



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Concluding observations on the fourth periodic report of Morocco\*\*

1. The Committee on Economic, Social and Cultural Rights considered the fourth periodic report of Morocco on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MAR/4) at its 64th and 65th meetings (see E/C.12/2015/SR.64 and 65), held on 30 September and 1 October 2015, and adopted, at its 75th meeting, held on 8 October 2015, the following concluding observations.

##### A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Morocco, the State party's written replies to the list of issues (E/C.12/MAR/Q/4/Add.1) and the constructive dialogue with the large, high-level interministerial delegation. The Committee also appreciates the replies provided by the delegation to the questions posed during the dialogue.

##### B. Positive aspects

3. The Committee notes with interest the ratification by the State party of the following international human rights instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, in May 2013;

(b) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, in April 2009;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in November 2014.

4. The Committee welcomes the adoption of several legislative, administrative and institutional measures promoting the enjoyment by the population of economic, social and cultural rights, notably:

(a) The adoption of a new Constitution in 2011;

(b) The introduction of gender-sensitive budgeting in 2007;

\* Reissued for technical reasons on 19 November 2015.

\*\* Adopted by the Committee at its fifty-fourth session (21 September-9 October 2015).



(c) The establishment of several institutions, including the Economic, Social and Environmental Council, the National Council for Human Rights, the Office of the Ombudsman, the Higher Council for Education, Training and Scientific Research, the Central Authority for the Prevention of Corruption and the Interministerial Delegation for Human Rights.

## **C. Principal subjects of concern and recommendations**

### **Self-determination and natural resources**

5. While taking note of the Moroccan Extended Autonomy Initiative, the Committee reiterates its concern about the failure to find a solution to the issue of the right to self-determination of the Non-Self-Governing Territory of Western Sahara. Likewise, the Committee remains concerned about the precarious situation, upon their return, of the Sahraouis refugees displaced by the conflict in Western Sahara, particularly women and children. It is also concerned that the Sahraouis' right to participate in the use and exploitation of natural resources is still not respected (arts. 1 and 25).

6. **The Committee recommends that the State party:**

**(a) Strengthen its efforts, under the auspices of the United Nations, to find a solution to the issue of the right to self-determination for Western Sahara, as established in article 1 of the Covenant, which recognizes the right of all peoples to freely determine their political status and freely pursue their economic, social and cultural development. The Committee recalls that States parties to the Covenant are obligated to promote the realization of the right of self-determination in Non-Self-Governing Territories and to respect that right, in conformity with the provisions of the Charter of the United Nations;**

**(b) Take measures to ensure that the rights of Sahraouis refugees are respected upon their return. It further recommends that the State party guarantee respect for the principle of the prior, free and informed consent of the Sahraouis, and thus that they are able to exercise their right to enjoy and utilize fully and freely their natural wealth and resources.**

### **The Berm**

7. While acknowledging the security concerns invoked by the State party, the Committee is deeply concerned that the Berm, which is fortified by anti-personnel mines and was built by the State party to separate the Moroccan-controlled part of Western Sahara from the rest of the territory, is preventing the Sahraouis from fully enjoying their rights under the Covenant.

8. **The Committee recommends that the State party take appropriate steps to enable the Sahraouis to access their land and natural resources and rejoin their families. It also urges the State party to expedite its mine clearance programme along the Berm. The Committee asks the State party to provide, in its next periodic report, detailed information on the enjoyment, by the Sahraouis, of all the rights set out in the Covenant.**

### **Direct application of the Covenant**

9. The Committee finds it regrettable that the State party has not provided detailed information on cases in which the provisions of the Covenant have been applied by the national courts, even though the 2011 Constitution recognizes the primacy of international instruments ratified by Morocco over domestic laws (art. 2, para. 1).

10. **The Committee recommends that the State party take the necessary measures to give effect to the Covenant in the domestic legal system and that it include, in its next periodic report, information on judicial or administrative decisions taken in that regard. It encourages the State party to conduct campaigns to raise awareness among judges, lawyers and the general population of the provisions of the Covenant and of its primacy over domestic laws so that it may be applied directly. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

### **Corruption**

11. The Committee is concerned about the prevalence of corruption in the State party, and the fact that it persists in spite of the measures that the latter has adopted. The Committee notes with regret that there is no information as to whether the observations of civil society organizations on Bill No. 113.12 on the national authority to promote integrity and prevent and combat corruption have been taken into account. The Committee takes note of the wealth of information provided about the fight against corruption, including information about persons convicted of corruption as a result of complaints made by members of the public using the telephone hotline set up by the Government. However, the Committee finds the lack of detailed information on legal protection for whistle-blowers and witnesses, and on compensation for victims regrettable. It also finds it regrettable that there is no information as to whether the annual reports which the national authority is required to submit to Parliament contain details of cases of corruption that have been brought to its attention (art. 2, para. 1).

