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Consideration of reports submitted by States parties under article 40 of the Covenant

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

Addendum

Replies of Morocco to the list of issues*

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Constitutional and legal framework (arts. 1 and 2)

Question 1

1. The primacy of international law over domestic law has been enshrined in the Constitution since 2011. The Kingdom is continuing the process of harmonizing its domestic legal framework with international human rights standards and the provisions of the Constitution through the elaboration of a series of legislative texts and several organic laws prescribed by the Constitution in order to address current human rights issues. In this way, it gives full effect to the primacy of international law.

2. Anyone who considers any of his or her rights under the Covenant to have been violated can invoke the Covenant's provisions directly before the national courts. In addition, courts may rely on these provisions as a basis for their decisions. Recently, on 26 November 2015, the Midelt Court of First Instance issued a ruling in which the judge referred to the right to remain silent, which is guaranteed under the Covenant.

Question 2

3. The National Human Rights Council is an independent national human rights institution with an "A" status accreditation. It has a broad mandate for the protection of human rights (monitoring, mediation, investigation and reporting) and their promotion by fostering a human rights culture and building the capacity of relevant stakeholders. It also plays a substantive role by issuing advisory opinions in conjunction with efforts to bring prevailing laws and regulations into line with international standards.

4. The Council is endowed with 13 regional human rights committees located throughout the country, whose mission is to follow up and monitor the human rights situation at the local level and implement the Council's projects for the promotion of human rights in cooperation with local stakeholders.

5. The Council is expressly empowered to receive complaints from individuals and to consider cases of human rights violations. Between March 2011 and June 2016, the National Human Rights Council and its regional committees received 51,758 complaints and petitions, 1,216 of which fell outside the Council's remit and 851 of which remain pending. These complaints and petitions mainly concern the functioning of the judicial system and the rights of defendants, prisoners and public service customers. It should also be noted that some of the complaints falling within the remit of the Council are related to abuse of authority, violation of physical integrity and ill-treatment.

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

Question 3

Efforts made under the auspices of the United Nations to achieve progress on the question of the Moroccan Sahara

- In his report to the Security Council of 23 February 2000 on the situation concerning the Moroccan Sahara (S/2000/131 of 23 February 2000), the United Nations Secretary-General stressed that, after nine years, "it has not been possible ... to implement in full any of the main provisions of the United Nations settlement plan, with the exception of the monitoring of the ceasefire" owing to "fundamental differences between the parties over the interpretation of its main provisions".

- This observation by the United Nations on the impossibility of implementing the settlement plan stems from the complex and sensitive nature of the identification process and the fundamental differences between the parties' positions on important aspects of the plan.
- Since that time, the United Nations Security Council has repeatedly called on the parties to work towards achieving a just and mutually acceptable political solution.
- The Security Council, in its resolution 1541 (2004) of 29 April 2004, clearly defined the approach recommended by the international community for the settlement of the Saharan question, namely, a political solution on the basis of agreement between the parties. The Council furthermore insisted that this dispute should be placed in its proper regional context, calling upon the States in the region to cooperate with the Secretary-General and his Personal Envoy.
- Against this background, and in response to the Security Council's calls for the parties to end the political impasse, on 11 April 2007, Morocco transmitted to the Secretary-General the Moroccan Initiative to Negotiate an Autonomous Status for the Saharan Region.
- This initiative is the result of a wide-ranging process of consultation held at the national and local levels with the political parties, residents and elected officials of the region and carried out by the Royal Advisory Council on Saharan Affairs in an effort to gather their views on the establishment of autonomy for the Saharan region. This national consultation process was accompanied by policy dialogues at the regional and international levels in an attempt to gather the viewpoints of the countries concerned and with a stake in this regional dispute.
- By means of this initiative, the Kingdom guarantees the region's populations their place and role, without discrimination or exclusion, in the agencies and institutions of the Kingdom. It empowers them to manage their affairs democratically through their own legislative, executive and judicial authorities. They have at their disposal the financial resources needed to develop the region in all areas and will participate actively in the economic, social and cultural spheres.
- This may be seen as a compromise initiative and one that is in conformity with international law, the Charter of the United Nations and the resolutions of the General Assembly and the Security Council, as well as with the right to self-determination.
- The Moroccan initiative allows full exercise of the right to self-determination, article 27 of which states: "The autonomous status of the region will be subject to negotiations and decided by an open referendum of the population concerned. In accordance with international law, the Charter of the United Nations and the resolutions of the General Assembly and the Security Council, this referendum constitutes the free exercise, by these people, of their right to self-determination."
- As evidenced by the above, Morocco does not interfere in any way with the enjoyment by the people of the Moroccan Sahara of their political, civil, social and economic rights. If there is any reproach to be made concerning the failure to allow the Saharan population to express their views on the right to self-determination it should be addressed to Algeria, as a host country and a State party to the 1951 Convention relating to the Status of Refugees, calling on it to respect the rights of the Saharan population. The respect for the rights of the so-called "refugee" populations in Tindouf must translate into the acquiescence by Algeria to the request made four decades ago by the Office of the United Nations High Commissioner for Refugees (UNHCR) for it to carry out a census of and register the population of the

Tindouf camps, as requested by the United Nations Security Council in its consecutive resolutions 1979 (2011), 2044 (2012), 2099 (2013), 2152 (2014), 2218 (2015) and 2285 (2016).

- This operation will enable the people living in the Tindouf camps to be reunited peacefully with their own people and to fully and freely utilize the natural resources of the Moroccan Sahara region in keeping with respect for the territorial integrity and unity of the Kingdom.

Actions undertaken by Morocco in the context of advanced regionalization – a system of democratic local governance in the Moroccan Sahara.

