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# Effectiveness of Rights and Freedoms Towards a New Social Contract

National Human Rights Council's Memorandum on  
the New Development Model

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## FOREWORD

This memorandum seeks to lay out the conception by the National Human Rights Council (CNDH in short) of a development-oriented strategy inclusive of human rights. Although driven by the nationwide debate over the new development model, this memorandum is premised on rationale and underpinnings derived from CNDH's action strategy revolving around effective rights and freedoms as was adopted by its General Assembly in September 2019.

As evidenced by the methodology adopted to elaborate this memorandum and the contents and recommendations derived therefrom, the National Human Rights Council goes by a comprehensive approach to effective rights and freedoms. Far from legalistic demerit, the intended effectiveness puts a premium, over and beyond on the legal dimension, on the economic, social, and political background, while factoring in culture, values and sustainability. The memorandum shows that the adoption of these intertwined and complex factors, considering them a human rights-development nexus, is the key to ensuring the right to development as the ultimate goal of such effectiveness of rights strategy.

On the other hand, the memorandum teases out the strategy's twin goal as a set of practical options, for bridging territorial and social inequalities with a view to enhancing rights-related dimensions in the sought-after new social contract whereof the new development model is an embodiment.

In this regard, CNDH advocates infusing a fresh breath of life into the socially active State, underpinned by the concept of a welfare State, which strikes a balance between the regulation and arbitration mandate on the one hand, and the interventionist capacity of a socially-driven State, on the other. The overwhelmingly challenging task would be to overhaul the government support policy intended for vulnerable people by way of shielding them from nonconventional threats which countries worldwide are facing more than ever before, as exemplified by the Covid-19 pandemic.

To this effect, the National Human Rights Council comes forth as a strong proponent of a holistic approach whereby government support may shift from a medium for righting after-the-fact distribution shortcomings into an anticipatory public policy for ending poverty, serving by the same token as a main pillar in the national social protection setup. Thus, Morocco will be able to meet its international commitments relevant to sustainable development goals (SDGs), not least goals 1 and 17, which refer respectively to poverty alleviation through social protection for the poorest, and to authorities' responsibility in devising a policy conducive to sustainable development and poverty eradication.

What's more, the social protection project sets out to create upward social mobility and to bridge the gender gap, thereby permitting our country to make inroads towards attaining sustainable development goal 10, namely phasing out inequalities.





## **I - RATIONALE**

1. Pursuant to Act 76.15 on reorganization of the National Human Rights Council, in particular article 2 thereof, which provides that the Council shall consider all issues related to advocacy and protection of human rights and freedoms and ensure their full exercise and promotion along with protection of dignity, rights, freedoms and liberties of citizens, men and women alike, without prejudice of the relevant national and universal standards and instruments. The Council also contributes to strengthening the system of human rights which it endeavors to protect, promote and develop, taking into account the universal nature and indivisibility thereof;

2. the Council's strategy is grounded on effectiveness of rights. It was endorsed in the first session of its General Assembly on September 21, 2019, whereby the Council seeks to be an effective and accessible remedy-oriented mechanism and a forum for discussing and addressing pressing human rights issues. Besides, it is intended to serve as a framework for crafting preventive measures founded on mediation and proactive action to prevent human rights abuses;

3. CNDH puts forth proposals and concepts to keep pace with such reforms as our country has been pursuing. It is to mention that the CNDH is an independent and impartial national institution that is subject to Paris Principles governing organization of national human rights bodies. In this regard, The Council discharges its constitutional and legal duties to promote, uphold and protect human rights;

4. Mindful of decisions made during the Council's meetings, on November 26 and December 21, 2019, with a bearing on the meetings of human rights regional commissions over "The Effectiveness of Rights and Freedoms".

5. Considering proposals by the Standing Committee mandated to monitor and evaluate effectiveness of rights in public policies and harmonization of law, during its meeting held on January 24, 2020;

6. Heedful of the decision made by the Council's Board meeting on January 27, 2020;

7. Considering endorsement of the draft memorandum by the Council's General Assembly upon consideration, discussion and amendment during the session held from 6 to 8 March 2020;

8. Following an invitation from and later meeting with the Ad Hoc Committee for the New Development Model on January 29, 2020;

9. CNDH therefore has come up with the present memorandum intended for the Ad Hoc Committee for the New Development Model and for national public opinion.

## II- MEMORANDUM REFERENCE FRAMEWORK

### I) Memorandum-specific Methodology

For the purpose of drafting the present memorandum, CNDH has worked along the lines of a participatory and inclusive approach implying consultations with stakeholders, researchers, experts and human rights activists from different positions and territories. The Council's Bodies have held a score of meetings locally, regionally, and nationally with a view to elaborating, from the perspective of the effectiveness of rights and freedoms, a proposal of the would-be development model, and thereby contribute to establishing a new social rights-centered pact.

This memorandum is the culmination of a long process the most salient milestones of which are the following:

- CNDH adopted a Strategic Plan over 2019-2021, on the strength of its General Assembly's first session on September 19, 2019, with a premium on "effectiveness of rights and freedoms";
- The Council discussed and approved its action plan on October 29, 2019;
- It had held, from 24 October to 25 November 2019, 12 regional meetings, as per a bottom-up approach, to discuss challenges inherent in supporting effectiveness of rights, and had ultimately put forth solutions provided by civil and institutional stakeholders from every region;
- It compiled regional meetings' reports whereof it underscored the chief findings and recommendations;
- It sought assistance from national experts and researchers in order to tackle in-depth certain issues that went unaddressed regionally, as they happen to take on a national dimension, thus going beyond regional specificity;
- It elaborated the draft memorandum and submitted it to the General Assembly for consideration, amendment and approval;
- It ultimately drafted the final memorandum.

### 2) References

This memorandum is grounded on a set of best practices resulting from international experience in building human rights-based development strategies. Thus, in furtherance of the effectiveness of rights and freedoms, it goes by a score of fundamentals underlying

such national and international instruments as:

■ Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Moroccan Constitution, not least Articles 19 to 40 thereof; United Nations Sustainable Development Goals by 2030 (SDGs); United Nations Declaration on The right to development; Global Gender Gap Report 2018; the World Charter for the Right to the City; Draft Declaration on the Right to International Solidarity 2017; UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War in 1978; Rio De Janeiro Declaration on Environment and Development in 1992; Vienna Declaration in 1993, Copenhagen Declaration on Social Development; Final Report by the Equity and Reconciliation Commission; the National Plan on Democracy and Human Rights; " the Right to Development in Morocco : the International Covenant on Economic, Social and Cultural Rights versus the Millennium Development Goals" (a study commissioned by the Advisory Council for Human Rights in conjunction with United Nations Development Program in 2000); CNDH's Annual 2019 report; and many more thematic reports which CNDH released, most of the early 2020 report on Al-Hoceima protests.

### **III- MEMORANDUM CONCEPTUAL SETTING**

1. The present memorandum wittingly retains the term "effectiveness of rights", mindful of the other terms commonly used in literature on law and political sciences, which happen to have overlapping meanings (validity, efficiency, guarantee, implementation, realization). Thus, around "Effectiveness" revolve all other related terms. In other words, implicit in "effectiveness" are most meanings of the latter including "enforcement." Therefore, sizing up effectiveness of rights reverts back to knowing whether such rights are enforced or not in the first place.

2. This memorandum maintains that the effectiveness of rights is always relative and incomplete. Nonetheless, this should not be misconstrued as a blank check warranting irregularities, shortcomings and malfeasance on the part of public institutions and decision-makers. In this regard, relativity solely means that, while measurable through accurate and crystal-clear indicators, effectiveness of rights and freedoms, to take hold irreversibly, requires ongoing diligent endeavors to overcome obstacles in the way of optimal enforcement of laws, and thereby secure unhindered and full enjoyment by individuals and communities of their rights and freedoms.

3. Addressing effectiveness of rights and freedoms should not be restricted to questioning laws and assessing their ability to make a difference and facilitate citizens' access to basic human rights. Although regulations and institutions are the primary focus in this respect, extra-legal factors are no less important from when it comes to sorting out issues related to the effectiveness of rights and freedoms, mostly socio-economic factors inherent in wealth creation and distribution.

4. Taking on successfully the challenge of effectively promoting rights and freedoms cannot be limited to enforcing laws, as the sought-after legislative effects of human rights imply bringing about a better life for people, not only economically and socially but also politically and culturally. Accordingly, this memorandum draws inspiration from Chapter 8 of the Vienna Declaration, which provides that "democracy, development, and respect for human rights and fundamental freedoms are interrelated and mutually reinforcing." As a result, handling the daunting undertaking of enforcing rights and freedoms should be along the lines of such an inclusive approach as embraced in Morocco.

