

**Summary of the report presented by CNDH Chairman, Driss El Yazami
Before the Parliament
June 16th, 2014**

The Chairman of the National Human Rights Council, Mr. Driss El Yazami, addressed on June 16th, 2014, the two Houses of Parliament.

In his opening remarks, Mr. El Yazami recalled the legal framework of the invitation to address the parliament, sent by the two Houses, including the Constitution, the guiding principles of the National Human Rights Institutions (Paris Principles) and the “Belgrade Principles” which define the relationship between national human rights institutions and parliaments. Since the establishment of the Council, this is the first time to the Chairman addresses the Parliament. It was therefore a moment of great constitutional and political importance.

Mr. El Yazami, first, gave a summary of the actions taken to pursue the settlement of past human rights violations of. The Council was entrusted to follow-up the implementations of the Equity and Reconciliation Commission (IER). By December 2013, he said, 26,063 victims of past human rights or right holders, received in total up to MAD 1.804.702.899.80, as reparation.

- 5027 victims from the Southern Provinces of the Kingdom, received a total of MAD 618.529.270.00
- 217 civilians victims abducted and detained by the Polisario, received the overall amount of MAD 82.234.375.00.
- In addition to collective reparation and efforts to restore memory, social reintegration services for the victims and right holders, and regularization of their administrative and financial situations and health coverage services. These measures are a special and remarkable contribution to the experience of transitional justice in Morocco.

CNDH Chairman also underlined the key role of this experience in consolidating the democratic process in Morocco, and other countries that opted for similar options and choices.

Mr. El Yazami also stressed the need to continue efforts to shed light on the outstanding issues relating to enforced disappearances, including the case of Mehdi Ben Barka, and to implement the main institutional recommendations of the Equity and Reconciliation Commission, such as the ratification of the Rome Statute of the International Criminal Court, the abolition of the death penalty, as well as those pertaining to the national strategy against impunity and the rationalization of security governance.

CNDH Chairman also highlighted the different reports and studies published by the Council on the situation of human rights and of certain social groups, including:

- report on mental health and human rights;
- report on Prison conditions;

- and its report on Child protection centers (where children are institutionalized by virtue of a court order).

The Council had reported the obsolete legal framework and that increasing violations to the laws governing these structures, despite their limitations.

Mr. El Yazami also addressed the issue of migration which he considered as a challenge and an enriching factor for the country. He called, in this regard, for structuring the government's intervention in these areas, through a comprehensive vision, which should be adapted to the current conjuncture and respect the provisions of the constitution, mainly those relating to human rights, the rights of migrants and Morocco's international commitments. He also called for the protection of migrant workers and members of their families and refugees.

Mr. El Yazami also outlined the social events that took place between the 1st of March 2011 and the 31st of December 2013 in Khouribga, Safi, the University Hall of Souissi in Rabat, Dakhla, Bni Bouayach, Douars of Chlihat and Shisihat (Larache), Bni Makada, the local prison of Salé, Boujdour, Smara and Laayoune. He also shed light of the trials of those arrested after the events of Dakhla, and of those prosecuted before the military court in Rabat, in relation to the events of Gdeim Izik.

In several of these cases, he said, the CNDH observed, weak communication played a major role in the aggravation of these incidents, including the spread rumors suggesting fictitious or unverified deaths. Besides, disproportionate use of force was reported in most cases, in addition to the arrest of human rights activists during peaceful and non-violent protests.

This data reveals structural problems. There is a need to define the legal principles of the use of force by law enforcement officers and to strengthen the legal framework to protect human rights activists in accordance with the relevant international standards.

For the CNDH, violations to homes and bodily integrity of protests are one of the practices that should be abolished.

Debate around these challenges requires a national conference as a first step towards a responsible public dialogue, involving all stakeholders. In this sense, the Council noted, based on the data of the Ministry of the Interior, that in 2001 some 23,121 protests were organized (including 1,683 in the three Southern Provinces of the Kingdom, i.e. 7.27%), 20,040 in 2012 (including 935 in the three Southern Provinces of the Morocco, i.e. 4.66%) and 16,096 protests in 2013 (825 in the three Southern Provinces, i.e. 5.12%).

These protests concerned the entire national territory, despite the fact that most of them did not meet all legal requirements, according to the Ministry of the Interior. They were peaceful and non-violent, except in some limited cases.