The system of governance in the Moroccan Sahara region

- The system of advanced regionalization introduced by Morocco represents a sovereign decision to enable the local population to manage its own affairs. The aim of this form of local, democratic and participatory governance is to strengthen local democracy and to implement the principles and rules of good governance that are contained in the Moroccan Constitution of July 2011. It essentially constitutes the implementation of the Moroccan Initiative to Negotiate an Autonomous Status for the Saharan Region.
- The municipal and regional elections held by direct universal suffrage on 4 September 2015 were the first of their kind at the regional level, and the Saharan population turned out in large numbers to vote in them. The Saharan region registered a 79 per cent voter turnout rate, which is one of the highest recorded in the nation. The elections were conducted in a transparent manner and without incident, in the presence of national and international observers and representatives of organizations.
- In the Moroccan Sahara, the elections led to the establishment of municipal and regional councils on the basis of direct universal suffrage. The Saharan regions now possess extensive powers to take charge of local governance and to participate in implementing general State policy and formulating national policy through their representatives in the House of Councillors. The presidents of these regions possess executive powers in a wide variety of areas linked to the development of their regions.

The new development model of the Moroccan Sahara

- Alongside the political process, Morocco has continued its efforts to open up and develop the Saharan region. As an expression of solidarity among its regions, Morocco invests 7 dirhams for each dirham of income generated by the region. In 1975, the human development indicators in the region were 6 per cent lower than those of the northern regions and 51 per cent lower than the national average in Spain. Today, the indicators in the Saharan region far exceed the average of other the regions of the Kingdom.
- Advanced regionalization was successfully launched in the southern provinces by means of a new development model that calls for the injection of large national and international investments; it promises to make this region a centre of economic exchange and a locus of cultural and human interaction between Morocco and the countries of sub-Saharan Africa.
- In this context, the visit of King Mohammed VI to Laâyoune and Dakhla in November 2015 and February 2016, respectively, marked the launch of several large-scale investment projects totalling more than US\$ 7.7 billion in the areas of

infrastructure, health, training, industry, agriculture, renewable energy and marine fishing.

- The advanced regionalization system, supported by the new development model for the Saharan provinces, will help to find a definitive solution to the regional dispute over the Sahara, in line with the implementation of the Moroccan Initiative to Negotiate an Autonomous Status for the Saharan Region.

6. The Kingdom of Morocco does not keep statistics on the ethnic composition of its population; no distinction is made between the segment of the Moroccan population living in the southern provinces and that living elsewhere in the national territory. According to the results of the latest general census in 2014, the total number of persons residing lawfully in the three southern regions (Guelmim-Oued Noun, Laâyoune-Sakia El-Hamra and Dakhla-Oued Dahab) was 944,470 (of which 1,995 were foreigners), accounting for 2.6 per cent of the total population of the Kingdom.

Derogations from the Covenant (art. 4)

Question 4

7. States of exception in Morocco are strictly regulated by article 59 of the Constitution, which expressly stipulates that the fundamental freedoms and rights embodied in the Constitution remain valid, in full conformity with article 4 of the Covenant.

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

Question 5

8. Based on article 1 of the Convention on the Elimination of All Forms of Racial Discrimination, since 2004, article 431-1 of the Criminal Code prohibits any distinction between persons based on national or social origin, colour, sex, family situation, health status, disability, political opinion, trade union membership or actual or presumed membership or non-membership in a particular ethnic group, nation, race or religion. The Labour Code of 2004 also contains anti-discrimination provisions in its preamble and in articles 9, 12 (sanctions), 346 (wage discrimination between men and women) and 478 (prohibition of all forms of discriminatory practice by recruitment agencies). Everyone has the possibility of lodging a complaint in the event of a violation of these provisions.

9. Articles 19 and 164 of the Constitution provide for the establishment of an Authority on Parity and the Prevention of All Forms of Discrimination. On 10 May 2016, the House of Representatives approved the related legislative proposal, bill No. 79-14. The Authority will be mandated to handle complaints of discrimination.

Question 6

10. Since the adoption of the Family Code in 2004, judges have been given regular training (including continuing education) in this area with a view to improving their interpretation of the Code's provisions. In addition, a 2010-2013 programme to support the implementation of the Family Code was established in cooperation with UN-Women in order to facilitate access to judicial services.

Question 7**(a)**

11. In 2009, a fund was established to support the promotion of women's representation in municipal, regional and legislative elections and to provide financial support for the projects of political parties and civil society organizations along those lines.

12. In giving effect to constitutional provisions on women's representation in political and public life and to objective 7 of the Concerted Initiative to Strengthen Moroccan Women's Achievements (ICRAM) Government Plan for Equality 2012-2016, which was adopted on 6 June 2013 and which concerns "fair and equal access to decision-making positions at the administrative, political and economic levels", cross-cutting measures to strengthen women's empowerment, in particular their equitable access to decision-making positions, were adopted.

13. This has helped to increase women's representation in the public service, in particular their appointment to positions of responsibility and high-ranking posts in the public administration. As a result, in 2014, the percentage of women in positions of responsibility was 19.1 per cent (of which 10.7 per cent were general secretaries; 10.3 percent were directors; 10.7 per cent were heads of division; and 23.2 per cent were heads of service).

14. Several mechanisms have been set up to ensure their effective participation, notably through the entry into force in July 2015 of organic laws on local and regional authorities and the amendment of laws on political parties and the House of Councillors.

15. Together, these measures significantly improved the representation of women in the 2015 elections. In the 7 August 2015 election for members of the business chamber, 39 women were elected; in the municipal and regional elections of 4 September 2015, 6,669 women were elected to municipal councils (21.16 per cent) and 255 to regional councils (37.61 per cent); in elections for members of the prefectural and provincial councils, 57 women were elected; and in elections for the House of Councillors, 14 women were elected.

(b)

16. In order to ensure women equal access to education and the labour market, the Government developed the National Employment Strategy 2015-2025, whose aims include reducing inequalities between men and women and increasing the target populations ("inactive" women and women "discriminated against" in employment).

17. Objective 8 of the Government Plan for Equality concerns equality of opportunity between men and women in the labour market and is aimed at ensuring that employers comply with the legislative and regulatory framework of social protection for vulnerable categories of persons and at establishing mechanisms to guarantee work/life balance. Support is provided to associations working in this field: the Government increased its annual budget for 2016 by adding a budget line of 1 million dirhams to provide support to associations working in the field of employment equality.

18. The objective of the National Agency to Combat Illiteracy, which was established in 2015 and is attached to the Office of the Head of Government, is to eliminate illiteracy in Morocco. Women represent more than 80 per cent of the participants in literacy programmes.

