



المجلس الوطني لحقوق الإنسان
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National Human Rights Council

**Collection of CNDH Reports and
Inputs to the United Nations
Charter-based Bodies
(2020-2022)**

October 2022

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**CNDH Parallel Report to the Universal
Periodic Review - (March 2022)**

A. Overview of the CNDH

The National Human Rights Council of Morocco (CNDH) is a constitutional institution for the promotion and protection of human rights. It was established in 1990 and has been accredited to “A” status since 1999, testifying to its full compliance with the Paris Principles of 1993. The CNDH has 12 Regional Human Rights Commissions (CRDH), which cover the entire national territory. CRDH members, composed mainly of civil society representatives and local human rights defenders, have been installed in September and October 2020. These commissions are those of Rabat-Salé-Kenitra, Fez-Meknes, Marrakech-Safi, Casablanca-Settat, Draa-Tafilalet, Oriental, Beni Mellal-Khenifra, Tangier-Tetouan-Al Hoceima, Guelmim-Oued Noun, Souss-Massa, Laayoune-Sakia El Hamra and Dakhla-Oued Eddahab.

A new law 76.15 reforming the CNDH¹ was adopted unanimously by the Parliament in February 2018. This law considerably broadens the protection mandate of the CNDH, particularly by entrusting it with the mandate of three mechanisms provided for by international human rights standards. These are the National Preventive Mechanism against Torture (NPM), in line with OPCAT, National Child Redress Mechanism, in line with General Comment 2 of the Committee on the Rights of the Child, and National Monitoring Mechanism for Persons with Disabilities, in line with Article 33.2 of the Convention on the Rights of Persons with Disabilities.

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B. Introduction

1. This report was prepared by the CNDH in consultation with its 12 regional human rights commissions (CRDH). The CNDH also organized several meetings with various stakeholders, especially youth human rights defenders (HRD) from 12 regions of Morocco and discussed several human rights issues and recommendations that the government should implement so that it complies with its international commitments.
2. With a view to encouraging the participation of youth in this process, the CNDH and other stakeholders (UNFPA-Morocco, UPR-Info and Prometheus Institute for Democracy and Human Rights²) organized two training sessions for 18 youngsters on the international human rights system, including the engagement

1. https://www.cndh.org.ma/sites/default/files/loi_76-15_relative_a_la_reorganisation_du_cndh_1.pdf

2. An NGO of the youth, who concluded a partnership agreement with CNDH in 2021 : <http://prometheus.ma/>

of CSO with the UPR. Following these trainings, these youth HRD constituted a coordinating group called “*Collective Union of Moroccan Youth for Protection of Human Rights*”, who submitted a joint submission as part of the 4th cycle of UPR.

3. The CNDH is contributing to the elaboration of the national report and is taking part in the consultations that are being held nationally and locally by the government with various stakeholders from March to June 2022. The CNDH also participated in the workshop on the forthcoming UPR-Morocco, organized by OHCHR on 3 March and attended mainly by CSO. Besides, the CNDH engaged with the Parliament with a view to mainstreaming the UPR recommendations in legislation. In this regard, a workshop on the implementation of the recommendations was held in December 2019 and an MoU with the Parliament was updated and signed in June 2021¹.
4. The CNDH used the recommendations contained in the third UPR report in its various publications, including its three annual reports from 2019 to 2021², thematic reports³ and memorandums and advisory opinions⁴. The CNDH also contributed to a study on emerging good practices from the UPR, commissioned by OHCHR⁵.
5. This report includes an overview of key human rights developments due to limited word count. For detailed information about the human rights situation, the CNDH refers to its publications mentioned in paragraph 4.

C. Progress made in the implementation of previous recommendations related to the CNDH

6. The CNDH welcomes the efforts made by the public authorities to implement CNDH-related recommendations. Therefore, concerning the recommendations

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

<http://www.cndh.ma/an/article/cndh-and-house-councilors-sign-memorandum-understanding>

2. CNDH annual report of 2020: Arabic version , Summary-French, English overview; CNDH annual report of 2019: CNDH annual report

3. CNDH' thematic reports:

- Report on the Observation of the Legislative, Regional and Communal Elections: Arabic version, Amazigh version , English overview
- CNDH report on Al Hoceima protests: Arabic version , Amazigh version , French version
- CNDH report on Jerada protest: Arabic version, English overview

4. Memorandums :

- CNDH memorandum on the amendment of the Penal Code: French version
- CNDH memorandum on the development model: Arabic version; Summary Amazigh version,
- CNDH advisory opinion on Draft Law No. 46.19 on the National Authority for Integrity, Prevention and the Fight against Corruption: Arabic version,

5. Available here: https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/Emerging_UPR_GoodPractices.pdf

on its mandate (Recommendations 33, 46, 56, 57 & 60), a new law was adopted in 2018 that considerably broadens the protection mandate of the CNDH and its regional commissions. The CNDH was particularly entrusted with the mandate of three mechanisms provided for by international human rights standards. These are the National Preventive Mechanism against Torture (NPM), in line with OPCAT, National Child Redress Mechanism, in line with General Comment 2 of the Committee on the Rights of the Child, and National Monitoring Mechanism for Persons with Disabilities, in line with Article 33.2 of the Convention on the Rights of Persons with Disabilities. All regional commissions fulfil the mandate of protection, promotion and prevention entrusted to the CNDH, but at the local level. Accordingly, sufficient budgetary funds were allocated to the CNDH and all its regional commissions (Recommendation 62).