5. This memorandum features CNDH's perspective whereby effectiveness of rights and freedoms is an unavoidable prerequisite to ensure the right to development<sup>1</sup> as one of the cornerstones of national strategic choices. As the memorandum goes, CNDH has defined four major areas in which human rights and freedoms and development are intertwined into a building block for a would-be development model. These are the significance of effectiveness of rights and freedoms, rearranging priorities to enhance basic rights, adopting a new rights-based development approach and the need for the State to play a more dynamic part in promoting effectiveness of rights and freedoms in the post-Covid19 pandemic era. For practical purposes, the memorandum is methodology-bound to tail each one of these areas with a set of observations. These help pave the way for the ensuing recommendations, as they are closely related to a painstaking diagnosis which the Council conducted as per the aforementioned process.

Assessing Effectiveness of Human Rights in Morocco:

### **1) Impediments to Enforcing Laws into Effective Guarantees for Protecting Rights and Freedoms**

6. Although legislative institutions have so far made major strides forward, both quantitatively and qualitatively, efforts to translate laws into mechanisms for effectively protecting rights and freedoms still fall short of expectations in this connection. As far as economic and social rights are concerned, the course of economic action that the State has followed

<sup>1</sup> The Council's perception of the right to development is based on the Declaration on the Right to Development, which was adopted and made public by United Nations General Assembly Resolution 41/128 of 4 December 1986.

since independence has failed to turn economic growth into fair and inclusive social development.

7. The Council underscores a growing gap between wealth growth rate and unequal distribution thereof (although the growth rate did not exceed 1.7% on average over 1960-2005 period).<sup>2</sup> All things considered, the current economic model's distribution policy proves no longer able to address inequalities across regions among people from different walks of life, as was confirmed on several occasions by the King (most notably in His Opening Speech before Parliament in 2017).

## **2) Unequal Access to Rights, a Recipe for Social Unrest**

8. In this regard, the Council maintains that current development policies fall short of bridging the gap of regional and social inequalities (ex. urban versus rural areas, central versus suburban districts within urban areas). It also points to a shrinking middle class and dwindling indicators of access to basic human rights for large swaths of the population.

Such inequalities' common denominator is that they have been the main reason behind social unrest in Morocco over the last two decades.

9. Redressing such disparities requires reconsidering the current socio-economic direction so as to turn development into a means for perpetuating effectiveness of human rights in Morocco, thereby helping reduce inequalities that fuel social tensions in Morocco.

## **3) Poorly Rights-fed Development Policies.**

10. Countless arguments help shine a flood of light on this state of affairs, whereof the most salient ones are listed hereinafter:

- The State's overall direction and the public policies stemming therefrom are financially constrained by overpowering macroeconomic considerations. Besides, most social public policies lack long-run strategic planning.
- There is a plethora of stakeholders, programs and policies concerned with development, but little is done to have them serve the same purpose or converge towards a common goal. Likewise, evaluating public policies is no common practice, which makes it hard to measure their outcomes. As they are developed based on needs rather than rights they mostly fail to effectively address inequalities of all sorts.

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<sup>2</sup> For more details, please review the report of the High Commission for Planning on the topic: Growth and Human Development, Elements for Strategic Planning 2007/2015.

#### **4) Democracy, Citizenship and Civic Conduct : Receding Values**

11. Several phenomena and practices, in CNDH's estimation, linger on and adversely affect democracy and human rights, as evidenced by the following:

- Skeptics still cast doubt on human rights, freedoms and democracy, calling into question the State's irreversible course of action.
- Human rights are little mainstreamed into educational institutions, much less in curricula, the media and the public sphere as a whole.
- Citizenship and civic conduct fail to take hold, while violence instances are alarmingly growing and so are the enormities scornful of the law and of the sense of duty underlying any given right.

#### **5) Sustainability: an Overarching Concern**

12. This memorandum is premised on a correlation between ongoing environment deterioration, poverty aggravation and increasingly uneven access to basic human rights. Such onerous ecosystem degradation is ascribable to little or no streamlined management of expenditure and depletable resources<sup>3</sup> (destruction of farmlands on behalf of economically profitable building projects, adverse impact from building dams and roads on vital ecosystems, air pollution, overhunting and overfishing, etc.). Therefore, using resources sustainably imperatively requires resetting priorities for our country's strategic development-oriented undertakings along the lines of sustainability as a guiding principle cutting across public policies.

13. As environment-related threats are oblivious to borders, we are duty-bound to address them through cooperation mechanisms and joint actions, both regional and international in scope. In this regard, one may maintain that U.N Sustainable Development Goals, endorsed in 2015, and national legal and institutional mechanisms, set up accordingly, make up the congenial setting for dealing with such threats and mitigating their negative impact on effective access to basic human rights.

### **IV- UNDERPINNINGS OF EFFECTIVE RIGHTS AND FREEDOMS**

#### **1) Effective Rights : a Prerequisite for Citizenship**

14. Any rights-based approach to development must be founded on a deep awareness that tensions affecting, from time to time, the society-State nexus are essentially due to profound changes of mindsets and thinking patterns within Moroccan society over

<sup>3</sup> The cost of environment degradation in Morocco is estimated at more than 3.3% of GDP in 2014. Net domestic product. 13.

the past few decades. In actual fact, Moroccan society has so far experienced profound sociological transformations which are ascribable to a multitude of enablers, foremost among which are a widespread use of communication technologies and social media, a significant demographic shift, and runaway urbanization over and beyond the country's opening up to the broader world. These have accordingly induced more self-awareness in Moroccans, and resulted in ever-accelerating alterations to the set of values underpinning the individual-society nexus, not least the individual-State relation.

15. As a result of these transformations, a rights-endowed being emerged into existence before the State. Thus, the growing inclination to be critical of the State and authority, and the popular use of protests through conventional and novel means, are the corollary of the nascent sense of citizenship in Morocco.

16. Consequently, it is henceforth necessary to approach effectiveness of rights as a requisite to managing an up-and-coming social contract bonding together citizens and the State. Undoubtedly, pursuing a fully-fledged contract-based bond, insofar as it ascertains more effective rights and freedoms, will help regenerate the tangible and intangible building blocks of the Moroccan model. Conversely, decreasingly effective rights and freedoms would be a serious threat not only to the said model but also to Morocco's stability and social cohesion as a whole.

## **2) A Proactive Approach to Protecting and Promoting Rights and Freedoms**

17. In light of the foregoing, it turns out that human rights are significantly less effective than needed in Morocco, as a result of the predominant needs-based approach to development matters, heedless of how intertwined development is with rights and freedoms. Such a lopsided line of attack is no longer relevant when it comes to accessing basic human rights, not least economic and social rights. Therefore, solutions and mechanisms for solidifying effectiveness of rights and freedoms call for discarding curative and wait-and-see approaches, still widely used by most stakeholders, and embracing instead a proactive modus operandi grounded on scientific planning and able to prevent problems. After all, no more unwillingness or delay in granting citizens access to such basic human rights as education and health care is tolerable.

18. Although government institutions' and public authorities' way of meeting citizens' expectation is steadily on the mend, it still remains overwhelmingly influenced by curative and wait-and-see patterns. Therefore, buttressing effectiveness of basic human rights requires breaking away from the latter while embracing a proactive approach to preemptively protecting rights.

### 3) Human Rights and Development, Intertwined Indeed

19. In actual fact, contemplating ways and means to prop up effectiveness of human rights necessarily implies taking cognizance of how interlaced human rights and development are, hence the need to forego the antiquated approach to either. For so doing, one must steer clear of any reductionist economic direction, thereby bringing into play non-economic development factors, not least human rights. Likewise, these ought to shake off the overwhelmingly normative conception so as to fulfill their quintessential role in any development-oriented endeavor; be it wealth generation or redistribution.

20. To this effect, it is advisable to embrace a national development-oriented rights-based approach, receptive to international success stories and mindful of the principles embedded in the UN Declaration on the Right to Development, and the expertise and knowledge from relevant UN funds and programs. Thus, the six basic principles mentioned in the UN Declaration may serve as foundational work for fostering effectiveness of rights in the sought-after development model to be in Morocco. One may safely state that the most significant of these principles acknowledges the pivotal role of human capital in both generating and benefiting from development. This principle is reckoned to be the bedrock underlying the other principles instrumental in building a development-oriented rights-based approach (ex. active participation of individuals and communities, equitable wealth distribution and non-discrimination.)<sup>4</sup>

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### 4) Convergence of Actors, Programs and Policies : an Uphill Task

21. As a matter of fact, Morocco's governance systems and political setup are characteristically so colorful and multi-faceted, as the policy-making process brings into play a score of actors and institutions. This state of affairs adversely affects development programs and policies, collaterally diminishes effectiveness of rights and freedoms, in general, and of such basic human rights as education, healthcare and access to justice, in particular.

