



**International covenant  
on civil and  
political rights**

Distr.  
GENERAL

CCPR/C/MAR/2004/5  
11 May 2004

ENGLISH  
Original: FRENCH

---

HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Fifth periodic report**

**MOROCCO**

[10 March 2004]

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1 - 36	4
<b>INFORMATION RELATING TO ARTICLES 1 TO 27 OF THE COVENANT</b> .....	<b>37 - 337</b>	<b>8</b>
Article 1. Right to self-determination .....	37 - 41	8
Article 2. Implementation of the Covenant within the country .....	42 - 57	9
Article 3. Equality between men and women .....	58 - 89	11
Article 4. Derogation in time of public emergency .....	90 - 91	15
Article 5. Prohibition of narrow interpretation of the Covenant .....	92 - 94	15
Article 6. Right to life .....	95 - 101	16
Article 7. Prohibition of torture .....	102 - 119	16
Article 8. Prohibition of slavery .....	120 - 128	19
Article 9. Right to liberty and security of person .....	129 - 135	20
Article 10. Rights of detainees and treatment of persons deprived of their liberty .....	136 - 151	20
Article 11. Imprisonment for inability to fulfil a contractual obligation .....	152 - 161	22
Article 12. Liberty of movement and freedom to leave one's country and return to it .....	162 - 177	23
Article 13. Prohibition of expulsion of aliens without legal safeguards .....	178 - 188	25
Article 14. Equality before the law and right to a fair trial .....	189 - 195	26
Article 15. Principle of non-retroactivity of the law .....	196 - 197	28
Article 16. Right to recognition as a person before the law .....	198 - 208	28
Article 17. Right to privacy .....	209 - 215	29
Article 18. Freedom of thought, conscience and religion .....	216 - 219	30

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
Article 19. Freedom of opinion and expression .....	220 - 223	31
Article 20. Prohibition of propaganda for war .....	224 - 227	31
Article 21. Right of peaceful assembly .....	228 - 234	32
Article 22. Freedom of association and trade-union rights .....	235 - 245	32
Article 23. Protection of the family .....	246 - 290	34
Article 24. Protection of children .....	291 - 311	39
Article 25. Right to take part in the conduct of public affairs .....	312 - 318	41
Article 26. Prohibition of discrimination .....	319 - 324	42
Article 27. Rights of minorities .....	325 - 337	42

### **Introduction**

1. In accordance with article 40 of the International Covenant on Civil and Political Rights, the Kingdom of Morocco herewith submits its fifth periodic report on the implementation of the Covenant.

2. Morocco has taken into account the concluding observations of the Human Rights Committee (CCPR/C/79/Add.113) drawn up after the Committee's consideration on 20 and 21 October 1999 of Morocco's fourth report (CCPR/C/115/Add.1).

3. Basic information can be found in HRI/CORE/1/Add.23/Rev.1, dated 15 April 2002.

4. It should be stressed that progress has been made recently in the field of human rights and in strengthening the rule of law.

5. Morocco has irrevocably opted for change and is giving itself every chance of succeeding in its democratic transition and the modernization of society. It has adopted constitutional, institutional and legislative reforms that clearly show the King's determination to steer the country into the twenty-first century, to ensure that practices and customs are rooted in democracy and to establish the rule of law, as witnessed by the action taken, which includes:

- The reorganization of the Consultative Council on Human Rights (CCDH);
- The establishment of the Diwan Al Madhalim, the office of the Moroccan ombudsman;
- The establishment of the Royal Institute of Amazigh Culture (IRCAM).

6. The establishment of the Equity and Reconciliation Commission, following a CCDH recommendation endorsed by King Mohammed VI, will close the file on past human rights violations once and for all. Its task will be to provide fair compensation to enable victims to be rehabilitated and reintegrated into society, while continuing with its investigations into disappearances. The Commission is seeking the truth on forced disappearances and arbitrary detention and is trying to find extrajudicial solutions in cases of human rights violations. It also has to respond to the demands of the victims' families, emphasizing the need for a remedy to the harm caused, which should not be limited to compensation but should also include the rehabilitation of the victims, as individuals and as a group. In the case of persons certified as deceased, the Commission will endeavour to find their graves and to determine the responsibility of the various State bodies.

7. The appointment by King Mohammed VI of the members of the Equity and Reconciliation Commission represents a decisive step towards completing the process of democratic transition in Morocco.

8. The new 16-member body is chaired by a former political prisoner.

9. A new deadline will be proposed for compensating victims' families and beneficiaries and for returning confiscated property. At the end of its mandate, the Equity and Reconciliation Commission will submit a report setting out the causes, political motives and responsibilities for events over the past 40 years. It will submit proposals to the Executive so that the latter can take the appropriate decisions to ensure that such human rights abuses never occur again.
10. To mark the establishment of the Equity and Reconciliation Commission, on 7 January 2004, a royal pardon was granted to 33 prisoners, including 28 political prisoners, among whom there were Islamic extremists, political opponents and journalists.
11. Thus, according to the international criteria for defining a political prisoner, there are no longer any political prisoners in Morocco.
12. The Cabinet decided on 6 January 2004 to abolish the Special Court of Justice; its powers will be transferred to appeal courts.
13. The abolition of this emergency court will strengthen the rule of law, as it followed exceptional procedures unlike those followed by other courts.
14. These exceptional procedures violated the right to a defence, did not provide the guarantees necessary for a fair trial and were prejudicial to the equality of defendants before the law regardless of the circumstances, the case being tried or the individuals involved.
15. On another level, the abolition of the Special Court of Justice will help to consolidate the principle of the separation of powers embodied in the Constitution and to ensure the independence and impartiality of the courts, including those hearing cases relating to financial crime or the improvement of ethical standards in public life.
16. The Special Court of Justice was dependent on the Executive in that it was the Minister of Justice who initiated prosecutions in the cases submitted to it. At the same time as it decided to abolish the Court, the Government decided to amend certain provisions of the Criminal Code so as to increase the penalties for financial crimes against the national interest.
17. Abuse of authority, embezzlement of public funds, corruption, breach of trust and influence-peddling are all severely punished under the new provisions of the Criminal Code.
18. While defendants' rights and the courts' impartiality and independence are still guaranteed, the stiffer penalties reflect the determination of the authorities to continue their efforts to combat corruption, raise ethical standards in public life and protect the public purse.
19. This measure illustrates the new era into which Morocco has entered and its determination to embody democratic values, consolidate the foundations of the rule of law and build a modern country.
20. The same can be said of the unanimous adoption on 28 January 2004 of two major pieces of legislation, one on lifting parliamentary immunity and one on the establishment of a High Court to try members of the Government for crimes committed in the exercise of their duties. The two laws are intended to encourage a sense of civic justice.

21. Each measure to bring domestic legislation into line with the provisions of the international human rights instruments ratified by Morocco helps make these instruments more effective. The following should be noted in this context:

- (a) The reform of the Code of Public Freedoms;
- (b) The adoption of new prison legislation;
- (c) The reform of the law on the legal placement of children in families (*kafala*);
- (d) The reform of the Code of Criminal Procedure;
- (e) The partial reform of the Criminal Code;
- (f) The criminalization of sexual harassment in the workplace;
- (g) The adoption of a new law on civil registration and its implementing decree;
- (h) The adoption of a new law governing the entry to and stay in Morocco of aliens, as well as an anti-terrorism law;
- (i) The reform of the Code of Personal Status, following the establishment of a royal commission by King Mohammed VI on 27 April 2001; the results of its work were announced by the King on 10 October 2003 at the opening of the second annual session of the seventh legislature.

22. The Family Code was adopted unanimously on 16 January 2004 by the House of Representatives. This reform will enable half of the Moroccan population to reclaim their rights, remove the injustice and iniquity that weighed down on them and guarantee respect for the rights of women and children, for the benefit of the stability of the family unit. The joint responsibility of the husband and wife in running the family home is set out in the Code, which introduces new social practices that will affect people's daily lives.

23. In addition, in a letter to the Minister of Justice, King Mohammed VI stressed the need to provide suitable premises for family courts within the various courts in Morocco and to make sure that qualified professionals at various levels received training on the powers granted to the judiciary by the Family Code. The premises for the family court were inaugurated on 26 January 2004 and have sections devoted to personal status, inheritance, civil registration, *kafala* and children's affairs.

24. The premises of the family court are staffed by professionals with legal training and equipped with all they need to deal properly with matters related to marriage, divorce, neglect in the family and domestic violence.

25. The court has been staffed with specially trained judges in order to realize the objectives set out in the Family Code.

26. In parallel with these reforms, other measures have been taken to assert the Government's political commitment to raising the country to the level of the developed countries and establishing a State governed by the rule of law. The following examples may be cited in this respect:

(a) A national strategy to combat violence against women has been developed;

(b) The campaign by the National Human Rights Education Programme against stereotyping women has been extended to cover the whole system of basic education;

(c) Women's access to decision-making positions and positions with political responsibilities, in keeping with their rights under the Constitution, is being promoted. For example, the Prime Minister of the elected Government, Mr. Abderrahmane Youssoufi, sent a letter on 5 January 2001 to the various government departments encouraging them to appoint women to decision-making positions. In another letter, dated 26 September 2001, the Prime Minister invited members of the Government to report on the steps taken to give women access to positions of responsibility.

27. In addition, the establishment of an inter-ministerial committee chaired by the Prime Minister and the work done by this committee demonstrate the Government's commitment to reviewing the gender balance in decision-making positions.

28. The interest in this subject is reflected in a statistical innovation which consists of measuring women's rate of participation in various branches of the civil service.

29. The civil service is also far more active now in seeking a fairer balance in appointments to decision-making positions.

30. However, further efforts are needed to encourage the promotion of women to decision-making positions in different sectors of activity.

31. There has been a significant improvement in women's representation in politics. Before the elections of 27 September 2002, the proportion of women representatives in Parliament was no more than 0.6 per cent. To rectify this situation, a sizeable lobbying group, which grew out of the work of women's organizations, prepared a memorandum containing a wealth of proposals, including a proposal to adopt a system of quotas and proportional representation. Organization Act No. 06-02 amending Organization Act No. 31-97 concerning the House of Representatives was adopted on 6 May 2002. This legislation allowed a list-based system of voting, which is more favourable to the representation of women, to be adopted.

32. The adoption of the quota system has improved the representation of women, as shown by the fact that 35 women have entered Parliament, 30 of them having been elected from national lists and 5 from local lists. Women today represent 10.77 per cent of the elected representatives in Parliament.

33. The promotion of the rights of the child has also been a priority, at both the regulatory and the institutional levels. Attention is drawn in particular to the harmonization of domestic legislation with the Convention on the Rights of the Child, the International Labour

Organization (ILO) Convention (No. 138) concerning Minimum Age for Admission to Employment and the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

34. Various actions undertaken in relation to children as part of the preparations for a comprehensive national strategy on children, have led to improvements in the indicators relating to children's rights.