7. Concerning the recommendations focusing on the commissions of the southern provinces (Recommendations 46, 56, 82, 244), these commissions continued to protect and promote human rights in the region, especially in light of the repercussions caused by Covid-19. To this end, each of the three commissions established three working groups on promotion, protection and assessment of public policies. Concerning complaint handling, between 2018 to March 2022, the three commissions received and handled 1,104 complaints and took the necessary measures to resolve the admissible complaints. They also carried out 94 visits to places of deprivation of liberty, conducted mediation initiatives, advised complainants on the relevant procedures in force and monitored protests. The three commissions made recommendations and approached the public authorities to resolve cases. They also formalized their relations with various stakeholders (CSO, associations of lawyers, academia) through partnerships aiming at promotional activities, such as trainings, joint workshops, awareness raising and human rights education.
8. Concerning recommendations on the NPM (48, 49, 50, 51, 52), an NPM was established by Law 76.15 and started to fulfil its mandate following the designation of its members in September 2019. Accordingly, Morocco was rated “A” by the UN Human Rights Committee for the adoption of the CNDH law, designating it as the operative body¹. Since its establishment, the NPM has conducted 25 preventive and follow-up visits to nine places of detention (prisons, police stations, gendarmerie royale stations, psychiatric hospitals, elderly centers, child protection centers, court jails, airport places of detention) throughout Morocco (Tangier, Fes, Rabat, Casablanca, Laayoune, Guelmim, Dakhla, Settat, Tetouane, Marrakech). The NPM conclusions and general recommendations have been

1. More information available on OHCHR website: <https://www.ohchr.org/en/stories/2019/12/human-rights-committee-gives-top-grades-follow-five-countries#:~:text=Morocco%20was%20rated%20'A'%20for,Council%20as%20the%20operative%20body.>

published in the CNDH annual reports¹. Specific recommendations have been also sent to relevant authorities. The NPM has issued a guide on procedures related to regular and preventive visits to places of deprivation of liberty. Members of the NPM participated in a number of national and international seminars and trainings. The CNDH/NPM continues to engage with the SPT through joint events and regular exchange of information. It also entered in partnerships with the European Union, Council of Europe, Association for the Prevention of Torture, Dignity-Danish Institute against Torture.

9. Concerning the recommendations relating to the establishment of a child redress mechanism (227 and 222), a National Redress Mechanism for Children Victims of Human Rights Violations was also established within the CNDH. Since its establishment, the Mechanism has received 31 complaints, including on school dropout, physical and psychological violations, access to education due to disability, etc. The members of the mechanism conducted, on their own initiative, field visits to child protection centers in order to hold hearings with children placed in these centers. The mechanism also made recommendations following their visits.
10. Concerning the recommendations relating to the establishment of a disability rights mechanism (53, 54 and 57), the CNDH was designated in 2018 as the National Mechanism for the Protection of the Rights of Persons with Disabilities. Since its establishment in 2019, the mechanism has organized several activities, including two online campaigns² to combat discrimination against women with disabilities (2020) and promote the participation of women with disabilities in political and social life (2021). Each campaign lasted 8 weeks where Arabic, Amazigh and sign languages were used. Over the last two years, this mechanism handled 69 individual complaints and cases. The mechanism engaged with relevant authorities to resolve these cases.
11. Regarding the recommendations on the human rights culture (63, 64, 65, 66, 172, 174, 217, 228, 238,) Rabat - Driss Benzekri - Institute for Human Rights was restructured in May 2019. More than 100 trainings on a wide range of rights were organized by CNDH in the reporting period to build the capacities of different stakeholders, including law enforcement officials, staff of parliament, civil society and human rights defenders. Focus was put on violence against women, women's political representation, minor girls, the youth, persons deprived of their liberty, climate change and migrants, as well as on international and African human rights system. The CNDH also offered its training premises to CSO, who organized trainings at this Institute.

1. CNDH annual report of 2020: Arabic version, Summary-French, English overview; CNDH annual report of 2019: CNDH annual report

2. <https://www.youtube.com/watch?v=isaWxFO2c0&feature=youtu.be>

12. Since 2019, the CNDH organizes a one-year national campaign to promote and advocate for a specific topic. Accordingly, the CNDH organized in 2019 a national campaign on “*Marriage of Minor Girls: Abolish the Exception... Restore the Norm*”. In 2020, the CNDH focused on the “*effectiveness of the right to health in Morocco: Towards a health system based on a human rights approach*” which resulted in a thematic report on the subject to be released soon. In 2021, the CNDH one-year campaign was entitled “*Speak out against gender-based violence*” aiming at encouraging victims of gender-based violence to report such crimes and fighting impunity. At these campaigns, consultative meetings were held at the Moroccan regions and attended by various stakeholders, including public authorities, CNDH regional commissions, CSO, human rights defenders and experts.

