

# **Association Démocratique des Femmes du Maroc**

**Implementation of the CEDAW Convention :**

**Non-Governmental Organisations'  
Shadow Report  
to the Third and the Fourth Periodic Report  
of the Moroccan Government**

## **Summary**

**Coordinated by  
Association Démocratique des Femmes du Maroc**

November 2007

## General Context and Contributors to the Report

1. Since the consideration of its 2nd Periodic Report (CEDAW/CMOR/2),<sup>1</sup> Morocco has consolidated a certain number of reforms and launched new projects aimed at preserving and promoting human rights in general and the fundamental human rights of women and girls in particular.

2. This positive evolution is notably evident in: (i) legislative reforms conducted to fight discrimination against women; (ii) the introduction of a new public policy approach that seeks to increasingly include women's advancement in government programmes under human rights and democratic liberties and not as a matter of social concern only; and (iii) the predisposition of technical ministries such as the Ministry of Economy and Finance and the Department of Planning to consider the gender approach.

3. One of the greatest accomplishments ever made remains unarguably the Family Code reform (2004) which was the culmination of a long process marked by confrontation between the women's movement and its allies on the one hand and conservative movements on the other.

4. Prompted by the convergence of the aspirations and claims of the women's movement, and the modern views espoused by the King of Morocco, other measures have been taken to eliminate discrimination against women and young girls since the consideration of Morocco's 2<sup>nd</sup> periodic report. These measures are:

- a. The amendment of the Nationality Code in April 2007 which now entitles Moroccan women to transfer their nationality to their children (article 6 of the amended Nationality Code);
- b. The partial amendment of the Penal Code and the enactment of a new Labour Law (2003) which abolished a certain number of provisions judged discriminatory towards women and young girls.

5. However, despite this undeniable progress, Morocco's legal framework does not fully conform to the provisions of CEDAW, especially article 2, and the recommendations made by the CEDAW Committee following consideration of the country's 2nd periodic report (2003).<sup>2</sup> In fact, the recommendations addressed several critical issues that are still of relevance today. These include:

- Withdrawing reservations and ratifying the Optional Protocol to CEDAW;
- Incorporating the principle of gender equality in the Constitution;
- Including the definition of discrimination against women as set out in article 1 of the Convention in the national legislation;
- Determining the status of international conventions within the national legal framework;
- Incorporating the provisions of the Convention in the national legislation;
- Promoting the political and public representation of women; and
- Changing stereotyped attitudes and discriminatory cultural practices related to the roles of women and men in the family and society

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<sup>1</sup> 627<sup>th</sup> and 628<sup>th</sup> sessions of the Committee held on 15 July 2003 (CEDAW/C/SR 627 and 628)

<sup>2</sup> In accordance with rules of procedure for the consideration of reports (art. 20 of the Convention)

6. With a few exceptions, the prohibition of discrimination does not form part as yet of the spirit and letter of the Moroccan Constitution or other laws governing the status of male and female citizens, as will be seen in the assessment of Morocco's compliance with CEDAW's substantive provisions.

7. Moreover, progress made in the promotion of the legal framework is encountering a series of obstacles and constraints of several types: political, social and cultural resistance; absence of a holistic vision as well as lack of human and material resources and implementation tools and mechanisms, etc. If they are not urgently addressed as a priority, these constraints threaten to cast discredit on the reforms undertaken and deprive them of any positive impact on the lives of women and young girls.

## Part I - (Articles 2 - 3 - 4 - 5)

8. Notwithstanding sectoral progress (see following parts), **no effort has been made by the government since the release of the previous report** to address the deficit in **public policies including strategic choices** based on an **equitable and egalitarian vision of gender relations** and supported by the institutional, legislative, administrative, human and material tools necessary for its implementation. As a direct consequence of this deficit, hard-won gains are undermined in a context marked by a surge of political and religious conservatism where the elimination of various forms of discrimination against women is an immense political and social challenge.

9. A **forward-looking public policy for equality** supported by mechanisms for its implementation:

- Encourages reference to international norms and directions to which the State party contributed and/or adhered as in the case of Morocco;
- Fosters the identification of obstacles and the implementation of strategies to surmount these obstacles by adopting positive discrimination measures, among others;
- Encourages the introduction of institutional mechanisms that are capable of fostering, planning, implementing, monitoring and evaluating strategies and programmes for equality promotion;
- Encourages creating synergy and making NGOs an active partner that fully plays its role but whose actions converge on common objectives;
- Confers a certain coherence on and direction to all sectoral actions by building on and pooling effects and impacts at both social and cultural levels.

10 This policy, **now conceivable in Morocco** which pursues a democratic and modern societal project, is indispensable for generating the momentum required to promote women's human rights and for bringing about a rapid evolution in mindsets.

### **11. Recommendations**

To reach this end, such a policy should revolve around **the following elements:**

- Considering gender equality as a government priority and putting the appropriate mechanisms in place (see part on mechanisms);
- Constitutionalising the primacy of international law as recommended in the report released by the Equity and Reconciliation Commission (IER, 2006);
- Constitutionalising equality as defined in CEDAW and ensuring it is incorporated in all laws;
- Removing all reservations entered to CEDAW and ratifying its Optional Protocol as part of the momentum aimed at the completion of legislative amendments, particularly that of the Family Code;
- Ensuring that laws are fully amended to abolish all forms of sexist discrimination and bridging the gap between de jure and de facto equality;
- Enacting temporary special measures aimed at achieving gender equity and bridging the gap between men and women in all fields, especially in political participation and

- public decision-making;
- Taking actions aimed at promoting the culture of equality through training, education and sensitisation as set out in the *National Action Plan for the Promotion of Human Rights Culture*;<sup>3</sup>

Implementing these reforms and supporting them with a large debate as well as public sensitisation and awareness-raising actions.

## Part II – (articles 7-8-9)

### Political Participation

12. The under-representation of women in elective and decision-making positions is a paradox in today's Morocco inasmuch as the country shows progress in several fields but maintains the status quo on the promotion of women's political participation.

13. Contrary to the expectations of the women's movement, the 2007 parliamentary elections did not bring any improvement relative to those of 2002. The national list, which allocates close to 30 seats to women but appears to have no significant impact *per se*, has not been institutionalised. Failure to institutionalise temporary special measures also accounts for the near-total absence of women in local councils (0.6 % ) and senior positions in various sectors even though the government, which has just been formed (October 2007), includes 7 women of 34 ministers.

### 14. Recommendations

The promotion of women in decision-making positions should be guided by a holistic vision on gender equality, a strategy for the fulfilment of Morocco's commitments, and the political will demonstrated through the identification of objectives and results sought in anticipation of the 30% of seats by 2015.

To reach this end, it is necessary to:

- include in the Constitution, on the occasion of the next amendment, a provision that recognises the right of law-makers to resort to temporary measures that are likely to favour the fulfilment of gender equality;
- consolidate the proportional voting system and revise it in the light of women's representation;
- gradually institutionalise quotas in anticipation of parity that concern elective mandates and electoral posts as well as executive and management positions;
- Introduce incentive/sanctioning measures to ensure the eligibility of women and not only their "candidability" as well as provisions on the inadmissibility of candidate lists not involving women.

The coming local elections (2009) should offer an opportunity to put institutionalised and really significant affirmative action into practice.

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<sup>3</sup> A Plan produced on the initiative of the Advisory Council for Human Rights as part of partnership among government departments, national institutions and NGOs (publicly released in February 2007).

## Nationality

15. The legislation on nationality has just been amended to grant Moroccan women the right to automatically transfer their nationality to their children with retroactive effect. Nevertheless, the amended Nationality Code maintains gender discrimination inasmuch as the foreign spouses of Moroccan men may acquire nationality through marriage whereas this right is denied to the foreign spouses of Moroccan women. The same Code introduces a new form of discrimination that was inexistent in the former legislation by stipulating that a Moroccan woman *loses her nationality if she marries a foreigner, acquires the nationality of her husband through marriage and has been authorised by decree, prior to the conclusion of marriage, to forfeit Moroccan nationality.*”

### 16. Recommendations

- Granting women the right to transfer their nationality to their alien spouses on an equal footing and in the same conditions required for Moroccan men;
- The right, on an equal footing, of men and women to apply for the forfeiture of their nationality in the event of acquisition, through marriage, of the nationality of their spouses and who are forced, by decree, to renounce their Moroccan nationality prior to the conclusion of marriage;
- Ratifying the Convention on the Nationality of Married Women (1957).

## Part 3 – (10 to 14)

The enjoyment of economic, social and cultural rights shows several gaps, some of which are alarming.

### 16. Education

The quantified commitments made by the State to reduce illiteracy (10 years and above) and secure universal access to pre-schooling (4-6 years) and basic education were not honoured. The parity index related to these fields posted no significant improvement expect for primary education in urban areas. Discrimination is also evident in the orientation system and the persistence of sexist stereotypes in school content, especially in certain subjects such as Arabic language and Islamic education.

### 17. Recommendations

- Enforcing the Compulsory Act through a short-term gender-based implementation strategy, and adopting a cross-cutting approach to addressing gaps in access, retention and pass rates of girls in keeping with the country’s commitments.
- Making an explicit reference to articles 1, 5, and 10 of CEDAW<sup>4</sup> and articles 2, 28 and 29 of the Convention on the Rights of the Child (CRC) in all documents guiding the education system, including terms of reference for revising curricula, developing school textbooks and producing literature for children and teenagers.

<sup>4</sup> CEDAW - art.1: Definition of discrimination; art.5: Elimination of Stereotypes; and art 10: Right to Education. CRC - art 1: Principle of Non-discrimination; art. 28: Right to Education; and art.29: Education Goals and Content.

- Putting an end to the “schizophrenia” of educational content which communicate conflicting values on gender equality to the same pupils. In this context, it is essential to institutionalise education for equality as a “human right” and an indicator of the quality of education in all disciplines and educational activities.
- Analysing the poor results achieved by literacy and non-formal education policies and drawing lessons from them to urgently clear the backlog, through structural and affirmative actions, to match improvement in the quantitative and qualitative indicators of the education system.

## 18. Employment

As regards the protection of women’s right to labour, progress made following the amendment of the Labour Code (principle of non-discrimination, etc.) and the Penal Code (criminalisation of sexual harassment, etc.) are dually limited due to I) subsistent gaps and discrimination in both texts; and II) implementation shortcomings.

Several indicators reveal the unstable status of employed women: the illiteracy rate remains very high, a large proportion of women’s labour is unpaid, low salaries and wage discrimination are still the norm particularly in industry, working conditions are often deplorable, etc. In civil service, women continue to generally hold the least remunerated posts. Moreover, work performed by children and young girls remains a fact despite a decline in recent years. Finally, the law designed to regulate domestic labour is yet to be enacted.

## 19. Recommendations

### Positive Discrimination Measures:

- Implementing positive discrimination measures to reduce disparities experienced by women in access to management positions in civil service.
- Ensuring that gender parity is achieved within all representative structures at the level of boards of directors, elected representatives, and health and safety committees.
- Setting up gender focal points at the Ministry of Employment (Labour Directorate) and within arbitration mechanisms (to prevent and manage individual and collective conflicts).
- Fostering the recruitment of women as labour inspectors with a view to achieving effective parity.
- **Compliance of the corporate normative framework with the labour legislation**
- Ensuring that the corporate normative framework (regulations, rules of procedure, code of conduct, etc) conforms to the provisions of the Labour Code, particularly those related to non-discrimination and specific measures designed to protect labour involving women and children.
- Paying special attention to new elements brought by the Labour Code with respect to equality and the protection of women and children: work at night, working hours and overtime, health and safety conditions, situation of pregnant women, etc.
- Eliminating labour involving children aged less than fifteen years in companies subject to the Labour Code.

### **152.. Employment Promotion Programmes and Policies**

- Implementing job-market integration strategies in favour of women who are most exposed to unemployment, and designing programmes that aim to combat unemployment from a gender perspective when planning and introducing new job-market integration formulas (youth employment and training, and loans for young entrepreneurs) and during job-oriented training (alternate training and training by learning).
- Regulating under-age domestic labour, which employs young girls at an early age, and creating an enabling environment for the applicability and implementation of the relevant draft bill.
- Adopting education for all as the most effective tool for the elimination of domestic labour involving young girls.
- Designing a strategy for the promotion of female entrepreneurship, by encouraging the creation of micro and small-size enterprises run by women, among others.
- Alleviating the situation of disparity, exploitation and instability experienced by women in the work environment (salaried labour, independent or domestic work, family help).

### **153. Training and Sensitisation**

- Incorporating specific “gender at work” modules in the training programme offered by the Labour Institute to labour controllers and inspectors in particular.
- Initiating sensitisation and information activities to achieve gender parity (and, where necessary, participation that is proportional to members in attendance) within boards of directors in the industrial sector.
- Harmonising management tools used in the training of young girls and working towards a better match between training intended for women and job-market demand with a view to a better integration into the job market.
- Diversifying and decentralising training areas to benefit rural female youth who remain poorly integrated in vocational training.
- Ensuring that all social stakeholders (Labour Inspectorate, representatives of male and female workers, of companies and other decision-makers) know and assimilate the new provisions of the Labour Code with respect to equality of opportunity and non-discrimination.

## **20. Reproductive Health**

Several reproductive health indicators point to deficiencies in this area. Maternal mortality is alarming while the contraceptive prevalence rate shows minimal improvement. Non-therapeutic abortion is criminalised under the Penal Code. This leads to the illegal practice of pregnancy termination, hazardous to women’s lives. Moreover, the AIDS epidemic is spreading among women. Finally, breast and cervical cancer currently constitutes a real scourge while most women from underprivileged classes have no access to social security schemes or sickness insurance.

## **21. Recommendations**

- Securing universal access to the mandatory social security scheme and providing free health care to women coming from unprivileged and geographically disadvantaged areas.



- Ensuring a better distribution of structures, units and medical staff to better meet the needs of the most underprivileged and geographically disadvantaged communities.
- Securing universal access to delivery centres and establishing a system of prenatal consultation and postnatal home visits.
- Expanding and targeting sensitisation campaigns in such a way as to involve men in the practice and choice of contraceptive methods.
- Authorising abortion for women who wish to terminate their pregnancies, especially single women, victims of rape or incest, and mentally handicapped women who were victim of rape.
- Designing an STIs/AIDS strategy especially intended for women and reinforcing prevention by introducing a multi-sectoral approach based on clear and straightforward messages regarding the dangers of STIs, and including reproductive health and STIs/AIDS modules in vocational training and literacy programmes.
- Introducing a strategy aimed at the systematic early diagnosis of breast cancer and raising the awareness of female teenagers about the need for immunisation against human papillomaviruses to prevent cervical cancer.

## Part IV – (15 -16)

22. Despite reforms aimed at bringing national legislation in line with CEDAW provisions, discrepancies and inadequacies persist. The main codes amended thanks to large campaigning by the women's movement have failed to eliminate discrimination against women. These codes are as follows:

- **The Labour Code** whose provisions do not provide any protection to certain categories of women workers, particularly household servants whose large number is mainly composed of young girls. Moreover, the Code does not cover equality in salaries, the protection of female employees against unfair dismissal, sexual harassment, and guarantees for the exercise of maternity rights.
- **The Penal Code** which remains dominated by an inegalitarian view that rests on two major concepts: male honour and control over female sexuality. Moreover, penal provisions on rape are profoundly discriminatory and introduce a hierarchy between married and unmarried women, virgin and non-virgin. Finally, the retention of legal proceedings in case of adultery and extramarital sexual relations, and the prohibition of VTP (and its high cost) drive pregnant women to abandon their children, even commit infanticide, or expose themselves to deadly hazards.
- The **Family Code** which maintains polygamy, discrimination in inheritance and the legal guardianship of children as well as **repudiation**. As for the implementation of the new legislation, shortcomings are patent. These include the propensity of judges to systematically authorise the marriage of female minors and polygamy (though related legal provisions are subject to very restrictive conditions); difficulties facing women in all divorce proceedings (including new legal procedures that are supposed to facilitate

women's access to divorce, particularly on grounds of marital discord and by mutual agreement); difficulty in the application of the right of divorced female custodians to stay in the matrimonial home, and the limited nature of provisions related to paternity acknowledgement.

### **23. Recommendations**

- Constitutionalising the principle of gender equality and clarifying the question of primacy of international law over national legislation in the Constitution.
- Removing reservations entered to CEDAW, bringing Moroccan laws in line with its provisions, and ratifying its Optional Protocol.

#### **Penal Code**

- Revising discriminatory provisions contained in the Penal Code, especially those related to the punishment of rape (with or without defloration), the termination of criminal proceedings against rapists when they marry their under-age and nubile victims, the criminalisation of marital rape, the liberation of married women from the authority under which they were placed (article 494 of the Penal Code), and the punishment of sexual relations between consenting adults.
- Authorising abortion for women who wish to terminate their pregnancies, especially single women, women victims of rape and incest, and mentally disabled persons who were victim of rape.
- Adopting a framework law to combat violence against women.

#### **Family Code**

- Introducing concrete and effective measures to strictly enforce the Family Code and limiting the discretionary power of judges with respect to several articles in the Code such as the rights of children and divorced women, polygamy authorisation, management of assets acquired during marriage, divorce on grounds of marital discord, and eviction from the matrimonial home.
- Revising the current Code to provide for the prohibition of polygamy and the marriage of female minors, equality between fathers and mothers in the legal guardianship of children, and gender equality in inheritance.
- Abolishing the five-year deadline set for establishing paternity to enable single mothers to take legal proceedings and provide their children with an identity, and to allow those who are unable to supply proof of a promise of marriage to resort to paternity acknowledgment proceedings.
- Implementing the Family Support Fund, providing family courts with adequate material and human resources, and training human resources (judges, clerks, administrative staff, court officers...) to build their capacity and imbue them with the spirit and philosophy permeating the Family Code and international conventions on human rights.

## Part V – (articles 6 and recommendation 12 of Cedaw Comitée )

24. The absence of national and comprehensive statistics does not help assess the extent either of prostitution or gender-based violence. However, both phenomena are rampant in Morocco. The issue of violence was first raised by the women's rights movement which played a key role in breaking taboos particularly on certain forms of violence (sexual, family-related and spousal).

25. Prostitution is linked to several factors (poverty, divorce, rape, etc) which contribute to the social and economic instability of young women. This vulnerability contributes, in turn, to the recruitment of these women by trafficking and forced prostitution networks in Morocco (especially in tourist cities) and abroad (especially in the Middle East, the Gulf and certain European countries).<sup>5</sup> According to several reports, Morocco has become a transit and destination country for women victims of trafficking from Sub-Saharan Africa, North Africa and Asia.

26. Morocco has not ratified the UN Protocol on Trafficking in Persons of 2000. Moreover, the Moroccan Penal Code does not punish prostitution as such but procuring-related activities. Additionally, while the Moroccan Penal Code prohibits forced labour, forced prostitution and under-age prostitution, no legislation punishes human trafficking activities. Instead of tackling trafficking networks, the public authorities aim to limit the freedom of movement of women travelling unaccompanied by their spouses to several Arab countries, especially Gulf States.

27. In contrast, in recent years, several measures aimed at fighting violence were put in place by certain ministerial departments in partnership with women's rights NGOs and the United Nations System in Morocco. Credit for this achievement should go to women NGOs which, through their awareness-raising action, contributed to more social and political visibility on this matter and fostered the emergence of a database on violence, inexistent until recently.

28. Notwithstanding this progress, Moroccan women continue to grapple with gender-based violence. The perception of spousal violence as a primarily domestic matter has largely contributed to serious gaps not only in its appreciation but also in the development of appropriate policies and programmes.

29. In fact, data made available by the Anaruz Network<sup>6</sup> and spanning a two-year period show that in 9 of 10 cases of violence the assailants are men with whom the victims have been maintaining intimate relations (aggressors are husbands in 8 of 10 cases). Three interdependent factors account for spousal violence: the legal and social status of women, the social acceptance of spousal violence (seen as a misfortune plaguing married women) and the impunity of aggressors. It is as if the recognition of violence, particularly in its domestic and family forms, would violate two taboos that society is not ready to break: the idealised image of marriage and family, and the relationship of domination between men and women, which, all things considered, are challenged by violence against women.

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<sup>5</sup> Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons: 2007 Report, Morocco (Level 1)

<sup>6</sup> The Anaruz Network is a national coalition of 39 psychological counselling and legal assistance centres for battered women.