As far as torture and ill-treatment in concerned, the CNDH identified several structural hinders to a complete eradication of torture. These include lack of safeguards for the prevention of torture in police custody and pretrial detention, absence of provisions on the immediate and systematic use of medical expertise to confirm or refute torture allegations, the non-established role of forensic science in investigating torture allegations, the risks of distortion of criminal procedure as stipulated in the Organic Law relating to prisons, which can lead in some cases to stripping detainees of their fundamental rights, including those related to medical care.

All these data confirm, today more than ever, the urgency of establishing a legal framework for alternatives to incarceration and the reviewing of the legal procedure of pardon.

In terms of freedom of association, the CNDH helped resolving 22 cases of associations that were not immediately given the receipt that proves they submitted their application en thus entitles them to legally carry out their mission and activities, as required by law. 37 other associations referred their cases to the competent court, for the same reason.

According to the Interior Ministry, 5,000 associations have submitted their applications during the period under review. According to a study published by the Office of the High Commissioner of Planning (HCP) in December 2011, there were some 44,771 associations in Morocco at the time.

The Council reported several dysfunctions. In some cases, for example, the local authorities obliged associations to submit documents that are not required under Article 5 of the association creation procedure, submitting more copies than required under the same article, refraining from given a receipt to associations immediately after submitting their files and delaying that until the end of the investigation process, in violation of the law, in addition to some structural problems related to the slow administrative procedure and the non-enforcement of judgments that confirm that some associations are legally created.

Freedom of the press and expression has been subject to several forms of violations: prosecuting journalists under the Criminal law and sentencing journalists with prison terms or fines, for example. According to the Ministry of Justice and Freedoms, some 119 cases related to the press were referred to court in 2011, 81 of which were examined, against 106 in 2012, 51 of which were judged. To guarantee broader freedom of expression and opinion, the CNDH recommended an urgent and comprehensive review of the press and publishing legislation.

The Chairman reported that the CNDH received 41,704 complaints and petitions by the end of December 2013. These complaints mainly concerned justice, the rights of individuals and detainees, as well as the rights of public service-users in their relationship with public administrations.

Some of these complaints, which fall within the remit of the CNDH, relate primarily to the abuse of power, violations to bodily integrity, ill treatment and social and environmental rights.

We can talk about four categories in this regard, Mr. El Yazami said,, namely the legacy of past human rights violations (13,311 complaints), justice (7,802), prisons (5,005) and fundamental rights (1,289). These four categories account for over 65% of complaints.552 complaints and petitions were referred to the Ombudsman.

Until December 2013, the regional commissions of the CNDH received 12,206 complaints, 933 of which were received by the regional commissions of the three Southern Provinces (2.23% of the total complaints received at the national level). This indeed reflects the extent of citizens' expectations.

To tackle the current shortcomings, according to Mr. El Yazami, the organic laws should be swiftly presented to and adopted by Parliament, along with laws establishing constitutional guarantees of rights and freedoms. Besides, national mechanisms for the prevention of torture, combat all forms of discrimination, for redress and the rights of children and for the rights of persons with disabilities should be established.

The legal system of disciplinary measures in prisons should be revised, alternatives to pretrial detention and to incarceration should be adopted, control and inspection mechanisms to prison should be strengthened, the pardon procedure should be amended, etc.

Mr. El Yazami also recommended the institutionalization of the tools of participatory and semi-direct democracy especially at the local levels. The CNDH founding law should indeed be amended to be in compliance with the Constitution and to entrust the Council with the mandate of the national mechanism for the prevention of torture (NPM).

To overcome the challenges of the human rights culture promotion in the Moroccan society, we need to put the values and principles of human rights at the heart of public policies both at the national and regional levels, to include human rights in our national school curricula, to raise awareness and disseminate the culture of human rights - despite the persistence of hostile currents - in public places, the media, arts, culture, he said.

We also need to strengthen training in the area human rights, establish specialized centers and institutes in the area, establish the principles of equality, equal opportunities and gender-based parity in public affairs as national priorities, promote the rights of persons with disabilities and dealing with this groups on the basis of the human rights based approach rather than the medical or charity approach, and expand the circle of participants and stakeholders in the area of human rights so that they become issues of public interest, he added..

The Council and its regional commissions concluded 47 partnership agreements aiming in particular at capacity building for and strengthening the skills of human rights activists, supporting the establishment of human rights and citizenship education clubs in schools and youth centers. 40 training sessions were organized in this regard, including 19 sessions in the three Southern Provinces. Nearly 2200 participants were concerned by these sessions.

In order to broaden the scope of stakeholders in the field of human rights, a Center for Sahrawi Studies was established in 2012 at the initiative and with the support of the CNDH, the Agency of the South, The Office Chérifien Phosphates (OCP) and the University Mohammed V - Agdal - Rabat.