D. Human rights developments and recommendations to the government

Ratifications and Cooperation with the UN System

13. The CNDH welcomes the ratification of the Migration for Employment Convention No.97, the Social Security Convention No.102, and the Promotional Framework for Occupational Safety and Health Convention No.187 on 14 June 2019.
14. However, the CNDH notes that Morocco has not completed the ratification procedure for three protocols to core conventions, on which the Parliament had already adopted laws approving their ratification¹. These are the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure², Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women³ and Optional Protocol to the International Covenant on Civil and Political Rights⁴. The CNDH notes that the government has not taken any measure regarding the ratification of the Second Optional Protocol to ICCPR aiming at the abolition of the death penalty and Optional Protocol to CESC.R.
15. The CNDH considers that cooperation with the UN human rights system is of great importance to the human rights reforms agenda. Recommendations made

1.

2. Law No. 59.12 approving the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Official bulletin No. 6140 dated April 4, 2013.

3. Law No. 125.12 approving the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Official bulletin No. 6387 dated August 17, 2015.

4. Law No. 126.12 approving the Optional Protocol to the International Covenant on Civil and Political Rights, Official bulletin No. 6387 dated August 17, 2015.

by treaty bodies, special procedures and Universal Periodic Report and accepted by the government can provide a road map for reinforcing such reforms. The CNDH welcomes the adoption of the simplified procedure in reporting to the CMW and the submission of three reports to CERD in September 2020, CED in September 2021 and CEDAW in January 2020. The CNDH notes that there is a significant delay in submitting the fifth report to CAT, which was due in 2015.

Recommendations

- Complete the ratification procedure for the first Optional Protocol to ICCPR, third Optional Protocol to CRC and to Optional Protocol to CEDAW;
- Accede to the Second Optional Protocol to ICCPR aiming at the abolition of the death penalty and to the Optional Protocol to CESCRC;
- Accede to ILO Convention No. 87 regarding Freedom of Association and Protection of the Right to Organize and to the Convention 190 regarding Violence and Harassment;
- Accede to the Rome Statute of the International Criminal Court;
- Accede to the African Charter on Human and Peoples' Rights;
- Continue to take steps towards making the declarations provided for in articles 76 and 77 of the CMW;
- Submit the fifth report to CAT as soon as practicable;
- Made public the SPT report following its visit to Morocco in 2017, given the importance it has in furthering the protection of human rights and prevention of violations;
- Address standing invitations to special procedures mandate holders.

Legal framework

16. The CNDH welcomes the adoption of several laws with direct link to human rights, on which it elaborated recommendations from a human rights perspective¹. More particularly, the CNDH elaborated a memorandum on the draft penal code², containing recommendations to bring domestic legislation into compliance with international standards, including with regard to individual freedoms, torture, abortion, enforced disappearances, alternative sentences, death penalty, trafficking in migrants, etc. The CNDH is preparing advisory

1. Law 103.13 on combating violence against women, Law 46.19 on the national integrity and anti-corruption body, Framework Law 09.21 on social security, Law 72.18 on the system related to targeting beneficiaries of social support programs and the establishment of the National Register Agency, Law 77.17 on exercising forensics in 2020, Organic Law 04.16 on the national council for languages and Moroccan culture, Law 56.20 on museums, etc.

2. Available here : https://www.cndh.org.ma/sites/default/files/cndh_-_memo_code_penal_vf_5mai.pdf

opinions on three key draft laws: draft penal procedure law, draft civil procedure law and press and publishing law.

17. Some key laws are yet to be adopted, such as the Organic Law 97.15 on setting out conditions and modalities of exercising the right to strike and the organic law relating to the exception of unconstitutionality.

Recommendations

- Amend the Penal Code, while bringing both laws into compliance with the Constitution and international human rights instruments ratified by Morocco;
- Amend the Penal Procedure Code, with a focus on guaranteeing access to lawyers of a suspect's own choosing from the moment of apprehension, without the presence of an investigator and without requiring the authorization of the prosecutor, using audio-visual recording during interrogations and conducting medical expertise before and after custody in case of allegations of torture;
- Amend the Family Code, especially abrogating article 20 authorizing child marriages;
- Harmonize Law 103.13 on combating violence against women with international norms, by providing for the criminalization of marital rape;
- Accelerate the adoption of the draft law 72.17 on the entry and stay of foreigners as well as migration, while taking account of international standards, including those provided for in Global Compact for Migration;
- Accelerate the adoption of the draft law 66.17 on asylum and its conditions, while taking into account relevant constitutional provisions and international norms;
- Establish a legal framework for older persons in line with the relevant international standards, mainly the 1991 United Nations Principles for Older Persons;
- Review the legal provisions relating to freedom of association and assembly, while taking into consideration the new challenges posed by digital space and in such a manner as to expand civic space and reinforce the enabling environment for the work of human rights defenders.

Institutional framework

18. While the CNDH welcomes the establishment of human rights and governance institutions by virtue of laws adopted for the first time or reviewed, it notes that four institutions of these have not been operational, namely the Authority in charge of parity and combating all forms of discrimination, Advisory Council

for the Family and Children, and Advisory Council for Youth and Civil Society Action and National Council for Languages and Moroccan Culture.

Recommendations

- Operationalize the Authority in charge of parity and combating all forms of discrimination, Advisory Council for Family and Children, Advisory Council for Youth and Civil Society Action and National Council for Languages and Moroccan Culture.