### **30. Recommendations**

To consolidate gains and surmount limits, priority should be given to:

- The development of a joint, holistic, operational, coherent and consultation-based vision as well as the effective and coordinated operationalisation of strategies of various ministerial departments with the involvement of all players concerned;
- The revision of the penal legislation to meet three requirements; namely, the investigation of male-perpetrated violence, the punishment of this violence to end impunity, and reparation for the harm caused to victims of this violence;
- The consolidation of support extended to women victims of violence by taking a series of measures. These include setting up institutionalised service delivery networks in all cities (similar to the social ambulatory services - SAMU) and providing them with adequate human and material resources; opening counselling, reception and orientation units intended for victims within family and first-instance courts, police and gendarmerie stations and hospitals; improving reception extended to victims by institutions responsible for their security and protection; and supporting NGOs by providing them with substantial financial resources and qualified personnel; and
- Increased public awareness about gender-based violence by including this theme in training programmes intended for judges, doctors, nurses and police officers as well as in school textbooks; and diversifying channels and materials used to raise awareness about violence against women (besides written press and television spots).

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## **The following associations have contributed to this report:**

(List of signatory associations in alphabetic order)

Alliance des femmes du Maroc pour le Développement et la formation  
Amnesty International – Maroc  
Association Ain Ghazal  
Association Amale  
Association AMNA  
Association Assaida Al Horra pour la citoyenneté et l'égalité des chances, Tanger / Tétouan  
Aspirations Féminines  
Chaml pour la Famille et la Femme  
Association Démocratique des Femmes du Maroc (ADFM)  
Association Ennakhil pour la Femme et l'Enfant  
Association Espace Citoyenneté  
Initiatives pour la Protection des Droits des Femmes – Fes  
Initiatives pour la Protection des Droits des Femmes – Meknes  
Solidarité Feminine  
Association INSSAF  
Joussour, Forum des Femmes Marocaines  
Association Marocaine de Planification familiale (AMPF)  
Association Marocaine des Déficients Moteurs (AMDM)  
Association Marocaine des Droits des Femmes (AMDF)  
Association Marocaine de Lutte contre les Violences à l'égard des Femmes  
Association Solidarité Féminine  
Association 3ème Millénaire pour le Développement et la Protection de l'Enfance  
Centre Droits des Gens  
Comité d'Appui à la Scolarisation des Filles Rurales (CSSF)  
Ligue Démocratique des Droits des Femmes (LDDF)  
Organisation Marocaine des Droits Humains (OMDH)  
Organisation Panafricaine de Lutte contre le Sida (OPALS)

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- Morocco's Treatment of Reservations
- Institutional Mechanisms
- Major Reform Projects
- Temporary Special Measures
- Measures for Eliminating Sexist Stereotypes

### **Part II (Articles 7- 8- 9)**

- Political Participation
- Representation at International Level
- Nationality

### **Part III (Articles 10 to 14)**

- Economic, Social and Cultural Rights

### **Part IV (Art 15 + 16)**

- Legal Capacity
- Family Status

### **Part V (Article 6 and Recommendation 12 of CEDAW Committee)**

- Trafficking and Prostitution
- Violence against Women

## **Summary**

## Preamble

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4. Prompted by the convergence of the aspirations and claims of the women's movement, and the modern views espoused by the King of Morocco, other measures have been taken to eliminate discrimination against women and young girls since the consideration of Morocco's 2<sup>nd</sup> periodic report. These measures are:

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## Introduction

### Morocco and CEDAW (Historical Background)

#### Ratification

8. Morocco ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 21 June 1993 on the sidelines of the World Conference on Human Rights in Vienna. The ratification came 14 years after the adoption of the Convention at the UNGA (1979).

#### Publication

9. Publication in the Government Gazette, essential for entry into force, took place tardily in 2001; that is, 8 years after ratification.

#### Reservations

10. Morocco accompanied its ratification with important declarations and reservations concerning article 2; paragraph 4 of article 15; paragraph 2 of article 9; article 16 and article 29.

11. In March 2006, the government expressed its intent to reconsider its reservations and accede to the Optional Protocol. The intent was reaffirmed, as an undertaking, in the note accompanying Morocco's candidature to the Human Rights Council. Morocco has been a member of this Council since its election on 9 April 2006 (see Part I).

#### Reporting

12. Morocco complied under article 18 with the periodicity required to report on the implementation of CEDAW. Delay in the consideration of reports is mainly due to the agenda of the CEDAW Committee.

Moreover, the Democratic Association of Moroccan Women (ADFM) introduced, alongside several NGOs, the practice of drafting alternative reports in response to those produced by the government.

#### Government Reports

13. **Frequency:** To date, the government has produced 3 reports on progress made in the implementation of CEDAW:

- The first report (initial) was submitted in 1995 and considered in 1997
- The second report (periodic) was submitted in 1999 and considered in 2003
- The 3rd and 4th periodic reports, the subject of the current review, were submitted in 2007.

#### 14. *NGO Involvement*

| Initial Report  | Periodic Report (2)  | Periodic Report (3-4)  |
|---|--|--|
| NGOS were neither informed of nor associated with the reporting process | The Ministry of Human Rights (then in charge of the matter) submitted a draft report to NGOs and invited them to a discussion workshop | Only some associations participated in one meeting organised by Secretary of state in charge of family |

**Alternative reports**

15. NGOs advocating the promotion of women’s rights and human rights supported the process of reviewing Morocco’s government reports by producing shadow reports, so far coordinated by the Democratic Association of Moroccan Women (ADFM).

| <b>Initial Report</b>   | <b>2nd Periodic Report</b> | <b>Combined 3rd and 4th Periodic Reports</b> |
|-------------------------|----------------------------|--|
| 9 Associations involved | 18 Associations            | 25 Associations                              |

**Information and Dissemination**

16. Only negligible effort was made by the government to publicize the Convention to justice professionals, main stakeholders and the public at large. The conclusions and recommendations made by the CEDAW Committee after consideration of reports were not diffused either. Sufficient effort in this area was mainly expended by feminist and human rights NGOs according to resources available to them.

## Part I (Articles 2 - 3 - 4 - 5)

### I/ Commitments and Public Policies to Fight Discrimination

17. The State undertakings to promote equality have oscillated between **the explicit resolve to harmonise national legislation with Morocco's international commitments to the promotion of women's fundamental rights in keeping with the country's Muslim identity and values** (Inauguration Statement by the *Yousoufi* Cabinet in 1998) **and the sheer expression** "*of keen interest in the situation of women...as a prerequisite for equality with men according to the precepts of our religion*" (Inauguration Statement by the Moroccan Cabinet before Parliament in 2002).

18. Moreover, apart from statements of intent, government inauguration statements were never supported by action plans for implementation purposes. This testifies to a lack of vision upstream which leads to incoherent, expedient and ineffective initiatives that often remain at the planning stage (**see para...**).

19. The only promising experience in planning was that of the Action Plan for Integrating Women in Development (PANIFD- 1998-1999)<sup>9</sup> that the government later retracted for lack of political audacity. The reaction of conservatives and Islamist movements was a test for the government, which clearly demonstrated that the cause of women can be easily sacrificed even if it lies at the heart of the "*modernist and democratic project*" proclaimed by the country's major political players.

20. Addressing the Prime Minister on the eve of the formation of new cabinets is a common practice used by NGOs to reiterate their demands and lobby for going "*beyond symbolism.*"<sup>10</sup> Communication with the government is no longer a one-way exercise as NGOs are receiving increasing feedback though the latter remains often vague and discursive in substance.<sup>11</sup>

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<sup>9</sup> Situation considered in the previous alternative report (2003)

<sup>10</sup> Appendix: Letter from ADFM to Jettou, 14 October 2002

<sup>11</sup> Appendix: Reply of the Prime Minister to the memorandum of Associations dated ....

## II. Morocco's Treatment of Reservations

21. Article 28, paragraph 2 of the Convention adopts the principle of impermissibility of reservations that are incompatible with the object and purpose of the Convention.<sup>12</sup> In this sense, the provisions of articles 2 and 16 were regarded by the CEDAW Committee as central and vital to the object and purpose of the Convention.

22. Inasmuch as a reservation is defined as the desire of a State, when ratifying or acceding to a treaty, to exclude or modify the legal effect of certain provisions of the treaty when implemented by that State,<sup>13</sup> the nature and extent of reservations entered by Morocco when ratifying CEDAW question the country's political will to promote equality and eliminate all forms of discrimination against women.

23. Moreover, Morocco has abstained until recently from adhering to monitoring mechanisms for treaties on human rights, particularly the Optional Protocol to the Convention.<sup>14</sup>

### Articles Subject to Reservations and Declarations by Morocco (1993)

|                     |  |
|---------------------|--|
| <b>Declarations</b> | 1. Article 2<br>2. Article 15, para. 4   |
| <b>Reservations</b> | 3. Article 9, para. 2<br>4. Article 15, para. 14<br>5. Article 16<br>6. Article 29 |

24. In its dialogue with the Moroccan government during its consideration of the 2nd periodic report (July 2003), the Committee declared that it was "concerned about the fact that the said reservations were maintained."<sup>15</sup>

25. Since Morocco's ratification of CEDAW, NGOs have incessantly called on the Moroccan government to withdraw its reservations and ratify the Optional Protocol.<sup>16</sup> Thus, several actions and initiatives were initiated in this regard by NGOs involved in advocating the promotion of women's and human rights: awareness-raising seminars, training sessions on CEDAW and reservations, questions addressed to the Moroccan government and parliament, etc. Following consideration by the CEDAW Committee of the initial report and the 2nd periodic report of Morocco (1997 & 2003), women's rights organisations called the Moroccan government's attention to this matter on several occasions.

26. Since 2005 and due to the conjunction of a certain number of favourable factors,<sup>17</sup> the question of withdrawing reservations and ratifying the Optional Protocol to CEDAW has thrust itself in a more visible and sustained manner on public and political debate:

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<sup>12</sup> The Vienna Convention on the Law of Treaties, enacted in 1969 and effective since 1980, stipulates in article 19, subparagraph (c) that "*the reservation shall not be incompatible with the object and purpose of the treaty.*"

<sup>13</sup> Article 2, subparagraph (d) of the Vienna Convention on the Law of Treaties.

<sup>14</sup> This mechanism enables the Committee to conduct probes into grave or systematic violations of the provisions of the Convention and receive complaints from individuals or groups who have exhausted all available national remedies.

<sup>15</sup> Report of the Committee on the Elimination of Discrimination against Women; Twenty-ninth Session (30 June - 18 July 2003); General Assembly, Official Documents, Fifty-eighth Session; Supplement No. 38 (A/58/38); Second Periodic Report of Morocco.

<sup>16</sup> As a State making reservations, Morocco is not legally bound by the provisions of the Convention to which such reservations were entered.

<sup>17</sup> These include the constitutional amendments of 1992 and 1996 (Morocco's recognition of human rights as internationally recognised); progress in fundamental liberties and human rights; women status reforms; campaigning by the women's and human rights movement; and recommendations made by the Equity and Reconciliation Commission (IER).

- In February 2005, the government issued a communique announcing its intent to withdraw reservations entered to all international treaties on human rights (except for CEDAW) and to adopt all monitoring mechanisms for such treaties. In its communication, the government declared that removing certain reservations to CEDAW and ratifying its Optional Protocol were also under review by the interministerial commission in charge of the matter. Thereafter, the women's movement, while hailing the initiative as positive, addressed the government and the public opinion (through the media) to emphasise and draw attention to the exceptional treatment given by the Moroccan government to CEDAW (see attached communique).
- In April 2006, the Ministry of Justice released a communique announcing the partial removal of certain reservations to CEDAW and the replacement of others by explanatory notes. This intent was reaffirmed as a formal undertaking in April 2006 in the note accompanying Morocco's candidature to the Human Rights Council, of which it has been a member since its election on 9 April 2006.<sup>18</sup>

27. Judging by these elements, the women's movement considered that time was ripe for intensifying its efforts and campaigning to see its demands met in this regard; namely, the withdrawal of all reservations to the Convention and the ratification of its Protocol.

28. In the context of the international conference held by the International Women's Rights Action Watch (IWRAP– Asia Pacific) in Malaysia (August 2005) on the Convention and its Optional Protocol, the Democratic Association of Moroccan Women (ADFM) was mandated to arrange for a regional conference (Arab countries and Turkey) on the withdrawal of reservations to CEDAW and the ratification of its Optional Protocol.<sup>19</sup> The conference was held in partnership with the International Federation of Human Rights Leagues (FIDH).

29. This regional conference took place in Morocco (Rabat, June 2006) and saw the participation of women and human rights organisations representing the region as well as international networks.<sup>20</sup> At the opening of the conference, Morocco's Prime Minister reiterated Morocco's willingness to remove all reservations to CEDAW and ratify its Optional Protocol. At the end of the meeting, a decision was made to launch a regional campaign as well as national campaigns. The main outcomes of the proceedings of the conference included designing a regional advocacy strategy and issuing the Rabat Appeal entitled "*Equality without reservation.*"<sup>21</sup>

30. As early as April 2007, ADFM launched a large-scale national campaign entitled "Equality without Reservations."<sup>22</sup> The Rabat Appeal was the subject of a signature campaign that rallied the support of several hundreds of civil society organisations.<sup>23</sup> An information meeting with NGOs and Moroccan and international media (accredited to

<sup>18</sup> The commitments of Morocco set out in Resolution A/RES/60/251- Candidature to the Human Rights Council.

<sup>19</sup> The preparatory committee was composed of the following organisations: New Women Research Center (NWRC, Egypt); Sisters Arab Forum (SAF, Yemen); KAFA: Enough Violence and Exploitation (Lebanon); Center for Egyptian Women's Legal Assistance (CEWLA, Egypt); Tunisian Association of Democratic Women (ATFD); and Women for Women's Human Rights (WWHR, Turkey).

<sup>20</sup> This conference, largely covered in the media including several national, regional and international satellite channels, saw the attendance of the Moroccan Prime Minister, the Minister of Justice and several parliamentarians and political parties.

<sup>21</sup> See attached text of the Rabat Appeal

<sup>22</sup> Question addressed by a Member of Parliament and member of the women's rights movement to the government (Minister of Justice) on the government's commitments in this respect

- Question addressed to the Prime Minister through an open letter sent to him and to all press organs in July 2007 (see attached text of the letter)

- Publication of the Rabat Appeal alongside signatures of support in major newspapers for several days in a row

- The holding of a press conference (10 July 2007) marked by large attendance and wide coverage by the national and international press and audiovisual media, as well as participation by representatives of ministerial departments, civil society and international organisations.

<sup>23</sup> See attached list of signatory organisations of the Rabat Appeal

Morocco) was held in July 2007 to demand the removal of all reservations and the ratification of the Optional Protocol to the Convention, and to protest government opacity on the matter.

**Progress Made**

31. Information available to date signals the intent of the Moroccan Government to:

|   |  |
|---|--|
| 1 | <p><b>Withdraw its reservations</b> to :</p> <ul style="list-style-type: none"> <li>❖ Paragraph 2 of article 9, stipulating that women are entitled to the same right as men with respect to their children’s nationality</li> <li>❖ Paragraph 1 (h) of article 16, stipulating that women are entitled to decide, on an equal footing with men, on family planning and to have access to relevant information<sup>24</sup></li> <li>❖ Paragraph 2 of article 16, concerning the absence of any legal effect in case of child engagement and marriage and stipulating the need to set a minimum age for marriage and its official registration</li> <li>❖ Article 29 concerning the arbitration of conflicts that may arise in the interpretation and implementation of the Convention.</li> </ul> |
| 2 | <p><b>Revise the wording</b> of the second part of the declaration made on article 2 of the Convention, stipulating the adoption of legal provisions to enshrine the principle of gender equality</p>  |
| 3 | <p><b>Withdraw the declaration</b> made on paragraph 4 of article 15, stipulating that men and women shall enjoy the same rights in legislation regarding the movement of persons and freedom to choose places of abode and residence</p>  |
| 4 | <p><b>Replacing the reservation</b> entered to other clauses of paragraph 1 of article 16 by an explanatory statement</p>  |
| 5 | <p><b>Recommending Morocco’s accession</b> to the Optional Protocol to the Convention</p>  |

**Obstacles and Constraints**

32. Though the announced withdrawal of certain reservations entered by Morocco and the ratification of the Optional Protocol to the Convention may be seen as a positive step, several objective elements, however, limit the effectiveness and impact of this initiative on the status and condition of Moroccan women.

33. In fact, a careful consideration of relevant communiqués issued by the Moroccan government (largely marred by confusion) leads to the conclusion that it was more a matter of publicity than real change in Morocco’s treatment to this matter considering that:

- Only four reservations were removed with respect to article 9 (nationality); para. 1 (h) of article 16; para. 2 of article 16; and Article 29
- Only one declaration was withdrawn (para. 4 of article 15)
- Reservations that are incompatible with the object and purpose of the Convention, namely those concerning article 2 and 16, were generally maintained
- Replacing other reservations by declarations (or the latter by other declarations) amounts, in terms of legal effect, to maintaining them
- The government did not deem it useful to inform public opinion about the new wording of explanatory statements.<sup>25</sup> Indeed, it seems as if the fact of replacing some

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<sup>24</sup> In the communiqué of the Ministry of Justice (7 March 2006), reference was made in this sub-paragraph to the “right of women to decide, on an equal footing with men, on family planning and to access relevant information.” However, there was evidently a mistake inasmuch as sub-paragraph (h) in question does not concern family planning as it was indicated.

declarations by others constituted remarkable progress *per se*, regardless of the new wording of these declarations.

34. This observation raises the question of whether there is real political will to eliminate all forms of discrimination against women and to enshrine the principle of equality in jure and in fact, especially that:

- It took 14 years for the government to ratify CEDAW
- It took 8 years to have it published in the Government Gazette
- It took 13 years to consider revising reservations

35. So far, despite the letters addressed to officials and contacts made with them, either directly or through open letters,<sup>26</sup> it is not possible to know:

- Whether the government has moved to fulfil its commitments insofar as no measure has been taken yet to submit instruments for the withdrawal of reservations.
- The new wording of explanatory statements that are supposed to replace certain reservations or other statements.

36. Considering past records and the foregoing, the chances are very slim that Morocco will move rapidly to remove all reservations (especially those to articles 2 and 16). Nevertheless, as the CEDAW Committee noted, the withdrawal of reservations is the best proof of governments' resolve to put the principle of equality into practice in their respective countries.

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<sup>25</sup> Particularly 1) revision of the wording of the second part of the declaration concerning article 2 of the Convention which provides for the adoption of legal provisions to put the principle of gender equality into practice, and 2) the replacement of the reservation entered to the other clauses of paragraph 1 of article 16 by an explanatory statement.

<sup>26</sup> See attached communiqués and letters sent to the government.



### III. Institutional Mechanisms

37. Based on the observation and conviction that governments need a political mechanism for the advancement of women to help them benefit equally from government action, the question of institutional mechanisms was included as a priority area in the Beijing Platform of Action.<sup>27</sup> Similarly, CEDAW (art.3) stipulates that “*States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women ...*”

38. The treatment given by Morocco’s successive governments to the question of institutional mechanisms for women’s advancement generally reflects that given to the elimination of all forms of discrimination against women:

- On the one hand, there is increasing awareness in Morocco about the need to promote the legal status and the condition of women as evident in various reforms introduced over the last decade,
- On the other hand, this awareness about the importance, for a country like Morocco, to equip itself with the institutional mechanisms necessary to foster, accelerate, monitor and coordinate reform policies and programmes, is yet to be attended by a real political will to make a break with old institutional structures, cultures and practices.

39. In fact, on the sidelines of the nomination of the outgoing cabinet (2002-2007), several members of Parliament questioned the Prime Minister about the regression recorded in the area – compared to the former cabinet. In their inquiry, they observed that instead of consolidating efforts made by the previous cabinet including the creation in 2002 of a Deputy Ministry for Women’s Condition, the new cabinet replaced it with a *Secretariat of State for Family Affairs, Solidarity and Social Action*.<sup>28</sup>

40. In his response to this question, the Prime Minister particularly stressed the fact that, while being aware that the promotion of **women’s condition does not require the creation of a ministerial department**, the mandate of a ministerial Department for Family Affairs, Solidarity and Social Action, where women would take centre stage, is the responsibility of all government sectors that strive to improve the condition of women and the consolidation of their rights.<sup>29</sup>

41. The parliamentary debate and the reply of the Prime Minister are significant in various respects:

- They may signal a shift from a sector-based approach to a crosscutting one to the extent that all ministerial departments are required to heed the needs and interests of women. However, this would require, in the case of Morocco where this approach is yet to be recognised, a strong ministerial department.
- What would be closer to reality, though, is that, due to lack of an understanding and mastery of the gender approach, the Prime Minister was, on the contrary, looking at the matter from a strictly sectoral perspective.

