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### **Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action**

## Visit to Morocco

### **Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance<sup>\*</sup>, <sup>\*\*</sup>**

#### *Summary*

At the invitation of the Government, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited Morocco from 13 to 21 December 2018 to assess the authorities' efforts in eliminating racism, racial discrimination, xenophobia and related intolerance.

In the present report, the Special Rapporteur addresses the persisting challenges that Morocco faces in ensuring that everyone in Morocco, including Amazigh, black Africans, non-nationals and religious minorities, can enjoy their human rights on an equal and non-discriminatory basis. Notwithstanding her recognition of important achievements made since the adoption of the 2011 Constitution, the Special Rapporteur concludes that important work remains to be done to ensure racial equality and the right of all persons to be free from racial discrimination.

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\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and French only.

\*\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## **Annex**

### **Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her mission to Morocco**

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## I. Introduction

1. At the invitation of the Government, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited Morocco from 13 to 21 December 2018 to assess the authorities' efforts in eliminating racism, racial discrimination, xenophobia and related intolerance in Morocco.
2. During the visit, the Special Rapporteur travelled to Rabat, Tangier, Tétouan, Agadir and Casablanca, where she met with representatives from various levels of government. She met with the Minister of State for Human Rights, the Interministerial Delegate for Human Rights, the Minister of Justice, and the Minister Delegate for Moroccans Living Abroad and Migration Affairs, as well as with representatives of the Ministry of Foreign Affairs and International Cooperation, the Ministry of the Interior, the Ministry of National Education, Vocational Training, Higher Education and Scientific Research, the Ministry of Health, the Ministry of Family, Solidarity, Equality and Social Development, the Ministry of Culture and Communication, the Ministry of Employment and Vocational Training, the Ministry of Religious Endowments and Islamic Affairs and the Ministry for Youth and Sports. She also held meetings with the President of the Office of the Prosecutor-General, members of the Parliamentary Commission on Justice, Legislation and Human Rights, and representatives of the High Authority for Audiovisual Communication, as well as with the Wali of the Tanger-Tétouan-Al Hoceïma region, the Wali of the Souss-Massa region, the Wali of Casablanca, and other local government representatives. In addition, the Special Rapporteur met with the President of the National Human Rights Council and representatives of its regional commissions, the Institution of the Mediator (the Ombudsman), the Secretary-General of the Muhammadan League of Religious Scholars, the Secretary-General of the Council of Israelite Communities of Morocco, and representatives of the Institut Royal de la Culture Amazighe.
3. The Special Rapporteur also met with representatives of the United Nations country team, civil society representatives, academics, Amazigh communities, religious communities, migrants and refugees, and with individual victims of racism, discrimination and related intolerance. In Tangier, she visited the forest north of the city where black sub-Saharan African migrants have increasingly been forced to live in recent months, as well as two police stations with detention facilities (in the centre of the city and in Bni Makada). She also briefly visited the Ouled Ziane bus station in Casablanca, the day after a fire had destroyed the makeshift housing and belongings of black sub-Saharan African migrants living in the nearby camp.
4. The Special Rapporteur would like to reiterate her gratitude to the Moroccan authorities for inviting her to undertake a visit, and for their excellent cooperation on every aspect of her visit. She appreciates the fact that she was able to meet with many high-level representatives of the executive, demonstrating the importance Morocco attaches to the special procedures of the Human Rights Council. The Special Rapporteur also wishes to thank the United Nations country team for its support, and she expresses her sincere gratitude to all those who took the time to meet her, some of whom travelled long distances from rural and other areas that she was unable to visit.
5. The Special Rapporteur would like to note that the Moroccan authorities permitted her complete freedom of movement across the entire country, but that due to time and resource constraints she had to limit the number of places she visited. She therefore invited civil society and other organizations working on issues related to racial equality, but who were unable to meet with her during the visit, to provide written submissions to inform the present report.

## II. General background

6. Morocco is a multi-ethnic and multicultural society. While Moroccans are predominantly Sunni Muslims of Arab, Amazigh or mixed Arab and Amazigh ancestry, the preamble of the Constitution recognizes that the country's unity and identity, "built on the

convergence of its Arabo-Islamic, Amazigh and Saharo-Hassani components, is nurtured and enriched by its African, Andalusian, Hebraic and Mediterranean constituents". Despite this emphasis on a multidimensional but unified identity, Morocco, like many other countries, faces the problem of racial discrimination, which prevents some segments of the population, particularly the Amazigh, the Sahraoui, black Africans and non-nationals, from enjoying their human rights on an equal and non-discriminatory basis. Along with historically rooted forms of inequality and discrimination, changing migration patterns mean that Morocco is now confronted with additional challenges relating to racial inequality and xenophobia due to its status as a country of origin and transit, as well as of destination, for migrants. These challenges may become even greater in the future since international trends, combined with Moroccan reintegration into the African Union and a possible membership of the Economic Community of West African States, may have an impact on migration to Morocco.

7. One of the overall challenges in assessing racial equality in Morocco is the need for better collection of disaggregated data. In this context, the Special Rapporteur recalls that various United Nations human rights mechanisms have previously expressed concern about the lack of disaggregated statistical data on the composition of the Moroccan population and on indicators of ethnic and cultural diversity such as the use of mother tongues.<sup>1</sup> Although some progress has been made in this regard, the Special Rapporteur wishes to reiterate that human rights-compliant collection of disaggregated data on socioeconomic indicators is crucial for the evaluation of racial equality in the country. Such data are needed not only to adequately assess the situation of all population groups and to make inequalities visible, but also to design, monitor and evaluate evidence-based measures that specifically target disadvantaged groups.

8. Despite these challenges, the Special Rapporteur acknowledges that Morocco has made important progress in the protection and promotion of human rights. Particularly, the adoption of a new Constitution in 2011 is a key achievement that has paved the way for important legislative, policy and institutional reforms. The Special Rapporteur also recognizes that Morocco has played a key role in international agreements relevant for combating racism, racial discrimination, xenophobia and related intolerance, including the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and the Global Compact for Safe, Orderly and Regular Migration.

### **III. Racial equality, discrimination and intolerance in Morocco**

#### **A. Overview of the legal, policy and institutional framework**

##### **1. Applicable international human rights law**

9. By ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, Morocco has committed itself to respect and ensure racial equality, and the right of all persons to be free from racial discrimination. Commendably, Morocco has recognized the competence of the Committee on the Elimination of Racial Discrimination to receive communications alleging violations of the Convention<sup>2</sup> and has ratified several other international human rights treaties that prohibit racial and other forms of discrimination.<sup>3</sup> These instruments create legally binding obligations for Morocco with

<sup>1</sup> CERD/C/MAR/CO/17-18, para. 7; and A/HRC/20/26/Add.2, paras. 7 and 87.

<sup>2</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-2&chapter=4&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en#EndDec).

