



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eighty-second session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

MOROCCO

1. The Human Rights Committee considered the fifth periodic report of Morocco (CCPR/C/MAR/2004/5) at its 2234th, 2235th and 2236th meetings, on 25 and 26 October 2004 (CCPR/C/SR.2234-2236), and adopted the following concluding observations at its 2249th meeting, on 3 November 2004 (CCPR/C/SR.2249).

A. Introduction

2. The Committee welcomes the timely submission of Morocco's fifth periodic report (CCPR/C/MAR/2004/5). It takes note with interest of the information provided as well as the clarifications made by the delegation.

B. Positive aspects

3. The Committee notes with appreciation that since the submission of its fourth periodic report (CCPR/C/115/Add.1), Morocco has pursued democratic reforms, adopted legislation in this regard (including the new Family Code) and created the office of Ombudsman (Diwan Al Madhalim).

4. The Committee welcomes the State party's commitment to pursuing the reforms with a view to fully implementing the rights set forth in the Covenant and its intention to accede to the Optional Protocol to the Covenant.

5. The Committee welcomes the State party's practice, which it has followed consistently since 1994, of commuting death sentences.

6. The Committee welcomes the decision of 26 September 2000 by Morocco's Supreme Court concerning the primacy of article 11 of the Covenant, prohibiting imprisonment for inability to fulfil a contractual obligation, over domestic law and practice. It notes with interest the content of the letter dated 7 April 2003 referring to the above-mentioned Supreme Court decision, in which the Minister of Justice requests the principal public prosecutors at appeal courts and courts of first instance to apply article 11 of the Covenant and to refer back to the courts the cases of all persons serving such sentences.

7. The Committee notes with appreciation that there is an advanced network of non-governmental human rights organizations in Morocco.

C. Principal subjects of concern and recommendations

8. The Committee remains concerned about the lack of progress on the question of the realization of the right to self-determination for the people of Western Sahara (Covenant, art. 1).

The State party should make every effort to permit the population groups concerned to enjoy fully the rights recognized by the Covenant.

9. The Committee regrets the lack of specific information on the dealings of the Ombudsman (Diwan Al Madhalim) with the Administration.

The State party is requested to supply statistical data on the work of the Ombudsman.

10. The Committee is concerned that Moroccan legislation on states of emergency is still vague, does not specify or place limits on the derogations that may be made from the provisions of the Covenant in emergencies and does not guarantee the implementation of article 4 of the Covenant.

The State party is invited to review the relevant provisions of its legislation in order to bring them fully into line with article 4 of the Covenant.

11. The Committee is concerned that, even though the death penalty has not been applied since 1994 and many of those sentenced to death have had their sentences commuted, the number of offences punishable by the death penalty has risen since the previous periodic report was considered (Covenant, art. 6).

In accordance with article 6 of the Covenant, the State party should reduce to a minimum the number of offences punishable by the death penalty, with a view to abolishing capital punishment. The State party should also commute the sentences of all persons sentenced to death.

12. While acknowledging the work done by the Consultative Council on Human Rights (CCDH) in the field of data collection and compensation in relation to disappeared persons, the Committee is concerned that those responsible for disappearances have still not been identified, tried and punished (Covenant, arts. 6 and 7).

The State party should conduct the necessary investigations to identify, try and punish those responsible for such crimes (Covenant, arts. 6 and 7).

13. The Committee is concerned that article 26 of the new law on the residence of aliens permits the immediate expulsion of an alien deemed to be a threat to State security, even if the alien may be subjected to torture or ill-treatment or sentenced to death in the receiving country.

The State party should set up a system that would allow any alien who claims that expulsion would put them at risk of being subjected to torture, ill-treatment or the death penalty to lodge an appeal that would have the effect of suspending the expulsion (Covenant, arts. 6, 7 and 10).

14. The Committee remains concerned at the numerous allegations of torture and ill-treatment of detainees and at the fact that the officials who are guilty of such acts are generally liable to disciplinary action only, where any sanction exists. In this context, the Committee notes with concern that no independent inquiries are conducted in police stations and other places of detention in order to guarantee that no torture or ill-treatment takes place.

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. The conclusions of such examinations should be studied in depth by the relevant authorities so that those responsible can be not only disciplined but also punished under criminal law. All places of detention should be subject to independent inspection (Covenant, arts. 7 and 10).

15. The Committee considers the period of custody during which a suspect may be held without being brought before a judge - 48 hours (renewable once) for ordinary crimes and 96 hours (renewable twice) for crimes related to terrorism - to be excessive.

The State party should review its legislation on custody with a view to bringing it into line with the provisions of article 9 and all the other provisions of the Covenant.

16. The Committee is concerned that the accused may have access to the services of a lawyer only from the time at which their custody is extended (that is, after 48 or 96 hours). It recalls that, in its previous decisions, it has held that the accused should receive effective assistance from a lawyer at every stage of the proceedings, especially in cases where the person may incur the death penalty.

The State party should amend its legislation and practice to allow a person under arrest to have access to a lawyer from the beginning of their period in custody (Covenant, arts. 6, 7, 9, 10 and 14).

17. The Committee remains concerned about the reports of poor conditions in prisons, particularly the shortage of medical care, the lack of rehabilitation programmes and the lack of visiting areas (Covenant, arts. 7 and 10).

