

Child Notice Morocco

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Child Notice Morocco 2015

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The project “Better information for durable solutions and protection,” generates child-specific country of origin information analysis (Child Notices) on countries of origin of children on the move to Europe. The Child Notices describe the situation of children in the countries of origin providing legal and practical information on education, health care, child protection, armed conflict, juvenile justice, trafficking etc. The Child Notices have been developed based on this Methodology Guidance on Child Notice.

The countries of origin have been chosen based on migration flows of children (with and without families), return figures, EU and national priorities.

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LIST OF ACRONYMS

| | |
|-------|--|
| ACPF | African Child Policy Forum |
| AMO | Obligatory Sickness Insurance |
| AMPTE | Moroccan Association of Parents and Tutors |
| AREF | Regional Academy of Education and Training |
| B.O. | Official Government Bulletin |
| BRA | Office of Refugees and the Stateless |
| CAT | Committee Against Torture |
| CRC | Convention on the Rights of the Child |
| CDEPF | Collective for the Right of the Child to Family Protection |
| CESE | Economic, Social and Environmental Council |
| CIA | Central Intelligence Agency |
| CIN | National Identity Card |
| CKM | Kafala Collective Morocco |
| CLIS | Social Inclusion Classes |
| CNDH | National Council for Human Rights |
| CNE | National Education Charter |
| COI | Country of Origin Information |
| CPC | Child Protection Centre |
| CRC | Committee on the Rights of the Child |
| CSE | Child Rescue Centres |
| DENF | Directorate for Non-Formal Education |
| DGCL | General Directorate for Local Collectives |
| DIS | Best Interest Determination |
| ESSB | Basic Health Care Establishment |
| ENDPR | National Demographic Inquiry at Repeated Passage |
| ENPSF | National Inquiry on the Population and Family Health |
| EPE | Child Protection Establishment |
| EPS | Welfare Institutions |
| EPT | Education For All |
| EPU | Universal Periodic Examination |
| EU | European Union |
| FOO | East West Foundation |
| GADEM | Anti-racist Group for the Accompaniment and Defence of Foreigners and Migrants |
| HI | Handicap International |
| HCP | Plan High Commission |
| HRW | Human Rights Watch |
| HDI | Human Development Index |
| IER | Equity and Reconciliation Authority |
| ILGA | International Lesbian, Gay, Bisexual, Trans and Intersex Association |
| INDH | National Initiative for Human Development |
| INSAF | National Institution for Solidarity With Women in Distress |
| IRCAM | Royal Institute of Amazigh Culture |
| ISF | Synthetic Fertility Index |
| IWGIA | International Working Group for Indigenous Affairs |
| LGTB | Lesbians, Gays, Bisexuals, Transgender and Intersex individuals |
| MDM | Moroccans abroad |
| ME | Ministry of Employment |
| MEN | Ministry of National Education and Professional Training |

| | |
|--------|--|
| MENA | Unaccompanied Foreign Minors |
| MENA | Middle East and North Africa |
| MI | Ministry of the Interior |
| MINSA | Ministry of Health |
| MP | Popular Movement |
| MRE | Moroccans Living Abroad |
| MSFFDS | Ministry of Solidarity, the Family, Women and Social Development |
| MSF | Doctors Without Borders |
| MJ | Youth Houses |
| MJL | Ministry of Justice and Liberty |
| MJS | Ministry of Youth and Sports |
| OIM | International Migration Organization |
| OIT | International Labour Organization |
| OMD | Durable Development Objectives |
| ODD | Millennium Development Objectives |
| OMS | World Health Organization |
| ONDA | National Observatory for Drugs and Addictions |
| ONDE | National Observatory for Rights of the Child |
| ONG | Non-Governmental Organization (NGO) |
| OSC | Civil Society Organization |
| OVC | Italian Cooperation Volunteer Organization |
| PACTE | Action Programme for Territorial Convergence |
| PAM | World Food Programme |
| PANE | National Action Plan for Children |
| PE | Children's Parliament of Morocco |
| PEV | Enlarged Vaccination Programme |
| PIDCP | International Pact relative to Civil and Political Rights |
| PNB | Gross National Product |
| PNUD | United Nations Programme for Development |
| PPIPEM | Integrated Public Policy for Protection of Children in Morocco |
| PPS | Progress and Socialism Party |
| PJD | Justice and Development Party |
| RAMED | Medical Assistance Scheme |
| RGPH | General Census of the Population and of Housing |
| RNI | National Meeting of Independents |
| SAMU | Mobile Emergency Aid Service |
| SDF | Homeless |
| TBN | Gross birth rate |
| TIP | Traffic In Persons |
| UNFPA | United Nations Population Fund |
| UNHCR | Office of the United Nations High Commissioner for Refugees |
| UNICEF | United Nations Children's Fund |
| UNODC | United Nations Office on Drugs and Crime |
| UPE | Child Protection Unit |
| US | United States of America |
| USAID | United States Agency for International Development |
| USFP | Socialist Union of Popular Forces |

DISCLAIMER

The information in the Child Notice is structured according to the provisions of the UN Convention on the Rights of the Child (CRC – 1989). The research has been done according to the *Guidelines for the development of a Child Notice* (December 2014) which is annexed to this report. The Child Notice has been researched and presented taking into account the quality standards and principles formulated in the ACCORD Manual Researching Country of Origin Information (2013 edition)¹ and the EASO COI Report Methodology².

The main text of the Child Notice contains the most up to date publicly available information as at June 2015. Any other events taken place after this date, are not included in the Child Notice.

The information in this Child Notice is limited to that which could be identified from publicly available source documents and persons. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organization does not exist.

Different types of sources have been used (NGOs, IO's, government, media, academics). Information was also obtained from interviews with different stakeholders in the countries of origin who have given information based on their expertise and experience. All sources have been checked and cross-checked and are mentioned in the report

UNICEF The Netherlands, UNICEF Belgium and UNICEF Sweden have sought to provide relevant, accurate, up to date, balanced and impartial information on the position of children in countries of origin. The necessity to keep the Child Notice a concise report that is useable for the target group, means that choices have been made in the amount of information that is given. Though the intention is there, UNICEF does acknowledge that it is not possible to be exhaustive in the information that is presented.

The Child Notice provides useful information for immigration/asylum officials, border staff, law enforcement staff, social workers, case managers, guardians, service providers (educators, health staff), interpreters, lawyers, judges in assessing the situation and position of children in asylum and migration procedures.

UNICEF does acknowledge the fact that the information in this Child Notice is time-bound. Regular updates are important but have not been feasible in the duration of the project 'Better information for durable solutions and protection'.

¹ The training manual is developed by the Austrian red cross/ACCORD and can be downloaded here: <http://www.ecoi.net/blog/2013/10/new-accord-training-manual-on-researching-country-of-origin-information-published/?lang=en>.

² EASO *Country of Origin Information report methodology* (July 2012).

INTRODUCTION

Child migration occurs everywhere in the world and for different reasons. Migration might be forced through natural disasters or war. It might be the result of exploitation, in the case of victims of trafficking. It might be induced because children and/or their parents fear for their lives in their countries of origin because of persecution. Also, children might migrate because they are looking for a better future life. Migrant children may be accompanied by their parents or guardians, by other adults (separated children) or alone (unaccompanied children), and children may migrate in regular or irregular ways. Whatever the reason for children to migrate and whatever the way children migrate, the best interest of the child should be a primary consideration during all stages of the migration process. Article 3 of the UN Convention on the Rights of the Child states that:

‘In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.’

Decisions on status, care and residency and on return should be informed by a documented best interest of the child assessment and determination.

Whatever the way and reasons for children to migrate and to arrive in Europe, a durable solution should be sought, taking the best interest of the child into account. Careful and thorough procedures to determine the best interest of the child and a durable solution are necessary. Information on the situation of the involved child, be it separated, unaccompanied or travelling with his or her family, is paramount. This involves both specific information on the situation of the particular child involved, as well as information about the local situation of children in countries of origin.

The European Commission calls in its Action Plan on Unaccompanied Minors (2010-2014)³ to collect data and develop country of origin information and analysis relevant for assessing the protection needs of unaccompanied minors, with a view to better supporting quality decisions.

Authorities in most countries of destination use Country of Origin Information reports (COI). These reports are used to assess the situation in the country of origin and help to determine whether a person has the right to international protection through a refugee status or a subsidiary protection status. COI reports also give valuable information for decisions in which the possibilities for a safe return have to be weighed. Objective country of origin information increases the opportunity of safe return and decreases the chances of re-trafficking. It should inform risk-assessments and reintegration programs.

Some Country of Origin Information reports do contain information on, for instance, the position of unaccompanied minors, the existence of female genital mutilation or the recruitment or involvement of children in armed conflicts. However, the information provided often lacks detail, focuses solely on the position of children outside the family and does not provide, in general, enough information to assess child-specific forms of persecution, the best interest of a child or safe conditions for return.

The Child Notice foresees in the need for more information on child-specific circumstances in the country of origin. The Child Notice gives elaborate information on the local living conditions of children, including information on the existing or non-existing child protection services in the country

³ European Commission Action Plan on Unaccompanied Minors (2010-2014) COM (2010) 2313/3.

involved. It also gives information on the access to education and health care, on the occurrence of gender- and children-related violence such as FGM, forced marriages, honour killings, exploitation and human trafficking.

This information is paramount in a best interest of the child assessment which is the basis for decisions on the granting or non-granting of international protection and in considering conditions for a safe return.

READER'S GUIDE

How to read the Child Notice?

This Child Notice report is a Country of Origin Information Report providing information on the living conditions of children in Morocco. The Child Notice contains valuable background information for policy-makers as well as case workers, lawyers and other professionals in Europe who work with children coming from and/or going to Morocco, primarily in the fields of asylum and migration. The Child Notice has been developed and published by UNICEF The Netherlands, UNICEF Belgium and UNICEF Sweden as part of the project 'Better information for durable solutions and protection' financially supported by the European Return Fund of the European Commission.

The Child Notice on Morocco has been developed in the following period: February 2015-June 2015.

The Child Notice starts with a *summary* which gives an overview of the most important findings of the research on circumstances in which children live, trends, actual events, the difficulties children face in the country, the political context and political responsibility towards children.

The *child right's information* in the Child Notice is structured according to the provisions of the UN Convention on the Rights of the Child (CRC – 1989). As the UN Convention is a comprehensive document, with rights being interlinked, so is this report. This means that each section of the report should be read in the context of the other sections. For instance, a failing education system and a weak child protection system encourages child labour and child exploitation. Where appropriate, references have been made between the different sections.

In general the Child Notice has the following structure:

1. Demographic information/statistical data on children
2. Basic legal information
3. General principles
 - a. Non-discrimination
 - b. Best interests of the child
 - c. Right to life and development
4. Civil rights and freedom
5. Basic rights (health/water/food/education)
6. Family environment and alternative care
7. Special protection measures
 - a. Children in conflict with the law
 - b. Orphans, unaccompanied and separated children
 - c. Victims of child trafficking
 - d. Children in armed conflict
 - e. FGM/C
 - f. Forced and underage/child marriage
 - g. Domestic violence
 - h. Child labour and other forms of exploitation
 - i. Street children
 - j. Refugee children and internally displaced persons
8. Returning separated or unaccompanied children and families

How to use the Child Notice?

The information in the Child Notice can be used:

1. To obtain background information on the situation of children in the country of origin.
2. To identify potential (child and gender-specific) forms and manifestations of persecution.
3. To identify other factors relevant to decisions as to whether remaining in the host country or return is in the best interests of the child, including local responses to returnees.
4. As input for a Best Interest of the Child Determination; to make sure decisions concerning children have been given due consideration to the best interest of the child.

Child-specific asylum and migration policy

With many children applying for an international protection status, the need for child-specific asylum- and migration legislation and policies, guided by the principles and provisions of the UN Convention on the Rights of the Child, is clear.

At the heart of the protection of children who apply for asylum is article 22 of the UN Convention which states:

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

These rights are intertwined with the right to special protection for children who live outside the family (article 20), the right to health care (article 24) and the right to education (article 28).

The basis for the child protection of each minor asylum seeker are formed by the following articles:

Article 2: non-discrimination

Article 3: the best interest of the child

Article 6: the development of the child needs to be promoted

Article 12: the rights of children to be heard

Child-specific grounds for persecution

Each child has the right to make an independent refugee claim, regardless of whether he or she is accompanied or unaccompanied. Even being part of a family and at a young age, a child might be considered the principal asylum applicant. A child can derive a refugee status from the recognition of his or her parents as a refugee. At the same time, parent(s) can derive status from their child's refugee status.

In order to assess children's claims to asylum and make decisions, one needs to have an up-to-date analysis and knowledge of the child-specific circumstances in the country of origin, including of existing child protection services. Children themselves might not be the perfect source of information. This information can be derived from the Child Notice.

Just as adults, child applicants for a refugee status must establish that he or she has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion conform the 1951 Refugee Convention.

As the UN Committee on the Rights of the Child⁴ and the UNHCR⁵ have pointed out age and factors such as rights specific to children, a child's stage of development, knowledge and/or memory of conditions in the country of origin, and vulnerability, also need to be considered to ensure an appropriate and child-friendly application of the eligibility criteria for refugee status. The 2011/95 EU Qualification Directive states in article 9.2 that 'Acts of persecution can take the form of... (f) acts of a gender-specific or child-specific nature'⁶.

UNHCR's Executive Committee has recognized that children may be subjected to specific forms of persecution that are influenced by their age, lack of maturity or their vulnerability. The sole fact that the claimant is a child might be principal in the harm inflicted or feared. The UNHCR Guidelines on international protection⁷ highlight child-specific forms of persecution as under-age recruitment, child trafficking and female genital mutilation, as well as family and domestic violence, forced or underage marriage, bonded or hazardous child labour, forced labour, forced prostitution and child pornography, and violations of economic, social and cultural rights.

Best Interests Determination

In all decisions taken in procedures concerning children the best interests of the child should be a primary consideration.

In a migration procedure a durable solution should be sought for the child involved. A durable solution will be long-term and sustainable and ensures that the child is able to develop into adulthood in an environment which will meet his or her needs as well as fulfil her/his rights as defined by the UN Convention and will not put the child at risk of persecution or harm. The durable solution will be informed by the Best Interest Determination (BID).

⁴ UN Committee on the Rights of the Child *General Comment No.6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin* CRC/GC/2005/6 (September 2005).

⁵ UNHCR *Guidelines on international protection; Child Asylum Claims under Article 1 (A)2 and 1 (F) of the 1951 Convention and/or 1967 Protocol relating to Status of Refugees* HCR/GIP/09/08 (22 December 2009).

⁶ Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast).

⁷ UNHCR *Guidelines on international protection; Child Asylum Claims under Article 1 (A)2 and 1 (F) of the 1951 Convention and/or 1967 Protocol relating to Status of Refugees* HCR/GIP/09/08 (22 December 2009).

According to General Comment No 14, the specific, factual circumstance of the child is the point of departure for assessing the best interests of the child. Elements, which among other aspects relevant to the specific child, may be taken into account when assessing and determining a child's best interests include:

A. Child's identity

Age, gender, sexual orientation national origin, religion and beliefs, cultural identity, personality, current needs and evolving capacities (including level of education).

B. Child's view

The child's view on his/her identity and on the options available. Include also the view of (foster) parents or (current) caregiver's views.

C. Preservation of the family environment, maintaining relationships

Significant relationships (location), quality and duration of child's close relationships, effect of separation from significant relationships, capacity of parents or other care-givers, possibilities of family reunification, preference of care within family environment in order to ensure the full and harmonious development of a child's personality.

D. Care, protection and safety of the child

Safety from harm, well being in broad sense (basic material, physical, educational and emotional needs, needs for affection and safety, recognizing that socio-economic circumstances may be quite diverse in in country of origin, possibility of future risk and harm and other consequences of the decision for the child's safety).

E. Situation of vulnerability

Individual physical or emotional needs, specific protection needs including for victims of trafficking and trauma, role of continuity of feelings of security and stability.

F. Child's right to health

Actions required to provide for his/her health condition, including mental health.

G. Access to education

Educational needs and opportunities for development.

These elements need to be balanced in an assessment of best interests. The content of each element will necessarily vary from child to child and from case to case, depending on such things as the concrete circumstances. Child-specific information on the country of origin, as provided in the Child Notice, will give valuable input for an assessment of above-mentioned elements but cannot provide information on a particular situation of a particular child.

