



**PARALLEL OF THE NATIONAL HUMAN RIGHTS COUNCIL OF MOROCCO  
TO  
THE COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION  
AGAINST WOMEN**

**May 2022**

## I. Overview

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

## II. Recent key developments regarding women’s rights

5. With regard to **treaty practice**, the CNDH notes with satisfaction Morocco’s ratification of the Optional Protocol to CEDAW as well as the Optional Protocol to ICCPR in April 2022. This is a response to one of the CNDH structuring recommendations provided in its last three annual reports, including its annual report of 2021<sup>5</sup>.
6. The principles of equality and parity between women and men are entrenched under the Preamble of the Constitution. In addition, the constitution comes up with the principle of the **primacy of international conventions** duly ratified by Morocco over domestic laws. Ms. Amina Bouayach, president of the CNDH, and Ms. Amina El Messaoudi, a CNDH member, were members of the Constitutional Review Commission. This principle of primacy paves the way for courts to mainstream international norms in their judgments and decisions. In this regard, the CNDH reported in 2021 the

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

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

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

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

<sup>5</sup> See page 303 of the 2021 Annual Report available here : <https://www.cndh.org.ma/ar/rubriques/lwthyq/ltdrt/tqyr-snwy>

criminalization of psychological violence as a distinct act by virtue of a judicial ruling, the first of its kind<sup>6</sup>. In addition, the CNDH welcomed a decision rendered by the Court of Cassation<sup>7</sup>, considering that “a minor wife who has been involved in an illegal relationship with an adult person” is a victim of a crime of indecent assault according to Article 484 of the Criminal Code. The Court added that she enjoys a criminal protection appropriate to the condition of the minor child, consistent with the Convention on the Rights of the Child.

7. The CNDH addressed in its various reports<sup>8</sup> recommendations to courts, with a view to entrenching the mainstreaming of international human rights instruments duly ratified by Morocco and applying the principle of primacy of these norms over domestic legislation in application of the preamble of the constitution.
8. The **legal arsenal** in Morocco also saw a significant progress related to the provisions of CEDAW. Thus, a series of laws have been adopted in the field, as mentioned in the national report. Despite this legislative development, some laws need to be brought into compliance with international standards. Thus, Organic law 02.12 (2012) relating to the appointment to senior posts does not provide for provisions relating to parity. Law No. 103.13 relating to combating violence against women (2018), which is a positive step towards the fight against impunity, does not provide for provisions relating to the criminalization of marital rape.
9. **On the institutional level**, two constitutional bodies dealing with women’s rights have not been operational since the adoption of their respective founding laws in 2017 and 2016. These are the Authority for Parity and Fight against All Forms of Discrimination (APALD) and Advisory Council for Family and Children (CCFE). The CNDH highlights that these bodies should be provided with adequate human and material resources.
10. Concerning the family solidarity fund, the CNDH highlights that its benefits should be extended to children born out of wedlock. The CNDH is also a member of several national institutions, which enables it to integrate the gender perspective in their work. These include the Higher Council for Judicial Power, National Press Council, National Commission for the Fight against and Prevention of Trafficking in Human Beings and Right to Information Access Commission.
11. The CNDH remains concerned that the **rates of violence against** women is still high and impunity persists, due to cultural patterns as well as challenges related to the burden of proof, which rests with victims, and non-reporting of cases to the competent institutions. According to statistics made public by the National Police Department (Known under its French acronym DGSN)<sup>9</sup>, since the beginning of 2021 to 25 November 2021, a total of 61,388 cases of violence against women and girls in all its forms have been recorded, involving 62,383 victims, 7% of whom are minors.
12. The CNDH launched a national campaign to combat violence against women, from November 25, 2021 to November 25, 2022, with the aim of encouraging victims of violence to report violence and combat impunity. The campaign contained testimonies documenting the suffering of survivors of violence. The CNDH and its regional commissions also launched a series of discussions on the effectiveness of the

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<sup>6</sup> Judgment by the Court of First Instance of Fez, File N. 3936, dated 17 November 2020.

<sup>7</sup> Decision N. 1006/3 dated 16 June 2021, Criminal file N. 20823/2019.

