



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues in relation to the sixth periodic report of Morocco\*

##### Constitutional and legal framework (arts. 1 and 2)

1. Please describe the measures taken to give full effect to the primacy of duly ratified international instruments over domestic law, as enshrined in the Constitution of 2011, specifying the progress made in harmonizing national law with those instruments. Please indicate whether the provisions of the Covenant have been invoked directly or indirectly before the national courts and, if so, provide detailed information on the cases in question.
2. Please provide information on the functioning and the role of the National Human Rights Council and its regional committees and indicate whether it is empowered to receive complaints of human rights violations and to respond to them.

##### Right to self-determination, right to life and freedom of movement (arts. 1, 6 and 12)

3. In the light of the information provided in the report (see CCPR/C/MAR/6, paras. 35-39) on the Moroccan initiative for negotiating an autonomy statute for the Sahara region, and of the Committee's previous recommendations (see CCPR/CO/82/MAR, para. 8), please describe the efforts made under the auspices of the United Nations and the progress achieved in the realization of the right to self-determination for the people of the non-autonomous territory of Western Sahara, as well as the measures taken to resolve the issues that are impeding the holding of a referendum. Please provide statistical data on the composition of the current population of Western Sahara, specifying the percentage of Saharans, Moroccan nationals, civilians and members of the security and armed forces.

##### Derogations (art. 4)

4. With reference to the Committee's previous recommendations (see CCPR/CO/82/MAR, para. 10), please indicate whether the State party interprets its legislation on states of emergency as being in full conformity with article 4 of the Covenant.

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\* Adopted by the Committee at its 116th session (7-31 March 2016).



**Non-discrimination, gender equality, protection of the family and children (arts. 2, 3, 17, 23, 24 and 26)**

5. Please indicate whether any measures have been adopted or are planned to enact comprehensive anti-discrimination legislation that addresses discrimination in all spheres, including in the private sphere, prohibits direct, indirect and multiple discrimination, contains an exhaustive list of prohibited grounds for discrimination, including sexual orientation and gender identity or expression, and provides for effective administrative and judicial remedies. Please specify whether the entity provided for in the Constitution to handle issues of equality and combat all forms of discrimination has been established.

6. Please indicate whether any measures have been taken since 2011, or are planned, to rescind the remaining legal provisions that discriminate against women, particularly in matters of polygamy, divorce, child custody, legal guardianship, inheritance and the transmission of nationality to children and husband. Please describe the steps taken to overcome the reluctance of some justice officials to implement the Family Code and to provide them with training on its provisions.

7. Please describe the practical measures taken to: (a) increase the representation of women in political and public life, including in judicial, legislative and executive bodies, at all institutional and administrative levels, and especially in decision-making positions; (b) guarantee women equal access to the labour market and education; and (c) eradicate patriarchal behaviours and stereotypes regarding the roles, responsibilities and identity of women and men in the family and society at large, especially in the media. Given the high number of early marriages entered into in application of the derogation permitted under article 20 of the Family Code, please indicate whether any legislative amendments or other measures are being considered to eliminate this practice. Please specify the progress achieved in establishing the advisory council for children and the family provided for in the Constitution of 2011.

8. Please provide information on the steps taken to combat discrimination against persons with disabilities and their social exclusion and on the bill on persons with disabilities, and explain what is being done to take account of criticisms formulated by civil society. Please describe the measures taken to combat discrimination against children born out of wedlock, asylum seekers, refugees, migrants and Saharans. Please indicate whether the State party intends to decriminalize consensual sexual relations between persons of the same sex, specifying the steps taken to combat discrimination, harassment and violence on the grounds of sexual orientation or actual or presumed gender identity or expression. Please describe the measures taken to prevent and respond to the inter-ethnic and ideological tensions that pit Arabs, Amazighs and Saharans against one another.