42. The reply of the Secretary of State for Family Affairs, Solidarity and Social Action was even more explicit about the direction taken by the new cabinet on the matter when she

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<sup>27</sup> Adopted by Morocco

<sup>28</sup> This department was transformed, during the cabinet reshuffle of 2002, into a Secretariat of State for Family Affairs, Children and Social Action

<sup>29</sup> Reply of the Prime Minister to questions addressed by parliamentary groups as part of the debate on the government programme, 22 November 2002

averred that “*her department intends to protect women inside and outside the family, which would ensure family stability.*”<sup>30</sup>

43. In fact, the national mechanisms intended for women and put in place since the 1990’s are marked by considerable institutional instability (incessant change in mandates, structures, names, direction and staff, etc). They remain confined, despite recent progress, to a sector-based and social approach. They are also characterised by marginal institutional localisation within the government, high centralisation and lack of power, authority, vision, competence/expertise and human and financial resources (almost total dependence on foreign funding for their programmes and activities).

44. These constraints contribute to undermining:

- The sustainability of the central national mechanism and other sectoral mechanisms as well as their capacity to influence and act in a coherent and effective manner on the main political directions and choices endorsed by Morocco.
- The institutionalisation of their relations with other sectoral government structures and women’s rights organisations (absence of a formal mechanism for consultation with various stakeholders on major directions and strategies).

45. To give a new impetus to mechanisms for women’s advancement and enable them to reinforce and speed up ongoing reforms in Morocco, women’s rights organisations addressed the Prime Minister on several occasions<sup>31</sup> (the latest memorandum was sent to the new Prime Minister Designate following the parliamentary elections of September 2007) to communicate their diagnosis of the situation and propose a certain number of recommendations including:

46. **Setting up a central national women rights mechanism** in charge of women’s rights (and not a Secretariat of State for Family Affairs, Children and the Disabled, as it is the case now) that has:

- The political legitimacy necessary to accomplish its mandate, particularly the adoption of a new approach that favours the empowerment of women and the consolidation of their strategic interests;
- The human and material resources necessary to effectively confront challenges, namely the current situation of the overwhelming majority of Moroccans and the need for a Ministry with a crosscutting mandate.
- A more democratic and participatory culture that involves, in a spirit of transparency, women’s rights organisations in the choices guiding the decision-making process.
- A new approach that gives precedence to the results sought and the resources required (significant budgets, human resources and expertise as well as guidelines and checklists for planning and evaluation purposes).

47. **Setting up a Consultative National Commission** to be institutionalised by a Prime Minister’s order, defining its duties, composition and agenda. The mandate of the Commission will consist in reviewing and deciding on all cross-cutting policies and matters that are beyond the scope of the prerogatives of a single ministerial department.

48. **Assessing Morocco’s experience in the establishment of gender focal points.** The assessment should include not only the views of focal points themselves but also those of high-ranking officials entrusted with their supervision and NGOs. Answers to these questions

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<sup>30</sup> Reply of the Secretary of State for Family Affairs to questions by parliamentary groups as part of the debate on the government programme on 22 November 2002

<sup>31</sup> See attached various memoranda and communiqués released by the women’s rights movement on this matter.

should lead to the development of terms of reference that would guide the future action of these sectoral mechanisms.

**49. Restructuring the Centre for Studies and Information on Women** with a view to collecting, compiling and disseminating information and knowledge on women's living conditions. In its current form, the National Centre for Information and Documentation on Women (CNIDEF), recently set up by the Secretariat of State for Family Affairs, Children and the Disabled (SEFEPH), does not meet Morocco's needs in the area. The aim is to enhance its performance through its transformation into a semi-public entity with an autonomous budget and management, and a board of directors composed of the supervising minister, university presidents, officials in charge of research and documentation centres, and representatives of women's rights organisations. A feminist personality known for her scientific and academic credentials should be appointed at the head of such an entity. This appointment should meet the nomination rules and procedures applicable to university presidents (currently in force in Morocco) and, finally, link the Centre, through partnership agreements, to national and foreign universities as well as research and documentation institutions.

## IV. Major Reform Projects

50. Since 2002, progress made in the fight against discrimination concerned in particular:

- **Laws:** The Family Code (2004) and, more recently, the Nationality Code (2007) remain one of the most important advances since the consideration of the 2<sup>nd</sup> report after the amendment of the Labour Code (2002) and of some provisions of the Penal Code (2002);
- **Gender Mainstreaming:** The State budget (2007) provides the most prominent illustration in this respect; and
- **Education policy following** reforms carried out in 2002, which calls for considering human rights values while revising curricula and developing new school textbooks.

51. Campaigning by NGOs involved in the promotion of women’s human rights largely accounts for all of the above-mentioned reforms. Campaigning consisted in communicating demands and proposals and taking advocacy action. Networking<sup>32</sup> was the main tool used to influence decision-makers and raise awareness among the public. Having regard to the **strong resistance** shown to the amendment of the Personal Status Code (renamed Family Code since 2004), action taken by advocacy associations to influence and guide political decision-making to uphold egalitarian relations within the family is cited as an example by a large number of political and social players, nationally and internationally.<sup>33</sup>

52. Progress made is both incomplete and not effective enough. Concerning laws, non-discrimination, as defined by CEDAW, does not explicitly govern any legislative text. When this notion is mentioned as a general principle, as is the case with **the Penal Code for instance, it is not applicable to all provisions of these laws.** The Family Code, one of the major legislative reforms, still contains discriminatory provisions (retention of polygamy, inequality in the custody of children and bi-cultural marriage<sup>34</sup>, and inequality in inheritance...).

53. Moreover, generally speaking, enacted legal and statutory amendments are not put into practice for lack of an implementation strategy that includes, in addition to vision, institutional mechanisms and resources, both human and material, to ensure their enforcement.

| <b>Examples</b>   |  |  |
|---|--|--|
| <b>Family Code</b>  | <b>National Strategy for the Elimination of Violence against Women</b> | <b>Culture of Equality</b>                     |
| Practice of early marriage though law sets the minimum age for marriage at 18 (see para...) <sup>35</sup> | Non-operationalised  | Incoherence of school textbooks (see para. 72) |

54. The development of a “*Stratégie pour l’intégration de l’approche genre dans les politiques publiques*” in 2006 was characterised, upstream, by the low involvement of key players and, downstream, by the fact that no operational plan was followed. This

<sup>32</sup> The inception of the “Commission for Equality under the Labour Code” and the “Spring of Equality for an Egalitarian Codification of Family Relations” took place in this context. The latter was composed of some thirty associations.

<sup>33</sup> Moroccan associations are solicited in the Arab and Muslim world to share their experience of advocacy for the amendment of the Family Status Code.

<sup>34</sup> Contrary to men, Moroccan women may not marry non-Muslims.

<sup>35</sup> LDDF and ANARUZ reports.

characteristic of “public policies” undermines accomplished gains, which are not structured within a coherent and rallying framework, and reduces their impact on the lives of women.

Major obstacles include:

**55. Non-constitutionalisation<sup>36</sup> of equality** to the extent that no constitutional provision expressly asserts the primacy of international conventions to which Morocco is party over national law in case of conflict between the two or silence in domestic law. The preamble of the 1992 Constitution seems to opt for the primacy of international norms. It affirms that Morocco, *conscious of the need to bring its action in line with international organisations of which it has become an active and dynamic member ... adheres to the principles, rights and obligations derived from the charters of the said organisations*. However, this is not a clear-cut assertion.

56. Some laws expressly provide for the primacy of treaties over national law (Nationality Code, for instance). *One may infer, by way of analogy, that there is a will to give precedence to international conventions. The opposite may also be averred, though: when they wish, law makers may clearly establish the primacy of conventions over national law. When they remain silent, it means they do not acknowledge this primacy.*<sup>37</sup>

57. **The absence of a real institutional mechanism<sup>38</sup>** to promote, guide and monitor public policies in keeping with the country’s commitments (CEDAW and the Beijing Platform). Moreover, maintaining forms of discriminations, particularly in the Family Code, the penal legislation and the Nationality Code, contributes to limiting the effect of other egalitarian provisions.

58. If, formerly, Morocco used to take refuge in religious considerations to reject the amendment of family legislation, considered for decades as “untouchable” (alongside the withdrawal of reservations to CEDAW), the advance consisting in the recent amendment demonstrates that gender equality inside the family is possible in Morocco’s context today and that it suffices to translate political will into action to reach this end.

## 59. Recommendations

- Enshrining the principle of non-discrimination, as defined in article 1 of CEDAW, in the Constitution, legislation and other public policy components, and recognising the principle of treaty primacy.
- Amending the Family Code by establishing gender equality in the context of family relations including equality in inheritance.
- Removing all reservations entered to CEDAW and ratifying other instruments such as the convention concerning consent to marriage, ...

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<sup>36</sup> Equality between men and women is explicit in the Constitution only under Article 9 on the right to election and eligibility.

<sup>37</sup> An argument in support of the precedence of international norms is the fact that Morocco ratified the Vienna Convention of 1969 on the Law of Treaties which stipulates under article 27 that a party may not evoke the provisions of its national law to justify the non-fulfilment of a treaty.

<sup>38</sup> See part on mechanisms

## V. Temporary Special Measures

60. So far, no temporary special measure (affirmative action or preferential treatment)<sup>39</sup> has been explicitly put in place by the government to voluntarily engage in the logic of bridging wide gaps between men and women in various domains (social, economic, civil and cultural rights, etc).

61. Rare initiatives that may be cited as instances of incentives for the schooling of girls in rural areas or political participation by women and their representation in senior positions do not conform to this logic due to their expedient, discontinued and/or inappropriate aspect.

62. The non-institutionalisation of this principle (albeit temporary) is such that known initiatives are:

- Limited to a statement of intent<sup>40</sup> for lack of an implementation and indicator-based strategy supported by monitoring and evaluation mechanisms.
- Dependent on the compassion or goodwill of persons (ministers for instance). Thus, ministerial departments where progress has been made in the appointment of women to senior management positions go back to square on the moment there is a change in ministers.

63. In 2002, the Constitutional Council decided, on its own initiative, to dismiss a proposal to incorporate a positive discrimination measure in the Parliament's organic law with the purpose of promoting the representation of women at the House of Representatives. The women's movement evoked the provisions of article 4 of the Convention in support of its demands but saw its proposal rejected by the body responsible for ensuring the constitutionality of laws.

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<sup>39</sup> Article 4 of CEDAW and General Recommendation No. 5 (seventh session of 1988) of the CEDAW Committee

<sup>40</sup> Letter of the Prime Minister to government departments

## VI. Elimination of Sexist Stereotypes

64. This area has seen the emergence of recent initiatives particularly in the media sector, such as the “*National Charter for Improving the Image of Women in the Media*”, and in the education sector, namely the inclusion of the principles of equity and equality in certain documents designed to guide reforms.

65. Several associations engaged over the last decade in promoting the culture of equality in society, by means of advocacy (with the ministries concerned) and direct public sensitisation, as evidenced by the multitude of initiatives undertaken.<sup>41</sup> The main tools used include radio and televised campaigns, awareness-raising caravans, training of resource people and relay organisations, etc.

66. The **media and education** sectors abound with gender-related stereotypes: women and men, boys and girls are portrayed according to traditional models which are produced and reproduced as an illustration of patriarchal culture.

67. The importance of **the media** and its impact on mindsets is considerable. Close to 100% and 80% of Moroccan households have access to radio and television respectively, which mainly use women to host leisure programmes dealing with cuisine, health, beauty, fashion and cinema as well as shows for children. In contrast, programmes dealing with politics, topical matters, economy and sports are the preserve of men.

68. In advertising (of all types), women are omnipresent in the promotion of products “intended for them” as well as those intended for men.

| Which Woman for which Product?       |                                   |
|--------------------------------------|-----------------------------------|
| Product                              | Type of woman                     |
| Washing and food                     | Housewife, with no critical sense |
| Bedding and cuisine                  | Mother-in-law: a shrew            |
| Telecommunications                   | Talkative                         |
| Beauty products                      | Spendthrift and attractive        |
| Household appliances and kitchenware | City-dweller and consuming        |
| Real estate, cars and finance        | Dependent on husband or son       |
| Nurseries                            | Reproductive                      |

69. The servitude of women in the media is spectacular unlike men who are portrayed in both indoor and outdoor spheres as smart and proactive individuals, as evident in advertisements for banks and insurance companies, which always qualifies them to act as heads of households: They are the ones who work to maintain their families. This status entitles them to criticise and to judge what other do, especially their wives. They are also saviours to the extent that they step in to save their mothers from scams. The following is an advertisement for a bed brand: thanks to her firm and self-confident son, an illiterate and weak mother managed to swap what she bought for the announced brand.

<sup>41</sup> These mainly include ADFM, AMDF, LLDF, UAF, AMAL, Amnesty International Morocco and the Anaruz Network of Battered Women. The Anaruz network is a national coalition of 39 counselling and legal assistance centres for battered women.

70. Moreover, to promote a product, it suffices to associate it with female traits. An example is an advertisement for a car which is compared to a woman so attractive that whoever sees her falls under her charm. Other examples include an advert for phone cards which are shown wearing heels, carrying handbags, and walking on a podium, or another one where a tomato can is shown as a bride.

71. **School is of no less importance.** Currently, some 6 million boys and girls pursue their education from primary to high school. The National Charter for Education and Training explicitly refers to “*respect, in all education and training activities and services, for the principles and rights granted to children, women and men, in general, as set out in international conventions and declarations ratified by the Kingdom of Morocco.*” It also specifies that “*programmes [...] will be devoted to [...] learning and upholding these rights.*” The materialisation of these intents has so far been marked by some structural gaps as was underlined in several reports and studies produced by a number of national and international institutions and bodies.<sup>42</sup>

72. A summary<sup>43</sup> of these references highlights different approaches by textbook developers to human rights in different disciplines. Arabic and particularly Islamic education on the one hand and philosophy and civic education on the other do not seem to belong to the same education system. The former often adopt a sexist and intolerant discourse while the latter strive, in general, to adopt an approach that is more in line with human rights and the principle of gender equality.

73. As regards the role of both male and female teachers, conservatism seems to be the prevailing ideology. A survey conducted by the Moroccan Human Rights Association (AMDH)<sup>44</sup> on representations of human rights by 994 male and female teachers concluded that **52%** of them support the idea of revising human rights instruments and norms to adapt them to the national reality and, more particularly, to religious teachings. Only **4%** of them have heard of CEDAW.

### Social Perception of the Status and Role of Women

| Woman Traits                             | % Men | % Women |
|--|-------|---------|
| Obedient to husband:                     |       |         |
| • Entirely agree                         | 46.9  | 65.5    |
| • Agree                                  | 26.9  | 21.6    |
| Religious (very important)*              | 91.5  | 93.4    |
| Wearing the veil (very important)        | 54.8  | 57.9    |
| Men are more entitled to work than women | 77.7  | 88.2    |
| Educated (very important)                | 93    | 94.4    |
| Contributor to household revenues        | 81.1  | 67.6    |
| Good wife (very important)               | 93    | 94.8    |
| Good mother (very important)             | 93.4  | 93.8    |

Possible answers included: “very important,” “fairly important,” “not very important,” and “not important at all.”

Source: HCP: Moroccan Women in their Social Environment, 2006

<sup>42</sup> Mainly, the Moroccan Human Rights Organisation (OMDH), the Advisory Council for Human Rights (CCDH), the civil society, and the HREA.

<sup>43</sup> A. Lemrini. *Self-esteem and Respect for Others: Contribution to the Development of an Educational Plan for Human Rights Education*. This is a PhD dissertation which was publicly defended in July 2007.

<sup>44</sup> AMDH. *Human Rights Representations by Male and Female Teachers*, a Sociological Survey, 2006.



74. Stereotypes related to gender-specific social roles in the media and school textbooks serve to support and reinforce an already existing social reality instead of trying to act on it and change it. In fact, the data above are confirmed by another nationwide survey<sup>45</sup> showing that 79% of respondents believe that a wife's obedience to her spouse would foster entente within the family. Only 4% are against the principle of obedience.

75. Cultural resistance to which the government often refers to downplay its liability is not but the result of public policies that show no real interest in effectively combating sexist prejudices and stereotypes that forge the mindsets of youth and younger people.

76. The question of norm hierarchy remains "taboo" at school. No effort was made on the reflection and pedagogic front by education authorities which adopt a dual frame of reference that is "national," Muslim and "universal" all at the same time. Faced with these completely distinct domains, textbook developers and teachers in particular are left to grapple with the task of "coping" with the pedagogical aspect of the teaching process. Educators are thus driven to derive values and counter-values from either domain as part of a system that is hardly centred on critical thinking acquisition. As regards the media, initiatives put in place by the government, particularly the *National Charter for Promoting the Image of Women in the Media*, are yet to be implemented for lack of a vision and institutional capabilities that would create some leverage in this strategic field.

## **77. Recommendations**

- Harmonising the reference baseline of education policy from start to finish and ensuring that all disciplines, pedagogical aids as well as teaching and learning activities reflect the values of equality.
- Adopting, implementing and monitoring a media policy to deconstruct sexist stereotypes and to raise public awareness.
- Including tools such as sermons at mosques as well as cultural and artistic productions through norms to be enforced under the State's supervision.
- Setting up and operationalising a watch and warning structure in charge of monitoring the image of women as portrayed in various media and educational materials.

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<sup>45</sup> National Survey on Values, Summary Report; 50<sup>th</sup> Anniversary of the Independence of the Kingdom of Morocco; 50 Years of Human Development and 2025 Prospects.

## Part II (Articles 7- 9)

### I. Political and Public Participation

#### Progress Made and Role of the Women's Movement

78. The results of the 2002 parliamentary elections were seen as a positive step after the entry of 35 women to the House of Representatives. As a result, their representation rate rose from 0.6% to 10%, thus placing Morocco in second position in the Arab world ranking (table 1). It should be noted that this rate comes down to 5% if women's representation at the 2<sup>nd</sup> House in Parliament (House of Councillors) is included.

79. In fact, campaigning by the women's rights movement, the conjunction of a certain number of favourable factors, and debate on affirmative action (quotas) and parity have prompted political parties, since 2000, to « voluntarily » apply the quota system to secure a larger representation for women within their decision-making bodies (from 10 to 20%). This momentum culminated in a commitment by political parties during the parliamentary elections, under a pact of honour, to allocate 30 seats to a national list<sup>46</sup> of women candidatures, which enabled 35 women to gain entry to the House of Representatives (5 women were elected on local lists).<sup>47</sup>

80. The amendment of the Electoral Code in 2003, the enactment of the Political Parties Act (2005)<sup>48</sup> and the amendment of the organic law of the House of Representatives (2007) were moments of mobilisation by NGOs advocating the promotion of women's and human rights. These NGOs joined forces and set up the **“Movement for 1/3 of Seats to Women...Towards Parity”** with the purpose of institutionalising “voluntary” temporary special measures that would guarantee women equitable access to elected bodies.

**81.** Accordingly, several actions and initiatives were initiated in this respect. These include sending a memorandum signed by more than 400 NGOs to the government, parliament and political parties, and holding sensitisation seminars and training sessions on women's access to representative bodies, the voting system, and affirmative action measures.

82. Without the national list of women candidates, women's political under-representation would have persisted. Proof is furnished by the results of local elections<sup>49</sup> where the quota principle was completely dismissed by political parties. **Of the 295 seats of local constituencies,<sup>50</sup> only five went to women.**

83. However, an assessment of these gains reveals that these evolutions remain uncertain in several respects:

- Arithmetically, the national list of women candidates concerns slightly less than 10% of seats at the House of Representatives. However, under no circumstances may this proportion be seen as really significant and likely to have positive and transformational

<sup>46</sup> Article 1 of the organic law of the House of Representatives

<sup>47</sup> Idem

<sup>48</sup> Act No. 36-04 on Political Parties: Article 22 stipulates that “the statutes of parties shall provide for a proportional number of women and youth within the governing bodies of parties.” The article does not determine this “proportional number,” limits itself to party organs and omits to include candidate lists.

