



المجلس الوطني لحقوق الإنسان
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Conseil national des droits de l'Homme

45 Recommendations for Elections that Are More Inclusive and Closer to Citizens

Contribution to Public Debate Series - No. 9

45 Recommendations for Elections that Are More Inclusive and Closer to Citizens

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The National Council for Human Rights (CNDH) will publish this Wednesday, March 4, 2015 its general memorandum on the legal framework governing the electoral process scheduled for this year, which was adopted at the ninth plenary session held on February 11 in Rabat.

Building on the lessons learned from observing the elections, conducted since 2007 by the Consultative Council for Human Rights (CCDH) then by the CNDH since its establishment in 2011, this memorandum aims to contribute to the public debate on election laws in the process of being adopted by the Parliament.

Entitled «Forty-five Recommendations for More Inclusive and Closer to the Citizens Elections», the memorandum proposes a series of amendments and measures aiming to contribute to achieving the constitutional objectives of parity between men and women, of widespread participation of youth in the country's political development, and the inclusion of people with disabilities.

The Council also made recommendations concerning the participation of foreign nationals residing in Morocco in local elections, a possibility offered by Article 30 (§4) of the Constitution.

The Council's recommendations focused on the expansion of the electorate, rebalancing of electoral boundaries, the reduction of the gap of representation, the strengthening of women's access to elected offices, and the political representation of youth.

The Council issued further recommendations regarding the legal framework for the neutral and independent observation of elections, fair access to public broadcast media as well as transparency and diversity of election campaigns.

Other recommendations include strengthening the mechanisms of participatory democracy, as well as the integration of the gender-based approach, human rights based approach and the inclusive concept in the development process of territorial public policies. These are mainly designed to contribute to the implementation of the principles of regional and territorial organization as enshrined in Article 136 of the Constitution.

The memorandum of CNDH also includes recommendations for professional elections, particularly concerning the strengthening of women's representation in the different electoral colleges of employee representatives.

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INTRODUCTION

The National Council for Human Rights (CNDH),

In view of Articles 13, 25 and 24 of the Royal Dahir establishing it;

In view of the Constitution, particularly Articles 2, 11, 12, 13, 15, 17, 19, 30, 33, 34 and Title IX;

In view of Article 25 of the International Covenant on Civil and Political Rights, as has been commented on by the Human Rights Committee in its General Comment No. 25¹ ;

In view of Articles 2 and 29 of the International Convention on the Rights of Persons with Disabilities;

In view of Article 12 (paragraph 1) of the Convention on the Rights of the Child;

Recalling the recommendations of the Consultative Council for Human Rights (CCDH) contained in its observation reports of the parliamentary elections of 2007 and local elections in 2009;

Recalling the recommendations of the National Human Rights Commission presented in its observation reports of the constitutional referendum on July 1st and parliamentary elections of November 25th, 2011;

Convinced that the challenge of inclusive elections requires a substantial overhaul of the legal framework governing the elections to achieve the following objectives of a constitutional nature:

- Achieving parity between men and women, which requires, among other things, the establishment by law of provisions designed to promote equal access of women and men to elected office, «with regards to candidacies as well as to the election»² ;
- Generalizing youth participation in social, cultural and economic, and political development of the country as set out by Article 33 of the Constitution;
- Rehabilitating and integrating people with disabilities into social and civil life and facilitating their full enjoyment of rights and freedoms for all, a commitment enshrined in Article 34 of the Constitution. The CNDH also stressed that the implementation of the provisions of Article 29 of the International Convention on the Rights of Persons with Disabilities requires taking into account the principles of inclusion and accessibility in all aspects and all stages of the electoral process, including the use of sign language in election audiovisual services;

1- CCPR / C / 21 / Rev.1 / Add.7 27 August 1996.

2- Address by His Majesty King Mohammed VI on the occasion of the opening of the first session of the second year of the eighth Parliament, October 10, 2008

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The CNDH, legitimately interested in the public debate on the revision of the legal framework for the elections scheduled for the year 2015, proposes in this memorandum a series of general recommendations on the legal framework for elections and territorial governance.

I. EXPANSION OF ELECTORAL BODY FOR MORE INCLUSIVE ELECTIONS

The CNDH proposes to amend law 57.11 pertaining to the general electoral lists in order to register on the electoral lists, and only for the purpose of local elections:

- Members of the Royal Armed Forces (FAR) of all ranks, in active duty, officers of the police and all the people entrusted, under any denomination and to any extent, a function or a mandate, even temporary, paid or unpaid, and contributing, as such, to the service of the administration of local authorities, public institutions or public service of any kind and who are authorized to carry weapons during the exercise of their functions;
- All foreigners regularly residing in Morocco for a period of no less than 5 years. The CNDH underlines that this recommendation is part of the implementation of the provisions of Article 30 (§4) of the Constitution.