35. Attention is also drawn to efforts to promote the rights of certain sectors of society with specific needs, such as the disabled.

36. The Ministry of Human Rights has prepared a set of proposals to complete Morocco's accession to the international human rights instruments. The ratification of the Optional Protocol to the International Covenant on Civil and Political Rights is among the proposals. A technical committee of the Inter-Ministerial Commission for Public Freedoms and Human Rights was established by the Prime Minister on 6 October 2003 to study the implementation of this strategy.

## **INFORMATION RELATING TO ARTICLES 1 TO 27 OF THE COVENANT**

### **Article 1. Right to self-determination**

37. Morocco subscribes to the principles set out in the General Assembly resolutions establishing the right to self-determination, notably in resolutions 1514 (XV), 1803 (XVII), 2625 (XXV), 3201 (S-VI) and 41/128 (see CCPR/C/115/Add.1, para. 30).

38. It should also be recalled that Morocco was one of the first countries to support the international community's efforts to establish and promote the right of peoples to self-determination.

39. With regard to the concerns expressed by the Human Rights Committee during its consideration of Morocco's fourth periodic report and its recommendation that "the State party should move expeditiously and cooperate fully in the completion of the necessary preparations for the referendum" (CCPR/C/79/Add.113, para. 9), it should be pointed out that Morocco, true to its principles of respect for international law, continues to cooperate closely with the United Nations in seeking a solution to the conflict in the Moroccan Sahara while guaranteeing national sovereignty over the whole of Moroccan territory.

40. Similarly, Morocco has never ceased to express concern in every international forum and meeting about the fate of Moroccan prisoners still detained after more than a quarter of a century in the camps in Tindouf, where they are kept in inhuman and degrading conditions in defiance of international humanitarian law.

41. Since the very beginning, Morocco has urged the international community to persevere in its efforts alongside the Security Council to bring about the prompt and unconditional release of all Moroccan detainees.



## **Article 2. Implementation of the Covenant within the country**

42. Morocco has explicitly confirmed its commitment to the promotion, defence and recognition of human rights and to guaranteeing the rights and freedoms of its citizens.

43. Morocco is an advocate of the universalist approach to human rights; the preamble to the 1992 Constitution states that “the Kingdom of Morocco, conscious of the need to place its actions in the context of the international bodies of which it is an active and dynamic member, subscribes to the principles, rights and obligations stemming from the charters of those bodies and reaffirms its attachment to human rights as universally recognized”.

44. The universal dimension of human rights was addressed by King Mohammed VI in his speech to the nation on the occasion of the fifty-first anniversary of the Universal Declaration of Human Rights: “We wish to reaffirm our commitment to human rights and the values of liberty and equality, for we are firmly convinced that respect for human rights is not a luxury or a fashion to which one conforms, but a necessity dictated by the imperatives of construction and development. ... For our part, we believe that there is no opposition between the imperatives of development and respect for human rights, just as there is no antagonism between Islam, thanks to which human dignity is firmly rooted, and human rights. That is why we consider that, if human rights are not respected in the future, there will be no future.”

45. The civil and political rights set forth in the Covenant are embodied in numerous constitutional provisions: article 5 establishes the equality of all Moroccans before the law; article 6 guarantees freedom of worship; articles 8 and 9 establish equality between men and women in the exercise of their civil, political and trade-union freedoms and rights; article 10 protects the right to life; and article 15 guarantees the right to own property and freedom of enterprise, without any discrimination.

46. In the event of violations of the Covenant, access to the courts is open to all Moroccans under the same conditions (see HRI/CORE/1/Add.23/Rev.1, chap. III).

47. In the event of violations by individuals of the rights recognized in the Covenant, the following remedies are available:

- (a) A complaint to the Crown prosecutor;
- (b) Court proceedings.

48. In the event of violations of these rights by the administrative authorities, the following remedies are available:

- (a) An application for a discretionary remedy to the body which took the decision in question;
- (b) An application for a hierarchical remedy to the respective higher administrative authority;
- (c) An application for annulment, on the ground of abuse of authority, of decisions taken by the administrative authorities.

49. As from January 1995, when the Administrative Tribunals Act came into force, applications for the annulment of decisions taken by administrative authorities on the grounds that they have exceeded their powers are lodged with the administrative tribunals.

50. Extrajudicial remedies are also available and have been strengthened by the reform of the Consultative Council on Human Rights, in accordance with the Paris Principles relating to national institutions, and by the establishment of the Diwan Al Madhalim, the office of the Moroccan ombudsman.

51. Under its remit, the Consultative Council on Human Rights has to produce an annual report on the human rights situation, provide an annual account of its activities and give an opinion on the annual report produced by the Diwan Al Madhalim.

52. The Consultative Council is also required to examine cases of human rights violations submitted to it, make the necessary proposals and recommendations to the competent authorities and study and give an opinion on the draft legislation and regulations referred to it.

53. The current pluralist composition of the Consultative Council, which is principally made up of decision makers representing civil and political society, is a guarantee of the Council's independence and helps broaden the scope of the dialogue between the various partners.

54. On the occasion of Human Rights Day on 10 December 2002, the King appointed a *wali* (prefect) to head the Diwan Al Madhalim. This extrajudicial body has the task of providing a remedy for injustices arising from situations that are inconsistent with the demands of fairness and detrimental to the users of public services. It will therefore consider all grievances fairly and give substance to Morocco's desire to increase the synergy between the authorities and citizens while respecting the rules guaranteeing the primacy of the law.

55. With regard to the Committee's recommendation in which it "urges the State party to intensify investigations into the whereabouts of all persons reportedly missing, to release any such persons who may still be held in detention ... and to provide compensation to victims or their families where rights have been violated" (CCPR/C/79/Add.113, para. 10), Morocco's commitment to resolving outstanding human rights cases should be stressed. This commitment is reflected in the work of the independent arbitration commission set up by the King on 16 August 1999 to compensate the victims of forced disappearances and arbitrary detention.

56. As at the end of October 2003, this commission had awarded compensation to the value of about US\$ 94 million.

57. The establishment, with royal approval, of the Equity and Reconciliation Commission on 6 November 2003, at the unanimous recommendation of the Consultative Council on Human Rights, should also be stressed (see paragraphs 6-11 above).

### Article 3

#### Equality between men and women

58. Equality between men and women is a principle enshrined in the Constitution. In a letter to the commission established on 27 April 2001 to reform the Code of Personal Status, King Mohammed VI sent the following message:

“Since our accession to the throne of our glorious ancestors, we have diligently sought to take action for the advancement of women in all sectors of activity within the nation and to emancipate women from every form of injustice against them ... Islamic Shariah law is based on balance and moderation ... We therefore desire to guarantee the rights of women, in the same way as those of men. We have ensured that the composition of this consultative commission is representative of the legal, judicial and scientific domains and includes a female component.” King Mohammed VI urged the Commission to “tread a fine line that will enable it to reconcile commitment to the immutable values that lie at the core of our identity with total acceptance of the spirit of our times, as characterized by, inter alia, the universality of human rights, the preservation of our Islamic identity, social progress, and the equal distribution of opportunities, resources and talents, through concerted action carried out jointly by men and women in dignity and a spirit of equality and equity. These are the goals to be attained if our country is to meet the challenges that await it, both from within and from without.”

59. On 10 October 2003, King Mohammed VI restored the rights of Moroccan women when he announced to a joint session of the two houses of Parliament a reform of the *mudawana*, or Code of Personal Status. It is the second time the Code has been reformed since 1993. The latest reform covers the following points.

#### Equality within the family

60. Both spouses are now responsible for the family, whereas under the old Code the husband had sole responsibility.

#### Recognition of the emancipation of married women

61. Matrimonial guardianship (*wilaya*) has been made a right to be exercised by an adult woman, as she chooses and according to her own interests. The rule of matrimonial guardianship by which a woman was made the ward of another family member has been abolished.

#### Uniform age of marriage

62. Marriageable age is now uniformly set at 18, although certain exceptions may be made where warranted, at the sole discretion of the court. Girls and boys who are wards have also been placed on an equal footing and both now have the right to choose their guardian at the age of 15, instead of 12 for boys and 15 for girls.

### **Tight restrictions on polygamy**

63. Polygamy is now authorized only in the following cases:

(a) Courts will authorize polygamy only if they are convinced of the husband's ability to treat the second wife and the children equitably and on an equal footing with the first wife and guarantee them the same standard of living. Such authorization is at the sole discretion of the court;

(b) A woman may make it a condition of marriage, to be stated in the marriage contract, that her husband shall agree not to take any other wives.

### **Simplification of procedures for expatriates**

64. The only requirement for drawing up a marriage contract abroad is the presence of two Muslim witnesses, in accordance with the procedure applicable in the host country.

### **Joint right to divorce**

65. The dissolution of the bonds of marriage is now a right that may be exercised by husband or wife, subject to judicial supervision. Additionally, limitations have been placed on the right to repudiate by strengthening conciliation and mediation mechanisms. Divorce by mutual consent has also been introduced. In the current Code of Personal Status, repudiation is the prerogative of the husband, exercised at his discretion and frequently abused.

### **Greater balance within the marriage**

66. The aim is to extend the woman's right to seek judicial divorce where the husband fails to comply with one of the conditions set down in the marriage contract, or if she suffers harm through, for example, defaulting on maintenance, desertion of the marital home or violence.

### **Recognition of children's rights**

67. Children's rights are guaranteed through the incorporation into the Family Code of the relevant provisions of the international conventions ratified by Morocco, and of safeguards of the child's best interests as regards care (custody), which must be awarded to the mother, then the father, then the maternal grandmother. Where none of these options is feasible, the court alone may place the child in the care of whichever close relative is best able to provide such care, taking account of the child's interests. In addition, the obligation to provide a child in care with decent accommodation is now separate from maintenance-related obligations. Maintenance procedures must be completed within a maximum of one month.

### **Protection of the right to establish paternal filiation**

68. In exceptional circumstances, where a marriage is not formalized by a contract, the child's right to recognition of paternity is protected. The court shall base its decision on evidence demonstrating filiation. A period of five years has been set for the resolution of outstanding problems of this kind.

**Equality of inheritance**

69. In the interests of fairness and equity, the children of a man's daughter may now inherit from their grandfather on an equal footing with the grandchildren of the man's son.

**Regulation of the administration of property**

70. With regard to the administration of property acquired by a couple during their marriage, marriage partners may, without prejudice to the principle of separate ownership of their personal property, agree in a document distinct from the marriage certificate how jointly-acquired property shall be administered. Any dispute will then be subject to the judgement of a court.

71. For the purposes of implementation of the Family Code, it has been decided to set aside premises within the various courts of the Kingdom for family courts and for the training of officials of various ranks to exercise the authority to be vested in them in this area.