22. Thus, promoting effectiveness of rights and freedoms calls for innovative ways and means to rise up to the challenging convergence of actors, programs and policies. That said, Whereupon, From this perspective, the present memorandum suggests coming to grips with convergence as a buttress for effective rights and freedoms, both vertically and horizontally.

<sup>4</sup> These six principles were mentioned in Article 2 of the aforementioned United Nations Declaration on the Right to Development. The full text of the Declaration can be found at the following link: [https://www.un.org/en/events/righttodevelopment/pdf/rtd\\_booklet\\_en.pdf](https://www.un.org/en/events/righttodevelopment/pdf/rtd_booklet_en.pdf)



## **V- VALUES UNDERLYING EFFECTIVENESS OF RIGHTS : A REQUISITE TO FORGING A NEW SOCIAL CONTRACT**

23. In light of the foregoing analysis, it turns out that addressing deficiencies standing in the way of improving the effectiveness of rights and freedoms requires enacting practical public policies with measurable effects. However, policies and procedures would be unable to bring about such sweeping in-depth change as to turn human rights into a means and end of any development-oriented course of action, unless they stopped being imposed from the top downwards. To serve their purpose, they may be instead grounded on a set values governing relations across the social the spectrum.

24. In other words, CNDH contends that low effectiveness of rights is mainly owing to alterations in the system of values in the Moroccan society. Hence, greater effectiveness requires revisiting the relationship between development choices and basic social values. To this effect, CNDH asserts that promoting effectiveness of rights in the sought-after development model entails embracing a set of values as diverse and multifaceted as is the development-human rights nexus. In this regard, the Council deems it worth recalling the utmost importance of four fundamental values, namely freedom, equality, justice, and solidarity.

### **1) Freedom**

25. Freedom is essential in every development action. It enhances all other human values which could be meaningless without it. In other words, justice, equality, solidarity, and other values turn into mere empty slogans if they are not practiced in a free society made up of free people. No longer an abstract subject falling within the exclusive purview of philosophers, freedom is henceforth the focus of scientific research on several issues pertaining to conditions for achieving development, including wealth generation and distribution. Unsurprisingly, modern-day economic theories tend to put a premium on a correlation between development and freedom.

26. Needless to recall that the constitutional reforms, which our country has experienced so far, have proceeded along those lines by introducing many freedoms and liberties into the constitution. However, the Council maintains that, on account of swift social change in our midst over the last few decades, more efforts than before are called for in terms of both strategic direction and public policies so as to bridge the gap between fact and theory, thereby making more tangible freedoms and liberties in citizens' daily life.

## Recommendations

- Promoting effectiveness of freedoms in Morocco demands fully grasping such multidimensional transformations as prodded by social media within our society, as they have provided unprecedented means for discussion, interaction, circulation and mobilization of individuals and communities, unbeknownst to traditional public institutions. Although this transformation stands for a real opportunity to secure democratic access to the public sphere, it also implies major challenges for protecting rights and freedoms, as evidenced by many cases brought to justice.
- Amid the gradually emerging freewill of individuals, and intent on meeting the challenge of protecting civil liberties, CNDH deems it necessary to register such transformations as affected both the structure and nature of the public domain, and favored the rise of new patterns of voicing publicly, as emerging types of liberties alongside the conventional ones falling to the traditional institutions that serve as mediators between the State and society. In the same vein, there's the pressing need to revisit the individual-society relationship.
- Supporting the gradual emergence of the individual into a rights-endowed entity vis-à-vis the State and society. To shield individuals from such abuse as they may experience while exercising their freedoms, legal and institutional means should be provided in accordance with the Moroccan constitution and the international standards on human rights, and in line with the present-day human rights paradigms.
- Rebuilding the bond between the individual and society in such a way as to solidify freedoms, consistent with profound sociological transformations and in keeping with Morocco's international commitments.
- Providing guarantees for promoting civil liberties so as to strike a fresh balance between the newly heightened awareness of groups and individuals and thereby meet their expectations (ex. freedom of speech, pluralism, the right to differ, tolerance.), and the need to uphold law and order, and protect the greater interest of the community.
- Contemplating the wherewithal whereby public media outlets may be enhanced into a fully-fledged public service conducive to greater access to information and engaging larger swaths of the population in the public debate through equal opportunity for all Moroccans to do so.

## 2) Equality

27. Equality among people stands for one of the most significant values underlying the concept of human rights. Just like dignity and freedom, it characteristically cuts across the spectrum of values, a de facto prerequisite for enjoying such rights and freedoms as enshrined in domestic legislation and international instruments. Nonetheless, effectiveness of the right to equality still poses many problems. As human rights protection schemes ascertain, incorporating equality into Constitutions and laws is not sufficient to prompt the intended effects on social relationships. Be it equality before the law or in accessing human rights, promoting effectiveness thereof entails vigilantly and painstakingly upgrading laws and fine-tuning public policies, let alone involving non-state actors.

28. Constitutional and institutional reforms, which Morocco embarked on over the last few decades, have tremendously moved forward with equality before the law. This is vividly evidenced by reforms of the judiciary and security systems, alongside others involving direct interaction between the public Administration and citizenry.

29. Although far-reaching efforts have been expended to domesticate international standards pertaining to equality and non-discrimination, gender equality is still far behind the curve, as exhibited by the Global Gender Gap Report in 2019. Out of 149 countries, Morocco ranked 137<sup>th</sup>. While the report commends Morocco for the progress made on the Participation and Economic Opportunity Index and the Academic Achievement Index, it also pinpoints egregious shortcomings on the Political Empowerment Index and the Health and Viability Index. Comparatively speaking, it's worth noting that Morocco ranked lower than Algeria (128<sup>th</sup>), Tunisia (119<sup>th</sup>), and Egypt (135<sup>th</sup>).

### Recommendations

- Leveraging human rights into an educational tool likely to reverse mindsets and stereotypes on women's roles in society. This requires training, raising awareness, disseminating information, sowing the seeds of best practices and organizing relevant activities. Thus, people will get to learn how to build a society respectful of basic human rights and freedoms.
- Working from within the school environment through citizenship and human rights clubs and other innovative pedagogical patterns and channels for the sake of fostering a sound culture grounded on equality and non-discrimination. Therefore, all will irreversibly learn to act responsibly in accordance with universal rights while dealing with their fellow beings regardless of who they are.
- following through enactment of such measures on women's rights as embedded in the National Action Plan for Democracy and Human Rights and implementing them in

regions. Foremost among those are steps on violence against woman, sexual harassment, and how to reverse stereotypes and discrimination against women in the media and curricula.

- Taking administrative and logistical action to promote Amazigh language in the educational system and Public Administration, and using it in all awareness-raising and news campaigns by public authorities and local communities.

### **3) Justice**

30. The diagnosis above demonstrates that social and territorial inequalities happen to give rise to social unrest as exemplified by a score of novel ways of voicing dissent and discontent which have emerged into use over the last few years. Hence the need for a more just social system. The value of justice cannot but be the main theme underlying the State's strategic courses of action which are reflected in public policies. Thus, it turns out to be instrumental in achieving equitable and all-encompassing development, with benefits trickling down to the underprivileged, destitute and outcast. Likewise, it naturally entails equal access to public facilities and services which ought to be readily available nationwide as per the constitution-grade equity principle.

31. Regarded as such, justice considers development from a qualitative rather than a quantitative perspective, insofar as it connotes bridging territorial and social inequalities. In other words, what matters the most is not the number of beneficiaries but their resulting economic and social condition. In actuality, the huge gap between the tremendous resources earmarked for social policies and the poor impact of the latter is owing chiefly to the lack of justice as described above.

#### **Recommendations**

For the sake of equitable development in our country, disparities and inequalities should be rooted out by charting a social and territorial course of action conducive to greater effectiveness of basic human rights. To this effect, the present memorandum recommends contemplating justice from a social and territorial perspective through the following steps:

- Bridging urban-rural disparities in accessing social and economic rights, most of all by physically de-isolating marginalized rural areas the population of which has generally little or no access to basic human rights, not least healthcare and education. Likewise, appropriate solutions ought to be devised for addressing in-city inequalities between city centers and suburbs that are no less vulnerable than some rural areas;

- Endorsing the right to the city defined as the equitable enjoyment of the cities consistent with the principles of sustainability, democracy, equality and social justice (Article 1 of the World Charter for the Right to the City). Cities should be places where all human rights and fundamental freedoms are fully realized and where the dignity and collective wellbeing of all persons is assured under conditions of equality, equitability and justice (Article 2);
- Any strategy bent on bringing about territorial justice ought to give pride of place to decentralized governance, in CNDH's estimation, as the current highly centralized governance pattern cannot but exacerbate discrimination and poverty, and fuel the sentiment of exclusion and marginalization among residents of remote areas;<sup>5</sup>
- Moving forward with the Advanced Regionalization Plan by way of essentially promoting territorial justice through relevant public policies and innovative mechanisms geared towards solidarity-driven equalization of wealth among regions;
- Making effectiveness of rights a goal for local development-oriented plans along the lines of a rights- and gender-based approach governing most local public actions in lockstep with government's national and sector-specific initiatives. This will help phase out territorially unequal access to economic, social and cultural rights.

