noun, Souss-Massa and Deraa-Tafilalt. The installation ceremonies were chaired by Ms. Amina Bouayach, CNDH President. On the sideline of these events, meetings were held with the representatives of local authorities and judicial bodies for better cooperation and coordination with the regional commissions. The members of these commissions are composed of doctors, lawyers and human rights defenders. The CNDH/NPM may seek their expertise at the regional level, when conducting visits or other activities in their respective regions.
16. The CNDH/NPM is currently planning missions to follow up on its recommendations formulated during visits to the aforementioned places of deprivation of liberty. This is done in close cooperation and engagement with the institutions visited.

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1. <https://www.cndh.ma/fr/actualites/le-cndh-se-rejouit-de-la-grace-royale-au-profit-de-5654-detenus-dans-le-contexte-de-letat>



**Mesures prises par le CNDH/MNP  
du Maroc en réponse à l'Avis  
du Sous-Comité aux États parties et aux  
mécanismes nationaux de prévention  
concernant la pandémie due au  
coronavirus (COVID-19) - 22 avril 2020**

1. La présente contribution est fournie par le Conseil national des droits de l'Homme du Maroc (CNDH), qui s'acquitte des missions du Mécanisme national de prévention de la torture. Elle comprend ses réponses, notamment celles relatives au chapitre IV de l'Avis du Sous-comité pour la prévention de la torture (SPT) se rapportant aux « *mesures devant être prises par les mécanismes nationaux de prévention* ». Elle présente également l'interaction du CNDH avec les mesures prises par les autorités. Le MNP marocain, mécanisme nouvellement créé, souhaite saisir cette occasion, pour partager avec le SPT, les évolutions récentes relatives à son opérationnalisation.
2. Le CNDH/MNP s'engage à tenir le SPT informé de l'ensemble de ses actions prises dans le contexte de la lutte contre le Covid-19, en plus de celles statutaires effectuées en conformité avec sa loi fondatrice et le Protocole facultatif se rapportant à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants.

#### A. Evolution relative à l'opérationnalisation du MNP

3. A l'occasion de sa première session ordinaire tenue le samedi 21 septembre 2019 au siège du CNDH, l'Assemblée générale du CNDH a parachevé la mise en place de ses structures, dont le MNP. Le coordonnateur et les membres de ce dernier ont été choisis parmi les membres du CNDH, sur proposition de sa Présidente, et approuvés par l'Assemblée générale du Conseil conformément aux dispositions de la loi n° 76-15 relative à la réorganisation du CNDH<sup>1</sup> et de son règlement intérieur<sup>2</sup>. Une structure distincte au sein du CNDH, dotée des moyens logistiques nécessaires, d'une autonomie financière et d'une équipe d'appui hautement qualifiée, a été dédiée exclusivement à la mission du MNP.
4. Il convient de noter que la loi réorganisant le CNDH et portant création du MNP a été adoptée à l'unanimité par le parlement en février 2018. Un chapitre de cette loi (de l'article 13 à l'article 17) est consacré au mandat du MNP. La loi prévoit en particulier une coopération, une concertation et une assistance mutuelle avec le SPT, des entretiens privés avec les prisonniers, une protection des fournisseurs d'informations ainsi qu'une confidentialité de ces informations. En outre, la loi consacre une protection du coordonnateur et des membres du MNP contre toute intervention ou pression auxquelles ils peuvent être exposés durant l'exercice des missions qui leurs sont dévolues.

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1. [https://www.cndh.ma/sites/default/files/loi\\_76-15\\_relative\\_a\\_la\\_reorganisation\\_du\\_cndh\\_2.pdf](https://www.cndh.ma/sites/default/files/loi_76-15_relative_a_la_reorganisation_du_cndh_2.pdf) <sup>2</sup> [https://cndh.ma/sites/default/files/lnzm\\_idkhly\\_cndh\\_2.pdf](https://cndh.ma/sites/default/files/lnzm_idkhly_cndh_2.pdf)

5. Le règlement intérieur du CNDH, publié au Bulletin Officiel en date du 13 février 2020, prévoit un chapitre dédié au MNP, à sa composition et aux règles de son fonctionnement, en particulier la périodicité et les modalités de réunion, la confidentialité des informations, la prise de décision, le travail à plein temps de ses membres, son plan d'action, la coopération, la consultation et l'assistance mutuelle entre les trois mécanismes.
6. Les trois membres du MNP reflètent le principe d'égalité des sexes et de pluralisme nécessaire à son fonctionnement. Ils possèdent les connaissances et les compétences requises pour exercer le mandat du MNP. Le coordonnateur est un médecin, tandis que les deux autres sont des juristes (un juge et un ancien bâtonnier du Maroc). Ces membres, qui travaillent à plein temps, sont exclusivement dédiés au MNP et ils n'ont aucun intérêt conflictuel avec son mandat.
7. Depuis son installation, l'équipe du MNP a régulièrement tenu des réunions de travail, dont celles consacrées à la finalisation du projet de plan d'action du MNP. Ces réunions se tiennent deux fois par semaine. Le plan d'action, qui couvre l'année 2020, comprend huit axes et 31 mesures pour atteindre sept objectifs. Les neuf axes sont : analyse de l'état des lieux, mise en place d'une structure, mise en place d'une organisation adaptée, organisation des visites régulières des lieux de privation de liberté, renforcement des capacités nécessaires à la mission du MNP, élaboration et mise en œuvre d'un plan de communication, développement de la coopération et du partenariat avec les instances nationales et internationales et promotion d'un cadre normatif efficace.
8. L'équipe MNP a également tenu des réunions de travail avec le Conseil de l'Europe (15 novembre 2019), l'Institut danois contre la torture (Dignity) et l'Association pour la prévention de la torture (APT) (vidéo conférence du 19 décembre 2019) pour discuter de la mise en œuvre de son mandat et des perspectives futures de partenariats.
9. A cet effet, une convention de partenariat de deux ans (2020-2021) a été conclue avec l'Institut danois contre la torture (Dignity) pour le renforcement des capacités de l'équipe MNP et des médecins nationaux en matière de monitoring médical des lieux de privation de liberté. La première session de cette formation a débuté le 20 décembre 2019 à El Jadida et a ciblé, en plus de l'équipe MNP, 18 médecins. Deux autres conventions de partenariat sont en cours de discussion avec le Conseil de l'Europe et l'APT afin d'accompagner la mise en place du MNP.