12. **The Committee recommends that the State party:**

**(a) Strengthen its efforts to combat corruption effectively and guarantee transparency in the conduct of public affairs, notably by implementing Bill No. 113.12 and taking account of the observations made by civil society organizations;**

**(b) Ensure that whistle-blowers and witnesses are protected by guaranteeing their anonymity when necessary and protecting them from all forms of reprisals, and to provide compensation for victims;**

**(c) Encourage the national authority to promote integrity and prevent and combat corruption to include in its annual reports details of the cases of corruption it has dealt with, so as to deter the commission of such acts and strengthen the effective implementation of the law;**

**(d) Conduct awareness-raising campaigns among political leaders, judges, legislators and public officials on the need to strictly enforce anti-corruption legislation and to work towards the complete eradication of that phenomenon.**

### **Discrimination**

13. The Committee remains concerned about:

(a) The lack of comprehensive anti-discrimination legislation prohibiting all forms of discrimination affecting enjoyment of the rights enshrined in the Covenant;

(b) The disparities between rural and urban areas with respect to the enjoyment of economic, social and cultural rights, particularly as regards the most marginalized and vulnerable individuals and groups;

(c) The de facto discrimination against Amazighs, especially in terms of access to education and employment (art. 2).

14. **The Committee recommends that the State party:**

(a) **Adopt and apply a comprehensive anti-discrimination law, which should contain a general prohibition of all forms of direct and indirect discrimination, and authorize the use of temporary special measures to benefit disadvantaged and marginalized groups.**

(b) **Take the necessary measures to remedy the regional disparities that prevent the enjoyment of economic, social and cultural rights on an equal basis by all the population;**

(c) **Take steps to ensure that Amazighs enjoy fully the rights set out in the Covenant, if necessary by adopting special measures;**

(d) **Ensure that women, persons with disabilities, asylum seekers, refugees, migrants, Sahraouis, children born out of wedlock and homosexuals can enjoy the rights recognized in the Covenant, particularly access to employment, social services, health care and education.**

#### **Discrimination on grounds of sexual orientation**

15. The Committee is concerned that the State party criminalizes consensual sexual relations between same-sex adults (art. 489 of the Criminal Code). The Committee expresses its concern about discrimination on grounds of sexual orientation and gender identity and about the stigmatization and violence to which these persons are subjected.

16. **The Committee recommends that the State party immediately repeal legislation criminalizing sexual relations between same-sex adults, combat all discrimination against or stigmatization of lesbian, gay, bisexual or transgender persons on grounds of their sexual orientation and punish the perpetrators of hate violence against these persons. Lastly, the Committee recommends that the State party ensure that these persons can exercise all the rights enshrined in the Covenant.**

#### **Equal rights of men and women**

17. The Committee remains concerned that progress towards the elimination of discrimination against women is very slow. It is also concerned about the persistent gender stereotypes which prevent women from fully exercising their economic, social and cultural rights. The Committee:

(a) Expresses its concern about the various bills under consideration that contain provisions which discriminate against women (arts. 3 and 10);

(b) Finds it regrettable that polygamy remains legal, even though the State party asserts that the practice is on the decline (art. 3);

(c) Notes with concern the persistence of gender segregation, both horizontal and vertical, in the labour market and women's very low rate of participation in employment. It is also concerned that women work in insecure, lower-paid jobs (arts. 3 and 7).

18. **Taking into account its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party:**

(a) **Combat discrimination against women, notably through campaigns to sensitize the population, particularly religious and traditional leaders, with a view to eliminating all forms of discrimination on grounds of sex. It further**

recommends that the State party take into account the positions of stakeholders in view of the adoption of the various pending bills, notably Bill No. 79.14 on the Authority for Parity and the Fight against All Forms of Discrimination;

(b) Abolish polygamy and conduct sensitization campaigns to eliminate gender stereotypes and promote the rights of women;

(c) Identify the obstacles encountered by women in employment and working life and take appropriate measures, including targeted ones, to promote work-life balance so as to increase women's participation. It recommends that the State party pursue its efforts to ensure that an acceptable percentage of well-paid positions of responsibility is occupied by women, by adopting temporary special measures where necessary.

