



LOCAL & REGIONAL ELECTIONS

SEPTEMBER 4th, 2015

Preliminary Report



المجلس الوطني لحقوق الإنسان
Conseil national des droits de l'Homme

www.cndh.ma

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INTRODUCTION

Pursuant to its founding law (Dahir # 1.11.19, dated 1 March 2011) and to the provisions of Law # 30-11 on the terms and conditions of impartial and independent election observation, dated 29 September 2011 (under which a special commission, chaired by CNDH, is set up to give accreditation to election observers), the National Human Rights Council (CNDH) hereby presents its preliminary conclusions on the overall election process. A final report will be released after the elections of the Chamber of Councillors, due on October 2, 2015¹;

Fulfilling its mandate, under its founding law and the impartial and independent election observation law, CNDH observed the local and regional elections campaigns, from August 22 to September 3, 2015, as well as the Election Day, Friday, September 4th 2015. To this end, CNDH deployed 474 observers to cover the entire national territory. The teams filled in more than 7500 observation forms, collected and stored in a national database, and analyzed by a team at the central level.

Chaired by the CNDH and composed of representatives of four ministerial departments, the Inter-ministerial Department for Human Rights (*Délégation Interministérielle aux droits de l'Homme*), the Central Authority for the Prevention of Corruption and five associations, the Special Commission for the Accreditation of Election Observers held 6 meetings and accredited, in addition to CNDH, 34 Moroccan associations (3425 observers) and six international organizations (76 observers). The CNDH also invited 49 other international observers, representatives of foreign diplomatic missions, intergovernmental organizations and national human rights institutions (in Bahrain, Jordan, Qatar, Palestine, Tunisia) to observe the elections. 4024 observers were mobilized in total.

Thanks to the efforts of accredited bodies, all combined, nearly 22.000 polling stations, out of 39.320, were observed. It is almost 56% of the polling stations², which greatly exceeds the threshold recommended by international observation standards, i.e. 3%.

The CNDH held six training sessions to directly train more than 1.200 observers. It also held sessions to train trainers, who themselves led regional training seminars to train local civil society actors mobilized for the election observation.

The Accreditation Commission withdrew accreditations from 27 observers: 18 upon their request as they chose to run for elections and 9 because they failed to comply with the terms and conditions of impartiality. The very low number of accreditation withdrawals testifies to the strong commitment of the CNDH and the other accredited associations and organizations' observers.

PRELIMINARY OBSERVATIONS AND CONCLUSIONS

Up to the publication of this report (Sunday, September 6th), the CNDH teams have preliminarily processed:

- 2272 observation forms related to the local elections campaign;
- 2080 observation forms related to the regional elections campaigns;
- and 1405 forms related to the Election Day.

The CNDH thus reached the following preliminary conclusions.

1. The CNDH considers that the environment in which the local and regional elections of the 4th of September 2015 were held offered the essential guarantees for free, fair and transparent elections. The irregularities that were observed were statistically insignificant and did not taint the credibility and integrity of the poll.

Voting under the abovementioned conditions was an important step in the implementation of the constitutional provisions on the management of local communes and the adoption of the new 'organic' laws on regions, prefectures, provinces and communes, which implement the constitutional principles of free management, cooperation, solidarity and participation of inhabitants in the management of their affairs.

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2. The Council considers that the 53.67% turnout achieved in the 2015 local and regional elections is a real indication to citizens' interest in the management of public affairs at local and regional levels. This turnout should be interpreted in light of the extended national electorate³ and the democratic challenges facing local authorities. The CNDH notes, however, the disparities in participation rates across the regions and from one municipality to another. These are indeed challenges for political actors, civil society and the government. For the CNDH, these actors should all deepen reflection and multiply initiatives to promote the participation of citizens in elections, as provided for under Article 11 of the Constitution.