(c)

19. The various measures taken to eliminate patriarchal behaviours and stereotypes regarding the roles, responsibilities and identity of men and women in the family and society at large, especially in the media, include the following:

- The establishment of the National Observatory for Improving the Image of Women in the Media, which provides continuous monitoring of the portrayal of women by the media (print, audiovisual and digital);
- The revision in 2015 of Act No. 77-03 on Audiovisual communication in an effort to promote respect for the image portrayed of women and to counter stereotypes involving women's objectification;
- Efforts to strengthen the role and place of women in the workplans of the public audiovisual media and the formulation of company charters by the two audiovisual companies in 2014 in order to enhance the image of women.

20. Bill No. 78-14, which provides for the establishment of the advisory council on the family and children, was adopted by the Governing Council on 23 September 2015 and by Parliament on 21 June 2016.

Question 8

21. The Government's continuing efforts to combat discrimination against persons with disabilities and their social exclusion currently include the following:

(a) The establishment in 2014, under the authority of the Head of Government, of an interministerial commission entrusted with overseeing strategies and programmes to promote the rights of persons with disabilities;

(b) The development of an integrated public policy for promoting the rights of persons with disabilities, which was adopted by the Head of Government on 24 November 2015; a government action plan for implementing this policy is currently being developed and will be accompanied by specific measures, indicators of measures and resource allocations;

(c) Strengthening the legal framework in favour of persons with disabilities through the adoption of positive discrimination measures in such areas as access to employment (quotas);

(d) The mobilization of 50 million dirhams in 2015 and 111 million in 2016 to finance benefits for persons with disabilities through a support fund for social cohesion;

(e) The provision of support to national NGOs working in the field of disability.

22. The decentralization of services providing assistance and guidance to persons with disabilities resulted in the establishment of 16 local centres within the regional coordination offices of Entraide Nationale (the public social welfare agency), and 30 more are planned for 2016.

23. The number of children with disabilities enrolled in school rose from 5,998 students in 555 classes in 2012 to 8,000 in 790 classes in 2016. A project on the adaptation of curricula to children with disabilities was launched.

24. As part of a programme to promote accessibility for the period 2012-2016, an evaluation was carried out with a view to the introduction of urban and architectural accessibility in the cities of Tanger, Casablanca, Oujda and Rabat. The installation of accessible features on the main streets of the city of Marrakech is under way.

25. Framework Act No. 97.13 on Protection and promotion of the rights of persons with disabilities was published in the Official Bulletin of 19 May 2016. The Act provides for the establishment of guidance and support mechanisms with a view to remedying the situation of accessibility; improving access to education, health and training; promoting socio-professional integration; and increasing the participation of persons with disabilities in sports and cultural activities.

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

Question 9

26. There are plans to include amendments in the draft revised Criminal Code that will strengthen protection for women against violence and trafficking, particularly through the repeal of certain provisions and the introduction of aggravating circumstances in the determination of sanctions for violent acts and rape, in particular when the latter are committed against a minor by relatives or persons of trust.

27. The draft revised Code of Criminal Procedure also provides for strengthening this type of protection. Along these lines, it provides that victims must be received and informed of their rights by a women's and children's support unit attached to the courts.

28. Article 503-1 of the current Criminal Code prohibits sexual harassment; its definition in the draft revised Code has been expanded to include harassment in public, in writing, by telephone or in the workplace. The draft also provides for the introduction of a preventive measure that prohibits any contact between convicted persons and their victim and is applicable in cases of sexual harassment, assault, sexual exploitation, ill-treatment or human trafficking.

29. Bill No. 103-13 on combating violence against women, which was adopted by the Governing Council on 17 March 2016 and is currently under consideration by Parliament, contains new provisions that prohibit various forms of violence against women and increase the severity of the penalties, especially those relating to:

- Acts of violence against women, including forced marriage, physical abuse or squandering or mishandling the family's financial resources;
- Specific forms of sexual harassment.

30. The draft proposes a general legal framework to help the relevant actors identify which situations are included in the category of violence against women. It calls for better coordination of assistance to women victims of violence, especially between the entities responsible for women's protection and those responsible for preventing violence against them (the judiciary, the Directorate-General of National Security, the Royal Gendarmerie and other relevant governmental bodies). It also provides new criminal protection measures, such as the removal of the abusive husband; women's and children's return home under police protection; orders forbidding the perpetrator from coming into contact with the victim, the home or the children; and the preparation of an inventory of the family's property.

31. Articles 489, 490 and 491 of the Criminal Code do not provide for any distinction on the basis of sex. Article 486 prescribes an aggravation of penalty for the offence of rape, as a protective measure for minors, and for the offences of abuse of authority, abuse of family ties or defloration.

32. Domestic law does not criminalize "honour crimes". In the draft revised Criminal Code, lawmakers have maintained the application of attenuating circumstances for murder

committed by one of the spouses on the person of the other when the latter is caught in the act of adultery, which is defined in article 418 of the current Criminal Code.

33. With regard to other measures and their impact, the ICRAM Government Plan for Equality serves as the common framework for coordinating the various initiatives taken to mainstream women's rights in public policies and development programmes, taking into account regional and local needs. Several actions have been taken along these lines, including the following:

- The development of 40 multifunctional facilities for women victims of violence;
- The creation of special units to receive women victims of violence in the offices of the investigative police (450 units in the Royal Gendarmerie and 200 units in the Directorate-General of National Security);
- The development of mechanisms for dealing with women victims of violence and the creation of units to receive them at the courts of first instance (88 units throughout the country);
- The creation of integrated admission units for women and children in hospitals (97 units);
- The launch of the Integrated Programme 2013-2016 to Raise Awareness concerning Efforts to Eliminate Violence against Women and Girls;
- The establishment in 2014 of the National Observatory on Violence against Women and an institutional information system for data collection and measuring the prevalence of the phenomenon.

34. Annual awareness-raising campaigns are also organized at the national and regional levels. The launch of the second prevalence survey is planned for 2016. Financial support is provided to associations working in this field.

35. The above-mentioned mechanisms provide psychological and legal assistance to women victims of violence, including assistance in lodging a complaint before the competent judicial authorities.