Policy framework and human rights practices

19. The CNDH notes that several actions included in the National Action Plan for Democracy and Human Rights have been implemented. It also notes the engagement of the new government to update this policy framework. The CNDH also welcomes the report of the Special Commission on the Development Model and believes that the proper implementation of its outcome would guarantee the enjoyment of human rights, mainly economic, social, cultural and environmental rights, narrow disparities, reinforce the implementation of sustainable development goals and provide a tool to leave no one behind. In addition, the CNDH notes with satisfaction the national policies on social security and migration as well as the efforts deployed towards combating the effects of climate change on human rights, mainly Green Generation Plan, National Water Plan and the National Sustainable Development Strategy. In this regard and on the sidelines of COP26, the CNDH engaged with the youth who made a declaration entitled “Moroccan youth committed to fight climate change” and addressed to COP26 summit, following a meeting organized in Rabat on 30 October 2021.
20. However, several challenges still hinder the enjoyment by all of their human rights, especially regarding access to the highest attainable standard of health, quality and equal education and right to employment. Business and human rights is also an emerging issue, addressed by the CNDH and posed significantly within the context of Covid-19¹. The digital space also contains several challenges, such as online hate speech, fake news, artificial intelligence, access to information, rights to private life, etc. All of these challenges have been addressed in the CNDH annual reports².

1. Call by CNDH : <https://cndh.ma/an/highlights/cndh-call-commitment-human-rights-world-labour-after-lockdown-diligent-companies>

2. CNDH annual report of 2020: Arabic version , Summary-French, English overview; CNDH annual report of 2019: CNDH annual report

Recommendations

- Ensure that the human rights-based approach is mainstreamed in the implementation of the new development model policies;
- Implement the government commitment to updating the national action plan for democracy and human rights, while taking into account the recommendations made by the international human rights system and the National Human Rights Council;
- Adopt a stand-alone national action plan on business and human rights to protect against adverse human rights impacts by business enterprises in conformity with the UN Guiding Principles on Business and Human Rights;
- Continue to mainstream international human rights standards by courts, and ensure the supremacy of these standards over domestic law;
- Increase the budget allocated to the health sector, in such a manner as to allow an increase in the number of healthcare workers, better working conditions and rehabilitation of health infrastructure;
- Continue to take measures guaranteeing equality and quality in private and public education, ensuring enrolment, especially of girls in rural areas, and combating school dropouts;
- Abolish the death penalty in law and in practice
- Respond to the complaints filed by the CNDH within the legal deadline provided for in the CNDH enabling law of 2018.

**CNDH Inputs to the United Nations
Special Procedures Mandate Holders
(2020-2021)**

A. Input of the CNDH to the Special Rapporteur on Truth, Justice and Reparation on the Roles and Responsibilities of Non-State Actors in the Transitional Justice Process - January 2022

1. The National Human Rights Council of the Kingdom of Morocco (CNDH) wishes to respond to the questionnaire relating to the roles and responsibilities of non-state actors in the transitional justice process, drawn up by the Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-repetition and received by the CNDH from the United Nations High Commissioner for Human Rights on 6 December 2021.
2. The Equity and Reconciliation Commission (IER), set up on January 7, 2004, completed its mandate on November 30, 2005 and published its final report¹. The IER examined cases of serious human rights violations over a period of 43 years (1956-1999). Morocco's national human rights institution has been appointed to monitor the implementation of IER recommendations. For this purpose, the CNDH established a Follow-up Committee.
3. The Statutes of IER² includes definitions of gross human rights violations, including enforced disappearances, which was defined in Article 5 as the act of kidnapping or arresting a person or persons and detaining them against their will and illegally in secret places by public officials, individuals or groups acting on behalf of the State.
4. However, while analyzing and handling the various requests and complaints it received, the Moroccan Truth Commission was confronted with diverse and highly complex cases, for which the responsibility was shared by actors that have committed violations and the State who has the responsibility to protect the security and safety of its citizens. These cases are as follows:
 - a. Victims kidnapped during the early years of independence of Morocco in 1956 by non-state actors and detained on the national territory;
 - b. Victims kidnapped by an armed group on the Moroccan territory in the context of the armed conflict over the Sahara, but detained on the Algerian territory.
5. The Moroccan truth commission was faced with three **challenges** to meet the expectations of victims and their families. The **first challenge** corresponds to the lack of a thorough definition of enforced disappearance in the national legislation, during the tenure of the Commission. The **second challenge** pertain

1. <https://www.cndh.ma/an/rubriques/documentation/publications/report-equity-and-reconciliation-commission-ier>

2. <https://adala.justice.gov.ma/production/html/Ar/86297.htm>

to the fact that the cases of enforced disappearances and assassinations were old, as they date back to 1950s, and most actors in those events died. **The third challenge** relate to the ongoing regional conflict over the Sahara and refusal by the responsible party to acknowledge its responsibility for the committed violations.