<sup>3</sup> Office of the United Nations High Commissioner for Human Rights, ratification status for Morocco, available at [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=117&Lang=EN](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=117&Lang=EN). See, for example, International Covenant on Civil and Political Rights, arts. 2 (1) and 26; International Covenant on Economic, Social and Cultural Rights, art. 2 (2); Convention on the Elimination of All Forms of Discrimination against Women, art. 1; Convention on the Rights of the

regard to the principles of equality and non-discrimination. They also advance a substantive vision of equality – one that requires Morocco to eliminate intentional or purposeful racial discrimination, as well as to combat de facto or unintentional racial discrimination. Prohibited racial discrimination can occur even where there is no racial animus or prejudice in operation.<sup>4</sup>

10. During her visit, the Special Rapporteur encountered various stakeholders who believed that racism generally did not exist in Morocco, but rather occurred in isolated incidents. The Special Rapporteur is concerned that this may indicate a narrow understanding of the term racial discrimination. In this context, she wishes to underline that racial discrimination must be understood in broad terms, and that structures of exclusion that operate even in the absence of explicit prejudice are central to the problem of racism.

11. The prohibition of racial discrimination is absolute and cannot be interpreted restrictively. This means, among other things, that: (a) racial discrimination is prohibited in the enjoyment of all civil, political, economic, social, and cultural rights;<sup>5</sup> (b) racial discrimination is prohibited under any circumstances, including in the context of migration;<sup>6</sup> and (c) racial equality must be guaranteed for everyone regardless of ancestry or descent, including persons belonging to racial and ethnic minorities, and non-citizens (regardless of their legal status).<sup>7</sup> Achieving substantive racial equality also requires an intersectional analysis of the problem of racial discrimination and intolerance. An intersectional approach takes seriously the different experiences of racial discrimination that individuals endure because of their race, ethnicity, national origin, or culture, in combination with their gender, sex, sexual orientation, religion, disability status, age and any other social category.

12. The Special Rapporteur recalls that special measures are permissible under article 1 (4) of the International Convention on the Elimination of All Forms of Racial Discrimination. Pursuant to that provision, temporary special measures may be needed “to secure to disadvantaged groups the full and equal enjoyment of human rights and fundamental freedoms”.<sup>8</sup>

13. Finally, the Special Rapporteur notes that Morocco was due to report on its implementation of the International Convention on the Elimination of All Forms of Racial

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Child, art. 2 (1) and (2); and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 7.

<sup>4</sup> See, for example, Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, paras. 6–7.

<sup>5</sup> International Covenant on Civil and Political Rights, art. 2; International Covenant on Economic, Social and Cultural Rights, art. 2 (2); and International Convention on the Elimination of All Forms of Racial Discrimination, art. 5. See also Committee on the Elimination of Racial Discrimination, general recommendation No. 20 (1996) on article 5 of the Convention, para. 1.

<sup>6</sup> See Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, para. 8; A/HRC/7/23, para. 35; International Covenant on Civil and Political Rights, art. 4 (1); A/72/287, para. 47; and Committee on the Elimination of Racial Discrimination, general recommendation No. 30 (2004) on discrimination against non-citizens.

<sup>7</sup> See Human Rights Committee, general comment No. 18 (1989) on non-discrimination; Committee on the Elimination of Racial Discrimination, general recommendation No. 22 (1996) on refugees and displaced persons in the context of article 5 of the Convention; Committee on the Elimination of Racial Discrimination, general recommendation No. 23 (1997) on the rights of indigenous peoples; Committee on the Elimination of Racial Discrimination, general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination; Committee on the Elimination of Racial Discrimination, general recommendation No. 27 (2000) on discrimination against Roma; Committee on the Elimination of Racial Discrimination, general recommendation No. 29 (2002) on descent in the context of article 1 (1) of the Convention; Committee on the Elimination of Racial Discrimination, general recommendation No. 30; Committee on the Elimination of Racial Discrimination, general recommendation No. 34 (2011) on racial discrimination against people of African descent; and Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

<sup>8</sup> See Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009), para. 11.

Discrimination in 2014 but has not done so to date. She welcomes the statement of the Minister of State for Human Rights that Morocco is now finalizing its combined nineteenth, twentieth and twenty-first national reports to the Committee on the Elimination of Racial Discrimination.

## 2. Domestic legal framework relating to racial equality and racial discrimination

14. The Constitution of Morocco, adopted in 2011, marks an important achievement in advancing the Kingdom's commitment to human rights, equality, and non-discrimination. Notably, the preamble to the Constitution grants primacy to the international treaties ratified by Morocco over domestic law<sup>9</sup> and it includes a commitment to prohibit and combat all forms of discrimination.<sup>10</sup> The preamble forms an "integral part"<sup>11</sup> of the Constitution and, according to government authorities, is therefore of a legally binding nature. The result is that the prohibition of discrimination included in the preamble must be accorded the same legal force as other fundamental rights provisions included in the body of the Constitution. The principles of equality and non-discrimination are further reflected in various provisions throughout the Constitution. An explicit reference to racism can be found in article 23 of the Constitution, which prohibits "all incitement to racism, hatred and violence". Equality before the law and gender equality are protected in articles 6 and 19 and the rights of non-citizens are protected in article 30. The Special Rapporteur considers this to be a remarkable and visionary provision, which provides that foreigners under Moroccan jurisdiction are entitled to enjoy the same fundamental freedoms granted to Moroccan citizens. In this way, the Constitution enshrines equality and non-discrimination principles and creates a firm foundation for legislative and policy developments, which are necessary to ensure that these human rights principles can be fully realized for all persons in Morocco.

15. Importantly, the preamble to the Constitution affirms the pluralistic nature and unified national identity of Morocco, incorporating the rich cultural and ethnic heritage that has characterized the Kingdom for centuries. This vision of a diverse but unified society, where all can enjoy full human rights and full political and social membership, is one that the Government of Morocco – like all other governments – must continue to work hard to implement. Equality in law alone does not ensure equality in fact. In this context, the Special Rapporteur notes that government as well as non-State actors have sometimes downplayed the existence of racial discrimination by referring to the historically pluralistic but unified national identity of Morocco. While it is important to recognize and celebrate the diverse heritage and national unity of Morocco, the Special Rapporteur underlines that this discourse should not be used to negate the existence of racial discrimination and inequality.

16. A review of applicable domestic legislation shows that Morocco explicitly prohibits certain manifestations of racism, racial discrimination, xenophobia, and related intolerance. Section II bis of the Criminal Code is particularly relevant in this regard: pursuant to article 431-1, discrimination is defined as any distinction made between persons on the basis of national or social origin, colour, sex, family situation, health status, disability, political opinion, trade union membership, or membership or non-membership, true or supposed, of a particular ethnic group, nation, race or religion. Under article 431-2, discriminatory acts are punishable by imprisonment and a fine when they occur in relation to the provision of goods and services, in the workplace, or in the exercise of normal economic activities. Incitement to racial discrimination and hatred is punishable under articles 308-5 and 431-5.<sup>12</sup>

<sup>9</sup> The Committee on the Elimination of Racial Discrimination recommended the inclusion of such a provision in its 2010 concluding observations. See CERD/C/MAR/CO/17-18, para. 8.

<sup>10</sup> The grounds of discrimination listed are non-exhaustive, as indicated by the use of the term "any other personal circumstance".