**Violence against women (arts. 3, 6 and 7)**

9. Please provide information on the measures adopted to criminalize all forms of violence against women, especially domestic violence, including marital rape, and sexual harassment. Please indicate whether there are any measures planned to eliminate the distinctions contained in the Criminal Code (arts. 489-491) between married, unmarried, virgin and non-virgin victims of rape. Please indicate whether the State party intends to revise the provisions setting out attenuating circumstances for honour crimes that feature in the draft revised Criminal Code. Please also indicate whether the State party has taken steps to combat violence against women and what their impact has been. Please provide information on the bill on violence against women, including on its content. Please specify the steps taken to facilitate the filing of complaints by women and girl victims of violence and to put in place protection measures, such as shelters, and rehabilitation services. Please

provide data on any investigations conducted, legal proceedings initiated and convictions and penalties handed down to perpetrators in cases involving violence against women, as well as the reparations awarded to victims. Please indicate whether the State party intends to adopt a national strategy to combat violence against women.

### **Counter-terrorism measures (arts. 2, 7, 9, 10 and 14)**

10. Please indicate whether steps have been taken to amend the Criminal Code and the Counter-Terrorism Act (No. 03-03 of 2003) in order to precisely define the notion of terrorism, and provide information on the criteria used to determine whether an act constitutes terrorism, justification of terrorism or incitement to terrorism. Please describe the steps taken to revise the law on police custody with a view to reducing the maximum duration of custody to the strict minimum and to permitting access to a lawyer from the outset of detention.

### **Right to life (arts. 2 and 6)**

11. Please provide information on the number of offences that carry the death penalty, the steps taken or planned to reduce that number, the number of individuals who have been sentenced to death during the reporting period, the number of individuals on death row and the measures adopted to commute the sentences of all those sentenced to death. Given that no executions have taken place since 1993, please indicate whether the State party intends to ratify the second Optional Protocol to the Covenant and to set a moratorium on the death penalty with a view to abolishing it.

12. In the light of the Committee's previous recommendations (see CCPR/CO/82/MAR, para. 29), please indicate whether the State party has taken or plans to take measures to revise its legislation on voluntary termination of pregnancy in order to prevent clandestine abortions which can lead to the woman's death (maternal mortality).

### **Prohibition of torture and other cruel, inhuman or degrading treatment, and treatment of prisoners and other detainees (arts. 2, 6, 7 and 10)**

13. Please provide statistical data for the reporting period on the number of complaints of torture and ill-treatment committed by State officials, the medical examinations ordered by the judiciary and the ensuing investigations, legal proceedings and penalties. Please describe the measures adopted in response to the reports of the Working Group on Arbitrary Detention (A/HRC/27/48/Add.5) and of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/22/53/Add.2) which found that acts of torture and ill-treatment by the police, in particular officers of the National Surveillance Directorate, are common during arrest and detention in alleged cases of terrorism or threats against State security (membership of Islamist movements or support for the independence of Western Sahara). Please comment on reports that: (a) torture and ill-treatment continue to take place across the country and are used to extract confessions and that convictions have been handed down on the basis of these confessions; (b) in alleged cases of terrorism or national security threats, suspects are often deprived of fundamental legal safeguards, are not officially registered and are held for weeks without being brought before a judge, without a judicial review and without their families being informed; (c) isolation, sometimes for long periods, is used as a disciplinary measure against persons convicted of terrorism; and (d) victims of torture who file complaints are sometimes the subject of intimidation and legal action. Please indicate what response has

been given to the calls by the Working Group on Arbitrary Detention to release and provide adequate reparation to Mohamed Hajib (decision No. 40/2012), Abdessamad Bettar (No. 3/2013), Ali Aarrass (No. 25/2013), Mohamed Dihani (No. 19/2013, recently released after having served his sentence) and Rachid Ghribi Laroussi (No. 34/2015), all of whom were imprisoned following court decisions that were based on forced confessions. Please provide information on the measures that the State party has taken or plans to take to combat the use of torture to obtain confessions, and to ensure that confessions obtained under coercion may not be used as evidence in any proceedings. Please also provide information on the content and the timeline for the adoption of the bill on legal medicine. Please provide information on the measures taken or planned to address the institutional barriers to the complete eradication of torture as identified by the National Human Rights Council. Please state whether the national torture prevention mechanism has been established following the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the State party, whether there are plans to amend article 84 of Act No. 23-98 on prisons in order to permit access to civil society organizations and whether, in practice, unannounced visits to places of detention can be conducted by independent organizations.

