



المجلس الوطني لحقوق الإنسان
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National Human Rights Council

Briefing Note

The National Human Rights Council of the Kingdom of Morocco

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@CNDHMaroc



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I. OVERVIEW

1. The National Human Rights Council of the Kingdom of Morocco (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. The CNDH of Morocco was the official representative of the Network of African National Human Rights Institution in GANHRI’s Subcommittee on Accreditation from November 2017 to December 2021 and has been elected as its Chair from December 2020 to February 2022.
2. It should be noted that the Paris Principles focus on six main criteria against which NHRIs can be accredited by the GANHRI: a broad mandate, based on universal human rights norms and standards; independence from government; guaranteed by a statute or constitution; pluralism; adequate resources; and adequate powers of investigation. The “A” status institutions participate fully in the international and regional work and in meetings of national institutions as voting members. They can also hold office in the Bureau of GANHRI. They are also able to participate in sessions of the United Nations Human Rights Council and take the floor under any agenda item, submit documentation and take up separate seating.
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 OPCAT¹, the National Child Redress Mechanism, in line with General Comment 2 of the Committee on the Rights of the Child², and the National Monitoring Mechanism for Persons with Disabilities, in line with Article 33 of the Convention on the Rights of Persons with Disabilities³.

1 https://treaties.un.org/doc/Treaties/2002/12/20021218%2002-38%20AM/Ch_IV_9_bp.pdf

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

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

5. In this regard, the Kingdom of Morocco has been accredited with an “A” status by the UN Human Rights Committee in December 2019 for the adoption of the law, making the CNDH the operative body of the NPM. Morocco was among the five countries that topped the HRC’s accreditation status. The “A” accreditation status reflects that “significant actions” were taken towards the implementation of the selected recommendations of the United Nations Human Rights Committee.

II. ENGAGEMENT OF CNDH WITH NATIONAL AND INTERNATIONAL STAKEHOLDERS

I. Engagement with national stakeholders

6. The CNDH is Morocco’s national human rights institution (NHRI). In addition to its mandate as an NHRI, the CNDH is also member of several institutions including the Supreme Council of the Judicial Power; the Economic, Social and Environmental Council; the Council of the Moroccan Community Abroad; the National Press Council; the National Council of Languages and Moroccan Culture; the Right to Access Information Commission; the National Council of Archives; the Higher Council for Education, Training and Research; the National Authority for Probity, Prevention and Fight against Corruption; the High Authority for Audio-visual Communication; the Authority for Parity and the Fight against all Forms of Discrimination; the Advisory Council on Family and Childhood; the Advisory Council for Youth and Civil Society Work; the Competition Council; the National Committee for International Humanitarian Law; the National Commission for the Coordination of Measures to Combat and Prevent Trafficking in Human Beings; and the Central Census Commission on Military Service.

Engagement with the Parliament

7. In light of the Belgrade principles governing relations between national parliaments and national human rights institutions, the CNDH has worked to strengthen its cooperative relations with Morocco’s Parliament in this regard. Thus, the CNDH signed two memorandums of understanding with the Parliament, one with the house of representatives, and the other one with the House of Councilors in 2021⁴. These memorandums aim at strengthening relations of cooperation and sharing of experiences between the two institutions. Both MoU are valid for three years and

⁴ <https://www.cndh.org.ma/an/article/amendment-and-updating-memorandum-understanding-between-cndh-and-house-representatives>

can be automatically renewed for the same period; they focus on cooperation and actions based on a human the rights approach in the areas of legislation, control of government action, evaluation of public policies and parliamentary diplomacy, and the implementation of programs aimed at building capacity in the field of human rights.