36. In 2014, 19,199 cases were brought to the attention of the authorities, resulting in 20,541 prosecutions. In 2015, 16,501 cases were brought to the attention of the authorities, resulting in 17,531 prosecutions.

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

Question 10

37. Although the law does not define terrorism, and in the absence of an internationally recognized definition, Act No. 03-03 (art. 218-1 of the Criminal Code) identifies a series of constituent acts of terrorism that are based on the principal international instruments on this crime. Article 218-5 prohibits any person, by any means whatsoever, from persuading, inciting or provoking another person to commit one of the offences set out in article 218-1. Act No. 86.14 of 1 June 2015 complements article 218-1-1 by adding the act of joining or attempting to join terrorist groups and entities abroad.

38. Access to a lawyer in cases relating to a terrorist offence may, owing to the special nature of this type of offence and on an exceptional basis, be delayed when required by the investigation for a period not to exceed half the initial duration of the police custody and at the request of an investigative police officer addressed to the public prosecution service.

Right to life (arts. 2 and 6)**Question 11**

39. The draft revised Criminal Code provides for a substantial reduction in the number of offences that carry the death penalty; it retained only 9 of the 31 articles contained in the current Criminal Code. In the new Military Justice Code, the number of such offences was reduced from 16 to 5. As at 1 April 2016, the number of persons given the death penalty stood at 124 (120 men and 4 women); since 2004, 93 persons have been sentenced to death.

40. Using their discretionary powers, judges can grant convicted persons attenuating circumstances (arts. 146 and 147 of the Criminal Code), and persons sentenced to the death penalty may request a royal pardon. Death sentences may also be commuted to a term of imprisonment. Since 2000, 68 prisoners have had their sentence commuted to life imprisonment, and 5 prisoners have had their sentence commuted to a fixed term of imprisonment.

Question 12

41. As part of the revision of the Criminal Code, a review of certain existing provisions on abortion was undertaken in 2015, and a scientific commission was established for that purpose. The commission concluded that it was necessary to amend the relevant provisions in order to decriminalize abortion in cases of incest, rape, the woman's mental impairment and serious genetic disorders and/or malformations of the fetus.

Prohibition of torture and other cruel, inhuman or degrading treatment, and treatment of prisoners and other detainees (arts. 2, 6, 7 and 10)**Question 13**

42. In 2014, legal proceedings for torture were brought in five cases against public officials, including two police officers, under article 231-1 of the Criminal Code. In 2015, 42 public servants, including 24 police officers and 8 civil servants of the prison administration, were tried for torture. Some of them were convicted in 2016 and were either sentenced to a term of imprisonment or else received a suspended sentence.

43. In 2014, the public prosecution service ordered 48 medical examinations under articles 73 and 74 of the Code of Criminal Procedure; investigating judges ordered 15 under article 134 of the Code; and suspects or their lawyers requested 7 (for a total of 70). In 2015, the public prosecution service ordered 66 medical examinations; investigating judges ordered 6; and suspects requested 90 (for a total of 162). As at 1 July 2016, the prosecution service had ordered 27 medical examinations; investigating judges had ordered 3, and suspects had requested 45 (for a total of 76).

44. In 2014, the General Delegation for Prison Administration and Reintegration received 403 complaints for ill-treatment directly from prisoners or their families through the "mailbox" system installed in prisons; in 2015, it received 364 such complaints. These were in addition to the 51 complaints received in 2015 from prisoners or their families through NGOs. Five staff members of the General Delegation for Prison Administration and Reintegration were tried in 2014 on charges of ill-treatment. In one case in 2014 and in two cases in 2015, disciplinary action was taken against a public servant for ill-treatment following an administrative investigation.

45. Since the adoption of Act No. 35-11 of 27 October 2011, which provides for the amendment of the Code of Criminal Procedure, the authorities have made enormous efforts

to prevent torture and other forms of ill-treatment at all stages of the proceedings. They are doing this on an ongoing basis in order to instil a culture of human rights in all law enforcement officers, in particular through the provision of training and continuing education for staff in various occupational groups in preventing torture, fighting impunity, humanizing conditions of detention and ensuring legality.

46. Individuals arrested in connection with terrorism or threats to national security are treated in identical fashion to those in cases tried under ordinary law, in keeping with the provisions of the Criminal Code and the Code of Criminal Procedure. For these types of offences, the National Brigade of the Criminal Investigation Department is authorized to take in for questioning and arrest suspects on a nationwide basis. Although the agents of the Directorate-General of National Surveillance are authorized to act as investigative police officers, they do not perform arrests.

47. The Moroccan authorities categorically deny the finding that acts of torture and ill-treatment are “common” during the arrest and detention of suspects in cases of alleged terrorism or threats to national security.

(a) The authorities deny reports that torture and ill-treatment continue to take place and are used to extract confessions. Furthermore, as a general rule, minutes of hearings have no evidentiary value unless they are formally valid (art. 286 of the Code of Criminal Procedure). Confessions, like any other form of evidence, are subject to the discretionary power of the judge, and any confession extracted through violence is deemed null and void (art. 293). Offences may be proved by any means except where the law provides otherwise. In addition, any person held in police custody may refuse to sign the minutes of a hearing (art. 67 of the Code of Criminal Procedure). In such cases, the investigative police officer is required to register the refusal and indicate the reasons for it.

(b) All suspects enjoy the same legal safeguards without exception. The authorities categorically reject reports that suspects are not officially registered and are held for weeks without being brought before a judge. The identity of all persons held in police custody is recorded in the custody register; this official document is numbered and initialled by the Crown Prosecutor. The person taken into police custody and the investigative police officer must also sign the register.

(c) With regard to solitary confinement, this is a preventive measure that is used only in exceptional cases for security or health reasons, thus distinguishing it from a disciplinary measure; in no circumstances is it used specifically for persons convicted of terrorism. Disciplinary measures may, in accordance with the law, take the form of several types of sanctions, such as a ban on purchases or direct visits, cleaning work or the obligation to repair any damages that the prisoner may have caused; in no circumstances are such measures limited to placement in solitary confinement.