<sup>11</sup> Preamble to the 2011 Constitution.

<sup>12</sup> Criminal Code, consolidated version of 5 July 2018, sect. II bis: discrimination (arts. 431-1 to 431-5).

17. The prohibition of racial discrimination is additionally enshrined in a number of domestic laws, including in the Criminal Procedure Code,<sup>13</sup> the Labour Code,<sup>14</sup> Law No. 23-98 on the organization and functioning of prisons, of 25 August 1999,<sup>15</sup> the Association Act,<sup>16</sup> the Political Parties Act<sup>17</sup> and the Press and Publishing Code.<sup>18</sup> Moreover, the Special Rapporteur learned that the pending asylum bill contains a non-discrimination provision that prohibits discrimination on various grounds, including on the basis of colour and race.<sup>19</sup> Similarly, the pending draft law on migration includes a provision prohibiting discrimination against foreigners.<sup>20</sup>

18. The Special Rapporteur commends the integration of equality and non-discrimination provisions in the above-mentioned laws. Nevertheless, she expresses concern that significant shortcomings remain in the legal framework of Morocco as it relates to racial discrimination and racial equality. Contrary to recommendations made by a variety of international and national stakeholders,<sup>21</sup> Morocco has no comprehensive anti-discrimination legislation or specific law prohibiting racial discrimination. According to information received, a proposal for a new law on racial discrimination and xenophobia was transmitted to the Parliamentary Commission on Justice, Legislation and Human Rights in 2017. During her visit, the Special Rapporteur was informed that such a law would not be adopted as the existing framework was deemed to be adequate. The Special Rapporteur received assurances that some of the proposed provisions may be integrated into other pieces of legislation and that they would be considered in the context of the ongoing review of the Criminal Code.

19. The Special Rapporteur considers that the adoption of a new law, or amendments to existing legislation, are urgently needed, as the current legal framework fails to fully implement the racial equality framework contained in the International Convention on the Elimination of All Forms of Racial Discrimination. Most importantly, the definition of discrimination contained in article 431-1 of the Criminal Code is not in conformity with the comprehensive definition of racial discrimination in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>22</sup> Contrary to the requirements of the Convention, Morocco has no law that defines and prohibits racial discrimination in full accordance with article 1.

### 3. Domestic policy framework relating to racial equality and racial discrimination

20. Although Morocco has committed to the Durban Declaration and Programme of Action, which calls for a national action plan specifically to combat racism, racial

<sup>13</sup> See the third edition (2017). Art. 721 (2) prohibits extraditions where there are substantial grounds for the competent authorities to believe that an extradition order issued in respect of an ordinary crime is racially motivated.

<sup>14</sup> See the consolidated version of 26 October 2011: preamble, and arts. 9, 36 and 478.

<sup>15</sup> Art. 51 provides that detainees shall not be discriminated against on the grounds of race, colour, sex, nationality, language, religion, opinion or social rank.

<sup>16</sup> Art. 3 (as amended) stipulates that “any association which is established to serve an illegal purpose, is contrary to the law or morals or aims at undermining Islam, the integrity of the national territory, the monarchy or at inciting discrimination shall be considered unlawful”. Art. 17 (as amended) provides that political parties and associations of a political nature shall be open to all Moroccan citizens without discrimination on the basis of race, sex, religion or regional origin. See Law No. 75-00 of 23 July 2002 (amending *dahir* No. 1-58-376).

<sup>17</sup> Art. 4 outlaws any political party that is based on a particular religion, language, race or region or, in general terms, on postulates that are discriminatory or contrary to human rights. See Organic Law No. 29-11 on political parties of 22 October 2011. A similar formulation can be found in art. 7 of the 2011 Constitution.

<sup>18</sup> Law No. 88-13 of 19 August 2016, arts. 31, 37, 64, 71, 72 and 99.

<sup>19</sup> Bill No. 26-14 (confidential) on the right to asylum and the conditions for granting it, art. 3.

<sup>20</sup> Draft law on migration (confidential), art. 3.

<sup>21</sup> See, for example, CERD/C/MAR/CO/17-18, para. 9; E/C.12/MAR/CO/4, para. 14 (a); and [A/HRC/36/6, paras. 144.34, 144.76 and 144.78.](#)

<sup>22</sup> CERD/C/MAR/CO/17-18, paras. 9–10.

discrimination, xenophobia and related intolerance,<sup>23</sup> no such plan currently exists. The adoption of such a plan is urgent, as it will provide much-needed guidance to government actors at all levels on the implementation of racial equality commitments.

21. Morocco has adopted various policy documents relating to human rights, equality and non-discrimination. Most notably, in 2017 the Government elaborated its National Action Plan on Democracy and Human Rights (2018–2021), in consultation with civil society stakeholders.<sup>24</sup> Although the action plan seeks to promote the principles of tolerance, equality and non-discrimination in specific areas,<sup>25</sup> the Special Rapporteur regrets that it does not make explicit references to the elimination of racial discrimination and the promotion of racial equality. Similarly, the Government Plan for Equality (2017–2021) focuses on the advancement of gender equality, but does not specifically address intersectional forms of discrimination, including on the basis of race.<sup>26</sup>

22. With regard to non-citizens, the National Immigration and Asylum Strategy contains some provisions related to the promotion of tolerance and the fight against racial discrimination. For example, it contains specific programme points and action points aimed at promoting non-discriminatory access to education and health-care services.<sup>27</sup>

23. These policy developments are important but do not meet the need for Morocco to adopt a plan of action to combat racial discrimination and intolerance.

#### 4. Institutional framework relating to racial equality and racial discrimination

24. Particularly since the adoption of the 2011 Constitution, Morocco has strengthened its institutional human rights framework by creating and reforming a number of bodies responsible for the protection and promotion of human rights. While there is no body or mechanism specifically dedicated to combating racial discrimination, the Special Rapporteur was encouraged to learn that the mandate and work of various entities was relevant for the promotion of racial equality, non-discrimination and tolerance in Morocco. The Special Rapporteur welcomes the fact that the Authority for Parity and the Fight against all Forms of Discrimination is currently being established. However, she notes that the institution is mandated to focus exclusively on gender-based discrimination and does not have a specific mandate to address racial discrimination.

25. Impressively, Morocco has a dedicated Minister of State for Human Rights as well as an Interministerial Delegation for Human Rights. Among its other tasks, the Delegation is responsible for coordinating the elaboration and implementation of a coherent government policy on human rights, promoting the integration of human rights in public policies, ensuring the implementation of the obligations of Morocco under international human rights law, and fostering cooperation with relevant actors at the national, regional and international levels.

26. In 2013, the Government of Morocco created a ministry devoted to equality (the Ministry of Family, Solidarity, Equality and Social Development), which has the task, among others, of mainstreaming equality considerations across all other government ministries and the public sector. This ministry is a valuable development worthy of emulation by other governments. Nevertheless, the Special Rapporteur notes that the ministry's equality work is focused on women, persons with disabilities, children and elderly persons. Given its expertise in promoting equality for these particular categories, the ministry is well positioned to push forward a racial equality agenda for Morocco, provided that concrete legislative and policy measures are taken for the inclusion of racial discrimination, xenophobia and related intolerance in its work and mandate.