10. Par ailleurs, des sessions de briefing sur les techniques de visite et de monitoring, les relations entre le MNP et le SPT et le reporting sont animées par des experts internationaux au profit de l'équipe MNP.
11. Les membres du MNP ont initié des actions de coopération avec des mécanismes similaires de prévention de la torture. A cet effet, ils ont pris part à des rencontres internationales sur les MNP, telles que le colloque international sur la classification des détenus, organisé en Tunisie les 3 et 4 décembre 2019 au profit de plusieurs MNP, l'atelier de travail et d'échange tenu au Rwanda du 16 au 18 octobre 2019, entre 12 MNP africains récemment mis en place, ou encore la participation au lancement le 10 décembre 2019 en Tunisie du guide du prisonnier et du manuel du droit pénitentiaire tunisien.
12. Dans le but de faire connaître le MNP, une série de sessions de sensibilisation sur le mandat et le fonctionnement du MNP a été organisée notamment en faveur des personnes chargées de l'application de la loi, la police nationale (la plus récente en mars 2019), la gendarmerie royale (la plus récente en décembre 2019), le personnel pénitentiaire et les prisonniers (la plus récente en janvier 2020).
13. Des programmes de radio et de télévision ont été également diffusés et des représentants du CNDH/MNP ont été invités à expliquer le mandat et le fonctionnement du MNP. Cela a permis de sensibiliser le grand public à l'importance et au mandat du MNP. Il s'agit notamment des entretiens accordés par les responsables du CNDH/MNP (pour la télévision en février 2019 et décembre 2019 (*Chabab vox*<sup>1</sup> et *confidences de presse*)<sup>2</sup> ; pour la presse électronique audiovisuelle (*Grand format*)<sup>3</sup>, pour la radio en octobre et en décembre 2019 et pour la presse écrite<sup>4</sup>.
14. Lors de la présentation d'un guide à l'intention des juges du ministère public en matière de lutte contre la torture, à laquelle ont pris part, le ministre d'État chargé des droits de l'Homme et des relations avec le parlement, le Président du ministère public et le Président délégué du Conseil suprême du pouvoir judiciaire, la Présidente du CNDH a présenté aux juges présents les attributions du MNP, son rôle et son mode de travail. Elle a également évoqué la nécessité de

1. [https://www.youtube.com/watch?v=BRpmJHV\\_P7M](https://www.youtube.com/watch?v=BRpmJHV_P7M)

2. <https://www.youtube.com/watch?v=9KXxdnTM-7A>

3. <https://www.youtube.com/watch?v=ibAqRZeb0J0>

4. Par exemple : <http://ar.telquel.ma/%D8%A8%D9%88%D8%B9%D9%8A%D8%A7%D8%B4-%D8%AA%D8%AA%D8%AD%D8%AF%D8%AB-%D9%84%D8%AA%D9%8A%D9%84-%D9%83%D9%8A%D9%84%D8%B9%D8%BI%D8%A8%D9%8A-%D8%B9%D9%86-%D8%B3%D9%86%D8%AA%D9%87%D8%A7-%D8%A7%D9%84/>

mettre en œuvre les différentes recommandations adressées par les mécanismes internationaux au Maroc en matière de lutte contre la torture.

15. Depuis leur mise en place, une vingtaine de réunions au profit de plus de 2000 bénéficiaires ont été tenues pour faire connaître les trois mécanismes nouvellement créés auprès du CNDH. Ainsi, des rencontres sur le MNP ont été organisées en marge de la 26<sup>ème</sup> édition du Salon international de l'édition et du livre (SIEL) de Casablanca, organisée en février 2020<sup>1</sup>. Environ 40 000 visiteurs se sont rendus au stand du CNDH. Quatre débats en lien avec les missions du MNP ont été tenus, à savoir : le *CNDH et la situation carcérale : de la protection à la prévention* ; la *politique pénale et les droits de l'Homme* ; l'*avis du CNDH sur l'amendement du code pénal*<sup>2</sup> ; et les *créations carcérales*. Ces débats ont été animés par les membres du MNP et des experts internationaux, dont M. Mohammed Ayat, Président du Comité des disparitions forcées de l'ONU et M. Fabián Salvioli, Rapporteur spécial sur la promotion de la vérité, de la justice, de la réparation et des garanties de non-réurrence. Un programme riche et diversifié a été élaboré dans ce cadre.<sup>9</sup>
16. Des conférences ont également été tenues dans les établissements universitaires, à l'instar de l'Institut des Hautes Etudes de Management de Rabat (janvier 2020) et de l'Université Mohammed V (janvier 2020). Lors de ces conférences, la Présidente du CNDH/MNP a expliqué le nouveau cadre juridique du CNDH, y compris les dispositions relatives au MNP. De plus, des présentations sur le CNDH et ses mécanismes ont été faites au profit des élèves et des étudiants qui ont été accueillis aux sièges du CNDH et de ses commissions régionales. Des représentants du CNDH ont également été invités à des séminaires nationaux et internationaux, où ils ont informé l'audience de l'évolution du MNP.
17. Le CNDH/MNP a organisé, le 12 avril 2019, une réunion de briefing avec les parties prenantes nationales et internationales. Cette réunion a eu pour objectif de faire le point sur l'opérationnalisation du MNP. Mme Catherine Paulet, membre du SPT a été invitée en tant qu'intervenante principale à cette réunion. D'autres acteurs nationaux et internationaux ont été associés à ce briefing, dont les départements gouvernementaux concernés, le parlement, le Ministère public, l'administration pénitentiaire, les autorités chargées de la gestion d'autres lieux de privation de liberté, la société civile, les corps professionnels, l'APT et d'autres partenaires internationaux du CNDH. Lors de ce briefing, le CNDH

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1. <https://www.cndh.org.ma/fr/article/cloture-de-la-participation-du-cndh-la-26eme-edition-du-salon-international-de-ledition-et>

2. [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_web_code_penal_va.pdf) <sup>9</sup> <https://www.cndh.ma/sites/all/modules/custom/actualites/pdf/catalogue.pdf>

avait recommandé aux autorités publiques de publier le rapport du SPT, élaboré suite à sa visite au Maroc en octobre 2017.

18. Concernant les outils pouvant faciliter le travail de visites régulières et préventives, un guide a été élaboré en coopération avec des équipes d'experts du Conseil de l'Europe et de l'APT sur la conduite des visites dans les lieux de détention. Ce guide est le fruit d'une série de formations théoriques et pratiques, dont notamment des visites de lieux de privation de liberté, qui ont été menées avec des experts du Conseil de l'Europe et de l'APT.
19. S'agissant de l'interaction avec le système onusien des droits de l'Homme, le CNDH/MNP est en contact continu avec le SPT. Dans ce cadre et depuis la visite du SPT au Maroc en octobre 2017, le CNDH a adressé des lettres de mise à jour au SPT. La dernière correspondance dans ce sens remonte à septembre 2019, dans laquelle le Conseil a informé le SPT de la nomination des membres du MNP.
20. Aussi, trois réunions ont également eu lieu en mars, octobre et novembre 2019 entre le CNDH et le Haut-commissariat des Nations unies aux droits de l'Homme (HCDH), dont une réunion à Genève entre la Présidente et Mme Michelle Bachelet pour explorer les moyens de coopération nécessaires pour l'accompagnement du MNP. Il est prévu qu'une réunion soit tenue entre les membres du MNP et le SPT.
21. De plus, une réunion informelle a également été tenue entre la Présidente du CNDH et le Président du Comité contre la torture des Nations unies (CAT), le 20 décembre 2019. Suite à cette réunion, la Présidente du CNDH a mené un plaidoyer auprès des autorités marocaines pour soumettre le rapport du Maroc au CAT, auquel le CNDH contribuera en plus de la soumission de son propre rapport parallèle.
22. Le Comité des droits de l'Homme de l'ONU a souligné dans un communiqué publié le 13 décembre 2019<sup>1</sup>, que le Maroc figure au top 5 des pays ayant mis en œuvre certaines recommandations prioritaires. Ainsi, le Maroc a obtenu la note « A » lors de l'examen de suivi pour sa mise en œuvre des recommandations prioritaires, à savoir l'adoption de la loi sur le mécanisme national de prévention de la torture, désignant le CNDH comme organe opérationnel.