#### **4) Solidarity**

32. Solidarity is reckoned to be the gold standard of fundamental values presumably implicit in all such grand strategic plans of our country's as are geared towards human rights-inclusive development. As such, it implies individuals' awareness of their common destiny, and consequently their urge to act cooperatively, synergistically and cohesively in the face of challenges and hardships.

33. Initially confined within the bounds of a single country, Covid-19 spiraled out of control and into a devastating pandemic of definitely global proportions almost in a flash. This alone obviously bears an unadulterated testimony to the common destiny of mankind, hence the need for ever-growing solidarity across communities and nations so as to come to terms with existential threats with which humanity may be confronted moving forward.

34. In point of fact, it is too early to predict the ramifications of the Covid-19 pandemic on international relations, and whether the world order thereafter would cause countries to retreat inwardly, shut themselves within their respective borders anew and reinstate protectionism. Yet, CNDH pleads the case for weaving solidarity into our country's strategic schemes and public policies across the spectrum of public action. Its argument is founded, beyond the aforementioned considerations, on the historical, cultural and civilizational

<sup>5</sup> "Local Rule: Decentralization and Human Rights", International Council on Human Rights Policy, 2002, accessible on: [https://papers.ssrn.com/sol3/papers.cfm?Abstract\\_id=1551231](https://papers.ssrn.com/sol3/papers.cfm?Abstract_id=1551231).

heritage of the Moroccan nation. It also accounts for the bleak prospect of uncertainty and instability within the immediate and outer vicinity of our country.

35. Contemplating the right to solidarity as a key component of the would-be development model stems from a score of international treaties and agreements to which Morocco is an active party. In this regard, both International Covenants for Civil and Political Rights and for Economic, Social and Cultural Rights, among others, put a particular emphasis on solidarity. What's more, additional instruments may be cited in furtherance of solidarity as part of the international community's to achieving sustainable development, namely the 1992 Rio de Janeiro Declaration on Environment and Development, the Copenhagen Declaration on Social Development, the Program of Action of the World Summit on Social Development and the 2030 Agenda for Sustainable Development.

### **Recommendations**

- Repudiating charitable interpretation of solidarity which needs to be translated into a full-fledged human right. It's noteworthy, in this regard, that the debate over solidarity in the global human rights arena has made significant inroads towards adopting solidarity as part and parcel of human rights. This is chiefly evidenced in the draft Declaration on the Right to International Solidarity, which was presented as an appendix to the report on 35th session of Human Rights Council in 2017;
- Instituting the right to solidarity requires capitalizing on the relevant aspects of the Moroccan cultural heritage. As a matter of fact, Morocco prides itself on longstanding time-honored conventions and traditions of mutual assistance and support, social cohesion and synergy, some of which resulted from defining moments and barely sufferable hardships throughout our nation's history. Overall, they stood the test of time and conclusively helped shape our national identity and self-awareness.

## **VI- REARRANGING PRIORITIES TO ENHANCE ACCESS TO BASIC HUMAN RIGHTS**

36. The Council cannot but acknowledge the government's outstandingly far-reaching efforts over the last two decades so as to eradicate poverty and discrimination, be that through the National Initiative for Human Development since 2005, or the Mohammed V Solidarity Foundation's schemes, or still the successive cabinets' sector-specific policies.

In actuality, such initiatives and schemes have, in CNDH's estimation, tremendously helped

improve the living standards of large swaths of the population. Thus, it is highly advisable, for the purpose of the would-be strategic course of action, to take stock of these outfits and accordingly capitalize on benefits and set right shortcomings.

37. In the same vein, the Council reckons that because of the overwhelming economic perception of poverty, the aforementioned projects and initiatives fell short of attaining the sought-after goals. An exclusively economic definition of poverty, however paramount and impactful, naturally yields charities and donations instead of rights-based solutions. It also markedly outshines non-economic factors which are, to a large extent, responsible for regenerating poverty. After all, social welfare and financial relief, although essential for mitigating social impact of poverty, prove compellingly inadequate for rooting the latter out.

### **General Recommendations**

1. Addressing poverty as a prerequisite for development, thereby eschewing the predominantly economic approach to development, and dispensing with narrow economic interpretations of poverty. Hence the need to bring into focus the non-economic enablers of poverty, alongside culture, values, politics and the environment, as part of the recipe for running state affairs and pursuing good governance;

2. Embracing the rights-based approach to fighting poverty, which means that alternative development options should factor in poverty as a sheer violation of the right to development. There should ensue innovative solutions bent on empowering the poor; steering clear of financial relief and social benefits. The shift from dependency to empowerment is the corollary of a rights-based approach to poverty, which seeks to provide the target population with a long-overdue set of rightful capabilities;<sup>6</sup>

3. Devising an alternative human-centered development model with rearranged priorities so as to dedicate the 2020-2030 decade to promoting basic human rights. To this effect, the Council urges the government and all relevant stakeholders to step up efforts aimed at promoting health and education rights. When pursued as top priorities, these definitely help achieve other rights, and bridge territorial and social inequalities. Yet, they require cross-cutting policies with a positive impact on all other rights and on the quality of life as a whole.<sup>7</sup>

<sup>6</sup> Being aware of human rights and poverty relationship, United Nations Commission on Human Rights has created UN Special Rapporteur on extreme poverty and human rights issues.

<sup>7</sup> For more information on education and health rights, you may refer to reports released by CNDH and other national and international institutions. See, for example, a study on "The Right to Development in Morocco Between International Covenant on Economic, Social and Cultural Rights and the Millennium Development Goals". It was conducted by the Consultative Council for Human Rights in cooperation with United Nations Development Program in 2000.

### **Recommendations on the Right to Healthcare**

- Ensuring equitable distribution of health facilities nationwide as per the principle of multitiered management while dutifully heeding cultural, territorial and geographical contrasts (center versus suburb, rural versus urban, north versus south, coastal versus landlocked), with outpatient hospitals for remotely located dwellers of mountainous and desert areas;
- Giving precedence to citizens' physical and mental health over managerial and financial considerations, as a prerequisite for effectively upholding human rights, not least the right to life and the right to healthcare;
- Strengthening healthcare governance and enforcing the principles of responsibility and accountability;
- Mainstreaming traditional medicine and naturopathy into the health system, and bringing them up to the latest standard of public health so as to ease pressure off public hospitals, as exemplified by the systems of China, Cuba and India;
- Regularly evaluating the quality of public health services and level of satisfaction among beneficiaries and staffers;
- Introducing innovative and low-cost treatment protocols;
- Shifting toward preventive healthcare through raising health awareness and building physical education and healthy lifestyle into curricula, while fighting obesity by raising taxes on soft and sweetened drinks, fast food and all other unhealthy foodstuffs.

### **Recommendations on the Right to Education**

- Elevating public primary and secondary schooling (up to 18) to a top-tier strategic mission incumbent upon the State;
- Enacting the strategic priority of educating children into law-abiding citizens who are entirely aware of their rights and duties, for the sake of productivity and competitiveness;
- Pursuing a “no child left behind” schooling policy in rural areas, coupled with more courses and broader prospects for beneficiaries;
- Utilizing digital media and state-of-the-art technology for educational purposes;
- Ending the school dropout plague, which affects mostly rural pupils, primary schoolers



and girls, and making compulsory schooling up to 18 years of age, while committing parents to keeping their children at school;

- Enacting a multi-tier educational policy that factors in differences based on geography, language, culture, gender, religion, ethnicity and physical condition;
- Ensuring a fair distribution of educational facilities and equipments across regions, cities and localities of the Kingdom;
- Moving from traditional memorizing-based learning toward more innovative and technologically apt educational solutions;
- Formalizing Amazigh (Berber language) into curricula by means of adequate financial and human wherewithal, and mainstreaming it into the labor market for the sake of language-related equity;
- Instituting foreign languages teaching across the entire educational spectrum, from primary to graduate education;
- Mainstreaming physical education, military and non-military national service into vocational training curricula, so as to economically achieve physically fit and politically sensitive youth upon graduation;

## **VII- HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT**

38. Underlying the values inherent in the development model to be, as per this memorandum, is the preoccupation to strike a balance between the universality of human rights and the need to contextualize their implementation into our social fabric. Indeed, freedom, justice, equality, solidarity and human dignity are universal values for all mankind, which should serve as guidelines for all major strategic development-oriented endeavors. However, ongoing national adaptation is necessary for them to be translated into concrete implementable policies and measures.