A Best Interests of the Child Determination (BID) results in a recommendation for the child's future based on his or her best interests. A BID procedure is a holistic assessment of all possible long-term solutions that could meet the best interests of the child and address his or her individual rights and needs, particularly any need for international protection and adequate care arrangements. This assessment is holistic in considering many factors and goes beyond an assessment of international protection needs based on existing legal instruments. A BID should be a formal process with strict procedural safeguards.

Child protection systems

The Child Notice includes information about the provision of child protection services by state and non-state actors. Thorough knowledge of the existing child protection system in a country of origin

or the lack of it, is vital while making a decision on international protection, possible return and assessing return conditions or designing reintegration programs in the country of origin.

A child protection system (CP system) consist of 'certain formal and informal structures, functions and capacities that have been assembled to prevent and respond to violence, abuse, neglect and exploitation of children'⁸. The importance of a CP system is to create a protective environment where laws and policies, services, behaviors and practices minimize children's vulnerability and strengthens children's own resilience⁹. There is however not one template for a child protection system that could be copied to every country around the world.

A child protection system should consist of a few basic elements:

- Child protection laws and policies should be compliant with the UNCRC and other international and regional standards.
- Governments have an oversight function and the ultimate responsibility over the child protection system, which involves coordination and engagement of multiple CP actors, including civil society.
- There is a centralized data collection system on both prevalence and knowledge of child protection issues and good practices.
- There are preventive and responsive services that are focused on supporting the families in protecting and caring for their child. Prevention should, besides the child at risk, focus on all the risks that play a factor.
- Children will be involved and will have the opportunity to express their views in responses and interventions deployed to protect them and in the development of child protection policies.

A protective environment encourages the development of a child, improves their health, education and well-being. Besides, it improves their capacities to be parents and productive members of their societies. The main importance of a child protection system is that it provides protection against the risks and vulnerabilities underlying many forms of harm and abuse: 'Sexual abuse and exploitation, trafficking, hazardous labor, violence, living and/or working on the streets; the impact of armed conflict, including children's use of armed forces and groups; harmful practices such as female genital mutilation/cutting (FGM/C) and child marriage; lack of access to justice; and unnecessary institutionalization among others'¹⁰.

The EU Action Plan for Unaccompanied Minors¹¹ states the importance of a functional child protection system as follows:

'Finally, the EU will continue promoting the development of child protection systems, which link the services needed across all social sectors to prevent and respond to risks of violence, abuse, exploitation and neglect of children, to support children who are not in the care of their families and to provide protection to children in institutions. The EU will also continue supporting birth registration systems which, through ensuring that all children have a legal identity and thus access to their legal rights, play an important role in child protection.'

⁸ UNICEF, UNHCR, Save the Children, World Vision *A Better Way to Protect All Children* (2012) Conference report p. 1.

⁹ UNICEF *UNICEF Child Protection System* UN-Document E/ICEF/2008/5 (2008).

¹⁰ UNICEF *UNICEF Child Protection System* UN-Document E/ICEF/2008/5 (2008).

¹¹ European Commission *Action Plan on Unaccompanied Minors (2010-2014)* COM (2010) 2313/3.

Return

The durable solutions that are often considered are geographically shaped:

1. Voluntary or forced return to the country of origin.
2. Local integration in the country of destination, or
3. Resettlement to a third country in situations where it is impossible for a person to go back home or remain in the country of destination.

In order for return to take place in a safe manner, there are many considerations, including child protection needs, to be taken into account.

UNICEF published in 2014 a discussion document¹² on children's rights in return policy and practice in Europe. This document enumerates the following considerations for government practice in the return process for children:

1. Assess the security situation carefully, on a country and local basis and specifically for children.
2. Carry out a Best Interest Determination (BID) to identify a durable solution for every separated child.
3. Develop and use child rights-based procedures for tracing and contacting families.
4. Respect the best interest of children in returning to families.
5. Work on possibilities for long-term development and durable solutions.
6. Conduct public consultations now on policy provisions needed to accompany emerging practices.
7. Do not return children to institutional reception unless the recommended safeguards are in place.

Although the discussion document has been written with separated and unaccompanied children in mind, some of these considerations are also valid while considering return of children and their families.

In order to assess the security situation and to consider and develop specific reintegration programs, child-specific country of origin information which can be found in the Child Notice is paramount.

¹² UNICEF *Children's rights in return policy and practice in Europe; a discussion paper on the return of unaccompanied and separated children in institutional reception or family* (2014) Voorburg.

SUMMARY

Introduction

The present analysis of the situation of children in Morocco has been developed within the framework of the project entitled 'Better information for durable solutions and protection', at the initiative of UNICEF The Netherlands, UNICEF Belgium and UNICEF Sweden, with the financial support of the European Commission's RETURN Fund. It includes legal and practical information on the protection of children, justice for minors, child trafficking and child labour, traditional practices that are harmful to children, education, health care, etc.

Its objective is to provide authorities (immigration services, decision-makers) and professionals (lawyers, guardians, judges, NGOs and organizations combatting against trafficking) with reliable and accurate information about the situation of children in Morocco, in order to encourage decisions relative to the best interest of the child, and to identify sustainable solutions.

The information contained in this report results from documentary research and field inquiries, and comes from governmental, non-governmental, media and academic sources. It has been collected and reported in conformity with the instructions for the preparation of a report specific to the country of origin (COI) of children requesting asylum/refugees/human trafficking victims.

General context, demography, legal framework and institutional framework

On 2 March 1956 Morocco regained its independence after forty-four years as a French protectorate. Mohammed V reclaimed his throne and ruled until 1961, enabling the reign of his son Hassan II (1961-1999). The latter worked to re-establish power, through consensus with respect to the reclaiming of the Sahara. From 1991, Morocco was engaged in a process of opening up that led to a political change of power in 1998. The arrival of Mohammed VI in 1999 precipitated a transition towards modernity and an opening for foreign investors. Considerable reforms, such as the approval of a new Code of the Family, and the rapid response to protests during the Arab Spring, as well as the introduction of the new Constitution, showed the country's desire to modernize, despite dealing with a constant terrorist threat. The economy remains dependent on the agricultural and artisan sectors, and Morocco is classified as a country of low average income. Poverty, vulnerability and inequality still affect a majority of the population, particularly the rural population. Despite the reduction of poverty and vulnerability in recent years, inequality has continued to increase.

None of the linguistic, ethnic and religious groups that co-exist in Morocco have the legal status of an official minority. There are, however, specific references in certain laws (Law of nationality, the Code of the Family, the Constitution) to the special status of the Jewish community in Morocco, as well as to the adoption of the Amazigh language.

Morocco signed, adopted and ratified the majority of the Conventions and Protocols addressing the rights of children and human rights. Others are in the process of ratification. The Constitution of 2011 established for the first time the authority of international law over internal legislation, but not all of the national legislation is in conformity with the provisions of these conventions and protocols. Morocco does not have a specific code protecting children. The legal framework for the protection of children includes different laws, notably: the Penal Code, the Penal Procedure Code, the Code of the Family and the Kafala Law. In 2013, the Moroccan government launched the Integrated Public Policy for Protection of the Child (PPIPEM), whereby the coordination of the rights and protection of children is the responsibility of the Ministry for Solidarity, Women, the Family and Development.

This Ministry carries out these responsibilities under the aegis of the Ministerial Commission charged with monitoring the implementation of the national policies and action plans aimed at protecting children. There is no independent national institution concerning the rights of the child, but there is a National Council for Human Rights (CNDH), an independent organ for defence of human rights. Morocco also has several platforms and NGO coalitions for the defence of the rights of children. The Constitution provides for the creation of a Consultative Council for the Family and Children, but it has not yet become reality.

The Penal Code and in the Penal Procedure Code have specific sections addressing minors, even if there are gaps in the protection of children in the legal system. The law provides for alternatives to detention, but in practice, imprisonment remains the most frequent penalty for children in conflict with the law, even children as young as 12 years.

More than a million Moroccans are not listed on the civil register. This figure includes members of 53,430 households without legal marriage certificates, and 154,799 people who missed the regulated deadline for registering with the civil register. A large number of children abandoned after birth are also absent from the registers.

The age of majority is fixed at 18 years. Legal competence, as well as the right to vote, are acquired at 18 years. Partial penal responsibility is fixed at 12 years. Identity and travel documents necessary for a child are provided by the civil register services of the municipality of residence and by consular services abroad.

General principles of the Convention, civil rights and freedoms

According to law, all children have the same rights, without any discrimination. However, there is discrimination based on the matrimonial situation of the parents at the moment of the child's birth. In practice, children born out of wedlock, abandoned children, children with disabilities and migrant children are frequently confronted with different forms of discrimination. Several norms, customs and practices justify and perpetuate discrimination and violence towards girls, such as forced and early marriage. The penal code forbids sexual acts between members of the same sex; homosexuals are regularly imprisoned, even if the Constitution guarantees the right to a private life.

Under Moroccan law, the best interests of the child must be the most important consideration in all measures taken with regard to the child by public or private institutions, tribunals or administrative authorities. In practice, this right is not sufficiently respected in the home, at school, in the tribunals and in other institutions that work with or for children.

There has been little or no progress in certain essential areas relating to the survival and development of children, in particular in rural zones. Sport and leisure locations and activities are very limited or even non-existent in certain regions of the country. The availability and accessibility of education, health and protection services are insufficient or non-existent in rural areas. Despite laws prohibiting child labour, it is widely tolerated. According to official statistics, there were 69,000 children aged 7 to 15 who were working in 2014 (as compared to 86,000 in 2013). It should be noted that children carrying out domestic work, particularly as housemaids, are not accounted for in these statistics.

Freedom of expression, of thought, of conscience, of religion and of association are in principle guaranteed for all children. However, the law does not permit a person under 18 years old to form

an association or formal NGO or to manage a bank account. Further, within the family, children's freedom of expression is very limited by traditional norms and values.

Family environment, alternative care, and special protection measures

The standard system of protection for children in Morocco is Kafala, or taking in an abandoned child until he/she reaches the age of majority, either by a foster family or by an institution. The Kafala law does not acknowledge any inheritance rights for a makfoul (foster) child.

No other alternatives exist for placing children in care who are orphans or in difficult situations. No law regulates foster families or group homes.

Most frequently, children are placed in welfare institutions, in the Dar Atfal (Children's Homes) or in the CPCs (Child Protection Centres). The quality of the care of children within these centres is inadequate and in certain institutions practices violate the fundamental rights of children. The inadequacy of control mechanisms accentuates the vulnerability of institutionalized children.

The institutions receive a wide range of children: children in conflict with the law, children in difficult situations (including abandoned or orphaned children [often migrants] and children from poor or broken families), street children and child victims of abuse.

The law does not explicitly forbid corporal punishment, and it is a very common disciplinary measure in families, schools (despite several publications discouraging its use) and care institutions.

At the time of preparing the present report, there was no law in Morocco addressing human trafficking. The Penal Code does not define human trafficking as a crime. Human traffickers are punished for other crimes they may commit, such as money laundering. In practice, the legal system does little to protect victims and witnesses. At the time of writing the present report, a revision of the Penal Code is in the process of being finalized, and it will contain measures addressing trafficking. The revised Code also includes articles concerning the protection of victims and witnesses.

It is impossible to know with precision the number of children who are victims of trafficking, or if trafficking victims are more likely to be Moroccans or immigrants. The principal international destinations of children trafficked for purposes of sexual exploitation or child labour are the Gulf states (Moroccan children) and Belgium, Italy, and Spain (immigrant children). Most immigrant children trafficked come from Nigeria, Mali and Cameroon. It is not known how many child trafficking victims have been identified by the government, nor is it known how many girls work as maids within Morocco or how many boys work as farm or manual labourers in Morocco. The labour code regulates the work of children older than 15, in protecting them against the worst forms of work, but domestic service is not addressed by the law. The exploitation of children through begging is still common in Morocco.

According to the latest estimates concerning the number of street children in Morocco, there are nearly 25,000 children without a fixed address, one quarter of whom live in Casablanca. The protection services available to these children are fragmented and inadequate, and depend exclusively on charity organizations. Street children and young people in conflict with the law have been victims of torture and inhumane treatment.

Every day, a large number of children from rural areas and suburbs attempt the journey northwards towards Europe. The difficulties that they encounter in their search for a decent life and work, the perception that these minors have that quality of life is better in European countries, and Morocco's proximity to Europe mean that they are willingly putting their lives in danger.

Early and forced marriages are more and more common. The rate of early marriage has doubled since 2004, increasing from 30,312 in 2004 to 43,508 in 2013. Parents can arrange the marriage of very young girls (age 13 or younger) with the authorization of a judge. In some regions marriages are contracted by publicly reading the Fatiha, without involving a judge. This sometimes concerns girls as young as 7 or 8. The many minor girls who marry or cohabit often do so against their wishes, with men much older than they are.

Health, education and the reception of returning migrant children

The health sector is characterized by a lack of means, infrastructure, or qualified personnel; and a concentration of services in the urban zones. This means that the most underprivileged populations, particularly in rural areas, have inadequate access to basic health care. Recently the RAMEL (Medical Aid Regime) has been made more general. It targets the needy and vulnerable, but in practice it still excludes migrants.

Mother and infant mortality rates are among the highest in the region, and are strongly correlated to poverty and degree of ruralness; maternal mortality is 75% higher in rural areas than in urban areas; children in rural areas are three times more likely to die before the age of 5 than children in the urban areas.

Children with disabilities encounter difficulties in access to education, rehabilitation, care and leisure activities. There are extremely few specialized institutions for people with disabilities, and the quality of these institutions is poor. People with disabilities are victims of discrimination and are more likely to rely on begging. Other groups of children who suffer discrimination in their access to education are immigrants (despite official publications discouraging this) as well as children with a history of non-formal education.

21.7% of children work in addition to attending school, 59.2% drop out of school, and 19.1% have never been to school (that is, 78.3% of all children who work are children who have no schooling).

In the framework of return migration (which principally concerns adults and families with their children), the availability and quality of reception services for returning migrant children are insufficient. The few services from which they benefit are offered by NGOs, providing in particular aid in reintegration. No formal or long-term studies have been carried out following up on the situation of returning migrant children.

1 General context

1.1 Map of Morocco

Figure 1: Map of Morocco



Source: One World-Nations Online¹³

NB: The borders shown on this map do not imply any official approval or acceptance.

1. The Kingdom of Morocco is located in the extreme northeast of Africa, close to the southern shores of Spain. Its geographic position is strategically significant.

The country has two coastlines: to the north, the Mediterranean, and to the west, the Atlantic Ocean. This geographic position confers on the country an important position at both the continental (Africa) and the regional (North Africa) levels. This position also gives Morocco a strategically significant location internationally due to its proximity to Europe. It has entered into agreements of association with the European Union¹⁴ and free-exchange agreements with the United States¹⁵.

¹³ Nations online project <http://www.nationsonline.org/oneworld/map/morocco-political-map.htm> (consulted 3 April 2015).

¹⁴ Euro-Mediterranean Association Agreement, JO L 70, published in the *Official Journal of the European Communities* on 18 March 2000, <http://eur-lex.europa.eu/legal-content/fr/ALL/?uri=OJ:L:2000:070:TOC> (consulted 12 May 2015).

¹⁵ Ministry of Industry, Commerce, Investment and Digital Economy <http://www.mce.gov.ma/AccordsCommerciaux/USA.asp> (consulted 12 May 2015).

1.2 Political and economic context

2. According to different sources¹⁶, on 2 March 1956, Morocco recovered its independence after forty-four years as a French protectorate. Mohammed V reclaimed his throne in 1956 and ruled until 1961, and was followed by his son Hassan II (who ruled 1961-1999). The investiture of the new king Muhammad VI on 30 July 1999 ushered in a positive period, as indicated by the various reforms achieved, beginning with the reform of the Code of the Family (or Moudawana), the creation of the Equality and Reconciliation Authority (IER) and the creation of the Royal Institute of Amazigh Culture (IRCAM), one of the principal demands of the Amazigh movement. These reforms are proof of the evolution of Moroccan society.

Encouraged by the Arab Spring, a widely varied group of protesters – young people, radical left militants, Islamists and others – called for the continuation of reforms after 20 February 2011. The king announced the creation of an ad hoc commission charged with preparing a global constitutional reform, and confirmed political reforms. In a speech to the nation delivered June 17, 2011, Muhammad VI specified the main principles of the new Constitution, which were to go into effect in July 2011, based on the balance and separation of powers, and aiming to install a ‘constitutional, democratic, parliamentary and social monarchy’.