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1. <https://www.ohchr.org/EN/NewsEvents/Pages/HumanRightsCommitteeFollowUp.aspx>

## B. Mesures prises par le MNP concernant la pandémie due au coronavirus

23. Concernant la mesure N° 11 relative à la poursuite de l'exercice du mandat du MNP en matière de visite pendant la pandémie de Covid-19, le CNDH/MNP continue d'effectuer le monitoring de tous les lieux de privation de liberté et s'enquiert régulièrement de la situation des personnes en détention auprès de la Délégation générale à l'administration pénitentiaire et à la réinsertion (DGPAR) et des autres autorités responsables de la gestion des lieux de privation de liberté. La première visite de terrain du CNDH/MNP dans le contexte de l'état d'urgence sanitaire est prévue au courant de la semaine prochaine.
24. Le CNDH/MNP s'est assuré que les mesures préventives contre la prorogation du virus sont mises en œuvre par la DGAPR et les autres autorités compétentes. Le CNDH/MNP continue de s'acquitter de cette mission, tout en respectant les restrictions légitimes prises par le gouvernement en vertu du décret-loi N° 2.20.292 publié le 23 mars 2020, et portant sur les dispositions relatives à l'état d'urgence sanitaire et aux procédures de sa déclaration.
25. De plus, les commissions régionales des droits de l'Homme (CRDH) du CNDH disposent d'un point focal du MNP au niveau régional et assurent le monitoring de la situation des droits de l'Homme. Plus particulièrement, la CRDH de la région Fès-Meknès, assure le monitoring des centres de protection d'enfance dans la région. La CRDH de Beni Mellal Khouribgha a suivi les mesures prises par la DGAPR dans la région, notamment celles relatives à l'isolement des nouveaux prisonniers en provenance de pays étrangers (d'origine ou de transit) pendant 14 jours, à la réduction du nombre de visiteurs à une seule personne, à l'aménagement d'un espace aux nouveaux arrivés et à la suspension temporaire d'activités (culturelles, sportives, religieuses, artistiques...) qui se déroulent dans les établissements pénitentiaires.
26. La CRDH de Deraa-Tafilalt assure le suivi de la situation des personnes détenues à la prison locale de Ouarzazate, qui abrite environ 600 détenus, ainsi que les mesures prises par la DGAPR suite à la contamination de 36 fonctionnaires sur 61 faisant partie du premier groupe et de 24 sur 65 membres du groupe en service actuellement à l'établissement pénitentiaire, outre 6 détenus sur 17 affectés aux travaux du service général au sein de la prison, selon un communiqué de la DGAPR rendu public le 19 avril. La CRDH s'est assurée qu'une équipe de médecins est sur place pour assurer le contrôle des détenus. D'après les informations recueillies, tous les fonctionnaires et les détenus testés positifs suivent le protocole de traitement adopté par les autorités sanitaires, et les fonctionnaires non contaminés sont placés en quarantaine. La

DGAPR a également décidé de désigner un nouveau directeur de cette prison et a mobilisé un nombre suffisant de fonctionnaires d'autres établissements pour remplacer ceux, des deux groupes exerçant dans la prison. Dans une conversation téléphonique, le directeur régional de la DGAPR a confirmé à la CDRH qu'environ 300 détenus ont été testés jusqu'à présent.

27. La CRDH de Laayoune-Sakia El Hamra a adressé une demande de soutien au directeur de la Fondation Phosboucraa du Groupe OCP<sup>1</sup> en faveur des détenus et du personnel pénitentiaire de la prison locale de Samara. En guise de réponse, des vêtements de protection et des produits de désinfection leur ont été remis.
28. Concernant la mesure N° 12 relative à la conception des méthodes qui réduisent la nécessité de contacts sociaux, dès l'annonce des premiers cas et avant la déclaration officielle par les autorités marocaines de l'état d'urgence sanitaire, le CNDH avait décidé d'adopter le télétravail pour son personnel. Par ailleurs, un outil de visioconférence a été mis en place pour assurer une communication permanente entre les différentes entités du CNDH, dont le MNP. Ainsi, le bureau du conseil, auquel siège le coordonnateur du MNP, a tenu sa réunion mensuelle le premier avril 2020, par visio-conférence pour évaluer les mesures prises par les autorités, ainsi que celle prises par le CNDH et a recommandé un certain nombre d'actions<sup>2</sup>, y compris la création d'un groupe de travail ad hoc pour le suivi et le monitoring de la situation des droits de l'Homme aux niveaux national et régional.
29. Le CNDH a également suspendu ses activités locales, nationales et internationales, et ce jusqu'à nouvel ordre. La suspension ne concerne pas les actions de monitoring des lieux de privation de liberté ni de traitement des plaintes en lignes et par téléphone, ainsi que les activités ou réunions qui peuvent être effectuées à distance. Une vidéo de sensibilisation sur les mesures d'hygiène nécessaires contre la contamination et la prorogation du virus a été postée par le CNDH/MNP, dans laquelle le coordonnateur du MNP a présenté des informations via Facebook sur le COVID-19.<sup>3</sup>

1. Cette fondation a été créée en 2014 pour répondre à certains besoins de la communauté des trois régions du Sud à travers des programmes ciblés.

2. <https://cndh.org.ma/fr/communiqués/communiqué-de-presse-concernant-la-reunion-du-bureau-du-conseil-national-des-droits-de>

3. <https://www.facebook.com/CNDHMaroc.ar/videos/%D8%A7%D9%84%D8%A5%D8%AC%D8%BI%D8%A7%D8%A1%D8%A7%D8%AA-%D8%A7%D9%84%D8%A7%D8%AD%D8%AA%D8%BI%D8%A7%D8%B2%D9%8A%D8%A9-%D8%A7%D9%84%D8%AA%D9%8A-%D8%A7%D8%AA%D8%AE%D8%B0%D9%87%D8%A7-%D8%A7%D9%84%D9%85%D8%BA%D8%BI%D8%A8-%D9%84%D9%84%D8%AD%D8%AF-%D9%85%D9%86->

30. Le CNDH a informé, en date du 16 mars 2020, l'opinion publique de la mise en place d'un numéro de téléphone et d'une adresse de courrier électronique<sup>1</sup> spécifiques pour la réception de toute plainte ou toute information de la part du public de même qu'il poursuit ses missions de suivi et de monitoring de la situation des droits de l'Homme au Maroc, conformément à la législation nationale et aux instruments internationaux pertinents.
31. Il convient de rappeler qu'au cours de ces dernières semaines, le CNDH a mené un certain nombre d'opérations de sensibilisation qui visent à promouvoir et vulgariser les mesures préventives contre la propagation de Covid-19 dans les deux langues officielles du pays (arabe et amazigh), le hassani, la langue des signes, le français, l'espagnol et l'anglais. Il a également utilisé les langues Wolof et Lingala pour communiquer avec les migrants et les réfugiés résidant au Maroc au sujet des procédures d'urgence sanitaire. Ces vidéos sont disponibles sur les différents réseaux sociaux du CNDH.<sup>2</sup>
32. Concernant la mesure N° 13 (b) relative à la collecte et le contrôle des données individuelles et collectives relatives aux lieux de détention, le CNDH/MNP a développé une base de données regroupant des lieux de privation de liberté sur le territoire marocain, notamment les institutions pénitentiaires, les centres de sauvegarde de l'enfance, les services et les établissements hospitaliers spécialisés dans le traitement des maladies mentales et psychiques. La base de données contient également des informations sur le nombre des détenus par lieux de détention, la ventilation des données par âge, sexe, situation pénale, etc. Pour la mise à jour de cette base de données, le CNDH/MNP est en contact régulier avec les autorités compétentes.
33. En ce qui concerne la mesure N° 13 (c & d) relative à l'utilisation des formes électroniques de communication avec les personnes qui se trouvent dans les lieux de détention, le CNDH a informé, en date du 16 mars 2020, l'opinion publique de la mise en place d'un numéro de téléphone et d'une adresse électronique spécifiques pour la réception de toute plainte ou toute information de la part du public, dont les personnes qui se trouvent dans les lieux de détention. Une adresse de courrier électronique spécifique au MNP a aussi été mise à la disposition du public. De plus, le CNDH/MNP reçoit des plaintes et des requêtes émanant des détenus, de leurs proches ou de leurs avocats par voie