<sup>23</sup> See [www.un.org/en/durbanreview2009/pdf/DDPA\\_full\\_text.pdf](http://www.un.org/en/durbanreview2009/pdf/DDPA_full_text.pdf), para. 66.

<sup>24</sup> See <http://didh.gov.ma/fr/publications/plan-daction-national-en-matiere-de-democratie-et-des-droits-de-lhomme-2018-2021>.

<sup>25</sup> Ibid. See, for example, measures 9, 19, 95, 106, 134 and 153.

<sup>26</sup> *Initiative concertée pour le renforcement des acquis des Marocaines*, No. 2, available at [www.social.gov.ma/sites/default/files/icram%202%20fr.pdf](http://www.social.gov.ma/sites/default/files/icram%202%20fr.pdf).

<sup>27</sup> Available at <http://marocainsdumonde.gov.ma/realisations-programmatiques>. See, for example, the programme on education and culture and the programme on health.



27. As the country's national human rights institution, the National Human Rights Council plays an important role in advancing equality and human rights. The Special Rapporteur acknowledges the leadership role of the National Human Rights Council in the area of gender equality and women's rights, but she notes that concrete measures are required to ensure that combating racism, racial discrimination, xenophobia and related intolerance is included in its work. The National Human Rights Council must take a more active role in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in Morocco, and in the implementation of other racial and religious equality and non-discrimination standards.

28. The Special Rapporteur notes with appreciation that the National Human Rights Council is represented across the country through its 13 regional commissions, which allows it to monitor the human rights issues and regional dynamics that affect racial equality in different parts of Morocco. Yet, the Special Rapporteur expresses concern that some of the regional commissions lack adequate capacity and expertise to effectively address racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteur was also informed about challenges in handling complaints in a timely manner, and she received credible information about instances in which the regional commission in Tangier had failed to take action on particular cases of alleged racial discrimination against migrants by local authorities.

29. The work of the National Human Rights Council is complemented by the Institution of the Mediator of the Kingdom (the ombuds institution), which was created in 2011 in accordance with article 162 of the Constitution. The institution is mandated to promote the principles of the rule of law, good governance, justice, equity and human rights in the provision of services by public bodies. To this end, it is empowered to handle complaints, to conduct enquires and investigations, and to issue decisions or recommendations to relevant authorities. To date, the institution's work on discrimination and equality issues appears to be limited, and the Special Rapporteur was informed that none of the complaints received had related to cases of alleged racial discrimination. However, the institution could potentially provide a valuable avenue of redress for those experiencing racial discrimination when interacting with public authorities. Awareness-raising activities, anti-discrimination training for staff and the collection of disaggregated data on complaints are some of the key measures that could be taken in this regard.

30. The Special Rapporteur also commends the establishment in 2001 of the Institut Royal de la Culture Amazighe, where she had the benefit of attending a celebration of Amazigh women artisans and their beautiful textiles and artistry. She commends the important work that the institute is doing to strengthen written Amazigh, through lexical and other developments, and to support the flourishing of Amazigh cultural traditions. The Special Rapporteur was pleased to learn about the comprehensive outreach and communication strategies employed by the institute. The institute has developed cooperation agreements with numerous government bodies, partnered with 2,000 associations, and funded more than 3,000 projects to promote the Amazigh language and all aspects of Amazigh culture. The Special Rapporteur appreciates the fact that educational materials developed by the institute are not aimed only at teaching about the Amazigh language and Amazigh culture, but also at promoting attitudes against racism, hatred and exclusion.

31. Finally, the Special Rapporteur welcomes the work of the High Authority for Audiovisual Communication in countering hate speech in the media, notably the guide that it developed in 2018 in partnership with its counterparts from Côte d'Ivoire and Tunisia and the International Organization of la Francophonie, entitled "Combating hate speech in the audiovisual media: norms, jurisprudence, good practices and cases", as well as the training sessions it has organized with journalists – including on the margins of the December 2018 conference in Marrakech on the Global Compact for Safe, Orderly and Regular Migration – to raise awareness about discrimination of all kinds. She further welcomes the series of disciplinary measures taken by the High Council for Audiovisual Communication (Conseil supérieur de la communication audiovisuelle) against a number of television and radio stations that had broadcast racist discourses.

## **B. Amazigh**

32. As previously mentioned, the preamble to the Constitution commits the Kingdom to a unified but culturally diverse national identity, which centrally includes Amazigh culture and language.<sup>28</sup> In consultations, Moroccan authorities acknowledged the importance of Amazigh heritage, but seemed not to consider issues related to Amazigh from a racial equality perspective. Notwithstanding important constitutional, legislative and policy commitments on the part of the Government, the Special Rapporteur heard from representatives of many who identified as Amazigh and Moroccan but who had experienced discrimination, structural exclusion and even racist stereotyping and related intolerance on the basis of their Amazigh language and culture. Amazigh women reported that they often experienced multiple and intersecting forms of discrimination on account of their gender and their Amazigh identity.

### **1. Cultural rights**

33. The adoption of a new Constitution in 2011 has made important contributions to the promotion of the Amazigh language and Amazigh culture. Article 5 of the Constitution grants the Amazigh language status as an official language of the State. There are dialects (Tarifit, Tashelhit and Tamazight). In this way, Morocco has implemented an important recommendation previously issued by the Committee on the Elimination of Racial Discrimination.<sup>29</sup> Article 5 of the Constitution also provides for the creation of a National Council of Languages and Moroccan Culture mandated to protect and develop the Arabic and Amazigh languages and the diverse Moroccan cultural expressions. The Special Rapporteur welcomes these important developments, noting that it remains to be seen how these provisions will be enforced and applied in practice. She regrets that, more than seven years after the adoption of the Constitution, Morocco has not yet passed the implementing legislation (organic law) required in order to give effect to these constitutional provisions. As a result, the elaboration and implementation of policy reforms that are urgently needed in order to ensure that the equality of all Moroccans that is guaranteed in the Constitution becomes a practical reality, are also being delayed. This delay is unacceptable and the Government must make every effort to bring it to an end.

34. During her visit, the Special Rapporteur learned about the steps Moroccan authorities had taken, in cooperation with the Institut Royal de la Culture Amazighe, to promote the Amazigh language in education and the media. Amazigh language teaching was officially introduced into the education system in 2003. Since then, Morocco has worked to gradually strengthen the position of the Amazigh language, inter alia by hiring and training Amazigh language teachers. By 2017, the Government had hired 294 specialized teachers to provide Amazigh language classes to approximately 400,000 pupils in 4,000 primary schools.<sup>30</sup> In 2018, 498 specialized teachers provided Amazigh language classes to more than 600,000 pupils. Although the Special Rapporteur acknowledges these efforts, she is concerned that progress remains slow and inadequate. According to information received, only 13 per cent of primary school students receive Amazigh language classes, and it is estimated that approximately 100,000 teachers would be needed to cover the 4.5 million students enrolled in primary schools.