In conformity with the new Constitution, the Secretary-General of the PJD, Abdelilah Benkirane, was named Prime Minister by the king and formed a coalition government with Istiqlal, the MP and the PPS – in which the PJD has 12 ministers out of 30, including Foreign Affairs and Justice. This coalition government was approved by the sovereign on 3 January 2012. But dissensions and rivalries led to a rupture between the two main allies of the coalition. Following a long political crisis, and in order to avoid early elections, a new coalition government was formed in October 2013 with the support and participation of the National Meeting of Independents (RNI).

3. According to the 2014 annual report of the PNUD¹⁷, Morocco, with a Human Development Index of 129, is a country of medium human development, with extreme social disparities due in great part to inequality. This inequality manifests itself in household consumption expenditure, and is also found in all areas of daily life, increasing in rural areas, with unequal access to education, notably for girls and vulnerable groups (immigrants, children with disabilities), an elevated level of illiteracy, and unequal access to health.
4. According to the World Bank¹⁸, inequality, poverty and vulnerability remain significant challenges: the country shows a high level of inequality in income and access to basic services, with 13.3% of the population still living below the poverty threshold. This means that a fifth of the population of Morocco (around 6.3 million people) live in poverty or just above the poverty threshold. The economy is largely dependent on the agricultural sector; the rural population represents two thirds of the poor. Total unemployment remains steady at around 9%, and youth

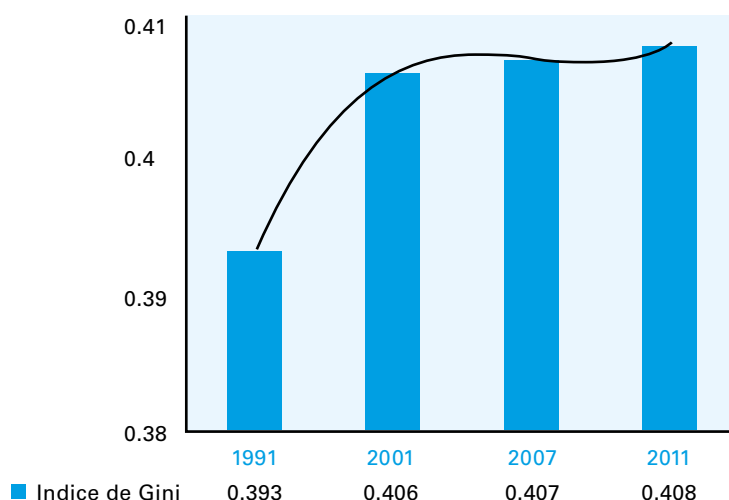
¹⁶ Vermeren Pierre *History of Morocco since independence*, Paris, La Découverte ‘Repères’ (2010). See also: Jean-Claude Santucci *Moroccan multi-party system between the constraints of a ‘controlled pluralism’ and the dilemmas of an ‘authoritarian pluriparty system’*. *Revue des mondes musulmans et de la Méditerranée* 111-112. (Mars 2006). See also Fouad ABDELMOUMNI ‘Morocco and the Arab Spring’ *Pouvoirs revue française d’études constitutionnelles et politiques* n°145.

¹⁷ United Nations Programme for Development *Report on human development 2014*, p. 179. To download from <http://hdr.undp.org/sites/default/files/hdr14-report-fr.pdf>. This report is strongly contested in Morocco.

¹⁸ World Bank *Country Overview* <http://www.worldbank.org/en/country/morocco/overview#1> (consulted March 20, 2015). See also United Nations Country Profile <http://data.un.org/CountryProfile.aspx?crName=MOROCCO> (consulted March 20, 2015).

unemployment is as high as 35.4% in urban areas.

Table 1: Evolution of inequality from 1990 to 2011



Source: HCP, National Report on the OMDs, 2009 and estimate for 2011. Prepared by UNICEF Morocco.¹⁹

5. In 2013, the GDP is estimated at \$103.8 billion by the same source²⁰ with a growth rate of 4.4% during the same year and an increase in inflation of 0.4%. According to the Plan High Commission²¹, inflation anticipated by the implicit price of the GDP is at a slight increase passing from 1.1% in 2014 to 1.7% in 2015.

1.3 Family structures and the roles of different members

6. According to a report from the Plan High Commission²² the hierarchical, authoritarian and patriarchal family model is no longer the only model in the Morocco of today:

‘In the majority of Arab countries, the familial institution is currently a social entity markedly different from what it was a generation ago. The different changes that have occurred and continue to occur in these societies have changed family structure profoundly. Initiated by changes introduced by colonization, these transformations have continued following the effect of urbanization, audio-visual communication, schooling and multiculturalism in schools, the entrance of women into the workforce (and in particular their contribution to family income), the emigration of men, and family planning (...). The repercussions on the family unit followed

¹⁹ UNICEF *Situation of the Children and Women of Morocco*. Analysis According to the Equity Approach. Overall presentation (March 25, 2015). At the time of finalization of the present report, the HCP has just finalized the inquiry into household consumption and has produced a new Gini index value which shows that the level of inequalities has been reduced. This observation was officially published in September 2015.

²⁰ World Bank <http://donnees.banquemondiale.org/pays/maroc#> (consulted May 16, 2015).

²¹ Plan High Commission *Synthesis of Economic Budget 2015* http://www.hcp.ma/Synthese-Budget-Economique-Exploratoire-2015-presente-par-M-Ahmed-Lahlimi_a1419.html (consulted May 16, 2015).

²² Plan High Commission, *Structures and characteristics of families in Morocco*. Download : <http://www.hcp.ma/downloads/> (consulted September 18, 2015).



rapidly. The traditional economic system of the nuclear family, based on self-subsistence, broke up, and the production function left the family framework, especially in the urban environment. On the cultural level, the hierarchical, authoritarian and patriarchal family model is no longer the only type of family. Lessened in importance in many cases by schools and by new political and trade union organizations, the family was no longer the only arbiter of values. With the gradual abandonment of traditional ideals with respect to procreation, these transformations also saw the typical family residence change from a large house to a small house or apartment.'

7. According to several sources consulted in the framework of the present report, traditional values remained predominant particularly in rural and suburban areas.

Principal results of interviews carried out within the framework of the present report, on the roles and responsibilities of family members in the lives of children in Morocco:

Marriage: The father alone can decide about marriage of the child. In case of absence of the father, the decision passes to a male member of the family; this is evident more in the rural areas than in the cities. The child's opinion is not asked for. His/her disagreement cannot be taken into account. The local chiefs (religious, from clans, or in the villages) regulate practices and can even impose solutions in certain situations. Even if the new laws of Morocco forbid the marriage of minors, tradition continues to maintain these ancestral forms of marriage of which judges are obliged to take account when children are born.

Circumcision: The decision is taken by the father and the mother but also by close family members, notably the grandparents; in certain regions, close relatives have the child circumcised without the knowledge of the parents. Father and mother are presented with a *fait accompli*, but rarely get angry, because this practice is part of their tradition. The age of the child is normally no greater than 18 months.

Fostering: This is a decision made by the nuclear family (father, mother, brothers and sisters). Generally, the child is first handed over to the maternal grandmother, then the maternal aunt, then the paternal grandmother. In cases where the parents are in a difficult situation, they can hand over a child, or even several children, to better-off families or to group homes. Sometimes they hand their children over to unrelated families out of pure empathy (if these families have no children, for example). The wishes of the child are rarely taken into account. Fostering may also be decided by a notary, and in that case it is referred to as *Kafala adoulaire* (which has no legal value).

Corporal punishment: Any member of the extended family may inflict corporal punishment on a child (father, mother, brother, sister, uncle, aunt, grandparents), as well as adults outside the family (neighbours, school teachers, instructors in group homes, etc.), without disapproval.

Education and care in general: The nuclear family (father, mother, brother and sister) has the first responsibility for the care and education of children. But the extended family (grandparents, uncles) has a duty of solidarity and must step in where the nuclear family fails in its duties. Local chiefs (clan, village, religious) may take decisions and express opinions that will have an impact on the education and care of children, in particular for orphans.



2 Demographic information and statistical data on children

2.1 Total population

8. The last general census of the population undertaken by the Plan High Commission²³ dates from September 2014. An advance view of the results was published in March 2015²⁴. According to these figures, the total population of the Kingdom of Morocco is 33,848,242, of which 33,762,036 are Moroccans, and 86,206 are foreigners. This represents an increase in absolute terms of 13.2% as compared to ten years before, with an average annual growth rate of 1.25% (4.3% for the population aged 0 to 4 years). 70.2% of this population is concentrated in five regions (see Table 2). 60.3% of the population lives in urban regions, and of this percentage, 41.3% is concentrated in seven large cities (Casablanca, 3.3 million; Fes, 1.1 million; then Tangiers, Marrakech, and Sale with between 890,000 and almost one million; Meknes and Rabat with between 500,000 and 600,000).

Table 2: Distribution of the population by region in 2009

| Region | % of population at last census |
|-----------------------------|--------------------------------|
| Greater Casablanca-Settat | 20.3% |
| Rabat-Sale-Kenitra | 13.5% |
| Marrakech-Safi | 13.4% |
| Fes-Meknes | 12.5% |
| Tangiers-Tetouan-Al Hoceima | 10.5% |

Source: Plan High Commission.

²³ Ministerial organization in charge of producing and publishing economic, demographic and social statistical information.

²⁴ Plan High Commission Presentation note of the first results of the RGPH 2014, 2015. Download from: <http://www.hcp.ma/downloads/> (consulted 23 February 2015).

9. According to UNICEF²⁵

‘The Moroccan population has almost tripled over the past 50 years, growing from 11.6 million in 1960 to 32 million in 2011. However, the rate of annual growth has decreased. This demographic transition is explained by a decline in fertility and in mortality, marked by a drop of the total fertility rate, which dropped from 7 to 2.2 children per family during the same period; that is, a decrease of five children per family within 50 years.’

2.2 Total number of children

10. To have more information on the population, we must refer to the projections made by the Plan High Commission based on the census of 2004, because the data published in 2014 classify children as aged between 0 and 20 years. The table below estimates the number of children aged between 0 and 19 years at 11,616 million²⁶.

Table 3: Distribution of the total number of children by age group and sex according to the RGPH projections of 2004

| Age group | RGPH projections of 2004 for 2014 | | |
|--------------|-----------------------------------|--------------|---------------|
| | Female | Male | Total |
| 00-04 | 1,421 | 1,482 | 2,903 |
| 05-09 | 1,400 | 1,465 | 2,865 |
| 10-14 | 1,402 | 1,454 | 2,856 |
| 15-19 | 1,471 | 1,521 | 2,992 |
| Total | 5,694 | 5,922 | 11,616 |

11. UNICEF estimates the population under 18 years old to be 11.8 million in 2013 (that is, 35% of the total of the country's population), 3.4 million children of whom are under 5 years old²⁷.
12. The World Bank²⁸ indicates that the percentage of children aged under 15 amounts to 28% of the total population in 2012.
13. No updated and complete data on the distribution of children by region has been found in the sources consulted within the framework of this report. In 2009²⁹ UNICEF highlighted the information contained in the following table:

²⁵ UNICEF *Situation of Children and Women in Morocco – Analysis according to the Equity Approach* (September 2014) p. 17.

²⁶ Plan High Commission, download information from www.hcp.ma (consulted 23 February 2015).

²⁷ UNICEF *Situation of Children and Women in Morocco – Analysis according to the Equity Approach*. General presentation (25 March 2015).

²⁸ World Bank Expanding Opportunities for the Next Generation. *Early Childhood Development in the Middle East and North Africa* (2015) p. 207.

²⁹ UNICEF, ABDELKHALEK T. & FAZOUANE A. *The impact of poverty and disparity on the children in Morocco* (December 2009) pp. 6-7.

Table 4. Distribution of children according to region in relation to total population in 2009

| Regions | Children as a % of total population |
|---------------------------|-------------------------------------|
| Souss Massa Draa | 10.3 |
| Marrakech-Tensif Al Haouz | 10.1 |
| Grand Casablanca | 9.1 |
| Tanger-Tetouan | 8.9 |
| Rabat-Salé | 7.3 |

2.3 Linguistic, ethnic and religious minorities

14. In Morocco, Islam is the official religion and Arabic is the official language according to article 3 of the Constitution³⁰. However, article 5 also recognizes the Amazigh language (Tamazigh) as ‘an official language as common heritage for all Moroccans without exception’. For this purpose, the Royal Institute of the Amazigh Language was created in 2003³¹.
15. The population is defined³² as *Arab-Berbère* (Arab-Amazigh), the majority of whom are Muslim (99% Maliki Muslims, 1% Christians, Jews, and Baha’i). The number of Jewish Moroccans is estimated to be between 5,000 and 6,000 according to different sources. This group is accorded special status. There is an ongoing controversy about the origin and number of people considered to be Amazigh. According to one source³³, this group of people indigenous to North Africa consists of 30 million persons throughout the world. In Morocco, its population was originally distributed between the Rif (to the north), the Middle Atlas (central Morocco), the High Atlas and the Anti-Atlas, the Souss valley and the north of the Atlantic desert. The same source mentions a Moroccan census of 2006 which estimated the number of people speaking the Amazigh language (the Tamazigh) at 28% of the total population.
16. According to UNESCO³⁴ ‘by virtue of the new Constitution, public organizations give their names in Arabic and in Tamazigh more and more frequently, but in practice, Tamazigh is rarely used in written form. However, since the creation of the IRCAM, Tamazigh, which uses an alphabet called Tifinagh, has the status of a written language.’
17. Various sources³⁵ estimate the sub-Saharan migrant population to be between 30,000 and 40,000 people. Within the framework of the present analysis, we have not found reliable information on the number of children in that population.

³⁰ Constitution of 17 June 2011 and Dahir no. 1-11-82 of 14 June 2011 submitting the Constitution proposal to referendum.

³¹ IRCAM <http://www.ircam.ma/index.php> (consulted 24 February 2015).

³² CIA <https://www.cia.gov/library/publications/the-world-factbook/geos/mo.html> (consulted 24 February 2015).

³³ IWGIA <http://www.iwgia.org/regions/africa/morocco#> (consulted 24 February 2015).

³⁴ UNESCO *Worldwide Follow-up Report on the EPT* (2015) p. 148.

³⁵ IOM estimates the migrant population at 40,000 <https://www.iom.int/countries/morocco/features> (consulted 22 January 2016). One ministerial source considers that after the extraordinary regularization procedure, the number of migrants would be around 30,000 people (Director of cooperation, studies and sectoral coordination. Ministry Responsible for MREs and Migration Affairs, interview of 1 April 2015).



3 Basic legal information

3.1 Signed, adopted and ratified conventions and protocols

18. Since the ratification of the Convention on the Rights of the Child (CRC) in 1993, Morocco has also ratified numerous international instruments establishing a legal framework to protect children, and continues to take legislative action harmonizing national laws, as demonstrated by all the modifications of laws, revisions of articles, and establishment of codes.

Table 5: Legal instruments in which Morocco participates

| YEAR OF ACCESSION | INTERNATIONAL LEGAL INSTRUMENT |
|-------------------|--|
| 1956 | Convention relating to the Status of Refugees |
| 1970 | International Convention on the Elimination of All Forms of Racial Discrimination |
| 1973 | Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others |
| 1979 | International Covenant on Civil and Political Rights |
| 1979 | International Covenant on Economic, Social and Cultural Rights |
| 1979 | Equal Remuneration Convention |
| 1993 | United Nations Convention against Torture |
| 1993 | Convention on the Elimination of all Forms of Discrimination Against Women |
| 1993 | Convention on the Rights of the Child |

| | |
|------|---|
| 1993 | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| 2000 | Convention concerning Minimum Age for Admission to Employment |
| 2001 | International Labour Conference Convention 138 |
| 2001 | Worst Forms of Child Labour Convention and Worst Forms of Child Labour Recommendation |
| 2001 | Convention for the Pacific Settlement of International Disputes |
| 2001 | Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography |
| 2002 | Optional Protocol on the Involvement of Children in Armed Conflict |
| 2002 | United Nations Convention against Transnational Organized Crime |
| 2002 | Hague Convention on parental responsibility and protection of children |
| 2009 | Guidelines for the Alternative Care of Children |
| 2009 | Convention on the Rights of Persons with Disabilities |
| 2009 | Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime |
| 2013 | Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse |
| 2013 | Council of Europe Convention on Contact concerning Children |
| 2013 | International Convention for the Protection of All Persons from Enforced Disappearance |
| 2014 | Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment |

19. At the level of internal legislation, the Moroccan legal arsenal contains several texts relating to the protection of children.