72. There are other regulations guaranteeing equality between men and women. For example, there is no provision in Moroccan law permitting any kind of discrimination between men and women, which means that all workers have equal rights. The right to work is guaranteed without discrimination by the Constitution, which provides in article 13 that "All citizens have equal rights to education and work".

73. The reform of labour law is one component of the drive to achieve greater equality and combat all forms of discrimination. Article 9 of the Labour Code clearly illustrates this intention when it states that "it is prohibited to practise against employees on the basis of race, colour, sex, disability, marital status, religion, political opinion, trade-union membership or national or social origin any form of discrimination which may have the effect of undermining or impairing equality of opportunity or treatment in employment or professional matters, in respect of recruitment, the management and distribution of work, vocational training, pay, promotion, social benefits, disciplinary measures or dismissal". Violation of these provisions is punishable by a fine of 25,000 to 30,000 dirhams, which is doubled for a repeat offence.

74. Article 36 of the Labour Code lists the grounds which cannot be invoked to justify disciplinary sanctions or dismissal and includes among them all forms of racial discrimination.

75. Under the Dahir of 6 July 1957 on trade unions, everyone except officials responsible for State security and law and order (armed forces and police), is guaranteed the freedom to join a union; this decree is completely non-discriminatory in nature.

76. Equality between men and women in respect of political rights is guaranteed under the Constitution (art. 8). The same applies to equality before the law (art. 5) and the right of access to public office (art. 12).

77. The right to health, medical care, social security and basic social services, the right to education and vocational training, and the right to equal participation in cultural activities are guaranteed to all.

78. In addition, Morocco's domestic legislation has been enhanced by the incorporation of specific legal provisions prohibiting and punishing all forms of discrimination. This intention is clearly illustrated by the new prison legislation (Act No. 23-98 on the organization and functioning of prison establishments, promulgated by Dahir No. 200-99-1 of 25 August 1999) and by the new Code of Public Freedoms.

79. Parts of the Criminal Code have been amended, with new provisions prohibiting and punishing all forms of discrimination and strengthening protection for women.

80. In 2002, Morocco enacted:

- A law on legal foster care (*kafala*) for neglected children, allowing women to take in such children; and
- The Code of Criminal Procedure, which institutes numerous human rights safeguards in criminal matters.

81. Many efforts have also been made to promote access by women to decision-making positions. In 2002, several women were appointed to senior management posts in the central administration, and another was made general secretary in the Ministry of Government Affairs; a woman was appointed university chancellor and another became a member of the Royal Academy.

82. As to political representation, until the elections of 27 September 2002 women accounted for no more than 0.6 per cent of members of the Moroccan Parliament. Since the introduction of a quota system, they are now better represented, and 35 women have entered Parliament, 30 of them elected on national lists and 5 on local lists. Women account for 10.77 per cent of members in the current legislature.

83. There was also an increase in the number of women candidates, which was 12 times higher than in the 1997 parliamentary elections; the number of women actually elected was 7.5 per cent higher.

84. Moroccan law provides remedies for any person alleging violation of their fundamental rights as a result of a discriminatory act.

85. Interest in women's advancement is also reflected in a change in statistical reporting. Figures are now kept of the numbers of women in the various branches of the civil service.

86. The civil service has also renewed its efforts to fill decision-making posts on a more egalitarian basis.

87. In parallel with the existing range of legislation, various initiatives have been taken to involve women in public life and combat all forms of discrimination against women (see Introduction).

88. While it is true that disparities persist in the enjoyment of certain economic, social and cultural rights such as access to health care, employment and social services, they are attributable to economic and geographical considerations and deep-seated traditions and customs within certain social milieux.

89. Nevertheless, numerous efforts are being made, as His Majesty has directed, to promote women's rights and ensure that women have a genuine role to play in sustainable human development in Morocco.

#### **Article 4**

##### **Derogation in time of public emergency**

90. According to article 4 of the Covenant, in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, States parties may take measures derogating from their obligations under the Covenant. There are certain rights in respect of which no derogation may ever be made, even in times of public emergency (arts. 6, 7, 11, 15, 16 and 18). In this regard, declaration by Morocco of a state of emergency is governed by article 35 of the Constitution, which states that: "Where the integrity of the national territory is under threat or events occur that may jeopardize the functioning of constitutional institutions, the King may, after consulting with the President of the House of Representatives, the President of the House of Counsellors and the Chair of the Constitutional Council, and after addressing the nation, declare a state of emergency by royal decree (dahir)."

91. It should be noted that article 35 clearly states that, where a state of emergency is declared in due legal form, it shall not entail the dissolution of Parliament. There has been no derogation from any obligations since the Covenant entered into force in Morocco.

#### **Article 5**

##### **Prohibition of narrow interpretation of the Covenant**

92. In order to strengthen the rule of law, Morocco has followed a consistent policy of acceding to international human rights instruments.

93. This policy has been further reinforced by the constitutional revisions of 1992 and 1996, the preamble to which states that the Kingdom of Morocco adheres to the principles, rights and obligations arising from the charters of such instruments and reaffirms its commitment to the universally recognized human rights.

94. Morocco entered no reservations or declarations upon ratification of the Covenant. That, together with the country's numerous efforts to improve its application of human rights instruments - for example, the strengthening of the institutional framework, the bringing of domestic legislation into line with the provisions of the international human rights instruments ratified by Morocco, the provision of human rights education, and the work of the Inter-Ministerial Commission for Public Freedoms and Human Rights in reviewing the reservations entered by the Kingdom of Morocco upon ratification of some international conventions - testifies to Morocco's desire to implement the Covenant fully.

## **Article 6**

### **Right to life**

95. Article 6 of the Covenant establishes every person's right to life. Moroccan criminal law prohibits all violence to life. Morocco has made great efforts to reduce infant mortality and increase life expectancy by, for example, taking steps to eliminate epidemics, improve primary health care and provide universal vaccination.

96. The Moroccan criminal justice system guarantees the safety and physical integrity of the individual, and protects the right to life by imposing sanctions under the Criminal Code on all who endanger human life. Such sanctions range from a prison term to the death penalty. These provisions are reinforced by practical measures to guarantee the right to life, in part through the national strategy on health.

97. The country's criminal law permits only therapeutic abortions, and if a woman who is sentenced to death is pregnant, she will be not executed until two years after the birth.

98. In view of the serious nature of the death penalty, the legislature has made its application subject to a number of conditions: heinous crimes of murder are subject to the death penalty if they are committed with malice aforethought or through entrapment, or before, during or after another crime, or with the purpose of preparing, facilitating or executing another crime or offence or aiding the escape or ensuring the impunity of the perpetrators of or accomplices in such other crime or offence (Criminal Code, arts. 392-393).

99. The death penalty is rarely applied in Morocco. No death sentence has been carried out in the Kingdom since 1993, and only five criminals have been executed since Morocco's ratification of the Covenant. There are no children or political prisoners on death row.

100. In many cases, death sentences are commuted to prison sentences. The death penalty is applied only where the application for a royal pardon that is automatically submitted on the convicted person's behalf in accordance with article 34 of the Constitution is denied.

101. Morocco is a signatory to the Convention on the Prevention and Punishment of the Crime of Genocide and is working tirelessly to ensure its implementation.

## **Article 7**

### **Prohibition of torture**

102. Article 10 of the Constitution provides that "No one may be arrested, taken into custody or punished except under the circumstances and procedures prescribed by law".

103. The Criminal Code contains a number of offences relating to attacks on the physical integrity of individuals, and provides for heavier penalties where violent acts are committed by officials or representatives of an authority; the relevant chapters include the following:



- Crimes and offences against the freedoms and rights guaranteed to citizens;
- Abuses of authority committed by officials against individuals;
- Crimes and offences against the person;
- Attacks on the honour or reputation of individuals and the violation of secrets.

104. In order to prevent acts of torture, the Moroccan Government has adopted a series of important measures relating to questioning and places of detention.

105. With a view to tightening up the monitoring of police, gendarmerie and prison premises throughout the country, several circulars have been sent to public prosecutors' offices requesting them to ensure that the legal provisions on time limits and conditions for custody are duly observed.

106. In accordance with article 73 of the Code of Criminal Procedure, the Crown Prosecutor, when so requested or on his own initiative when he is presented with evidence justifying an examination, must require the person charged to undergo a medical examination to be carried out by a medical expert.

107. Article 10 of the Dahir concerning the organization of the judiciary, of 28 September 1974, provides for the establishment, at the seat of the appeal courts, of a criminal court composed of a presiding judge and two advisers. This court hears appeals against judgements handed down by courts of first instance in respect of offences and minor offences. It also hears appeals against the decisions of investigating magistrates.

108. Once the indictment division is seized of a case, it opens an inquiry and may, without prejudice to such disciplinary sanctions as may be applied by the officer's hierarchical superiors, address its observations to the officer, decide his temporary suspension from his duties as an officer of the judicial police, or dismiss him definitively. In addition, articles 264 to 268 of the Code of Criminal Procedure define criteria of competence both for the investigation and for the trial of alleged violations by certain judges or officials.

109. The Criminal Code provides for penalties for all judges, public officials, persons vested with public authority or law enforcement officers who abuse their power in such a way as to infringe the personal liberties, civic rights or physical safety of any citizen. The offenders may also be deprived of their civic and civil rights.

110. The law punishes by up to 30 years' imprisonment anyone who abducts, arrests, or detains a person or otherwise holds them against their will without an order from the competent authorities, and in circumstances not authorized by law (Criminal Code, art. 436). The perpetrator faces the death penalty if the victim has been exposed to torture (art. 438).

111. Article 399 of the Criminal Code provides for the death penalty for anyone who employs torture or barbarous acts to commit an act classified as a crime.

112. In the event of a detainee's death, the family is informed and a representative of the prosecution service is dispatched immediately to carry out investigations, collect the evidence required to establish the truth and prepare a report, which must be an objective description of the facts observed. The public prosecutor also instructs the judicial police to open inquiries and carry out the investigations necessary to determine the causes and circumstances of the death.

113. In addition, an autopsy to determine the cause of death is conducted by a forensic physician or a medical commission. If no obvious trace of violence or torture is found on the body, laboratory analyses are performed on samples taken from the victim's organs.

#### **Statements obtained under torture**

114. Under article 23 of the Code of Criminal Procedure, "officers of the judicial police are required to draw up a report of their operations and immediately to inform the Crown Prosecutor of the crimes and offences brought to their attention. On completion of their operations, they shall transmit directly to the Crown Prosecutor or the Crown Prosecutor-General the original of the reports they have prepared, together with two certified copies and all pertinent records and documents; the objects seized shall be made available to the public prosecutor's office".