6. Regarding the opportunities that were made available to the Moroccan truth commission and with a view to addressing these challenges, the truth commission, in examining those cases, took as an international normative source the Declaration on the Protection of all Persons from Enforced Disappearance, as the International Convention for the Protection of All Persons from Enforced Disappearance was not adopted at that time.
7. Thus, while investigating disappearance and death cases that were perpetrated, shortly after the independence of Morocco in November 1956, by factions and groups representing the former members of the Liberation and Resistance Army. Victims included political activists, who had been kidnapped and detained in premises under the authority of the State or premises under the supervision of these groups. Some of these victims had been assassinated in the public street.
8. To reach the truth about the incidents, the Commission was guided by the writings on such events and the hearings given to the persons having held senior positions in those premises (detention centers), as well as to senior witnesses who had lived through these incidents and former victims. Moreover, the Commission undertook field visits to the most notorious detention centers in the country (Dar Barricha, in the north and Tifndilt in the south).
9. Despite the difficulties that were faced by the truth Commission and the Follow-up Committee later on, especially the fact that incidents took place far back in the past, that most direct witnesses died, that archive materials are rare or inexistent and that most former supervisors of places of detention were hesitant to provide accurate information on the burial sites of the victims and only pointed to the context and circumstances of violence between political groups, the Commission successfully established a list of the victims who were detained, released later on or died in these places or those executed in the public street. The Commission counted 239 victims, including 50 victims died in various centers in the north (Dar Barricha), center (Police station known as "CTM") and the south (Tifndilt). The amount of compensation accorded to those victims reached almost USD 6 million.

10. Furthermore, the Commission identified the burial sites of two of these victims near Dar Slicher detention center in Ghafsai city. The remains of one of them was transferred to his home city, at the request of his family.
11. Regarding the complaints concerning civilian victims kidnapped on the Moroccan territory and detained on the Algerian territory by an armed group (Polisario), despite the fact that the responsibility is shared between the kidnapping and detaining non-state actor (Polisario armed group) and a state actor that has obscured these violations (State of Algeria), the Commission heard the former detainees, some of whom spent more than 20 years in detention. They provided information about places of their detention, officials in charge of them and the victims who died in those centers. Likewise, the International Committee of the Red Cross provided the truth Commission with a preliminary list of the victims who died in those centers, whereas the Polisario, as a non-state actor responsible for kidnapping and detention did not provide any clarifications on the fate and detention circumstances of those victims.
12. Given the severe suffering that the victims were enduring in detention and taking into account that the non-state actor who kidnapped and detained the victims did not assume its full responsibility to disclose information on their fate and circumstances of their kidnapping, the Commission recommended the Moroccan Government to take all necessary measures to ensure that victims receive adequate reparations.
13. In this vein, the IER adopted the risk theory and invoked the responsibility of the State to protect the safety and security of its citizens. This was considered the merits of compensations to the victims and their rights holders who filed their requests within the deadlines. Accordingly, 370 individuals and rights holders received a total of USD 12.4 million.
14. The jurisprudence of the truth Commission and its Follow-up Committee consists of holding the State responsible for disclosing the fate of the victims of disappearances and assassinations perpetrated in the wake of the independence of Morocco by political factions and providing the victims and their families with due compensation. This is one good practice that the Commission has used. Indeed, those factions ceased to exist or cooperate and the victims and their families have only the State and its bodies as their sole interlocutor.
15. Moreover, compensating victims of the kidnappings that took place on the Moroccan territory and the detention that occurred in a neighboring country is a jurisprudence and a good practice that the Commission has used so as

to ensure reparations for victims and recognize the severe damages that they suffered. Such recognition does not deny the right of the victims' families to continue to claim the truth about the fate of their relatives.

16. The International Committee of the Red Cross (ICRC) was interested in the regional conflict over the Sahara and served as a mediator between the Moroccan authorities and the Polisario. The role of the ICRC was reinforced after the establishment of the Moroccan truth commission as a transitional justice mechanism mandated to reveal the fate of the victims of enforced disappearances. Since 2005, the Commission has made its database accessible to the ICRC team and identified the victims of enforced disappearances linked to the regional conflict over the Sahara.
17. The National Human Rights Council, as the institution officially tasked with monitoring the implementation of the IER's recommendations, held meetings, at its headquarters, with the ICRC teams during which it provided the findings of investigations conducted by the IER regarding the victims of disappearances in the context of the aforementioned regional conflict. The Moroccan Government submitted to the ICRC team a preliminary list of 212 disappearance cases that took place on the Algerian soil dating back to the period between 1976 and 1981. Nevertheless, the party responsible for the kidnapping and detention of those victims in the Tindouf camps neither cooperated with the ICRC nor provided information on them.

B. Contribution du CNDH sur la perspective de genre dans les processus de justice transitionnelle au Maroc

1. Le Conseil national des droits de l'Homme du Maroc (CNDH) souhaite répondre au questionnaire relatif à la perspective de genre dans les processus de justice transitionnelle, qui a été élaboré par le Rapporteur spécial sur la promotion de la vérité, de la justice, des réparations et des garanties de non-répétition et qui a été envoyé au CNDH par le Haut-commissariat des Nations unies aux droits de l'Homme en date du 28 avril 2020.
2. L'Instance équité et réconciliation (IER), créée le 7 janvier 2004, a parachevé son mandat le 30 novembre 2005 et a publié son rapport final¹. L'IER a examiné des cas de violations graves des droits de l'homme sur une période de 43 ans (de 1956-1999). L'institution nationale des droits de l'Homme du Maroc a été désignée pour effectuer le suivi de la mise en œuvre des recommandations de l'IER.