The texts of national legislation pertinent for the present report are:

- The Constitution of 1 July 2011.
- The Code of the Family published 10 October 2004.
- The Penal Code and its modifications added in 2003 (in the process of revision).
- The Penal Procedure Code and its modifications added in 2011 (in the process of revision).
- The Law 37-99 relative to Civil Status, published in the B.O. of 7 November 2002.
- The Labour Code, published in the B.O. of 6 May 2004.
- The Law 04-00 of 25 May on obligatory schooling.
- The Law 14-05 relative to the conditions for opening and management of the EPSs, published in the B.O. on 7 December 2006.
- The Nationality Code and its modifications of 2007.
- The Law 10-03 relative to accessibility, published in the B.O. on June 19, 2003.
- The Law 15-01 relative to the taking in charge of abandoned children, of 13 June 2002.
- The Law 65-00 concerning a code for basic medical cover of 3 October 2002.
- The Law 02-03 relative to the entry and residence of foreigners in the Kingdom of Morocco, to irregular emigration and immigration, of 11 November 2003.
- Decree 1/10/183 of 2004 and revised in 2010 containing the list of the worst forms of child labour.
- The proposal for a law-framework n° 97-13 relative to the protection and promotion of people with disabilities of 2014.

20. The Committee on the Rights of the Child³⁶ (CRC)

‘notes with appreciation the recognition, through the new 2011 Constitution, of the supremacy of international conventions over domestic laws, as well as the significant legislative reforms undertaken during the reporting period to incorporate the rights and principles of the Convention into domestic legal order, as previously recommended. The Committee remains concerned, however, about:

- (a) The lack of progress in adopting a comprehensive Children’s Code, the elaboration of which was proposed in 2003.
- (b) The numerous provisions of the Family Code that continue to discriminate against girls and to maintain severe gender discrimination.
- (c) The lack of effective enforcement of existing legislation relating to children, due mainly to the lack of resources, capacities and supervision.’

3.2 The Code of the Child and the strategy document/national plan concerning children

21. To this day, the Code of the Child has not yet been prepared. However, the government has established strategies and programmes directly or indirectly concerning children, including the National Initiative for Human Development (INDH, launched in 2005) which devotes a section to the protection and promotion of the rights of children, the *Ikram* Plan for equality of the sexes (2012-2016), the Emergency Education Plan (2009-2012) and the National Action Plan for Children (PANE 2006-2015).

22. In June 2013, the government launched the **Integrated Public Policy for Protection of Children in Morocco** (PPIPEM) which reinforces objective 3 of the PANE linked to the protection of children. The presentation document for the PPIPEM³⁷ explains that:

‘The evaluation halfway through setting up PANE, undertaken in 2011, revealed that despite the notable achievements recorded, objective 3 relative to the protection of children is far from being achieved, and this is because of the inadequacy of inter-sectoral coordination, of qualified human and other resources, and of evaluation monitoring’.

The same document points out that³⁸ ‘despite these efforts, numerous children do not have access to effective and durable protection’.

The reasons cited include weak application of the laws; the fragmentation of activities because of insufficient coordination or synergy between those participating; the lack of qualified personnel; the weak integration of the ‘rights of children’ approach; and the inadequate availability, accessibility

³⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (paragraph 10) CRC/c/MAR/CO/3-4 (14 October 2014).

³⁷ MSFFDS and UNICEF *Process of working out an Integrated Public Policy of Child Protection in Morocco. Progress report* (June 2013) pp. 7-8. See also La Vie Eco <http://lavieeco.com/news/societe/le-nouveau-plan-de-bassima-hakkaoui-pour-la-protection-de-lenfance-29410.html> (consulted 25 May 2015).

³⁸ MSFFDS et UNICEF *Process of working out an Integrated Public Policy of Child Protection in Morocco. Progress report* (June 2013) p. 9. See also United Nations-Morocco Annual Report 2014, Framework plan of the United Nations for support to development 2012-2016 pp. 25-26.

and quality of protection services. Other sources consulted within the framework of the present report³⁹ explain that in reality, the existence of a child protection system in Morocco cannot be confirmed, but that there are certain specific services and programmes which offer a fragmented and limited response.

3.3 Specific budget allocated to the implementation of the national strategy or plan

23. No budgetary allocation has been attributed to the PANE plan 'A Morocco worthy of its children' or to PPIPEM. According to a ministerial source⁴⁰, the Action Plan of PPIPEM should permit assigning resources for the implementation of this strategy. This was presented publicly at the Court of Appeal of 13 and 14 April 2014, but up to now, no action has been put in place.
24. The CRC is concerned about⁴¹ 'various shortcomings of the National Action Plan for Children 2006–2015 and especially that no budget was allocated for its execution. The Committee also regrets that the evaluation of the Plan that was conducted in 2011 has not been given a proper follow-up. While considering as positive the current development of an Integrated Child Protection Policy, the Committee is concerned that this policy might not cover all areas under the Convention.'

In the same way, we can read that⁴²:

- (a) The State party has not yet set up a specific mechanism to ensure traceability of the funds allocated for the implementation of the Convention.
 - (b) The alleged fraudulent management of the National Fund for Social Security as well as the high levels of corruption negatively impact the implementation of the Convention in the State party.
25. Other budgets allocated funds to the government plan for equality of genders or the combat against poverty from the resources for the protection of children⁴³: 497 million Moroccan dirhams (MAD) were allocated from the European Union to implement the government plan for gender equality called 'Ikram', which has just replaced the 'government strategy 2011-2015 for equality men-women'; 460 million MAD were allocated in 2012 for the national initiative for human development⁴⁴, in which the section 'combat against instability' covers vulnerable groups, including children.

³⁹ Coordinator of the APS Foundation of the Convention for the putting in place of three Child Protection Units, interview of 18 March 2015. Coordinator of 'Migrants Centre' Project of the East West Foundation, interview of 18 March 2015.

⁴⁰ MSFFDS Director of Protection of the Family, Children and the Elderly MSFFDS, interview of 27 March 2015. See also La Vie Eco <http://lavieeco.com/news/societe/le-nouveau-plan-de-bassima-hakkaoui-pour-la-protection-de-lenfance-29410.html> (consulted 25 May 2015).

⁴¹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* CRC/c/MAR/CO/3-4 (14 October 2014) paragraph 12.

⁴² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* CRC/c/MAR/CO/3-4 (14 October 2014) paragraph 16.

⁴³ La Vie Eco. Article of 26 July 2012 <http://lavieeco.com/news/societe/la-parite-les-femmes-veulent-plus-que-cela-elles-parlent-de-galite-22879.html> (consulted March 20, 2015).

⁴⁴ INDH Programmes of combat against instability <http://www.indh.gov.ma/index.php/fr/programmes/programme-lutte-contre-la-precarite> (consulted 21 March 2015).

3.4 Government body for coordination of the rights of children

26. According to different sources consulted within the framework of the present report, the Ministry of Solidarity, Women, the Family and Social Development (MSFFDS) is responsible for the preparation and implementation of the government policy in these areas, including coordination with the relevant sectors. This ministry is charged with the coordination of programmes aimed at the reinforcement of the family and the social promotion of children, in coordination with the departments and regions concerned. Several services and protection structures for children are picked up by other ministries (including education, justice, health, and interior).
27. The most important instruments that support the mandate of the MSFFDS are: the National Action Plan for Children (PANE) 2016-2015, the Social Pole 4+4 Strategy (2012-2016) and the Integrated Public Policy for Protection of Children in Morocco (PPIPE), a project launched in 2013. This ministry was intended to be the central core of the coordination and creation of synergies among the different organizations and departments from other ministries (education, justice, health, etc.) responsible for programmes and activities to benefit children.
28. According to the intermediate follow-up report of 2013⁴⁵, the MSFFDS 'constitutes the keystone in the area of protection of children and promotion of their rights, by ensuring: the coordination of the implementation of the National Action Plan for Children PANE (...); the implementation of norms that conform to international standards for reception centres for children; the upgrading of reception centres for children so that these establishments may have psychosocial, pedagogical-educational and cultural programmes that conform to the needs and rights of children; the monitoring of the quality of services of the different establishments (public and private) that receive minors in difficult situation; the establishment of alternatives to institutionalization; the reinforcement of the capacities of different actors who intervene with respect to children; and the implementation of a support strategy for families in difficulty'.

3.5 Independent national institution for the human rights, in particular in relation to children

29. In Morocco, the independent institution for the defence of human rights is the National Council for Human Rights (CNDH) which was created in conformity with the Principles of Paris.
30. The National Council for Human Rights⁴⁶ is the national institution charged with the promotion and protection of the human rights in the Kingdom of Morocco. Created in March 2011 (replacing the former Consultative Council for Human Rights created in 1990), the Council prepares annual reports on the human rights situation, which it then presents to the two chambers of parliament. It also prepares thematic reports on specific human rights questions, and undertakes visits to different detention sites. A legislative proposal is currently being prepared which will create an independent monitoring and follow-up mechanism for all questions concerning children on the part of the CNDH, but it has not yet been released.

⁴⁵ MSFFDS and UNICEF *Process of preparation of an Integrated Public Policy for Protection of Children in Morocco. Status Report*, (April 2013) p. 33.

⁴⁶ CNDH <http://www.cndh.org.ma/fr/presentation/presentation-du-cndh> (consulted 21 March 2013).

31. The CRC⁴⁷ regrets the absence of an independent mechanism concerning the rights of the child:

‘The CRC notes the information given by the State that a law has been drafted to reform the mandate of the National Human Rights Council with a view to creating an independent child-sensitive monitoring mechanism with a clear mandate to receive and address individual complaints of alleged violations of children’s rights. At the same time, the Committee is concerned by the delay in creating such a mechanism’.

Other government services linked to the protection of children⁴⁸:

Ministry of Justice and Liberty

This ministry plays a very important role in the judicial protection and care of children in conflict with the law and children in difficult situations, through units that take charge of women and children established by the tribunals. It monitors the effective application of laws via the provision of necessary personnel, financial and logistic means; the establishment of training programmes aimed at strengthening the capacity of actors intervening with respect to children; the implementation of alternatives to the deprivation of liberty of children having committed a penal offence; the regular follow-up/evaluation of protection modes and of the care of children in conflict with the law placed in institutions.

Ministry of Youth and Sport

This ministry plays a very important role in the protection and care of children placed in care institutions falling under its authority (Centres for Child Protection or Child Safeguard Centres) as well as in the protection and care of children placed under probation, through: supervision and monitoring of institutions falling under its authority; the implementation of rehabilitation and reintegration programmes adapted to the needs and profiles of children, through the allocation of necessary personnel, financial and logistic means; the establishment of training programmes aiming to strengthen the capacities of actors intervening in relation to children; the regular follow-up/evaluation of modes of protection and care of children placed in safeguard centres as well as children monitored in open environments; the prevention of exclusion and delinquency, through socio-educational programmes destined for children and young people.

Ministry of Employment

This ministry plays a very important role in prevention and the combating of child labour, and access to professional training.

Ministry of National Education

This ministry plays a very important role in the protection of children, in relation to the prevention and combating of school violence (through the establishment of monitoring units in each school), access to school and preventing early school leaving.

⁴⁷ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* CRC/c/MAR/CO/3-4 (14 October 2014) paragraph 18.

⁴⁸ MSFFDS (with the support of UNICEF) *Process of preparation of an Integrated Public Policy for Protection of Children in Morocco – Status report* (June 2013) p. 33.

Ministry of Health

This ministry plays a very important role in relation to medical, medico-legal and psychological expertise; medical and psychological treatment; and the provision of basic health care. It is also responsible for establishing emergency units, within several hospitals in the country, where children who are victims of violence can be received.

Ministry of the Interior

This ministry plays a very important role in the protection of children in relation to emergency units for child victims of violence who are under the supervision of police services, notably the minors' squads, the civil status registry, the Directorate of Local Authorities, and the coordination of the INDH. The Royal Police Service is also very important with respect to the protection of children in the rural environment.

Ministry of Artisans and Agriculture

This ministry has a role in the protection of children, in relation to the prevention and combating of child labour, and in access to professional training.

Ministry of Tourism

This ministry is important with respect to the promotion of responsible and ethical tourism that protects children's rights.

National Mutual Assistance

This institution intervenes in the area of taking charge of children in difficult situations, through: the creation, support and supervision of welfare institutions, of which a good number are dedicated to orphans, children with disabilities, abandoned children, or children from poor or dysfunctional families; the subvention of associations participating in taking care of children in difficult situations; the monitoring of the conformity of care institutions with law 14-05, concerning minimal legal, technical and physical norms, and the support of residential institutions.

32. According to an official source⁴⁹ a structural reform undertaken in cooperation with the Ministry of Finance will be activated to establish the total of expenses already allocated or which are to be allocated to programmes for the protection of children.

How UNICEF, with the support of its partners, brings help to Morocco:

UNICEF's activities in Morocco⁵⁰ consist of the following three major points supporting the development of a Morocco worthy of its children:

- Acceleration of the achievement of the OMDs/ODDs (Development Objectives).
- Establishing a protective environment.
- Equality and decentralization.

⁴⁹ MSFFDS Director for Protection of the Family, Children and the Elderly, interview of 27 March 2015.

⁵⁰ Internet site of UNICEF Morocco: <http://www.unicef.org/morocco/french/4432.html>

Health and nutrition

UNICEF has only one objective in Morocco the area of health: to guarantee each child access to high-quality basic health care. UNICEF has adopted an approach based on equality and the right to health, underlining health and nutrition, particularly neo-natal nutrition.

Quality education

The programme has as its main objective the improvement of access and school attendance for quality education, particularly for the most vulnerable children and adolescents, as well as the development of a preschool curriculum.

Protection of children

The programme for the protection of children follows a strategic approach aiming to establish a child-protective environment through interventions in different dimensions.

Analysis of social policies

This programme aims to reinforce the analysis of policies in the light of the principles of the rights of the child, to identify existing gaps, and to offer technical assistance to its partners. One of the main activities of this programme is to initiate the development of an integrated vision of welfare that is sensitive to the rights of children. In this context, UNICEF supports the MAGG (Ministry of General Affairs and of Governance) in piloting this visionary project with a high-level cross-sector pilot committee.

3.6 NGO coalitions for the defence of the rights of the child

33. There is a rather extensive Moroccan association of different platforms and networks for the promotion of the rights of the child. The most important are the following:

- **Kafala Collective Morocco (CKM)**⁵¹, composed of six associations, has as its objective urging the government to modify the current law 15.01 on the Kafala, so that it might be more protective of the best interest of the child and guarantee to foster (makfoul) children all the rights of legitimate biological children.
- **Collective for the Right of the Child to Family Protection (CDEPF)**⁵², composed of 14 signatory associations and others, has as its objective urging the Moroccan government to improve and reinforce the system of child protection.
- **Foster Families Collective**⁵³, composed of several associations that encourage the establishment of a law regulating foster families, which is still non-existent in Morocco.
- **Collective for the eradication of girl's labour**⁵⁴, composed of several associations for the defence of the rights of women – and in particular girls and unmarried mothers – with the objective of

⁵¹ NGO Kafala Collective Morocco, interview of 26 March 2015.

⁵² Facebook page of the collective <http://www.facebook.com/CDEPF> (consulted April 29 2015) and Facebook page of the association INSAF <https://www.facebook.com/pages/Association-INSAF/1431932187078362?fref=ts> (consulted 29 April 2015).

⁵³ NGO Kafala Collective Morocco, of which some are also members of the Reception Families Collective, interview of 26 March 2015.

⁵⁴ Facebook page of the association INSAF <https://www.facebook.com/pages/Association-INSAF/1431932187078362?fref=ts> (consulted 29 April 2015).

using legal channels to appeal for the elimination of the domestic labour of little girls.