115. Although the law considers the report prepared by the officers of the judicial police recording crimes and minor offences to be an authentic instrument admissible as prima facie evidence, it nevertheless makes acceptance of its legal validity subject to strict compliance with the form established by the law.

116. Articles 286 to 296 of the Code of Criminal Procedure, which regulate forms of evidence, determine the legal validity of such reports and their value as evidence. Under article 289, "the report has value as evidence only when it is drawn up in the correct format and when its author, acting in the performance of his duties, reports what he has personally seen or heard concerning a subject within his competence".

117. Under criminal law, these reports have purely informative value in criminal matters. They can be used only as information, therefore, and it is for judges to make use of them or not, as they see fit. In all cases, whether the reports have value as evidence or simply provide information, judicial decisions are handed down by judges in accordance with their personal conviction. As a result, judges will not hesitate to dismiss reports which do not comply with the legal formalities or which may contain information obtained by illegal means. Not only do such reports lose any value as evidence, but their authors may be liable to criminal penalties if found guilty of any abuse.

118. Moroccan case law is full of lessons in this regard. One example is a decision handed down by the Rabat Court of Appeal on 15 January 1992, which found that failure to comply with legal formalities in crime reports deprives them of even informative value.

119. Similarly, a decision handed down by the Special Court of Justice on 22 March 1980 found that failure to note periods of detention in reports nullifies their validity.

## Article 8

### Prohibition of slavery

120. Under article 8 of the Covenant, slavery and the slave trade and forced or compulsory labour are prohibited. The principles of Islam proscribing slavery and establishing the equality of all without discrimination are an integral part of Morocco's constitutional provisions and of the rules governing social behaviour.

121. Morocco is a party to the international instruments on slavery and forced labour, namely the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and International Labour Organization (ILO) Conventions Nos. 29, concerning forced labour, and 105, concerning the abolition of forced labour.

122. In accordance with article 8, paragraph 3 (b), of the Covenant, forced or compulsory labour is imposed only on persons sentenced to perform it by a judicial decision.

123. Moreover, work in prisons is strictly regulated by the new Act No. 23-98, promulgated by Dahir No. 1-99-00 of 25 August 1999, on the organization and functioning of prison establishments (arts. 35-45), which brings work carried out in prisons within the scope of the provisions of labour law governing workers' health and safety (art. 43).

124. In fact, exclusion from work is one of the punishments that may be applied for a breach of prison regulations. According to article 39, paragraph 2, "Without prejudice to the imposition of other disciplinary measure, prisoners who, in a workshop or at a worksite, cause disruption or are a bad influence on their fellow prisoners may be excluded from the work in question or transferred to other work".

125. The purpose of work in prisons is to prepare the prisoner for reintegration, as stated in article 41: "The organization and methods of work should be as close as possible to general practice, so as to prepare prisoners for normal conditions of free work. Work shall be allocated to prisoners in accordance with their physical and intellectual capabilities, their professional skills, their family commitments and their prospects for reintegration."

126. Morocco has ratified ILO Conventions Nos. 138, concerning the minimum age for admission to employment, and 182, concerning the worst forms of child labour.

127. In order to comply with these instruments and, in particular, with the Convention on the Rights of the Child, the new Labour Code has raised the minimum age for admission to employment and the age of completion of compulsory schooling to 15.

128. In pursuance of article 10 of the Labour Code, Morocco's social legislation prohibits all forms of compulsory labour.

## **Article 9**

### **Right to liberty and security of person**

129. Article 10 of the Constitution provides that “No one may be arrested, taken into custody or punished except under the circumstances and procedures prescribed by law”. In accordance with article 3 of the Criminal Code, which states that “No person may be convicted for an act which is not expressly defined as an offence in law, or subjected to penalties not prescribed by law”, offences and punishments are defined in law.

130. The provisions governing pre-trial detention have been amended by the new Code of Criminal Procedure, Act No. 22-01, which entered into force in October 2003.

131. Remand in custody is now limited to 48 hours and may be extended once only, by 24 hours, on the written authority of the Crown Prosecutor.

132. In cases involving threats to State security, custody may last up to 96 hours and may be extended once only, on the written authority of the Crown Prosecutor. In cases involving terrorist offences, custody may last up to 96 hours and may be extended twice: once for 96 hours, and again for 48 hours, in each instance on the written authority of the Public Prosecutor’s Office (Code of Criminal Procedure, arts. 66 and 80). At the end of these periods, the person must be released or brought before the prosecutor.

133. Preventive detention is an exceptional measure to be imposed by the investigating magistrate and only in the circumstances established in law.

134. In the case of offences punishable by up to two years’ imprisonment, the maximum period of preventive detention is one month. In the case of correctional offences, the maximum period is four months and may be extended. If suspects are not brought before the court during this period, they must be released.

135. The new provisions of the new Code of Criminal Procedure also include an alternative to preventive detention, namely the judicial supervision order.

## **Article 10**

### **Rights of detainees and treatment of persons deprived of their liberty**

136. Morocco is carrying out a thorough reform of its penal system, with a view to humanizing the conditions of detention and preparing prisoners to resume their place in society on their release.

137. The new Code of Criminal Procedure provides means for examining magistrates to conduct their investigations without the need to place suspects in preventive detention, namely by placing them instead under judicial supervision (arts. 160-174).

138. Act No. 23-98, on the organization and functioning of prison establishments, was adopted on 25 August 1999 and published in the *Official Gazette* of 16 September 1999. It has helped improve prisoners' conditions. Prisoners now benefit from almost permanent contact with the outside world since they are allowed to receive newspapers, have access to audio-visual media and use a mobile phone. Visits from prisoners' families are facilitated and made more personal by means of a system of direct visits and the introduction of permits for periods of between 1 and 10 days on the occasion of religious festivals and national days for all prisoners who have served half their sentence and whose behaviour has been exemplary.

139. Prisons also give detainees the possibility, on presentation of a marriage certificate, of time alone with their spouses with some degree of privacy in premises equipped for the purpose. In 2001, 190 applications out of 200 were approved.

140. Prisoners may follow vocational training courses or other courses of study without any discrimination whatsoever.

141. Prisons are divided into the following categories:

- (a) The main prisons, which take those serving long sentences;
- (b) Prison farms, which are semi-open prisons that provide agricultural training and prepare certain prisoners whose release date is imminent for their return to freedom;
- (c) Local prisons, which provide prisoners with vocational training according to their capabilities, to prepare them to resume work after their release.

142. Morocco currently has 45 penitentiaries and, at Aïn Sebaa, Ali Moumen and Salé, 3 correctional prisons. The 2000-2004 five-year plan provides for the establishment of 26 new penitentiaries in order to remedy the problem of overcrowding in prisons.

#### **Prisoners in Morocco by age and sex**

Age group	Men	Women	Total
Up to 19	2 846	73	2 919
20-24	7 179	158	7 337
25-34	10 968	270	11 238
35-39	4 786	158	4 944
40-49	3 378	152	3 530
50 and over	1 394	94	1 488

143. As a means of helping prisoners to reintegrate more easily, King Mohammed VI ordered the establishment of the Mohammed VI Foundation for the reintegration of prisoners and of minors in child protection centres.

144. The institution held its constituent assembly in mid-January 2002, and this was presided over by the King. The Foundation is administered by a 12-member board.

145. The aims of the Foundation are as follows:

(a) To raise funds to enable prisoners to obtain qualified vocational training to help them move back into society on their release;

(b) To promote and implement, in and out of prisons, training and reintegration programmes for detainees so as to prepare for their return to family and working life;

(c) To implement programmes to assist families in the reintegration of prisoners and to help associations and institutions with the same goals;

(d) To contribute to all activities by the authorities or civil society that have the above aims.

146. The Foundation's assistance, which is humanitarian and social in intent, extends to Moroccans held in prisons abroad.

147. The measures to protect prisoners have been supplemented by other major initiatives, namely a series of training sessions to make prison officials and managers properly aware of prisoners' rights. In particular, the Government has signed a partnership agreement on human rights education with Amnesty International. Instruction under this agreement is aimed mainly at law-enforcement personnel, including prison staff.

148. The above activities complement the Government's efforts to provide human rights education in law-enforcement staff colleges such as the National Institute of Judicial Studies, the Ministry of the Interior's Advanced Training College, the Royal Gendarmerie Advanced Training College, the Royal Military Academy and the Royal Police Institute.

149. The National Human Rights Education Programme was introduced in all schools in 2003.

150. The Human Rights Documentation, Training and Information Centre established under a partnership agreement between the Government, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme (UNDP), has also organized a number of relevant training sessions.

151. Various official circulars have been sent to the public prosecutors' offices, urging them to ensure that the law regarding time limits and conditions for custody is duly observed.

## **Article 11**

### **Imprisonment for inability to fulfil a contractual obligation**

152. Article 11 of the Covenant prohibits enforcement by committal for failure to fulfil a contractual obligation.

153. Enforcement by committal is governed by articles 633 to 647 of the Code of Criminal Procedure, and is applicable in the enforcement of fines and the payment of reparations, damages and costs.

154. Pursuant to article 638 of the Code of Criminal Procedure, the duration of enforcement by committal is proportional to the size of sums to be paid.

155. Enforcement by committal is, however, subject to a number of restrictions designed to protect the defaulting debtor.

156. It cannot be applied to convicted persons who can demonstrate their insolvency by producing a certificate of indigence and a certificate of non-taxability (art. 635, Code of Criminal Procedure).

157. It cannot be applied to persons of less than 18 or more than 60 years of age (art. 636).

158. It may not be imposed on debtors for the benefit of their spouse, parents, children, brothers or sisters, uncles or aunts, nephews or nieces or any person related to the same degree (art. 636).

159. It may not be applied simultaneously to husband and wife, even for different debts, or to a pregnant woman or a woman who is breast-feeding during the two years after giving birth (art. 637).

160. It may be imposed only following execution of the steps laid down in the Code of Criminal Procedure, namely, issuance of an order to pay which remains unexecuted for one month, application by the creditor, verification of the case file and forwarding of the file to the procurator for action (art. 640).

161. The new measures adopted as part of the reform of the procedure relating to enforcement by committal are fully in line with the provisions of article 11 of the Covenant, inasmuch as such enforcement is permitted only in the case of debtors who have been proved to be capable of settling their debt.

## **Article 12**

### **Liberty of movement and freedom to leave one's country and return to it**

162. Freedom of movement is guaranteed under article 9 of the Constitution, which guarantees to all citizens freedom of movement and of residence in any part of the Kingdom.

163. The right to freedom of movement also extends to aliens who are lawfully within Moroccan territory. Act No. 02-03 on aliens' entry to and residence in Morocco, and on illegal migration, which was adopted in 2003, establishes the conditions under which aliens may enter Morocco and obtain residence documents. Through its article 20 it guarantees aliens the right of appeal to administrative tribunals in cases where their application for the issue or renewal of a residence permit is turned down. Under article 9 of the Constitution, the right to freedom of movement outside Moroccan territory is subject only to the acquisition of the required travel documents.