39. For clarity's sake, the Council points out that such contrast between the two levels has been used purely for methodological purposes, and that it cannot be invoked in any way, shape or form to justify any failure, delay or hesitation in translating such values as freedom, justice, solidarity, equality and dignity into concrete rights which Moroccan citizens can palpably exercise on a daily basis. Thus, considering the colorful stream of success stories and best practices internationally, and mindful of organization and interaction of powers and authorities under the constitution, CNDH recommends embracing an approach inclusive of human rights on two complementary levels: the State's strategic choices on the one hand, and public policies on the other. Accordingly, any alternative

development-oriented course of action ought to be grounded on the aforementioned foundational values which are the cornerstone of our country's overarching strategic makeup as provides Article 49 of the Constitution.

40. As regards public policies, CNDH maintains that the most appropriate way to build a rights-inclusive development strategy at present, would be to proceed, in light of comparable international experiences, along the lines of the rights-based approach, better known as PANEL principles, namely participation, accountability, non-discrimination and equality, empowerment and legality. Yet, the Council deems it imperative to take on board as well culture and values on the one hand, and sustainability on the other, both of which are requisite to the overall memorandum-specific methodology that seeks to balance universality of human rights with local adaptation requirements.

### **I) Participation**

41. This principle posits that effective participation is attainable only if citizens are involved in making the decisions that affect their rights. This entails overcoming all impediments in the way of effective participation, such as language-related barriers.

### **Recommendations**

- Implementing the Act on access to information and simplifying the procedure related thereto;
- Enabling citizens to participate using the language they feel more comfortable speaking;
- Raising citizens' awareness of elections (through social media and conventional communication outlets) as one of their basic rights which they ought to ultimately own;
- Acknowledging that democratic values, political participation and basic rights are worthless unless citizens can meaningfully exercise them in smaller political jurisdictions throughout the country, such as regions and communes;
- Strengthening Advanced Regionalization with broader prerogatives in housing, urban planning, transportation, and health..., while fitting it with adequate financial and Human Resources in a bid to break with the Jacobean conception of the exceedingly centralized State;
- Shifting towards territory-specific public policies which are thus more likely to take root in local communities, thereby engaging constituents more actively in the policy-making process. As a result, social and economic policies are crafted, implemented and evaluated in partnership with the locals in their respective geographical and cultural settings;

- Enacting multi-tier territorial governance that is heedful of spatial, environmental, social, economic, geographical and cultural specificities across local jurisdictions nationwide;
- Proceeding with administrative decentralization by devolving more powers to regions and local communities;
- Spelling out the powers devolved upon local governments, and the mission statement of local officials, dealing directly with citizens, whom should enjoy sufficient decision-making power to locally solve problems and overcome the red tape complications;
- Leveraging consultation mechanisms pertaining to local communities for involving all local stakeholders in genuinely and earnestly discussing and debating ideas into development plans and goals, by way of promoting the general sense of participation and responsibility.

## **2) Accountability**

42. This principle is reckoned to be fit for the following purpose:

- Operationalizing accountability through a smooth system for effectively monitoring compliance with human rights, and devising innovative and effective solutions addressing violations;
- Setting up a legal and institutional system and developing relevant procedures so as to redress wrongful handling of human rights;
- Pursuing a twofold mission through such laws and mechanisms, namely rehabilitative and correctional on the one hand, and punitive and dissuasive on the other.

## **Recommendations**

- Embracing open government and e-government, notwithstanding the political will of government and the multitude of initiatives to this effect <sup>8</sup>;
- Enacting ex-post judicial control over local elected councils, in lieu of the predominant ex-ante control which happens to keep them from functioning properly and owning their full share of responsibility throughout their tenure;
- Fast-tracking the process of revamping Public Administration through using modern

<sup>8</sup> To enforce constitutional provisions related to good governance, integrity and public services digitalisation, many initiatives have been launched such as:

[www.marchespublics.ma](http://www.marchespublics.ma), [www.stopcorruption.ma](http://www.stopcorruption.ma), [www.service-public.ma](http://www.service-public.ma), [www.data.gov.ma](http://www.data.gov.ma), [www.fikra.ma](http://www.fikra.ma) see Economic Development and cooperation Organisation Report on Public Governance: Open Government, page 15. <https://www.oecd.org/mena/governance/Report-Open-Government-Morocco-Arabic.pdf>

technologies (e-government) in providing public services and simplifying procedures;

- Phasing in e-services and striking out such procedures and formalities as to be ineffectual and degrading (Ex. proof of residence, employment certificate, diploma equivalence certificate, celibacy certificate...), with a view to cost-cutting and time-saving public services;
- Having the Public Administration abide by the established hierarchy of norms, thereby refraining from sidestepping the existing laws through circular letters and directives;
- Empowering internal audit mechanisms and bodies (the General Finance Inspectorate, the Local Government General Inspectorate and the General Treasury Inspectorate) by means of adequate financial and human resources for them to discharge their proactive and ex-ante auditing duties properly;
- Developing tools to monitor citizens' perception of the Public Administration's effectiveness and track their satisfaction with the quality of services it provides;
- Implementing tools to monitor quality of public services and track their improving of citizens' quality of life;
- Directing both central and local Public Administrations to set up an interactive website whereby citizens can inquire about such rights and procedures as guaranteed by law;
- Requiring central and local Public Administrations to regularly update data and information on services and citizens' rights;
- Expediting transition towards e-government so as to optimally administer human rights and hoist the country's ranking in this arena (Morocco's rank as per the e-government index tumbled from 82 in 2014 to 110 in 2018);
- Raising moral standards by means of charters of ethics, while preventing conflict of interest and nurturing such best practices as to enable greater accountability;
- Holding persistently to account public officials from both levels of authority, central and local, by way of enforcing the constitutional principle of accountability in public office.

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### **3) Equality and Non-Discrimination**

43. This principle is founded on the following rationale:

- Developing and implementing public policies that help prevent and combat all forms of discrimination on grounds of sex, language, age, race, or place of residence (rural versus urban).

- Prioritizing the most vulnerable areas by innovative means of positive discrimination for the sake of fairness. Incidentally, it's worth noting that treating equally the needs of two unequal people is the recipe for regenerating inequality.

## **Recommendations**

- Enhancing, as per CNDH's previously formulated recommendations, participation of women, youth and foreign residents in local elections, on the strength of Article 30 of the Constitution; expanding the electorate, rebalancing districting, and bridging representation gap; strengthening mechanisms so that women can access elected office, youth can elicit political representation and gender equality can be achieved. For so doing, there ought to be explicit legal provisions on equal opportunities for men and women to equally run for and win public office;
- Alternating women and men in list-based ballots when electing membership of regional, provincial, prefectural councils and of such communal councils as may be governed by a list-based voting system; increasing the number of seats earmarked for women in uninominal constituencies; introducing into the three bills pertaining to local communities a mechanism whereby women can rightfully access chairmanship of such councils;
- Developing regional indicators so as to measure gender approach implementation in keeping with gender equality, namely the fifth Sustainable Development Goal;
- Weaving the struggle against women-inflicted violence and effectiveness of women's economic and social rights into all strategic developmental schemes of our country's, and devising arrangements for translating such plans into implementable public policies;
- Ensuring that the legislative plan is consistent with the constitution and international agreements ratified by Morocco;
- Enforcing protective orders embedded in Act 13-103 and ensuring that abused women are supported all along, no sooner than they file complaint; making sure that abused women access legal aid and psychological support, as well as such immediate healthcare social benefits as entrusted to violence management units in courts;
- Updating and upgrading the violence-specific Act 13-103 in light of recent developments, and making more forceful proposals for ending impunity and reversing such practices as withdrawal of complaint (also known as dropping charges) which prevents prosecution;
- Given the correlation between marriage of underage girls and miserable economic and social conditions, due care and the child's best interest should prevail when dealing with such cases. All parties and stakeholders concerned ought to own their respective shares

of responsibility in addressing this phenomenon along the lines of an approach that brings into play educational, psychological, political, legal and social dimensions;

- Devising schemes for building women's capacity and honing their skills so that they can play a full-fledged part in economic activity; and developing region-oriented public policies that put a premium on women's economic rights.

#### **4) Empowerment**

44. Underlying empowerment is a pattern of running public affairs whereby individuals and groups take cognizance of their rights, and thereby contribute to making such policies and decisions as may impact their daily life.