(d) The authorities categorically reject reports that victims of torture are sometimes subjected to intimidation and legal action.

48. As to the decisions of the Working Group on Arbitrary Detention, the authorities have taken note of the decisions issued in respect of Mohamed Hajib, Abdessamad Bettar, Ali Aarrass and Rachid Laroussi, all of whom were convicted in trials in which all procedural guarantees were respected. Furthermore, except in the case of Mohamed Dihani, who was released, the other individuals have not yet been convicted definitively.

49. A bill on the organization of legal medicine is currently being developed. The objective of the bill is to establish a proper legal framework that takes into account the medical examiner’s role as an officer of the court. The bill will better define which parties may exercise forensic medicine and their responsibilities, powers and duties.

50. Regarding recent efforts by the authorities to combat torture and to eradicate it:

- A circular from the Minister of Justice and Freedoms dated 29 May 2014 was sent to all public prosecution services regarding the application of articles 73, 74 and 134 of the Code of Criminal Procedure and requesting them to order forensic medical examinations whenever they observe signs of torture or ill-treatment or when they receive allegations of such treatment;
- A circular from the General Delegate for Prison Administration and Reintegration dated 3 June 2014 was sent to all prison directors in order to ensure compliance with the law and international standards;
- A note from the Director-General of National Security dated 8 September 2014 was sent to all police detention centres concerning observance of the provisions of the Code of Criminal Procedure;
- A circular from the Minister of Justice dated 30 June 2016 was sent to all prosecution services requesting them to make unannounced visits to police detention centres whenever necessary and, in any case, at least twice a month, and to inspect custody registers.

51. As part of the reform process and efforts to improve human rights, the draft revised Code of Criminal Procedure, which is currently under consideration by the General Secretariat of the Government with a view to its forthcoming submission to Parliament, strengthens several procedural guarantees at all stages of the proceedings, including the following:

- Access to a lawyer — Persons arrested or placed in police custody have the possibility of contacting a lawyer of their choice or requesting that a lawyer be appointed to them in the case of those receiving legal aid. The lawyer can communicate with the person as from the first hour of his or her arrest without the prior authorization of the prosecutor. Persons not placed in police custody have the possibility of having a lawyer present.
- Computerized register — Existing law governs the maintenance of police custody registers, whose pages are numbered and initialled by the Crown Prosecutor. The draft revised Code provides for the introduction of a computerized national and regional police custody register.
- Audiovisual recording — Investigative police officers must prepare an audiovisual recording of hearings of persons placed in police custody on charges of a criminal offence.
- Pretrial detention — The draft provides for pretrial detention as an exceptional measure in the absence of applicable alternative measures.
- Notification of family — Investigative police officers are required to record the notified person's relationship to the detainee, the means used for such notification and the date and time the person was notified.
- Investigative police officers are required to carry out a medical examination of the person remanded in police custody after having notified the public prosecution service whenever they detect symptoms of an illness or clues or signs requiring this measure. The measure must be recorded in the minutes of the hearing, as well as in the police custody register, and the medical report must be annexed to the minutes and transmitted to the public prosecution service.
- The prosecutor or the Crown Prosecutor is required to order a medical examination of the suspect when the suspect appears before the prosecution service, either at the suspect's request or as a matter of course when there are signs that warrant such an

examination. Failure to do so invalidates the minutes of the hearing taken by the investigative police.

- The Crown Prosecutor personally carries out visits to places of detention or designates a representative to do so immediately after being informed of allegations of arbitrary detention.

52. Visits to places of detention are carried out periodically, at least twice monthly (art. 45 of the Code of Criminal Procedure) by Crown Prosecutors or by assistant public prosecutors, irrespective of the stage of the proceedings. In 2015, judicial authorities conducted 740 visits, and as of 1 July 2016, they had conducted 843.

53. The National Human Rights Council and its regional committees also frequently carry out unannounced visits to all places of detention. In 2015, they carried out 221 visits and submitted 46 petitions to the General Delegation for Prison Administration and Reintegration, which produced positive results.

54. Together with the set of measures described above, the forthcoming designation of a national preventive mechanism will constitute a milestone in efforts to combat and prevent torture. The General Secretariat of the Government is studying a bill that provides for modifying the official status of the National Human Rights Council and designating it as the national preventive mechanism prior to the bill's submission for adoption through the legislative process.

55. The bill providing for the amendment of Act No. 23-98 on Organization and functioning of prisons includes an amendment to article 84 that would facilitate visits by representatives of NGOs.

Question 14

56. The current Code of Criminal Procedure already provides for a series of guarantees, such as entitlement to a medical examination, communication with one's family, information about one's rights and being brought before a judge. The draft revised Code of Criminal Procedure introduces major changes, especially with regard to entitlement to access to a lawyer at the beginning of the proceedings and without the prior authorization of the public prosecution service (see preceding paragraphs).

57. Regarding the burden of proof, the State party recalls that its criminal justice system is based on the general legal principle that the burden of proof rests with the complainant, including with regard to allegations of torture. The fact remains, however, that judges and prosecutors can order investigations at any time, particularly when there are credible allegations of torture or ill-treatment.

Question 15

58. The authorities are making significant efforts to humanize overall conditions of detention in all places where persons are deprived of their liberty throughout the territory of the State.

59. One major programme that has been in operation since 2012 is aimed at improving the overall state of the nation's prisons through the closure and renovation of dilapidated facilities or their replacement with modern ones that comply with security standards and commitments for the rehabilitation of prisoners: 10 new facilities were inaugurated in 2010, 3 are planned for 2016 and 5 are under construction.

60. Considerable increases were made to budgetary allocations to the prison diet: during the period 2012-2016, the budget doubled, increasing from 2.8 million dirhams in 2012 to

nearly 5.7 million in 2016. In 2015, the Government introduced a programme to outsource prison food services with a view to ensuring a varied rotating menu plan.

61. In order to provide better medical care for inmates, since 2012, the General Delegation for Prison Administration and Reintegration has been recruiting medical and paramedical staff, which has allowed it to increase the prisoner treatment rate. The annual budget allocated to purchases of medicines and medical equipment is increasing steadily, having risen from 25 million dirhams in 2012 to 37 million in 2015. In addition, the Government has adopted a strategy that allows all inmates to access the medical aid system (Medical Assistance Scheme) and the complementary insurance system.