3. The CNDH welcomes the amendments to 'Organic' Law # 34.15 amending and completing Organic Law # 59.11, strengthening affirmative action mechanisms to help increase the representation of women in local assemblies. The increased number of women running for elections was the first positive impact that we observed. The CNDH calls on all political parties to encourage and push for the nomination of elected women to chair local and regional assemblies.

4. The CNDH also considers that the new legislations⁴ and regulations⁵ related to election signs and posters are a transition towards a freedom-based liberal system to display election signs and posters that stipulates where they shall be permitted and where they shall not. This choice, for the CNDH, is in compliance with the provisions of Articles 11 and 28 of the Constitution.

5. However, the CNDH notes that there is a structural problem related to the deadlines on which laws and regulations governing elections were produced. For example, 'Organic' Law # 34.15 amending and completing 'Organic' Law # 59.11 on the election of local assemblies was published in the Official Gazette 41 days before the Election Day⁶. The decree that determines the number of councilors to be elected in each commune, that have one or many districts, along with the new election signs decree were published 37 days before the polling date⁷. The CNDH welcomes the efforts made to improve legislations and regulations related to the local and regional elections, but it notes that to guarantee the stability of electoral law "the fundamental elements of electoral law, in particular the electoral system proper... and the drawing of constituency boundaries, should not be open to amendment less than one year before an election."⁸

6. The CNDH commends the technical and organizational efforts deployed by the Ministry of Interior in order to digitalize applications to register on the electoral rolls. It appreciates the fact that 70% of all applications submitted during the exceptional enrollment operation from July 8 to August 19, 2015 were submitted online. The final outcome of the exceptional operation was published on 25 August.

7. The CNDH notes however that this exceptional operation ended on August 25, 2015, which was actually the third day of the election campaign. The newly enrolled citizens were thus deprived from the opportunity to run for the local and regional elections. The CNDH also notes that it is necessary to increase the number of women enrolled in the general election rolls if we want the rolls to reflect the country's demographic reality⁹. Another challenge, the CNDH notes, is the readability of ballots and the accessibility of the voting process in general, given that 45% of citizens enrolled to vote are illiterate¹⁰.

8. The CNDH welcomes the positive measures and precautions taken by the Ministry of Interior, announced in a press release on August 21, against 352 local agents. These measures were meant to impose a strict respect for impartiality and non-discrimination between candidates, as provided for under Article 11 of the Constitution. Cases where the administration or other public entities' tools or equipment were used do not exceed 1.2% of all observed cases for local elections and 1% for regional elections. The same was observed in previous elections, including the use of cars, vehicles and equipment owned by local authorities.

9. These measures were complementary to the new legal framework for the organization, mission and status of religious employees¹¹, and the provisions of Article 39 of 'Organic' Law # 59.11 which prohibits any kind of election campaigns in places of worship. These new legal provisions explain the sharp decline in the use of these places for electoral campaign purposes.

10. The CNDH notes that the administration has made efforts to educate voters following the repeal of the old provisions of Article 14 of Organic Law 59.11 concerning notices

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indicating polling stations. The CNDH commends the quality of the electronic services that were made available for citizens (registration on the election rolls through a website (www.listeselectorales.ma), SMS services, 2727 free hotline, MonBV mobile app, etc.) as well as on-site assistance designed to help voters find the exact polling station where they should cast their ballots in.

The CNDH also notes that some newly registered voters could not easily find their polling stations. Other difficulties were related to the deadline of the exceptional registration campaign which ended on August 25, 2015. The CNDH observers met several people who were not able to find out why their registration applications were refused, despite all efforts made by the administration and the different tools designed to keep applicants informed about and track their applications. Similarly, and despite the awareness and advertisement campaign, many interviewed voters said they were not aware of the fact that they only needed their national identity cards to cast their ballots.

11. The CNDH commends the strict implementation of the legal provisions that stipulate that the national identity card is the only document needed to cast ballot and calls on the authorities to continue their efforts in this regard.