#### **Recommendations**

- Simplifying procedures and minimizing time needed for delivering public services, which helps limit physical contact between civil servants and citizens and objectively prevent corruption;
- Prompting citizens to report corruption incidents and taking swift action to deal with them (as reporting corruption cases via the hotline 5757 proves complicated);
- Treating immediately and effectively grievances and complaints of citizens 90% of whom happen to waive their right to challenge administrative decisions before courts as and when they lose faith in the Public Administration;
- Identifying administrative units and officials tasked with collecting, treating and resolving citizens' complaints and grievances, and providing them with adequate resources and sufficient decision-making powers for them to discharge their duties properly;
- Strictly punishing dereliction of duty and impropriety in civil service, which will help recover citizens' trust in the Public Administration;
- Enacting a government-initiated communication and interaction strategy intended to provide information to the public and to enable citizens to access their rights the enforcement and management of which rest with the Public Administration ;
- Monitoring closely and transparently citizens' complaints and grievances over excessive use of force by public authorities, with resulting accountability enhancing citizens' trust in avenues of redress, and giving rise to law-abiding security institutions;
- Sternly enforcing the law against all with severe punishment for wrongdoers, as fulfillment of the rule of law is overly dependent on compliance with its prescriptions.

## 5) Environment

45. The memorandum at hand stresses the need to redefine the paradigm implicit in the relation between humans, development and the environment, as the right to a safe environment has asserted itself as a top priority henceforth, no longer a superfluous matter. Nonetheless, addressing the environment issue should not be solely from the narrow perspective of the right to a safe environment. It is also a prerequisite for accessing other rights and attaining sustainable development. Thus, environmental rights are part and parcel of horizontal/cross-cutting rights, insofar as they directly impact the environmental balance and sustainability of natural resources on which is conditioned effectiveness of human rights, mostly economic and social rights.

46. Therefore, the UN 2030 Agenda is reckoned to be the optimal setting for achieving this goal. It proves instrumental in propping up effectiveness of human rights, as the seventeen goals enshrined therein are premised on the mantra that ending poverty and all other forms of destitution should be pursued in lockstep with strategies designed to improve healthcare, revamp education, reduce inequalities and promote economic growth, while contending head-on with climate change and protecting forests and oceans.

### Recommendations

- Directing the Public Administration and government institutions to lead by example in streamlining use of unsustainable resources while increasingly utilizing sustainable ones (more renewable energies, less energy-intensive public lighting, more recycled water for green areas, and more drought-resistant plants and trees);
- Operationalizing “the polluter pays” principle in furtherance of environmental governance by levying taxes on greenhouse gases owing to economic activity;
- Endorsing energy efficiency in the public sector by means of economical lighting while transitioning towards renewable energies such as solar and wind power;
- Acknowledging the structural water stress (chronic water deficit) and crafting a long-run strategy for managing water resources which are deemed increasingly scarce and strategically important; defining Morocco as a desert-climate country or in the process of becoming one;
- Regulating use of paper and fossil fuel by governmental institutions;
- Incentivizing traditional and energy-efficient architecture while phasing out steel, glass and concrete-based architecture which is not suitable for local climate;
- Embracing innovative techniques for collecting and storing rainwater;
- Urging citizens to buy national products for cutting greenhouse gas emissions, and fostering a national environment-oriented culture;
- Promoting “poverty-driven economy” which goes by resource scarcity and product recycling, in lieu of abundance-based single-use consumption patterns;
- Conducting awareness-raising campaigns and prodding relevant players and stakeholders into action.

## **6) Culture and Other Values**

47. One of the most significant takeaways from the reform endeavor, be that in Morocco or in comparable contexts, is the law's limited role in promoting rights and freedoms. Therefore, while passing laws and building institutions is necessary, it still falls short of effectuating the sought-after change and reform. Deemed greatly reform-resistant, the prevalent system of values runs, in many regards, at cross-purposes with human rights.

48. In light of the above, the present memorandum deems it advisable to make culture and values centerstage afresh when debating effectiveness of rights. This proves doable by envisioning the most efficient avenues for empowering social education settings (family, school, neighbourhood, street...) and political education outfits (political parties, NGOs, and other intermediary institutions) so that these infuse into citizens the culture of rights and freedoms. There should ensue a stronger State-citizenry bond coupled with smoother operation for both the judiciary and security agencies.

### **Recommendations**

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- Adopting an alternate development model that is heedful of the dialectic relation between the three foundations of sustainable development (economic, social and environmental) on the one hand, and the development dimensions pertaining to culture, innovation and values on the other: In this connection, CNDH stresses the pivotal role of culture in achieving Sustainable Development Goal 11, namely to make cities inclusive, safe, resilient and sustainable. Most of all, paragraph 4 calls for “stepping up efforts to protect and preserve world culture and natural heritage”;
- Embracing a culture-oriented policy intended to rehabilitate tangible and intangible cultural heritage which by definition cuts across public policies;
- Leveraging culture in fighting poverty, empowering and building capacity of individuals, and moving forward with gender equality through incentivizing investment geared towards cultural activity.

## **VIII. POST-PANDEMIC PUBLIC ACTION: IMPELLING THE STATE INTO FRESH DYNAMIC ROLES FOR SOLIDIFYING EFFECTIVENESS OF RIGHTS**

Lessons from the Pandemic

49. Morocco has been facing, alongside all other countries worldwide, unprecedented



challenges resulting from the Covid-19 pandemic. While this accounts for a serious existential threat with potentially major economic and social implications the proportions of which are yet to be outlined, it also implicitly offers unhoped-for opportunities for charting a fresh course of action in the aftermath of this pandemic.

50. Turning risks and threats inherent in the Covid-19 pandemic into actual opportunities for building a new Morocco requires, before all else, learning lessons from such multidimensional challenges that our country has faced while coping with Covid-19. In this regard, one must admit that this experience facing the pandemic has greatly influenced all undertakings committed to identifying the current development model's limitations, and all attempts to theorize a new model in its stead. In actual fact, countries are mandatorily pandemic-induced to reshuffle strategic priorities, hence the self-invite paradigm shift entailing a new vision for development. Yet, this opportunity would be worthless unless the following findings are factored in:

51. The consequences of Covid-19 have proven afresh that humans are the focus of development and that any economic growth-oriented endeavor might be a nonstarter, were it not revolving around the pivotal role of humans to that effect. This lesson will undoubtedly take a long time until it seeps into minds and thereby morphs into a paradigm steering economic theories all along and able to sort out development policies' shortcomings worldwide. On balance, the lingering pandemic has forcefully ascertained that basic human rights are the bedrock of any sustainable development action.

52. This pandemic has demonstrated that unequal access to basic rights, poverty and social vulnerability have definitely hampered the government's efforts in dealing with its consequences. While Moroccans have, by and large, turned out wise and responsible enough to comply with the health emergency measures, large swaths of the population have fallen behind due to their social and economic conditions. Thus, coming to grips with such threats is contingent on reducing social and spatial inequalities while promoting the economic, social and cultural condition of those of us left behind.

53. Likewise, no country or community can handle on its own threats of global magnitude such as this one, whether now or in the future, as they happen to assault ecosystems which are, by definition, oblivious to borders between countries or communities, let alone social disparities within a single country. Therefore, humans are bound to henceforth approach life through the prism of a common destiny and thereby build a solidarity-driven global community. Far from being an option among others, this course of action is the only and most effective way of facing up to such unconventional threats, be that domestically or internationally.

## **1) Toward the Rights-protecting State**

54. As a matter of fact, non-institutional stakeholders have swiftly embraced the government's initiatives to deal with Covid-19, and thereafter manifestly proved instrumental in engaging the public nationwide. Arises therefrom the need for the government to become centerstage anew with greater powers and capabilities to properly run public affairs in the best interest of citizenry. Overall, the State should proceed through legal and institutional arrangements for enlisting support and cooperation from such stakeholders, so that it remains the ultimate guarantor of economic, social, cultural and environmental rights which citizens can enjoy on an equal footing, unhindered by discrimination.

### **Recommendations**

- Striking a balance between the implications of a shift from Welfare State to Strategic State and the imperative to address the crying lack of access to basic human rights. For so doing, it behooves the State to remain the guarantor and protector of rights and freedoms;
- Pressing on with root and branch State-oriented reform with a view to building a Strategic State bent on bringing non-state actors into the public fold along the lines of a more effective regulation framework. The State should be the ultimate guarantor of public services, regardless of the non-state entity to which they are franchised out for operation;
- Emphasizing the State's pivotal role in crafting and implementing public policies, not least social public policies, which is part and parcel of its original prerogative. To that effect, it may avail all physical and other resources needed, in keeping with international standards for human rights, democracy and good governance.

## **2) For Equitable and Solidarity-based Taxation**

55. Reforming the tax system into a more equitable and solidarity-driven setup is a foremost precondition for promoting effectiveness of rights. In actuality, modern-day rights schools of thought have grown more cognizant that taxation is central to human rights. Thus, the rights embedded in the International Covenant on Social, Economic and Cultural Rights, will be to no avail unless the government operates the appropriate tax system for collecting such financial resources as needed to bridge spatial and social inequalities and thereby ensure equal access to fundamental rights.