35. In addition to the lack of sufficient numbers of specialized teachers, the Special Rapporteur learned of persistent shortcomings regarding the adequacy of the teaching of the Amazigh language at all levels of education and in all regions, the promotion of the use of Amazigh as the language of instruction, and the mainstreaming of Amazigh language and culture in school curricula. Concerning the representation of Amazigh language and culture in the media, the Special Rapporteur learned about progress made in relation to the availability of Amazigh programmes, training for journalists, and the daily hours of broadcasting in Amazigh. Despite these developments, Amazigh remain underrepresented in the audio and visual media. Interlocutors noted that only one out of nine public television

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<sup>28</sup> Preamble to the 2011 Constitution.

<sup>29</sup> CERD/C/MAR/CO/17-18, para. 11.

<sup>30</sup> A/HRC/WG.6/27/MAR/1, para. 88.

channels was devoted to Amazigh culture and language. Television channels and radio stations are required to allocate 30 per cent of their time to Amazigh-language programmes.

## 2. Access to justice

36. The Special Rapporteur was informed that Amazigh speakers continued to experience significant communication difficulties in their interactions with the State administration and the judiciary. These difficulties are often the result of the relevant officials lacking Amazigh-language skills, the predominance of Arabic as the sole language of the juridical sphere, and the absence of adequate Amazigh-language resources such as sworn interpreters. Both the Committee on the Elimination of Racial Discrimination and the Independent Expert in the field of cultural rights have previously emphasized that the predominance of Arabic within the State bureaucracy poses a barrier to equal and effective access to justice for those who are not fluent in Arabic.<sup>31</sup> The limited availability of qualified, certified interpreters creates communication difficulties for Amazigh-speakers at every stage of the legal process, including during court proceedings, which can have serious consequences for the substantive adjudication of their cases and may lead to violations of the right to equal treatment, effective protection and redress before the courts. In order to ensure equality and non-discrimination in the administration of justice, Morocco should strengthen its efforts to advance the use of the Amazigh language in judicial and administrative proceedings and to guarantee the availability of free interpretation services. This is a crucial step for empowering all individuals to claim the rights they are entitled to enjoy under Moroccan and international law.

## 3. Socioeconomic marginalization

37. The Amazigh also reported experiencing racial discrimination in their enjoyment of economic and social rights – a concern that both the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights raised in their concluding observations.<sup>32</sup> Although Morocco has achieved substantial progress in reducing poverty, Amazigh communities remain concerned that regional disparities, inequality and the urban-rural gap in poverty remain significant. Amazigh are disproportionately affected, since the predominately Amazigh-speaking regions (the Rif, Atlas, Assamer and Souss regions) are the poorest in the country and thus face the greatest challenges in terms of infrastructure and the adequate provision of basic services such as water, sanitation and health-care facilities. Amazigh communities inhabiting rural areas and those who were not fluent in Arabic reported persisting, structural marginalization and discrimination with regard to equal access to employment and health services. In these areas, cultural identity intersecting with rural economic marginalization seemingly creates regions in which residents enjoy a poorer quality of life, compared to those residing in urban areas. In addition, some civil society representatives reported that stereotypes associated with rural inhabitants of areas where the Amazigh language and Amazigh culture were especially salient often meant that people from those regions faced discrimination when they attempted to settle in more urban areas.

38. Moreover, concerns were raised regarding Amazigh communities' ownership and control over land, forests and natural resources, which were inherently tied to Amazigh tradition and culture. Amazigh representatives reported experiencing inequality and discrimination with regard to forced displacement, land dispossession and environmental despoilment of rural areas across the country. This often occurred in the context of development projects and natural resource extraction by private actors or public authorities. For example, the Special Rapporteur was told about several regions in which mining companies exploited land and resources without paying due regard to the needs and rights of the communities affected. Issues connected to land and resource use are rooted in colonial-era laws, which disbanded previously existing communal land and property ownership structures and led to the dispossession of land that had been traditionally inhabited by Amazigh communities. The cumulative effect of colonial-era laws and

<sup>31</sup> CERD/C/MAR/CO/17-18, para. 19; and A/HRC/20/26/Add.2, para. 33.

<sup>32</sup> CERD/C/MAR/CO/17-18, para. 11; and E/C.12/MAR/CO/4, paras. 13, 41 and 43.

landownership structures, combined with contemporary agricultural and land use projects,<sup>33</sup> reportedly remains cause for serious concern in parts of the country.

39. The Special Rapporteur wishes to emphasize that ensuring the equal status of all in the Kingdom requires the necessary measures to be taken to protect the economic, social and cultural rights of all communities. Especially with regard to the socioeconomic marginalization of Amazigh communities, the Special Rapporteur recalls that the Committee on Economic, Social and Cultural Rights has previously called upon Morocco to remedy regional disparities and combat the de facto discrimination against Amazigh, if necessary by adopting special measures.<sup>34</sup> The adoption of temporary special measures is provided for under article 1 (4) of the International Convention on the Elimination of All Forms of Racial Discrimination “to secure to disadvantaged groups the full and equal enjoyment of human rights and fundamental freedoms”.<sup>35</sup>

#### 4. Civic space

40. Finally, the Special Rapporteur notes that she has received a number of allegations concerning violations of the rights to freedom of opinion and expression, of peaceful assembly and of association, encountered by Amazigh communities and activists. Such restrictions were reported in relation to, inter alia, the registration and functioning of Amazigh associations, political parties and student organizations; authorization for activities and events; the banning of marches; and the use of public halls. Concerns about the securitized approach towards Amazigh activists were also brought to the attention of the Special Rapporteur, particularly with regard to the Hirak movement, student activists, and those defending land rights.

### C. Migrants and refugees

41. As highlighted in the Durban Declaration and Programme of Action, racial discrimination and xenophobia against non-nationals are among the main forms of contemporary racism. As such, the experiences of migrants, refugees and asylum seekers were of concern to the Special Rapporteur during her visit.

42. Although Morocco has a long history of migration, today the country faces new and increasing challenges related to its proximity to Europe and its status as a country of origin and transit, as well as of destination. Confronted with these challenges, Morocco has taken a leadership role on migration-related issues at the international and regional levels, including within the framework of the Global Compact for Safe, Orderly and Regular Migration, which was adopted in Marrakech just days before the visit of the Special Rapporteur.

43. Morocco is also taking leadership by adopting an approach that takes seriously the need for research and investment to promote migration that places Africa and the South–South dimensions of international migration at the centre of analysis. In this connection, the Special Rapporteur commends the creation of the African Union migration observatory in Rabat. This body will be tasked, inter alia, with the collection and dissemination of migration-related data, facilitating coordination among African States. The Special Rapporteur was also informed about plans to conduct a large-scale national survey, which will collect detailed disaggregated data that can be used to analyse important trends, causes and effects of international migration in Morocco. She recalls the importance of pursuing such initiatives in a manner that fully complies with equality and non-discrimination

<sup>33</sup> The Green Morocco Plan was cited as one example of an agricultural initiative whereby farmland that was traditionally inhabited by Amazigh was made available to Moroccan and foreign investors without adequate consultation with the communities affected.