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The Council recommends that the aforementioned 57.11 law provides a new definition of place of residence for the sole purposes of the electoral legislation in order to:

- Register residents of temporary accommodations (e.g. trailers, containers and other types of precarious housing) on the electoral lists of municipalities where these homes are located;
- Allow prisoners who have not lost the right to vote to register in electoral lists, if they wish, in the municipalities where the prisons where they are placed are located;
- Allow students who regularly attend initial training courses to register, if they wish, in the electoral lists of municipalities, where the schools where they study are located.

The CNDH also proposes to organize awareness raising campaigns to encourage people living in welfare institutions, governed by law 14.05 to register on the electoral lists of municipalities where these institutions are located.

In order to grant certain categories of voters the effective exercise of their electoral rights, the CNDH proposes to amend law 88.14 pertaining to the revision of the general electoral lists in order to enable:

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- The establishment of mobile polling stations to facilitate the registration of nomadic populations in the municipalities provided for under Decree No. 2-08-736 of Muharram 2, 1430 (December 30, 2008) establishing the list of municipalities located in nomadic areas;
- The establishment of temporary offices within prisons to register prisoners who have not lost the right to vote on electoral lists;
- Easier registration of persons with disabilities (assistance, adapted communication)

The CNDH also recommends that Decree No. 14857 of December 18, 2014 made under law 88.14 provides special deadlines for the registration of voters residing in mountainous and difficult to access areas.

2. BALANCED ELECTORAL BOUNDARIES AND REDUCED GAPS FOR A FAIR REPRESENTATION

The CNDH proposes to introduce in Article 129 of the Organic Law 59.11 on the election of members of local government councils a provision, at the level of the municipalities subject to the system of voting for one member that provides that the gap of representation (the number of inhabitants for one seat) among constituencies should not exceed 15%, except for municipalities located in mountainous, difficult to access or low population density areas, which can benefit from a positive geographical discrimination.

The CNDH also recommends:

- To revise Article 74 of the Organic Law 59.11 to ensure fair representation of the population in regional councils, knowing that the differences provided currently by the organic law vary between 1 seat for 7575.75 inhabitants in regions where the number of inhabitants is equal to or less than 250 000, and 1 seat for 60,000 inhabitants in regions where the number of inhabitants is equal to or exceeds 4.5 million;
- To revise Article 103 of the Organic Law 59.11 to ensure fair representation of the population at the prefectural and provincial councils knowing that differences provided currently by the organic law vary between 1 seat for 13 636.36 inhabitants in provinces and prefectures where the number of inhabitants is less than or equal to 150 000 and 1 seat for 32 258 people in the provinces and prefectures where the number of inhabitants is equal to or greater than one million;
- To revise Articles 127 and 128 of the Organic Law 59.11 to ensure fair representation of the population at the municipalities' level knowing that differences provided currently by the organic law vary between 1 seat for 681 81 inhabitants in municipalities where the number of inhabitants is equal or greater than 7500 and 1 seat for 9258 inhabitants in municipalities where the population exceeds 400,000 and is less than 750,000.

3. REINFORCING ACCESS MECHANISMS FOR WOMEN IN ELECTIVE OFFICES IN ORDER TO ACHIEVE PARITY BETWEEN MEN AND WOMEN

The CNDH proposes to amend the Organic Law 59.II in order to:

- Provide for the alternation female / male or male / female in the classification of lists submitted for the election of members of the regional councils, members of prefectural and provincial councils, and members of local government councils subject to the list system;
- Increase the number of seats reserved for women in municipalities subject to a system of voting for one member.

To complement its proposals for the Organic Law 59.II, the CNDH proposes that in the three draft organic laws relating to local government is provided a mechanism allowing women's access to the presidency of councils in these local governments.

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4. YOUTH POLITICAL REPRESENTATION FOR INCLUSIVE LOCAL GOVERNMENTS

The CNDH recommends to reflect on the most appropriate mechanisms to ensure political representation of young people on local governments' councils. It particularly recommends to provide financial incentives for political parties based on the number of elected youth under 30 years.

5. FOR AN OBSERVATION LAW THAT MEETS CONSTITUTIONAL REQUIREMENTS AND INTERNATIONAL STANDARDS

In its capacity as an institution authorized to observe the elections and to coordinate the accreditation of observers, the CNDH proposes to amend law 30.II setting the conditions and terms of independent and neutral election observation in order to:

- Extend the scope of law 30.II to include referendums;
- Include international inter-governmental organizations among the bodies entitled to exercise the mission of the independent and neutral observation of elections and referenda;
- Provide that members representing government authorities in charge of the Justice, Interior, Foreign Affairs and Communication serve on the Accreditation Commission in an advisory capacity;

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- Allow any body whose application for accreditation is rejected to appeal against the rejection decision to the Rabat Administrative Court;
 - Enable any observer whose special card accreditation has been revoked to appeal against the decision to revoke to the Administrative Tribunal of competent jurisdiction;
 - Enshrine the right of observers to an insurance against the risks they face during the exercise of their mission;
 - Provide a specific status for interpreters accompanying international observers.
- In the same context, the CNDH recommends to facilitate the accreditation process through:
- Giving the possibility to applicants to choose between physically or electronically filing the candidacy application;
 - Splitting the accreditation process into two steps: the accreditation of the body and the accreditation of observers mandated by the accredited body;
 - Allowing the National Accreditation Commission to issue an accreditation which may cover several successive elections close together in time.