<sup>49</sup> Idem

<sup>50</sup> Idem

impacts on the status and condition of Moroccan women on either political or social fronts.

- The list was not institutionalised by law. Therefore, this affirmative action remains shaky as political party officials are entitled to open it to male candidates as well. Since it does not proceed from a quota system, the national list does not constitute an effective mechanism for giving an impetus to a dynamic and evolving process in favour of the political participation of women in representative positions.

- Moreover, this mechanism is currently seen by political formations as the only opportunity available to women candidatures whereas local lists are believed to be almost exclusively devoted to men.

84. Over the last few years, Morocco has undertaken large-scale reforms in various areas of communal life through a sizeable transfer of powers and public resources to locally elected representatives. Notwithstanding this progress, the presence of women at local councils remains far below their real contribution to community life.

85. Over a period of twenty years (1983- 2003), the number of women candidates who stood for local elections grew by 19.6% while that of those elected increased by 3.7% only, as shown in the table below.

86. These data reflect both the willingness of women to participate in the management of local affairs and the magnitude of difficulty hampering their election to local councils. In fact, in the absence of an affirmative action mechanism for local elections, the proportion of women elected in 2003 did not even reach the 1% threshold. The same low presence was evident at local decision-making structures where the presence of women was absolutely timid though the city of Essaouira witnessed the election of the first woman mayor.

**91. The organic law of the House of Representatives** was also amended in 2007, but no change was introduced to promote the representation of women within this institution. The law, which merely confirmed the national list with the same number of seats, was the focus of large lobbying by a coalition of women's rights organisations which was open to other organisations<sup>51</sup> whose main claim consisted in the need to institutionalise the quota principle in the Electoral Code and to set the quota at one third of seats not only at the House of Representatives but in all elected bodies.

87. During the parliamentary elections of September 2007, the national list was adopted again as part of an agreement between political parties and the Ministry of the Interior, thus overlooking the expectations, questions and proposals from the women's rights movement as represented by the "Movement for 1/3...Towards Parity" (see appendix).

## **Local Elections**

88. During the local elections of 2003, of 122,658 candidates, 6,024 women stood for election; that is a little less than 5%. However, of 24,000 elected candidates, only 127 women were elected; that is 0.5 % (Table 1). A comparison of these figures with those of the two last decades shows that the number of elected women grew by only 2.5% and that the number of women candidatures rose by 16%, which refutes the idea according to which women are not willing to stand for election.

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<sup>51</sup> *Movement for 1/3...Towards Parity*

### Women Candidates / Elected at Local Elections

| Year | Male Candidates | Female Candidates | Elected Candidates | %    |
|------|-----------------|-------------------|--------------------|------|
| 1960 | 17,174          | 14                | 0                  |      |
| 1976 | 42,638          | 76                | 9                  |      |
| 1983 | 54,165          | 306               | 34/15,423          | 0.27 |
| 1993 | 93,000          | 1,086             | 75/24,230          | 0.33 |
| 1997 | 102,179         | 1,651             | 83/2,230           | 0.34 |
| 2003 | 122,658         | 6,024             | 127/23,689         | 0.55 |

89. In 1,497 local communes:

- One woman was elected president of a urban commune
- One woman was elected president of a district within the city council
- One woman was elected president of a rural commune

### Women Elected Council Presidents

| Communal Council                                 | Number of Communes | Number of Women at the head of a Council |
|--|--------------------|--|
| City Council                                     | 6                  | 0  |
| District Council                                 | 41                 | 1  |
| Communal Council (less than 500,000 inhabitants) | 1,450              | 1  |
| Communal Council (more than 500,000 inhabitants) |                    | 1  |
| Total  | 1,497*             | 3  |

Source: General Directorate of Local Communities (DGCL)

90. Nationally, of 325 Members of Parliament, only 34 women won seats at the House of Representatives during the parliamentary elections of 7 September 2007.<sup>52</sup> With this result, Morocco posts a significant regression relative to the 2002 election results which provided a glimpse of hope as to the commitment of the government and political parties to promoting women in decision-making positions, particularly within elected bodies.<sup>53</sup> Morocco moves from 2<sup>nd</sup> into 7<sup>th</sup> place in the Arab world and from 69<sup>th</sup> to 95<sup>th</sup> position internationally, according to the Inter-Parliamentary Union ranking (Table 3).

### Ranking of Morocco by Number of Elected Women

| Period         | Number of Elected Women | Arab World Ranking | Global Ranking |
|----------------|-------------------------|--------------------|----------------|
| Before 1993    | 0                       | Last               | Last           |
| 1993-2002      | 2 (0.66%)               | Before Last        | 118            |
| 2002           | 35 (10.8%)              | 2                  | 69             |
| September 2007 | 34                      | 7                  | 95             |

91. Of the 33 political parties contending in the parliamentary elections of September 2007, only 25 fielded national lists (Table 4). The deficit was mainly noted in the case of local lists

<sup>52</sup> 30 women on the national list and 4 on local lists; that is one less than during the 2002 elections

<sup>53</sup> Article 7 of CEDAW and the MDG implementation plan (MDG 3: Promoting equality and women empowerment) predicts a 30% result by 2015.

due to female under-representation (3%) and the fielding of women in constituencies and positions where chances of eligibility are next to nil. This is due to the fact that women are faced with strong opposition from the male members of their own political parties during the establishment of **local** lists. Few women held the top position on candidate lists. As a result, only four women managed to get elected (Table 5).

**Number of Women Elected on Local Lists**

|  | <b>2002</b> | <b>2007</b> |
|--|-------------|-------------|
| <b>Number of Lists Fielded</b>                 | 1,772       | 1,870       |
| <b>Number of Women Topping Candidate Lists</b> | 47          | 56          |
| <b>%</b>                                       | 2.65%       | 3%          |
| <b>Number of Elected Women</b>                 | 5           | 4           |

**Limits and Gaps**

92. The under-representation of women remains the main feature marking political decision-making positions within elected and executive institutions in the absence of institutionalised measures reflecting medium and short term objectives.

93. Though the national list was regarded as an affirmative action mechanism, experience has revealed its limits to the extent that several objective elements contribute to diminishing its impact on the effective promotion of women inside elected bodies:

- The national list, as a stopgap measure, wields no legislative power and remains dependent on the will of political parties and subject to revision;
- The national list is considered by political parties to be the only mechanism for women candidatures. They are therefore excluded from local lists;
- During the establishment of national lists, women are faced, in most cases, with the absence of clear and objective criteria for candidate selection, thus leading to the nomination of women candidates by male members of parties;
- The application of the “electoral threshold” of 6% to the national list has deprived it of its substance and has restricted women’s access to some political parties only;
- The national list is an isolated measure and the affirmative action principle does not form part of a holistic vision that defines short and medium term objectives which may be transformed into institutionalised measures and provisions to ensure its sustainability and extension to various elected councils.

94. Moreover, decision-making positions within parliamentary organs (group and committee presidency, access to the board, and chamber presidency) remain the monopoly of men while women’s access continues to be expedient and rare.

**Main Obstacles**

95. The provisions of Morocco’s legislation do not guarantee political participation by women due to:

- The non-constitutionalisation<sup>54</sup> of legal access to elective mandates and positions; the non-institutionalisation of incentive mechanisms such as the quota system; and the

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<sup>54</sup> Article 8 of the Constitution: **men and women enjoy equal political rights....**

inclusion of the issue of women's access at the centre of debate on the voting system, the electoral division into constituencies, and the non-involvement of women in the debate.

96. Moreover, resistance from the political elite which is not ready to make concessions on its privileges and share its vested power constitutes the main obstacle. As a result, political parties take refuge in such ideas as the refusal of women to stand for election or opposition by male and female citizens to women's access to decision-making posts to reject the institutionalisation of equity measures and women's access to such posts. However, data provided by various elections and sociological surveys prove that these arguments are baseless. According to the National Survey on Values<sup>55</sup>, 82% of respondents say they are ready to vote for a woman if she stands for election in their constituencies. Concerning the office of MP, 37% opt for men, 13% for women and 51% for both.

97. Such resistance is also to be found in women's access to executive and management decision-making positions despite displayed willingness and a few appointments that do not form part of a clear strategy. In government, only two traditional portfolios (Secretariat of State for Family Affairs, Children and the Disabled and Immigration) are assigned to women.

98. A new cabinet will be formed following the elections of September 2007. An open letter was addressed by the women's rights movement to the newly appointed Prime Minister to redress the situation. They also demanded that he require political parties to include women candidatures in their proposals for ministerial portfolios and allocate more portfolios associated with "males" to women.

## **99. Recommendations**

The promotion of women in decision-making positions should be guided by a holistic vision on gender equality, a strategy for the fulfilment of Morocco's commitments, and the political will demonstrated through the identification of objectives and results sought in anticipation of the 30% of seats by 2015.

100. To reach this end, it is necessary to:

- include in the Constitution, on the occasion of the next amendment, a provision that recognises the right of law-makers to resort to temporary measures that are likely to favour the fulfilment of gender equality;
- consolidate the proportional voting system and revise it in the light of women's representation;
- gradually institutionalise quotas in anticipation of parity that concern elective mandates and electoral posts as well as executive and management positions;
- Introduce incentive/sanctioning measures to ensure the eligibility of women and not only their "candidability" as well as provisions on the inadmissibility of candidate lists not involving women.

101. The coming local elections (2009) should offer an opportunity to put institutionalised and really significant affirmative action into practice.

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<sup>55</sup> National Survey on Values, Summary Report; 50th Anniversary of the Independence of the Kingdom of Morocco; 50 Years of Human Development: 2025 Prospects

## II. Nationality

102. The former legislation on nationality, in force since 1958 in Morocco, used to entitle women to the same rights as men in the acquisition, modification and retention of nationality. The marriage of women has no impact on their nationality.

103. However, this legislation was dually discriminatory towards Moroccan women who are married to aliens:

- As spouses, they are not entitled, unlike Moroccan men married to aliens, to transfer their nationality through marriage;
- As mothers, they do not automatically transfer, as in the case of fathers, their nationality of origin to their children. A child may not acquire the nationality of its mother unless it is born in Morocco to an unknown or stateless father or is resident in Morocco and declares, two years before its majority, its desire to acquire it.

104. Henceforth, under article 6 of the amended Nationality Code<sup>56</sup>, Moroccan women resident in Morocco or abroad are entitled to automatically transfer their nationality to their children with retroactive effect to the extent that this provision is also applicable to children born before the proclamation of this Code.

Following this amendment, Morocco announced the withdrawal of its reservation to paragraph 2 of article 9 of CEDAW<sup>57</sup>.

105. However, the amended Nationality Code maintains gender discrimination inasmuch as foreign wives of Moroccans may acquire nationality through marriage while this right is denied to foreign husbands of Moroccan women (article 10 of the amended Nationality Code).

106. Moreover, the amended Nationality Code introduces a new form of discrimination that was inexistent in the former legislation inasmuch as article 19 stipulates that *“a Moroccan woman shall lose Moroccan nationality if she marries an alien, acquires through her marriage the nationality of her husband, and has been authorised by decree prior to the conclusion of marriage to forfeit Moroccan nationality.”*

107. The Code was passed by Parliament despite protests and claims from the women’s rights movement (see appendix) which considered that, while the amendment fulfilled some of its claims and lobbying, both nationally and regionally<sup>58</sup>, in support of nationality legislation reform, the draft amendment did not conform to the provisions of articles 2 and 9 of CEDAW which prohibit any form of discrimination based on sex.

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<sup>56</sup> Passed by Parliament in February 2007 and effective as of April of the same year

<sup>57</sup> So far, information concerning the effective withdrawal of this reservation and other reservations declared by the Moroccan government on 7 March 2006 (communiqué of the Ministry of Justice) has been conflicting and opaque.

<sup>58</sup> The regional campaign for the right of Arab women to transfer their nationalities to their children entitled “Our Nationality is our Right and that of our Families.” This campaign was concurrently initiated in conjunction with women’s rights NGOs in several Arab countries as from 2003 (Jordan, Yemen, Bahrain, Syria, Lebanon, Egypt, Algeria and Morocco). Further information on the campaign is available on the following websites:

<http://old.crtdd.org/crtdd.org/www/wrn/index.htm>; <http://www.learningpartnership.org/citizenship/>

## **108. Recommendations**

In the memorandum addressed to Parliament during debate on the draft amended Nationality Code, the women's rights movement called for the following amendments to bring the nationality legislation in line with the provisions of CEDAW by removing any discriminatory provision by:

- Granting women the right to transfer their nationality to their alien spouses on an equal footing and in the same conditions required for Moroccan men;
- The right, on an equal footing, of men and women to apply for the forfeiture of their nationality in the event of acquisition, through marriage, of the nationality of their spouses and who are forced, by decree, to renounce their Moroccan nationality prior to the conclusion of marriage;
- Ratifying the Convention on the Nationality of Married Women (1957).



## Part III. Economic, Social and Cultural Rights

### (Articles 10-11-12-13-14)

#### I. Right to Education

##### Schooling for Girls

109. Education system reforms enter the seventh year of the decade proclaimed by the National Charter for Education and Training (2000-2010). Progress in the schooling of girls is mainly noticeable in primary education (6-11 years) which posted a 91.6% increase in 2006-2007, up from 74.2% in 1999-2000. As regards content, the framework document on reform initiated in 2002 has introduced a novelty by explicitly considering schools to be an area for the construction and “*consolidation of moral values of citizenship, human rights and the enjoyment of democratic life.*” Instructions were given to school textbook developers to take this frame of reference into account and incorporate the principles of “equity and equality underpinning the new Family Code.”<sup>59</sup>

110. The dual objective consisting in the “right to education and education for equality” has served as a campaign slogan for a large number of NGOs. Major actions have revolved around the following areas:

- Advocacy and sensitisation in support of the schooling of rural girls and the revision of curricula and teaching materials to weed out sexist stereotypes.<sup>60</sup>
- Developing and implementing efficient formulas that aim to retain girls at school, particularly in pre-secondary education.<sup>61</sup>
- Providing expertise and support to actions that aim to mainstream gender in public policies.
- Holding sensitisation workshops at schools, developing teaching tools, and building the capacity of male and female teachers in this area.<sup>62</sup>

111. The objective of the National Charter to secure universal access to education for 6-year-old children as early as September 2000 and pre-school education by 2004 was not achieved, including for girls who, despite efforts exerted, remain the main excluded party.

112. The summary progress report of the Special Committee on Education and Training (COSEF) (June 2005)<sup>63</sup> shows a low and declining<sup>64</sup> number of pre-schooled children, particularly girls, in the first five years of reform. In 2005, only half of the children aged 4 to 6 years were pre-schooled nationwide (50.1%). Of these, only 40.2 % are girls. This rate sharply drops in rural areas where less than one of five girls is enrolled at a pre-schooling institution.

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<sup>59</sup> Ministry of National Education, *Terms of Reference for School Textbook Development*, 2004

<sup>60</sup> Appendix: Letter of ADFM

<sup>61</sup> Experience of the Committee on Support to the Schooling of Rural Girls (CSSF) and partner associations

<sup>62</sup> ADFM, LDDF...

<sup>63</sup> Special Committee on Education and Training (COSEF), *Report on Education and Training System Reform 1999-2004: Progress Report and Conditions for Recovery*, June 2005, [www.cosef.ac.ma](http://www.cosef.ac.ma)

<sup>64</sup> According to the COSEF report, the number went down from 817,054 children in 1999 to 684,783 in 2003-04; that is, a 50.1% decrease down from 55.2.

### Assessment of Pre-schooling Rates in Rural Areas

|           | Girls | Total |
|-----------|-------|-------|
| 1999-2000 | 19%   | 44 %  |
| 2003-2004 | 17 %  | 36 %  |

Source: COSEF, Report on Education and Training System Reform: Progress Report and Conditions for Recovery, June 2005

113.The table below highlights differences and deficits in the size of the schooled population at various stages of education.

### Schooled Population by sex (2006-2007)

|               | Boys      | Girls     | Gaps Disadvantageous to Girls |
|---------------|-----------|-----------|-------------------------------|
| Primary       | 1.934.545 | 1.674.758 | 259.787                       |
| Pre-secondary | 743.857   | 604.747   | 139.110                       |
| Secondary     | 328.392   | 309.858   | 18.534                        |

Source: MEN, 2006-2007 Statistics of the Ministry of National Education

114.If boy-girl parity is almost attained in primary education in urban areas, rural areas remain problematic, especially in pre-secondary education where, according to data of the Ministry of Education (MEN), the rate of girl schooling stands at 43.5% compared to 88.2% in urban areas.

### Gender Parity Index (2006-2007)

|               | National | Urban | Rural |
|---------------|----------|-------|-------|
| Primary       | 0.87     | 0.93  | 0.81  |
| Pre-secondary | 0.81     | 0.90  | 0.55  |
| Secondary     | 0.93     | 0.98  | 0.61  |

Source: MEN, 2006-2007 Statistics of the Ministry of National Education

115.Data of MEN (2007) highlight the persistent wide gaps in the access of boys and girls to school canteens (9,836 girls compared to 15,707 boys) and scholarships (26,694 girls compared to 54,754 boys). Contrary to expectations, girls' access to canteens and scholarships was not promoted through special measures to bridge gender gaps in the schooling of girls in rural areas.

116.Contrary to the forecasts of the National Charter for Education and Training, wastage rates – at all levels of education – have not improved at all. Thus, failure and drop-out rates posted steady deterioration<sup>65</sup> over the first five years of reform.

<sup>65</sup> COSEF, op. cit., the failure rate (for boys and girls) went up from 13.2% in 1997-98 to 13.8 % in 2003-04 in primary education, and from 17.1 % in 1996-97 to 19.9 % in 2003-04 in secondary education.

117. According to the above-mentioned COSEF Report, “available data show that there is increasing difficulty in reconciling the requirement of universalising and quantitatively expanding the system and that of enhancing the quality of education service delivery, the only guarantee for improving retention rates and, consequently, consolidating the universalisation effort.”<sup>66</sup>

118. As for the qualitative aspects, if progress was noticed at the level of boys and girls’ orientation in the general teaching (literary and scientific branches), technical education keeps reproducing traditional roles of women by pulling them out of “male” options.

| Examples of Some Disciplines      | Girls |
|-----------------------------------|-------|
| Electro- mechanical               | 7%    |
| Conception of industrial products | 0%    |
| Plastic material and composite    | 0%    |

119. The same traditional roles continue to serve as a framework for new school textbooks,<sup>67</sup> particularly those intended for Arabic language and Islamic education courses (see para...).



She helps her mother at the kitchen



He helps his father with book arrangement

120. This shows, as has been noted in the part on sexist stereotypes, the incoherence of discourse held by teachers in their attempt to handle a dual frame of reference based on “Islamic values” on the one hand and “universal values of human rights” on the other, as if the two were diametrically opposed.

121. Main obstacles relate both to difficulty in education reform implementation, with respect to direction and structural deficit management, and to incapacity demonstrated at higher echelons with respect to women’s rights promotion mechanisms.

122. Another problem, no less in significance, is facing disabled pupils in school institutions at all stages. Most of these pupils drop out of primary school or high school before the completion of their studies as school infrastructure is not designed to facilitate their accessibility to classrooms and lavatories, especially in the case of girls. No legislation requires the heads of such institutions to take the necessary steps to facilitate accessibility for these pupils. Any assistance, such as allocating ground-floor classrooms to these pupils, is contingent on the goodwill of school management and teachers.

<sup>66</sup> COSEF, op. cit.

<sup>67</sup> See report of the Moroccan Human Rights Organisation, 2005.

## 2. Literacy of Women and Girls

123. In 1999, the State set out<sup>68</sup> to bring the illiteracy rate down to less than 20% by 2010 and achieve full literacy by 2015. Within two years of the first target year, Morocco does not seem to be prepared to reach this objective and continues to post one of the highest illiteracy rates in comparison with reference countries. This counter performance accounts for the country’s global rank as measured by the Human Development Index (HDI) and the gender-related development index (GDI).