- **Springtime of Dignity Coalition**⁵⁵, which campaigns for penal legislation that protects women against discrimination and violence, is a structured coordination and project movement committed to influencing the course of Moroccan legislative reforms. It groups together different non-governmental associations for the defence and promotion of human rights in general and women's rights in particular. These associations aim to bring about legal changes protecting women from violence, respecting the principle of equality, and guaranteeing fundamental freedoms and the individual rights of women.
- **'Protection-Migrants' Platform**⁵⁶, composed of nine associations that work in the area of migration and which look for ways to help the most vulnerable people among migrants, including women and children who are victims of violence or in situations of instability.

Some non-governmental organizations who work in the area of children's rights in Morocco:

- Moroccan Association of Support and Aid to Down's Syndrome Children (AMSAT)
- Handicap International
- OVCI La Nostra Famiglia
- Oum el Banine
- 100% Mother
- Ennakhil Association
- Democratic Association of the Women of Morocco (ADFM)
- Association Oujda Ain Ghazal 2000
- Moroccan Association for the Rights of Women (AMDF)
- Association INSAF
- Female Solidarity Association
- Association WIDAD for women and children
- Association Osraty
- SOS Children Villages Morocco
- Association Ai.Bi. – Friends of Children
- Rita Zniber Foundation
- The Goblins of the Sands
- Association Dar Atfal Al Wafae
- Association Al Ihssane
- Moroccan League for the Protection of Children (LMPE)
- Bayti Association for children in difficult situations
- AMSIP Centres
- SHEMS'Y Centres
- The Joyful Hour
- Al Karam
- Moroccan Association for Aid to the Child and the Family

⁵⁵ Official page of Springtime of Dignity <https://pdmaroc.wordpress.com/qui-sommes-nous/> (consulted March 30, 2015)]; and Facebook page www.facebook.com/printemps.deladignite (consulted 29 April 2015).

⁵⁶ Interviews with certain members of the platform: GADEM, interview of 17 March 2015; APS, interview of 18 March 2015, and FOO, interview of 18 March 2005.

- Darna Association
- YTT Foundation
- Rights & Justice
- AMANE Association
- Don't Touch My Child Association
- Don't Touch My Children Association
- East West Foundation
- Caritas Morocco
- APS Foundation
- PAIDEIA Association
- National Observatory for Rights of the Child (ONDE)

3.7 Legislation and policy for the protection of children in the legal system

The protection of children is addressed in several texts of the national legislation. The most important articles are contained in the Constitution⁵⁷, the Code of the Family⁵⁸, the Code of Penal Procedure⁵⁹, the Penal Code⁶⁰ and in specific laws such as the Kafala law⁶¹. In the Constitution, articles 6 and 19 address freedom, equality, and the principle of non-discrimination; and article 32 addresses children: 'The State ensures equal legal protection and equal social and moral consideration for all children'.

34. According to one source⁶² 'the new Constitution of Morocco, adopted by referendum on 1 July 2011, reinforces the framework of the promotion of human rights and non-discrimination. The Constitution recognizes the primacy of the ratified international legal instruments over internal law'.

35. According to the last report of the Moroccan government to the Committee on the Rights of the Child⁶³:

'The substantial modifications made to the Penal Code published in the Official Bulletin of 15 January 2004 permitted the introduction of new measures, consolidating the protection of children in conformity with the measures of the Convention. These enactments constitute progress in the framework of the protection of the child against ill treatment, notably in accentuating the severity of sanctions for offences against children and in creating new offences'.

⁵⁷ Dahir numéro 1-11-91 of 27 chaabane 1432 (29 July 2011) concerning announcement of the text of the Constitution (Official Bulletin n° 5964bis of 28 chaabane 1432 (30 July 2011)).

⁵⁸ Dahir n° 1-04-22 of 12 hija 1424 (3 February 2004) concerning announcement of law n° 70-03 concerning the Code of the Family (Official Bulletin n° 5358 of 2 ramadan 1426 (6 October 2005)).

⁵⁹ Dahir n° 1-58-261 of 1 chaabane 1378 (10 February 1959) forming the Penal Procedure Code.

⁶⁰ Dahir n° 1-59-413 of 28 jourmada ii 1382 (26 November 1962) concerning approval of the text of the penal code.

⁶¹ Dahir n° 1-02-172 of 1 rabii II 1423 concerning announcement of law n°15-01 relating to the taking into care (Kafala) of abandoned children (B.O of 5 September 2002).

⁶² Human Rights Council (HRC) *Report from the Special Reporter on human trafficking, in particular of women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (April 2014) p. 7.

⁶³ CRC/c/MAR/3-4 Report of the Moroccan state to the CRC *Examination of reports submitted by participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009* (Morocco, 5 August 2013) p. 8.

36. **The Code of the Family or Moudawana**⁶⁴ dedicates Title V (Categories of marriage and their rules), first chapter (valid marriage and its effects); Section II (children) and several articles, to children: article 54 (rights of the child); articles 83, 113, 114, 119, 163, 166, 169, 170, 171, 178, 186 (care of children); article 225 (legal incapacity); articles 236, 240, 243, 244, 248, 255, 265, 267, 269, 275 (legal representation); and sections 265, 267, 269, 275 (legal follow-up).
37. **The Penal Procedure Code** has some articles addressing the protection of the child in judiciary procedures. Thus the five first titles of Book III dedicate articles 458 to 509 to children. Articles 484 and 495 give the child the possibility of being heard, either to express her/his opinion, or to give her/his consent. The child may also lodge a complaint or undertake a legal case. Further, the child is entitled to make an appeal following judgements.
38. The main articles of the **Penal Code** devoted to children are articles 479 to 482 (family abandonment), 465 (incompetence), 326 to 330 (exploitation of children for begging), 459 to 464 (exposure and desertion of children and incompetents), 497 and 498 (incitation to debauchery, pimping), 408 to 411 (ill treatment and deprivation relating to children), 503-2 (pornography using children), 467-2 (forced labour), 467-1 (sale and purchase of children), and 484 to 486 (rape and molestation). All punishable violence, when committed towards adults, is equally punishable when they concern children. One source notes that⁶⁵

'Certain acts are only punished when it concerns children (for example, withdrawal of care, pornography using children, sale and purchase of children, exploitation of children for begging...), others are punished more severely when a child is the victim (grievous bodily harm, defilement, rape and molestation, etc.)'.
39. According to one government source⁶⁶, the reform of the Penal Code includes a new article devoted to human trafficking and making punishments for sexual aggressions more severe. All acts that might lead to a violation of the rights of children (including violations within the family circle) also result in heavier penalties. The reform equally permits better support for families and children in conflict with the law, and regulates the work of social workers (possibility of inquiries, routine visits in cases of monitored liberty, etc.).
40. Protection of children in the legal system is undertaken thanks to the coordination between units that take charge of women and children from the Courts of First Instance, the emergency units of the hospitals for women and children, and the Minors Squad of the Police Departments. According to a ministerial source⁶⁷, the creation of regional coordination committees in 2010 should have improved the link between those operating in the area of the protection of children.
41. The **law of the Kafala** also concerns children in situation of abandonment. This law stipulates that⁶⁸: 'The fostering (the Kafala) of an abandoned child, in the sense of the present law, is the commitment to take responsibility for the protection, the education and the upkeep of an abandoned child in the same way that a father would do for his biological child. The Kafala does not

⁶⁴ The Code of the Family or Moudawana. Dahir n° 1-04-22 of 3 February 2004.

⁶⁵ UNICEF *Protection of the child against violence – Legislative and institutional appraisal* (2005) p. 14.

⁶⁶ Officer for Women's and Children's Affairs – Directorate of Penal Affairs and Pardons. Ministry of Justice, interview of 23 March 2015.

⁶⁷ Officer for Women's and Children's Affairs – Penal Affairs and Pardons Directorate, Ministry of Justice, interview of 23 March 2015.

⁶⁸ Art. 2 – *First chapter: General dispositions*, of the law 15.01 on the Kafala, Dahir n° 1-02-172 of 13 June 2002.

give the right to filiation (the legal relationship of being parent and child) nor to inheritance’.

This law is discussed in greater detail in chapter 7.

42. According to UNICEF⁶⁹, considerable progress has been observed at the legislative level:

‘Following the international normative framework, there has been considerable progress in terms of the national normative framework in relation to the protection and the guaranteeing of the rights of women and children. Indeed, differing and important areas were covered by certain laws. Further, law proposals and decree proposals in progress will reinforce the existing normative framework in favour of women and children. Nevertheless, these advances are lessened by the existence of certain inequalities or a harmonization that does not conform to the international principles and norms (...) Beyond these gaps, one of the greatest weaknesses identified in this area remains the absence of or partial and limited effectiveness of the application of the law. This lack of effective application of the normative framework is manifested through:

- The slowness of judicial procedures.
- The modes of participation of the child in the judicial procedures which do not conform to international norms and standards in relation to justice for minors, particularly concerning the right to be heard/listened to and to be represented by a duly trained advocate.
- The absence of measures alternative to imprisonment.
- The frequent recourse to placing children in institutions, often without justification, and in opposition to the best interests of the child, and the absence of places adapted to children.
- The insufficiency of follow-up for children placed in institutions and thus of revision of the measures ordered, sometimes leading to long-lasting placements.
- The lack of reporting, through fear, taboo or misunderstanding of the reporting procedure and more generally the misunderstanding of the laws and procedures on the part of families’.

The question of placing children, and children in conflict with the law, is discussed in chapter 8.

3.8 Process of registering births / birth certificates

43. **Law 37-99 relating to civil status**⁷⁰ regulates the procedure for obtaining, among other things, birth, death or marriage certificates. Article 20 covers the right to bear the family name and makes obligatory the declaration of birth (art. 31). Births in Morocco or abroad fall under the same legal and regulatory measures and are applied to all citizens. Thus, births are declared to the civil status officer of the place of birth. The place of residence is considered to be the place of birth for the newborn for whom the place of birth is unknown (art. 16). The declaration of birth may be made by the father or mother, by the guardian, by the brother, or by the nephew (art. 16). The documents habitually requested by the administration are: the certificate of nationality (Moroccan or foreign); the certificate of birth for the newborns, and a copy of the parents’ certificate of marriage if there is one.

⁶⁹ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equality Approach* (Sitan, September 2014) p. 41.

⁷⁰ Law n° 37-99 relative to civil status, published in the Official Bulletin of 7 November 2002.

44. The report of the Moroccan government to the CRC underlines⁷¹

‘that more than a million Moroccans are still not listed on a civil status register. This figure includes members of 53,430 households without marriage certificates and 154,799 people who have missed the official deadline for registering with the civil status register. A large number of children abandoned after birth are also absent from the registers. 132,655 requests to be registered have been presented to the courts, which passed judgement on 59,509 cases. This is 63.7% of the requests and 20.5% of judgements in relation to the total number of people listed in the census but not listed on the civil status registers.’

45. An article in the press citing the data announced by Mustapha Ramid, Minister for Justice and Liberty, in the Council Chamber in October 2014, indicates that ‘the number of children without an official identity increases from year to year in Morocco’ and that ‘the number of files presented is growing. It grew from 5,274 in 2009 to 5,377 in 2013’⁷².
46. According to diverse sources⁷³, despite efforts in consciousness-raising and communication on the part of the Wilayas⁷⁴ to increase the number of people registered with the civil status register, unmarried mothers typically show some reluctance to register, as there is a stigma attached to their unmarried status. There would also be a problem for registering children born outside of wedlock in home births, thus without any notification of birth in a health organization⁷⁵.
47. UNICEF⁷⁶ points out that:

‘Certain categories of children have difficulty attaining civil status. According to the HCR and the NGOs, these are typically children born to irregular immigrant parents in Morocco. This situation is due to the difficulties for the mothers, following birth, of obtaining the necessary birth declaration for birth registration at the civil status services. Without a regulated residence permit and/or without means to pay the fees for this birth declaration, the birth certificate is refused. Thus, these children find themselves deprived of the benefit of birth registration, and run the risk of being deprived of the right to attend school’.

UNICEF mentions that the rate of civil status registration is 94%. The proportion is 96.8% in urban settings, against 93.3% in rural settings.

⁷¹ *Examination of reports submitted by participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009 CRC/c/MAR/3-4 (5 August 2013) p. 22.*

⁷² Yabiladies <http://www.yabiladies.com/articles/details/30175/maroc-plus-enfants-sans-identite.html> (consulted 5 May 2015).

⁷³ Civil status official at Oujda, interview of 12 March 2013, within the framework of the intermediary evaluation of the Children Protection Units; Associations of the Kafala Collective Morocco, interview of 26 March 2015.

⁷⁴ The Wilaya is an administrative organization that falls under the Ministry of the Interior, and is the most important authority in each region. It is the equivalent of the General Prefecture in the French system. There are 16 wilayas, one for each region. The Wali is directly empowered by the King and represents royal authority in the region.

⁷⁵ Alianza Por la Solidaridad (APS) *Prospective study. Migrant Children, Morocco* (2015) p. 58.

⁷⁶ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equality Approach* (Sitan, September 2014) p. 107.

3.9 Legal age of majority

48. The legal age of majority is fixed at 18 full Gregorian years according to article 4 of the Code of Moroccan Nationality⁷⁷.

3.10 Age of legal competence

49. In Moroccan law, there is no difference between the age of legal competence and the age of legal majority.

3.11 Identity and travel documents

50. Children may obtain an identity document or a travel document at any moment when the person representing them makes the request. People may request their own documents from the age of 18 years.
51. According to several sources consulted⁷⁸, for all administrative formalities (national identity card, passport, foreign visas, school registration, etc.) it is usually the father who is considered the guardian. As far as the **child's identity card** is concerned: it can only be requested in order to obtain a passport at the age of 12 years. The legal representative must present himself to the prefecture (Mouquataa) with the required documents and the prefect residence certificate (Moquadem). The prefecture then issues a certificate signed by the head of the municipality (the Caïd) which he will present to the neighbourhood police department in order to obtain, after an inquiry, a residence certificate. This last will be presented, along with the request to obtain a national identity card, at the police station of the City Hall or the central police department, depending on the city. This national card will be part of the file for the passport request. As far as **the child's passport** is concerned: the request is made at the prefecture (Mouquataa), who has the file followed up at the Wilaya (general prefecture), in the passport service. The passport is issued by the prefecture.

3.12 Voting age

52. Voting age is fixed at the age of legal majority, that is at 18 full Gregorian years, according to article 30 of the Constitution.

⁷⁷ Dahir n° 2-58-250 of 6 September 1958, concerning the Code of Moroccan Nationality as modified and completed by Law n° 62-06 pronounced by the Dahir n° 7-07-80 of 23 March 2007.

⁷⁸ The Code of the Family (articles 231 and 236), points out that 'the legal representation of minors may be exercised by the father, and by the mother only in the absence of the father or following the loss of capacity on his part'.

3.13 Age of deprivation of liberty

53. The current Code of Penal Procedure (Book III) establishes that:

'A minor is any person not having attained the age of 18 years. Below the age of 12 years, the minor is considered to be completely without legal responsibility. No penalty can be imposed upon her/him. No protection or rehabilitation measures can be pronounced upon her/him. Between 12 and 18 years, the minor is considered to be partially without responsibility. S/he may be the object of a protection and rehabilitation measure, and exceptionally of a reduced penalty⁷⁹.'

54. According to one source⁸⁰, the reform of the Code of Penal Procedure currently in progress should raise the age from 12 to 15 years for the application of penalties involving imprisonment for children in conflict with the law. The application of the measure of probation will be preferred for the youngest children involved.

The question of imprisonment of children is discussed later (see chapter 8).

⁷⁹ UNICEF *Protection of the child against violence –Legislative and institutional appraisal* (2005) p. 18.

⁸⁰ Official in charge of Women's and Children's Affairs, Directorate of Penal Affairs and Pardons, Ministry of Justice, interview of 23 March 2015.



4 General principles

4.1 Non-discrimination

The Moroccan Constitution acknowledges the rights of all children without discrimination in article 32: 'The State ensures equal legal protection and equal social and moral consideration to all children, without reference to their family situation'.

55. The preamble to the Code of the Family⁸¹ specifies that 'the Moroccan Government has taken new measures in order to combat all forms of discrimination' and shows its interest in targeting 'in a more specific way the categories of children whose needs require particular attention'.

Children born outside of marriage

56. The Penal Code (article 468) and law 37-99 on civil status contain a legal obligation for parents to register their children at birth.

⁸¹ The Code of the Family or Moudawana. Dahir n° 1-04-22 of 3 February 2004 concerning the announcement of Law n° 70-03 published in the Official Bulletin of 6 October 2005. Title V, Chapter I, Section II, article 54 is dedicated exclusively to children.