6. FOR EQUITABLE ACCESS TO PUBLIC MEDIA BROADCASTING FOR THE 2015 SCHEDULED ELECTIONS

Given the diversity of the electorate, the CNDH proposes that the future legal and regulatory framework for the access to public broadcasting for the 2015 elections ensures, by public broadcasters, the translation of all electoral audiovisual services into sign language.

7. FOR ELECTIONS THAT ARE MORE TRANSPARENT AND RESPECTFUL OF THE DIVERSITY OF OPINIONS

The CNDH proposes that the law provides for the obligation for the head of list in municipalities that are subject to the list system and other local governments to open a separate bank account for expenses related to the election campaign and to appoint a financial proxy in charge of the financial management of the election campaign. The CNDH also proposes that the government authority responsible for the Interior addresses on the occasion of each electoral process a circular to the representatives of the territorial administration, which recalls the application of Dahir No. 1-58-377 of November 15, 1958 (on public gatherings) on rallies calling for the non-participation in elections.

8. TOWARDS STRENGTHENING PARTICIPATORY DEMOCRACY IN ORGANIC LAWS BILLS RELATING TO LOCAL AUTHORITIES

The CNDH points out the complementarity between representative democracy and participatory democracy established by the Constitution and specifically recommends:

- Specify in the Organic Law Bill No. 113-14 pertaining to municipalities, the principles that should govern the establishment and composition of consultative bodies under Article 119 of the bill as well as the Body for the Equality, Parity and Gender approach in Article 120 of the same bill;
- Clarify in the Organic Law Bill No. 112-14 related to prefectural and provincial councils, the principles that should govern the establishment and composition of consultative bodies under Article 110 of this bill and of the Body of Equality, Parity and Gender approach provided for Article 111 of the same bill;
- Specify in the Organic Law Bill No. 111-14 related to regional councils the principles that should govern the establishment and composition of the consultation mechanisms provided for in section 116 of this bill as well as three bodies under Article 117 of the bill namely: The Consultative Body of Equal Opportunities and Gender Approach, the Consultative Body in Charge of Youth Issues and the Consultative Body in Charge of Economic Issues;
- Provide in the Organic Law Bill 111-14 related to regions, for the participation, in an advisory capacity, of regional mechanisms for the protection and promotion of instances of human rights provided for in Articles 161, 162 and 164 of the Constitution, in the works of the standing committees of regional councils.
- Provide in the Organic Law Bill No. 113 related to communes, a mechanism allowing the participation of children in the age group (16-18) in matters relating to them in accordance with the Convention on the Rights of the Child, either individually or through their associations. The CNDH proposes studying the possibility of setting up «councils for children» as instances of dialogue in each local government.

In order to enable citizens (males and females) and associations to effectively exercise the right of petition under Article 139 of the Constitution, the CNDH recommends removing in the three bills related to local governments:

- The condition of registration on electoral lists to exercise the right of petition;
- The condition of «public general interest», as it grants to the offices of local governments councils excessive discretionary power that may increase the risk of inadmissibility of petitions.

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The CNDH also recommends to:

- Simplify the petition filing process;
- Reduce response times on the admissibility of petitions.

9. TOWARDS THE CONSIDERATION OF GENDER-BASED APPROACH, HUMAN RIGHTS-BASED APPROACH AND INCLUSIVE CONCEPT IN DEVELOPMENT PROCESS OF REGIONAL POLICY

The CNDH recommends that the organic law bills provide:

- Provisions enshrining the principle of elaborating development programs in these communities on the basis of the gender-based approach and the human rights-based approach, as well as provisions establishing the principles of gender budgeting;
- To include provisions that ensure consistency between territorial planning, budgeting and evaluation and auditing mechanisms;
- Provisions for the integration of cultural and linguistic diversity at the regional level in the development of public policies of local governments;
- The procedures for developing these plans on a participatory basis, knowing that the detailed procedures will be defined by regulation.

10. TOWARDS A MORE EQUITABLE AND INCLUSIVE PROFESSIONAL REPRESENTATION

In view of the organization of professional elections scheduled for May 2015, the CNDH stresses that strengthening the representation of women in the category of employee representatives to the House of Councilors, remains dependent on their representation at National electoral college level for this category.

In this regard, it recommends to provide for affirmative action mechanisms to strengthen the professional representation of women at the following levels:

- Personnel delegates in enterprises;
- Staff representatives to the commissions of status and staff in mining enterprises;
- Representatives of civil servants within the joint administrative commissions.

The CNDH also recommends to grant seafarers the right to elect their professional representatives, through introducing adequate provisions in this regard in the Merchant Shipping Code or, if applicable, in the Labor Code. The CNDH recalls in this respect that employers in the maritime sector are represented in professional chambers.

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