Engagement with Government

8. The CNDH cooperates with various government departments at the national and regional levels. In this regard, after the formation of the new government following the 2021 elections, the Council sent a memorandum to the Chief of the Government (Prime Minister) containing proposals and recommendations to mainstream rights and freedom within public policies. The President of the Council also held a meeting with the Prime Minister on the occasion of his appointment by His Majesty as Prime Minister. In addition, the Council positively records the interaction of government sectors with the council's complaints. There was a clear improvement on the quantitative level, but the quality of the answers remained of a general and justifiable nature, which made it unconvincing with regard to the subject matter of the allegation. The Council also records the positive interaction of the Presidency of the Government and the sectors concerned with the implementation of the recommendations of the Equity and Reconciliation Commission. The CNDH is the institution entrusted with following up on the recommendations of this truth committee.

Engagement with judicial bodies

9. The President of the Council is a member in the Supreme Council of the Judicial Power, and a member in the Special Committee provided for under the Article 79 of the Organic Law of the Supreme Council of the Judicial Power, and of the Ethics Committee. Within the framework of cooperation between the Council and the judicial institutions, the Council and its regional commissions exchange invitations with the judicial authorities to participate in various activities of interest to both sides. The Council also contributed to the program of prosecutors' capability-building in the field of human rights. In addition, the CNDH examines and addresses complaints and refers the obtained results to competent Office of the Public Prosecutor, whenever the matter is classified as a criminal act.

Engagement with civil society

- 10.** Civil society and human rights defenders are essential components in the membership of the CNDH and its regional commissions. In this regard, the Council engages with civil society, and worked to involve them in its various initiatives and activities. In addition, the Council and its regional commissions sought partnerships with civil society. In this sense, a cooperation and partnership agreement was signed between the Council and the Prometheus Institute for Democracy and Human Rights 2021, for example. The Council also concluded a partnership agreement with the Coalition of Persons with Disabilities. The Regional Human Rights Commission of the Oriental Region also signed a partnership agreement with the regional office of the Magistrates Club of Morocco in the Appeals Chamber of Oujda. During 2021, the CNDH supported civil society associations in many areas, organized and implemented training courses for many associations on areas related to combating gender-based violence, protecting human rights defenders and the international human rights system. The Council and its regional commissions also contributed in the supervision of many seminars and study days organized by civil society associations in various regions of Morocco.

2. Engagement with international stakeholders

- 11.** The CNDH cooperates, coordinates and interacts with international and regional organizations working in the field of human rights, including the United Nations system and the African and European institutions. It submits parallel reports to various UN treaty bodies whenever Morocco is reviewed. It also engages with the United Nations Human Rights Council and its Universal Periodic Report. All CNDH reports are available in the website of OHCHR. It also holds working visits with the special procedures mandates holders and contributes to the development of new universal standards and to the reform of the UN human rights treaty body system.
- 12.** The CNDH has a leading role in the GANHRI. In March 9th, 2022, Ms. Amina Bouayach, President of the CNDH was elected as the GANHRI Secretary and Vice-President, and in December 2021, Ms. Bouayach was elected as Member of GANHRI Bureau, representing the Network of African National Human Rights Institutions (NANHRI). The CNDH is also a member of GANHRI Working Group on Business and Human Rights and Working Group on Women's Rights.
- 13.** The CNDH occupies a position of leadership within the NANHRI through assuming many responsibilities. During the NANHRI's general assembly, held on November 2nd, 2021, the CNDH was re-elected as the chair of the working group (WG) on migration and was designated as a member of the NANHRI Steering Committee.