57. In 2014, the CRC⁸² indicated its concern for children born out of wedlock:
- ‘The Committee is concerned about de jure and de facto discrimination against girls and against children born out of wedlock, including in areas relating to personal status (e.g. family name, inheritance).
 - The Committee welcomes the statement by the State party’s delegation that measures will promptly be taken in order for children not to be identified as born out of wedlock in their identity documents.
 - Fourteen per cent of children remain unregistered in the State party, and a significant number of children abandoned at birth remain unregistered as recognized by the State party itself’⁸³.
58. According to UNICEF⁸⁴ the number of children born out of wedlock in Morocco is estimated at 6,480 in 2008, or 2% of total births.
59. A study from 2010, prepared by the association INSAF⁸⁵, indicates that:
- ‘27,199 unmarried mothers gave birth to 45,424 children in 2009. For the city of Casablanca only, the estimated number of unmarried mothers having at least one child was 21,135 between 2003 and 2010. This is four times more than in the period 1996-2002’.
60. The Moroccan associations⁸⁶ indicate that:
- ‘With a distinction between natural filiation and legal filiation, the Code of the Family of 2004 discriminates against children born out of wedlock, with all the consequences that this has on children and their unmarried mothers (...) several measures deprive children of their rights’.
61. For the Moroccan association collectives concerned with protection of children⁸⁷, ‘law 37-99 relating to civil status, published in the Official Bulletin of 7 November 2002, nine years after ratification of the CRC, discriminates against children born of unknown parents in several ways’.

⁸² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 24.

⁸³ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 30.

⁸⁴ UNICEF and the Moroccan League for the Protection of Children <http://www.UNICEF.org/morocco/french/protection.html#> (consulted 24 March 2015).

⁸⁵ INSAF with the support of ONUFEMME The Morocco of Unmarried Mothers (2010). See also Today <http://www.aujourd'hui.ma/maroc/societe/droits-des-enfants-nes-hors-mariage-le-gouvernement-fait-la-sourde-oreille-113507#.VXH1m1Jx7IX> (consulted 24 May 2015).

⁸⁶ Alternative report relating to the putting into operation of the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p. 7.

⁸⁷ Alternative report relating to the putting into operation of the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p. 21. See also L’Economiste <http://www.leconomiste.com/article/956827-meres-celibataires-les-femmes-et-les-enfants-de-l-ombre> (consulted 24 May 2015).

The same source explains⁸⁸:

‘When the mother is known and the father is unknown, the law obliges the person who declares the birth of the child to choose a father’s first name that begins with Abd: it should be known that these first names, becoming rarer and rarer, constitute an initial discrimination against the child, and this discrimination only continues later in life.

- The new identity cards carry not only the first names of the father and mother, but also the first names of the paternal and maternal grandparents. However, there is no possibility under the current law to add first names of grandparents for children born of unknown parents. **These children become perfectly identifiable by their identity cards**, which list a first name of the father beginning with Abd and no first name of the grandfather. The Female Solidarity association reports cases of young adults who have been refused a job after successful entry tests, when they presented their national identity card (...). In Rabat, for example, during a certain period all abandoned children declared by the Prosecutor’s office had Abdallah as their father’s name, and Meriem as their mother’s name.
- Further, the law contains no measure authorizing an agreement about civil status between a makfoul child and its parents through Kafala, nor even to permit *kafils* parents to choose a first name for the child. **The child remains therefore with an administrative identification chosen** by civil servants, and if the *kafils* parents wish for the child’s civil status to correspond to the reality of the child’s life, they have to undertake an administrative procedure through the civil status administration to change the child’s first name and the first names of its parents. This complex procedure discourages many parents, so that the child keeps an impersonal civil status with all its ramifications, in particular with respect to its anchoring in a family, and to discrimination from the earliest age at school; Moroccan society is unkind to what it calls ‘children of sin’ and the law does nothing to protect them. Even disregarding inheritance issues, when couples who would otherwise wish to begin the procedure of legal identification for their child abandon this procedure, they are legally denied the role of parents and as a consequence the possibility of really protecting the child’.

62. Article 6 of the Code of the Family permits the transmission of the nationality of the mother to the child.

63. In 2014, the CRC⁸⁹, while congratulating the recognition of filiation through the mother in the 2004 reform of article 6 of the Family Code, remained concerned that:

‘Rural women often remain unaware of their right to transmit Moroccan nationality to their children:

(a) Unmarried mothers can transmit their names to their children only if the father gives his consent to this transmission.

(b) Fourteen per cent of children remain unregistered in the State party, and a significant number of children abandoned at birth remain unregistered as recognized by the State itself.

⁸⁸ Alternative report relating to the putting into operation of the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) pp. 9-10.

⁸⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 30.

- (c) Migrant and asylum-seeking parents face difficulties in obtaining official birth certificates for their children, as they cannot afford the medical fees to be paid before obtaining a birth certificate’.

Girls

64. Equality between girls and boys is established in the Constitution⁹⁰ and in the Code of the Family⁹¹.
65. In 2014, the CRC⁹² expressed its concern about the discrimination against girls:
- The Committee is concerned about de jure and de facto discrimination against girls and against children born out of wedlock, including in areas relating to personal status (e.g. family name, inheritance).
 - There are numerous provisions of the Family Code that continue to discriminate against girls and to maintain severe gender discrimination.
 - The State party has not adopted legislation criminalizing all forms of domestic violence, including marital rape, even though violence against women and girls in the home is pervasive in Morocco.
 - No specific measures have been taken to remove girls from marriages that they were forced to enter into before the repeal of this article, and who are reported to be still subjected to sexual abuse and violence.
 - The criminalization of sexual relations outside of marriage leads girl victims of sexual abuse to be considered as offenders and dissuades them from lodging a complaint against their abusers.
 - Early marriage is on the rise, and thousands of girls, some of them as young as 13 years, are married every year as a result of the extensive use of exceptions to the law issued by family judges.
 - Despite certain restrictions introduced in the law and in spite of the low number of polygamous unions, polygamy remains permissible, a situation which is contrary to the dignity of women and girls who enter into this type of marriage and which negatively affects children.
 - In some instances, the Kafalah system is used to exploit girls in domestic labour or to take children from poor families.
 - Fewer than two thirds of boys and only one third of girls are reported to be aware that condom use can prevent infection with HIV/AIDS.
 - Girls still face difficulties in obtaining secondary education.
 - Insufficient measures have been taken to remove girls, some as young as eight, working as domestics in hazardous conditions in private homes.
 - Girls continue to be exploited in private homes and to be subjected to physical and verbal violence, isolation, and excessive working hours (100 or more hours per week).
66. The Plan High Commission⁹³ indicated in 2012 that ‘despite considerable advances in the matter of equality between the sexes, in particular the publication of the Code of the Family and the Code of Nationality and the revision of the Labour Code and of the Penal Code, the elimination of inequalities between the sexes remains one of the major challenges for the years to come’.

⁹⁰ Articles 6 and 19 of the Constitution.

⁹¹ First Chapter- Section II (Children). Article 54 (rights of the child).

⁹² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraphs 24, 10, 38, 42, 44, 50, 56, 60.

⁹³ Plan High Commission (HCP) Development objectives for the Millenium. National Report 2012 (2014) p. 7.

67. The alternative report of the Moroccan associations⁹⁴ points out that ‘despite considerable support within civil society for the reform of the Code of the Family, no measure has been taken to reduce discrimination with regard to girls’. The report mentions statistics published by the Ministry of Justice on early marriages of minor girls between 2007 and 2014⁹⁵. A total of 299,718 applications for early marriages of girls were made between 2007 and 2013. Far from being extinguished, the practice seems to be used more than before, with an increase in cases, year after year, since 2007.

Table 6: Distribution of early marriage applications by age between 2007 and 2013

| Year | 14 years | 15 years | 16 years | 17 years | Total |
|--------------|--------------|---------------|---------------|----------------|----------------|
| 2007 | 348 | 2,730 | 9,865 | 25,767 | 38,710 |
| 2008 | 348 | 2,609 | 12,550 | 24,097 | 39,604 |
| 2009 | 359 | 3,111 | 12,407 | 31,211 | 47,088 |
| 2010 | 69 | 555 | 8,374 | 32,100 | 41,098 |
| 2011 | 309 | 2,676 | 12,771 | 31,171 | 46,927 |
| 2012 | 200 | 2,405 | 10,958 | 29,220 | 42,783 |
| 2013 | 97 | 1,515 | 13,010 | 28,886 | 43,508 |
| Total | 1,730 | 15,601 | 79,935 | 202,452 | 299,718 |

Source: Alternative report of the Moroccan associations from data from MJL.

The issue of early and forced marriages is discussed in chapter 8.

Children with disabilities

68. According to the national inquiry of 2004 carried out by the MSFFDS⁹⁶ the number of **children with disabilities** aged under 14 years was approximately 216,000, or 2.7% of children aged under 15. Around 59% of children with disabilities were living in an urban environment and 41% in a rural environment. The same source explained that more than one person in five with disabilities never visited a health institution; only one-third of those with disabilities had access to specific specialized care; and only 12% benefitted from medical and paramedical care cover. Moreover, the schooling rates, which were 92.6% for all children between 6 and 11 years of age in 2004, were 32.4% for children with disabilities from 4 to 14 years; in 2004, around 74,730 children with disabilities were attending school and 155,917 had no access to education. Unfortunately there are no more recent data on disability at the national level that might permit us to make a comparison with the current situation.

⁹⁴ Alternative report relating to the putting into operation of the International Convention for the Rights of the Child *Comments of Moroccan associations on the responses of the Government of the Kingdom of Morocco* (July 2014) p. 6.

⁹⁵ Official statistics of the Ministry of Justice and Liberty published in *Family law: reality and perspectives, 10 years after the coming into effect of the Moudawana* (May 2014) (Arab). See also Women of Morocco <http://femmesdumaroc.com/societe/le-mariage-dans-la-ligne-de-mire-1875> (consulted 23 May 2015).

⁹⁶ Ministry of Solidarity *National Inquiry of Handicap in Morocco* 2004 Mentioned in CRC/c/MAR/3-4 *Examination of reports submitted by the participating States in application of article 44 of the Convention* (5 August 2013) pp. 30-32.

69. However, the CRC⁹⁷ noted in 2014:

‘The State has not engaged in creating an inclusive system of education and continues to rely excessively on non-governmental organizations to provide specialized services to these children.

- Only one third of children with disabilities attend schools, and those attending schools face rejection and stigmatization.
- One fifth of children with disabilities never attend a health-care facility, as recognized by the State.
- The vast majority of children with disabilities do not benefit from adequate support, such as the presence of a multidisciplinary specialized team, social workers, and an individual follow-up process to ensure their effective inclusion in ordinary classes
- Social stigma, fears and misconceptions surrounding children with disabilities remain strong in society, leading to the marginalization and alienation of these children.’

The Committee welcomes ‘the adoption of the National Action Plan for the Social Integration of Persons with Disabilities (2008–2017) and the increased number of children enrolled in integrated classes’.

70. The National Action Plan 2008-2017 permitted the adoption of measures aiming to reinforce access to education for children with disabilities (school integration classes, teacher specialization). The CRC⁹⁸, however, ‘is concerned that the State continues to apply the medical model of disability, which consists in integrating children with disabilities as long as their capacities permit this, instead of engaging in elimination of the physical, socioeconomic and cultural barriers that prevent the full inclusion of children with disability in schools and society and the full enjoyment of their rights’.
71. The NGO Handicap International⁹⁹ specifies that ‘children with disabilities who have been abandoned in institutions are victims of great discrimination in all spheres of society, often because of their status as children of unmarried mothers. This discrimination is social as well as institutional’. The study carried out by the Moroccan League for Protection of Children¹⁰⁰ and the report from the National Institution of Solidarity with Women in Distress (INSAF)¹⁰¹ make the same observation. The association INSAF reveals that around 8,700 children born to unmarried mothers were abandoned, with a much higher prevalence for children with disabilities (18.5% according to this study). The factors that could explain such an elevated rate are: the consequences of attempted clandestine abortions, problems during labour due to poor conditions especially outside of the hospital environment, poor care and treatment during the first postpartum weeks, and the lack of care or poor practice in the rehabilitation and treatment of disabled children.

⁹⁷ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 24.

⁹⁸ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 52.

⁹⁹ Handicap International *Report synthesizing studies: National Study: on abandoned children with disabilities in institutions in Morocco and Regional Study on the characteristics of the process of taking into care of children with disabilities without families, and in institution in the region of Souss-Massa-Draa, Morocco* (December 2014) p. 25

¹⁰⁰ Moroccan League for the Protection of Children (LMPE) and UNICEF *Abandoned children in Morocco* (2009).

¹⁰¹ INSAF with the support of ONUFEMMES *Morocco and unmarried mothers* (2010).

72. One source¹⁰² adds that there is very little professional training offered and the situation is even more extreme for socio-professional integration. The lack of support for families with children with disabilities may create a 'therapeutic abandoning' within families without resources. According to the same source¹⁰³ these families are affected by harmful characteristics that can be defined as follows:

- The degree of illiteracy, which is 41.55% in the mothers and 28.20% in the fathers of children with disabilities.
- The predominance among the parents of poorly paid work with unstable jobs, most often in the informal sector.
- 87% of mothers do not work outside the home.
- A significant number of mothers have been forced to abandon their work in order to take care of their children full time. In fact, a predominant cultural aspect in Morocco considers the mother to be the main person responsible for caring for the children, especially for those with disabilities.

'These negative characteristics are the source of considerable isolation for the entire nuclear family and put parents into a situation of total helplessness. As a consequence, people with disabilities are discriminated against and isolated. This generates a handicap that is even more serious and dramatic. The direct effect of this isolation and this helplessness is the loss of precious time, which leads to a great delay in etiological diagnosis and thus a great delay in care, significantly reducing the chances of physical rehabilitation and therefore of optimal social integration'.

Children affected by poverty/ Rural areas

73. In 2014, the CRC¹⁰⁴ declared itself to be worried by economic disparities:

- 'The Committee is concerned about the persistent disparities between different regions and between rural and urban areas.
- (...) the richest 20 per cent of families account for 30 per cent of the national income, while the poorest 20 per cent account for only 2 per cent of the national income.
- (...) one fifth of Moroccan families live in poverty and the accelerated economic growth in the State has been accompanied by increasing disparities between the richest and the poorest families, as evidenced by various social indicators.'

74. The most recent publication by the Plan High Commission¹⁰⁵ also acknowledges a tendency towards an increase in inequalities accompanied by 'an increase in their impact on poverty'¹⁰⁶.

75. The alternative report of the Moroccan associations for the defence of the rights of the child considers that 'the efforts undertaken by the government to reduce the disparities among children and the between the richest and the poorest families remains below the expectations of society

¹⁰² Specialist doctor from the NGO OVCI La nostra famiglia, interview of 23 March 2015.

¹⁰³ OVCI La nostra famiglia. Extract of the report for the justification of the Safir project of July 2014.

¹⁰⁴ Committee on the Rights of the Child (CRC). *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraphs 24, 58.

¹⁰⁵ This observation was changed in the Assessment of the OMDs 1990-2015 currently being finalized by the HCP during the preparation of this report. The assessment was published in September 2015.

¹⁰⁶ Plan High Commission (HCP) *Development objectives of the Millenium. National Report 2012* (2014) p. 18.

and the real needs of children in the rural environment', and points out in particular the lack of basic public health structures, the remoteness of hospital centres, and the lack of specialists in the rural environment¹⁰⁷.

76. One source¹⁰⁸ that utilizes data from the Ministry of Health¹⁰⁹ points out that 91.2% of Moroccan households have electricity and 60.1% of households use water from the public network, but there is a disparity of 86% for urban households in contrast to 21.5% for rural households.

Foreign children

77. According to the Moroccan government¹¹⁰, 'new measures incriminating **racial discrimination**, whether by natural persons or legal entities, have been introduced into the Penal Code (section II bis added by law 24-03, article 431.1)'.

78. Law 02-03, relating to the entry and residence of foreigners in the Kingdom of Morocco, to irregular emigration and irregular immigration, forbids expulsion (art. 26, par. 8) or removal (art. 26, par. 8) of foreign minor children from the borders of the territory. Nevertheless there are numerous accusations of the violation of these articles¹¹¹.