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1. <https://www.cndh.org.ma/fr/article/propos-des-mesures-de-precaution-prises-par-ladministration-du-cndh-pour-prevenir-la>  
2. <https://www.facebook.com/CNDHMaroc.ar/videos/1857572094377659/>

postale. Ces plaintes et ces requêtes sont traitées en toute confidentialité. A titre de rappel et en vue d'accroître sa visibilité, le CNDH/MNP est en cours de mettre en place son propre site web.

34. Par ailleurs, le CNDH/MNP a traduit en français l'avis du SPT sur la gestion de la Covid-19 le jour même de sa réception du SPT et l'a partagé par mail avec les membres et le personnel du MNP ainsi qu'avec l'ensemble des autorités concernées qui s'occupent de la gestion de tous les lieux de privation de liberté. De plus, les mesures énoncées par le SPT dans son avis ont été converties en trois questionnaires à utiliser par le CNDH/MNP lors des visites et des missions de monitoring à distance. Il s'agit des questionnaires relatifs aux mesures à prendre par le CNDH /MNP, par les autorités à l'égard des personnes se trouvant dans les lieux de quarantaine officiels et par les autorités concernant tous les lieux de privation de liberté, y compris les centres de détention, les centres de sauvegarde de l'enfance, les hôpitaux psychiatriques et autres établissements médicaux.
35. En matière de partage et d'échange avec les pairs, le CNDH/MNP a partagé une note, en arabe, en français et en anglais, sur ses actions entreprises dans le contexte de la lutte contre le Covid19<sup>1</sup> ainsi qu'un message de sa Présidente dans ce sens<sup>2</sup>, et ce sur la plateforme électronique restreinte de l'Alliance des Institutions nationales des droits de l'Homme (GANHRI), dans une rubrique intitulée «*Human rights dimension of Covid-19 response* ». Ces deux documents, disponibles également sur son site, contiennent des mesures relatives aux lieux de détention.
- Ces documents ont été partagés avec le Réseau arabe des Institutions nationales des droits de l'Homme.
36. La GANHRI continue à jouer son rôle de fédérateur des pratiques des institutions nationales des quatre réseaux régionaux cette fois via son site internet. La GANHRI a ainsi rappelé le rôle important des INDH en ces moments de crise sanitaire liée à la pandémie du Covid-19 et a présenté un exemple de bonnes pratiques menées par les INDH<sup>3</sup>, à savoir les conseils présentés au gouvernement, des communiqués de presse appelant au respect des droits de l'Homme, un focus sur les droits des catégories vulnérables, le monitoring de la situation des droits de l'Homme. Le CNDH a été cité parmi les INDH ayant une

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1. <https://www.cndh.org.ma/fr/actualites/le-cndh-partage-avec-la-ganhri-ses-bonnes-pratiques-en-vue-dassurer-ses-missions-de>

2. <https://www.cndh.org.ma/fr/actualites/message-de-la-presidente-du-cndh-aux-membres-de-lalliance-mondiale-des-institutions>

3. <https://ganhri.org/covid-19/>

bonne pratique à partager notamment par rapport aux courriers envoyés aux autorités chargées de la gestion des lieux de privation de liberté concernant les mesures préventives relatives au Covid-19.

37. Par ailleurs, le CNDH a maintenu son rôle de leadership au sein du Réseau des Institutions Nationales Africaines des Droits de l'Homme (RINADH), en proposant et en élaborant le draft zéro de la déclaration sur la protection et la promotion des droits de l'Homme dans le contexte de la lutte contre la pandémie COVID-19, qui a été par la suite adoptée par les membres du RINADH en tant que position commune par rapport à cette crise sanitaire. Dans cette déclaration<sup>1</sup>, le RINADH dont plusieurs INDH membres s'acquittent du rôle de MNP, a exprimé sa préoccupation au sujet de l'impact de cette crise sur les personnes détenues dans les lieux de privation de liberté, et sa préoccupation par rapport aux répercussions économiques de cette pandémie qui risquent de fragiliser davantage les couches les plus défavorisées de la société.
38. Le CNDH, en sa qualité de vice-président de l'Association Francophone des Commissions Nationales des Droits de l'Homme (AFCNDH), et l'Organisation Internationale de la Francophonie (OIF) ont organisé une série de webinaires sur différentes thématiques, dont un webinaire sur le rôle des INDH pendant la crise sanitaire du Covid-19, organisé le 14 avril 2020. Ce webinaire a regroupé trois réseaux : l'Alliance mondiale des institutions nationales des droits de l'Homme (GANHRI), le RINADH et l'AFCNDH. Cette visioconférence a connu la participation de plus de 30 représentants appartenant à 19 INDH<sup>2</sup>, dont certaines s'acquittent des missions du MNP. Ils ont pu échanger autour de leur rôle et leurs pratiques en matière de préventions des violations, de promotion et de protection des droits de l'Homme dans le contexte de la crise sanitaire. Ces échanges concernent le monitoring de la situation au regard des droits et des libertés, le traitement des plaintes, la sensibilisation, le plaidoyer, la coopération régionale et internationale et les mesures internes de prévention. De plus, le CNDH/MNP a rappelé les initiatives phares prises par le Maroc, pour soutenir, parmi d'autres, les groupes vulnérables, à savoir la mise en place d'un fonds de solidarité national et la Grâce Royale accordée à 5654 détenus.

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1. <https://www.nanhri.org/fr/2020/04/05/communique-du-reseau-des-institutions-nationales-africaines-des-droits-de-lhomme-rinadh-sur-lapandemie-de-covid-19/>

2. Les INDH du Burkina Faso, du Burundi, du Cameroun, des Comores, de la Côte d'Ivoire, du Congo Brazzaville, du Cap-Vert, de l'Égypte, de la France, du Luxembourg, du Madagascar, du Mali, du Maroc, de la Mauritanie, du Niger, de la RDC, du Rwanda, du Togo et de la Tunisie