12. The CNDH monitored how authorities handled and responded to the complaints they received during the local and regional elections. For example, statistical analysis of complaints received during the local and regional election campaigns showed that 78.73% of complaints were handled, as a daily average rate.

13. The CNDH wishes to shed light on a few significant points that have marked these elections:

- The pedagogical effect of His Majesty the King's speech of August 20, which shed light in particular on the nature of the territorial electoral mandate and stressed the notion of accountability of elected officials and the responsibility of voters;
- The big number of totally new candidates. Indeed, the new candidates stood for 78.8% in local elections¹² and 64.3% in regional elections. Pending a more detailed analysis of these candidates, these statistics, for the CNDH, are an indication to citizens' strong wish to run for elected offices;
- The strategic impact of affirmative action mechanisms on women's access and participation. Indeed, women accounted for 21.94% of all candidates running for local elections¹³ and 38.64% for regional elections. The hypothesis of this structural impact will remain temporary and should be refined in light of a qualitative analysis of political parties' strategies in the Council's final report;
- The stronger participation of youth, as young people under 35 years accounted for 29.41% of all candidates running for the local elections and 26.89% for the regional elections;
- The participation of young actors from different social and political dynamics in the various election-related activities (running for elected offices, taking part in impartial and independent observation, working as electoral assistants, etc.).

These last two points further highlight the need to reflect on mechanisms to promote citizen participation of youth.

14. It is noteworthy to mention here three particular types of initiatives that can be a real indication to citizens' commitment and understanding of electoral issues and challenges, from a human rights-based approach perspective:

- Initiatives launched by several associations working in the field of democratic development to promote citizen participation in the elections, encouraging and calling for real and achievable program commitments by candidates during election campaigns;
- Initiatives launched by associations working for the protection and promotion of prisoners' human rights, calling for the rights of this group to be taken into account in candidates' election programs and in future regional public policies;
- The strong advocacy of disability rights associations for a universal access and full participation of persons with disabilities in the elections.

15. Regarding electoral communication, the CNDH notes the massive use of new information and communication technologies, including social media. This is in fact a turning point in electoral communication in Morocco. The Council believes that these new forms of communication really deserve an ethical and legal reflection on their use.

16. The CNDH preliminary findings affirm the overall decline in physical violence. For local elections, about 194 cases of violence were reported by the CNDH observers; physical violence accounted for 30% in local elections and 29.5% in the regional elections. The statistics show, however, an alarming prevalence of verbal abuse in its various forms (defamatory, libelous and discriminatory remarks on grounds of sex, color, social and regional origins or beliefs). Preliminary analysis shows that many campaigners are involved, mainly election campaign assistants. In this context, the CNDH notes with concern the involvement of some party leaders in this alarming increase in cases of verbal abuse, especially when they deliver remarks in meetings and supporters' gatherings.

17. The CNDH notes a gradual adaptation of the different actors with the new regulations regarding election signs and posters. Cases of displaying signs and posters in places prohibited by virtue of Decree #2.15.578, dated 24 July 2015 and cases of non-compliance with the regulations on the size of signs or posters are actually statistically insignificant.

18. The CNDH also notes the use of the Amazigh language in 62% of the observed election posters. The Council believes that the use of the Amazigh language in electoral communication must be considered when developing the organic law expected to implement the officialization of the Amazigh language in accordance with Article 5 of the Constitution.

19. The CNDH observers reported a few limited cases where activities of actors calling for boycott were prohibited. It is noteworthy to mention in this regard that the CNDH

already recommended applying the provisions of the code of civil liberties and public gatherings to activities calling for non-participation, and sent a correspondence to the competent authorities in this respect. According to the responses the CNDH received from the Ministry of Justice and Freedoms, the Ministry of Interior and the General Directorate of National Security, it can be concluded that the authorities in charge of the administration of elections share the same position as the CNDH in this regard.