62. In its efforts to combat corruption and drug trafficking and abuse, the General Delegation for Prison Administration and Reintegration circulated an internal administrative bulletin to staff in order to raise awareness of these subjects through training and continuing education as part of the National Anti-Corruption Strategy launched on 3 May 2016 and nationwide efforts to counter drug trafficking. Judicial proceedings and disciplinary measures are initiated in cases of corruption or drug trafficking.

63. The inclusion of provisions in the draft revised Criminal Code intended to increase the use of alternative sentencing will, among other things, help to reduce prison overcrowding. Several circulars issued by the Ministry of Justice and Freedoms call on prosecutors to limit the use of pretrial detention (namely, circulars No. 43 S/3 of 19 October 2005, No. 51 S/3 of 30 December 2011, No. 44 S/3 of 4 December 2012 and No. 11 S/3 of 30 March 2016). The use of bail is already provided for under the current Criminal Code.

64. Regarding minors, four Ministry of Justice and Freedoms circulars issued in 2009 were addressed to all courts and juvenile court judges and urged them to ensure respect for the best interests of the child. The law prohibits the imprisonment of children under the age of 12. The draft revised Code of Criminal Procedure provides for raising this age to 15. Minors older than 15 are imprisoned only in exceptional circumstances; where applicable and when it is not possible to provide protection or rehabilitation measures, the juvenile court judge's decision must be substantiated. Several other alternative measures are envisaged.

65. The trend in the number of deaths in prison is as follows: 127 in 2013, 150 in 2014 and 150 in 2015. Such deaths are typically due to a variety of illnesses. As a general rule, when there is a death, the prison director immediately notifies the General Delegate for Prison Administration, the Crown Prosecutor, the local authorities and the prisoner's family, in keeping with article 73 of Act No. 23-98, and an autopsy is ordered as a matter of course. Regarding the death of the prisoner Abdel Baqi Taha, based on the results of the external review and autopsy, it was concluded that his death was due to suicide by strangulation on 26 January 2015, contrary to accusations that prison officers were implicated in his death.

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

Question 16

66. The authorities reject repeated allegations concerning the use of so-called "places of secret detention" (including in relation to extraordinary renditions) and recall that the Kingdom has made a clean break with all past practices. All places that existed in the past have been identified, mapped and recorded as part of the transitional justice process.

Question 17

67. No cases of enforced disappearance have occurred since the last review; cases of enforced disappearance relating to the past fell under the remit of the Equity and Reconciliation Commission, which, together with the Follow-up Committee of the National Human Rights Council, has processed 803 cases in which the victim's fate was unknown. Of these:

- 657 cases were clarified and closed by the Equity and Reconciliation Commission and the Follow-up Committee;
- Another 140 cases have been clarified, and the beneficiaries will be determined following receipt of the necessary legal documents (copy of official family record booklet, life certificate, copy of national identity card for each beneficiary);
- 6 cases of enforced disappearance are pending.

68. In this connection, 385 graves have been identified with certainty; 185 exhumations of human remains have been carried out in Agdz, Kelaat M'gouna, Tazmamart, Gourama and Ghafsay, following investigations by the Equity and Reconciliation Commission and the Follow-up Committee, in order to confirm that the presumed burial sites contained the remains of former victims. The exhumations were carried out in the presence of representatives of various competent government agencies, under the supervision of the judicial authorities. Between December 2005 and May 2012, a team of medical examiners took 44 bone samples. The DNA tests of the 44 samples were entrusted to the French genetic laboratory Institut Génétique Nantes Atlantique (IGNA) with a view to matching the collected human remains to the families concerned. Two mass graves were discovered, one in Casablanca and one in Nador.

69. In the process of uncovering the truth, all of the victims' beneficiaries were ensured equal treatment. NGOs were informed of the results of the human remains tests, and the families received copies of the DNA test reports. For the unsolved cases, the National Human Rights Council shared the information received from the public authorities with the representatives of the victims and their families.

70. The total amount allocated by the State to transitional justice is US\$ 265.12 million, which corresponds to reparations made to individuals (US\$ 245 million), reparations made to communities (US\$ 16.3 million) and the operations of the Equity and Reconciliation Commission.

71. With regard to reparations made to individuals, as at 30 June 2016, the Government had compensated 26,998 victims and their beneficiaries from an overall budget of \$190.43 million. The State continues to provide medical care for victims and beneficiaries in the amount of \$1.01 million each year. In the southern provinces, 5,783 people have received compensation, including 269 civilian victims (or their relatives), who were abducted and held prisoner by Polisario.

72. In addition to financial compensation, 17,802 persons (victims and beneficiaries) receive medical benefits. As at 30 June 2016, a total of \$8.66 million had been allocated to such benefits. The National Provident Societies Fund issued 7,930 membership cards to insured persons, of which 2,135 were for residents of the southern provinces. Between 2007 and 2015, more than 332 persons, victims or beneficiaries received direct support from the National Human Rights Council in cases requiring emergency medical treatment.

73. There were a total of 1,335 beneficiaries in the social reintegration programme; in the southern provinces, this figure was 566.

74. There were more than 540 persons who regularized their administrative situation; in the southern provinces, this figure was 155 persons.

75. As far as reparations to communities are concerned, a programme consisting of 149 projects spread across 13 regions (which, according to civil society actors and former victims, have suffered the consequences of gross violations of human rights in terms of their socioeconomic development) has been implemented. The programme is overseen by the National Human Rights Council and targets four key areas: building the capacity of local stakeholders, preserving memory, improving living conditions and promoting human rights.

76. With regard to impunity, the 2011 Constitution provides that all serious human rights violations constitute an offence under criminal law, thus giving effect to the recommendations of the Equity and Reconciliation Commission. The Constitution also makes provision for the independence of the judiciary as a branch of government. The judicial system reform and strengthening of its independence, the criminal law reform and the establishment of a national preventive mechanism all serve to reinforce the Government's anti-impunity policy.