39. S'agissant de la mesure N° 13 (e), le CNDH suit l'installation des nouveaux lieux de détention, tout en veillant à sa conformité aux normes internationales, surtout en matière de superficies requises, d'aération et de lieux de récréations. Des visites ont été déjà organisées par le CNDH aux lieux de détentions nouvellement créés.
40. Concernant la mesure N° 13 (f) relative à l'amélioration de la diffusion des informations concernant le travail que le MNP effectue dans les lieux de détention, vu le contexte actuel lié à la crise de Covid-19, les visites du CNDH/MNP initialement prévues ont été reportées à une date ultérieure. Cependant, le CNDH/MNP s'enquiert régulièrement de la situation des personnes en détention à travers des contacts réguliers avec les autorités compétentes et les membres de leurs familles. A titre d'exemple, le CNDH/MNP suit la situation de la prison locale du Ksar Kebir, située au nord-ouest du pays, suite à la confirmation de cinq cas de contamination au coronavirus enregistrés dans cette prison. Il s'agit de quatre employés de l'établissement et d'une détenue. La Présidente du CNDH/MNP s'est entretenue personnellement avec le Délégué général de la DGAPR sur la situation sanitaire de ces personnes ainsi que sur les mesures prises pour faire face à cette situation et, surtout, pour prévenir la propagation du virus au sein du même établissement.
41. Le CNDH s'est assuré que les personnes concernées aussi bien la détenue que le personnel de la prison contaminés sont bien sous contrôle médical. Il continue à suivre la situation de la prison pour alerter de toute mesure qui encouragerait la prorogation de COVID-19. Le CNDH/MNP a également assuré un suivi soutenu des mesures prises par la DGAPR, notamment la mise en place d'une plateforme électronique permettant d'offrir un appui psychologique à distance aux fonctionnaires et aux détenus ; la limitation des visites à une fois par mois ; la limitation des visiteurs à un seul membre de la famille, les actions de sensibilisations destinées aux détenus-es.
42. Le CNDH/MNP note avec satisfaction la diffusion de la circulaire n° 44 du 16 octobre 2019, adressée par la Présidence du ministère public aux magistrats pour les exhorter à interagir positivement avec le MNP, ainsi que la publication d'un guide à l'intention des juges du ministère public dans le domaine de la lutte contre la torture en 2019, qui est un document de référence en la matière.
43. Quant à la mesure N° 13 (g) relative au contact avec les familles des détenus et l'interaction avec les plaintes soumises aux mécanismes internationaux, le CNDH/MNP a reçu et a traité une dizaine de plaintes des familles des

prisonniers depuis l'annonce du confinement. Le CNDH continue également à coopérer avec les autorités concernant les cas individuels des détenus, qui ont été soumis au système international des droits de l'Homme, notamment au Groupe de travail sur la détention arbitraire et au Comité contre la torture.

44. S'agissant de la mesure N° 13 (h) relative à la coopération avec les organisations non gouvernementales, dans son projet de rapport approuvé lors de son Assemblée générale de mars 2020, le CNDH recommande aux autorités publiques de faciliter l'accès des associations de la société civile aux institutions pénitentiaires et de renforcer le partenariat avec celles-ci de manière à consolider son rôle dans la sensibilisation aux droits des détenus. Le CNDH/MNP a suivi les revendications d'un ensemble d'ONG marocaines, chargées de la défense des droits de l'Homme ou professionnelles telles que l'Organisation marocaine des droits de l'Homme, (OMDH), l'Association marocaine des droits de l'Homme (AMDH), l'Observatoire marocain des prisons, Relais, l'Association des barreaux des avocats, qui ont recommandé aux pouvoirs publics de prendre les mesures qui s'imposent, durant cette période de l'état d'urgence sanitaire. Il s'agit principalement d'offrir un service de santé qui répond à la spécificité de la situation carcérale, notamment dans des prisons qui connaissent une surpopulation galopante. Ces ONG ont lancé un appel aux autorités judiciaires pour désengorger les établissements pénitentiaires, notamment la révision de certaines procédures relatives à la détention provisoire et enfin de recourir au mécanisme de la Grâce Royale, notamment pour les catégories vulnérables (femmes, mineurs, personnes âgées, personnes atteintes de maladies chroniques), et aussi pour les détenus qui sont en fin de leur peine.
  
45. Concernant l'interaction du CNDH avec les mesures qui doivent être prises par les autorités énoncées dans les section II & III de l'avis, et particulièrement la mesure 9 (b) relative à la réduction de la population carcérale, après la Grâce Royale au profit de 5654 détenus, deux communiqués ont été publiés par le CNDH/MNP. Dans le premier communiqué<sup>1</sup>, rendu public le 5 avril 2020, le CNDH/MNP s'est félicité des critères retenus par la Grâce Royale au profit des personnes âgées, des femmes, des mineurs, ceux qui souffrent des maladies chroniques et des détenus les plus vulnérables, qui ont fait, à maintes reprises l'objet des recommandations du CNDH, dont les dernières figurent dans son rapport annuel de 2019, approuvé en mars 2020.

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1. <https://www.cndh.ma/fr/actualites/le-cndh-se-rejouit-de-la-grace-royale-au-profit-de-5654-detenus-dans-le-contexte-de-letat>

46. Dans un deuxième communiqué publié le 10 avril 2020<sup>1</sup>, le CNDH/MNP a spécifié la répartition des détenus ayant bénéficié de la Grâce. Ces groupes comprennent les personnes âgées, ceux/celles souffrant de maladies chroniques, les personnes ayant fait preuve de bonne conduite, les condamnés dans des affaires délictuelles, les personnes poursuivies dans le cadre de la loi relative à la lutte contre le terrorisme, ayant bénéficié du programme de réconciliation « Moussalaha », des femmes enceintes, des personnes ayant démontré des capacités de réinsertion dans la société, des mineur-e-s ; des femmes accompagnées de leurs enfants ; une femme qui était condamnée à mort. Ainsi, seule une condamnée à mort demeure détenue au Maroc. Le communiqué du CNDH souligne la répartition en fonction de ces catégories.
47. Le CNDH/MNP a contribué au plaidoyer auprès des autorités pour la révision des mesures judiciaires relatives au placement des enfants en conflit avec la loi et en situation difficile dans les centres de sauvegarde de l'enfance. Ainsi, sur un total de 673 placés, 325 enfants ont été replacés dans leurs familles, soit 48%.
48. Compte tenu des circonstances exceptionnelles associées à l'état d'urgence sanitaire, le processus de libération a été exécuté par étapes. Le CNDH/MNP note que les détenus bénéficiant de la Grâce Royale ont été soumis à une surveillance médicale, à des tests médicaux, ainsi qu'à la mise en quarantaine nécessaire, à leur domicile, pour assurer leur sécurité. Le CNDH/MNP note également que la DGAPR a annoncé que, parallèlement au processus de libération des détenus bénéficiant de la Grâce royale, des médecins travaillant dans les établissements pénitentiaires avaient été mobilisés pour soutenir et faciliter l'examen médical de chacun.
49. Concernant la mesure 9 (k) relative aux méthodes adéquates de compensation, dans le cadre de son interaction avec l'administration pénitentiaire, le CNDH a été également informé que, suite à la décision de la suspension des visites familiales aux détenus qui reprendront dès la fin de la période de confinement, la durée des communications téléphonique des détenus avec leur famille a été prolongée.
50. Le CNDH/MNP continuera à partager avec vous toute autre action qu'il mènera dans le cadre de la lutte contre le Covid-19.