The NANHRI General Assembly also approved a proposal by the President of the CNDH, Ms. Amina Bouayach, to create a working group on children's rights, in which the Moroccan institution will sit as a member. The CNDH is also a Member of the Administrative Committee of the Francophone Association of National Human Rights Commissions. It is also a Member of its following working groups: WG on Women rights, WG on Migrants and WG on Business and Human Rights. Furthermore, The CNDH is also a founding member of the Arab Network for National Human Rights Institutions and a member of its Executive Committee since its inception.⁵

III. REPORTING AND MONITORING BY CNDH

- 14.** Since the appointment of Ms. Amina Bouayach in December 2018, the CNDH released three Annual Reports of 2019, 2020 and 2021⁶. These reports contain a detailed analysis of the overall situation of human rights throughout Morocco as well as recommendations, based on international human rights instruments and the national constitution, with the objective of advancing the human rights agenda at the legal, institutional policy and practice levels. The actions of regional human rights commissions, including those of the southern provinces, are also reflected in this report in a cross-cutting manner. The recommendations contained in these reports aim at reinforcing the national human rights protection system. The implementation depends on the cooperation of all stakeholders, including the government, parliament, judiciary, other relevant institutions and entities, and NGOs.
- 15.** The annual reports of the three CNDH Mechanisms, namely the National Preventive Mechanism against Torture, the National Child Redress Mechanism and the National Monitoring Mechanism for Persons with Disabilities are also attached to the CNDH' annual report.
- 16.** The CNDH issued a number of thematic reports, memorandums, and opinions⁷ on a number of draft laws. These initiatives fall within the framework of the tasks entrusted to the CNDH in the promotion of human rights in Morocco and are aimed to monitor the implementation of the international Human rights standards. In this regard, the CNDH published the following reports:
- Four thematic reports: report on the right to health; report on the Observation of the Legislative, Regional and Communal Elections; report on Al Hoceima protests; report on Jerada protest;

5 https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_annuel_2019.pdf

6 <https://www.cndh.org.ma/fr/rubriques/documentation/publications/rapports-annuels>

7 <https://www.cndh.org.ma/fr/rubriques/documentation/publications>

- Five memorandums: Memorandum on the Amendment of the Penal Code; Memorandum on the Development Model; Memorandum on Targeting System for Social Support and Establishment of National Register Agency; Memorandum on National Authority for Integrity and Corruption Prevention; Memorandum on Archives Law.

- 17.** The CNDH report on the right to health⁸ presents the obstacles faced by citizens to access their right to health. It also proposes a human rights-based strategy where the State plays a key role. The right to health could be strengthened by focusing on five main axes: strengthening governance at the level of decision-making mechanisms, hospital structures, financing, human resources and the pharmaceutical industry; building a health system based on a preventive approach; increasing beneficiaries of health coverage; improving the conditions for medical practice, training and scientific research.
- 18.** The thematic report on Al Hoceima protests⁹ is composed of 400 pages. It addresses several axes such as: defining the concept of “Al Hoceima protests”. One of the objectives of this report was to provide sufficient elements of information, clarification and reflections, capable of enabling the reader to elaborate his/her own opinion concerning the unrestful events in the province of Al Hoceima.
- 19.** The CNDH presented its thematic report on Jerada protests¹⁰ that aims to observe, monitor and document these events and assess their impact on rights and freedoms, in accordance with international conventions ratified by Morocco and the guarantees provided by the Constitution and national legislation. It also aims, on the one hand, to submit proposals based on the human rights approach which would be likely help resolve the issues related to the claims expressed during the Jerada protests and, on the other hand, to learn the lessons to prevent them from happening again in similar contexts. The report thus presents 29 conclusions and 36 recommendations formulated on the basis of the human rights approach, and the follow-up and monitoring carried out by the CRDH of the Oriental region of the different forms of protests that happened in the city of Jerada. The CRDH tasks included observing trials, monitoring and tracking work, and interacting with relevant authorities, civil society and affected groups.
- 20.** In May 2021, the newly-established Special Commission on the Development Model (CSMD) submitted to His Majesty the King its general report entitled “the New Development Model, releasing energies and regaining trust to accelerate the march

