

FINAL VERSION

**Comments and Responses of the Moroccan Government
to the Observations and Recommendations of the Committee
on Economic, Social and Cultural Right**

**Following the review of the 4th national report related to
the implementation of ICESCR provisions**

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I- General Assessment :

The Moroccan authorities recognized the Final Observations regarding the 4th periodic report of Morocco which was not transmitted by the Committee until Friday October 09, 2015 at 18.00 pm, by email, indicating that it will be published on Monday, October 12, 2015.

The Moroccan Authorities denounces and rejects the askew and partial approach adopted in the drafting of the observations and recommendations of the Committee without taking into consideration the substantial elements conveyed by the Moroccan delegations on the enjoyment of ESCR.

In this regard, the Kingdom of Morocco, while expressing serious concerns about this matter, regrets that:

- The advanced and unedited version gives the impression, or the certainty, that the observations and recommendations were drafted ahead of the debates;
- The Committee's general assessment does not reflect the important progress made by Morocco on economic, social and cultural development. These efforts that are internationally acknowledged, mainly in documents made by several UN mechanisms, were knowingly overlooked by the Committee.
- The committee did not even take into account the statement of its rapporteur. This statement is integrated in the analytic report in which

he underscored that: “Morocco made efforts to improve human rights since its 2006 report”;

- These observations do not reflect in any way the content or the quality of the debates held with the Committee, deemed by the rapporteur as “very productive and candid and that Morocco brought forward a well-presented report and did generally reply to the questions put to it”.

This led the Kingdom of Morocco to question the end of these statements that are mere slogans and which, unfortunately, have not been effectively translated into the drafting of the said observations and recommendations.

Accordingly, Morocco, a State Party in the ICESCR, has the right to question the committee on the relevance and usefulness of such interactive debate sessions involving significant efforts, including the mobilization and travel of a high level delegation;

- The willful neglect and omission in the drafting of the observations and recommendations of data, clarifications, arguments and correction made by the national delegation which were supported by submitting forms to the committee in the said debate session;
- These observations indicate flagrant partiality and bias concerning a number of issues, namely:
 - Dealing with the artificial regional dispute over the Moroccan Sahara which reflects only and surprisingly political stands passed on by other hostile parties to Morocco’s territorial integrity;
 - Impairing the efforts made by the Kingdom of Morocco on economic, social and cultural development ;
 - Factual and assessment errors in the committee’s observations and recommendations.

II- Specific Issues :

In this regard, and taking into account the abovementioned points, the Kingdom of Morocco categorically rejects the observations, recommendations, and conclusions presented by the Committee in paragraphs 6,7 and 8 and would like to clarify and insist on the following:

Concerning self-determination and natural resources

Paragraph 6 (a):

The Moroccan initiative for negotiating an autonomy statute for the Sahara region, considered by the UN Security Council in its consecutive resolutions since 2007 as “serious and credible”, allow the practice of self-determination right, namely article 27 of the initiative: “the autonomous status of the Region shall be subject to negotiations and submitted to the concerned populations for a free referendum. In line with international law, UN charter and the resolutions of the General Assembly and Security Counsel, this referendum represents the free exercise, by these populations, of their right to self-determination.”

Paragraph 6 (b):

- Bearing in mind that the Moroccan citizens, targeted in this paragraph, were deported to Tindouf by Algeria, to take advantage of their situation for political ends, this recommendation should in principal be addressed to this country, as a hosting state and State party, not only on INCESCR but also in the 1951 Convention on the status of refugees. Therefore, Algeria is the party that must assume the responsibility to ensure the respect of the rights of Sahrawi populations confined in its territory. This respect must be realized by accepting the UNHCR four decade request to conduct a census and register the populations of Tindouf camps;
- Regarding the exploitation of natural resources and population consent on this matter, the efforts that Morocco has made to develop its south provinces should be recalled. they are manifested by the following indicators:

- The Moroccan State is the first investor and the largest employer in the Southern provinces. The State investment enabled the development of infrastructures (roads, airports, schools, hospitals...);
- The state contributes to the GDP of southern provinces by more than 54%; 43% of which are direct. public investment stood at MAD 5500 per inhabitant, that is 31% more than the national average (MAD 4 200);
- GDP per inhabitant of the southern region is of MAD 33 864 against MAD 27 356 at the national level in 2013;
- Regional Human Development Index is of 0.729 against 0.672 at the national level; illiteracy rate of southerners in 2012 (67.8%) is higher of that of the rest of the country (61.7%); poverty rate is of 6.5% against 10% at the national level. In addition, the rates of the access of the population to electricity (84% against 70% at the national level), drinking water (69% against 55% at the national level) or sanitation are among the highest rates in Morocco;
- Education and generalization of schooling in primary education, especially among girls, is certainly one of the most important and promising social achievements in the southern provinces;
- The annual contribution of the state to fight against poverty is of MAD 4.6 billion. The regions of Laayoune and Dakhla are classified as the least poor regions in the country; around 52% of the population of these provinces benefit from human development national initiative projects;
- As far the plan of wealth transfer, figures shows that wealth is transferred from the north to the south with very significant north-south equalization. it should be underscored that for each dirham in revenue, Morocco invests 7 dirhams as part of solidarity among regions;