77. As to security governance, the National Human Rights Council, in cooperation with the Government, is helping to supervise a training and sensitization programme for management and staff of law enforcement agencies. In 2015 and 2016, the programme provided training to more than 600 officers of the Directorate-General of National Security.

Question 18

78. Although the circular of 1 October 2015 issued by the Ministry of Justice and Freedoms, which was addressed to all prosecution services of the Kingdom, does provide for the use of physical force to recover contract debts, this measure is of limited applicability. Article 635 provides that it may not be practised against anyone who is able to justify his or her insolvency by means of a certificate of indigency issued by the *wali* (prefect) or the tax service.

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

79. Morocco is currently engaged in an in-depth reform of its justice system with a view to establishing it as an independent and impartial guarantor of the rule of law and the principles of due process, in keeping with the strategic objectives set out in the Justice Reform Charter adopted in September 2013 and in conformity with the dictates of the Constitution.

Questions 19 to 21

80. The draft revised Criminal Code is currently under consideration by Parliament, and the draft revised Code of Criminal Procedure by the General Secretariat of the Government. Extensive consultations have been held on both drafts as part of the process of harmonizing them with international human rights standards, in particular with regard to due process guarantees. The recent adoption of Organic Act No. 100-13 on the High Council of the Judiciary and Organic Act No. 106-13 on Regulations pertaining to Judges were published in the Official Gazette on 14 April 2016. They provide for a number of safeguards for judges in respect of their independence, appointment, promotion and retirement and in respect of disciplinary matters.

81. All applicable legal provisions were observed during the trial of members of the "Movement of the 20th of February", and the persons concerned were provided with all the guarantees of a fair trial, in conformity with the rules and standards of international law in this regard.

82. Like all other prisoners, persons convicted in connection with the “events of Gdim Izik” in 2010 were provided with all applicable legal safeguards. They were granted an appeal on a point of law; to date, however, the Court has not yet issued a decision. These persons were arrested in keeping with the law and prosecuted and convicted by the competent court (Permanent Court of the Royal Armed Forces) on very serious charges (criminal association and organization of subversive gangs, violence against and murder of members of security forces, acts of vandalism, arson of private and public property, illegal confinement and the performance of lewd acts on the corpses of victims), which led to the death of 11 members of unarmed government security forces. The defendants were given a fair trial that was open to many national and international observers.

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

Question 22

83. The Government is continuing to implement the migration policy adopted in September 2013, which has resulted in the adoption of the National Strategy on Immigration and Asylum, whose aim is to facilitate the integration of migrants in the economic, social and cultural fabric of Morocco.

84. As of 10 May 2016, 778 Syrian asylum seekers registered by UNHCR were interviewed by the ad hoc subcommittee on the regularization of refugees who are recognized by UNHCR. The persons interviewed were given a permit that grants them free movement.

85. Bill No. 14-26 on asylum, which was developed by an interministerial subcommission responsible for drafting a preliminary draft, is currently before the General Secretariat of the Government with a view to its submission to Parliament.

86. The actions taken by the Government in the context of operations to counter irregular migration and human trafficking networks are strictly in keeping with current laws and regulations. During attempts at storming the wire fencing around the occupied cities of Ceuta and Melilla, law enforcement officers must prevent migrants, some of whom resort to violence, from attempting to enter. In 2014, interventions by law enforcement officers have repelled 127 violent attacks led by more than 27,000 migrants.

87. The authorities categorically reject serious allegations — formulated in general terms — to the effect that hundreds of migrants have been abandoned in the desert. Allegations that migrants in an irregular situation have been expelled without being given the chance to exercise their rights are unfounded, since any person who is subject to an expulsion order is informed accordingly and has access to all the remedies provided for by law.

Right to privacy (art. 17)

Question 23

88. There are a number of legal safeguards that guarantee the right to privacy. Act No. 24-96 on Postal and telecommunication services recognizes the right to private correspondence. Article 108 of the Code of Criminal Procedure prohibits the interception or recording of telephone calls or other means of telecommunication; these may be carried out only on the order of an investigating judge when required by the investigation. The public prosecution service may, in respect of a limited list of offences (para. 3), submit a written

request for such authorization to the first president of the Court of Appeal. These measures are time-bound (art. 109): they are valid for four months, and may be renewed once.

89. The processing of personal data by public or private bodies must be carried out in compliance with the provisions of Act No. 09-08 on Personal data protection. Accordingly, the National Commission on Monitoring and Protection of Personal Data must receive prior notification concerning the processing of all data. Since its inception, the Commission has handled over 4,000 applications for prior notification and authorization for data processing and data transfers abroad, as well as 920 complaints. The number of complaints has grown steadily as a result of awareness-raising campaigns carried out in respect of various target groups. The Commission has performed 246 controls, issued 9 compliance orders and referred 7 cases to the public prosecution service for legal action.

Freedom of religion and belief (art. 18)

Question 24

90. Freedom of worship is guaranteed by the Constitution (arts. 3 and 41): “Islam is the State religion and freedom of worship is guaranteed to all.” In addition, articles 220 to 223 of the Criminal Code prohibit any impairment or violation of the freedom of worship. Several religions coexist in Morocco, and there is no discrimination against other religions.

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

Question 25

91. The authorities categorically refute allegations to the effect that restrictions are placed on the registration of associations. In fact, the procedure for setting up an association is governed by law, using a notification system, according to which the founders of an association are required to notify the relevant authorities of its establishment. This legal framework, which takes into account international standards in this area, has given rise to a broad network of associations engaged in a wide variety of areas.

92. Article 24 of the Constitution guarantees freedom of movement throughout the national territory, including in the southern provinces. It guarantees everyone the freedom to move about and take up residence within the national territory. Act No. 02-03 governs the conditions to be met by foreigners wishing to enter Morocco and obtain a residence permit. The Act guarantees foreigners the right to appeal before the administrative courts a decision to reject their application for the issue or renewal of a residence permit.

Question 26

93. The reform of the Press Code currently under way will help to further promote freedom of the press. The draft revised Code adopted by the House of Representatives on 21 June 2016 strengthens the role of the judiciary in protecting the freedom of the press by establishing the judiciary as the sole authority competent to receive notices of publication, impose bans or embargoes on newspapers or confiscate them.