**Illiteracy Rate of Population Aged 10 and Above**

| Sex    | Urban  | Rural  | Both   |
|--------|--------|--------|--------|
| Male   | 21.09% | 44.95% | 31.38% |
| Female | 33.86% | 64.39% | 64.80% |
| Both   | 27.23% | 39.54% | 38.43% |

Source: Secretariat of State for Literacy and Non-formal Education, 2006

124. Despite an increase in the budget earmarked<sup>69</sup> for literacy and non-formal education and the positive evolution in rates showing a certain decline, the number of **illiterates is rather on the rise**. This evolution is due to population growth, non-universal access to schooling in rural areas as well as the minimal impact of successive strategies, programmes and campaigns, initiated mostly by NGOs.

125. According to the results of the last census, close to 10 million Moroccans – 7 millions of whom are women – do not know how to read and write. Illiteracy affects rural dwellers more than their urban peers and women more than men.

126. The challenges related to illiteracy mainly concern the right to education in the world today. They also include the capacity of men and women to fully enjoy their human rights and fundamental liberties and exercise their full-fledged citizenship. Yet, several indicators that constitute major challenges for countries – such as maternal mortality, infant mortality (para...), schooling of rural girls, and the quality of family life in general – are closely correlated with women’s education level. During the latest parliamentary elections (September 2007), where 53% of male and female voters were illiterate, analysts largely linked the invalidation of more than one million votes (more than 1 of 5 votes cast) to the fact that voters were required to use a pen to put a cross on a sheet featuring the respective logos of 36 political parties.

127. A study, conducted in 2006 by the Secretariat of State for Literacy and Non-formal Education, in partnership with UNICEF, entitled “Non-schooling in Morocco: An Opportunity Cost Analysis,” appraised the benefits that Morocco could have drawn from universal education. In fact, according to the study, each additional year spent in primary education “is likely to generate a 12.7% salary increase (compared to 10.4% for secondary education).” The gain is higher by about a point for girls, both in primary and pre-secondary education. Concerning net profit, the total net loss borne by society virtually amounts to a **half percentage point** (0.5 %) of GDP in 2004 assessed at DH2.8-billion.<sup>70</sup>

<sup>68</sup> *National Charter for Education and Training*, 1999  
<sup>69</sup> This budget expanded from DH19-million in 1998 to DH88.2-million in 2004 for literacy, and declined from DH80,000 in 1997-98 to DH19-million in 2003 for non-formal education (COSEF, op. cit.).  
<sup>70</sup> [www.lematin.com](http://www.lematin.com), October 2007

## 128. Recommendations

- Enforcing the Compulsory Act through a short-term gender-based implementation strategy, and adopting a cross-cutting approach to addressing gaps in access, retention and pass rates of girls in keeping with the country's commitments.
- Making an explicit reference to articles 1, 5, and 10 of CEDAW<sup>71</sup> and articles 2, 28 and 29 of the Convention on the Rights of the Child (CRC) in all documents guiding the education system, including terms of reference for revising curricula, developing school textbooks and producing literature for children and teenagers.
- Putting an end to the “schizophrenia” of educational content which communicate conflicting values on gender equality to the same pupils. In this context, it is essential to institutionalise education for equality as a “human right” and an indicator of the quality of education in all disciplines and educational activities.
- Analysing the poor results achieved by literacy and non-formal education policies and drawing lessons from them to urgently clear the backlog, through structural and affirmative actions, to match improvement in the quantitative and qualitative indicators of the education system.

## II. Activity and Economic Participation

### Progress Made

129. Article 12 of Morocco's Constitution guarantees the access of citizens “*to public office and employment under the same conditions*” whereas article 13 provides that “*all citizens are also entitled to education and labour.*”

130. Contrary to the previous legislation and according to international commitments arising from Morocco's accession to various pacts<sup>72</sup> and ILO conventions,<sup>73</sup> the new Labour Code<sup>74</sup> stipulates:

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<sup>71</sup> CEDAW - art.1: Definition of discrimination; art.5: Elimination of Stereotypes; and art 10: Right to Education. CRC - art 1: Principle of Non-discrimination; art. 28: Right to Education; and art.29: Education Goals and Content.

<sup>72</sup> Morocco acceded to the international Pact on economic, social and cultural rights as well as the Pact on political and civil rights.

- In its preamble, that “*this labour legislation is characterised by compliance with the basic principles laid down in the Constitution and international norms set forth in the conventions of the United Nations and its specialised agencies with respect to labour.*”
- In article 9 (2<sup>nd</sup> and 3<sup>rd</sup> sub-paragraphs) related to the principle of non-discrimination that: “*Any form of discrimination against employees on the basis of race, colour, sex, disability, marital status, religion, political opinion, union affiliation, national ancestry and social origin, resulting in the infringement or alteration of the principle of equality of opportunity or equal treatment in employment and the performance of an occupation, shall be prohibited ....*”

131. The amended Penal Code<sup>75</sup> (2004) defines discrimination as “*any distinction among persons on the basis of national or social origin, colour, sex, etc.* One month to two years’ imprisonment and a fine are prescribed for any discrimination including “*refusal to recruit, punish or discharge a person.*” The same Code criminalises sexual harassment which is considered as a criminal offence.<sup>76</sup> It also constitutes an act of misconduct that exposes its author to disciplinary measures, whether legal action is taken or not. It is also regarded as a serious offence by employers under article 40 of the Labour Code.<sup>77</sup>

132. This review of legislation helps highlight real progress made over the last few years, which has contributed to the consolidation of reform undertaken in the 1990’s. Reform mainly concerns:

- The abrogation of article 726 of the *dahir* establishing the Obligations and Contracts Code which used to make women’s labour conditional on the authorisation of their husbands (1996). Moreover, since the Family Code does not provide for the obligation of wives to obey their husbands, the former may have free access to labour under the same conditions as men.
- The abolition of the provision that used to require wives to obtain the prior authorisation of their husbands before engaging in business.<sup>78</sup> Now, wives are free to enter into contracts, acquire property and dispose of their assets.
- Women may take part, on an equal footing with men, in all union activities.<sup>79</sup> Article 9 of the Labour Code expressly asserts the right of married women to join trade unions and participate in their administration and management.<sup>80</sup>

## Constraints and Obstacles

133. Though significant progress was made in upholding women’s right to labour, two main constraints contribute to limiting the impact of such progress. These constraints are related to gaps in current laws and, above all, to difficulties and obstacles encountered in their enforcement.

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<sup>73</sup> Except, however, for: Convention No. 87 on Union Freedom; Convention No. 156 on Workers with Family Duties, Convention No. 3 on Women’s Employment before and after Childbirth, and Convention No. 103 on Maternity Protection (amended).

<sup>74</sup> Act No. 65-99 of 11 September 2003

<sup>75</sup> Act No. 24-03 of 11 November 2003

<sup>76</sup> Article 503-1: “*Anyone who harasses others by misusing the authority vested in him/her by virtue of his/her duties, through orders, intimidation, coercion or any other means, with the purpose of obtaining sexual favours, shall be guilty of sexual harassment and shall be punishable with imprisonment for one to two years and a fine of 5,000 to 50,000 dirhams.*”

<sup>77</sup> Michèle Zirari

<sup>78</sup> Art. 17 of the Trade Code: “*Married women may engage in commercial activities without the permission of their husbands. Any convention to the contrary shall be considered null.*”

<sup>79</sup> Morocco is not party to ILO Convention No. 87 on Trade Union Freedom.

<sup>80</sup> Non-compliance with this provision is an offence punishable by a fine from 15,000 to 30,000 dirhams.

134. In fact, though the principle of non-discrimination, particularly based on sex, is clearly laid down in the labour legislation, the civil service and the Penal Code allow for exceptions to this principle:<sup>81</sup>

- The last paragraph of the preamble of the Labour Code is unclear about the primacy of international norms when it states the following: *“In proceedings for labour conflict resolution, attention shall be paid to: 1) the provisions of this law; 2) ratified international conventions and charters of relevance; 3) and collective conventions.”* National law is the first to be cited, which raises the question of norm hierarchy (national law and international conventions).<sup>82</sup>
- The amended Penal Code stipulates that the punishment of discrimination is not applicable *“to sex-based discrimination in recruitment when belonging to either sex constitutes, according to the labour legislation or civil service statutes, the determining factor for access to employment or a professional activity.”*
- The provisions of the civil service statutes do not provide for special rules with respect to sexual harassment.
- When a husband and a wife are both entitled to family allowances, these are exclusively paid to the husband. In the event of spousal separation or marriage dissolution, family allowances are, in all cases, paid to the person responsible for the custody of children.
- The Labour Code expressly excludes from implementation household employees and workers in the traditional handicraft sector<sup>83</sup> who are among the most vulnerable worker categories, particularly maids serving families.

### Reality of Women’s Activities

135. Over two decades, the activity rate of men posted only minimal variation and oscillated between 48% and 56%. In contrast, the activity rate of women was marked by large fluctuations. It went up from 12% in 1982 to 26% in 1991 and dropped to 13% in 1994 before rising again to 24.6% in 2006.<sup>84</sup> In this period, the feminisation rate would not have gained more than 7 points.

#### Activity, Employment and Unemployment – Preliminary Results

|              |  | 2004  |       |          | 2005  |       |          | 2006  |       |          |      |
|--------------|--|-------|-------|----------|-------|-------|----------|-------|-------|----------|------|
|              |  | Urban | Rural | National | Urban | Rural | National | Urban | Rural | National |      |
| Activity     | Rate of Employment Feminisation                      | 21.4  | 33.4  | 28.1     | 21.1  | 33.6  | 28.0     | 20.7  | 33.6  | 27.6     |      |
|              | Employment Rate by Sex                               | M     | 59.6  | 80.9     | 68.7  | 59.1  | 79.7     | 67.8  | 61.5  | 79.6     | 69.1 |
|              |  | F     | 15.5  | 38.3     | 25.2  | 15.1  | 38.0     | 24.7  | 15.2  | 37.7     | 24.6 |
| Unemployment | Rate of Feminisation of Unemployed Active Population | 30.5  | 14.8  | 28.3     | 31.0  | 13.3  | 28.1     | 29.8  | 15.6  | 27.2     |      |
|              | Unemployment Rate                                    | 18.5  | 3.1   | 10.8     | 18.4  | 3.6   | 11.1     | 15.5  | 3.7   | 9.7      |      |
|              | Unemployment Rate by Sex                             | M     | 16.6  | 3.9      | 10.7  | 16.5  | 4.6      | 11.0  | 14.0  | 4.6      | 9.7  |
|              |  | F     | 24.5  | 1.5      | 11.1  | 24.9  | 1.5      | 11.3  | 20.9  | 1.8      | 9.7  |

(High Commission for Planning, 2006)

<http://www.hcp.ma/pubData/emploiChomage/rapportPremiersResultats/2006.pdf>

<sup>81</sup> Michele Zirari, CME /GTZ

<sup>82</sup> Michele Zirari, Idem

<sup>83</sup> Article 4 of the Labour Code: *“Employment and working conditions of household employees who are bound to the head of the household by a labour relationship are laid down by a special law. Such a special law determines relations between employers and employees and working conditions in strictly traditional sectors.”*

<sup>84</sup> These “fluctuations” are mainly linked to change in activity measurement techniques and are more significant in the case of rural women than their urban counterparts, unpaid activities being an essentially rural phenomenon.

136. The structure of female employment was also marked by a qualitative improvement in the occupational status of women. This includes an expansion of salaried work to the detriment of the status of family assistants, an increase in the feminisation rate of executives, and growth in the proportion of active women holding tertiary degrees.

137. However, these data may eclipse several other quantitative and qualitative indicators that reveal risks surrounding women's activity which takes place in an extremely fragile and adversarial environment.

138. Quantifying unpaid female activity goes beyond definition stage. Rural economy based on family structures is not the sole problem as both men and women work in the same socio-economic structures. Yet, female activity remains the least visible of all.<sup>85</sup>

139. Most active women are illiterate. There is certainly a decline in the illiteracy rate, but this decline remains insignificant. In 2002, the majority of the active population (67.6%) had no qualifications. This rate is higher among women (70.9%) and even higher among rural women (96.7%).

140. Female salaried work in the industrial sector is characterised by large instability which is more pronounced in small-sized industries performing subcontracting work for large companies, as is the case with the textile and clothing sector. The proportion of employees working throughout the year amounted to 30% for small-sized businesses and reached 50% for the largest ones. Close to 46% of men work throughout the year compared to only 34% of women. The average number of months reported by companies to the National Social Security Fund (CNSS) is 7% for women and 7.8% for men. These averages are respectively 8.2% and 8.3% in the case of large companies employing more than 700 employees.<sup>86</sup> This situation is complicated by insufficient control by the Labour Inspectorate.

141. In the absence of social services designed to assist families, marriage constitutes a constraint that puts female activity at a disadvantage, especially in urban areas where the workplace is distinct and distant from the matrimonial home. In rural areas, where there is often no separation between domestic and economic space, marriage is not necessarily a handicap to female labour.

142. Female labour is often synonymous, especially in rural areas, with moral and financial non-recognition of women's labour which is included in statistics under the Family Assistants category. If the share of the latter in total employment in rural areas is on the decrease (30.1% in 2004 and 26.7% in 2006), hundreds of women still fall under this category.

143. In civil service where law provides for full equality in salaries paid for discharging the same work, women, who represent almost one third of State personnel, receive only 29% of the yearly gross payroll.<sup>87</sup> This discrimination is due to the fact that women hold the least remunerated posts in civil service. In the private sector, general and reliable data are not available. However, some surveys in the textile and clothing sector, where the concentration of women's industrial salaried work is highest, "pure discrimination of 25% against female

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<sup>85</sup> Collectif 95 Maghreb Egalité

<sup>86</sup> Saad Belghazi, *Upgrading and Competitiveness of the Textile and Clothing Sector: Importance of a Sustainable Approach Based on Decent Work and Economic Efficiency*, summary and conclusions of the report produced as part of the collaboration contract signed with ILB, 2003.

<sup>87</sup> A. Ajbilou, *Economic Activity, Vulnerability to Poverty and Gender Inequality*; and *Gender Workshop in Morocco: Situation and Gap Evolution Analysis from a Gender Perspective*, Kingdom of Morocco, Directorate of Statistics, UNIFEM, UNDP, ESCWA, 18-19 March, 2003.



salaries”<sup>88</sup> is observed. Moreover, seniority is remunerated every year at a rate of 0.8% of basic salary for women and 1.3% for men. Instability in actual employment status (measured according to the number of work months per year) affects female salaries more negatively than those paid to men.

144. Participation by employed active women is still dominated by occupations that are deprived of any status such as family maids, domestic female workers, and unreported women cleaners. In fact, social protection, related to salaried work, excludes the majority of active women, considering the nature of their integration into the labour market. In the workplace, women keep silent about treatment that violates their dignity such as sexual harassment. Harassing employers often act in total impunity as they know that women tend to abstain from denouncing them for fear of offending the *pride and honour* of their male family members.

145. Despite progress made, the labour of children and young girls remains a fact in Morocco. The number of children aged less than 15 years currently in the job market is believed to stand at 311,000; which corresponds to an activity rate of 2.9%. This rate would almost double among young girls (4.6% for 124,000 girls).<sup>89</sup> The overwhelming majority of working children (84%) is to be found in the agricultural sector. The textile and clothing industry is believed to employ 6% of the labour force (close to 20,000 children aged less than 15 years). These children work more specifically in subcontracting and informal businesses which, with the exception of traditional sewing trades (child labour is primarily male), mainly concern girls.<sup>90</sup>

146. Though child labour has generally declined as a result of sensitisation action undertaken by a large number of stakeholders, the absence of general data does not help confirm a significant downward trend. In fact, poverty drives rural families to send their young girls to work in the fields, take charge of the water and wood collection chore and, above all, serve as maids in cities (see part on vulnerable communities) with meagre salaries and very long working hours. These young girls are often victims of mistreatment and violence by their employers.<sup>91</sup>

147. In fact, domestic labour has not been subject to regulation in the new Labour Code. This new Code stipulates in article 4 that provisions are subject to a special law that determines relations between employers and employees in traditional sectors. Yet, household employees such as domestic children do not benefit from preventive measures, hence the need for a law on domestic labour.<sup>92</sup>

148. A proposed law on domestic labour has been drawn up after large consultations initiated by the government for more than three years – involving players concerned with this matter – and debate with civil society members. The drafting of the proposed law has led to consensus on the motives behind calls for codifying and regulating domestic labour. It has also highlighted difficulty in making different points of view converge on certain provisions of the

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<sup>88</sup> Saad Belghazi, op. cit. According to this study, the basic salary paid to female workers amounts to 938 dirhams per month compared to 1204 dirhams for male workers.

<sup>89</sup> Directorate of Statistics, *Summary Report on Activity, Employment and Unemployment*, 2002

<sup>90</sup> IPEC, op. cit.

<sup>91</sup> Recent studies by the Ministry of Planning and Economic Forecasting in Casablanca helped reveal, for the first time, the working conditions of domestic young girls.

<sup>92</sup> It should be noted that the minimum age of access to work has been raised from 12 to 15 years pursuant to international instruments ratified by Morocco as well as the Charter for Education and Training which sets the age for completion of mandatory schooling at the age of 15. Certainly, ratification of international conventions is a first step that should be followed by concrete measures against child labour.

bill.<sup>93</sup> To date, the proposed law has not been adopted. It is essential to formalise and implement the legal framework regulating adult labour, which will in turn favour the prohibition of domestic labour involving young girls.

## Unemployment

149. Unemployment affects, according to the latest statistics, close to 9.7% of the active population. From a gender perspective and as data show in the table (No.) below, unemployment affects:

- City dwellers (15.5%) more than their rural counterparts (3.7%) though unemployment statistics must be approached with caution as the concept is not very well-adapted to reality in this area;
- Female city dwellers (20.9%) more than their male counterparts (14.0%);
- Younger women, especially in the 25-34 age group, insomuch as 34.2% of women are unemployed compared to 25.8% for men.

150. The higher is the education level of women, the larger are their chances of finding a job. However, at equal education levels, discrimination between men and women is considerable. Thus, 35% of women holding a tertiary degree are unemployed compared to 21.8% for men (2001 data).

## Recommendations

### 151. Positive Discrimination Measures:

- Implementing positive discrimination measures to reduce disparities experienced by women in access to management positions in civil service.
- Ensuring that gender parity is achieved within all representative structures at the level of boards of directors, elected representatives, and health and safety committees.
- Setting up gender focal points at the Ministry of Employment (Labour Directorate) and within arbitration mechanisms (to prevent and manage individual and collective conflicts).
- Fostering the recruitment of women as labour inspectors with a view to achieving effective parity.
- **Compliance of the corporate normative framework with the labour legislation**
- Ensuring that the corporate normative framework (regulations, rules of procedure, code of conduct, etc) conforms to the provisions of the Labour Code, particularly those related to non-discrimination and specific measures designed to protect labour involving women and children.
- Paying special attention to new elements brought by the Labour Code with respect to equality and the protection of women and children: work at night, working hours and overtime, health and safety conditions, situation of pregnant women, etc.
- Eliminating labour involving children aged less than fifteen years in companies subject to the Labour Code.

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<sup>93</sup> The controversies surrounding these provisions mainly concern the issue of age, the regulation of working conditions, and conditions for law enforcement.

### **152.. Employment Promotion Programmes and Policies**

- Implementing job-market integration strategies in favour of women who are most exposed to unemployment, and designing programmes that aim to combat unemployment from a gender perspective when planning and introducing new job-market integration formulas (youth employment and training, and loans for young entrepreneurs) and during job-oriented training (alternate training and training by learning).
- Regulating under-age domestic labour, which employs young girls at an early age, and creating an enabling environment for the applicability and implementation of the relevant draft bill.
- Adopting education for all as the most effective tool for the elimination of domestic labour involving young girls.
- Designing a strategy for the promotion of female entrepreneurship, by encouraging the creation of micro and small-size enterprises run by women, among others.
- Alleviating the situation of disparity, exploitation and instability experienced by women in the work environment (salaried labour, independent or domestic work, family help).

### **153. Training and Sensitisation**

- Incorporating specific “gender at work” modules in the training programme offered by the Labour Institute to labour controllers and inspectors in particular.
- Initiating sensitisation and information activities to achieve gender parity (and, where necessary, participation that is proportional to members in attendance) within boards of directors in the industrial sector.
- Harmonising management tools used in the training of young girls and working towards a better match between training intended for women and job-market demand with a view to a better integration into the job market.
- Diversifying and decentralising training areas to benefit rural female youth who remain poorly integrated in vocational training.
- Ensuring that all social stakeholders (Labour Inspectorate, representatives of male and female workers, of companies and other decision-makers) know and assimilate the new provisions of the Labour Code with respect to equality of opportunity and non-discrimination.