14. Please indicate whether any measures have been taken or are planned to: (a) amend domestic law to ensure that individuals have immediate access to a lawyer from the moment of their arrest, without the prior authorization of the prosecutor; (b) ensure the enjoyment of fundamental safeguards provided for by law, in particular the right to be seen by an independent doctor, to contact family members, to be informed of their rights and the charges brought against them and to be brought before a judge without delay; (c) amend the Code of Criminal Procedure to place the burden of proof upon the prosecution in cases where the defendant alleges torture or ill-treatment; (d) ensure that judges and prosecutors carry out systematic and independent investigations when allegations of torture or other ill-treatment are brought to their attention; (e) put an end to reprisals against persons who report acts of torture; and (f) limit the duration of police custody to 48 hours.

15. Please provide information on the steps taken to improve detention conditions, including in Western Sahara, particularly sanitation, food supply and access to health care. Please comment on reports that corruption, drug trafficking and drug abuse are widespread in prisons. Please provide information on the measures taken to address prison overcrowding, which is caused primarily by the large number of pretrial detainees. In that connection, please provide further details on the use of alternatives to pretrial detention, indicating whether a bail system has been set up, as recommended by the Committee against Torture (see CAT/C/MAR/CO/4, para. 19), and whether there has been greater recourse to non-custodial sentences in cases of lesser offences since the Committee's previous recommendations. Please describe the measures taken to put an end to the detention of minors in ordinary prisons and to encourage the prosecution service to make greater use of the alternatives to detention provided for in articles 501 to 504 of the Code of Criminal Procedure. Please provide data on the number of deaths in detention and their causes, indicating the steps taken to investigate these deaths, punish those responsible and award reparations. Please state whether examinations into cause of death are carried out by independent forensic pathologists and whether the findings of these examinations are accepted as evidence in criminal and civil proceedings. Please also describe the steps taken to investigate the allegations that prison officers were involved in the death of Abdel Baqi Taha in Laayoune prison.

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### **Freedom and security of the person, protection against arbitrary detention and enforced disappearance (arts. 7 and 9)**

16. Please comment on reports of incommunicado detention and secret places of detention, in particular in relation to “extraordinary renditions” carried out as part of the international counter-terrorism effort, and describe the measures taken to investigate and prosecute the State officials involved and to prevent all incommunicado detentions.

17. Please provide data on the number of complaints of enforced disappearance that have been filed since the Committee’s previous concluding observations, describing in each case the efforts made to investigate the circumstances, prosecute and punish those responsible and provide reparation to the victims and/or their families. In addition to the compensation provided for under the extrajudicial procedure before the Equity and Reconciliation Commission, please describe the steps taken to solve hitherto unsolved disappearances and to shed light on and inform the families of the disappeared persons of their circumstances. Please state whether all the victims, including Saharans, identified by the Commission have received adequate reparation. Please provide information on the efforts undertaken to give effect to the Commission’s recommendations, in particular the recommendations concerning the community reparations programme and the adoption of a national strategy to combat impunity, and indicate whether the State party intends to take steps to identify those responsible and impose, through the courts, penalties commensurate with their actions.

18. With reference to the information provided in the State party report (see CCPR/C/MAR/6, paras. 168-171), please comment on reports that the current Minister of Justice has issued a royal circular authorizing and requesting the Public Prosecution Service to use physical force to recover contract debts. Please indicate whether the State party intends to revoke the circular in question.