<sup>8</sup> See page 34 of the Annual Report of 2019, available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_2019.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_2019.pdf)

<sup>9</sup> See article available on the website of MAP, Morocco’s official news agency, seen in May 2022, [www.mapnews.ma](http://www.mapnews.ma)

right to remedy for survivors of violence and the fight against impunity, attended by relevant authorities, including universities, media and law enforcement officials. The CNDH and its regional commissions have also engaged with the public prosecutors in various regions of Morocco in order to ensure the protection of victims of violence in all its forms.

13. The CNDH and its National Mechanism for the Protection of the Rights of Persons with Disabilities launched two **online campaigns**<sup>10</sup>, lasting eight weeks for each. The first one was carried out in 2020 to combat all forms of discrimination against women and girls with disabilities. This campaign is a response to the recommendation made by the United Nations Committee on the Rights of Persons with Disabilities (CRPD) to conduct public awareness-raising campaigns to combat stereotypes, prejudices and myths about women and girls with disabilities. The second one was held in 2021 on the participation of women with disabilities in political and social spheres. Arabic, Amazigh and sign languages were used in these campaigns.
14. In its memorandum to the Parliament on Bill No. 10.16 amending and supplementing the penal Law corpus<sup>11</sup>, the CNDH noted the importance of recommendations made by treaty bodies, including CEDAW and the Human Rights Committee, and recommended that marital rape be criminalized.
15. Following cases of sexual harassment in some colleges, universities and higher-education institutes, CNDH regional commissions held hearings with several women student victims as well as meetings with student associations and several professors. The CNDH notes the immediate measures taken by the Ministry of National Education, Vocational Training, Higher Education and Scientific Research to conduct the necessary administrative investigations with subsequent disciplinary measures. Also, several investigations were launched by the public prosecutor and prison sentences were rendered by courts. The CNDH reported on these cases of sexual harassment in its Annual Report of 2021<sup>12</sup> and in its website<sup>13</sup>.
16. The CNDH also continued to monitor the phenomenon of **child marriage**. Official statistics confirmed a decrease in the number of marriage contracts for minors registered in courts, from 33,489 contracts in 2014, to 12,600 contracts in 2020, which constitutes 6.48% of the total concluded marriage contracts. However, serious concerns persist that these marriages take other ambiguous forms, such as *Al-Fatiha* marriage<sup>14</sup>, which constitutes legal violence against girls.
17. Concerning **political participation**, ahead of the national elections of September 2021, the CNDH led a nationwide campaign to promote the political participation of women. In this regard, it organized six regional meetings and an international meeting on the topic. These meetings aimed mainly at analyzing the reality of parity in the light of electoral laws as well as social, economic and cultural data.
18. The CNDH is a legally-mandated institution that observes **elections**. In this respect, the CNDH made a gender-based observation of elections and published a relevant report<sup>15</sup>. Legal developments regarding Communal, Regional and Legislative Elections of 2021 enhanced women's political

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<sup>10</sup> Available here: <https://www.youtube.com/watch?v=isaWxFfO2c0&feature=youtu.be>

<sup>11</sup> Available here: [https://cndh.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](https://cndh.ma/sites/default/files/cndh_-_web_code_penal_va.pdf)

<sup>12</sup> See page 120, paragraph 288, of the Annual Report of 2021 available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_rapport\\_annuel\\_2021\\_va.pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_2021_va.pdf)

<sup>13</sup> See communiqué by the CNDH dated 4 January 2022 available here : <http://www.cndh.ma/an/article/sexual-extortion-against-women-students-supporting-reporting-abuse-civil-action-against>

<sup>14</sup> A religious marriage ceremony conducted without a written contract.

<sup>15</sup> Report on elections available here : [https://www.cndh.org.ma/sites/default/files/cndh\\_-\\_exe\\_rapport\\_election\\_-\\_pdf](https://www.cndh.org.ma/sites/default/files/cndh_-_exe_rapport_election_-_pdf)

participation (allocation of regional lists to women in legislative elections, creation of lists for women and supplementary seats in communes where uninominal suffrage is applied). Statistical data also reflect the relative progress of women's **political participation**. The percentage of women elected to the councils of territorial collectivities moved up from 21% in 2015 to 26% in 2021, while that of women representation in the House of Representatives increased from 20% in the legislative elections of 2016 to 24% in the legislative elections of 2021. However, this data confirms a persistent gap between legal developments and mindsets in society. This is evidenced by the weakness of women's nominations outside the regional lists designated exclusively for women. The CNDH also expressed its deep concern on the unprecedented event concerning the images of women, which were blocked on election posters: "faceless candidates".