164. The issuance of passports has been greatly eased since the early 1990s. In many cases, however, the right to travel freely abroad is limited by the conditions and difficulties associated with obtaining visas; this by way of response to the recommendation made by the Human Rights

Committee (CCPR/C/79/Add.113, para. 20), to the effect that Morocco should ensure that its laws were in full conformity with article 12 of the Covenant, that the laws were transparent and that effective remedies were available to enforce the rights protected by article 12 of the Covenant.

165. As required by article 12, paragraph 3, of the Covenant, restrictions on the freedom of movement can only arise from criminal penalties imposed with full regard for the principle of the legality of offences and penalties.

166. The Criminal Code provides for a number of penalties and security measures involving curtailment of liberty, namely, banishment, which is a penalty, and restricted residence and imposition of a banning order, which are security measures.

167. Banishment, under article 25 of the Criminal Code, involves confining convicted persons to a specific place of residence or a given area that they may not leave without authorization during the period specified in the judgement. This period may not be less than five years if banishment is the principal penalty.

168. In case of need, a temporary internal travel permit may be issued by the Ministry of Justice.

169. Restricted residence is a security measure: any court, in passing sentence for offences against State security, may, if the convicted person's actions are deemed to be habitual and to constitute a threat to law and order, confine the person to a specific place of residence or a given area that they may not leave without authorization during the period specified in the judgement, which may not exceed five years.

170. Restricted residence becomes effective on the last day of the principal penalty.

171. The Directorate-General of Police may, where appropriate, issue temporary internal travel permits, in accordance with article 70 of the Criminal Code.

172. A banning order is defined in article 71 of the Criminal Code as a prohibition on the convicted person's visiting specified places for a specified period of time if, given the offence, the perpetrator's personality or other circumstances, the court considers that the convicted person's presence in those places would constitute a threat to law and order or to the safety of persons.

173. A banning order may be issued for any act defined in law as a serious offence.

174. A banning order may also be issued if a prison sentence is handed down for a minor offence, but only where that possibility is specifically provided for in the law punishing the offence.

175. Pursuant to article 72 of the Criminal Code, a banning order never applies automatically but must be explicitly imposed by the judgement establishing the principal penalty.



176. Article 73 of the Criminal Code provides that banning orders may be imposed for periods of 5 to 20 years on persons sentenced to long-term imprisonment and 2 to 10 years on those sentenced to shorter prison terms.

177. Temporary permits to visit the restricted areas may be issued on application to the Director-General of Police, who, in accordance with article 74 of the Criminal Code, is the official responsible for enforcing banning orders.

### **Article 13**

#### **Prohibition of expulsion of aliens without legal safeguards**

178. Aliens' entry to and residence in Morocco are governed by Act No. 02-03, promulgated by Dahir No. 1-03-196 of 11 November 2003 and published in the *Official Gazette* No. 5162 of 20 November 2003.

179. Aliens may be expelled from Morocco for failure to comply with the legal requirements governing aliens' entry and residence, or if they represent a serious threat to public order.

180. Pursuant to article 25 of Act No. 02-03, a deportation order may be annulled or suspended at any time.

181. However, under article 26 of the Act, the following may not be subject to a deportation order:

(a) Aliens who can demonstrate by any means that they have been normally resident in Morocco since their sixth birthday at the latest;

(b) Aliens who can demonstrate by any means that they have been resident in Morocco for more than 15 years;

(c) Aliens who have been resident in Moroccan territory for 10 years and were not students during that entire period;

(d) Aliens who have been married for at least one year to a Moroccan spouse;

(e) Aliens who are father or mother to a child who is resident in Morocco and has obtained Moroccan nationality, providing that they are in practice the child's statutory guardians and provide for its needs;

(f) Aliens normally resident in Morocco who hold one of the residence permits provided for by Moroccan law or international conventions and have not been sentenced by a confirmed judgement to at least one year's imprisonment, unsuspended;

(g) Female aliens who are pregnant;

(h) Alien minors.

182. Article 26 provides that no limit need be set to a period of expulsion if the conviction arises from an offence involving terrorism, immorality or narcotics.
183. If deportation is deemed imperative for the security of the State or for the maintenance of law and order, it may be ordered by derogation from article 26.
184. However, article 29 provides that aliens may not be deported to a country where they can demonstrate that their life or liberty would be at risk or that they would be subject to inhuman, cruel or degrading treatment.
185. Under the law, aliens subject to a deportation order have the right to apply, within 48 hours, to the president of the administrative tribunal, as interim relief judge, for the order to be rescinded.
186. Aliens may ask the president or other representative of the administrative tribunal to arrange for the assistance of an interpreter and for sight of the file containing the documents on which the contested decision was based.
187. Pursuant to article 23, hearings are public and aliens are assisted by their lawyer, if they have one, or may ask the president or other representative of the court to appoint a lawyer.
188. Pursuant to article 24, the judgement of the president of the administrative tribunal may be appealed in the administrative division of the Supreme Court within one month from the date of notification.

#### **Article 14**

##### **Equality before the law and right to a fair trial**

189. Equality before the law is a principle enshrined in the Constitution. Article 5 of the Constitution reads “All Moroccans are equal before the law”.
190. A full account of the provisions guaranteeing equality before the law and the right to a fair trial was given in Morocco’s fourth periodic report (CCPR/C/115/Add.1, paras. 99-125).
191. The new Code of Criminal Procedure adopted on 3 October 2002 contains various provisions strengthening the guarantees of a fair trial and improving the administration of juvenile justice:

The principle of presumption of innocence is explicitly stated in article 1 of the Code of Criminal Procedure;

The judicial system has strict rules regarding the consideration and evaluation of evidence; thus, any confession obtained by violent means or coercion is, as article 293 of the Code of Criminal Procedure provides, null and void;

The guarantees of a fair trial have been strengthened: pursuant to article 21 of the Code of Criminal Procedure, judicial police officers must enlist the aid of an interpreter if they do not speak the language of the accused or if the accused is deaf or dumb and the interpreter must sign the report of the interview.

192. The guarantees of fairness are backed up at every stage of proceedings:

(a) During questioning by the public prosecutor in cases of *flagrante delicto*, lawyers have the right to request a medical examination and release on bail for the accused (Code of Criminal Procedure, arts. 73-74);

(b) A woman may be searched only by another woman (arts. 60, 81);

(c) Detainees' and prisoners' rights are protected by the obligation placed on the Public Prosecutor's Office, investigating magistrates, juvenile court judges, enforcement judges and the president of the criminal division of the Appeal Court to inspect prisons and by the activities in this regard of the regional commission chaired by a Prefect or *wali* and of representatives of civil society in this area (arts. 249, 616, 620-621). The NGO Observatoire des prisons plays an important role in advocacy and the defence of prisoners' rights;

(d) The work of the judicial police is subject to court supervision;

(e) The office of examining magistrate has now been instituted in the lower courts;

(f) The system of judicial supervision has been adopted as an alternative to preventive detention (arts. 159-174);

(g) Rulings by the criminal division of the Appeal Court may now be challenged (art. 457).

193. Under the new Code of Criminal Procedure, a range of reforms have been introduced in the area of juvenile justice, with a view to bringing the system into line with the relevant international instruments, including the Convention on the Rights of the Child.

194. The new provisions on juvenile justice also cover children in difficult situations.

195. The following are the main features of the juvenile justice system:

(a) The age of criminal responsibility has been raised from 16 to 18 (Code of Criminal Procedure, art. 458);

(b) The office of juvenile judge has now been instituted in the lower courts;

(c) Juvenile courts have been established (arts. 467-468);

(d) A special category of judicial police officers has been created to deal with minors (art. 19);

(e) The Public Prosecutor's Office monitors the reconciliation procedure and is also empowered to halt proceedings against a minor if the complaint is retracted or the victim withdraws (art. 461);

(f) The investigation stage is mandatory and must be carried out by the juvenile judge in the presence of the public prosecutor (art. 470);

(g) Minors below the age of 12 may not be detained; minors aged 12 may be detained exceptionally, provided the measures to protect minors are observed and they are held separately from adults, particularly at night (art. 473);

(h) The minor's family, or the person or institution responsible, must be notified as soon as possible (arts. 460, 475 and 500);

(i) Where minors and adults are jointly incriminated, the minors' cases must be dealt with separately from the adults', the hearings and the registers of hearings must be kept confidential and the minors' criminal records must be specific to them (arts. 461, 476, 478 and 505-507);

(j) Minors' privacy is protected throughout the proceedings and after judgement has been passed by the banning of all publications or announcements that might give a clue to their identity; publication of the verdict is allowed, but with no references that might make it possible to trace the minors' identity (art. 466).

## **Article 15**

### **Principle of non-retroactivity of the law**

196. Article 10 of the Constitution establishes the principle of the legality of offences and penalties: "No person may be arrested, detained or punished except under the conditions and in the manner prescribed by law."

197. The principle of the legality of offences and penalties is reiterated in the Criminal Code, which establishes the principle of non-retroactivity of the law (see CCPR/C/115/Add.1, paras. 126-127).

## **Article 16**

### **Right to recognition as a person before the law**

198. Moroccan law guarantees to all the recognition of legal personality.

199. A person enjoys legal personality from their birth until their death (CCPR/C/115/Add.1, para. 28).

200. The possession of legal personality entails identification as an individual by means of a family name and a given name, which must be entered on the civil register. The enactment of a new law on civil registration and its promulgation in 2002 will make it possible for all Moroccans to be so registered.

201. Recognition as a person before the law entails recognition of a person's rights, both in respect of property and in other matters.
202. Moroccan law contains no provision for depriving individuals of all their rights.
203. The law makes provision for incapacity to exercise or enjoy rights in certain cases.
204. Incapacity to exercise rights may be declared for the individual's own protection and may therefore involve appointing a dative or testamentary guardian, or a guardian at law. Incapacity may be declared in respect of minors or spendthrifts, or for impairment of mental faculties.
205. Incapacity may also result from the imposition of a criminal penalty. Such statutory interdiction (Criminal Code, arts. 38-39) involves depriving convicted persons of their property rights while the principal sentence is being served.
206. In such cases, however, convicted persons have the right to nominate an agent to represent them in the exercise of their rights, under the supervision of the guardian appointed for that purpose. The property of interdicted persons is restored to them upon completion of their sentence, and the guardian must account for its management.
207. The Criminal Code also provides for the withdrawal of certain civil, political or family rights as a penalty (arts. 26, 409) and, as security measures, for a ban on working in occupations connected with the offence committed or for withdrawal of parental authority where convicted persons have committed an offence against the person of one of their children (arts. 86, 88).
208. The scope and maximum duration of incapacity to exercise rights are governed by the Criminal Code.