- The new model of the development of the Southern Provinces was carried out by the economic, social and environmental Council, and founded on a participative and transparent approach, within the framework of a broad dialogue with the local populations and their representatives on all stages and on all the aspects from diagnosis to the restitutions of the development prospects for the region. 1500 concerned parties, MPs and local elected officials, Associations, Trade unions, the professional chambers, the local Authorities were met and heard during 200 hearings. It is thus a model by and for the local population of the Southern provinces;
- This new model suggests a new approach for natural resources management with the systematization of the concerned parties, local optimal valorization respecting the environment and equitable sharing of profits to the benefit of the economic and human development of the local populations;
- In addition, the populations of the southern provinces take part regularly in the political, economic and socio-cultural life in the area. Thus, when the communal and regional elections were organized, on September 4, 2015, the region of the Moroccan Sahara recorded a participation rate of 79%, one of the highest on the national scale. These elections which lie within the scope of building an advanced regionalization is a proof of the free choice of the inhabitants of the Moroccan Sahara and their contribution to the political life of the Kingdom of Morocco, to the management of the local businesses of their region and to their integrated and sustainable human development.

Concerning the “Moroccan wall (Berm)” - paragraph 8 -

- The unfounded information conveyed by the Committee on the role of the safety belt of the " Moroccan wall " requires the following explanations:
 - This security structure was set up with an only aim of protecting the Southern borders of the Kingdom from security imperatives which await for the all the Sahel-Saharan strip;

- Contrary to what the Committee has stated, this structure has never been considered by the United Nations as being a separation space. However, the only obstacles regarding the enjoyment of the populations confined in the camps of Tindouf of their rights and freedoms, are the restrictions and the total blockade imposed by the armed group of Polisario which controls these camps in Algeria;
- This security structure also showed its effectiveness in the protection of Morocco, especially that the area of the Sahel is known for the proliferation of multiple threats related to terrorism, organized crimes, traffic of weapons and human trafficking
- The Royal army Forces regularly carry out mine clearing operations to eliminate the explosives remnant of war. This is to enable all the populations of the Sahara region to enjoy their rights to move freely and in full safety, in accordance with article 25 of ICESCR.
- The Royal army Forces have cleared a surface of 222 800 000 square meters in the west of the security structure, as stated in the report of the Secretary-general of the UN on the Sahara, published in April 2015. (S/2015/246).

III- Other factual and assessment errors

1- Direct application of the ICESCR provisions - Paragraph 9 -

The Committee did not take into account the data provided by the delegation concerning the cases in which the provisions of the Covenant were applied by national courts, in particular the form entitled “Examples of rulings calling upon the ICESCR” submitted to the committee in its economic and socio-cultural aspects concerning the various levels of courts and various cities and areas.

2- Legal protection of informers, witnesses - Paragraph 11 -

The Committee did not take into account the information presented by the delegation concerning the adoption and the publication of law n° 37.10 concerning the protection of the victims, witnesses, experts and informers, and the guarantee of their safety and that of their families. It also did not take into account that the provisions of this law are applied by the services concerned in all the cases of denunciation, including those recorded through the toll-free number.

3- The acceleration of the adoption of law n° 113.12 concerning the national authority of probity and the prevention and fight against corruption - paragraph 12 (A) -

The Committee neglected the information presented by the Moroccan delegation which announces that the aforementioned law was adopted indeed on 09/07/2015 and was published in official gazette n°6374.

4- The absence of a legislation prohibiting any form of discrimination - paragraph 13 (A) -

The Committee did not take into account the information provided by the delegation on the criminalization of any discrimination in the draft of the Penal code, by defining discrimination, widening the field of application to the various types of rights guaranteed by ICESCR, and, with aggravation of punishment for certain crimes.

5- Discrimination

Paragraph 13 (b)

The concern of the Committee relating to the disparities between the rural and urban zones must be abated since the Kingdom of Morocco achieved the millennium goal concerning the reduction of inequalities and levels of poverty

and even surpassed the millennium development goals, 2 years before term, as it was indicated in the national report and reiterated during the debate.

Paragraph 13 (c)

The Kingdom of Morocco would like to restate to the Committee the absence of any discrimination against the amazigh people. The Moroccan authorities categorically reject this unfounded recommendation and urge the Committee to remove it.

Paragraph 15, 16 and 38

Concerning the discrimination based on sexual orientation and the abolition of the criminalization of illicit sexual intercourses, the Moroccan authorities do not accept the aforementioned recommendations in relation to sexual freedom, as it is in contradiction with the provisions of the Moroccan Constitution, the national identity and the conventional practice of Morocco. However, this does not affect in any case the enjoyment of economic, social and cultural rights by the concerned people.

6- Informal economy - paragraph 27 -

The percentage of informal employment stated in the observations and recommendations of the Committee is inaccurate. It is advisable to recall that according to the 2007 investigation into the informal sector, the informal sector creates 37.3% of total non-agricultural employment.

7- Cultural rights - paragraph 49 and 50 -

The Committee did not take into account the answers provided during the debates by the Moroccan delegation reassuring that the issue of the registration

of amazigh first names is definitively solved by the assertion of the freedom of choice of the first names.

Conclusion

While reiterating its irreversible commitment to implement of the provisions of ICESCR, the Kingdom of Morocco deplors the fact that the efforts put forth and the progress made in the promotion and protection of economic, social and cultural rights were not fully appreciated, as well as