#### **Right to work**

19. While it takes note of the information on labour disputes settled through the intervention of the Labour Inspectorate and on cases brought before the administrative courts, the Committee is concerned about the excessive length of time taken to hand down judgements in labour disputes and the lack of deterrent effect of the penalties, which are sometimes derisory or are not enforced (arts. 2 and 7).

20. **The Committee recommends that the State party take the necessary measures to guarantee, in law and in practice, effective and accessible remedies for the protection of the right to work. It encourages the State party to establish specialized tribunals to deal with labour disputes.**

#### **Unemployment**

21. While it notes the measures taken by the State party to reduce the unemployment rate, the Committee is concerned that unemployment continues to have a disproportionate impact on young people and women (arts. 3, 6 and 7).

22. **The Committee recommends that the State party strengthen its efforts to significantly reduce the unemployment rate by targeting women and young people, including through retraining programmes and vocational and technical training programmes, as well as incentives for employers. In this regard, it refers the State party to its general comment No. 18 (2005) on the right to work.**

#### **Persons with disabilities**

23. The Committee finds it regrettable that the bill on the promotion and protection of the rights of persons with disabilities has still not been adopted. The Committee also remains concerned that, while the State party has decided to set a quota of 7 per cent for posts to be reserved for persons with disabilities, this quota has not yet been effectively implemented and the employment situation of these persons has not improved (art. 6).

24. **The Committee recommends that the State party expedite the adoption of the aforementioned bill and promote its implementation. It further recommends that the State party take all necessary measures to enable persons with disabilities to fully enjoy their economic, social and cultural rights. It encourages the State party to apply the 7-per-cent quota and to take any other special measure to promote access for persons with disabilities to employment, education and health care.**

**Minimum wage**

25. The Committee is concerned about the disparities between the minimum wage applicable in different sectors of the economy. It expresses its concern about the minimum wage in agriculture, which remains low and does not guarantee a decent living. It notes with concern that the low wages in agriculture have a disproportionate impact on women, who are overrepresented in this sector. It is also concerned that the minimum wage does not apply to domestic workers (art. 7).

**26. The Committee recommends that the State party guarantee the application of the national minimum wage in all sectors, public and private, including in the informal economy. It urges the State party to raise the minimum wage in agriculture to a level that guarantees a decent living for workers and members of their families. The Committee recommends that the State party ensure respect for the principle of the legal minimum wage, which must be reviewed periodically and set at a level sufficient to provide a decent standard of living for all workers, whether male or female, and for members of their families.**

**Informal economy**

27. The Committee is concerned about the high percentage of workers employed in the informal economy, despite the measures adopted by the State party to promote registration of businesses. Likewise, the Committee is concerned that workers in this sector and self-employed workers do not enjoy just and favourable conditions of work and are not affiliated to the social security system. In addition, the Committee is concerned about the insufficient number of labour inspectors, which affects workers in remote or rural areas in particular (arts. 7 and 9).

**28. The Committee recommends that the State party strengthen its efforts to regulate the informal economy and self-employment, notably by extending social security coverage to those workers and gradually improving their conditions of work. It further recommends that the State party systematically include the informal sector and rural areas in the operations of the labour inspection services and that it take firmer action to tackle the obstacles to job creation in the formal economy. In this regard, it encourages the State party to refer to the International Labour Organization (ILO) Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).**

**Domestic workers**

29. The Committee expresses its concern about the bill establishing the conditions of work and employment of domestic workers under which children would be permitted to work from 16 years onwards — a situation which would have a negative impact on their right to education. The Committee is also concerned at the absence of strict measures to secure the full protection of the rights of domestic workers (arts. 7 and 13).

**30. The Committee recommends that the State party adopt the bill establishing the conditions of work and employment of domestic workers. It recommends that the State party ensure that the law adopted sets the minimum age for employment at 18 years and ensures that domestic workers enjoy as just and favourable conditions of work as other workers. It also recommends that the State party put in place an inspection mechanism to monitor the working conditions of domestic workers.**

### **Sexual harassment**

31. While it notes the State party's assertion that a new bill on sexual harassment will have a broader field of application, the Committee finds it regrettable that sexual harassment is widespread and is concerned that women have limited means of obtaining justice and redress for fear of reprisals or social disapproval (arts. 7 and 10).

**32. The Committee recommends that the State party expedite the adoption of the bill on sexual harassment, particularly sexual harassment in the workplace, but also all other forms of sexual harassment irrespective of the place, and ensure that the bill includes penalties commensurate with the seriousness of the offence. The Committee further recommends that the State party take measures to enable victims to lodge complaints without fear of reprisals and to have access to legal remedies and appropriate redress.**

### **Trade union rights**

33. The Committee reiterates its concern about the restrictions on the right to strike, particularly the deterrent provisions of article 288 of the Criminal Code, which remain in force, and the administrative obstacles to the formation of trade unions. It also notes with regret the State party's assertion that application of the guarantee of the right to strike is dependent on the enactment of an organic law (art. 8).