## **Article 17**

### **Right to privacy**

209. Privacy is protected under Moroccan law, and the Constitution guarantees inviolability of domicile and secrecy of correspondence. Article 10 of the Constitution provides that "The domicile shall be inviolable. Searches or checks shall be made only under the conditions and in the manner prescribed by law".
210. The new Code of Criminal Procedure (Act No. 22-01), as supplemented and amended by Act No. 03-03 on combating terrorism, provides further safeguards in respect of the conduct of fact-finding inquiries and investigations. The Crown Prosecutor must, for example, request written permission from the first president of the Appeal Court in order to undertake telephone surveillance or the interception of mail of any kind, however sent.
211. These are new derogations and apply only in precisely defined circumstances having to do with the country's security and stability, terrorism, criminal gangs, murder or poisoning, abduction or hostage-taking, counterfeiting of currency or Treasury bonds, drugs, arms, explosives or health.

212. Articles 108 to 116 of the new Code of Criminal Procedure, which came into force on 1 October 2003, set clear limits on the duration and forms of the above activities and establish related judicial safeguards. Any failure to observe those provisions and any abusive application of the law by a State official or an employee of a State telecommunications network is punishable under article 116 of the Code.

213. Provision is also made for special treatment for minors in conflict with the law, with the specific aim of protecting their privacy. In accordance with the Convention on the Rights of the Child and international standards of juvenile justice, the Ministry of Justice has had a number of rules aimed at protecting children's rights incorporated in the new Code of Criminal Procedure:

- (a) The Procurator-General now has sole authority to follow up juvenile cases; and
- (b) A new category of judicial police officers has been created to deal with minors.

214. Throughout proceedings, minors must, in their own interests, be accompanied by a parent or a guardian and assisted by a lawyer. It is now compulsory to hold separate proceedings in cases where minors have adult accomplices.

215. Protection of children's privacy, both throughout the proceedings and after sentence has been passed, is guaranteed under the Code of Criminal Procedure.

## **Article 18**

### **Freedom of thought, conscience and religion**

216. Article 5 of the Constitution provides that all Moroccans are equal before the law. The Constitution also guarantees that all citizens may exercise and enjoy their rights and public freedoms under the same conditions and take part in political, social, cultural and economic life without distinction of any kind.

217. It should be recalled that Morocco was a land of refuge for the oppressed during the Second World War and that they experienced neither segregation nor discrimination there. Morocco is, moreover, reputed for its openness and spirit of tolerance and the freedom of religion laid down in the Constitution, which guarantees freedom of worship for all.

218. The members of the Jewish community are considered to be full Moroccan citizens; they enjoy all civil, political, economic, social and cultural rights. Similarly, Christians are free to worship without any discrimination.

219. In this same spirit of tolerance typical of Islam, members of the Jewish community have their own personal status, as defined by their own judges sitting in Moroccan courts. Islam is the State religion, as established in article 6 of the Constitution, and Muslim religious values are thus part of the public order. For that reason, Moroccan law has always sought to protect the faith from anything that might offend Muslims' religious sensibilities. Thus, any attempt to weaken Muslims' faith or convert them to another religion is punishable under criminal law (Criminal Code, arts. 220 ff.).

## **Article 19**

### **Freedom of opinion and expression**

220. To entrench the rule of law, King Mohammed VI has given a high priority to expanding the scope of liberties, as can be seen from the reform of the Code of Public Freedoms as regards associations, public gatherings and the press.

221. Thus the new law is designed in particular to bolster the freedoms of association, assembly and expression, to simplify administrative procedures and to reduce or abolish custodial sentences and replace them with fines. It also seeks to establish new rules guaranteeing transparency, honesty and legality in the diversification of the financial resources, both domestic and foreign, of associations, strengthening the power of the judiciary to monitor the legality of administrative decisions, and preserving the sanctity of national constants while ensuring that their effects are in accordance with religious tradition and Moroccan culture and with international human rights agreements, in order to banish racism, hatred, violence, religious or ethnic discrimination and encroachments on the liberties of others.

222. Extensive efforts have been made to improve the effective enjoyment of the right to freedom of opinion and expression. One example is the institution by King Mohammed VI, in 2002, of a national press prize to commemorate the promulgation in 1958 of the Code of Public Freedoms.

223. The unanimous approval in the House of Representatives of Bill No. 62-02, on the adoption of Decree No. 2-02-163 on the abolition of the State monopoly on radio and television broadcasting, and the establishment of an Audiovisual Media Board, are further evidence of Morocco's desire to promote freedoms and build a modern, democratic society.

## **Article 20**

### **Prohibition of propaganda for war**

224. Propaganda for war and all attempts to incite hatred or destabilize the country are prohibited and severely punished under Moroccan law.

225. Thus, any Moroccan or alien who, by hostile acts, exposes Morocco to a declaration of war, is guilty of an offence against the State's external security and liable to 5 to 30 years' imprisonment in time of war and 1 to 5 years' imprisonment and a fine of 1,000 to 10,000 dirhams in peacetime (Criminal Code, art. 188).

226. Similarly, under article 201 of the Criminal Code, the death penalty is applicable to anyone who commits a violent attack for the purpose either of instigating a civil war by arming inhabitants or encouraging them to arm themselves against each other or of causing destruction, death and looting in one or more douars or communities.

227. Morocco has, moreover, always striven to promote peace.

## **Article 21**

### **Right of peaceful assembly**

228. Article 9 of the Constitution provides that freedom of assembly is guaranteed to all citizens and that enjoyment of this right may only be restricted by law.

229. The holding of public meetings is governed by Dahir No. 1-58-377 of 15 November 1958 on public gatherings, as amended and supplemented by Act No. 76-00, promulgated by Dahir No. 1-02-200 of 23 July 2002 (*Official Gazette* No. 5048, 17 October 2002).

230. Public meetings may, subject to the submission to the local administrative authority of a statement signed by three people giving the date, place and purpose of the meeting, be held freely and without prior authorization.

231. The administrative authority shall immediately issue a receipt, which must be produced whenever requested by the officials of that authority. If no receipt is obtained, the statement must be sent to the administrative authority by registered letter with recorded delivery.

232. The meeting may not take place until 24 hours after issue of the receipt or 48 hours after dispatch of the registered letter.

233. However, meetings of associations and groups legally constituted for specifically cultural, artistic or sporting ends are exempt from the advance-notice requirement, as are meetings of aid organizations and charities.

234. Act No. 76-00 amending the Dahir on public gatherings has brought about a substantial reduction in fines and prison sentences for violations of the law on public meetings.

## **Article 22**

### **Freedom of association and trade-union rights**

235. Freedom of association is guaranteed under article 9 of the Constitution. The legislation on public freedoms has been amended as part of the drive to bring domestic law into line with the international human rights instruments ratified by Morocco.

236. Act No. 75-00 amending the law on associations has established various new provisions, of which the most important are:

(a) Guaranteed freedom to create associations, with an obligation on the administrative authority to issue a receipt for the application within 60 days at the most. In the event of refusal to issue such a receipt, the individual concerned may apply for interim relief to an administrative tribunal: the courts have thus been made the sole arbiter between the complainant and the administration;

(b) The winding-up of associations exclusively through the courts, so as to prevent any abuse by the administration. Any abuse or infringement by any party is punishable by law;



(c) A procedure for applying for charitable status and time limits for responding to such applications;

(d) Strengthening of associations' financial capacity by allowing them access to various sources of funding;

(e) A duty of transparency in the financial management of associations, to enable verification of the provenance of the funding for their various aims, without, however, interfering in their internal affairs;

(f) The reduction of the minimum and maximum custodial sentences and of fines, with the courts having discretion to impose one or other of those forms of penalty.

237. In addition to the regulatory and operational provisions guaranteeing the right of association, it is important to note that civil society is a partner in the development and application of Morocco's national policy on human rights, sustainable human development and the promotion of local democracy.

238. There are more than 30,000 associations nationwide and they are active in a variety of economic, social and cultural fields.

239. With regard to trade-union rights, article 9 of the Constitution guarantees all citizens the right to belong to any trade union or political organization they choose; the enjoyment of those freedoms may only be restricted by law.

240. Morocco is also a party to International Labour Organization (ILO) Convention No. 98, the Right to Organise and Collective Bargaining Convention.

241. The principle of trade-union rights is established in the Dahir of 16 July 1957 on trade unions.

242. The same Dahir also establishes the right of married women who practise a profession or trade to belong to trade unions and take part in the administration and management thereof.

243. The same Dahir recognizes the right of civil servants and officials of State administrations, except officials responsible for State security and law and order (armed forces, police, etc.), to join trade unions.

244. The new Labour Code, adopted by the House of Counsellors on 24 June 2003 and by the House of Representatives on 3 July 2003, reaffirms the principle of the freedom to organize (art. 398).

245. The new Labour Code contains various new provisions:

(a) The elimination of all forms of discrimination on grounds of trade-union membership in connection with recruitment, organization and preparation of work, vocational training, social benefits, dismissal and disciplinary measures (art. 9);

- (b) The right of trade unions to join international workers' or employers' organizations;
- (c) The right of minors in employment to join trade unions (art. 398);
- (d) The right of union officials to take up to five days' paid leave of absence in order to attend training sessions and international conferences (art. 419);
- (e) The right of trade unions to receive State aid (art. 419); and
- (f) The right of the most representative trade unions to join consultative bodies (art. 423).

### **Article 23**

#### **Protection of the family**

246. The family is the fundamental unit of Moroccan society and thus receives a good deal of attention, in keeping with article 23, paragraph 1, of the Covenant.

247. Family matters are today governed by the Family Code, which has replaced the Code of Personal Status and is designed to ensure greater equality between men and women and better protection for the family, while the inclusion of the family in the social development process safeguards the rights and dignity of each family member.

248. On the occasion of the International Year of the Family in 1994, Morocco prepared a national charter for the family, which was adopted in 1995.

249. In a speech delivered to mark the occasion, the late King Hassan II highlighted the responsibility that everyone has to promote and protect the family, calling on "all parts of Moroccan society, government departments, political parties, trade unions, charities, organizations and elected bodies to assume their share of responsibility in the protection of the family unit through programmes, action plans and education and awareness campaigns, with a view to achieving the comprehensive development to which we aspire".

250. The right to marry and to found a family is recognized and guaranteed for men and women of marriageable age, which is set at 18 for both sexes.

251. The provisions of article 23, paragraph 3, of the Covenant are similarly embodied in Moroccan positive law, under which consent is a basic condition for marriage: without it, a marriage is deemed to be flawed.

252. According to article 10 of the Family Code, which made substantial changes to the Code of Personal Status, marriage is validly concluded by the mutual consent of the parties, expressed in traditional terms or in any other customarily accepted form.