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1. <https://www.cndh.org.ma/fr/actualites/covid-19-la-repartition-des-detenus-beneficiaires-de-la-grace-royale>

**Input submitted by CNDH/NPM  
of Morocco regarding the Draft General  
Comment of the SPT  
on Article 4 of OPCAT**

1. The National Human Rights Council/National Preventive Mechanism of Morocco extends its compliments to the Subcommittee on the Prevention of Torture (SPT) and is pleased to share with the SPT observations and perspectives regarding its understanding and practice with a view to contributing to the process of developing the General Comment on Article 4 (1) of OPCAT. The CNDH hopes that this input will provide additional information to the SPT and constitute a material for providing an exhaustive and meaningful interpretation of Article 4 (1) of OPCAT. This input is divided into two parts: one specific regarding replies to SPT questionnaire and another one general related to comments not specific to the Moroccan context.

#### A. Replies to SPT Questions

2. Concerning question 1 relating to practical, legal or theoretical difficulties faced by the CNDH/NPM in the implementation of Article 4, it should be specified that Article 13 of the founding law of the CNDH/NPM<sup>1</sup> does provide for the various places hosting persons deprived or likely to be deprived of their liberty, with a view to reinforcing their protection against torture and other cruel, inhuman or degrading treatment or punishment.
3. According to article 5 of the founding law, public authorities can invoke professional secrecy when it comes to national defense or public security or for serious and imminent reasons, and can oppose the investigations of the CNDH, and this shall be done by written decision. However, the same article made it clear that any obstacle or opposition to the missions of the CNDH, without considering the legislative and regulatory provisions in force, shall be subject of a CNDH report to be sent to the authorities concerned in order to take the necessary measures, and then inform the CNDH thereof. It also identifies the parties who may be behind these obstacles: an official, a civil servant or any other person in the service of the government.
4. Concerning question 2 on what guides the NPM's decisions to select places of deprivation of liberty to be visited, the CNDH/NPM adopted several criteria that it has implemented in its preventive visits, which started in April 2020. These criteria are set out in the CNDH/NPM Annual Report of 2020<sup>2</sup>:

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1. [http://www.sgg.gov.ma/Portals/0/lois/Loi\\_76.15\\_Fr.pdf?ver=2018-07-19-161236-017](http://www.sgg.gov.ma/Portals/0/lois/Loi_76.15_Fr.pdf?ver=2018-07-19-161236-017)

2. See para. 26, page 177 of the Annual Report of the CNDH/NPM available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_-\\_cov\\_19\\_-\\_5\\_mai\\_1\\_8.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_-_cov_19_-_5_mai_1_8.pdf)

- a. **The diversity of places of detention:** preventive and follow-up visits were conducted to prisons, police stations, stations of the *Gendarmerie Royale*, a child protection center for girls, an elderly center, places in tribunals where persons awaiting trial are kept;
  - b. **Geographic balance,** visits were conducted to regions located in various parts of Morocco: Casablanca, Settat, Tetouane, Tangier, Rabat, Dakhla and Laayoune.
  - c. **Vulnerable groups among persons deprived of their liberty,** especially those affected with Covid-19, the elderly, children, etc.
5. Such criteria allow the CNDH/NPM to have broad view on the situation of persons deprived of their liberty in various places of detention. It should be noted also that the CNDH Protection and Monitoring Department and protection services established within the CNDH regional human rights commissions shared information regarding their respective visits to places of detention falling under their mandate. The number of visits conducted by the CNDH in 2020 totaled 45 visits<sup>1</sup>.
6. **Concerning question 3,** 12 places have emerged in the course of the work of the CNDH/NPM, which we consider may fall within Article 4:
- a. Prison institutions, including central prisons, local prisons, prison farms;
  - b. Police stations;
  - c. Stations of the *Gendarmerie Royale*;
  - d. Child protection centers;
  - e. Child rehabilitation centers;
  - f. Elderly centers;
  - g. Hospitals specializing in the treatment of mental and psychological disorders;
  - h. Places reserved in certain public hospitals for the reception of detainees who require medical treatment;
  - i. Centers for keeping irregular migrants;
  - j. Jails in courts and tribunals;
  - k. Vehicles and other means of transporting detainees;
  - l. Customs service centers.

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1. See para. 19, page 31 of the Annual Report of the CNDH/NPM available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_-\\_cov\\_19\\_-\\_5\\_mai\\_1\\_8.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_-_cov_19_-_5_mai_1_8.pdf)

## B. General Comments on Places where Foreigners Are Kept

7. In addition to the three questions above posed by the SPT and to which the CNDH/NPM provided replies based on its practice and understanding, the following comments (from para. 8 to para. 16) are given on the places where migrants and refugees are kept and their management. These comments are general and not specific to the practice of the CNDH/NPM nor to the Moroccan context. They serve to help the SPT develop a broad interpretation of Article 4 (1) of OPCAT.
8. Differences in the interpretation of the concept of deprivation of liberty have arisen with regard to the context of the detention of migrants and refugees and the restrictions on movement which may be imposed on them, without being deemed as a form of detention or imprisonment as defined in OPCAT. It therefore appears that this divergence in interpretation be clarified in the forthcoming general comment.
9. The CNDH/NPM is of the view that the main challenge posed by the different forms of deprivation of liberty to which migrants and refugees may be exposed lies in the status of the centers where such groups are kept. In some countries, such centers have no legal status. Practice shows that these places can also be improvised, used de facto as a place of detention, on a temporary or long-term basis.
10. Therefore, these centers should be public and States should undertake to list all places where foreigners are kept and to systematically notify the NPMs and SPT as well as other concerned stakeholders, national and international, such as NHRIs, NGOs, UNHCR or IOM.
11. It should also be noted that one cannot presume the good faith of governments, which requires that NPMs should be given investigative powers that would allow them to visit places not reported / declared by the authorities. It can also be assumed that in some countries these places of detention may not be known to government authorities and therefore are not under their supervision, because migrants and refugees may be detained by non-state actors (organized criminal groups, armed groups, guerillas) that are involved in the smuggling and trafficking in persons.

12. OPCAT is considered to be a key complement to the international protection of the fundamental rights and freedoms of migrants and refugees. However, its effectiveness depends, among other things, on the articulation of its provisions and other international standards relating to the protection of refugees.
13. Therefore, NPMs and SPT should take into account the standards, conclusions and guidelines relating to the treatment of refugees and their international protection, including the relevant recommendations and principles developed by UNHCR and its Executive Committee regarding the detention of refugees and the restrictions imposed on their freedom of movement in the territories where they are located.
14. It is highly desirable that the NPMs and SPT adopt a broad interpretation of what is considered a deprivation of liberty and a place of detention. The broad interpretation of these concepts would ensure that the situations of deprivation of liberty specifically imposed on migrants, refugees and asylum seekers fall under the mandate of these mechanisms. A broad interpretation of these concepts should fall also within the primary objective of OPCAT, which is prevention against torture. This interpretation will also make it possible to adapt the application of OPCAT to the approaches adopted by States to manage migratory flows and respect the guarantees provided for migrants, refugees and asylum seekers in international law, thus reinforcing their protection against torture and other cruel, inhuman or degrading treatment or punishment.
15. The SPT and NPMs should not only assess the conditions of detention and the form of deprivation of liberty, but also assess the legality of detention under international human rights law and international refugee law and therefore call for reviewing the status of the place of detention.
16. NPMs and SPT should place the issue of deprivation of liberty and cruel inhuman and degrading treatment or punishment, particularly in the context of migration, at the center of their priorities. They should be given the resources and means that enable them to fulfill their mandates with complete independence and to carry out their work effectively in emergencies.