19. The CNDH reinforced the capacities of 25 NGOs, including those working on women's rights in order to observe the 2021 elections. Indeed, it organized capacity-building sessions for 2500 observers of both sexes, on reporting as well as independent and neutral observation. It also provided financial support to some of these NGOs to conduct the observation. To be noted that all these NGOs developed relevant reports.
20. While **access to justice** is guaranteed to all, the CNDH notes the persistence of several challenges, including the lack of a law governing legal assistance that can be applied in all stages of litigation and on all types of appeal as well as the burden of proof which should be borne by women survivors of violence. Due to cultural patterns, women hesitate to file cases of violence with the public prosecutor.
21. Regarding the national human rights **policy framework**, the new government committed itself in 2021 to updating the National Plan of Action on Democracy and Human Rights. The CNDH believes that this plan constitutes an appropriate framework for advancing human rights in general and women's rights in particular. The CNDH hopes that the plan will respond to its recommendations on women's rights as well as the recommendations that the CEDAW will make. The CNDH addressed a letter in October 2021 to the Chief of Government containing recommendations that would advance human rights, including women's rights.
22. With a view to contributing to the dialogue on the **new development model**, the CNDH submitted, in August 2020, a memorandum entitled "*Effectiveness of Rights and Freedoms in Morocco: for a New Social Contract*" to the Development Model Committee<sup>16</sup>. In this memorandum, the CNDH called for the territorial implementation of human rights policy measures, such as the fight against sexual harassment, stereotypes in media and school curricula and violence against women<sup>17</sup>. The annual reports of the CNDH underlined issues that still compromise women's rights in Morocco. The outstanding concerns include the marriage of minors, the difficulty of women's access to legal guardianship, divorce for discord (*chikak*)<sup>18</sup> and unequal inheritance legislation.
23. The phenomenon of **unsafe abortion** poses risks to the life as well as the physical and psychological health of women<sup>19</sup>. In its memorandum to the Parliament on Bill No. 10.16 amending and supplementing the penal Law corpus, the CNDH recommended, among other things, that the legal text relating to abortion should be based on the concept of health, as defined by the Constitution of the World Health Organization: "*Health is a state of complete physical, mental and social well-being and*

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<sup>16</sup> [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

<sup>17</sup> [https://www.cndh.ma/sites/default/files/mdhkr\\_lmjls-\\_lnmwdhj\\_ltnmwy\\_ljdyd\\_2.pdf](https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_lnmwdhj_ltnmwy_ljdyd_2.pdf)

<sup>18</sup> A procedure intended to facilitate women's access to divorce without the obligation to establish proof of harm.

<sup>19</sup> More details are available on the CNDH Annual Report of 2019, para. 163, p. 42.

*not merely the absence of disease or infirmity”*.<sup>20</sup> Concerning the rights to **sexual and reproductive health of women and girls**, the CNDH worked to strengthen the capacities of its members, staff and civil society associations in this field, especially in monitoring aspects of discrimination related to this right. In this context, the Council, in partnership with the United Nations Population Fund, organized several training sessions in 2021, including for young women on the Universal Periodic Review and the mainstreaming of women’s rights in reporting.