253. The reforms contained in the Family Code introduced new restrictions on polygamy and strengthened existing ones.

254. The Government has taken steps to ensure the success of these reforms, including by supporting, within the framework of a partnership agreement between the Ministry of Justice and the United Nations Population Fund (UNFPA), the monitoring of the reforms' effects on the situation of families and women.

255. The various reforms have been backed up by measures taken under the Finance Act 1998-1999, article 22 of which stipulates that all legal proceedings undertaken by divorced or abandoned women in connection with personal status are free of charge.

256. Moroccan women can use, manage and preserve their property without any gender-specific conditions. A woman is free to administer and preserve her property as she sees fit, without the supervision of her husband. The Family Code recognizes the system of separate ownership of property.

257. The reforms of the Commercial Code and the Dahir on obligations and contracts give women the right to hire out their services and to engage in trade without their husband's consent. Moroccan contract law is based on the principle of equality between men and women and any provision that is contrary to this principle is null and void.

258. For a response to the Human Rights Committee's recommendation urging Morocco "to intensify its efforts to overcome illiteracy, lack of education and all forms of discrimination against women, to implement fully the guarantee of equality contained in the Covenant ... and to ensure the equal enjoyment by women of all rights and freedoms" (CCPR/C/79/Add.113, para. 12), the reader is referred to the information on equality in Moroccan politics and public life provided in relation to article 3 of the Covenant.

259. With regard to equal rights in education, in addition to article 13 of the Constitution, which guarantees the right of everyone to education, several laws have been passed to give effect to the National Charter for Education and Training, which provides the frame of reference for educational policy and which makes 2000-2009 the "decade of education and training". The laws in question are:

(a) Act No. 05-00, on pre-school education (4-6 years), the aims of which are to ensure as far as possible equal opportunities for access to schooling for all Moroccan children, to facilitate their physical, cognitive and emotional development and to foster a spirit of independence and encourage socialization;

(b) Act No. 04-00, amending the 1963 Dahir on compulsory basic education. Article 1 of the Act provides that "basic education is a right and obligation for all Moroccan children of both sexes who have reached the age of 6". To this end, the State undertakes to provide free basic education, while parents and guardians must ensure that children follow this education up to the age of 15;

(c) Act No. 01-00, on the organization of higher education, which provides that higher education is open to all citizens who, on the basis of equal opportunities, meet the requirements.

260. Despite the fact that education is free, Morocco, like other developing countries, has been subjected to a structural adjustment programme which, while it has undoubtedly improved macroeconomic stability, has had a negative impact on the social sector, including education.

261. The education sector, which was considered to be unproductive, accumulated numerous deficits in the 1980s.

262. From 1983 to 1989 State expenditure per capita on education fell by 11 per cent, leading to a drop in the number of children in the 7-14 age group attending school.

263. Major efforts were made in the early 1990s to increase the budget of the Ministry of Education and Youth as a proportion of gross domestic product (GDP) and of the State budget, as shown in the table below:

	1998	2001
Budget of the Ministry of Education as a proportion of GDP	4.4%	5.5%
Budget of the Ministry of Education as a proportion of the State budget	25.5%	26.9%

264. To remedy the situation, the Ministry of Education drew up a strategy for the development of education in rural areas which has been applied since 1996 with the aim of raising the school attendance rate and the retention rate for girls in rural areas to 85 per cent and 80 per cent respectively by 2000.

265. This yielded a marked improvement in the net school attendance rate in rural areas, from 62.5 per cent in 1998/99 to 69.4 per cent in 1999/2000 and 76.7 per cent in 2000/01.

266. The net school attendance rate for girls in rural areas rose over the same period from 53.6 per cent in 1998/99 to 62.1 per cent in 1999/2000 and 70.4 per cent in 2000/01.

267. The right to education is a matter of concern to the highest authorities in the land; in many of his speeches, King Mohammed VI has invited the Government and all influential groups in the country to strive to improve education and to pay more attention to the education of girls in rural areas.

268. It is in this context that the National Charter for Education and Training set deadlines for reaching the chosen objectives, as follows:

- (a) Access to primary education for all 6-year-olds by 2002;
- (b) Universal enrolment in the first year of pre-school education by 2004;
- (c) A completion rate of 80 per cent in the second cycle of basic education by 2008;
- (d) A completion rate of 60 per cent in secondary education by 2001;
- (e) A completion rate of 40 per cent in upper secondary education by 2001.

269. In addition, the Ministry of Education and Youth does much to provide social support, mainly for needy pupils, in the form of school canteens, scholarships, boarding facilities, school supplies, transport, etc., in order to encourage school attendance and limit the number of dropouts, particularly among girls in rural areas, and to ensure equal opportunities for all children and improve the quality of education.

270. Moroccan society continues to be plagued by illiteracy, despite efforts to combat it. The size of the problem, as well as the limited resources available to the relevant departments, make it difficult to eradicate.

271. More women than men are illiterate. Female illiterates account for 61.9 per cent of the national total, and are predominantly from rural areas.

272. Illiteracy statistics are provided below:

Year	Total	Women	Percentage
1994/95	91 575	51 007	55.7
1995/96	107 490	59 442	55.3
1996/97	110 615	60 506	54.7
1997/98	123 529	67 941	55
1998/99	181 000	112 220	62
Total	614 209	351 116	57.2

273. In 2000/01, literacy projects reached 301,488 persons, 70 per cent of whom were women, an increase of 3 per cent over 1999/2000.

274. Rural women accounted for 85 per cent of the women benefiting from the projects in 2000/01, as compared with only 50 per cent in 1999/2000.

275. The National Charter for Education and Training has set a target of reducing the overall illiteracy rate to 20 per cent by 2010 and eradicating illiteracy by 2015.

276. The current Government has established a ministry of State for illiteracy and non-formal education.

277. With regard to the right to work as an inalienable right of all human beings, Moroccan law contains many provisions that embody the principles of gender equality in the field of employment.

278. For example, articles 12 and 13 of the Constitution guarantee equal access for all citizens to public service and their rights to education and to work. In addition, Morocco has acceded to the international instruments relating to gender equality in the field of employment, namely, the International Labour Organization (ILO) Convention (No. 111) concerning Discrimination in respect of Employment and Occupation and the ILO Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.

279. Morocco has also ratified the ILO Convention (No. 26) concerning the Creation of Minimum Wage-Fixing Machinery and the ILO Convention (No. 99) concerning Minimum Wage-Fixing Machinery in Agriculture.

280. The new Labour Code reaffirms the principle of gender equality, prohibiting, in its article 9, the practice against employees on the basis of descent, nationality, membership of a political or national group or social origin of any form of discrimination that violates or undermines the principle of equal opportunities and treatment in the field of employment or in the choice of occupation, especially as regards recruitment, supervision of work, social benefits, disciplinary measures or dismissal.

281. Similarly, the amendments made to the Criminal Code in 2003 introduced a chapter on combating all forms of discrimination.

282. It is clear from the above that Moroccan labour law contains no provisions that discriminate between men and women. Nonetheless, equality before the law does not preclude the existence of discrimination in practice, particularly in the private and informal sectors of the economy.

283. Given the importance attached by Morocco to motherhood and the institution of marriage, lawmakers have taken steps to prevent wrongful dismissals from employment for getting married or having a child. In this respect, reference is made to Supreme Court Decision No. 1300 of 20 July 1983, which obliged Royal Air Maroc to drop its requirement that its air hostesses must be single.

284. In the field of health care for women, it is to be noted that the maternal mortality rate, though still high, fell from approximately 332 deaths per 100,000 live births in 1985-1991 to 228 for the period 1992-1997, an overall reduction of 31.3 per cent.

285. The reduction in maternal mortality was more noticeable in urban areas than in rural ones: the rate fell from 284 to 125 in urban areas and from 362 to 307 in rural ones.

286. Good progress has been made in contraceptive use. From 1992 to 1997, the contraceptive prevalence rate rose from 41.5 per cent to 58.4 per cent, with a more marked increase in rural areas (from 31.6 per cent to 51.6 per cent) than in urban areas (from 54.5 per cent to 65.8 per cent).

287. The narrowing gap between urban and rural areas, which was no more than 15 percentage points in 1997, shows how the rural population has adopted the practice, thanks to the availability of better targeted services. Easier access to contraceptives has had a considerable impact on fertility rates, with the total fertility rate falling from 4 children per woman in 1992 to 2.9 children in 1997.

288. Improvements in women's health are also due in part to the "birth without risk" strategy, which is based on monitoring during pregnancy and birth, dealing with obstetric complications, providing proper care for newborns and improving the conditions for home births.

289. Although not all needs are yet being met, there has been an improvement in antenatal care, which was provided in 56 per cent of cases in 1997, as compared with 32.3 per cent in 1992 - an increase of 73.3 per cent. The same is true for medical assistance at birth, which was provided in 45.6 per cent of cases in 1997, as compared with 28.4 per cent in 1992.

290. Lastly, the establishment of a ministry of State for the family, children and welfare in the Government formed after the elections of 27 September 2002 shows the importance attached to the protection of the family.

## **Article 24**

### **Protection of children**

291. In accordance with article 24 of the Covenant, considerable importance is attached in Morocco to the protection of the rights of the child, thanks to the commitment of King Mohammed VI and the royal family; this importance is reflected in government policy, which gives high priority to social development and human rights issues.

292. Efforts to improve the situation of children have also benefited from the greater involvement of local authorities as a result of the decentralization policy followed by Morocco with a view to remedying the imbalances between urban and rural areas, satisfying specific local needs and promoting local development.

293. Under the legislation on civil status, which provides for registration within 30 days of a child's birth, every Moroccan child has the right to a name and nationality.

294. The adoption of a new law on civil registration, which entered into force on 8 May 2003, brought many benefits: registration was made compulsory, and fines of between 300 and 1,200 dirhams were introduced for failure to register births and deaths.

295. Article 16 of the new law provides for abandoned children to take the names of their parents and for children born out of wedlock to take the name of the father, in order to protect children from the negative consequences of having no identity.

296. By authorizing the registrar to make corrections without the need for court approval, the new law on the system of civil registration makes it easier to rectify errors in registration documents.

297. In addition, it should be pointed out that the draft family code announced by King Mohammed VI at the opening of the second annual session of the seventh legislature on 10 October 2003 contains numerous provisions related to the protection of children. The draft refers explicitly to the rights of the child and contains measures to make it easier to establish the filiation of children conceived when the parents are engaged to be married.

298. The right to a nationality is guaranteed to every child born in Morocco. The Dahir of 6 September 1958 containing the Nationality Code sets out the rules concerning nationality, which is acquired by filiation or by birth in Morocco.

299. Under article 6 of the Nationality Code, any child born of a Moroccan father or of a Moroccan mother and unknown father has Moroccan nationality.