### III. Access to Health Services

154. Public health and, more particularly, reproductive health are areas where public policies saw least progress in effort and adaptation over the last few years.

155. In fact, while efforts made helped bring health coverage down from 1 per 10,277 in 1990 to 1 per 8,645 in 1999, this progress hardly benefited the least accessible and poorest regions and provinces and the most disadvantaged women in urban and, particularly, rural areas.

#### 156. Progress Made

- Life expectancy among women stood at 73 years in 2004.
- Contraceptive prevalence reached 54.8% in 2003, leading to a sharp decline in total fertility rate which fell from 7 children per woman in 1960 to 2.5 in 2000.
- Sickness insurance became mandatory for civil servants and civil service pensioners in 2000.
- A spouse is a legal beneficiary regardless of his/her sex, unless he/she performs an occupation that does not warrant his/her affiliation to a mutual insurance scheme when he/she is registered in the Trade Register or when he/she pursues a liberal profession.

#### Reproductive Health Indicators

| Indicators                                  |                         | Dates and Values          |                  |      |           |
|---|-------------------------|---------------------------|------------------|------|-----------|
|   |                         | 1991                      | 1998             | 2000 | 2004      |
| Life Expectancy at Birth                    | Men                     |                           |                  | 71.8 | 73        |
|   | Women                   |                           |                  | 67   | 69        |
| Infant Mortality Rate (per 1000)            | Boys                    |                           | (1992 - 1997) 39 | 38   | 40        |
|   | Girls                   |                           |                  | 77   |           |
| Maternal Mortality (per 100000 live births) | National                | 1992                      | 332              | 228  | 227       |
|   | Urban                   |                           | 284              | 125  | 186       |
|   | Rural                   |                           | 362              | 307  | 267       |
| Contraceptive Prevalence Rate (%)           | Men's Participation     |                           |                  |      |           |
| Total Fertility Rate                        |                         | (Early 1960's) 7 children | (1996-97) 3.1    |      | 2.5       |
| Assisted Delivery (%)                       | National                | 31                        |                  |      | 61        |
|   | Urban                   | 64                        |                  |      | 83        |
|   | Rural                   | 14                        |                  |      | 38        |
|   | Illiterates             |                           |                  |      | 40        |
|   | Secondary Level or More |                           |                  |      | 94        |
| Prenatal Consultation (%)                   | National                |                           |                  |      | 68        |
|   | Urban                   |                           |                  |      | 89        |
|   | Rural                   |                           |                  |      | 48        |
| Postnatal consultation (%)                  |                         |                           |                  |      | 7         |
|   |                         |                           |                  |      | 17        |
|   |                         |                           |                  |      | 4         |
| Vaccination Rate (%)                        |                         |                           |                  |      | 90        |
| HIV/AIDS Infection Rate                     | Women                   | (1986) 16                 |                  |      | (2007) 39 |
| Median Age at First Marriage                |                         |                           |                  |      | 30 years  |

Sources: WHO Statistical Information System (WHOIS); Report on the Global AIDS Epidemic (UNAIDS 2006); UNDP 2006 Human Development Report; Official Report on CEDAW; Alternative Report (2003)

## Limits and Gaps

157. One major gap consists in the fact that health service delivery is dictated more by “technical and financial considerations than voluntary territory development options. Choice is more determined by a process decided and planned by the central authorities than by a response of these authorities to local demand.”<sup>94</sup>

158. The remoteness of health facilities and the ensuing long travel distance make health care difficult to access and constitute the major shortcoming of the health system. In fact, according to available data,<sup>95</sup> 35.9% of rural patients live more than 20km away from the nearest medical consultation facility. 78.2% of them must travel 5km and more and 33.9% spend more than an hour to reach it. Moreover, almost 27 % of the rural population may have access to fixed facilities while 59% benefit from mobile coverage. However, the latter mode is grappling with difficulties in its attempt to provide the largest population with easy access to health services.<sup>96</sup>

159. Difficulty in managing deliveries in rural areas is evident both in the shortage of delivery beds (1 bed per 2,770 women of childbearing age) and midwives: only 65 of these are in practice in rural areas. These inadequacies lead to an increase in maternal mortality whose rate remains one of the highest compared to countries at the same level of development. In fact, the maternal mortality rate stood at 186 per 100,000 live births in 2003-2004 in urban areas compared to 267 in rural areas, proof that delivery assistance remains particularly poor in the latter areas.

160. Despite an almost general knowledge of modern contraceptive methods (98.6% of all women in 1996), the prevalence rate slightly grew from 41.5% in 1991 to 58.8% in 1997. Contraception promotion campaigns do not target men. As a result, contraception continues to be a matter of concern to women only. Moreover, contraception using modern methods remains uncommon with a rate of 3%. 60% of the contraceptive structure is dominated by the pill. Other methods account for only 18% while traditional methods represent 13% of this structure which remains inadequate in rural areas.

161.. The Penal Code criminalises non-therapeutic abortion. Article 449 stipulates that “... *anyone who induces or attempts to induce the abortion of a pregnant woman, using food, beverages, medication, manoeuvres, violence or any other means, whether she has given her consent thereto or not, shall be punished with imprisonment for a term of one to five years and fine of 200 to 500 dirhams.*” “*If death results therefrom, the penalty shall be imprisonment for a term of ten to twenty years*” (art. 450). The penal prohibition of abortion leads to two concurrent consequences; namely the illegal – and rife – practice of abortion and ignorance of the full extent of this practice.

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<sup>94</sup> El-Hassan El-Mansouri and Mohamed Souafi, *Basic Services and Spatial Considerations*, in: 50 Years of Human Development in Morocco, 2025 Prospects

<sup>95</sup> Kingdom of Morocco, Ministry of Economic Planning and Economic Forecasting, *National Survey on Household Living Standards 1998-1999*, Preliminary Results, Directorate of Statistics, 2000

<sup>96</sup> El-Hassan El-Mansouri and Mohamed Souafi, op. cit.

According to article 453, abortion is not punishable when the aim is to save the life of the mother provided the husband gives his consent. In the absence of this consent, that of the chief doctor for the prefecture is required. In case of an emergency, notifying the latter will suffice. According to article 454, a woman who resorts to abortion is punishable with imprisonment for a term of six months to two years. Article 455 punishes the abortionist with imprisonment for a term of two months to two years even when the act of abortion is unsuccessful. Sellers of aborting products and abortion accomplices are liable to the same penalties.

According to a respondent doctor who practises illegal abortion (henceforth called Dr. X), “*no statistical study has been conducted in the area. It is believed that an average of 1,000 miscarriages is conducted everyday across the Kingdom.*” For Dr. X, this figure is far from being correct. Some 50 operations per month are conducted at his level only. The problem is that most abortions are performed by quacks.

In several cases as well, it is women themselves who, driven by distress, use their own means to terminate pregnancy. These include repeated blows to the abdomen, somersaults, insertion of non-sterile instruments in the uterus or even drinking quack beverages. “*Some women insert permanganate into the uterus to induce pregnancy termination*», revealed Dr. Gmira Saadia, a doctor practising in a rural area. “This type of manoeuvres may lead to sterility or, worse still, death,” she added.

Source: [www.l'opinion.ma](http://www.l'opinion.ma)

Dr. Chafik Chraïbi, gynaecology professor at the Faculty of Medicine in Rabat and head of department at the National Centre for Reproductive Health, believes that about 300 illegal abortions are conducted everyday across the Kingdom. Given that the maternal mortality rate in Morocco is 227 per 100,000 births, which means that about 1,000 women die in childbirth, the mortality rate related to abortion amounts to 12%, or 120 deaths per year.

Source: [www.l'opinion.ma](http://www.l'opinion.ma)

*In November 2005, a pregnant woman was forced to give birth next to a concrete wall because the emergency ward was closed when she reported to the health centre in Dhar Souk. She ended up giving birth in the open.*

*On 06 March 2006, a pregnant woman died at El-Moukhtar Soussi Hospital in the city of Taroudant due to neglect after she was admitted to hospital on 05 March 2006.*

*On 20 June 2006, a woman gave birth to premature female triplets. The medical team found no incubators; the delivery ward is not equipped with incubators that may be used to resuscitate premature babies.*

*Women due to deliver are obliged, in the Buhedra commune (province of Taounate), to bring water bottles with them to use during delivery due to the absence of water at the health centre. Other citizens have no choice but to give birth without water.*

Source: Annual Report on the State of Human Rights in Morocco in 2006, AMDH (2007)

162. Most women from poor backgrounds, particularly family assistants, farm workers, household servants and workers in the informal sector, do not have any social security scheme or sickness insurance.

163. The prevalence rate of the HIV/AIDS epidemic among women is on the rise: It went up from 16% in 1986 to 39% in 2007. The explosion of the epidemic among women is due to their biological, sociocultural and economic vulnerability. Moreover, the cost of treatment against HIV/AIDS and other opportunistic infections remains high.

*This is the story of a 45-year-old woman with an average education level. She is mother to two HIV-infected children: a 17-year-old high schoolgirl and a 15-year-old boy attending pre-secondary school. After her 6-month-old infant died in 1989, this woman was diagnosed HIV-positive.*

*This situation had a psychological and socioeconomic impact on her: divorce, resignation from her job for fear of being recognised, rejection by the family, stigmatisation and discrimination. The children are suffering psychologically due to frequent change of schools, unwieldy anti-retroviral treatment, and very costly treatment against opportunistic infections.*

*Case recorded by the Pan-African Anti-AIDS Organisation (OPALS)*

164. At present, breast and cervical cancer constitutes a real scourge involving serious consequences, especially that methods and capabilities for early diagnosis and treatment are poor and largely inadequate given the extent of these diseases in Morocco.

165. Breast cancer is the most prevalent type of cancer affecting women in Morocco.<sup>97</sup> In fact, according to recently available data, 26,000 cases of breast cancer are reported every year in Morocco, only a small proportion of which is treated due to the uneven geographic distribution of specialised centres and the high cost of treatment.

## 166. **Recommendations**

- Securing universal access to the mandatory social security scheme and providing free health care to women coming from unprivileged and geographically disadvantaged areas.
- Ensuring a better distribution of structures, units and medical staff to better meet the needs of the most underprivileged and geographically disadvantaged communities.
- Securing universal access to delivery centres and establishing a system of prenatal consultation and postnatal home visits.
- Expanding and targeting sensitisation campaigns in such a way as to involve men in the practice and choice of contraceptive methods.
- Authorising abortion for women who wish to terminate their pregnancies, especially single women, victims of rape or incest, and mentally handicapped women who were victim of rape.
- Designing an STIs/AIDS strategy especially intended for women and reinforcing prevention by introducing a multi-sectoral approach based on clear and straightforward messages regarding the dangers of STIs, and including reproductive health and STIs/AIDS modules in vocational training and literacy programmes.
- Introducing a strategy aimed at the systematic early diagnosis of breast cancer and raising the awareness of female teenagers about the need for immunisation against human papillomaviruses to prevent cervical cancer.

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<sup>97</sup> The number of cases of breast cancer in Greater Casablanca stood at 662 in 2004

## Part IV (Articles 15-16)

### Legal Capacity and Equality within the Family

#### Progress Made

167. In recent years, Morocco's legislation has made significant progress in promoting the fundamental human rights of women. This progress is particularly evident in the amendment of the Penal Code, the Labour Code (2003), the Family Code (2004) and the Nationality Code (2007).

168. This progress was largely accomplished thanks to lobbying by NGOs for the promotion of women's human rights and other civil society members. These NGOs have taken a multitude of initiatives and actions to enhance the condition and status of women, in general, and the most vulnerable amongst them, in particular.

169. **The amendment of the Penal Code (Act No. 24-03 of 11 November 2003)** introduced new measures such as:

- Criminalisation of all forms of discrimination including sexual discrimination;
- Abolition of gender discrimination in penalties in case of murder committed by either spouse against the other when either spouse is caught in the act of adultery, or in case of legal action taken against a spouse who notoriously maintains adulterous relationship while the other spouse is abroad;
- Aggravation of punishment in the case of assault and battery intentionally committed by one spouse against the other in the event of: a repeat offence by either spouse, procuring when the crime is committed a spouse, or when the wife is pregnant;
- Waiving the principle of medical confidentiality in case of violence against women and children aged less than 18 years;
- Consideration of pregnancy as an aggravating circumstance in case of rape; and
- Criminalisation of sexual harassment in the workplace, which is now defined as an abuse of authority.

170. Moreover, the amendment of the Code of Criminal Procedure (Government Gazette of 30 January 2003) enables women to take civil action against their spouses without the prior approval of the court to which the matter is referred.

171. **The amendment of the Labour Code (Act No. 65-99 of 11 September 2003)** enshrines the principle of non-discrimination including between men and women (in employment, salaries, etc), considers sexual harassment in the workplace as a serious offence, and sets the duration of maternity leave at 14 weeks.

172. **The amendment of the Family Code (Act No. 70-03 of 3 February 2004)** led to the following achievements:

- Equality and co-responsibility of both spouses and equality in the age of marriage (18 years);
- Abolition of the wife's obligation to obey her husband;
- Abolition of mandatory guardianship for the marriage of women;
- Regulation of polygamy;
- The reform of divorce proceedings is now subject to judicial control, and reconciliation is placed under the authority of a judge or arbiters designated by such judge. The right



of repudiation (by the husband) is maintained but new proceedings for marriage dissolution are instituted to facilitate women's access to divorce: divorce by mutual consent, known as right of option, and divorce on grounds of marital discord;

- Consolidation of the right of mothers to child custody;
- Possibility of spouses to enclose an additional contract with the marriage contract to specify methods of management of their property;
- Recognition of child rights: custody, alimony, acknowledgment of paternity, legalization of the status of children born out of wedlock, and the right of maternal grandchildren, like grandchildren in the paternal line, to receive inheritance from their grandfather through a "mandatory bequest."

173. The women's movement was involved at all stages of the reform process through demands, queries to the government, proposals and reform monitoring. This was particularly evident in the case of Family Code reform, of which it was the initiator.<sup>98</sup> In actual fact, this reform served as its hobby-horse for more than two decades.

174. Networking,<sup>99</sup> lobbying (MPs, political parties and the media), advocacy, training and sensitisation campaigns were effective tools for influencing decision-makers and sensitising the general public. Such actions and initiatives which expanded thanks, in particular, to wide media coverage, were supported and debated through opinion polls,<sup>100</sup> sociological and legal studies,<sup>101</sup> and guidebooks.<sup>102</sup> Moreover, counselling, information and legal assistance centres designed to support women saw remarkable momentum and set up coalitions and networks.

## Limits and Gaps

175. Despite reform initiated to bring national legislation in line with CEDAW provisions, discrepancies and inadequacies remain. These are the result of: 1) reservations entered to key articles of CEDAW [articles 2, 9(2), 15(4), 16 and 29], whose nature and significance turns the ratification of this convention into a simple act designed to raise the profile of the country abroad, and (2) Morocco's decision not to accede to a large number of conventions on the protection and promotion of women's human rights, especially:

- The Optional Protocol to CEDAW endorsed on 6 October 1999;
- The Convention on the Nationality of Married Women (1954);
- The International Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962);
- The Convention for the Repression of Human Trafficking and Exploiting the Prostitution of Others (1949).

176. Moreover, Morocco's legislation continues to be marked by a "legal schizophrenia." It is egalitarian at times and inegalitarian at others according to the norms considered by law-makers.<sup>103</sup> Finally, Morocco's Constitution does not enshrine the principle of gender equality

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<sup>98</sup> *Annual Report on the Enforcement of the Family Code*, Centre of Information and Observation of Moroccan Women, LDDF

<sup>99</sup> Spring of Equality Network; Anaruz Network

<sup>100</sup> Survey and opinion poll on Spousal violence conducted by ADFM

<sup>101</sup> - *Sexual Harassment in Morocco: Breaking Down the Wall of Silence*, A Sociological and Legal Study, ADFM, (2000)

- Production of a personal status draft by a woman jurist and a report on the implementation of the Personal Status Code between 1958 and 1993 in addition to various trends and positions related to the subject matter.

- Development of a socio-demographic and statistical database on marriage and divorce. Basic data were collected at the Ministry of Justice, courts, women's associations, and academic institutions.

<sup>102</sup> *Guide to Sexual Harassment*, ADFM in partnership with AMDF (2003); *Young Girls' Guide to Sexual Harassment*, ADFM (2006)

<sup>103</sup> These norms refer to customs and traditions, Islamic *fikh*, comparative law and international conventions.

and makes no clear reference to the status of international conventions and treaties within the hierarchy of national norms.

### **Limits of the Labour Code**

177. The inadequacy of legal provisions does not help put non-discrimination into practice and address sexual harassment.<sup>104</sup>

178. Some categories of women workers, particularly domestic employees, mostly young girls, are not protected by the new provisions of the new Code. According to Human Rights Watch<sup>105</sup> report, thousands of girls working as servants are economically exploited and suffer physical and psychological mistreatment.

179. According to several sources and reports<sup>106</sup>, Labour Code violations concern women in particular. These violations expose them to excessive exploitation and further impoverishment. They mainly include:

- Non-compliance with the SMIG (guaranteed inter-occupational minimum wage) and inequality in salaries;
- Employment without a job contract, a professional card and pay slips;
- Failure to register employees at the National Social Security Fund (CNSS);
- Unfair dismissal without compensation;
- Violation of maternity rights;
- Sexual harassment in the workplace; and
- Failure to keep within legal working hours.

### **Discrimination Remains in the Penal Code**

180. The positive modifications made to the Penal Code have not profoundly changed its text which is still largely marked by an inegalitarian view of women that rests on two main notions; namely, male honour and control over female sexuality.<sup>107</sup>

181. Penal provisions on rape are profoundly discriminatory and deal differently with women according to whether they are married or unmarried, virgin or non-virgin:

- Rape is punishable with penalties identical to those for indecent assault.
- Non-consent is difficult to prove in the absence of marks of violence. The latter is often impossible to demonstrate in the absence of adequate structures. However, if non-consent is not established, rape may not be proven.<sup>108</sup>
- The notion of marital rape is not taken into account by law-makers because the body of a married woman is supposed to belong to her spouse.
- The retention of deflowering as an aggravating circumstance in the event of rape turns women into a merchandise in practice.
- Legal proceedings against rapists cease automatically the moment they accept to marry their under-age and nubile victims, which is humiliating and degrading to victims.

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<sup>104</sup> Case of employees at Sofitel Diwan Hotel (Group Accord), Network for the Elimination of Sexual Harassment in Morocco

<sup>105</sup> www.hrw.org

<sup>106</sup> Moroccan Human Rights Association (2007) – *Annual Report on the State of Human Rights in Morocco 2006*; Democratic League of Women's Rights (2006) – *Annual Report-LDDF*

<sup>107</sup> Moroccan Association for the Elimination of Violence against Women, *Philosophy of the Penal Code*, report by Michèle Zirari (ongoing).

<sup>108</sup> Michèle Zirari, the victim risks being sued for engaging in extramarital sexual relations.

182. The provisions of article 496 on the abduction of married women were maintained. Accordingly, anyone who harbours a woman who has left the matrimonial home without her spouse's consent comes within these provisions (imprisonment term for 2 to 5 years and a fine), regardless of the reason behind desertion of the matrimonial home. This provision constitutes, in practice, a legal impediment that prevents NGOs from opening shelters to host battered women pending a negotiated solution.

183. The retention of legal action in case of adultery and extramarital sexual relationships drives pregnant women to abandon their children on the street or in hospital or even commit infanticide.