**Submission of the CNDH  
to the Consultations on Article 19  
of the Convention on the Rights  
of Persons with Disabilities (CRPD)**

1. Pursuant to Law 76.15 on the Reorganization of the National Human Rights Council (CNDH) of Morocco<sup>1</sup>, the CNDH was assigned the mandate of the National Mechanism for the Protection of the Rights of Persons with Disabilities, the National Mechanism for the Prevention of Torture and the National Redress Mechanism for Children Victims of the Violation of their Rights. The CNDH is member of the Working Group on the Rights of Persons with Disabilities of the Global Alliance of National Human Rights Institutions (GANHRI) and constantly interacts with international human rights mechanisms including the Committee on the Rights of Persons with Disabilities to which it submitted a shadow report in 2017<sup>2</sup>.
2. The CNDH is of the view that States should take instant measures to build societies characterized with justice, sustainability and resilience and where laws and mechanisms ensuring that no one is left behind, including persons with disabilities, are in force. This should be done following a participatory approach that involves all stakeholders, namely governments, parliaments, judiciary powers, NHRIs, national mechanisms for monitoring and information, CSOs and persons with disabilities.
3. Through activities of monitoring, promotion, reporting and consultations with various stakeholders and their representatives during the lockdown<sup>3</sup>, the CNDH stresses the need for several measures that ensures persons with disabilities enjoy their rights to living independently in the community, namely:
  - Enacting legislations preventing their segregation and separation from natural environment and adopting public policies likely to enshrine their capacity and protect their rights;
  - Ensuring that social protection system meet to the needs of persons with disabilities;
  - Associating CSOs, families and persons with disabilities themselves in the development of laws, policies and programs directly affecting them;
  - Raising awareness toward fighting inherited stereotypes about persons with disabilities that further consecrate their inability to live independently and being included in the community.

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1. <https://www.cndh.org.ma/ar/nsws-mrjy/lzhyr-lshryf-rqm-11817-btnfydh-lqnwn-rqm-7615-lmtlq-bd-tnzym-lmjls-lwtny-lhqwq-lnsn-22>

2. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCO%2fMAR%2f26853&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCO%2fMAR%2f26853&Lang=en)

3. <https://www.cndh.org.ma/ar/node/36995>

4. Concerning the transition from the segregation policy of persons with disabilities to their inclusion into the community and abstention from institutional care and in the absence of current practical alternatives, the CNDH suggests the following:
- Application by the State of the due diligence principle and the restoration of its role as caregiver for persons with disabilities, in strict compliance with the principles and provisions of the Convention on the Rights of Persons with Disabilities (CRPD);
  - Implementation of the principle of effective and efficient participation alongside stakeholders and their representatives and the development of consultation mechanisms on the abolition of institutional care;
  - Adoption of inclusive public policies accompanied by practical measures that ensure the enjoyment by persons with disabilities of their fundamental rights on the basis of equality and non-discrimination, in accordance with performance measurement indicators;
  - Advocacy for the adoption of such gradual transition in such a manner as to preserve the best interest of persons with disabilities, while developing guidelines for the gradual transition from segregation to inclusion to be subject to a timeframe and performance measurement indicators and measures that identify the temporary roles of institutional care centers, taking into account the type and degree of disability and steps toward achieving autonomy;
  - Advocacy by NHRIs with legislative institutions in order to adapt national legislations with relevant international instruments, in such a manner as to counter all discriminatory provisions in laws and ensuring that legal capacity is recognized for persons with mental and psychiatric disability as a first step toward achieving autonomy and effectiveness of rights;
  - Promotion of the role of NHRIs and mechanisms of monitoring the convention and the simplification of the redress procedures, in such a way as to allow access by persons with disabilities victims of violation of their rights to redress by resorting to justice;
  - Awareness-raising of the risks of segregating persons with disabilities and its impact on the family and the society.



**Contribution of the CNDH regarding  
the Review Process of the UN Human  
Rights Treaty Body System**

1. The National Human Rights Council of Morocco (CNDH), a constitutional independent and Paris-Principles-compliant institution<sup>1</sup>, welcomes the consultation with national human rights institutions (NHRIs) regarding the review process of the UN human rights treaty body system. It extends special appreciation to H.E. Omar Hilale, Permanent Representative of Morocco to the United Nations and H.E. Mr. Jürg Lauber, Permanent Representative of Switzerland to the United Nations, co-facilitators of this process, for adopting a participatory approach in these consultations. The CNDH also welcomes the adoption of the General Assembly resolution 68/268 of 9 April 2014, entitled, “Strengthening and enhancing the effective functioning of the human rights treaty body system”<sup>2</sup>.
2. The CNDH seizes this opportunity to commend the essential role played by human rights treaty bodies in the context of the COVID-19 pandemic. The recommendations, included in their guidance notes, advice, statements and press releases, have been used by the CNDH, among other things, as tools to monitor human rights during this period of crisis.
3. The CNDH would like to reiterate that A-Status NHRIs are a bridge between national and international human rights systems. Indeed, they can help treaty bodies to understand the human rights situation on the ground and contribute to the implementation and monitoring of international human rights standards at the national and local levels. Both parties play complementary roles in promoting and protecting human rights at country level. Therefore, the strengthening of NHRIs and treaty bodies is required, so that they can fully discharge their respective mandates.
4. The credibility and impartiality of treaty bodies is of great importance for the public and all stakeholders. Therefore, treaty bodies should allow only “A” status NHRIs to take part in their proceedings, given the key role they play as mechanisms that can contribute to implementing and monitoring treaty bodies’ recommendations.
5. This submission seeks to address the various issues outlined in the letter of the co-facilitators sent by the Office of the United Nations High Commissioner for Human Rights to all NHRIs in June 2020. The goal for the CNDH is to ensure

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1. The CNDH has been accredited with “A” status by the Global Alliance of NHRIs since 1999. A new enabling law of the CNDH was adopted in February 2018, entrusting it, mainly, with the mandate of three mechanisms: National Preventive Mechanism Against Torture, Child Redress Mechanism and Disability Rights Monitoring Mechanism.

2. [https://www.ohchr.org/Documents/HRBodies/TB/HRTD/A-RES-68-268\\_E.pdf](https://www.ohchr.org/Documents/HRBodies/TB/HRTD/A-RES-68-268_E.pdf)

a harmonized, coherent and aligned approach to the functioning of the treaty body system. The following views and recommendations are based on CNDH experience with treaty bodies drawn from joint events and/or participation in treaty bodies' sessions when Morocco's national reports are reviewed. The CNDH participated in all Morocco sessions of treaty bodies since the adoption of the constitution in 2011.