300. Under article 7 of the Nationality Code, any child born of a Moroccan mother and stateless father and any child born in Morocco of unknown parents also has Moroccan nationality, except in cases where, during the child's minority, filiation is established in respect of an alien and the child is entitled to hold the nationality of the newly identified parent or parents.

301. Moreover, every foundling discovered in Morocco and presumed to have been born in the country has Moroccan nationality, unless proof to the contrary is subsequently forthcoming.

302. Under Moroccan legislation, every person born in Morocco of a Moroccan mother and foreign father or of foreign parents born in Morocco, as well as every person born in Morocco of a foreign father born in Morocco, is entitled to take Moroccan nationality, subject to the conditions set out in article 9 of the Nationality Code.

303. Again with regard to the protection of children, it should be pointed out that Morocco has ratified the Convention on the Rights of the Child and its optional protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

304. Among the improved indicators concerning the protection of children are the reduction in infant mortality, which fell from 57 deaths per 1,000 live births in the period 1987-1992 to 36.6 per 1,000 in 1992-1997, and the reduction in the under-5 mortality rate, which fell from 76.1 per 1,000 to 45.8 per 1,000 in 1992-1997.

305. The health and well-being of children have been improved by reducing the main causes of mortality, such as severe respiratory infections, diarrhoeal diseases, malnutrition and vaccine-preventable diseases.

306. Campaigns have been run during the past 10 years or so to prevent and combat specific diseases: the most important of these is the National Immunization Programme.

307. Great progress has been made in education and training, particularly as a result of lowering the school starting age from 7 years to 6, and requiring children to remain in school until at least the age of 15.

308. Considerable progress has been made in the area of school attendance: the net primary-school attendance rate for children between 6 and 11 years of age was 79 per cent at the beginning of the 1999/2000 academic year, as compared with 52.4 per cent in 1990/91, an increase of 26.6 per cent. In rural areas the rate showed an improvement of 33.9 per cent, rising from 35.9 per cent in 1990/91 to 69.4 per cent in 1999/2000.

309. Moreover, the net primary-school enrolment rate for 6-year-olds rose from 20.6 per cent in 1991 to 64.8 per cent in 2000, with a significant reduction in the gap between boys and girls, for whom the figures were, respectively, 67 per cent and 62.5 per cent in 2000, as compared with 23.1 per cent and 17.5 per cent in 1999.



310. With the aim of strengthening the institutional framework for the protection of children, a ministry of State for the family, solidarity and welfare was set up after the parliamentary elections of September 2002.

311. The National Observatory on the Rights of the Child, established in 1995 as a forum for consultations between all public and private bodies responsible for children and assigned the task of assuring the follow-up to the Convention on the Rights of the Child, has played an important role in publicizing the Convention and training professionals who work with or help children. It has also submitted to the Government a proposal to bring a number of laws into line with the Convention.

## **Article 25**

### **Right to take part in the conduct of public affairs**

312. The right of every Moroccan adult citizen to take part in the conduct of public affairs, either directly or through representatives, is guaranteed without discrimination by article 8 of the Constitution, which provides that “all adult citizens of either sex who are in possession of their civil and political rights are electors”.

313. The reign of King Mohammed VI is very clearly characterized by an ongoing commitment to strengthening the rule of law and the defence of human rights. Morocco has undertaken a number of reforms, including the reform of the Code of Public Freedoms, the revision of the Dahir on the Advisory Council on Human Rights and the establishment of the Diwan Al Madhalim (see above).

314. Realizing that respect for human rights is vital to the sustainable implementation of three universally recognized priorities - peace, development and democracy - and that the very concept of human rights is constantly evolving, certain that the young people of Morocco could provide a powerful boost to the notion of responsible citizenship and inject new blood into the democratic system, and with a view to realizing his hope of seeing young Moroccans engage massively in the building of a modern democratic society, His Majesty the King announced on Tuesday, 10 December 2002 that the voting age would be lowered from 20 years to 18, and invited the Government to take the necessary steps to implement that change.

315. The relevant provision is contained in article 3 of the Electoral Code (Act No. 9-97, promulgated on 2 April 1997).

316. The right to equal access to public service is also guaranteed by the Constitution, article 12 of which provides that “all citizens have access, under the same conditions, to public service and employment”.

317. Article 1 of the Dahir of 24 February 1958 containing the Public Service Statute also reproduces the above-mentioned constitutional provisions.

318. Citizens' participation in public affairs is not limited to the national level, but applies also at the local level. Communal, provincial and prefectural assemblies are all representative institutions elected by citizens. Following the latest revision of the Constitution, on 13 September 1996, a new local administrative unit, the region, has been created to strengthen participatory democracy.

## **Article 26**

### **Prohibition of discrimination**

319. The Constitution guarantees that all citizens can exercise and enjoy their rights and public freedoms under the same conditions and take part in their country's political, social, cultural and economic life without distinction of any kind.

320. Article 5 of the Constitution states that "all Moroccans are equal before the law".

321. Non-discrimination is a constitutional principle reaffirmed by Morocco's ratification of the relevant international conventions and the provisions of its domestic legislation. In addition to article 5 of the Constitution, article 8 provides for equal political rights for men and women. Article 9 guarantees citizens completely equal freedom of movement, freedom of expression in all its forms, freedom of assembly and freedom to join the occupational and political organizations of their choice. Lastly, articles 12 and 13 proclaim equality in employment and in the right to education.

322. Domestic legislation is also constantly under reform with a view to consolidating this equality and combating discrimination. Efforts are being made to make this principle a fundamental rule. Article 9 of the Labour Code clearly illustrates this resolve (see paragraphs 72 and 73 above).

323. The rules of procedure, both in the Code of Civil Procedure and in the Code of Criminal Procedure, are also the same for everyone.

324. Moroccan criminal law guarantees the right to security of person in the same way for everyone, providing protection for every person against abuse or ill-treatment, regardless of whether it is at the hands of a government employee (Criminal Code, arts. 224-232) or a private individual (art. 400 et seq.).

## **Article 27**

### **Rights of minorities**

325. Because of its history, the Kingdom of Morocco is a land where peoples meet and mingle. During the Second World War it was a land of refuge for the oppressed, who experienced neither segregation nor discrimination there. In many of its regions, the arts, languages and local dialects passed on by popular tradition reflect the diversity of society and enrich it.

326. Under the Constitution, Arabic is the official language of Morocco. Its use by the State strengthens national identity and social cohesion. At the same time, however, government policy is to recognize the right of ethnic or religious groups (ethnic communities, the Hebrew community) to manage their collective resources (common land, cultural heritage).

327. Morocco is, moreover, reputed for its openness and spirit of tolerance and the freedom of religion laid down in the Constitution, which is reflected in the recognition of freedom of worship for other religions. For example, the members of the Jewish community are considered to be full Moroccan citizens; they have equal access to public service and to employment in general, and enjoy civil, political, economic, social and cultural rights. The State's determination in this respect has been stressed on various occasions in the statements of King Mohammed VI. In his message on the fifty-first anniversary of the Universal Declaration of Human Rights, His Majesty urged his people to bear in mind and act in accordance with the eternal values advocated by our holy religion, which places importance on respect for others, tolerance, constructive dialogue and peace.

328. Article 5 of the Constitution states that "all Moroccans are equal before the law" and that all citizens have an equal right to education.

329. The promotion of culture continues to be one of the Government's major concerns. Achievements in the cultural sphere have involved the theatre, plastic arts, music, etc. There is a move to recognize the specific Amazigh cultural identity in terms of both the language and the culture itself in the anthropological sense. A lively and dynamic Amazigh culture exists at present and is an integral part of national cultural activities (music broadcasting and the publication of novels, 11 newspapers, short stories, poetry and magazines in the Amazigh language, transcribed in Arabic characters). Moreover, the Constitution, in chapter 1, guarantees that all citizens can exercise and enjoy their rights and public freedoms under the same conditions and take part in their country's political, social, cultural and economic life without distinction of any kind.

330. The Moroccan legal system, of which Islam is one of the main pillars, regards the exercise of freedom of worship as one of the basic rights of the individual and not as a basis for determining an individual's personality or the nature of the rights to which he or she is entitled. There is no difference between Moroccans, whatever their religion.

331. The National Charter for Education and Training of October 1999 provides for the establishment in some universities of Amazigh linguistic and cultural research and development facilities and facilities for training trainers and developing school curricula and syllabuses. Moreover, the regional education authorities may, in the part of the curriculum left to their discretion, opt for the use of the Amazigh language or any other local dialect.

332. The national education and training authorities will progressively make available to the regions the support necessary for this purpose in the form of instructors, teachers and teaching aids.

333. The establishment by King Mohammed VI of the Royal Institute of Amazigh Culture (IRCAM) on 17 October 2001 reinforces the notion of respect for all cultures. In his speech when affixing his seal to the Dahir setting up and organizing the Institute, the King reaffirmed

his desire to promote and ensure respect for Berber culture: “Morocco ... is making each of its regions into a centre of creativity where all kinds of potential can be expressed, find fulfilment, develop and prosper within the democracy practised by its citizens ... We are paying very particular attention to promoting the Amazigh language as part of the implementation of our project for a democratic and modernized society, based on the consolidation and enhancement of the Moroccan persona and its linguistic, cultural and civilizational symbols ... We also affirm that Amazigh, with its roots at the core of the history of the Moroccan people, belongs to all Moroccans without exception and cannot be used for political designs of any kind. Through the ages Morocco has stood out because of the cohesion of its inhabitants, whatever their origins and dialects. They have always shown a steadfast attachment to their sacred values and have resisted all foreign invasions or attempts to divide them.”

334. Article 3 of this Dahir outlines the eight objectives to be achieved through the establishment of the Institute. The most important are:

- (a) To collect and transcribe all expressions of Amazigh culture;
- (b) To draft action plans for teaching in general education and in the part of the curricula relating to local affairs and regional life, in keeping with general State policy for national education;
- (c) To assist the universities in organizing research and development centres for the Amazigh language and culture and in the training of trainers;
- (d) To establish cooperative relations with domestic and foreign cultural and scientific institutions and establishments with similar goals.

335. There are some 40 associations in Morocco for the protection and promotion of the Amazigh language and culture. The most representative of these is the Moroccan Association for Cultural Research and Exchange (AMREC).

336. These associations have been regrouped into a national coordination structure since 1992 and in this framework take common positions relating to their purpose. They are basically concerned with:

- (a) Collecting and preserving the Amazigh cultural heritage;
- (b) Supporting Amazigh cultural activities (publications, music, architecture, journalism, etc.);
- (c) Defending the Amazigh culture as an integral part of national culture.

337. As the new school year got under way in 2003, the Amazigh language and its cuneiform alphabet, Tifinagh, were introduced on an experimental basis as “an essential element of Moroccan culture” into 300 primary schools in Morocco, pending their introduction into all schools.