8 https://cndh.ma/sites/default/files/cndh_-_rapport_sante_va22.pdf

9 https://www.cndh.org.ma/sites/default/files/cndh_-_rapport_hoceima_vf.pdf

10 https://www.cndh.org.ma/sites/default/files/cndh_-_exe_re_jerada_va.pdf

towards progress and prosperity for all"¹¹. The President of the CSMD also presented the report to the General Assembly of the CNDH in July 2021. This report presents the CSMD's main conclusions and recommendations and is structured around three parts: (i) Morocco today and in the future; (ii) the new model proposed by the commission; and (iii) levers of change to achieve the new model. The CNDH contributed to this report by submitting a memorandum, in August 2020, entitled "Effectiveness of Rights and Freedoms in Morocco: for a New Social Contract"¹². The memorandum provides for the perspective of the CNDH aimed at making the realization of rights and freedoms a basic entry point to guarantee the right to development. This memorandum was a result of 12 regional consultations held in various regions of Morocco, including three consultations held in October and November 2019 by the three commissions of Laayoune, Dakhla and Guelmim. They brought together civil society, local authorities and stakeholders from businesses, media and academia. These bottom-up consultations aimed to engage with citizens and stakeholders with a view to developing the CNDH perspective regarding a human rights-based development model.

- 21.** The CNDH published a report on the Observation of the Legislative, Regional and Communal Elections held on September 08, 2021. The CNDH concluded that the voting process took place in accordance with the procedures in force, and the observations made by the CNDH observers do not compromise, in general, the transparency indicators. The Special Commission for the Accreditation of Election Observers received 74 accreditation requests from national and international organizations. The Commission accredited 44 NGOs, as against 31 in the previous elections. It also considered 20 requests from international organizations, of which 19 were approved, as against 16 in the previous elections. The overall number of accredited national observers reached 4,323, as against 3,953 in the 2016 elections. 152 international observers were accredited, including 71 women. Likewise, the number of the CNDH observers reached 568, as against 412 in the previous elections. The Council provided more than 1 million dirhams in financial support to 14 NGOs accredited to conduct non-partisan electoral observation.
- 22.** On 25 May 2021, the CNDH established the "Unit for the preservation of memory and the promotion of Moroccan history and its various tributaries". The establishment of this unit is part of the implementation of the recommendations made by the Equity and Reconciliation Commission (IER). Through the establishment of this Unit, the CNDH aims to promote Moroccan human rights history and its various tributaries. It also intends to strengthen its mainstreaming in school curricula and programs. The

¹¹ <https://www.csmd.ma/rapport-en>

¹² https://www.cndh.ma/sites/default/files/mdhkr_lmjls-_Inmwdhj_ltnmwy_ljdyd_2.pdf

unit is composed of several senior researchers, including from the Sahara region.

- 23.** The CNDH submitted its memorandum relating to the amendment of Law 10-16 of the Penal Code¹³, with the presidents of the two Chambers as well as with the various parliamentary groups. The CNDH pleads, in its memorandum, for a penal code which protects freedoms, and where the principles of legitimacy, necessity and proportionality of laws are respected. The recommendations of the CNDH cover several areas of the Penal Code, in particular the non-prescription of acts of torture, the fight against cruel, inhuman and degrading treatment, the fight against enforced disappearance, the criminalization of incitement to violence, hatred and discrimination, among others.
- 24.** Morocco ratified in late April 2022 the Optional Protocol to the International Covenant on Civil and Political Rights and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Thus, only three international human rights instruments are yet to be ratified by Morocco. These are the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, the second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty and Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

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IV. KEY CNDH RECOMMENDATIONS

- 25.** The Council makes the key recommendations mentioned below and included them in its annual reports. The implementation of such recommendations is of particular importance in order to strengthen the protection of the national human rights system. These structuring recommendations are addressed to public authorities and concern the treaty practice of our country and its engagement with the international human rights system. They are also about the legal and institutional framework as well as public policies and related programs and practices. These are the following:

I. Treaty practice and engagement with the international human rights system:

- 25.1.** Accede to the remaining international human rights instruments, including:

¹³ <https://www.cndh.org.ma/fr/memorandums/memorandum-du-cndh-sur-le-projet-de-loi-ndeg-1016-modifiant-et-completant-le-code-penal>

- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (process underway),
- Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty;
- International Labor Organization Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize;
- Rome Statute of the International Criminal Court;
- African Charter on Human and Peoples Rights;
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;

25.2. Strengthen engagement with the United Nations human rights system, specifically by implementing the recommendations addressed to the Government, making up for the delays in the submission of periodic national reports;

25.3. Extend standing invitations to special procedures mandate holders to undertake country visits to our country;

25.4. Vote in favor of United Nations General Assembly resolution on a moratorium on the use of the death penalty;

25.5. Publish the report of the UN Subcommittee on the Prevention of Torture as it is of practical significance in strengthening the protection of human rights and the prevention of possible violations.

2. Legal framework

25.6. Abolish the death penalty in law and in practice;

25.7. Accelerate the adoption of the draft law amending and supplementing the Penal Code, in accordance with the recommendations of the Council, contained in the memorandum of 2019, and which aim to bring the draft penal code into compliance with the Constitution and the international human rights standards, while taking into consideration the new challenges generated by the digital space

such as the spread of hate speech and discrimination, digital violence, fake news and intelligence artificial;

- 25.8.** Accelerate the adoption of the draft Code of Penal Procedure so as to give more room to the defense during the preliminary investigation phase and from the moment of custody; use audio-visual means of recording during the drafting of minutes by the judicial police and use medical expertise before and after police custody in the event of an allegation of torture;
- 25.9.** Accelerate the adoption of the draft law on the Code of Civil Procedure so as to guarantee the effectiveness of the right of access to justice for all groups and provide for flexible procedures that take into consideration the situation of vulnerable categories, including the notification of rights, the revision of the law relating to legal aid so as to institutionalize it and apply it in all phases of legal action and in all types of appeal;
- 25.10.** Enact a law regulating compensation for judicial error within the framework of the theory of risk, establish a compensation fund for judicial error to repair the harm caused to victims and facilitate access to equity;
- 25.11.** Put in place a legal framework regulating the distance trial in compliance with the principle of legality;
- 25.12.** Revise the legal provisions relating to associations, in particular with regard to the procedure for constitution and renewal, the provision of public rooms for the organization of activities, the aim being to strengthen the practice of freedom of association and the action of human rights defenders and to expand civic space, in accordance with the Constitution and the International Covenant on Civil and Political Rights;
- 25.13.** Revise the legal provisions relating to public assemblies by subjecting the use of public force to the control of the prosecution and by providing for provisions guaranteeing the protection of all human rights defenders, including journalists and media professionals covering peaceful protests;
- 25.14.** Amend all provisions related to the issue of freedom of expression and ensure that any restriction on this freedom is governed by a clear legal text that should be in line with the International Covenant on Civil and Political Rights, especially art. 19;
- 25.15.** Revise the Family Code in accordance with the provisions of the Constitution and international conventions ratified by Morocco, including the repeal of the exception in Article 20 allowing child marriage;

- 25.16.** Cancel all legal provisions that may discriminate against women and apply the principles of equality and parity enshrined in the Constitution;
- 25.17.** Establish a general legal framework to combat discrimination in accordance with the relevant international instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination and the Constitution;
- 25.18.** Establish a specific law for the elderly, in accordance with international standards applied in the matter, in particular the United Nations Principles for Older Persons (1991);
- 25.19.** Accelerate the adoption of Law 72.17 relating to the entry and stay of foreigners in Morocco;
- 25.20.** Accelerate the adoption of Law 66.17 on asylum and the conditions for its granting;
- 25.21.** Accelerate the adoption of the bill on the fight against mental disorders and the protection of the rights of people with such disorders, in accordance with the recommendations of the Council in this regard;
- 25.22.** Accelerate the adoption of the Prisons Act and its adaptation to international standards, including the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules);
- 25.23.** Complete the procedure for the adoption of draft organic law 97.15 defining the conditions and procedures for exercising the right to strike;
- 25.24.** Establish a legal framework for combating misleading information and fake news that is consistent with relevant international standards;