20. The exploitation of children in election campaigns is one of the main observations frequently reported by the CNDH observers. From the analysis of the parts that deal with the exploitation of children in the observation form, it appears that children had “a special place” in election campaigns. They distributed leaflets, helped display signs and posters, and participated in organizing committees of meetings and election rallies. The CNDH observers also reported that children were heavily involved in pulling posters and sometimes even in cases of verbal abuse. The CNDH recalls in this context its earlier recommendations calling for the prohibition of all forms of children exploitation in election campaigns. It recommends considering this act as an electoral offense.

21. The CNDH notes that the elections were held in general under normal conditions, except for some very limited cases. It should be noted however that the CNDH observers reported issues and difficulties related to the readability of the ballots, in 21% of the polling stations they observed. These difficulties mainly concern how to distinguish local from regional lists and ticking the right boxes, bearing in mind, particularly, that 45% of all voters are illiterate.

22. Another important issue is related to accessibility. Accessibility of persons with disabilities is in fact a structural issue that has been reported in successive election observation reports, by the CNDH and the former Advisory Council on Human Rights (CCDH). Preliminary analysis of poll observation forms showed that 53% of observed polling stations were not equipped with ramps for wheelchair users, for example. Many polling stations were on the first floor. The CNDH reiterates its previous recommendations on the subject and considers that this issue should be a priority for the government and the competent authorities and should be resolved before any future elections.

23. Preliminary statistics related to the vote of Moroccans living abroad by proxy confirmed the same conclusions as the observation of the last parliamentary elections. Voting by proxy was reported in 17 cases, according to a preliminary analysis of 1405 observation forms related to the poll.

24. The CNDH also notes the significant evolution of the impartial and independent election observation in Morocco; the number of local elections observers, for example, moved from 735 (including 13 international observers) in 2009 to 4024 (including 125 international observers) in 2015. The number of accredited bodies moved from 11 in 2009 to 35 in 2015. The national community of observers gained experience and diversity, over

the different successive elections. National observers now have a strong experience in the field. The same also applies to observation approaches, methods and tools. Moroccan observers can now lead general observation missions and also thematic missions (gender, disability rights, political rights of young people, etc.) as well as large-scale national or territorial observation missions. One of the strengths of this community is its constant renewal and its ability to open up to new issues such as the observation of election campaign finances. The CNDH considers that it is time to recognize the national expertise in election observation, value the experiences of Moroccan observers and promote it internationally.

RECOMMENDATIONS

Considering that the local and regional elections subject to this preliminary report are a milestone in the democratic consolidation process and crucial for the implementation of the constitutional provisions related to territorial organization and participatory democracy;

A. The CNDH recalls:

- the recommendations of the (former) Advisory Council on Human Rights' election observation reports of the 2007 legislative elections and the 2009 local elections;
- the recommendations of the CNDH's observation reports of the 2011 constitutional referendum and the 2011 parliamentary elections;
- The CNDH's 45 recommendations for more inclusive elections (memorandum);
- All CNDH's recommendations on some key aspects of the electoral legislation and regulations that have not been subject to review, including its recommendations for a universal accessibility of persons with disabilities, expanding the national electorate, reforming the legal framework of impartial and independent election observation, as well as its recommendations to take necessary measures to promote political representation of women and youth.

B. The CNDH particularly recommends:

To parliament and the government:

- Guarantying the stability of electoral law and adopting laws regulating the fundamental elements of electoral law, particularly the electoral system proper and the drawing of constituency boundaries, at least six months before an election;
- Providing in article 129 of 'Organic' Law # 59.11, related to the election of the members of the local assemblies, for a provision that would limit the representation gap (the number of residents for one elected office) between constituencies to 15% in single-round uninominal ballot municipalities, except for communes located in mountainous areas and in remote areas that are difficult to access or have low population density, which may benefit from a geographical affirmative action;