1. <https://www.cndh.ma/fr/rubriques/documentation/publications/rapport-de-linstance-equite-et-reconciliation/rapport-final-de-lier>

3. L'approche genre a été retenue par l'IER comme une option méthodologique transversale à tous ses domaines d'intervention. Cela a impliqué l'examen minutieux des violations subies par les femmes dans leur spécificité, des préjudices qui en ont découlé, de leur expérience particulière et de leur rôle dans la lutte contre les violations. Il s'agissait en outre de qualifier ces violations, de déterminer leurs séquelles et les mesures susceptibles de garantir la non répétition.
4. L'IER a consacré toute une section de son rapport final (volume I) aux enseignements concernant le genre et les violations graves des droits de l'Homme.¹ Elle a intégré la dimension genre dans ses activités afin de dégager la spécificité des violations à l'égard des femmes, leur impact ainsi que la manière avec laquelle les femmes ont fait face à ces violences politiques.
5. L'IER a rapporté dans la synthèse de son rapport final² que les femmes ont subi des formes particulières de violations des droits de l'Homme. En effet, les souffrances endurées par les femmes étaient d'autant plus graves qu'elles subissaient, outre les formes de torture, des formes spécifiques de sévices, pratiqués par des hommes au mépris de la dignité des victimes. Les femmes étaient ainsi obligées parfois de se dénuder devant leurs tortionnaires, vivant ainsi avec la hantise du viol, qui était commis. Les périodes menstruelles étaient d'autant plus difficiles que les femmes se voyaient interdire les moyens d'hygiène. De plus, durant la période précédant le procès, les conditions dans lesquelles se déroulait, ce qui était supposé être une garde à vue, étaient marquées généralement, parmi d'autres, par la privation des femmes dans certains cas de l'assistance médicale lors d'accouchements ou de fausses couches, comme le souligne le rapport final de l'IER³.
6. Dans le traitement des dossiers relatifs aux violations subies par les femmes, l'IER a considéré les violences sexuelles comme une violation en soi et non pas comme une violation associée à une violation principale. L'IER a adopté le principe de la bonne foi concernant les preuves comme base pour accepter les demandes de certaines femmes victimes de violations et tient l'organisme responsable de l'enquête sur les faits. Elle a également pris en considération la double oppression de l'État et de la société, qui a des effets sur la santé physique et mentale des femmes.
7. La prise en compte des souffrances spécifiques des femmes victimes de violations s'est traduite de manière particulière dans les programmes de réparation individuelle qui s'est basée sur le principe de la discrimination positive dans

1. Voir pages du 74 au 80, https://www.cndh.ma/sites/default/files/ier_1_fr.pdf

2. https://www.cndh.org.ma/sites/default/files/documents/rapport_final_mar_fr_.pdf

3. Voir page 106, du rapport final de l'IER (Volume II) https://www.cndh.org.ma/sites/default/files/ier_2_fr.pdf ; et page 81 du rapport final de l'IER (Volume I): https://www.cndh.org.ma/sites/default/files/ier_2_fr.pdf

le calcul de l'indemnisation des femmes. En outre, les règles juridiques de la « *chariaa* », relatives à l'héritage, pour indemniser les ayants droit (hommes et femmes) n'ont pas été appliquées. De plus, le barème de l'indemnisation financière alloué aux femmes qui ont subi un mauvais traitement et des atteintes à leur dignité, lors de l'arrestation, a été augmenté et les enfants mineurs qui ont accompagné leur mère en tant que victimes des violations, ont été indemnisés. Aussi, la réparation a pris en compte la perte d'opportunités, de l'insertion sociale et de la couverture médicale des femmes. En cas de viol, une indemnité spécifique a été ajoutée à l'indemnisation principale. En cas de fausse couche, de détention avec le nourrisson, ou après que celui-ci a été extrait de sa mère, l'IER a évalué une indemnisation complémentaire en fonction de chaque cas.

8. Les femmes ont constitué la majorité des victimes « indirectes » en tant que mères, épouses, filles ou proches des hommes détenus ou disparus. Au total, elles représentent 15% des dossiers soumis à l'IER par des « victimes directes » et 46% de ceux déposés par des « victimes indirectes ».¹
9. S'agissant de la réparation communautaire, l'IER a préconisé dans ce domaine l'adoption et le soutien de nombreux programmes de développement socio-économique et culturel en faveur de plusieurs régions et groupes de victimes, notamment les femmes, dans plusieurs villes. Le projet lancé en avril 2007, a concerné le renforcement des capacités et la mise en place d'outils pour permettre aux acteurs de s'approprier l'approche genre dans le cadre du suivi des recommandations de l'IER. Ainsi, des sessions de formation ont été organisées pour développer les capacités des acteurs locaux impliqués dans le domaine de l'intégration de la dimension de genre dans les différents cycles de projet. Par ailleurs, les récits de vie des femmes victimes de violences graves de droits humains durant la période 1956-1999 ont été édités². Dans le cadre de ce programme de réparation communautaire, des activités génératrices de revenus ont été soutenues, y compris pour des femmes. Les femmes ont été impliquées dans les instances dirigeantes de ce programme.
10. Le rapport de suivi de la mise en œuvre des recommandations de l'IER³ a souligné qu'avec le soutien d'UNIFEM, le CNDH a lancé un projet de promotion des droits des femmes et leur rôle dans le processus de justice transitionnelle avec un budget de 2 800 000 DH. Cela a été fait en effectuant les actions suivantes:
 - a. Organisation d'un forum national sur le genre et la justice sociale, le 25 novembre 2008 à Rabat ;

1. Guessous, Nadia. «Women and Political Violence during the Years of Lead in Morocco», CCDH & UNIFEM, Rabat, 2009, p. 15, note de bas de page 2. Il est opportun de garder à l'esprit que le nombre de femmes qui ont souffert de violations directes est probablement sous-estimé, compte tenu des difficultés qu'ont celles-ci à faire entendre leur voix et à parler des violences subies.