### **Right to a fair trial and independence of the judiciary (art. 14)**

19. Please provide a progress report on the reform of the Criminal Code and the Code of Criminal Procedure. Please describe the measures taken to ensure that judicial procedures are fully in line with article 14 of the Covenant and to discourage the practice of, inter alia, using reports which have not been read to suspects, refusing to hear the testimonies of victims, witnesses or experts, and refusing to take certain evidence into account. Please comment on allegations of bias, especially in trials of individuals who have expressed views that challenge or criticize the authorities. Please indicate whether the reported irregularities, such as in the cases of the 11 young people arrested during the “movement of 20 February” and of the 25 Saharan men arrested during the incidents of violence that occurred on 8 November 2010, have been investigated.

20. In view of the reports describing irregularities in the trial of the Saharan civilians who were convicted by a military court in relation to the events at Gdeim Izik, please indicate whether the State party plans to grant those convicted a new civil trial and to release them on bail provided that no valid motives for holding them in pretrial detention have been established. Please also state the grounds invoked by the court to reject the request by the defence to investigate the defendants’ allegations that they were tortured by the police and forced to sign police reports that they had not read.

21. Please provide a progress report on the reform of the Supreme Council of the Judiciary and the Judges Statute, specifying whether the draft basic laws under discussion fully guarantee the independence of the judiciary. Please provide information on the procedures and criteria for the selection, appointment, punishment, suspension and

dismissal of judges. Please also describe the steps taken to: (a) ensure, in law and in practice, the full independence and impartiality of judges in relation to the executive branch; and (b) prevent and criminalize threats against or intimidation of lawyers or judges or interference in their work, and the use of arbitrary disciplinary measures.

### **Treatment of foreigners, particularly refugees and asylum seekers (arts. 6, 7, 12 and 13)**

22. Please provide information on the implementation of the asylum and migration policy announced in September 2013 and on the number of Syrian nationals who have obtained refugee status since then, specifying the services that have been made available to them. Please indicate whether a new asylum law has been drafted and whether it will be made public in the near future. Please comment on reports that Moroccan law enforcement officers have carried out violent operations against refugees and migrants attempting to enter the enclaves of Ceuta and Melilla with a view to reaching Spain. Please describe the steps taken to give effect to the recommendations of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/22/53/Add.2) and the Working Group on Arbitrary Detention (A/HRC/27/48/Add.5) concerning acts of violence, including sexual violence, and ill-treatment committed by security forces against migrants and asylum seekers, the expulsion of migrants in an irregular situation without being given the opportunity to claim their rights, and allegations that hundreds of migrants have been abandoned in the desert without water or food. Please comment on reports that Moroccan law enforcement officers have carried out collective expulsions of and violent operations against migrants and asylum seekers in the autonomous cities of Ceuta and Melilla and in the immediate vicinity. Please state whether any investigations have been conducted, whether those responsible have been prosecuted and, if so, whether they have been punished. Please also comment on reports that many migrants have been arrested and held in detention for several days without their personal situation being assessed, without a written decision or court ruling, without being informed of the reasons for their detention and without access to an interpreter, a lawyer or medical assistance.

### **Right to privacy (art. 17)**

23. Please provide information on the legal safeguards in place to prevent any arbitrary or unlawful interference in people's private lives, home or correspondence, including the protection of personal information, and on how these safeguards are observed in practice. Please also provide information on the steps taken to ensure that: (a) the interception of private communications, the storage of related metadata and other surveillance activities are subject to prior judicial authorization and are consistent with the State party's obligations under the Covenant; and (b) these surveillance activities are subject to oversight by independent mechanisms.