79. One source¹¹² explains the difficulty the Sub-Saharan population faces in integrating into Moroccan society because of permanent, very violent raids by the security forces as well as arbitrary arrests:

'During the summer of 2010, associations for the support of migrants noted a return to expulsion measures against pregnant women, and in 2011–2012, these associations pointed out a fresh outbreak of this illegal practice, which endangers the lives of mothers-to-be and unborn children'.

80. A few days after the completion of the special registry of migrants in irregular administrative situations, some sources made accusations of raids in the north of the country, arbitrary detentions of migrants, and their forced displacement to other locations¹¹³. The same source points out that the Ministry of the Interior, in a press release¹¹⁴ of 11 February 2015, justified these raids by calling them the 'liberation of several migrants, notably women and children, who were being forced to live there by networks of smugglers and human traffickers (...) similar operations will be systematically undertaken to evacuate all places that have been claimed by migrants who plan to organize attempts at irregular emigration'.

¹⁰⁷ Alternative report relative to the implementation of the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention for the rights of the Child* (July 2014) p. 4.

¹⁰⁸ Amane-CNDH-UNICEF *Study on sexual violence with respect to children in Morocco* (December 2014) p. 23.

¹⁰⁹ Ministry of Health *National inquiry on the population and family health-ENPSF 2011*.

¹¹⁰ CRC/c/MAR/3-4 *Examination of reports submitted by participating States in application of article 44 of the Convention* (5 August 2013) p. 18.

¹¹¹ Press release published 30 September 2010 by the NGO Doctors without Borders, Report from the CNDH: *Foreigners and Human Rights in Morocco: for a radically new asylum and immigration policy Conclusions and recommendations* (July 2013) p. 3.

¹¹² Anti-racist Accompaniment and Defence of Foreigners and Migrants Group (GADEM) and others *Report on the application in Morocco of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (August 2013) p. 11 and p. 35.

¹¹³ Joint information note of the Sub-Saharan Communities in Morocco and of GADEM (February 2015).

¹¹⁴ Press release from the Ministry of the Interior (February 2015).

81. The same source mentions numerous testimonies from people of African origin who explain their difficulties in renting an apartment, or accessing education or health services because of the colour of their skin¹¹⁵:

‘Migrant workers of Sub-Saharan origin are the most frequent victims of violations of the rights of the Convention, on the basis of the colour of their skin and their ethnic and national origin (...). Sub-Saharan migrants are the object of great stigmatization in Morocco, in particular because of political and media statements that promote racial prejudices against them. It is, because of this, generally more difficult for them to integrate themselves in Moroccan society’.

82. Moroccan associations¹¹⁶ have observed improvements concerning rights for Sub-Saharan children. **The access of Sub-Saharan children to education** has improved thanks to the new migratory policy and to publications from the Ministry of National Education in 2014¹¹⁷. Nevertheless, the associations remain concerned by the implementation of ministerial directives, insofar as obstacles linked to birth registration and the lack of legal representation for unaccompanied children compromise their social and educational integration.
83. According to one source¹¹⁸, the access to education for Sub-Saharan children depends exclusively on the will of the heads of schools: some of them are willing to follow the instructions of the Ministry publication, others accept Sub-Saharan children in their schools only if an association guarantees that the child will be monitored, and some categorically refuse to permit Sub-Saharan children to attend their schools.
84. Another recent source¹¹⁹ points out that access to education is not granted in the same manner in all regions of Morocco, being much more frequent in cities like Rabat or Casablanca, thanks to the leadership of the associations of defence of education, which have permitted greater access for migrant pupils.
85. Concerning **the access of migrants to health care**, the assessment of the CESE¹²⁰ mentions that responses to medical needs are currently insufficient:

‘From being a transit country, Morocco has become a destination country by default for Sub-Saharan migrants. The precarious living conditions to which the majority of these migrants are constrained, as well as the criminal and institutional violence to which they are exposed, mean that their medical and psychological needs are currently not being met.’

¹¹⁵ GADEM and others *Report on the application in Morocco of the International Convention on the Protection of the Rights of All Migrant Workers and of Members of Their Families* (August 2013) pp. 35-36.

¹¹⁶ Oum El Banine (Tamkine-Migrants Project) and others *Migrant children and the Moroccan school* (April 2014) mentioned in the Alternative report relative to the putting into operation of the International Convention on the Rights of the Child (July 2014) p. 14.

¹¹⁷ Circular N° 13-487 of October 9, 2013 establishes access to education of Sub-Saharan and Sahel migrant children.

¹¹⁸ Secretary-General and Coordinator of GADEM, interview of 17 March 2015.

¹¹⁹ Iianza Por la Solidaridad (APS) *Prospective study. Migrant children. Morocco* (2015) p. 74.

¹²⁰ Economic, Social and Environmental Council. Seisin n° 4 / 2013 *Basic health care. Towards an equitable and universal access*, (2013) p. 9.

86. MSF¹²¹ explains that:

‘The physical impact of these living conditions is evident. From 2010 to 2012, MSF teams have carried out 10,500 medical consultations. Practically half of the medical problems diagnosed (5,233) were illnesses closely linked to bad living conditions. Of these illnesses, 8.13% entailed respiratory infections, 13% osteo-muscular problems (often described as general physical pains), 11% skin conditions and 8% gastrointestinal problems’.

87. A ministerial publication¹²² authorizes care for migrants in cases of serious transmissible diseases, but they are excluded from the RAMED (Medical Assistance Regime). An official source¹²³ confirms that a legal formula which permits migrants to be included in the RAMED, including minors, is in the process of discussion.

88. A recent source points out¹²⁴ that:

‘The right of access to health is mentioned by persons interviewed for this study as the greatest among all the rights’, and mentions the Tangiers region as an example. In certain zones of Morocco migrant children ‘point out that certain public health services are not guaranteed and they need mediation and help from a social organization in order to access them’.

89. No case of discrimination based on affiliation with the Amazigh people has been found among the sources consulted within the framework of the present report.

Religion

90. Moroccan legislation¹²⁵ establishes the freedom of worship:

‘In order to preserve the rights of Our loyal subjects of the Jewish faith, We have held that the new Code of the Family reaffirm the application towards Jews of the measures of the Moroccan Hebrew personal status’.

In the same way, article 3 of the current Constitution of 2011 accords to Islam the status of State religion while guaranteeing ‘the free exercise of worship’.

91. The CRC¹²⁶ expresses a concern on this subject:

‘Although the State ensures equal legal protection as well as social and moral consideration for all children, regardless of their family status, children born of a marriage between a Muslim woman and a non-Muslim man might not be legally acknowledged, a situation which may prevent them from enjoying all their rights in the condition of equality with other children.’

¹²¹ Doctors Without Borders (MSF) *Violence, Vulnerability and Migration: Blocked at the Gates of Europe* (March 2013) p. 10.

¹²² Ministerial Circular of 27 May 2003.

¹²³ Director for cooperation, study and sectoral coordination. Ministry Charged with MRE and Migration Affairs, interview of April 1, 2015.

¹²⁴ Alianza Por la Solidaridad (APS) *Prospective study. Migrant Children. Morocco* (2015) pp. 76-77.

¹²⁵ Code of the Family or Moudawana. Dahir n° 1-04-22 of 3 February 2004 concerning pronouncement of Law n° 70-03 published in the Official Bulletin, 6 October 2005. Preface.

¹²⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 45.

Sexual orientation

92. As for **sexual orientation**, article 489 of the Penal Code establishes that ‘any person who commits obscene or unnatural acts with a person of the same sex will be punished with a sentence of imprisonment between 6 months and 3 years and a fine of 120 to 1,000 dirhams, unless circumstances surrounding the acts constitute aggravating circumstances’. On the other hand, the Moroccan Constitution (article 24) guarantees the right to the protection of a private life.
93. During the preparation of this report, we have not found complete or reliable information relating to discrimination on the basis of sexual orientation in children but that does not mean that the situation does not exist.
94. A report from Human Rights Watch¹²⁷ gives information on cases of adults being judged and condemned for homosexuality in 2014.
95. Amnesty International¹²⁸ mentions the arrest and judgement of eight people accused of homosexuality in its annual report 2014/2015:

‘In May, September and December, tribunals at Fqih ben Salah, Marrakech and Al Hoceima declared eight men guilty of homosexual relations and sentenced them to punishments of up to three years’ imprisonment. Consensual relations between people of the same sex remained a crime’.

96. According to the ILGA¹²⁹:

‘Penal laws forbidding sex between men, whether or not they are regularly applied, render the sexual minorities vulnerable to extortion, exploitation and other forms of ill treatment on the part of the state and private persons. Such penal laws contribute systematically to the failure of the state to protect victims of homophobic violence, and prevent them seeking and receiving help. Further, penal laws of this type, whether they are applied or not, contribute to the existence of an environment dangerously close to the stigmatization of LGBTI persons by official means’.

97. According to some sources consulted¹³⁰, any person, child or adult, who bases her/his request for asylum on sexual orientation could be considered by the HCR as a refugee. In this case, the person would be a candidate for a reintegration measure in a third country. But this type of case cannot be submitted to the ad hoc asylum procedure established by the BRA (Office for Refugees and the Stateless) in order to avoid application of the measures of the Penal Code – that is, imprisonment, which, according to the same sources, would have already happened.

¹²⁷ Human Rights Watch picks up on the arrest of two men for homosexuality at the end of 2014. The occasion for the NGO to denounce ‘unfair proceedings’ and the penalization of homosexuality. Published online on http://telquel.ma/2015/03/04/human-rights-watch-denonce-les-proces-inequitables-au-maroc_1436921 (consulted 26 March 2015).

¹²⁸ Amnesty International *The situation of human rights in the world*. Annual report 2014-2015 p. 297.

¹²⁹ ILGA, *Homophobia of the State. A worldwide inquiry on the laws that criminalize sexuality between consenting adults of the same sex* (May 2012) p. 8.

¹³⁰ Coordinator the ‘Migrants Centre’ Project of the East West Foundation, interview of 18 April 2015. Adjoint to the protection official of HCR in Morocco, interview of 24 March 2015.

4.2 Best interest of the child

98. The Code of the Family has introduced the best interest of the child as a basic element in its preamble: ‘the project aims to protect the rights of the child’ as well as to ‘introduce the following substantial reforms: (...) Preserve the rights of the child by inserting into the Code pertinent measures from the international conventions ratified by Morocco (...)’. The Code of the Family establishes that it¹³¹ ‘is up to the State to take the necessary measures with the view of ensuring the protection of children, and guaranteeing and preserving their rights in conformity with the law’. Twenty-two articles of the same Code refer to the principle of ‘the Interest of the Child’.

99. The CRC¹³² appreciates

‘The inclusion in the Family Code of the right of the child to have his or her best interests taken as a primary consideration; the Committee regrets that the practice of early and forced child marriages, the placement of children in residential institutions, and the recourse to imprisonment for children in conflict with the law still contradict the best interests of many children. The Committee is also concerned that this right has not been incorporated in legislation concerning children and is therefore applied neither in all administrative and judicial proceedings, nor in policies and programmes relating to children’.

100. The Moroccan associations consider that the ‘best interest’ of children is not yet defined in a global way in the sense of the Convention for the Rights of the Child¹³³:

‘The principle of the Best Interest of the Child is to be defined. It is too often linked to material measures and those of practical daily life, and neglects the part concerned with psycho-affective development and protection against psychological violence. This notion of the Best Interest of the Child contained in the CRC must absolutely be specified, at the risk of seeing certain participating States give it an unusual framework: the Ministry of Justice, in its circular 40S/2 of 19 September 2012¹³⁴, estimated that it was more in the Best Interest of the Child to remain in a group home to receive an Islamic education, than to have parents who might risk being unable to give him/her that education’.

4.3 Right to life and to development

Legislation

101. Articles 20, 21 and 22 of the Constitution guarantee the right to life. Article 20 states that ‘The right

¹³¹ Code of the Family or Moudawana. Title V Categories of marriage and their rules – First chapter of Valid Marriages and its effects – Section II Children.

¹³² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 26.

¹³³ Alternative report relative to the putting into operation of the International Convention on the Rights of the Child *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the rights of the child* (July 2014) p. 6.

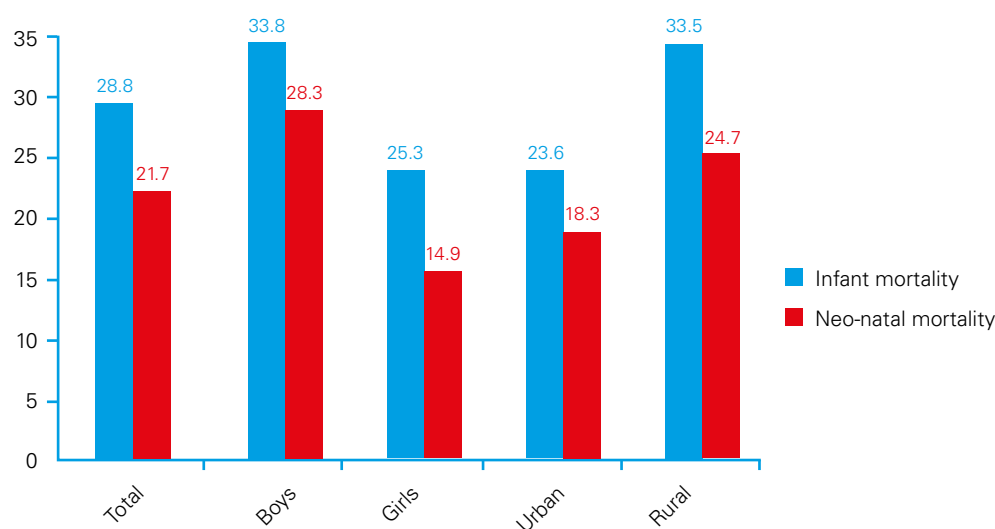
¹³⁴ Circular available on the internet: <https://www.bj.admin.ch/dam/data/bj/gesellschaft/adoption/herkunftslaender/ld-marokko-rundschreiben-justizminister-f.pdf> (consulted 12 May 2015). See also the magazine La Vie Eco: <http://laviieco.com/news/societe/les-etrangers-nont-plus-droit-a-la-kafala-les-associations-protestent-23619.html> (consulted 12 May 2015).

to life is the first right of all human beings. The law protects this right'. Article 31 of the Constitution states that 'The State, public establishments and territorial collectives work on the mobilization of all means available to facilitate equal access of citizens, both male and female, to the conditions permitting them to benefit from these rights: i) to health services, ii) to welfare, to medical cover and to mutual benefit or State-organized solidarity (...), ix) to access to water and a healthy environment, x) to sustainable development (...)'.¹³⁵

Infant birth and death rates

102. According to the Ministry of Health¹³⁵, the gross birth rate (for 1,000 inhabitants) in 2012 was 16.2 in urban environments, 21.4 in rural environments, and 18.3 in total.
103. In 2014, the CRC noted with concern the following facts¹³⁶:
 - 'Maternal and infant mortality rates remain high.
 - Huge disparities in health status persist between children from urban areas and those from rural areas, with children living in rural areas reportedly being at twice the risk of death as children living in urban areas.
 - The infant mortality risk is 2.5 times as high among children from the poorest quintile compared to those from the richest quintile.
 - Forty-two per cent of the children living in the Migrant Reception Centre are underweight, and many are reported to present serious or contagious medical pathologies.'

Table 7: Infant and neo-natal mortality in 2011¹³⁷



¹³⁵ Ministry of Health. Directorate for Planning and Financial Resources. Division of Planning and Studies. Service of Studies and Health Information. *Health in Figures 2012* (Edition 2013) p. 10.

¹³⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 54.

¹³⁷ ENPSF 2011 of the Ministry of Health in: UNICEF, *Situation of Children and Women in Morocco*. Analysis According to the Equality Approach. Overall presentation (March 2015).

104. According to UNICEF, neo-natal mortality represents more than 75% of infant mortality.
105. According to the World Bank¹³⁸, in Morocco 66 children aged less than one year die every day. In 2004, infant mortality (children who die before their first birthday) was 38 deaths per thousand births. In 2012, 25 children out of a thousand die during the first month of their life, a rate which is above the regional average of the MENA countries¹³⁹ (with an average death rate of 15 per 1000)
106. According to data from the Ministry of Health in 2011¹⁴⁰, the major causes of infant death are as shown in the table below. There are no new public data since that date.