<sup>34</sup> E/C.12/MAR/CO/4, para. 14.

<sup>35</sup> See Committee on the Elimination of Racial Discrimination, general recommendation No. 32 (2009), para. 11.

obligations under international law, and in a manner that promotes the dignity and self-determination of African migrants.

44. At the national level, Morocco has taken tremendous steps to advance the human rights of migrants and refugees, building on the constitutional framework referenced above. Recognizing the need to address deficiencies in its existing legislative framework, the country is currently in the process of adopting two new pieces of legislation on migration and asylum. While the impact of these laws on racial equality remains to be seen, the Special Rapporteur is encouraged by the political will demonstrated by the Government of Morocco. As a matter of national policy, Morocco has generally displayed praiseworthy commitment to the human rights of migrants and refugees. Morocco's policies – which are still a work in progress – deserve international recognition, and in many cases, international emulation. They are, by and large, a welcome and necessary departure from the inhumane securitization of migration that is occurring in many regions of the world, in part as a result of the rise of ethno-nationalist populism and other political currents elsewhere.<sup>36</sup> At the same time, serious challenges persist in the Kingdom, where important work remains to be done to protect migrants and refugees against racial discrimination and intolerance.

45. The Special Rapporteur commends the fact that two campaigns were conducted, in 2014 and 2017, to facilitate the regularization of irregular and undocumented migrants living in Morocco. According to government officials, the two regularization processes have resulted in approximately 50,000 people receiving formal status. Although various stakeholders have praised these regularization exercises, some have rightly criticized their one-off nature and the introduction of stricter criteria, which have meant that many migrants have been excluded from the process, including those who arrived in Morocco more recently as well as those unable to obtain rental agreements. The National Appeals Commission, chaired by the National Human Rights Council, issued a series of recommendations on applications rejected by the regional commissions. This resulted in the authorities settling more than 6,000 applications, including all applications concerning women and children, as well as all applications concerning unaccompanied children who entered the national territory after the expiry of the legal period specified in the ministerial memorandum. These regularization efforts have been a multi-stakeholder process that has seen important roles given to the National Human Rights Council, migrants' rights advocates and even migrants themselves, in the adjudication of eligibility for regularization. This multi-stakeholder approach concretely implements human rights principles of participatory and representative governance.

46. The Special Rapporteur commends the decision of Morocco to reject the warehousing of migrants in immigration detention centres, and instead to adopt a formal policy aimed at integrating migrants into its society. The Special Rapporteur also commends the recent decision by Morocco to reject European Union attempts to locate offshore asylum processing or "regional disembarkation" centres within Moroccan territory.

47. Many of the good practices commended in the paragraphs above are not institutionalized in formal law. Migrant regularization and legal pathways to migration, refugee status determination and documentation, as well as non-detention-based asylum and immigration governance practices, and rejection of the projection of European borders onto Moroccan territory, must all find formal recognition in law.

48. Consultations with migrants and refugees, and organizations working with them, revealed that the 2014 and 2017 regularization initiatives, as well as the integration policies outlined in the National Immigration and Asylum Strategy, have greatly assisted in fulfilling the human rights of these populations. However, some migrants and refugees, especially those of black, sub-Saharan origin, reported incidents of racist and xenophobic stereotyping when accessing health care, housing, education and employment, and in other settings.

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<sup>36</sup> See A/73/305.

49. Although national law and policy guarantees a range of rights to migrants and refugees on an equal basis in all of these contexts, rights violations persist and discrimination remains a key barrier to integration. The Special Rapporteur received testimonies from individual migrants who, on the basis of their race, had been subjected to racist stereotypes, and in some cases that stereotyping had also directly resulted in racially discriminatory denial of their rights. For many sub-Saharan Africans, finding affordable secure and stable housing remains challenging because landlords refuse them rentals on the basis of their race and legal status. In addition, the Special Rapporteur heard about difficulties in accessing health care, including for pregnant women. Those difficulties related to various factors such as the lack of financial means, the absence of adequate support structures, and neglect or even refusal of treatment due to racist stereotypes by health-care professionals. Similar challenges have been identified in the field of education. Migrant families reported difficulties in enrolling their children in schools, often due to administrative barriers for those who were not properly registered or lacked the required documentation. Racist stereotypes and prejudice also played a role in some cases where schools had refused to enrol black migrant children, claiming that their schools were at full capacity.

50. In one consultation, the Special Rapporteur learned that lesbian, gay, bisexual and transgender migrants, refugees and asylum seekers were especially vulnerable to human rights violations on account of their sexual orientation and gender identity. In this context, she highlights the importance of an intersectional approach, and recalls that racial equality and non-discrimination must be guaranteed for all, irrespective of sexual orientation and gender identity.

51. In addition to racial discrimination in access to services, individuals of sub-Saharan origin often face discrimination by private individuals. To date, it appears that Morocco has not experienced the same levels of xenophobic violence, hate speech and hate crimes targeted at migrants and refugees as is the case in many other parts of the world. Nevertheless, migrants, asylum seekers and refugees from sub-Saharan Africa experience racist and xenophobic acts in public, including spitting, insults, stone throwing and physical assaults. According to information received, police rarely investigate complaints, and where investigations occur, accountability is compromised by lack of proof, inadequate legal assistance and support structures, language barriers, and absence of trust in the authorities.

52. Of great concern is the pressure that Morocco currently faces from Europe in matters relating to migration governance, given the geopolitical significance of the Kingdom's location. It is no secret that in recent years, Europe has escalated its efforts to restrict migration, especially from Africa. Some statistics suggest that Morocco is currently the second most prevalent route for irregular migration to Europe,<sup>37</sup> and efforts to prevent Africans – including Moroccans, but especially black sub-Saharan migrants – from reaching Europe have created a situation of serious human rights concern in Morocco. This situation is at risk of worsening, and Morocco must take proactive steps to avoid further escalation.

53. In the north of Morocco, migrants face severe restrictions on freedom of movement, and in recent months, immigration and related enforcement efforts have resulted in human rights violations against regular and irregular migrants, targeted especially at black, sub-Saharan Africans. In the north of the country, the Special Rapporteur received credible reports of harassment, arbitrary arrest and detention, excessive use of force, and forced relocation, in some cases targeted at regular and irregular migrants alike, where officials employed racial profiling in the course of law enforcement.

54. The Special Rapporteur is seriously concerned about the use of racial profiling and the absence of due process in the conduct of forced relocations of migrants in the northern regions of Tangier, Nador and Tétouan. Interlocutors report that forced relocations have dramatically increased, following an incident in July 2018 when hundreds of people stormed a border fence at the Spanish enclave of Ceuta. Since then, Moroccan authorities

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<sup>37</sup> "Morocco's migration policies and the Global Compact for Safe, Orderly and Regular Migration", p. 11, available from <http://gfmf.org/pfp/ppd/10974>.

have forcefully relocated thousands of migrants in an effort to crack down on irregular migration to Spain. In order to keep migrants away from land or sea crossings, the authorities transport them in buses to other regions of Morocco. While some reported having been taken to cities, the Special Rapporteur heard of many individuals who had been taken to remote regions in the south of Morocco, including areas around Tiznit and areas close to the Algerian border, where they had been abandoned without any form of assistance. During interviews, the Special Rapporteur was told about incidents in which even pregnant women, children, sick persons, United Nations-recognized asylum seekers and refugees, and registered migrants holding a residency card, had been forcefully relocated. Many migrants have been subjected to multiple relocations, since many return to the north of Morocco as soon as they can gather enough money.