**34. The Committee reiterates its recommendation that the State party bring article 288 of the Criminal Code into line with article 8 of the Covenant and make it easier to establish a trade union. The Committee recommends that the State party adopt legislation on the exercise of the right to strike and on trade unions. Until such time as such legislation is adopted, the Committee invites the State party to facilitate the establishment of trade unions on the basis of article 8 of the Covenant.**

### **Social security**

35. The Committee remains concerned that, despite the numerous measures taken by the State party, a large proportion of the active population is not covered by social security, particularly workers in the informal economy and in some private enterprises (art. 9).

**36. The Committee recommends that the State party continue to roll out the social security system in order to achieve wider coverage of the population. The Committee urges the State party to secure compliance by private enterprises, especially in rural areas, with the obligation of affiliation to the social security system and to improve the social coverage of workers in the agricultural sector, at the same time ensuring that these measures are based on sound institutions and procedures that are accessible to all. The Committee refers the State party to its general comment No. 19 (2007) on the right to social security and its statement on social protection floors (2015).**

### **Violence against women**

37. The Committee is concerned about the persistent violence against women and the limited support offered to victims of violence, the delay in the adoption of the bill on violence against women and the continued criminalization of "illicit relations", which deters women from lodging complaints of rape. The Committee is also concerned that certain forms of domestic violence, including marital rape, are not expressly categorized as criminal offences under domestic legislation (art. 10).

38. **The Committee recommends that the State party adopt a comprehensive law on violence against women that conforms to the relevant international standards and ensure that it is implemented, with a view to eliminating all forms of violence against women, including marital rape. The Committee recommends that the provision criminalizing illicit sexual relations be repealed. Lastly, the Committee recommends that the State party take steps to investigate and prosecute the perpetrators and to ensure that victims of domestic violence have access to effective remedies and immediate protection, including through the establishment of a sufficient number of shelters for victims.**

#### **Child and forced marriages**

39. The Committee expresses its concern at the fact that, in certain situations, a marriage can lawfully take place before the legal age of 18 years, which has increased the number of child and forced marriages in the country. The Committee is also concerned that a bill under consideration by Parliament sets the minimum age of marriage at 16 years (arts. 10 and 13).

40. **The Committee invites the State party to amend the bill so as to set the minimum age for marriage at 18 years, to repeal article 20 of the Family Code, under which a judge may authorize a marriage before the legal age of 18, and to ensure that marriages are entered into with the free consent of both parties.**

#### **Poverty**

41. While it recognizes the progress made in reducing poverty, the Committee remains concerned about the fact that poverty continues to affect women, children, the Amazighs, the Sahraouis, older persons, persons with disabilities and persons living in rural areas in particular. The Committee is also concerned that resources are neither properly shared nor fairly distributed (art. 11).

42. **The Committee recommends that the State party increase its efforts to reduce poverty, in particular by adopting a human rights-based poverty reduction strategy that specifically targets the needs of disadvantaged and marginalized individuals and groups, allocating sufficient financial and other resources to their implementation and ensuring that these resources are fairly distributed among those affected by poverty. In this regard, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001).**

#### **Forced evictions and the right to housing**

43. While commending the State party's efforts and the progress it has made in the field of housing, the Committee remains concerned about:

(a) The fact that housing programmes do not seem to cover the various regions equitably;

(b) The lack of adequate, affordable housing available to certain parts of the population, particularly in rural areas, and the large number of people living in shanty towns who are vulnerable to forced eviction;

(c) Cases of homelessness, including among children, and cases of forced eviction associated with development projects which affect the Amazighs, among other groups (art. 11).



44. **The Committee recommends that the State party:**

(a) **Take specific steps to ensure that the resources allocated to housing programmes are distributed evenly and equitably between the different regions and between rural and urban areas;**

(b) **Strengthen its efforts to improve living conditions and provide accessible housing for the population, particularly persons living in rural areas and in urban and rural shanty towns. It further recommends that the State party ensure that rehousing projects also include measures of support for the poorest people;**

(c) **Resolve the issue of homeless persons by providing them with housing and ensure that the victims of forced eviction are rehoused or provided with adequate compensation.**

**In this regard, the Committee refers the State party to its general comment No. 7 (1997) on the right to adequate housing: forced evictions and its general comment No. 4 (1991) on the right to adequate housing.**

#### **Maternal mortality and sexual and reproductive health**

45. The Committee remains concerned at the high rate of maternal mortality, especially in rural areas, despite the very considerable progress achieved by the State party. The Committee is particularly concerned to note that 55 per cent of rural women reportedly receive qualified assistance when giving birth, compared with 92 per cent of urban women. The Committee is also concerned that the blanket criminalization of abortion drives many women to resort to illegal abortions, thus putting their health and their lives at risk (art. 12).