The State party should improve prison conditions in line with article 10 of the Covenant and should institute alternative penalties.

18. The Committee is concerned that some representatives of non-governmental organizations had their passports confiscated and were thus prevented from attending a meeting of non-governmental organizations on the question of Western Sahara at the fifty-ninth session of the Commission on Human Rights in Geneva (Covenant, arts. 12 and 19).

The State party should apply article 12 of the Covenant to all its nationals.

19. The Committee remains concerned that the independence of the judiciary is not fully guaranteed.

The State party should take the necessary steps to guarantee the independence and impartiality of the judiciary (Covenant, art. 14, para. 1).

20. The Committee is concerned that the Criminal Code permits any “serious attack using violence” to be classed as a terrorist act. It is also concerned about the numerous reports that the Anti-Terrorism Act adopted on 28 May 2003 is being applied retroactively.

In order to rectify this situation of legal uncertainty, the Committee recommends that the State party should amend the legislation in question by clearly defining its scope, and requests it to ensure compliance with the provisions of article 15 and all the other provisions of the Covenant.

21. The Committee is concerned about the de facto limitations on the freedom of religion or belief, including the fact that it is impossible, in practice, for a Muslim to change religion. It recalls that article 18 of the Covenant protects all religions and all beliefs, ancient and less ancient, major and minor, and includes the right to adopt the religion or belief of one’s choice.

The State party should take steps to ensure respect for freedom of religion or belief and to ensure that its legislation and practices are fully in conformity with article 18 of the Covenant.

22. The Committee notes that, according to the information supplied by the State party, compulsory military service is a fallback applicable only when not enough professional soldiers can be recruited, while at the same time the State party does not recognize the right to conscientious objection.

The State party should fully recognize the right to conscientious objection in times of compulsory military service and should establish an alternative form of service, the terms of which should be non-discriminatory (Covenant, arts. 18 and 26).

23. The Committee is concerned about the persistent reports that journalists have been fined or harassed in the exercise of their profession.

The State party should take the necessary measures to prevent any harassment of journalists and to ensure that its legislation and practices give full effect to the requirements of article 19 of the Covenant.

24. The Committee remains concerned that the process of issuing a receipt for advance notice of meetings is often abused, which amounts to a restriction on the right of assembly, as guaranteed by article 21 of the Covenant.

The State party should eliminate the obstacles to the exercise of the right of assembly (Covenant, art. 21).

25. The Committee has taken note of the various reports describing restrictions on the right to freedom of association.

The State party is requested to bring its practice into line with the provisions of article 22 of the Covenant.

26. While welcoming the progress made in the area of education, the Committee remains concerned about the continuing high number of illiterates, particularly among women.

The State party should continue with the action undertaken to remedy this situation (Covenant, art. 26).

27. The Committee is concerned about the legal ban on marriages between women of the Muslim faith and men from other religions or with other beliefs (Covenant, arts. 3, 23 and 26).

The State party should comply with the provisions of articles 3, 23 and 26 of the Covenant by revising the legislation concerned.

28. The Committee is also concerned about the high level of domestic violence against women.

The State party should take suitable practical measures to combat this phenomenon (Covenant, arts. 3 and 7).

29. The Committee notes with concern that abortion is still a criminal offence under Moroccan law unless it is carried out to save the mother's life.

The State party should ensure that women are not forced to carry a pregnancy to full term where that would be incompatible with its obligations under the Covenant (arts. 6 and 7) and should relax the legislation relating to abortion.

30. The Committee regrets that the new Family Code, while placing limitations on the practice of polygamy, nevertheless does not ban it, despite the fact that it is detrimental to women's dignity (Covenant, arts. 3, 23 and 26).

The State party should ban polygamy clearly and definitively (Covenant, arts. 3, 23 and 26).

31. The Committee notes that child labour is still widespread in Morocco, even though the new Labour Code prohibits work by children under the age of 15.

The State Party is requested to take the measures envisaged to implement the provisions of the Labour Code in respect of minors (Covenant, art. 24).

32. The Committee notes that a child born of a Moroccan mother and a foreign father (or a father of unknown nationality) is treated differently from the children of a Moroccan father with regard to obtaining Moroccan nationality.

The State party should comply with the provisions of article 24 of the Covenant and should ensure equal treatment for the children of a Moroccan mother and a Moroccan or foreign father (Covenant, arts. 24 and 26).

33. While welcoming the adoption of the Family Code, the Committee notes with concern that inequalities between women and men persist in the area of inheritance and divorce.

The State party should review its legislation and ensure that any gender-based discrimination in the area of inheritance or divorce is eliminated (Covenant, art. 26).

D. Dissemination of information about the Covenant (art. 2)

34. The Committee urges the State party to make the text of these concluding observations available in several languages to the general public as well as to the legislative and administrative authorities. It requests that the next periodic report be widely disseminated among the general public, including civil society and non-governmental organizations working in Morocco.

35. The Committee sets 1 November 2008 as the date for submission of Morocco's sixth periodic report. That report should pay special attention to the concerns expressed in paragraphs 12, 14, 15 and 16 and to the other problems raised by the Committee in these concluding observations.