55. Although forced relocations of irregular migrants are permitted under Moroccan law,<sup>38</sup> the Special Rapporteur reiterates that this practice raises serious human rights issues, including with respect to its discriminatory nature. Alongside other issues, the use of racial profiling is of grave concern, and violates international human rights obligations. Moroccan police and other authorities involved in migration enforcement reportedly conduct regular raids in neighbourhoods and forests in which migrants live, targeting sub-Saharan Africans, who are identified on the basis of their skin colour. Black migrants reported being arbitrarily arrested in their homes, on the street or in public places – sometimes with the use of excessive force – before being taken to the police and forced on buses. In the city of Tangier, such practices have created an atmosphere of fear, in which some black migrants feel forced to remain hidden for fear they may become the subject of racial profiling resulting in arrest and forced relocation.

56. The Special Rapporteur was also informed that forced evictions in August 2018 in neighbourhoods in Tangier predominantly with black sub-Saharan migrants had resulted in the destruction of property and the displacement of migrants, including of regular migrants, pregnant women, and children. The Special Rapporteur spoke to some of these people, who now reside in utterly inhumane conditions in a forest, with no sanitation and no shelter despite freezing winter temperatures. The Special Rapporteur expresses grave concern that these evictions violated the human rights of many migrants, some of whom reported that notwithstanding legal or asylum seeker status, the colour of their skin put them in grave danger. The Special Rapporteur recalls that prohibited racial discrimination under international law does not require racial animus or prejudice – even measures that disproportionately affect or target groups on the basis of their race, national origin, ethnicity and descent contravene international human rights law.

57. During her meetings with government interlocutors, the Special Rapporteur was told that government action against migrants in the north of Morocco occurred in the context of fighting crime, trafficking and smuggling. The Special Rapporteur reiterates that this cannot serve as a pretext or justification for racial discrimination. While Morocco has a sovereign right to enforce its immigration law, and an obligation to combat trafficking and smuggling where it occurs, this enforcement must be in compliance with international human rights standards that prohibit racial discrimination, including de facto racial discrimination. Even black sub-Saharan migrants who reported having been well integrated into Moroccan communities in the north reported a shift in the enforcement climate in the region.

58. The Special Rapporteur is deeply concerned that severe human rights violations against black sub-Saharan migrants and refugees in the north are occurring, and she urges Morocco to take steps to end these violations. In this context, she stresses that the Government of Morocco is responsible and accountable for the actions of local government representatives, including police and immigration enforcement officials.

59. The Special Rapporteur welcomes the assurances that she received from Moroccan authorities at the national level of their commitment to strengthen the human rights compliance of immigration-related enforcement across the country. These national assurances must take local effect. She also welcomes and wishes to highlight reports she

<sup>38</sup> Moroccan authorities advised that this legal policy was subject to ongoing reforms, and the Special Rapporteur welcomes further details in this regard.

received from Syrian refugees in the north, of their strong integration in communities there, especially among the Syrian refugees who benefited from the regularization efforts of 2014 and 2017. Similar conditions are vital for all other refugees, irrespective of race or national origin.

60. Pressure to prevent migration from Africa to Europe also appears to be shifting the situation of migrants, refugees, and also Moroccans, in regions in the south of the country. Although Morocco has rejected policies of immigration detention, the forced relocation of black sub-Saharan irregular migrants, and in some cases asylum seekers, from northern to southern regions appears to be creating de facto regions of migrant containment that will only become increasingly volatile. Such displacement is leading to human rights violations against these migrants in the southern regions to which they are relocated.

61. Under the current conditions, the growing presence of these migrants risks escalating anti-migrant and xenophobic tensions within Moroccan communities that have previously welcomed migrant and refugee populations. This volatile situation requires urgent attention and requires that Morocco remain firm in an approach rooted in human rights with no interference from Europe. Morocco must cease any and all immigration enforcement policies that result in gross human rights violations, including in forests in the north and other regions close to its frontiers with Europe. At the same time, regional and international actors, in particular the European Union and its member States, must take responsibility for the role they must play in ensuring migrants' human rights in Morocco. Europe must take active steps to create legal pathways for migration, including for Moroccans and other African migrants who seek to migrate. And international organizations, including the International Organization for Migration, must ensure that human rights are front and centre in all of their work nationally and locally, with regular and irregular migrants.

#### **D. Moroccan religious minorities**

62. Although the Constitution of Morocco emphasizes the importance of Islam and establishes it as the official State religion, freedom of worship for all is guaranteed under article 3. In this context, the Special Rapporteur commends Morocco for the remarkable steps it has taken to ensure that Moroccan Jews have the full means to enjoy their rights to freedoms of belief and association as well as other human rights. She had the benefit of visiting the Moroccan Jewish Museum, in Casablanca, which is unique in the Arab world and a good example of respect for religious tolerance and cultural pluralism.

63. However, the Special Rapporteur received information about restrictions placed on religions other than Islam, an issue that had previously been highlighted by the Human Rights Committee in its concluding observations.<sup>39</sup> During her visit, the Special Rapporteur met with representatives from religious minorities, including Moroccan Christians and Baha'i, who reported facing various restrictions in practising their religion. For example, some national religious minority groups reported difficulties in registering, noting that government and judicial authorities had rejected registration requests, citing infringement on the Muslim religion. In the absence of proper registration, some groups are reportedly prevented from attending churches, gathering for religious purposes in public, and establishing associations under which they can operate legally. In addition, some reported living in fear of government harassment due to previous surveillance incidents, arrests and questioning by local authorities. The Special Rapporteur calls upon the authorities to shed light on these allegations, which she takes seriously.

64. The Special Rapporteur recalls that the human rights enshrined in international human rights treaties must be guaranteed for everyone, including racial, ethnic and religious minorities. Indeed, under article 5 (d) (vii) of the International Convention on the Elimination of All Forms of Racial Discrimination, Moroccan authorities are required to ensure that all Moroccans can enjoy equally the right to freedom of thought, conscience and

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<sup>39</sup> CCPR/C/MAR/CO/6, paras. 39–40.



religion, without any form of discrimination. Ensuring equal enjoyment of this right and promoting religious tolerance will become even more important in the future, as migration patterns will likely entail an increase of religious diversity in Morocco.