184. The prohibition of non-therapeutic abortion and the high cost of voluntary termination of pregnancy (VTP) put women from the most unprivileged social categories at a disadvantage and condemn them to social exclusion and recourse, due to lack of material resources and ignorance, to the practice of abortion in conditions hazardous to their health. Moreover, the husband's approval is required (that of the wife is not regarded as sufficient) for therapeutic abortion even when her health or even life is at risk.

| <b>2006</b>   | <b>2007</b>  |
|---|--|
| The counselling centre of <i>Solidarité Féminine</i> received 1,068 battered women including 565 single mothers | 377 people were in a difficult condition including 213 single mothers            |
| <i>Solidarité Féminine</i> extended support to 68 single mothers and 68 children                                | <i>Solidarité Féminine</i> extended support to 52 single mothers and 52 children |

185. Moreover, violence, particularly spousal violence which is rife<sup>109</sup> (see chapter on violence and appendix), is complicated with the absence of reception and support facilities at the departments concerned and iniquitous treatment by structures of redress. In fact, the treatment given to women on the occasion of administrative procedures remains profoundly discriminatory as well.<sup>110</sup>

- Women are not always treated with dignity by health services, police and gendarmerie corps, and courts.
- Documents and support documentation required for administrative purposes vary according to the sex of applicants;
- Access to justice is not made easier for illiterate and poor women;
- Redress mechanisms and social services aimed at combating violence against women are inexistent.

***Spousal Violence***

*I was born in 1974 and have no siblings. I have been married for 16 years to a man who is now jobless and lives with my family. Since we got married, I have continuously been mistreated. It is my father who caters for my needs as well as those of my 4 children. What is worse is that my husband asks me to go and beg and bring him some money so that he can buy drugs, something I cannot do.*

*In 2005, my husband tried to kill my mother and brother. He stabbed both of them in the back and abdomen. The doctor issued them with medical certificates declaring each of them disabled for a period of 50 days with two months' treatment at hospital. On the day of the crime, my husband sent me and my children away to the mountains till the following day. A week after this dual act of aggression, he was arrested by the police following a complaint filed by one of our neighbours as he threatened to kill me and my family if we called the police. After five months of imprisonment, my husband was released and came back home only to repeat his violent acts against me and my family.*

*Testimony recorded by Taymat Counselling Centre*

<sup>109</sup> ANARUZ and LDDF Statistics  
<sup>110</sup> LDDF, Annual Report 2006

## Limits of the Family Code

### *Legislative Gaps*

186. Internationally applauded, the amendment of the Family Code helped redress some of the injustice that used to target women and children but failed to enshrine effective equality. Moreover, the new positive provisions were not attended by a strategy for implementation that matches the social and political stakes of this reform.

187. **The minimum age for marriage** was set at 18 years, but law-makers have authorised exceptional remedy in the event of early marriage and made the latter subject to judicial authorisation without specifying the minimum age and related conditions. This provision runs counter to article 16(2) of CEDAW which explicitly stipulates the need to set the minimum age for marriage and the legal abrogation of child marriage. Accordingly, it emerges from government (appendix) and NGO statistics<sup>111</sup> that judges approved about 89% (see table below) of marriage applications submitted by minors, 97.5% of whom are girls. Moreover, instead of decreasing, the number of applications for marriage authorisation by under-age girls is on the rise (by 22.5% in 2005-2006). Furthermore, these marriages mainly concern under-age girls down to the age of 13 years.<sup>112</sup>

#### **Statistics on the Marriage of Under-age Girls**

|                  |                   |          |                  |           |
|------------------|-------------------|----------|------------------|-----------|
| Applications     | Total Number      | Approved | Rejected         | Discarded |
|                  | 30,312            | 88.81%   | 10.11%           | 1.09%     |
| Age of Applicant | 14 yrs            | 15 yrs   | 16 yrs           | 17 yrs    |
|                  | 162               | 2,499    | 7,305            | 13,345    |
| Sex of Applicant | Girl Applications |          | Boy Applications |           |
|                  | 97.5%             |          | 2.45%            |           |
| Geographic Area  | Rural Areas       |          | Urban Areas      |           |
|                  | 44.55%            |          | 55.45%           |           |

(Ministry of Justice, 2006)

#### ***Consequences of Early Marriage***

*The plaintiff was married at the age of 16 years. She was exposed since the first day of her marriage to moral violence by the family of her husband who ended up taking her back to her mother after six months of marriage.*

*Currently, the victim is under medical surveillance. She suffers from psychological disorder which led to loss of voice as a result of violence.*

*Case recorded by Initiative Pour les Droits des Femmes (IPDF), Meknes*

188. **Polygamy**, which has been maintained despite demands to the contrary by the women's movement, is now subject to specific criteria and judicial authorisation. Yet, there is no mention of the reasons and motives that make the case for polygamy and any person with a

<sup>111</sup> LDDF, *Annual Report 2006*

<sup>112</sup> Case recorded in Mohammedia by LDDF, *Annual Report 2006*

comfortable financial situation may be authorised to practice it. Moreover, in case of dismissal of a petition for divorce on grounds of polygamy, judges often refer wives to the proceedings of divorce on grounds of marital discord (*Chikak*).

189. Though national statistics show a slight decline in polygamy (3.75%) in 2005-2006, the latter is often imposed to the most vulnerable women who lack the resources necessary to live and support their children. The (real or presumed) sterility of wives and the comfortable financial situation of husbands are often regarded by judges as sufficient reasons to authorise polygamy. It should be noted, moreover, that the new family book contains four pages allocated to spouses while the Family Code seeks to impose limitations on polygamy in such a way as to make it impossible.

190.. Concerning **divorce proceedings**, discrimination remains as a husband is entitled to repeal repudiation before the expiry of widowhood in case of revocable divorce or to maintain unilateral divorce (repudiation) and divorce by compensation (“*khol*”). Moreover, divorce on grounds of marital discord is unfairly construed by numerous judges as divorce on grounds of prejudice, thus requiring wives to bring their own proof and witnesses to demonstrate such prejudice.

192. Official statistics (appendix) show: 1) a net increase in the number of judicial divorces between 2004 and 2006 (48.16%), especially those on grounds of marital discord (91.55%), and 2) a higher frequency in 2006 of two types of divorce that are rather advantageous to husbands; namely, divorce by compensation (32.52%) and divorce on grounds of marital discord (77,71%). It is, for that matter, interesting to note that a number of wives resort to divorce on grounds of marital discord because of difficulty in proving the prejudice sustained in the case of divorce on grounds of prejudice.

#### *Spousal and Legal Violence*

*The plaintiff obtained her divorce by “khol” but continued to receive threats from her former spouse. She therefore filed a complaint on 17 October 2005 with the public prosecutor who referred it to the police. On 08 December 2005, her former spouse assaulted her and slashed her face with a knife. She therefore lodged a complaint the same day at the first police district where she was requested to submit a medical certificate.*

*When the victim reported to the police station on 09 December 2005, she was advised that the police officer who recorded the complaint was absent. She received the same response on the other days she went back to the police station (10 & 12 December 2005).*

*Thereafter, the victim contacted the Nejma Counselling Centre which referred the matter by mail to the public prosecutor to inform him of the problem the victim had with the police and remind him of the first complaint which had not been processed for two months.*

*The victim was thus able to meet the public prosecutor on 13 December 2005 who then contacted the superintendent of the police district in question. The latter received the victim on 13 December 2005. He informed her once again that the police officer who recorded her first complaint was still absent. He recorded her statements and required the provision of a DH20 stamp.*

*The victim’s former spouse was arrested on 16 June 2006 and brought before court on 17 June 2005*

*Case recorded by Nejma Centre*

193. **The apportionment of property acquired during marriage** remains problematic under the new Code. Agreements on the joint management of property acquired during marriage are very rare (424 in 2006)<sup>113</sup> owing to the optional nature of the contract, social pressure and the weight of tradition. In this respect, the women’s movement demands that *adults* responsible for marriage registration explicitly ask the question to spouses at the time of marriage conclusion. Moreover, women’s contribution to the provision of domestic labour and care for children or for old and sick relatives is overlooked.

<sup>113</sup> *Statistical Report of the Ministry of Justice on Family Affairs (2006)*

***Consequences of the Inappropriate Enforcement of the Family Code  
Case of Property Sharing***

*A woman divorced after 21 years of marriage with 3 dependent children today risks being evicted from the house to which she contributed because her name does not appear on the title deed.*

*It should be noted that this woman works as a hairdresser/beauty specialist and had previously sold a personal property to buy a plot of land and build and furnish the villa subject to the dispute.*

*Case recorded by the Chaml Association for Family Affairs and Women*

194. In case of eviction from the matrimonial home, proceedings for the immediate restitution of residence are not clearly specified. Moreover, enforcement proceedings – which require the avoidance of any hasty measures and intervention in a thoughtful and shrewd manner – conflict with the very content of the article. Women continue to be evicted from the matrimonial home. Moreover, it is difficult at times to prove eviction or to seek redress in case of eviction. In fact, under article 53 of the Family Code, the Director of Public Prosecutions intervenes to return the evicted spouse to the matrimonial home. In practice, however, the Director of Public Prosecutions intervenes on a case-by-case basis due to a jurisdictional gap that does not facilitate his intervention in a systematic way to provide the evicted spouse with protection and security.

***Dispossession and Eviction from the Matrimonial Home***

*A woman teacher, 28, and her 31-year-old husband, also a teacher, contributed to buying an apartment that the husband registered as his own. Following the purchase of the apartment and after 2 years of marriage, financial problems arose. But when the victim claimed her share of investment in the apartment, to which she is legally entitled, she was evicted by the husband from the matrimonial home. She therefore lodged a complaint with the police, but her complaint was not processed on the pretext that the matter did not come within their ambit and that they could not intervene without prior authorisation from the public prosecutor.*

*Case recorded by the Nejma Centre*

**195.** Regarding **acknowledgement of paternity**, the legal evidence required by court for this purpose expands in case of non-formalisation of marriage due to *force majeure*. The 5-year deadline set for the settlement of pending matters in this respect does not allow women concerned, after the expiry of the deadline, to establish the paternity of their children. Moreover, under the current provisions, only applications by women who are in a position to supply proof of engagement to the biological father of their children are acceptable to courts.

196. Regarding the **legal custody of children**, inequality persists between fathers and mothers. A mother may lose the custody of children aged more than 7 years on grounds of remarriage.

- A mother may not obtain the legal custody of her under-age children unless the father is absent (in case of death or legal incapacity). If the father dies after having nominated, during his lifetime, a legal custodian for his children, the mother may not exercise this right.
- In case of divorce, the father always remains the legal guardian of children even when the mother is entrusted with their custody.
- The custodian mother may not take a child out of the country without the permission of the legal guardian.

197. These provisions are not conform to article 16 (1) (e), (d) and (f) of CEDAW, which provides for equality between both parents in rights and obligations vis-à-vis their children. Children may find themselves in dramatic situations because of these provisions.

***Legal Guardianship***

*A woman was divorced with a dependent daughter for whom she had been responsible until she completed her high school studies. The daughter was admitted to a university in France, but could not pursue her studies. As a minor, she needed authorisation from her father (absent) to leave the national territory.*

*Case reported by the Nejma Centre*

***Emigrant Women and Guardianship***

*A couple living in Italy returned to Morocco on holiday. Once in the country, the woman and her 7-year-old daughter had their ID documents confiscated and were left with the husband's family.*

*Some time later, the woman was able to travel to Italy whereas the daughter was kept in Morocco because her mother was not entitled to guardianship and thus could not provide her with required authorisation to apply for a new passport.*

*Case recorded by the Chaml Association for Family Affairs and Women*

198. **The Family Code made a single change to law of succession** with respect to mandatory bequests: “*When a person dies and leaves grandchildren born to a son or daughter who dies before or concurrently with this person, these grandchildren shall benefit, to the extent of one third of the estate, from a mandatory bequest*” (article 369). This bequest “*shall be equal to the part of the estate that their father or mother would have received during their lifetime if they had survived him/her...(article 370).*” Previously, mandatory bequest concerned only children of predeceased sons.<sup>114</sup> However, the share of children born to daughters remains lower than that of children born to sons.

199. The rest of the law of succession remains discriminatory towards women: male heirs (men linked to the deceased through male lineage only) are entitled to the entire estate whereas female heirs receive only a portion set by law according to their kinship and the capacity of the other heirs. Accordingly, an only daughter receives half an estate while two or more daughters share the two thirds in the absence of a son. The remainder goes to other potential heirs. In contrast, an only son is entitled to the entire estate after the other heirs have received their shares. Finally, daughters with brothers inherit half the share of their brothers (article 251 of the Family Code).<sup>115</sup>

### ***Law Enforcement Shortcomings***

200. The enforcement of new amendments is far from being satisfactory for several reasons:

- Difficulties and constraints related to the internal environment of the judiciary including lengthy proceedings – particularly in the case of alimony – inadequate human resources, low number of courts in several areas in Morocco, and the corruption of certain judges and court officers. These difficulties are complicated when female litigants are involved: most of the judges are male and women who take legal proceedings (often without legal aid) are mostly poor and low-educated.

***Non compliance with Legal Deadlines Stipulated by Law for Alimony***

***Breach of Article 190 of the Family Code and Article 481 of the Penal Code***

*On 07 April 2006, the victim filed a motion for alimony. Only on 22 November 2006 was a judgement delivered, that is seven months later. The husband was informed of the court ruling according to legal*

<sup>114</sup> Article 266 of the Personal Status Code

<sup>115</sup> Michèle Zirari

*procedure, and proceedings for the enforcement of the judgement ordering payment of alimony were initiated. After considerable efforts by the victim and thanks to legal support from the Nejma Centre, the husband was found and a report on failure to execute the judgement was produced on 01/2007.*

*Case Recorded by the Nejma Centre*

- Reluctance shown by some judges to implement new provisions, particularly those related to the marriage of under-age girls, polygamy, divorce on grounds of marital discord, and the acknowledgement of paternity. This reluctance is evident in the attitude of numerous judges when they act as proponents of “a certain morality” and the advocates of patriarchal family whilst their mandate consists in equitable law enforcement.
- Low involvement of the State in protecting women against discrimination and violence (through investigation, punishment of guilty parties, redress for prejudice sustained) and facilitating the access of battered women, especially the most disadvantaged amongst them, to justice (reception, orientation and legal aid).

## Major Obstacles

201. Difficulty in the enforcement of the new legislation relates to various levels:

- **Institutional level:** Problems in the enforcement of the Family Code arising from congestion of the court family section and/or those related to proceedings required for filing a case (delay in notification, in the execution of judgements and in the protection of the rights of persons concerned). Another problem is the inexistence of family courts in the true sense of the word. What is today called a family court is, in reality, a section attached to a court of first instance.<sup>116</sup>
- **Legislative level:** Certain measures have not been put into effect to address the absence of a family council (designed to facilitate reconciliation proceedings) whereas a fund for alimony payment is yet to set up. Finally, the legal gap related to the regulation of systematic intervention by the Director of Public Prosecutions to provide protection and security to spouses evicted from the matrimonial home has not been addressed.
- **Social and cultural level:** Approach to and enforcement of the Family Code vary according to regions and courts due to cultural interference and the corruption and reluctance of judges who are still under the influence of the spirit permeating the old personal status legislation. Other handicaps include inadequate sensitisation and training of persons responsible for enforcing, publicizing and disseminating the Code as well as the illiteracy and poverty of litigants, especially women.

## 202. Recommendations

- Constitutionalising the principle of gender equality and clarifying the question of primacy of international law over national legislation in the Constitution.
- Removing reservations entered to CEDAW, bringing Moroccan laws in line with its provisions, and ratifying its Optional Protocol.

<sup>116</sup> Moroccan Association for the Elimination of Violence against Women, *Enforcement of the Family Code: Gains and Challenges (fieldwork)*, 2006



### **203. Penal Code**

- Revising discriminatory provisions contained in the Penal Code, especially those related to the punishment of rape (with or without defloration), the termination of criminal proceedings against rapists when they marry their under-age and nubile victims, the criminalisation of marital rape, the liberation of married women from the authority under which they were placed (article 494 of the Penal Code), and the punishment of sexual relations between consenting adults.
- Authorising abortion for women who wish to terminate their pregnancies, especially single women, women victims of rape and incest, and mentally disabled persons who were victim of rape.
- Adopting a framework law to combat violence against women.

### **204. Family Code**

- Introducing concrete and effective measures to strictly enforce the Family Code and limiting the discretionary power of judges with respect to several articles in the Code such as the rights of children and divorced women, polygamy authorisation, management of assets acquired during marriage, divorce on grounds of marital discord, and eviction from the matrimonial home.
- Revising the current Code to provide for the prohibition of polygamy and the marriage of female minors, equality between fathers and mothers in the legal guardianship of children, and gender equality in inheritance.
- Abolishing the five-year deadline set for establishing paternity to enable single mothers to take legal proceedings and provide their children with an identity, and to allow those who are unable to supply proof of a promise of marriage to resort to paternity acknowledgment proceedings.
- Implementing the Family Support Fund, providing family courts with adequate material and human resources, and training human resources (judges, clerks, administrative staff, court officers...) to build their capacity and imbue them with the spirit and philosophy permeating the Family Code and international conventions on human rights.

## Part V - Article 6 and Recommendation 12 of the CEDAW Committee

### I. Prostitution and Sex Trafficking

#### Situation

205. The absence of statistics does not help assess the extent of prostitution. It is widely recognised, however, that it has alarmingly expanded over recent years both in cities where it dominates the streets, night-time entertainment venues and several villages.

206. Most prostitutes are either driven by factors related to poverty, divorce or rape or are exploited by trafficking networks, sometimes involving members of their own families.

207. A survey<sup>117</sup> of 315 on-street sex workers in Casablanca, Essaouira, Marrakech, Tangier and Tétouan shows that:

- Their age ranges from 15 to 45 years while those aged 16 to 21 years account for 19.3%;
- 88.9% of them engage in prostitution mainly to cater for their own basic needs and those of their, often large, families: 61.7% of them have 3 to 7 siblings, 22.7% have more than 8, and close to one third (31.3%) are elders, while 64.9% have dependent children;
- 50.6% of them are divorced, 33.2% are single, 9.2% are married and 7% are widows;
- Their parents come from modest backgrounds. Their mothers are housewives (72.2%) and their fathers are either employed in low-paid occupations – workmen (12.5%), farmers (10.2%) and artisans (7.3%) – retired (8.9%) or unemployed (10.5%).

#### *Prostitution: Testimony of Nora*

*I was obliged to register for a state school to learn sewing. Unfortunately, my father passed away before I could earn my diploma, which was disastrous. People used to help us out in the first year, but their generosity came gradually to an end.... My mother went out to work as a cleaner in houses. As for my two lazy elder brothers, they did not lift a finger to help us.*

*Our neighbourhood abounded with prostitutes...I used to meet some of them in the market sometimes. They used to invite me to their homes to see for myself how lucrative their work was. I was the target of more than a prostitute but never accepted their invitation because I hold my honour above all else...*

*God willed that my mother fall sick. My brothers left us and we were starving. My brother would not stop crying. I knocked on all doors. I even tried begging with my brother, but it was not enough. The state of health of my mother deteriorated day in day out. Faced with the nightmare of hunger and poverty, I had only one solution open to me, the only solution that appeared useful to get out of this crisis. I went to see Aicha, the oldest of all prostitutes in our area. I was warmly received. She therefore showed me the steps to follow to become a real professional prostitute.*

*One day, my mother quietly passed away. Absurdly enough, when my brothers knew I was walking the streets, they did not banish me. On the contrary, they now ask me for money every morning. The world has gone mad!!!*

Source: [www.jeunesdumaroc.com/article373.html](http://www.jeunesdumaroc.com/article373.html)

<sup>117</sup> *On-street Prostitution in Moroccan Cities: Reality and Challenges* (Final Report)

208. In rural areas, a number of families also live on income from prostitution. According to a survey<sup>118</sup> of some prostitutes in the Middle Atlas, the economic survival of a large number of households in this region is contingent on prostitution.

209. However, the practice of prostitution is not driven only by socioeconomic conditions (which still remain the main factor). Prostitution has become a real industry that enables trafficking networks to generate substantial profit and that helps a large number of young women to supplement their income (occasional prostitution) or improve their lifestyle (student and high-class prostitution).

***Prostitution hidden under another commitment called work***

*After marriage at the age of 19, which did not last for more than a year, Halima was able to find a job at a shopping centre using her father's connections. At work, she made the acquaintance of a well-known man who proposed that she start working for him.*

*After having maintained a sexual relationship with her, he started driving her to look for customers for his business. She thus became known to her colleagues as the high-class prostitute because her salary started to reach the sum of DH7000 due to the large number of clients she used to canvass.*

Source: [www.jeunesdumaroc.com/article373.html](http://www.jeunesdumaroc.com/article373.html)

210. The prostitution of female minors has become very common due to the surge of prostitution networks favoured by ignorance, naivensness, school failure, family breakdown, poverty and sex tourism which is on the rise in Morocco.