24. The CNDH followed up on the issue of **consensual sexual relationships** between adults. The CNDH recommended amending the Criminal Law in a way that ensures the decriminalization of all consensual sexual relationships. The CNDH specifies that the reform of the Criminal Law should, however, maintain the penalization of all forms of sexual exploitation.
25. Regarding women’s **right to education**, despite the efforts made by the government in recent years, illiteracy continues to prevail among women with 42.1%, as against 22.2 for men<sup>21</sup>. The education of girls is still a key challenge, especially in rural areas. According to government statistics, the enrolment rate for children aged between 6 and 11 stood at 99.7% during the school year 2018-2019. This high rate is partly attributed to the financial support provided by the government to vulnerable families. However, the CNDH expresses its deep concern about the continued school dropout in public education, moving up from 304,545 students in the 2019-2020 school year to 331,558 in the 2020-2021 school year, especially in the primary school, which saw an increase of 2.9%. School dropouts affect girls more than boys, and this is primarily due to cultural considerations. These figures are recorded in light of the efforts made at the social level to encourage the continuation of schooling, especially the provision of transportation, food and financial assistance, including in rural areas, and the One Million School Bag Initiative.
26. In its annual reports, the CNDH reported that many challenges still prevent the women’s enjoyment of **the right to employment**. In the second quarter of 2020, Morocco has 18 million women (50.3%), of whom 13.6 million are at working age (15 years and over). Analysis of the situation of women in the labor market reveals a low participation of women in economic activity. Indeed, their participation rate is only 20.8% in October 2020, well below that of men (69.7%). The labor market is less feminized, as out of an employed labor force of around 10.5 million, the number of women employed reached around 2.4 million in the second quarter of 2020 (i.e. a feminization rate of 22.7%).<sup>22</sup> Likewise, the rate of women entrepreneurs is remarkably very low.
27. The CNDH welcomes the importance that the government has given in its program to **social security**, by generalizing it to all workers and extending health coverage to the inactive persons, including women. Implementing these measures would further enhance and protect the right to social security for women. Also, the CNDH issued a thematic report on the effectiveness of the **right to health**<sup>23</sup>, which presents the obstacles faced by citizens to access their right to health. It also proposes recommendations that guarantee the right to health for all, including the right to sexual and reproductive health.

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<sup>20</sup> Available here : PP. 29-32 : [https://cndh.ma/sites/default/files/cndh\\_-\\_web\\_code\\_penal\\_va.pdf](https://cndh.ma/sites/default/files/cndh_-_web_code_penal_va.pdf)

<sup>21</sup> According to the general census of population and housing of 2014.

<sup>22</sup> According to information published in October 2020 by the High Commission for Planning : [https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-La-journee-nationale-de-la-femme-du-10-octobre-2020\\_a2602.html](https://www.hcp.ma/Note-d-information-du-Haut-Commissariat-au-Plan-a-l-occasion-de-La-journee-nationale-de-la-femme-du-10-octobre-2020_a2602.html)

<sup>23</sup> <https://www.cndh.org.ma/an/article/cndh-presents-its-report-effectiveness-right-health-morocco>

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

### **III. Key recommendations that the Committee may wish to address to the government in the concluding observations:**

- Adhere to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention);
- Ratify the ILO Convention No. 190 on the elimination of violence and harassment in the workplace;
- Operationalize Authority for Parity and Fight against All Forms of Discrimination (APALD) and Advisory Council for Family and Children (CCFE);
- Amend the Family Code, particularly by repealing the exception provided for in Article 20 that allows child marriage;
- Revise the provisions of the Criminal Procedure Code, the Civil Procedure Code and the Legal Aid Law by incorporating provisions that guarantee the right of women and girls, especially in vulnerable situations, to obtain legal and judicial assistance;
- Adopt a gender-based approach in a crosscutting manner in the development, implementation and evaluation of national policies, while taking into account the most vulnerable women;
- Accelerate the adoption of a national strategy to combat and prevent trafficking in human beings, with a focus on women and based on a participatory approach;
- Mobilize all stakeholders, including CSO, to raise awareness among families to fight against school dropout;
- Establish a state-financed fund to compensate victims of gender-based violence in the event that the perpetrator is unable to pay compensation, in order to consolidate the right of victims to obtain redress and reparation;
- Promote women's political participation and take concrete measures to ensure women's access to senior positions;
- Ensure that law enforcement authorities take measures for the protection and respect of confidentiality and privacy of survivors of violence in general, and survivors of digital violence in particular, so that they are encouraged to report and to ensure that whistle-blowers are not criminalized;
- The legal text relating to abortion should be based on the concept of health, as defined by the Constitution of the World Health Organization: "*Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*".