2. https://www.cndh.ma/sites/default/files/documents/ccdh_e-mail.pdf

3. https://www.ccdh.org.ma/sites/default/files/documents/follow_UP_IER.pdf

- b. Organisation d'un atelier sur les obstacles à l'intégration de la dimension de genre et les moyens de les surmonter pour les parties prenantes locales originaires des régions couvertes par le programme de réparation communautaire en février 2008 ;
 - c. Lancement d'un projet à Zagora pour créer un espace pour les femmes et mettre en place un réseau d'associations de femmes ;
 - d. Lancement d'un projet à Errachidia en commémoration de Fadma Ouherfou à Imilchil ;
 - e. Lancement à Figuig d'un projet de création d'un centre social et économique de promotion de la femme.
11. L'IER et le CNDH ont documenté les expériences des femmes victimes, directes ou indirectes, des violations graves des droits de l'Homme, à travers :
- a. Des auditions publiques de plusieurs femmes, diffusées sur la radio et la télévision. Ces témoignages sont disponibles en ligne et traduits vers l'anglais: <https://www.youtube.com/watch?v=WxzAH9cZSTI> ; des auditions individuelles ont été également tenues avec des femmes victimes dans leurs lieux de résidence ;
 - b. Le recueil du plus grand nombre possible de témoignages écrits et oraux de femmes, sur les séquelles des violations subies, les représentations qu'elles en ont gardé et les souffrances morales, physiques et psychologiques qui en ont découlé. Les récits de certaines femmes ont été recueillis et édités¹ ;
 - c. La réalisation d'une étude qualitative intitulée « *Women and Political Violence during the Years of Lead in Morocco* »². Cette étude, réalisée par une sociologue, Mme Nadia Guessous, est disponible en anglais sur le site du CNDH. L'Etude a pour but de documenter des récits de vie détaillés et nuancés de femmes qui ont souffert aux mains de l'Etat durant les années de plombs. L'Etude qualitative s'est déroulée en deux étapes : une première étape de constitution des équipes et réalisation des entretiens et des focus groupes dans différentes régions (Figuig, Nador, Al Hoceima, Khénifra, Imilchil, Laayoun, Rabat et Casablanca) et une deuxième étape d'analyse des documents générés par l'étude de terrain.
12. L'expérience de l'IER en matière de genre a suscité l'intérêt des acteurs internationaux spécialisés dans le domaine de la justice transitionnelle. Ainsi, le Centre international pour la justice transitionnelle a publié en septembre 2011 une étude intitulée « *Maroc : La perspective de genre dans le processus de justice transitionnelle* »³. Cette étude a été élaboré avec la collaboration des membres de l'Association démocratique des femmes marocaines et avec l'aide de l'Union européenne.

1. https://www.cndh.ma/sites/default/files/documents/ccdh_e-mail.pdf

2. <https://www.ccdh.org.ma/sites/default/files/documents/GUIDang.pdf>

3. <https://www.ictj.org/sites/default/files/ICTJ-%20Morocco-Gender-Transitional%20Justice-2011-French.pdf>

13. Les expériences des femmes ont fait l'objet des consultations avec les organisations féminines de la société civile, l'objectif étant de les associer à l'élaboration de conclusions au sujet des expériences et des souffrances des femmes, et de formuler des propositions et des recommandations pour la réparation des préjudices qu'elles ont subis aux niveaux collectif et symbolique et du point de vue des droits de l'homme. Aussi, des conclusions et des recommandations de l'atelier sur le genre, organisé dans le cadre du forum national sur la réparation, ont été reprises dans le rapport final de l'IER. Une section spécifique aux recommandations relatives aux femmes a été incorporé dans le volume 4 du rapport final de l'IER¹. Elle concerne le parachèvement du processus de promotion et de protection des droits des femmes. Les recommandations suivantes sont aussi incluses dans le même volume :
- a. Mettre en œuvre les mécanismes de protection des femmes contre la violence, et créer des cellules et des centres d'audition pour aider les femmes victimes de violence.
 - b. Ratifier le protocole facultatif se rapportant à la Convention internationale relative à l'élimination de toutes les formes de discrimination contre les femmes, et lever les réserves émises par le Maroc au sujet de certaines dispositions de ladite Convention ;
 - c. Renforcer le Code pénal révisé par l'intégration d'une définition claire et précise de la violence contre les femmes conforme aux normes internationales en vigueur dans ce domaine ; durcir les peines qui sanctionnent toutes les formes de violences contre les femmes, y compris les viols commis par les agents des appareils chargés de l'application des lois, étendre le champ d'application de l'incrimination pour harcèlement sexuel de manière à englober tous les espaces (au lieu d'être limité au seul lieu du travail, comme il est stipulé par les derniers amendements), et à prendre en compte de l'obligation de mettre les femmes se trouvant en garde à vue sous la responsabilité de femmes.
14. L'IER a également fait appel à des compétences intellectuelles et scientifiques nationales pour réaliser des études et des projets de documents préliminaires en vue de l'élaboration du Rapport final, ayant trait à des problématiques telles que la question du genre et les violations. Un exemple de ces études est celle susmentionnée réalisée par une sociologue sur les femmes et la violence politique durant les années de plomb au Maroc.² En outre, plus de 40% du personnel de l'IER était des femmes, dont des femmes victimes ou proches des victimes, et des militantes des droits des femmes.
15. A noter également que les recommandations de l'IER relatives aux droits et libertés ont été constitutionalisées,³ dont celles relatives aux droits des femmes, consacrant ainsi, le principe de l'égalité et de la parité entre les sexes.