- Providing for alternatives to guarantee the vote of Moroccans living abroad (electronic voting, postal voting);
- Considering as electoral offences the exploitation of children in election campaigns and any discriminations on the grounds of sex, color, creed, culture, social or regional origin, language, disability or any personal circumstances whatsoever;
- Providing in election laws for the obligation to open, by the head of each electoral list, in municipalities concerned with the election list system (*scrutin de liste*) and other local communes, (to open) a separate bank account for the expenses of the election campaign and to appoint a financial agent for the financial management of the election campaign;
- Providing by law for fixed-term contracts for election campaign assistants;
- Strengthening the protection of personal data in all electoral operations by implementing the guidelines of Resolution # 108-2015, dated 14 Sep 2015, of the National Commission for the Protection of Personal Data, on the use of personal data by political parties, their unions or their alliances, professional and trade union organizations, elected officials and candidates for elected offices, for political communication purposes.

To the government:

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- Providing for temporary offices in prisons to enroll inmates who are not subject to any legal incapacity to vote on the electoral rolls;
 - Providing for assistance and appropriate communication to make enrollment easier for persons with disabilities and providing for special enrollment deadlines for voters residing in mountainous areas and remote areas that are difficult to access;
 - Addressing a circular, by the Ministry of Interior, to local authorities, in each and every electoral process, instructing the implementation of the provisions of Dahir # 1-58-377, dated November 15, 1958, (on public gatherings) on rallies calling for non-participation in elections;
 - Scheduling exceptional operations deadlines, to register on the electoral rolls, that would still allow newly enrolled citizens to run for elections;
 - Making sure all election audiovisual services, broadcasted by public broadcasters, are translated to sign language;
 - Keeping using the National Identity Card as the only ID document needed to vote;
 - Improving readability and traceability of ballots (serial number, method and system enabling blind or partially sighted people to recognize and read the ballots...);
 - Providing separate ballot boxes when several kinds of elections are held on the same election day.

The CNDH expresses sincere thanks and appreciation to:

- all national and international associations, organizations and institutions which participated in the observation of the local and regional elections, to its observers and to its board members and staff, who spared neither time nor effort in this process;

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- the members of the Special Commission for the Accreditation of Election Observers who assiduously attended the meetings of the Commission, which led to the organization of an effective and rigorous observation operation;
- the Ministry of Interior and all territorial administration officials and agents, who provided the Council with the list of polling stations, data and information on the electorate, candidates and the election campaigns and facilitated the work of the Presidents of CNDH's regional commissions at the local level and the work of the regional coordinators of CNDH observers. An ad-hoc mechanism was set up on the election day at the central and local level to immediately solve any problems reported by the observers (CNDH observers and the accredited associations and organizations);
- the Ministry of Justice and Freedoms which provided us with statistics on complaints and appeals regarding the registration on the election rolls, candidates and election campaigns.

Notes:

- 1.** The final report will also address professional elections held in May and June 2015 and the elections of professional chambers held on 7 August
- 2.** This estimate was calculated on the assumption that each observer observes five polling stations
- 3.** The electorate increased by 2138439. It moved from 13360219 enrolled persons in the 2009 local elections to 15498658 in the 2015 local elections of September. The number of voters also increased, moving from 7005050 to 8318129
- 4.** Amendments to Article I of 'Organic' Law # 34.15 and to articles 35, 36, and 43 of 'Organic' Law # 59.11
- 5.** Decree # 22-15-78 determining where electoral signs and posters, related to the elections of local and regional assemblies, can be displayed
- 6.** Official Gazette # 6380 dated July 23, 2015
- 7.** Official Gazette # dated July 27, 2015
- 8.** Code of Good Practice in Electoral Matters (CDL-AD (2002) 23 rev Or. Fr., II.2.b)
- 9.** According to the Ministry of Interior
- 10.** According to the Ministry of Interior
- 11.** Article 7 of Dahir # 1.14.104 dated 20 May 2014 forbids religious employees to be involved in political or trade union activities
- 12.** The total number of applications to run for local elections is 130868 (94066 new applications) and 7577 for regional elections (4877 new applications)
- 13.** 28725 applications for local elections and 2928 for regional elections

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