### **E. Countering extremism**

65. During her visit, the Special Rapporteur learned of the important work undertaken by the Mohammadia League of Scholars (the Rabita Mohammedia des Oulémas), a widely respected religious institution across the country and the Arab world, to combat extremism among detainees, including those imprisoned on terrorism-related charges. The League seeks to combat extremism in an innovative way by deconstructing radical discourses and developing comprehensive interventions rooted in interpretation of Islam, which promote human rights principles, tolerance and reconciliation. This innovative initiative relies on a training system of peer educators, allowing detainees to participate in debates and activities with religious advisers and to discuss the destructive nature of extremist discourse. It provides an open space for detainees to reflect on extremism and religion through a lens that promotes tolerance, human rights and social inclusion. The initiative is part of a broader programme, implemented by the United Nations Development Programme in cooperation with the General Delegation for Prison Administration and Reintegration, and has been introduced in seven detention facilities, including in two prisons for women, and there are plans to extend it to four other detention centres in northern Morocco.

## **IV. Conclusion and recommendations**

66. The Special Rapporteur acknowledges that Morocco has made significant improvements in the protection and promotion of human rights, following the adoption of the new Constitution in 2011. Morocco has shown leadership in key areas relating to the achievement of racial equality and the Special Rapporteur was encouraged at the political will for reform that was demonstrated by many government interlocutors. Notwithstanding recognition of these achievements, serious challenges persist and important work remains to be done to ensure racial equality and the right of all persons to be free from racial discrimination.

67. The Special Rapporteur encourages the Government of Morocco to make use of the existing political space to advance racial equality and she hopes that her recommendations will provide valuable guidance in this regard. She is confident that significant progress can be achieved if Morocco acknowledges the existence of racial discrimination in the country and takes seriously the recommendations made by United Nations human rights mechanisms.

**68. The Special Rapporteur calls on the Moroccan authorities and other key stakeholders to adopt the following concrete measures aimed at eliminating and preventing racism, racial discrimination, xenophobia and related intolerance:**

### **A. To the Moroccan authorities**

**69. Submit without further delay the combined nineteenth, twentieth and twenty-first periodic reports to the Committee on the Elimination of Racial Discrimination.**

**70. Adopt a comprehensive legal and policy anti-discrimination framework that fully implements the racial equality provisions of the International Convention on the Elimination of All Forms of Racial Discrimination according to the recommendations of the Committee on the Elimination of Racial Discrimination. In order to ensure full conformity with article 1 of the Convention, either revise existing legislation or adopt a new law specifically prohibiting racial discrimination as defined under the Convention. Also adopt a national action plan to combat racism, racial discrimination, xenophobia and related intolerance.**

71. **Adopt concrete legislative and policy measures to ensure that elimination of racism, racial discrimination, xenophobia and related intolerance is integrated into the work and mandate of bodies tasked with the promotion of human rights, equality and non-discrimination.**
72. **Collect reliable and disaggregated data based on indicators that accurately reflect the racial, cultural and ethnic diversity of the Moroccan population, including linguistic diversity – which is well reflected by metrics that track oral language usage as well as by metrics that track literacy.**
73. **Consider the adoption of special measures to secure to disadvantaged groups the full and equal enjoyment of human rights and fundamental freedoms.**
74. **Empower all individuals to claim their rights, by ensuring effective access to justice and adequate remedies for all victims of racial and xenophobic discrimination and of racial, xenophobic and related intolerance. In this context, raise awareness about available avenues of redress and facilitate access thereto, including through the removal of language barriers and the provision of adequate and accessible information on rights and remedies available to groups and individuals in vulnerable situations.**
75. **Take concrete steps to improve accountability for all acts of racial discrimination and xenophobia, ensuring that allegations of such acts are thoroughly investigated, prosecuted and punished, even in cases where rights violations are not the result of deliberate government policy or action.**
76. **Strengthen preventative educational, training and awareness-raising measures to ensure that all public officials, including those responsible for the administration of public services, refrain from racism, racial discrimination, xenophobia and related intolerance.**
77. **Step up efforts to eliminate prejudice, negative stereotyping and stigmatization and take effective measures aimed at promoting tolerance and understanding, in line with article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination.**
78. **Adopt without delay the organic law required to implement the constitutional status of Amazigh as an official language, and take interim measures to prevent and mitigate all forms of linguistic and cultural discrimination in all spheres pending the adoption of the requisite organic law.**
79. **Intensify efforts to ensure that Amazigh are not subjected to racial discrimination in the enjoyment of their human rights, including with regard to education, access to justice, access to employment and health services, land rights, and freedoms of opinion and expression, of peaceful assembly and of association.**
80. **Ensure additional, systematized pathways to migration, including pending finalization of the national migration and asylum bills currently under review by Parliament.**
81. **Retain and promote a multi-stakeholder approach in the development of a permanent framework for migrant regularization.**
82. **Strengthen measures to eliminate administrative and other structural barriers to the integration of refugees and migrants.**
83. **Ensure that the national human rights-based policy on migration is implemented evenly at all local levels.**
84. **Eliminate all practices of racial profiling and all other racially discriminatory immigration enforcement practices, including the forced relocations, arbitrary arrest and detention, regional containment of, and excessive use of force against, black, sub-Saharan Africans.**
85. **Provide emergency humanitarian support for all persons experiencing grave human rights violations in the migration context, irrespective of race, ethnicity,**

national origin, descent, or immigration status, especially for those at risk of intersectional discrimination on the basis of sex, gender, sexual orientation, disability or other status.

86. Invite the Special Rapporteur on the human rights of migrants to conduct a country visit.

87. Ensure that all Moroccans, including those belonging to religious minorities, enjoy the right to freedom of thought, conscience and religion on an equal basis.

## **B. To the National Human Rights Council**

88. Take a leadership role in promoting deeper understanding of human rights in relation to manifestations of racism, racial discrimination, xenophobia and related intolerance, which all occur even in societies such as Morocco, with a historically diverse and multicultural national identity.

89. Take a leadership role in the national adoption and implementation of a national action plan to combat racism, racial discrimination, xenophobia and related intolerance in accordance with the Durban Declaration and Programme of Action.

90. Strengthen the capacity and expertise of regional offices of the National Human Rights Council to address racism, racial discrimination, xenophobia and related intolerance, paying particular attention to regional dynamics that affect racial equality.

91. Increase resources and facilitate training opportunities for regional offices of the National Human Rights Council on international human rights obligations to combat racism, racial discrimination, xenophobia and related intolerance, paying special attention to local variations in the manifestations of these issues.

## **C. To civil society**

92. Continue its important work in raising awareness, reporting on and providing assistance to victims of instances of racism, racial discrimination, xenophobia and related intolerance in all contexts.

## **D. To the European Union and its member States**

93. Cease putting pressure on African Governments to restrict the freedom of movement of Africans, and to enforce inhumane migration border securitization priorities in Africa, including on a racially discriminatory basis.

94. Implement a human rights-based regional approach to governing migration that includes legal pathways to migration.

## **E. To United Nations agencies with refugee and migration mandates**

95. Urgently provide humanitarian assistance to black sub-Saharan migrants living in the forest in Tangier, and to other migrants experiencing grave human rights violations across the country, in particular women and children who are the daily target of sexual and other forms of violence from smuggling and trafficking networks and from other actors.

96. Ensure that a human rights-based approach is front and centre in all work nationally and locally with regular and irregular migrants, asylum seekers and refugees, with a particular emphasis on promoting their rights to non-discrimination and equality.