1. Voir page 91 du Volume 4 du rapport final de l'IER.

2. <https://www.ccdh.org.ma/sites/default/files/documents/GUIDang.pdf>

3. La constitution du Royaume adoptée par référendum le 1^{er} juillet 2011

16. Au niveau législatif, des lois importantes ont été adoptées. A titre d'exemple, il s'agit de la Loi n° 79-14 du 21 décembre 2017 relative à l'Autorité pour la parité et la lutte contre toutes formes de discrimination, la Loi n° 103-13 relative à la lutte contre la violence à l'égard des femmes et des dispositions spécifiques dans la loi électorale de 2002, renforcées en 2011, pour élargir le quota de représentation des femmes au parlement et aux collectivités territoriales. Le Maroc a également entamé le processus de ratification du protocole facultatif se rapportant à la Convention internationale relative à l'élimination de toutes les formes de discrimination contre les femmes.

17. Au niveau des politiques publiques, le Maroc a adopté en 2017 un plan d'action en matière de démocratie et des droits de l'Homme¹ en se basant sur les conclusions et les recommandations de l'IER, y compris celles relatives à la perspective du genre.

1. file:///Users/kalidrami/Downloads/%D8%A7%D9%84%D8%AE%D8%B7%D8%A9%20%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9VF.pdf%20o%20(4).pdf

References by the UN Charter-based Bodies to the CNDH

A. United Nations Security Council

The United Nations Security Council “welcomed steps and initiatives taken by Morocco, and the role played by the National Council on Human Rights Commissions operating in Dakhla and Laayoune, and Morocco’s interaction with Special Procedures of the United Nations Human Rights Council” in its Resolution No. 2468, issued on 30 April 2019; Resolution No. 2494, issued on 30 October 2019; Resolution No. 2548, issued on 30 October 2020; and Resolution No. 2602, issued on 29 October 2021.¹

B. United Nations Secretary General

In his advanced copy of the report on the situation concerning the Sahara, The United Nations Secretary General mentioned that the “National Human Rights Council of Morocco provided OHCHR with a report covering human rights issues” and “their examination of human rights complaints”.

In addition, the Secretary General mentioned the “activities of the CNDH’s National Mechanism for the Prevention of Torture”, presented in a report on Moroccan cooperation with the human rights mechanisms of United Nations and sent by Morocco to the OHCHR on 1 July 2022.”²

C. Universal Periodic Review of the Human Rights Council

As part of the fourth cycle of the Human Rights Council Universal Periodic Review and in a report of the Office of the United Nations High Commissioner for Human Rights summarizing the information submitted by various stakeholders³, it was highlighted that “The National Council for Human Rights (NCHR) welcomed Morocco’s ratification of conventions related to the right to work. It noted, however, that some key laws are yet to be adopted. It recommended adopting the Organic Law 97.15 on the right to strike, and the organic law relating to the exception of unconstitutionality; and completing the ratification procedure of pending international human rights instruments.

NCHR regretted Morocco’s delay in reporting to the Committee against Torture and recommended submitting its fifth periodic report promptly; making public the report of the Sub-Committee against Torture, following its visit to Morocco in 2017, and extending a standing invitation to Special Procedures mandate holders.

1. <https://digitallibrary.un.org/record/3801562?ln=en>
<https://digitallibrary.un.org/record/3834227?ln=en>
<https://digitallibrary.un.org/record/3889420?ln=en>
<https://digitallibrary.un.org/record/3946431?ln=en>

2. Advanced copy of the Report of the Secretary-General on the situation concerning Sahara S/2022/733

3. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/464/05/PDF/G2246405.pdf?OpenElement>

NCHR noted several persistent human rights challenges including with respect to access to health, education and employment; digital space, and the right to privacy.

NCHR recommended: bringing the Penal Code, Penal Procedure Code, Law on combatting violence against women, and Family Code, in line with international human rights law and standards; operationalizing the Authority in charge of parity and combating all forms of discrimination, Advisory Council for Family and Children, Advisory Council for Youth and Civil Society Action and National Council for Languages and Moroccan Culture; abolishing the death penalty in law and in practice; ensuring the supremacy of international law over domestic law; responding to the complaints filed by the NCHR within the legal deadline; expanding civic space and reinforce the enabling environment for the work of human rights defenders; ensuring that a human rights-based approach is mainstreamed in the implementation of the new development model policies; increasing the budget allocated to the health sector; guaranteeing equality and quality in education, ensuring school enrolment, especially of girls in rural areas, and combating school dropouts; establishing a legal framework for Elderly rights; accelerating the adoption of the draft laws on migration and asylum in line with international standards; and adopting a stand-alone national action plan on business and human rights in line with international standards”.



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Conseil national des droits de l'Homme

**Collection of CNDH Reports and Inputs
to the United Nations Charter-based Bodies
(2020-2022)**

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