56. Mindful of the ongoing public debate on reforming the tax system, be that in national conferences or through scientific research or thematic reports taking stock of Morocco's taxation scheme, CNDH calls for a mainly rights-driven taxation reform congenial for greater effective rights in our country.

## **Recommendations**

- Taking necessary measures to enforce constitutional provisions pertaining to taxation, not least tax equality and justice, as well as solidarity and proportionality in supporting cost of development, crises and natural disasters in accordance with Articles 39 and 40 of the Constitution;
- Streamlining tax exemption policy into a mechanism for bridging spatial and social inequalities along the lines of coherent policies with clear-cut goals;
- Implementing relevant recommendations arising from the national taxation conference, held in Skhirat in 2019;
- Ensuring that citizens gain rightfully access to tax-related information in an effort to bring to a head tax evasion and fraud and other malfeasance, as these deny the country a sizable share of the budget which may be utilized for financially redistributive and socially corrective purposes;
- Enforcing the tax offense Act by way of ending impunity;
- Conducting regular evaluation of the national tax system, mostly through the prism of taxation's social purpose;
- Pursuing interregional tax equalization for the sake of spatial solidarity pursuant to the Constitution and the region-specific Act;
- Abolishing all and any tax provisions implying discrimination against women and reforming the tax code in keeping with relevant international agreements and treaties to which Morocco already adhered;
- Pursuing the social and solidarity-driven purpose of taxation by instituting wealth tax that factors in proportionality in paying one's fair share in furtherance of our country's development, as per Article 40 of the Constitution.

### **3) Marching towards Solidarity-based Economy**

57. Morocco boasts a longstanding experience resolutely battling poverty and persistently remedying social inequalities by means of a solidarity-based scheme. This, however effective heretofore, has started to falter, proving decreasingly able to keep up with the ever growing needs in this respect.

58. Thus, the national solidarity model turns out to have two chief deficiencies:

- It works along the lines of an ex-post approach, thereby stepping into play after

the fact by way of remedial action to wealth distribution shortcomings owing to the current development model;

- Solidarity mechanisms designed to fight poverty are centred on the poor and needy rather than on poverty proper. This is naturally the corollary of the first failing, namely the after-the-fact way of handling solidarity.

### Recommendations

Therefore, CNDH recommends the following to overcome the ongoing solidarity model's shortcomings and thereby meet the challenge of enhancing effectiveness of rights:

- Having economic growth serve the purpose of human development, hence the need to rearrange our national economy's goals so as to make prosperity of citizens a top economic priority;
- Promoting a self-reliant economy, while knowing for a fact that sharing constructively in the globalization dynamics across the board makes Morocco's strategic course of action, like all other countries', markedly entwined with the global economy. On balance, our country's economic direction allows for greater self-reliance through a forward-looking national strategy to solidify our economy and shield it from potential disruptive changes and crises;
- Leveraging solidarity-based economics for reducing social and territorial inequalities with the help of solidarity-centered policies implying mechanisms for targeting not only the impoverished but also poverty per se;
- Consolidating the economy's social achievements in alleviating inequalities after the fact through solidarity economics which is geared towards proactive social equalization;
- Implementing the proposals above requires tackling head-on the issue of acclimatizing our country's economic ethos, which underpins State's strategic orientation, to renewed challenges pertaining to social development. Accordingly, solidarity should morph from a crisis management policy into a mechanism for redistribution and equalization. Likewise, the government would be duty-bound to take on a bigger part in granting citizens effective access to fundamental rights, particularly the right to health, the right to education and the right to basic infrastructure. To that effect, the government ought to be reinvigorated into an essential actor across these three areas by means of a Moroccan model that balances free enterprise with the higher interest of citizenry inherent in public health.

#### **4) Leveraging Public Service for More Equality and Stronger Solidarity**

59. Morocco has embarked on economic reform ever since the early 1980s, which helped mainstream its economy into the global economic system. Yet, liberalizing the national economy has had its share of drawbacks, as it most significantly diminished the State's capabilities when it comes to redressing the failings of economic liberalism, with the resulting paradigm shift exemplified by the gradual transition from a Welfare State to a Regulatory State. The argument goes that this new state of affairs makes greater room for free enterprise, creativity and innovation, and helps boost growth. However, the receding role of the State as a provider of public services, which are henceforth entrusted to private businesses, has had social repercussions beyond dispute. Arguably, some go so far as to blame most of social and territorial inequalities on this much-maligned recasting.

60. Thus, the public service crisis is admittedly one of the crystal-clear manifestations of such a shift in the State's missions and functions, both nationally and internationally. As for Morocco, one may safely state that the subsiding public service is the chief culprit of the ballooning poverty and social vulnerability, as most egregiously evidenced in both education and healthcare alongside other public services which citizens solicit most frequently.

61. Overall, most issues standing in the way of an effective and efficient public service, whereby basic human rights can be channeled to citizens, may be summed as follows:

- Inadequate financial resources allocated for such public services as education and healthcare;
- Territorial disparities in accessing education and healthcare;
- Major disruptions in managing Human Resources, with education and healthcare bearing the brunt of the resulting shortages for years on end;
- Good governance across the public administration, in general, and in the social public services, in particular; is truly hard to come by. This is notoriously evidenced by the corruption-related official statistics and figures, and by the increasingly distrustful relation between citizens and the Public Administration.
- Public services, which the government is duty-bound to rightfully provide to citizens, are sometimes turned into privileges.

62. While the present memorandum precludes an exhaustive list of problems and impediments standing in the way of such all-encompassing development as to be inclusive of human rights, the aforementioned issues emphasize the pressing need for the public

service to be one of the main pillars on which is grounded all and any policy for fighting poverty and vulnerability within the new development model. Mindful of the government's trailblazing role to come to grips with the Covid-19 pandemic, and the relentless endeavors to stymie the adverse effects thereof, CNDH calls for swiftly and profoundly reforming the public service into a full-fledged apparatus the main purpose of which will be to ensure unhindered access to rights and to bridge inequalities.

### **Recommendations**

- Embracing a rights-based approach in the public service would positively impact services provided to citizens. In this regard, some best practices may come in very handy, as they hail from countries where human rights have pride of place in the public service philosophy through four principles, namely integrity, respect, equality and dignity;
- Restoring citizens' trust in the public administration by effectively implementing the right to public services. In this respect, the Council puts a particular emphasis on the right to public service in both healthcare and education, as they are causally associated with exclusion, marginalization and vulnerability, which exacerbate inequalities across the board;
- Taking the necessary measures to enhance convergence across the public service spectrum, as this would help save time, money and energy while improving quality of services provided to citizens;
- Leveraging the congenial solidarity environment, which Moroccans have epitomized in the face of Covid-19, into a comprehensive solidarity-based policy geared towards bridging spatial and social inequalities. To so achieve, CNDH recommends dedicating this decade 2020-2030 to phasing out inequality;
- Building upon the Social and Spatial Inequality Reduction Program when devising a comprehensive national ten-year scheme for stamping out spatial and social inequalities;
- Expediently reforming the public service-related governance by simplifying rules and procedures, better treating citizens, streamlining decision-making and management of financial and human resources, and promptly implementing e-government for the sake of greater transparency and accountability. For all intents and purposes, it is highly advisable, in the Council's estimation, to tap the un hoped-for opportunities that came along in the wake of this pandemic, which has supplied incontrovertible proof that countless problems, heretofore considered intractable, can indeed be sorted out.

## **5) Effective Access to Basic Human Rights for Migrants and Asylum Seekers**

63. Indeed, Morocco has made a quantum leap forward dealing with migrants' rights, as the national migration and asylum strategy, effective since 2014, has provided for improving the condition of large swaths of migrants and asylum seekers hailing from sub-Saharan Africa and some Middle Eastern countries. Thus, two campaigns have been carried out so far to legalize the status of theretofore undocumented migrants and thereby grant them access to certain social and economic rights, mostly education and healthcare. The new strategy has proven instrumental in taking on successfully the challenges that arose no sooner than Morocco shifted from a territory of transit to a country of residence for countless migrants. In sum, the migration policy, that Morocco has been pursuing lately, has paved the way for turning illegal migration, as one of the major nonconventional threats to the world at large, into an actual enabler of migrants' integration into the host country's social fabric.

64. For the record, the Council has been tracking all the policies and measures intended to promote foreign residents' access to basic rights, most of all the rights to education, health, employment and identity. Besides, it engaged in consultations, in 2019, for the purpose of swiftly and efficiently implementing the mechanisms aimed at enhancing effective access to the right to education, in partnership with the UN High Commissioner's Office for Refugees. However, CNDH maintains that such operational measures, however bold and benevolent, still fall short of making fully effective foreign residents' access to healthcare, due to certain unremitting impediments some of which are ascribable to the deficiencies of Morocco's health system. It also avers that the Council also underlines that the agreement signed in 2015, whereby foreign residents ought to enjoy RAMED, turns out to be not sufficiently effective.