The human rights of persons with disabilities have been at the heart of the CNDH's action strategy. Their empowerment and participation in public policies were priorities for the Council since the establishment of the Council and its regional commissions. People with disabilities are represented in the Council and its regional commissions. The Council believes that they have the right to participate and be represented in the constitutional and public institutions.,

The Council takes into account, in all its activities and missions, the challenges related to equality, parity, the fight against discrimination, group rights and the rights of vulnerable groups, and the harmonization of national legislation with international conventions to which Morocco is party. It also takes into account Morocco's commitments in relation to its advanced status with the EU and its position as a strategic partner of the Parliamentary Association of the Council of Europe, the process of transitional justice and the active contribution to the national and international business and human rights standards.

In line with the UN Guiding Principles on Business and Human Rights, and the United Nations "Protect, Respect and Remedy" Framework, adopted by the UN Human Rights Council on June 26, 2011, the Council initiated a dialogue on business and human rights with the Moroccan General Confederation of Enterprises (CGEM), prominent trade unions, actors from the public and private sectors and civil society stakeholders. In February 2013, the CNDH held a seminar

on "Business and Human Rights in Morocco" and took part in the 2nd session dialogue on Corporate Social Responsibility, organized by the CGEM in May 2013.

The Council also published opinions on several draft laws, including the Organic Law of the House of Representatives, the draft law relating to fundamental guarantees granted to the military, the Organic Law on the Higher Council of the Judiciary, the organic law on the statutes of judges, alternatives to incarceration and the pardon procedure, the Military Justice Code, the Organic Laws on the Constitutional Court and of the Exception of Unconstitutionality, in addition to an advisory opinion on the draft law on domestic workers, the law on access to information and a memorandum on the freedom of association.

The CNDH gives particular interest to the constitutional principles relating to equality, parity and the fight against all forms of discrimination. The Council has two main priorities in this regard, Mr. El Yazami said: the establishment of the Authority on Parity and Fight against all Forms of Discrimination and the legal framework related to the fight of violence against women and girls. This strategic interest is justified by the alarming increase in the cases of violence against women. A study of the HCP showed that in 2011 the rate of psychological violence reached 48%, the violation of individual liberties 31%, violence in connection with law enforcement 17.3%, physical violence 15.2%, sexual violence and forced sex 8.7% and economic violence 8.2%. The study also showed that 55% of the cases of violence against women are related to domestic violence.

The Council also noted with concern the increase of marriages of children under 18 years of age, which went up from 18,341 in 2004 to 35,152 in 2013. For the CNDH, this is a real challenge to the rights of the child to education, and Morocco's international commitments under Article 28 of the Convention on the Rights of the Child, ratified by Morocco in 1993.

The Council also noted the limited presence of women at the national labor market, given the fact that the rate of active women aged between 15 and 59 years hardly exceeded 20.93%, according to the HCP, for the third quarter of 2013.

The firm resolve of the CNDH to advocate for the total elimination of child labor is driven by a firm conviction and the disturbing numbers and conclusions of the investigation of the HCP on child labor, published on June 12, 2012. According to the HCP, 147,000 children aged 7 to 15 were in labor market in 2014, i.e. 3% of children in this age group.

The Council also contributed to the resolution of the issue of prohibiting Amazigh names, following the complaints of citizens living in Morocco and abroad, filed to the High Commission of the Civil Registry, which lifted ambiguity on the liberty of choosing the name of children.

At the end of his statement, Mr. El Yazami underlined the guidelines of the speech of His Majesty the King to the 65th session of the General Assembly of the United Nations (September 27th, 2010), in which the Sovereign confirmed that "The Kingdom of Morocco has made the irreversible decision to protect and promote human rights, using, to this end, a comprehensive strategy based on a participatory approach which lays special emphasis on human resource development and the promise of a dignified life, which are key elements in our endeavor to build a democratic society dedicated to development".

CNDH Chairman said that the protection and promotion of human rights require the combined efforts of all constitutional authorities and their cooperation with all stakeholders. A broad social

coalition is needed to support this process, in addition to the harmonization and complementarity between the public policies and the action of the different stakeholders concerned.

Morocco's decision to invite and interact with the international human rights mechanisms and to strengthen its treaty practice is an irreversible decision, he added. This requires vigilance and more efforts to promote human rights in the different regions of Morocco, strengthening citizens' trust in institutions to protect and promote the practice and foundations of democracy, strengthening and improving our position within the international community, he concluded.