94. The draft revised Code replaces custodial sentences with fines, even in the event of recidivism or defamation, and introduces the principle of collegiality for cases involving the press. It guarantees the freedom of the electronic press, the right of access to information, the confidentiality of sources and the protection of journalists from attack. It provides for the establishment of a voluntarily chosen mechanism for the self-regulation of the profession that respects the freedom to enter it.

95. The independence of the press has been strengthened. The public assistance granted to the press remains conditional on respect for this independence, including in respect of the publications that are most critical of the Government. The terms and conditions applicable to audiovisual communications companies focus on editorial independence.

96. Morocco exerts no control over, places no limitations on and does not take reprisals against journalists, who carry out their work in complete freedom. The only limitations imposed are those arising from the application of the law. Over the past few years, no national media materials were banned or confiscated, and no website was blocked or shut down by the authorities. A single website was shut down in 2014 at the request of its director. No sanctions resulting in the interruption of broadcasting were imposed on private radio stations.

Question 27

97. Public meetings may be freely held, and all that is needed before they can be convened is a simple declaration. Restrictions may be applied in exceptional cases, for example, in the event of failure to comply with legal provisions on the subject, and are applicable throughout the national territory. The exercise of this freedom has evolved significantly, as may be seen by the fact that in 2014, 1,391,448 rallies were held throughout the national territory, including in the southern provinces, without any restriction, by 111,254 associations (which amounts to 115,600 activities a month and an average of 3,500 activities a day). Associations working in the field of human rights organized 5,760 events (nearly 200 events a day on average). When demonstrations are banned, security forces intervene in strict accordance with the law and after issuing due warning with the sole aim of maintaining public order and protecting citizens' other civil liberties and property.

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

Question 28

98. Objective 4 of the Integrated Public Policy for the Protection of Children, which was adopted on 3 June 2015, concerns the promotion of protective social norms for children and targets all children under the age of 18 who are in a situation of vulnerability.

99. Bill No. 75-11 on the organization of child protection centres is being prepared and has as its purpose to review the legal and administrative framework of these centres, with a view to better protecting the minors concerned. The bill will distinguish children in conflict with the law from those in difficult circumstances, including street children and victims of violence, and will provide for ensuring that children in each category receive the proper guidance and support to meet their specific needs.

100. A bill on social protection agencies that provide for the needs of children in a vulnerable situation is also being prepared with a view to instituting a new model of assistance that takes a human rights-based approach.

Measures taken to combat the economic exploitation of domestic workers, especially children

Question 29

101. On 1 June 2016, the House of Representatives approved bill No. 19-12, which sets out the working conditions of domestic employees and also governs the work of minors.

102. The list of dangerous forms of employment that are prohibited for children under the age of 18 were revised by Decree No. 2-10-183 of 16 November 2010, which enumerates the forms of employment for which it is prohibited to employ certain categories of persons.

103. Focal points, designated from among regional labour inspectors, are responsible for monitoring the situation of child labour; they submit monthly reports to the central departments of the Ministry of Employment and Social Affairs. Prevention programmes on combating child labour were implemented in cooperation with the International Labour Organization (ILO)/International Programme on the Elimination of Child Labour (IPEC) and included training for associations working in that area in the development and management of projects related to the elimination of child labour and training for labour inspectors.

104. Substantial progress has been made in reducing child labour, as evidenced by the significant decline of the phenomenon registered in the period between 1999 and 2014. The number of children between the ages of 7 and under 15 fell from 517,000 children in 1999 to 69,000 in 2014, accounting for 9.7 per cent and 1.5 per cent, respectively, of the total number of children in this age bracket.

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

Question 30

105. The authorities refute the implication that the Amazigh are singled out for discrimination. All Moroccan citizens are equal before the law and have the same rights and duties without distinction. The diversity of languages spoken in Morocco is an undeniable component of its national identity.

106. On 11 November 2015, a process was launched to draft an organic law on the establishment of a council of Moroccan languages and culture using a cross-cutting and participatory approach (involving civil society actors, representatives of national institutions and various experts).

107. The Royal Institute of Amazigh Culture, in partnership with the Ministry of Education and Vocational Training, participated in the implementation of various initiatives to promote the Amazigh language and culture. Several partnership agreements have been signed with national universities, thus paving the way for the development of master's programmes and courses in Amazigh studies.

108. To date, more than 400,000 students in 4,000 schools are provided instruction in the Amazigh language. The Moroccan Educational Reform Strategic Vision (2015-2030) calls for gradually expanding instruction in the Amazigh language to students at all academic levels, ranging from preschool to higher education, along with giving effect to the official, constitutional recognition of the Amazigh language.

Dissemination of information on the Covenant (art. 2)

Question 31

109. The Covenant and all international instruments are disseminated in the following manner:

- The publication by the Interministerial Human Rights Delegation of brochures, a compendium and a database containing all of the State party's reports and the

concluding observations and recommendations of all treaty bodies, including the Human Rights Committee;

- The organization of training sessions and seminars for all stakeholders, including NGOs, on interacting with the treaty bodies and preparing reports;
- The adoption of an action plan to follow up the recommendations of all United Nations mechanisms and the establishment of a follow-up information system.

110. The approach to drafting national reports used by the Interministerial Human Rights Delegation is based on consultation and coordination with representatives of civil society and other stakeholders. In relation to the present report, an initial consultation meeting on methodology was organized on 26 January 2012, and, out of the 30 NGOs invited to attend, 10 NGOs participated (Forum équité et vérité, Observatoire marocain des libertés publiques, Instance marocaine des droits de l'homme, Centre des droits des gens, Centre d'études en démocratie et droits de l'homme, Association marocaine des droits de l'homme, Centre marocain des droits de l'homme, Ligue marocaine des droits de l'homme, Moroccan Bar Association and Centre Chorouk pour la démocratie, l'information et droits de l'homme). A second meeting was held on 14 January 2015 on a draft of the report, which was shared with all the NGOs that had been invited to the first meeting. At the third meeting on 20 January 2015, in which other NGOs participated, a discussion was held on the advanced version of the report. Several NGOs contributed to the drafting process by means of written comments.