6. As good practice, the CNDH incorporated in its 2019 Annual Report<sup>1</sup> the relevant recommendations of the treaty bodies addressed to Morocco. These include, but not limited to, recommendations of the Committee against Torture, Human Rights Committee and Committee on Economic, Social and Cultural Rights. Independent NHRIs and treaty bodies should appropriate the recommendations of each other, which are in line with international human rights standards.
7. Overall, the treaty body system proves to be somehow efficient and effective. The resulting recommendations are made based on usually participatory processes and provide guidance to States to improve their human rights record in law and in practice. However, some of these recommendations are sometimes unmeasurable, inaccurate and inconsistent, which sometimes pose implementation challenges for States. Therefore, the CNDH suggests that recommendations be more focused, targeted and addressing the obligations enshrined exclusively in the treaty. Cross-referencing to the work of other treaty bodies should be encouraged to avoid redundancies.
8. General comments provide useful interpretative tools for all State stakeholders concerned with the implementation of treaty provisions. The CNDH uses them in its annual and thematic reports, advisory opinions and memorandums, when proposing recommendations related to policy and legal reforms. Consultations about the development of a given general comment should be enhanced, including by organizing online or physical joint events with NHRIs. The national field experience of NHRIs can inform such comments. For further appropriation of general comments, simplified tools explaining their content should be also made available in all UN languages. The development of new general comments is needed, especially with the regard to new emerging issues, such as internet rights, fake news, climate change, etc.
9. The CNDH has submitted parallel reports to all treaty bodies who have so far reviewed Morocco since the adoption of the constitution of 2011. It is noticed

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1. [https://www.cndh.org.ma/sites/default/files/rapport\\_annuel.pdf](https://www.cndh.org.ma/sites/default/files/rapport_annuel.pdf)



that no harmonized reporting approach has been adopted by all treaty bodies. Therefore, the reporting process should be streamlined, by the adoption of common rules and canvas addressing the format and content of parallel reports of NHRIs. This may include, in terms of content, the pressing issues in a country, on which the treaty body would like to see the perspective of NHRIs, based on their mandate as universally recognized. In terms of format, a limited number of pages of parallel reports of NHRIs is necessary. Capacity building programs should be organized for all stakeholders who contribute to reports, the goal being to improve the substantive quality of national reports and parallel/shadow reports.

10. Communication and coordination between the treaty body secretariat and NHRIs should be also improved, especially regarding the deadlines fixed for the submission of reports, whether for list of issues or concluding observations. Parallel reports should be made available at least in two UN working languages for better dissemination among treaty body members. Résumés of NHRIs' parallel reports should be provided by the treaty body secretariat or by the NHRI itself, as appropriate.
11. While being aware of the time constraints of the treaty body sessions, NHRIs should be provided with meaningful space and support to optimize their participation. For example, in the sidelines of the treaty body interactive dialogue with states, NHRIs should be given the opportunity to hold a meeting with the country rapporteur. To ensure the practicality of such meetings, they should be guided by a pre-established agenda. As a good practice, the CNDH had a bilateral meeting with the Morocco rapporteur of the Committee on the Rights of Persons with Disabilities. This meeting made it possible to provide the Committee with accurate and relevant information on the achievements and challenges facing disability rights in Morocco from the perspective of the CNDH.
12. Since the adoption of the United Nations General Assembly resolution 68/268, Morocco was examined by several treaty bodies, including the Committee on Economic, Social and Cultural Rights (2015), Human Rights Committee (2016) and Committee on the Rights of Persons with Disabilities (2017). In the three reviews, the simplified reporting procedure was not adopted, which created a reporting burden for the state and a reporting backlog, if we take into account the government's reporting to other human rights mechanisms, such as Universal Periodic Review (2017) and reports to special procedures. The CNDH recommended in its annual report of 2019 that the simplified reporting procedure be adopted by the government in the drafting of national reports, as

it is of paramount importance in ensuring predictability, by pre-identifying the issues of concern raised by treaty bodies and addressing the reporting backlog. Treaty bodies should conduct further awareness activities for State parties on the importance of the simplified reporting procedure.

13. Regarding the common core document, the CNDH proposes that it should be regularly updated, if need be or on annual basis for example. NHRIs should be consulted, as appropriate, especially when their enabling laws are amended, when they formulate policy or legal reforms or when they are entrusted with following the implementation of a given process or program. The CNDH provided in April 2020 its remarks on the most recent core document prepared by the government. Its remarks included, among other things, updates on its actions taken regarding the transitional process in Morocco. The core document should focus on the strategic key priorities of human rights and how the State addresses them.
14. Several NHRIs are mandated with a quasi-judicial mandate by handling and deciding upon complaints about human rights violations they receive from individuals or groups. Given this mandate, NHRIs should be consulted by treaty bodies regarding the cases they receive from various sources. The information provided by “A” status NHRIs may help treaty bodies to have a full picture on the allegations included in individual communications. The CNDH is invested with following up on the implementation of the recommendations of the Equity and Reconciliation Commission, Morocco’s truth committee established to look into past gross human rights violations from 1956 to 1999. It can be consulted, for example, on cases of past enforced disappearances.
15. During the dialogue between the government and treaty bodies, it was noticed that sometimes the sessions are not used in an efficient and effective manner. More particularly, there was a redundancy of questions posed to the government. Therefore, it is recommended that treaty body members be allocated with the themes of the treaty and each member addresses issues falling under its portfolio.
16. The parliaments, like NHRIs, should be given speaking rights at the sessions of treaty bodies to inform the debate and dialogue. Members of the parliament should be part of the official delegation. The engagement of the parliament is very important, relevant and meaningful, especially in the follow-up to the review. A good number of recommendations is linked to legal reforms and the parliament is the source of legislation in many countries.

17. Treaty bodies should enhance the visibility of recommendations and conclusions at the follow-up phase, including by organizing advocacy and capacity-building activities on implementation for various national stakeholders. The follow-up activities should provide a roadmap on the implementation of concluding observations and recommendations. A mid-term assessment of the implementation with the support of treaty bodies is recommended. To this effect, States should be required by all treaty bodies to submit mid-term reports on implementation.
18. In terms of accessibility, NHRIs, who are unable to participate in session in Geneva or New York, may be given a chance to participate virtually through online platforms. This tool is likely to further increase accessibility to sessions and ensure broader participation. Also, NHRIs should be given the opportunity to engage as participants or panelists in the meeting of treaty bodies' Chairpersons, including through IT tools. This would allow them to reflect their views and perspectives on an enhanced cooperation and interaction with treaty bodies. Given the importance of debate during the sessions, translation and interpreting should be ensured at least in the languages spoken in the reviewed country.
19. Increased funding is needed for the efficient functioning of treaty bodies, especially in light of increased ratification and reporting. Parts of the funds provided by States as voluntary contributions to the UN should be allocated to the functioning of treaty bodies and appear as such in the budget of the Office of the United Nations High Commissioner for Human Rights. These funds should be used, inter alia, to recruit additional staff for treaty bodies.
20. National candidates to the positions of members of treaty bodies should be selected on the basis of their competence, integrity, impartiality and independence. They should also reflect diversity and balance of gender, language, geographic regions, etc. in such a way as to represent pluralism, universality and reality of human rights on the ground.

**References by the United Nations  
Treaty Bodies to the CNDH**

## A. United Nations Human Rights Committee

In 2019, the Human Rights Committee issued top grades for five countries that implemented the selected recommendations, including the Kingdom of Morocco “that was rated ‘A’ for the adoption of the Law on the National Mechanism for the Prevention of Torture, designating the National Human Rights Council as the operative body”.<sup>1</sup>

To be noted that During the follow-up process, which is based on written submissions from the country, civil society organizations and national human rights institutions, the Committee assigns a rating from ‘A’, largely satisfactory, to ‘E’, contrary to or reflects rejection of the recommendation. Since 2014, 52 per cent of the follow-up actions taken by States were decided by the Committee to be largely or partially satisfactory (‘A’ and ‘B’ ratings).

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1. <https://www.ohchr.org/en/stories/2019/12/human-rights-committee-gives-top-grades-follow-five-countries#:~:text=In%202019%2C%20five%20countries%20topped,their%20action%20on%20priority%20recommendations.>







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