**46. The Committee recommends that the State party provide universal access to high-quality sexual and reproductive facilities, services, materials and information, particularly in rural areas, by training health-care support staff and increasing their number, and making women and men more aware of sexual and reproductive health needs. The Committee further recommends that the State party repeal the law on the prohibition of abortion with a view to adopting legislation compatible with women's rights and taking steps to prevent dangerous abortions.**

#### **Education**

47. The Committee notes the significant progress made in providing access to education but remains concerned about school dropout rates and academic failure, and also about the poor quality of public education. The Committee is concerned about the spread of private education, which could lead to a form of segregation, with good-quality education restricted to those who can pay for private, elite schooling. The Committee also expresses its concern at the limited access to preschool education, the disparities between school enrolment rates for girls and boys, and the difficulties the Sahraouis experience in accessing education, especially at the university level (arts. 13 and 14).

**48. The Committee recommends that the State party take urgent measures to address the problems of poor-quality public education, school dropouts and academic failure. It recommends that the State party develop an appropriate educational system and programme, placing the emphasis on preschool education, education or literacy training in the mother tongue, vocational training and support for school dropouts. The Committee urges the State party to take additional measures to improve school enrolment rates among girls in rural**

areas and ensure that the significant increase in private education does not lead to growing inequality in access to good-quality education. The Committee also recommends that the State party consider the specific needs of the Sahraouis with a view to providing them with an education that enables them to play a useful part in a free society and encourages understanding, tolerance and friendship between nations and ethnic groups.

#### **Cultural rights**

49. The Committee takes note of the fact that the Amazigh language has been constitutionally recognized as an official language but finds it regrettable that the draft organic law to implement that recognition has not been adopted to date and that the Amazigh language is not taught at every level of education. The Committee remains concerned about the practical difficulties that the Amazigh community sometimes encounters in registering Amazigh first names and about the fact that very few programmes in Amazigh are shown on public television, despite the efforts of the State party. The Committee also expresses its concern at the fact that the Saharo-Hassani language and culture are not sufficiently supported. Lastly, it notes that considerable efforts are still required to ensure access to culture and science for all (art. 15).

50. The Committee recommends that the State party adopt the draft organic law on the recognition of the Amazigh language as one of the official State languages as soon as possible and redouble its efforts to provide primary, secondary and university education in Amazigh, increase the use of Amazigh on television and lay down definite regulations on the question of Amazigh first names. The Committee further recommends that the State party take measures to guarantee Amazighs and Sahraouis full and unrestricted enjoyment of their right to take part in cultural life. It also recommends additional measures to protect cultural diversity and permit Amazighs and Sahraouis to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs. Lastly, the Committee encourages the State party to continue to facilitate access to culture and science for all, including access to the Internet, particularly for persons with disabilities and the poorest sectors of the population. In this regard, the Committee invites the State party to refer to its general comment No. 21 (2009) on the right of everyone to take part in cultural life.

#### **D. Other recommendations**

51. The Committee welcomes the delegation's statement to the effect that the State party has been studying the possibility of ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It encourages the State party to ratify the Optional Protocol as soon as possible.

52. The Committee recommends that the State party encourage systematic data collection and prepares and uses statistics on indicators of human rights, including economic, social and cultural rights, that are based on these data. In this regard, the Committee refers the State party to the conceptual and methodological framework for human rights indicators prepared by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3). The Committee requests the State party to include in its next periodic report annual comparative statistics on the exercise of each right recognized in the Covenant, broken down by age, sex, area (rural/urban) and other relevant criteria and giving special attention to the situation of disadvantaged groups.

53. The Committee requests the State party to circulate the present concluding observations widely among all sectors of society, in particular among government officials, judicial authorities, legislators, lawyers and civil society organizations, and to report to the Committee, in its next periodic report, on the measures taken to implement them. It also encourages the State party to involve civil society organizations in the national-level discussions held in advance of the submission of its next periodic report.

54. The Committee requests the State party to submit its fifth periodic report, in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 October 2020.

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