3. Institutional framework

- 25.25.** Operationalize the following constitutional institutions:
 - The Body in charge of equity and the fight against all forms of discrimination;
 - Family and Child Advisory Council;
 - Advisory Council for Youth and Associative Action;
 - The National Council for Moroccan Languages and Culture;

4. Public policies, programs and practices

- 25.26.** Adopt the human rights-based approach when implementing the New Development Model, taking into consideration the SDGs and the principles of participation, accountability, non-discrimination, empowerment and legality;
- 25.27** Honor the commitment to update the national plan for democracy and human rights, taking into account emerging challenges in the field of human rights such as climate change, the digital space and bioethics;
- 25.28.** Adopt a national health strategy, based on the rights approach and on the centrality of the role of the State in the protection of the right to health and aimed at increasing the budget allocated to this sector; the aim being to increase the number of staff operating in the health sector; to improve their material conditions, to provide them with the necessary means enabling them to carry out their missions in the best possible conditions, to strengthen their capacities, upgrade health infrastructure and generalize basic care centers throughout the national territory;
- 25.29.** Ensure that national health policies are governed during health crises by ethical considerations, in accordance with international human rights and bioethical standards;
- 25.30.** Accelerate the implementation of the measures mentioned in the general report on the New Development Model and in the government program, in particular;
- 25.31.** Accelerate the implementation of the measures mentioned in the general report on the New Development Model and in the government program, in particular those aimed at improving the quality of public education and encouraging equal opportunities between the two sexes and between rural and urban areas, the generalization of social security to all citizens and the improvement of the situation of vulnerable groups;
- 25.32.** Adopt a national action plan in the field of business and human rights, taking into account international standards in this area, in particular the principles relating to responsible business conduct, due diligence and extraterritorial jurisdiction;
- 25.33.** Comply with legal deadlines in responding to complaints from the Council and take necessary action where allegations of violations are substantiated and accountability established, address such complaints in a positive manner by

providing responsive responses deal with these complaints in a positive manner by providing precise and convincing replies to correspondences from the Council;

- 25.34.** Take urgent measures to combat prison overcrowding, in particular through the rationalization of pre-trial detention, the revision of the pardon procedure, the activation of conditional release, the sensitization of prisoners and the acceleration of the application of alternative penalties;
- 25.35.** Publish the outcome of investigations carried out by public authorities for the purpose of holding accountable those involved in violations of the right to physical integrity;
- 25.36.** Further protect individuals against the exploitation of their data without their consent by digital companies and data brokers and hold them to account if they are involved, in accordance with the principle of responsible business conduct ;
- 25.37.** Draw inspiration from Human Rights Council Resolution No. 16/18 and the Rabat Action Plan on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence;
- 25.38.** Implement the commitments under the Government Program (2021-2026) to strengthen the right of access to water;
- 25.39.** Continue efforts aimed at the officialization of the Amazigh language in schools and universities, courts and public administrations;
- 25.40.** Call on justice to incorporate international human rights standards in rulings and decisions, with a view to implementing the principle of the primacy of international standards over national laws, in accordance with the preamble of the Constitution;
- 25.41.** Accelerate the digitization of judicial proceedings as a strategic option to strengthen the effectiveness of the right of access to justice and to publish court decisions within a reasonable time;
- 25.42.** Continue initiatives aimed at building the capacity of law enforcement officials in the field of human rights;
- 25.43.** Strengthen the participation of parliamentarians in consultations on the preparation and follow-up of reports submitted to the international human rights system in their various phases and strengthen participation in events organized in this context, in particular the sessions of the of Human Rights Council and the Universal Periodic Review.