### **Recommendations**

Thus, CNDH asserts that our country's development strategy to be should imperatively give pride of place to migrants' basic rights so as to make them effectively accessible. For so doing, it highly recommends:

- Exeditiously enforcing Act 72-17 pertaining to migration and foreigners' entry and residency in the Kingdom of Morocco, thereby granting migrants unfettered access to their basic rights, in accordance with the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), and in keeping with the constitution and the principles enshrined in the Global Compact for Safe, Orderly and Regular Migration;
- Promptly enacting the implementing decree specifying places and conditions of custody

for migrants pending their departure if need be, pursuant to Article 34 of Act 02-03 relevant to illegal migration and foreigners' entry and residency in the Kingdom of Morocco;

- Amending other than Moroccan nationals into Article 1 of Act 04-00 governing mandatory elementary education, which provides that “elementary education constitutes a right for all Moroccan children who are six years of age, boys and girls alike”;
- Simplifying enrollment at educational institutions, most of all for applicants not registered with the Public Records Office; conducting evaluation tests for the purpose of further educational guidance; and having contestants tested in a language of their choosing;
- Taking vigorous action to prevent practices that undermine the right to healthcare and free of charge childbirth, such as withholding paperwork pending payment;
- Swiftly enacting Bill 66.17 on asylum and conditions relating thereto, thereby definitively recognizing asylum-seekers as such, in keeping with the constitutional prescriptions and the principles embedded in the Global Compact on Refugees;
- Phasing out forced deportation of asylum-seekers, and constraining authorities' power to so decide, by way of enacting the formers' status as rightful refugees.



## **IX- TOWARDS A DEVELOPMENT THAT TAKES INTO CONSIDERATION HISTORY AND MEMORY PRESERVATION**

### **I- Background of the National Human Rights Council's positions regarding the importance of history and memory preservation**

When preparing its memorandum on the new development model, the National Human Rights Council (CNDH) reckoned with the overall contexts that have guided many of the tension elements documented in our country. In this context, upon examining the root causes that led to a series of protests and the demands that citizens raised, they proved to be strongly related to economic, social, and cultural issues. Moreover, these demands, which almost exclusively raised development issues and problems, were expressed through various forms of protesting in some cities and villages, including through available institutional channels at the local and central levels.

While recalling Morocco's commitment as an active member of the international community as well as its attachment to universally recognized human rights, the CNDH's report puts a special emphasis on the Council's interest in promoting and protecting civil, political, economic, social, cultural and environmental rights, including the right to development.

The CNDH takes into account fundamental international references, including the United Nations General Assembly resolution of December 18th, 2013, which, in its Article 10 "Encourages States that have not yet done so to establish a national archival policy that ensures that all archives pertaining to human rights are preserved and protected and to enact legislation that declares that the documentary heritage of the nation is to be retained and preserved and that creates a framework for managing State records from their creation to their destruction or preservation, and takes note in this regard of ongoing efforts by the Human Rights Council, the Office of the United Nations High Commissioner for Human Rights, the United Nations Educational, Scientific and Cultural Organization, regional organizations and other stakeholders to systematize existing standards in the area of access to information, the protection and preservation of records and the management of archives."

The Council recalls, in line with its commitment to fundamental human rights values, the provisions of Morocco' Constitution with regard to the richness of the Moroccan identity in its multilinguistic plurality and diversity of components, as well as the constitution' affirmation of the multiple components to its national unity, as one of the constants of the Moroccan nation.

The CNDH also stresses the importance of the lessons it learned and the conclusions it drew from its field visits to a number of memory preservation centers and its dialogue with several parties working on cultural, social, and environmental issues.

## **2- On the relationship between history, memory preservation, and the new development model**

Diverse field research studies and examinations were conducted in countries that have experienced history and memory issues, the dialectic of remembering, issues of forgiveness and forgetfulness, along with the dilemmas of overcoming past violations that might have marked some periods of the past. These research studies point to the relevance of making use of memory with all its components and tangible historicity in preserving the collective and ensuring its cohesion so as to enable understanding development's paths and horizons and to contribute in establishing foundations for social and spatial justice and in advancing the adoption of its founding philosophy. Furthermore, this will ensure that all the nation's components engage and contribute constructively and productively in accelerating the pace of development efforts.

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Development, within this understanding, is a complex process that is not limited to a narrow quantitative economic perspective. Hence, in designing the development model, adequate attention must be given to at least five dimensions:

1. Economy and development in their quantitative and qualitative standards and indicators, as defined in pioneering development experiences and as they progressed following the advances which the development concepts and instruments evolved to, placing human beings at the core of the development equation;
2. The need to set the assessment regarding the national territorialization on a positive perspective that values the position and role of all regions and that integrates them into a sustainable development process based on their capacities and resources, and on what they could gain from solidarity with other regions under an inclusive and balanced national development policy of territories;
3. Valorizing diversity, cultural richness, local peculiarities, and memory of the regions constituting the nation and strengthening its cohesion. This practice will generate collective psychological incentive that fosters a sense of belonging to the territory in its local, regional, national, and human dimensions;
4. Successful, positive and comprehensive appropriation of the various consecutive periods of the national history as well as of the role of different generations and regions in shaping it, in order to prevent the proliferation of memory gaps with their harmful effects on the process of cohesion, solidarity and broad social contract;

5. Considering history and memory preservation as an essential and central component in the process of conservation and development of symbolic and immaterial capital, which is crucial, by the standards of all pioneering research and field studies, in every development model that seeks sustainability.

These are a few elements that justify linking the development model to memory preservation, conservation, and taking advantage of its extensive historical capital.

These foundations illustrate a central fact: the cohesion of national identity is a process that takes place throughout history in the context of a positive interaction amongst its components. Archives, along with documentary heritage, are sources of truth learning within a renewed understanding of history that is not only reduced to understanding past events, but rather makes history its starting point. History becomes the point of departure to look ahead in the future and comprehend the historical process in its relation to the changes that characterize people's living conditions.

A renewed understanding of history also allows comprehending their aspirations to pursue broad horizons, a process that can enrich democratic life and reinforce the effectiveness of rights and dignity.

Understanding people's living conditions and realities without any tension or exclusion is a key entry point to involve them in any development project. Therefore, an informed return to history with the purpose of unleashing the creative energies of all the nation's components and taking advantage of them contributes to preserving national unity and effectively guaranteeing citizens' rights.

Based on these facts, requirements, and human rights values, the CNDH emphasizes the strategic importance of a solid relation between history and memory preservation with the development model that our country will adopt. Whilst paying close attention to comparative experiences and conclusions of reliable and documented studies and research in the field, the CNDH also emphasizes its firm conviction about the crucial dimension that memory preservation represents and its role in making this development model robust and sustainable.

### **3- Recommendations**

On the basis of the aforementioned, the CNDH:

- While informing the Special Commission on the Development Model of its decision to establish, in fulfillment of the recommendations of its report on the Al-Hoceima protests, a memory preservation unit to promote Moroccan history in all its affluents and to implement it in educational curricula;
- While working to ensure that this new unit, created within the Presidency of the CNDH, will serve as a structure to take advantage of history and memory based on renewed field research and various human sciences input in this field;

Recommends the following:

On the approach level:

- The necessity to focus on preserving the memory and promoting Moroccan history in all its affluents to prepare the desired development model within the framework of a working methodology that embraces creative energies of various regions and that is open to national institutions; with the prospect of eradicating obstacles that have hindered the development paths due to history's weight and impact of previous disappointments on memory.
- The necessity for the new development model to consider history and memory preservation in order to reconcile with the past, after reading - or re-reading- it in a positive, forward-looking, and productive manner, which will allow all citizens to engage in a sustainable development process built on the basis of spatial, social and cultural justice that is inclusive of everyone.

At the procedural level:

- Develop an integrated national plan for memory preservation with a legal basis. The plan will define areas of intervention and ensure convergence and consistency of the programs to be carried out by various public institutions in this area.









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

## **Effectiveness of Rights and Freedoms Towards a New Social Contract**

National Human Rights Council's Memorandum  
on the New Development Model

July 2020

B.P 21527, Boulevard Erriad  
N° 22, Hay Ryad. Rabat - Maroc  
tel : +212.5.37.54.00.00  
fax : +212.5.37.54.00.01

ص ب 21527، شارع الرياض  
22، حي الرياض الرباط - المغرب  
الفاكس: +212.5.37.54.00.01  
الهاتف: +212.5.37.54.00.01

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