211. Prostitutes do not undergo any medical examination, have no sexual education and often do not know how to protect themselves or simply do not want to. 78% of them have rarely or never used condoms during sexual intercourse.<sup>119</sup> The result is that the most common diseases in these regions, by the admission of health workers, are STDs (Sexually Transmitted Diseases).

212. According to the Association de Lutte Contre le SIDA (An association active in the control of AIDS),<sup>120</sup> AIDS is spreading more through local prostitution than sex tourism. The prevalence rate of HIV infection among sex workers stands at 2.3% while it is less than 0.1% within the overall population. This is the case, for instance, with certain areas in southern Morocco where high prevalence is linked to the presence of a large number of women who came from other regions in search of work, particularly in agri-business, some of whom engage in prostitution in the absence of alternative sources of income. Their clients, too, are generally men from other regions who live far from their families.

213. According to a report released by the US Embassy in 2007, Morocco is a transit and destination country for women victims of trafficking from Sub-Saharan Africa, North Africa and Asia. A number of Asian victims were brought to Morocco in 2004. Sex trafficking also targets Moroccan girls and women to work in countries such as Saudi Arabia, Qatar, Syria, the United Arab Emirates and European countries.<sup>121</sup>

<sup>118</sup> Aniss Maghri, *Middle Atlas: Is Prostitution a Necessary Evil?* La Vie Economique, 8 September 2002.

<sup>119</sup> Idem

<sup>120</sup> Interview with Ms. Hakima Himmich, ALCS President, [http://archives-rdp.blogspot.com/2006\\_09\\_18\\_archive.html](http://archives-rdp.blogspot.com/2006_09_18_archive.html)

<sup>121</sup> Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons: 2007 Morocco Report (Level 1)

214. Several Moroccan female youths were lured by job contracts (to work as hairdressers or receptionists) in Gulf countries and ended up being detained, beaten and forced to engage in prostitution. When they attempt to escape, they are imprisoned or even murdered.

*“I committed the greatest mistake in my lifetime when I let them leave. It comforts me to know that I managed to save them before they got caught up in the prostitution network,”* Ahmed, in his early fifties, hiccupped as he related the story of his two daughters, aged 23 and 25. Both were detained for weeks in Jordan when they refused to dance and sleep with clients of the five-star hotel where they were supposed to serve as receptionists. *“Since their return, they have refused to talk about what happened. It has become a taboo subject at home.”*

Source: Telquel No. 272, 2007

215. The census of Moroccan women established in Gulf countries is difficult to conduct because of illegal status and the expansion of transnational immigration and trafficking rings. *“Over the last few years, thousands of Moroccan women travelled to Jordan as tourists coming from other Gulf countries, particularly the United Arab Emirates.”*<sup>122</sup> Moreover, it is common practice for prostitution networks to transfer their “protégées” to a neighbouring country or resell them to a local network<sup>123</sup>.

### **Limits of Institutional Measures and Public Policies**

216. Under Morocco’s Penal Code, prostitution is not punished *per se*. However, it punishes all attendant activities including procuring; that is, the fact of contributing to, assisting with, protecting and playing host to prostitution by others, as well as benefiting from it or living with a person who engages in prostitution. Also punishable is soliciting in public which is defined in the Code as the act of soliciting persons of either sex for the purpose of debauchery through gestures, utterances, written messages or any other means.<sup>124</sup>

217. Morocco has not ratified the UN Protocol on Trafficking in Persons of 2000. Moreover, while Morocco’s Penal Code prohibits forced labour under article 10 as well as forced and under-age prostitution in articles 497-499, no legislation specifically designed to punish human trafficking has been enacted. The Moroccan government uses the Immigration Act of 2003 and other provisions related to abduction, fraud and coercion to institute proceedings against trafficking rings.

218. Morocco signed an agreement with IOM (to open a local office to combat trafficking), set up the National Migration Observatory, and formed a national commission on trafficking with Spain. However, to date, the country has not taken any step to address the issue of women trafficking for Gulf countries.

219. In fact, instead of tackling traffickers and women trafficking syndicates, public authorities have adopted measures aimed at restricting the freedom of movement of women travelling unaccompanied by their spouses to several Arab countries, particularly those in the Gulf.

220. In 2006, the government instituted proceedings against 170 cases involving the incitation of minors to prostitution and sentenced 134 traffickers, but no data was provided on the

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<sup>122</sup> Source: Telquel No. 272, 2007

<sup>123</sup> Idem

<sup>124</sup> Michele Zirari, *Philosophy of the Penal Code*, Moroccan Association for the Elimination of Violence against Women (AMLVF), Roneoed Report, Casablanca, 2007 (draft).

verdicts delivered on the traffickers. Morocco also reported having dismantled more than 350 trafficking syndicates. However, the government makes no distinction between immigration traffickers and human traffickers. Therefore, it is difficult to identify those who were really involved in sex trafficking.

221. Moreover, the government has not published any report on the legal proceedings taken against cases involving the involuntary domestic servitude of children or the forced prostitution of adults.

222. Finally, the government made no effort to sensitise the public about the sexual exploitation of women and young girls for commercial gain in cities that are most affected by the phenomenon, particularly those with tourist appeal.<sup>125</sup>

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<sup>125</sup> Op. cit.

## II. Violence against Women

### Progress Made

223. The women's rights movement was the first to bring up the issue of violence in Morocco. It played a key role in condemning taboos related, particularly, to certain forms of violence (sexual, family-related and spousal).

224. In recent years, several measures aimed at combating violence were put in place by certain ministerial departments in partnership with women's rights NGOs and the United Nations System in Morocco.<sup>126</sup> These departments include in particular:

**225. The Ministry of Justice:** As early as 2005, this Ministry set up sections designed to receive battered women at courts of first instance. It also sent a circular note to the offices of public prosecutors to improve the reception and support extended to battered women. These measures were made easy through consolidated communication with women's rights associations (information sharing, easy access to courts for victims receiving support from NGOs, etc);

**226. The Secretariat of State for Family Affairs:** This department developed a plan to operationalise the National Strategy for the Elimination of Violence against Women (drawn up in 2002). Moreover, it established a National Observatory against Violence and set up a national hotline intended for battered women. It also set in motion the process of drafting a proposed law on the elimination of violence against women and developing a standardised information system involving various institutional stakeholders.

**227. General Directorate of National Security:** This institution set up a "gender focal point" and established a special structure for the elimination of family violence. It now collects monthly information/statistics on violence targeting women.

**228. The Ministry of Health:** This Ministry set up, in recent years, 11 counselling and orientation sections for battered children and 20 sections at university hospitals for battered women.<sup>127</sup> It also produced a guide to norms and standards that may be used while caring for battered women and children.

229. Awareness is thus slowly spreading – a development for which women NGOs should be credited in recognition of their relentless work in this area. By so doing, these bodies have contributed to more social and political visibility on this matter and encouraged the emergence of a statistical database on violence, inexistent until recently.

230. However, this awareness is yet to measure up to a phenomenon whose extent is felt but left unquantified and whose forms, causes and impact are still unclear. In fact, the absence of prevalence surveys shows that family, spousal and sexual violence is still part of the private domain and is yet to be recognised as a gross violation of human rights or a real societal problem that warrants investigation, studies and analysis. The perception of violence against women as a primarily domestic and family-related matter has largely contributed to serious gaps not only in its appreciation and visibility but also in the design of appropriate policies and programmes.

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<sup>126</sup> UNIFEM and UNFPA, in particular

<sup>127</sup> Ibn Sina Hospital in Rabat and Ibn Rochd Hospital in Casablanca

231. Despite progress made, Moroccan women continue to contend with gender-based violence, which undermines recent gains and constitutes a threat to their liberty, bodily integrity and dignity.

## Reality of Gender-based Violence in Morocco

### Limits and Gaps

232. In the absence of representative national surveys, statistics collected at the counselling and legal assistance centres of NGOs may draw a fairly objective picture of violence as endured by women on the ground.

233. Indeed, data on 3,648 complaints filed with the counselling centres of the Anaruz Network over a 2-year period help identify existing forms of violence, their causes and consequences. They have also helped determine categories of women who are at risk, particularly in the event of spousal violence, by analysing the socioeconomic profiles of victims and aggressors.

234. The distribution of acts of assault by form and category of violence<sup>128</sup> shows that, in almost 9 of 10 cases of violence, assailants are men with whom victims have been maintaining intimate relations. In almost 8 of 10 cases, assailants are husbands. These data confirm a worldwide observation according to which women are more threatened by their intimate partners than strangers.

235. Three main and interdependent factors account for spousal violence (physical, sexual, economic and psychological): The legal and social status of women, social acceptance of spousal and family violence, and the passiveness of victims and impunity of aggressors.

236. Silence of victims and social acceptance of violence: The culture of silence is justified and reinforced by society's acceptance of violence against women, particularly in the private realm (see table below). In fact, the fundamental problem that confronts the apprehension and elimination of violence is the culture of silence that seemingly dominates this matter. This culture rests on several strategies at once:

- The phenomenon is not taken seriously; it is underestimated and shelved as a private matter.
- The problem is hushed up and presented as one of the misfortunes plaguing the condition of women, especially married ones.
- The problem is reversed by making victims feel guilty. Paradoxically, battered women are held responsible for their fate: Provocative, insolent, cunning and frivolous, women spark the ire and/or jealousy of their spouses, etc.

237. Everything happens as if the recognition of violence, particularly in its domestic and family forms, would violate two taboos that society is not ready to break: the idealised image of marriage and family, and the relationship of domination between men and women, which, all things considered, are questioned by violence against women.<sup>129</sup>

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<sup>128</sup> *Gender-based Violence*, 2nd Report by Anaruz, 2007

<sup>129</sup> Rabea Naciri, *Gender-based Violence in Morocco*, Men & Women in Morocco: Situation and Gap Evolution Analysis from a Gender Perspective, Kingdom of Morocco, Directorate of Statistics, UNIFEM, UNDP, ESCWA (Roneoed Report 2003).

| <i>A husband is right to beat his wife when she:</i> |                   |                                  |                                     |                          |                                   |   |
|--|-------------------|----------------------------------|-------------------------------------|--------------------------|-----------------------------------|---|
| <b>Women</b>   | <b>Burns meal</b> | <b>Argues about his opinions</b> | <b>Goes out without telling him</b> | <b>Neglects children</b> | <b>Refuses sexual intercourse</b> | <b>Does not agree with any of these reasons</b> |
| <b>Married</b>                                       | 25.7              | 55.9                             | 55                                  | 53.4                     | 48.5                              | 31.7  |
| <b>Single</b>  | 20.4              | 44.1                             | 42.2                                | 34.6                     | 58.2                              | 41.8  |
| <b>Divorced/widowed</b>                              | 28.9              | 53.3                             | 54                                  | 51.6                     | 51.3                              | 35.1  |
| <b>Rural</b>   | 40.8              | 70.5                             | 72.4                                | 70                       | 61.9                              | 18.1  |
| <b>Urban</b>   | 12.4              | 37.9                             | 34.6                                | 35.9                     | 30.3                              | 47.9  |
| <b>Uneducated</b>                                    | 36.4              | 66.1                             | 67.5                                | 65.3                     | 58.9                              | 21.5  |
| <b>Secondary education and +</b>                     | 1.1               | 9.8                              | 6.5                                 | 10.6                     | 9.4                               | 79.2  |
| <b>Unemployed</b>                                    | 24                | 52.2                             | 51.2                                | 50.7                     | 43.5                              | 35.5  |
| <b>Paid labour</b>                                   | 15.8              | 36.4                             | 33.5                                | 35.4                     | 32.3                              | 60.4  |

*Source: Ministry of Health, Population and Family Health Survey, 2003-2004*

**Table () Social Acceptance of Spousal Violence**

**338. Impunity of Assailant Husbands/Partners:** Failure to enforce laws and legal gaps (especially with respect to establishing proof) accounts for the large number of complaints recorded at the counselling and assistance centres of NGOs. 68.2% of battered women who have filed complaints with the judicial authorities end up resorting to counselling centres. According to data provided by the annual reports of the Anaruz Network:

- 75.5% of complaints filed by battered women with the counselling centres of NGOs concern counsel/legal assistance;
- Only 7% of them lodged petitions with the official institutions concerned (courts, police, gendarmerie, etc.).
- 22.7% of these petitions were motivated by lengthy proceedings, 39.7% by difficulty in the execution of judgements, and 37.6% by inequitable judgements.

339. These data reflect dissatisfaction with judgements and women's low recourse to courts. Various structures (hospitals, judicial police, police and gendarmerie) adopt different models that vary in outlook, philosophy of approach, norms, tools, statutes and operation. These differences give rise to problems when extending institutional support to battered women.<sup>130</sup>

## Major Obstacles

These obstacles relate to several levels:

### **340. At the level of understanding and apprehension of the violence phenomenon:**

The absence, as has been noted, of a national prevalence survey (based on various forms and types of violence) constitutes one of the main obstacles to the elimination of gender-based violence. Moreover, despite efforts exerted, the procedures used by government departments and NGOs to record information on violence against women are far from being fully homogeneous (in terms of concepts, terminology and data collection grids).

341. To address these challenges, the Anaruz Network<sup>131</sup> which brings together 39 Psychological Counselling and Legal Assistance Centres (CEPAJs) has developed<sup>132</sup> an

<sup>130</sup> Moroccan Association for the Elimination of Violence against Women, *Documentation and Analysis of Services Delivered to Victims of Gender-based Violence: Counselling Sections and Units for Battered Women*, May 2006

<sup>131</sup> Anaruz is a national network of counselling centres intended for battered women ([www.anaruz.org](http://www.anaruz.org))

<sup>132</sup> In partnership with UNIFEM and UNFPA as well as French and Danish cooperation agencies.



information system that covers the whole process of supporting battered women, from data collection to analysis. The database developed as part of this tool helped:

- Contribute to enhancing knowledge and identifying and recording different forms of gender-based violence;
- Disseminate qualitative information and data on acts of violence reported by victims;
- Improve sensitisation and advocacy action; and
- Build the technical and institutional capacity of CEPAs.

#### ***Spousal Violence***

*A husband gets sentence only after second assault and 6 months after 1<sup>st</sup> complaint.*

*The victim filed a complaint with the public prosecutor in March 2007 against her assailant husband, but she continued to live in the matrimonial home pending the processing of her complaint.*

*On 25 July 2007, the husband violently assaulted her again while she was seven months pregnant. He slashed her face with a broken glass and kicked her several times, causing three deep wounds on the face, several wounds on the body, and psychological confusion.*

*Two days after the assault, the victim lodged the second complaint with the public prosecutor, accompanied with photos and a medical certificate declaring her disabled for 42 days.*

*Thanks to legal support from the Nejma Centre, the court sentenced the assailant, two months later, to 2 years' imprisonment.*

*Case recorded by the Nejma Centre*

### **342. At the level of understanding and apprehending the extent of violence:**

The responsibility of the ministerial departments concerned in this context relates to several areas:

- Standardising concepts and terminology by gaining the most intimate possible knowledge as a prerequisite for any action or intervention.
- Harmonising information recording procedures.
- Structuring information and data in databases that can be easily processed by all stakeholders.
- Conducting a national survey on the prevalence of violence with the purpose of measuring its extent.

### **342. At the level of gaps and discrimination:**

212. These subsist in several provisions contained in family-related, penal and other legislation (see previous parts on legislative reform, particularly chapter on discrimination remaining in the Penal Code).

### **343. At the level of reception, orientation and legal assistance to victims:**

Difficult and, at times, even impossible access by the poorest and most vulnerable women to violence and rights violation to institutions responsible for their protection (hospitals, police, gendarmerie, courts, etc).

344. Scarcity of counselling centres and their uneven distribution across the national territory despite progress accomplished in recent years and the sacrifices made by NGOs in this area. In fact, these NGOs must cope with the high costs incurred by payment of rental for centres and fees for the services rendered by experts (lawyers in particular) in the absence of any substantial and constant assistance from the State.

### **345. At the level of coherence and efficiency of government action**

356. Multiple actions by various ministerial departments, supported by several international organisations, were attended by dispersed and **scattered initiatives** and interventions leading to a low consolidation of knowledge, gains and human and material resources allocated to the fight against violence.

347. As a consequence, so far, the National Strategy for the Elimination of Violence has not been really implemented though its operational plan has been ready for more than two years now. Moreover, despite the proliferation of projects and actions, the government is still not in a position to fulfil two of the main demands put forward by the women's rights movement, namely:

- Harmonising data collection protocols and developing a database on violence against women;
- Setting up a service delivery network that would ensure coordination among the main stakeholders (health, police and justice) and enable victims to receive care in an efficient and prompt manner.

248. In the overwhelming majority of cases, these initiatives are not financed by the State budget but through foreign funding, which contributes to discharging the State from its responsibility in the elimination of violence against women.

## **Recommendations**

**349. To consolidate gains and surmount limits, priority should be given to:**

- **The development of a common vision** in the medium and short term. This vision should be holistic, operational, coherent and consultation-based; and
- **The real and coordinated operationalisation of strategies of various ministerial departments** with the participation of all players concerned.

350. It is **essential** to ensure coordination among government structures, women's and human rights NGOs in such a way as to pool their efforts and implement the National Strategy for the Elimination of Violence against Women.

### **351. At the legal level**

216. If laws fail to provide protection to abused women, the latter will neither speak out nor lodge complaints. Though preventive laws may not eliminate the phenomenon of violence – linked to the balance of power and domination between men and women – they can still contribute to limiting its impact and offer an avenue of remedy for victims. In this sense, **it is essential to review the penal legislation to ensure that** three requirements are met; namely:

- The investigation of perpetrated violence;
- The punishment of this violence to end impunity in this area; and
- Reparation for the harm caused to victims of this violence.

### **352. At the level of supporting women victims**

Abolishing articles 494 and 496 of the Penal Code which stipulate that *“anyone who uses deceit, violence or intimidation to abduct a married woman, debauch her and take her to another location other than that where the authority to which she is legally bound has placed her or instructed her to remain shall be punished with imprisonment for a term of 2 to 5 years and a fine.”*<sup>133</sup> Article 496 imposes identical penalties on anyone who *“intentionally*

<sup>133</sup> ADFM/ Michelle Zirari, *Discrimination against Women in Morocco's Penal Legislation*, ed. Le Fennec, 2001, pp. 16-17

*hides or confines a married woman seeking to evade the authority to which she is legally bound.”* This means that, when a married woman leaves the matrimonial home without the consent of her husband, those who host her, knowing that she has escaped from the matrimonial home, come within the provisions of this law and risk being imprisoned regardless of the reason why the woman has left the matrimonial home.<sup>134</sup>

353. Setting up institutionalised service networks (similar to social ambulatory services - SAMU) in all cities, and providing them with a status, an operation method, human and material resources, standardised information and data collection tools.

354. Improving the reception extended to victims by institutions responsible for their security and protection (police, gendarmerie, justice and health) and training management and reception personnel to ensure quality services are rendered by these structures.

355. Setting up reception, counselling and orientation sections and units for battered women at police and gendarmerie stations and hospitals, and supporting NGOs (allocation of substantial material resources and human resources) wishing to open counselling and orientation centres. This measure will lead to a **better geographical distribution** and more proximity of these structures to the most underprivileged and geographically disadvantaged women.

356. Taking charge of the opening of shelters for women victims across the national territory as well as their technical, administrative and financial management. NGOs might contribute their know-how in counselling and orientation.

357. Providing counselling, assistance and accommodation structures with specialised personnel. The State should set up and/or consolidate training modules in this area as already established centres have difficulty finding qualified personnel. So far, it is NGOs that have been carrying out this task.

358. Including gender-based violence issues in training programmes intended for judges, nurses and police officers.

**359. At the level of sensitisation:**

- Including themes related to the elimination of violence against women in school textbooks at all levels to raise the awareness of the young generations on this matter.
- Diversifying sensitisation channels and materials on violence against women (besides written press and televised spots), and extending financial support (free airtime for television spots) to NGOs that launch sensitisation campaigns intended for the general public.

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<sup>134</sup> Officials at Nawal Belahmer Counselling Centre of the Mubadarat Nissaia Association in Fez were recently assaulted (September 2001) by the husband of a women who sought refuge in the Centre.