### **Freedom of religion and belief (art. 18)**

24. In the light of the Committee's previous concluding observations (see CCPR/CO/82/MAR, para. 21), please provide information on the measures taken to guarantee freedom of religion and belief in law and in practice, including for non-Muslim religious communities and atheists. Please also provide information on the new offences liable to imprisonment that have been introduced in the draft revised Criminal Code, namely the act of insulting or mocking religions or deliberately causing a disturbance during religious ceremonies.

**Freedom of expression, assembly, association and movement (arts. 7, 9, 12, 19, 21 and 22)**

25. Please comment on reports that: (a) the State party continues to arbitrarily prevent or hinder the legal registration of certain associations and trade unions; (b) civil society actors are increasingly subjected to harassment and restrictions in their work, are the victims of arbitrary detention, torture and ill-treatment, and are prevented from moving about freely, especially in Western Sahara and the border areas around the autonomous Spanish cities of Ceuta and Melilla; and (c) attempts are made to discredit or intimidate civil society activists, including journalists, in part through selective prosecution.

26. In the light of the Committee's previous recommendations (see CCPR/CO/82/MAR, para. 23), please provide information on the number of journalists who have been handed down fines and prison terms under the Press Code and the Counter-Terrorism Act for having published articles or expressed views deemed to be insulting to the royal family, which relate to the status of Western Sahara or which concern groups considered to be terrorist groups. Please also provide information on the steps taken to bring domestic legislation into line with article 19 of the Covenant. Please comment on the allegations that the Government controls the media, closely monitors the press and engages in political and judicial harassment that encourages self-censorship.

27. In view of the Committee's previous recommendations (see CCPR/CO/82/MAR, para. 24), please indicate whether steps have been taken to remove barriers to the enjoyment of the right to peaceful assembly. In that connection, please comment on reports that administrative delays and other methods continue to be used to discourage or prevent the holding of peaceful gatherings that the Government does not support, especially in Western Sahara. Please state the criteria and requirements for the issuance of an authorization to hold a peaceful gathering. Please also comment on reports that excessive force is frequently used to disperse crowds, particularly in Western Sahara, and that some protesters are arbitrarily arrested, tortured, ill-treated and prosecuted.

**Children's rights, elimination of slavery and servitude (arts. 7, 8 and 24)**

28. Please describe the measures taken to respond to the concerns raised by the Committee on the Rights of the Child (see CRC/C/MAR/CO/3-4, paras. 38 and 39) regarding the frequent placement of child victims of violence, street children, children deprived of their family environment, children with disabilities and children in conflict with the law in protection centres. Please describe the steps taken to improve the living conditions in these centres and to remove marginalized and underprivileged children from them. Please also describe the measures taken, pursuant to the recommendations of the Committee on the Rights of the Child (see CRC/C/MAR/CO/3-4, paras. 48 and 49), to halt the placement of children in institutions simply because they are poor and to put an end to the violence and abuse committed there by, for example, enhancing the supervision within these institutions and setting up mechanisms to receive and examine children's complaints. Please also provide information on the measures taken to improve children's access to justice.

29. Please describe the measures taken to combat the economic exploitation of domestic workers, especially children, and the abuse allegedly suffered by girls from rural areas who are employed under harsh conditions in the city. Please provide information on the prevalence of child labour in the State party and the steps taken to eliminate it. Please also indicate whether the State party intends to adopt an anti-slavery law and a law on domestic work in line with international standards.

**Right to participate in public life and minority rights (arts. 25, 26 and 27)**

30. Please explain what has been done to combat discrimination against the Amazigh and indicate the progress made in adopting a law to give effect to the constitutional provisions according Amazigh the status of an official language. Please provide information on the steps taken to promote and support education in the Amazigh language and on the support lent to the Amazigh people to enable them to preserve their culture, language and identity.

**Dissemination of information on the Covenant (art. 2)**

31. Please provide information on the steps taken to disseminate information on the Covenant. Please also provide more detailed information on the participation of civil society representatives, non-governmental organizations and the National Human Rights Council in the preparation of the periodic report (CCPR/C/MAR/6).

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