Table 8: Distribution of deaths of children aged less than one year (in %) according to cause and sex, 2011

| Age | Cause of death | % of the total of causes of death |
|--------------------|--|-----------------------------------|
| < 1 year | Conditions originating in the perinatal period: | 63.5 |
| | • Prematurity | 25.1 |
| | • Inter-uterine hypoxia and asphyxia at birth | 22.8 |
| | • Perinatal infections | 7.5 |
| | Illness of the circulatory system | 7.4 |
| | Congenital deformities and chromosome abnormalities | 6.5 |
| | Illness of the respiratory system | 5.5 |
| 1-4 years | Infections and parasitic illnesses | 3.4 |
| | Traumatic lesions, poisoning and other external causes, such as: | 14.9 |
| | • Traumatic lesions | 9.3 |
| | Illnesses of the respiratory system | 13.0 |
| 5-19 years | Illnesses of the circulatory system | 12.5 |
| | Traumatic lesions, poisoning and other external causes, such as: | 24.6 |
| | • Traumatic lesions | 16.4 |
| | External causes of morbidity and mortality | 15.5 |
| | Illnesses of the circulatory system | 11.4 |

¹³⁸ World Bank *Expanding Opportunities for the Next Generation. Early Childhood Development in the Middle East and North Africa* (2015) p. 206.

¹³⁹ Middle East and North Africa.

¹⁴⁰ Worked out using data from the Ministry of Health. Directorate of Planning and Financial Resources. Division of Planning and Studies. Service of Studies and Health Information *Health in Figures 2012* (Edition 2013).

Maternal mortality rates

107. A government source indicates¹⁴¹ a large reduction in maternal mortality:

‘The Ministry of Health has adopted, since the late 1990s, various activities to accelerate the reduction in maternal mortality, which had a positive impact on the state of health of the mother. (...) The demographic inquiry 2009-2010 by HCP showed that the rate of maternal mortality has decreased by close to 66% in twenty years (...). This drop in maternal mortality is strongly correlated with the favourable changes to the use of health services offered to mothers. Thus, according to the ENPSF 2011, the rate of contraceptive use has clearly increased, from 42% in 1992 to 67.4% in 2011; the proportion of women who have had recourse to a prenatal consultation before their eighth month of pregnancy has risen to 77.1%; and the proportion of deliveries aided by qualified personnel is estimated at 73.6% in 2011’.

Unfortunately no more recent data have been published.

108. The Ministry of Health¹⁴² has as its objectives from now until 2016 a reduction of maternal mortality from 112 to 50 deaths per 100,000 live births, and a reduction of neo-natal mortality from 21.7 to 12 per thousand live births.

109. One government source¹⁴³ estimates that

‘Despite the progress achieved, inequalities persist in access to infant and child care among regions, and between urban and the rural environments, and between socio-economic levels. In fact, the drop in infant child mortality has profited more children coming from better-off families. The infant mortality rate is 2.5 times higher among children from the households in the poorest quintile (37.9) than among those from the richest quintile (15.2). In fact, problems of physical and financial accessibility to infant and child care, the absence of a structured procedure for neo-natal care, and the insufficient quantity of paediatric health services constitute the major constraints targeted by the action plan 2012-2016’.

Suicide, infanticide, premature pregnancies and sexual health

110. During the preparation of the present report, we have not been able to access statistics concerning the rates of **adolescent suicide** but this does not mean that the phenomenon does not exist. The Committee was very concerned in 2014 by the common practice of forced marriage and by the fact that some girls killed themselves because of such marriages¹⁴⁴ (*see chapter 8*).
111. As far as **infanticide** is concerned, statistics from the Ministry of Justice¹⁴⁵ point out 34 cases known by the Tribunals (22 cases of murder and 12 cases of infant deaths) during the year 2013. No subsequent update has been published.

¹⁴¹ Plan High Commission *Millennium objectives for development. National Report 2012* (January 2015) p. 46.

¹⁴² Ministry of Health *Action plan 2012 – 2016 to accelerate the reduction in maternal and neo-natal mortality*.

¹⁴³ Plan High Commission *Millennium objectives for development National Report 2012* (January 2015).

¹⁴⁴ Chapter 8: forced and premature marriage.

¹⁴⁵ Ministry of Justice *Statistics 2013 on violence towards children* (no date).

112. Concerning **adolescent pregnancies**, the CRC notes 'that the criminalization of abortion leads to dozens of teenage girls every year undergoing illegal unsafe abortions, at the risk of their lives'¹⁴⁶.
113. One non-governmental source indicates that¹⁴⁷ 'clandestine abortion, an open secret practised in broad daylight at the rate of 600 to 800 daily with disregard for all sanitary precautions, leads to serious and sometimes fatal complications, contributing to the maternal mortality rates in our country and straining the health budget (...) Even more serious is the situation of those girls who, out of despair, resign themselves to continue their pregnancy. We can count tens of thousands of abandoned babies, on top of those who have been thrown into rubbish bins, killed or even sold, or perhaps used for organ trafficking. The streets and the orphanages are the proof of it, and constitute a heavy socio-economic burden for our country'.

During the preparation of the present report we have not been able to access statistics concerning the rate of adolescent pregnancies.

114. **Concerning sexual health**, the CRC¹⁴⁸ notes with concern that:

'While the incidence of HIV remains very low in the State, fewer than two thirds of boys and only one third of girls are reported to be aware that condom use can prevent infection with HIV/AIDS'.

115. According to one source consulted¹⁴⁹, at the end of 2013 the estimated the number of people living with HIV was approximately 31,000, between 500 and 1,000 of whom were children. It is estimated that 72% of those living with HIV are unaware that they are infected.

Addictions

116. As far as **addictions** are concerned, the CRC¹⁵⁰ is concerned:

'about increased teenage drug addiction in the State and, in particular, the young age of initial drug use, and the rise in the use of psychotropic substances and in the rate of glue sniffing'.

According to the ONDA¹⁵¹:

'At the national level, one secondary school pupil out of five has already smoked a cigarette, and one out of ten has tried cannabis at one moment or other of his/her life. One out of ten currently consumes tobacco, and one out of 30, or nearly, is a current user of cannabis. The recreational use of benzodiazepines is more common among secondary school girls than secondary school boys.

¹⁴⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 56 .

¹⁴⁷ Extract from the opinion article 'In Morocco, unwanted pregnancies kill' from the founder of the Moroccan Association for the Combat Against Clandestine Abortion (Amlac) published 27 October 2014 on Huffpostmaghreb, http://www.huffpostmaghreb.com/chafik-chraibi/au-maroc-les-grossesses-n_b_6027120.html (consulted 24 March 2015).

¹⁴⁸ Committee on the Rights of the Child (CRC). *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 54 .

¹⁴⁹ United Nations Morocco, *Annual Report 2014, Plan framework of the United Nations for support to development 2012-2016* p. 46.

¹⁵⁰ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 56 .

¹⁵¹ National Observatory on Drugs and Addictions (ONDA). *Annual Report 2014. Extract from Synthesis of the situation of drug usage in Morocco, according to Pr Jallal Toufiq, Director ONDA* (2014) pp. 1-2.

Half of Moroccan secondary school pupils have a perception that drug use is part of everyday life. One secondary school pupil out of three has been offered drugs at some point on school property (considerable environmental exposure). The use of solvents and glues is the drug of choice among children living in the streets’.

Traditional practices

117. In Morocco, **circumcision** is considered to be a sacred tradition, practised by all Muslim and Jewish families. The practice is only carried out on boys, with around 210,000 newborns being circumcised each year¹⁵². Female genital mutilation (female circumcision) is not practised in any form in Morocco. According to Morocco’s National Medical Insurance Agency (ANAM), parents are reimbursed for the circumcision costs (between 350 and 420 dirhams, depending on the hospital)¹⁵³ and are legally entitled to two days’ special leave¹⁵⁴. One source indicates that:

‘Circumcision is a surgical procedure whereby the foreskin is removed. It is a practice adopted by Muslims since the dawn of Islam. As in other Muslim countries, this practice is considered to be a sacred tradition and a celebrated custom in Morocco. The circumcision ritual is celebrated in the same way in almost all parts of the country, with the exception of certain local traditions which enrich the celebration, making it a particularly special event. In the past, the surgical procedure was performed by a ‘hajjam’, whom some families still call upon for the ritual today. However, as traditions and society have developed over time, the operation is now generally carried out by a specialist, such as a nurse or a doctor’¹⁵⁵.

Forced marriages, child marriages and polygamy are other traditional practices which still exist in certain parts of Morocco, particularly in the most isolated and rural areas. However, these practices are highly criticized or lamented by most Moroccans today. *Chapter 8.6* will look at the issue of child marriage in more detail. Polygamy has become very rare, following the Family Law reform which made administrative procedures stricter, thus reducing the practice.

¹⁵² Calculations taken from information provided by the Moroccan High Commission for Planning (HCP) in the most recent census of the population observed in this report (see chapter 2 Demographics).

¹⁵³ ANAM, http://www.anam.ma/anam.php?id_espace=6&id_srub=17# (accessed on 17 August 2015).

¹⁵⁴ Ministry of Finance *Regulations for paid staff in the public sector* http://www.finances.gov.ma/en/Hakama/Documents/statut_personnel.pdf (accessed on 17 August 2015). For information on the private sector, please consult *L’Economiste* online <http://www.leconomiste.com/article/892772-cong-s-vos-droits-de-salari-s#> (accessed 17 August 2015).

¹⁵⁵ Maman Maroc <http://www.mamanmaroc.ma/la-ci-rconcision-de-votre-garcon-2/> (accessed on 24 March 2015).



5 Civil rights and freedoms

5.1 Freedom of thought, opinion and expression, freedom of association

118. Freedom of thought, opinion and expression are guaranteed in article 25 of the Constitution ‘(...) are guaranteed the freedom of thought, of opinion and of expression in all their forms’.

Freedom of association is prescribed in articles 12 and 29 of the Constitution, but reserved for adults.

119. In 2014, the CRC¹⁵⁶ notes ‘that limited sustainable actions have been undertaken to change societal attitudes within the family, schools and the community at large that impede children from expressing themselves’.
120. The various interviews and research undertaken within the framework of this report indicate that any participation by the child in the family and social sphere is characterized by respect towards older people, notably parents and teachers, but also adults of the wider family. This reality limits the possibilities of discussion and real listening to the opinion of the child.
121. One non-governmental source indicates that¹⁵⁷ ‘in October 2014 a tribunal condemned Othman Atiq, a rapper aged 17 who promoted himself under the name of ‘Mr Crazy’, to three months imprisonment for ‘outrage towards the Moroccan police’, ‘violation of public morality’ and ‘inciting the consumption of drugs’ in his songs and music videos’. This, according to the source of this information, represents an offence to the freedom of expression.

¹⁵⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 28 .

¹⁵⁷ Amnesty International *The situation of human rights in the world, Annual report 2014-2015. Freedom of expression* (p. 294).

122. **At the family level**, the alternative report of the NGOs points out little consideration for participation in family life by children¹⁵⁸:

‘The inquiry led through the 2002-2006 cooperation between UNICEF and the State of Morocco with several partners in Fes, Marrakech and Tangiers revealed that parents take into consideration the opinion of their children very little, even for decisions concerning the child himself/herself. Thus, only 17.6% of people questioned stated that it was necessary to involve children aged under 18 years in the decision-making process’.

123. In 2014, UNICEF pointed out that children are particularly eager to participate¹⁵⁹:

‘The results of the field inquiry undertaken during the course of this study (SitAn) have made evident that adolescents and children feel a considerable need for participation. 20.05% of them expressed a need to be listened to and a desire for a psychological follow-up. The expectations of these children and young people directed mainly at their families (53.7%) show that children and adolescents hope for and expect that their parents, and their families in general, will offer them opportunities for expression, to be listened to, and to have their opinions taken into account. This desire with respect to their families is three times higher than that with respect to the associations (16.6%)’.

124. **At the school level**, the National Education and Training Charter (CNE) that was worked out in October 1999, as well as the 2012 reform of the educational system, have introduced new mechanisms and experiments promoting the participation of children.

125. The government mentions among these measures¹⁶⁰:

- a) ‘The establishment of management councils for secondary schools in which pupil participation is required.
- b) The creation of school cooperatives at the level of primary schools with the possibility of electing class delegates to represent the pupils’ interests and points of view in contact with the school administration and the teachers.
- c) The experiment of human rights and citizenship clubs created within the secondary schools in partnership with the NGOs.
- d) The development of new manuals relating to citizenship education, including the concept of child participation within the framework of the basic curriculum. (...) These experiments that have been undertaken show that those responsible for education are open to this approach. All the same, these initiatives remain limited because of insufficient means and lack of experience on the part of the schools in this area’.

¹⁵⁸ Alternative report relative to the putting into operation the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p.17. The statistical information mentioned is from the report: UNICEF, *Project: ‘Situation Analysis of Children in Fes, Marrakesh and Tangiers* (2005) p. 13.

¹⁵⁹ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 158.

¹⁶⁰ CRC/c/MAR/3-4 *Examination of the reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009* (5 August 2013) p. 21.

126. According to the Moroccan associations, ‘taking into account the opinion of children in school teaching is traditionally non-existent’¹⁶¹.
127. One source¹⁶² mentions the existence of a Children’s Parliament, composed of 395 members ‘whereby 305 children represent electoral constituencies and 90 children represent the national list, in conformity with the electoral division’. Members of the Children’s Parliament are selected on the basis of school excellence and 305 are selected in accordance with parliamentary seats defined by electoral constituency. The other 90 children are selected on the basis of the best projects concerning the promotion of the rights of the child, which they must present before a specialized panel. This Children’s Parliament is composed of four permanent commissions (teaching, health and environment, culture and rights of the child, and local affairs) and other provisional commissions.
128. The CRC¹⁶³:
- ‘Is concerned that the eligibility criteria in the Children’s Parliament do not make the Parliament representative of all children, especially children in the most vulnerable and disadvantaged situations. It also regrets that insufficient efforts have been made by the State to establish children’s municipal councils’.
129. According to UNICEF¹⁶⁴, even though the participation of children in the development of policies and strategies is not a systematized practice, the right to participation is acknowledged in the Constitution. Concerning participation in development projects at the local level, ambitious mechanisms have been put into place but they have been confined to a limited number of municipalities. UNICEF points out again that the school management councils are generally not appreciated by the adolescents. The cause is the lack of information and of consciousness-raising regarding the missions and the roles assigned to the delegates, and the weak impact of their participation.

5.2 Access to adequate information, to legal service, and to a complaints procedure

130. According to UNICEF¹⁶⁵, the amount of time allotted to broadcasting children’s television programmes is very small in Morocco, and there is a predominance of entertainment programmes and a dearth of educational programmes, and a lack of programmes that allow children to participate by giving their opinions on subjects that concern them. The same source points out the low participation of certain categories of vulnerable children (children with auditory disabilities) on the four main television channels, and the difficulty of access to media for adolescents in rural environments.

¹⁶¹ Alternative report relative to the putting into operation the International Convention for the Rights of the Child *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention for the rights of the child* (July 2014) p.20.

¹⁶² ONDE <http://droitsdelenfant.ma/fr/actions/parlement-enfant> (consulted 3 March 2015).

¹⁶³ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 28.

¹⁶⁴ UNICEF *Situation of Children and Women in Morocco. Analysis According to the Equity Approach. General presentation* (25 March 2015).

¹⁶⁵ UNICEF *Situation of Children and Women in Morocco. Analysis According to the Equity Approach* (Sitan september 2014) pp. 163-170.

131. According to UNICEF¹⁶⁶:

- The written press as an information source is neglected by adolescents and young people (only 9.1% of them read the press regularly). Illiteracy constitutes the first hurdle for access to written media, followed by the non-objectivity of the press and the high cost of written newspapers.
- Only 20.1% of young people read electronic newspapers, either regularly or irregularly.
- Despite the clear improvements to internet connections, internet access at a national level is limited. Disparities linked to age and residence (urban zones remain better equipped than rural zones) continue to influence practice considerably. The SITAN also cites the HCP, according to which very few households have access to computers (19.7%) or an internet connection (16.4%). 37.1% of young people and adolescents have access to a computer for communal use.
- As for mobile telephones, 87% of the young use a mobile phone, 47.3% use phones equipped with a camera, and 10% of the young have phones equipped with the capacity to connect to the internet.

132. According to the report of the government to the CRC¹⁶⁷, a child has the right to be heard in justice: 'The Penal Procedure Code foresees the possibility for a child to be heard, either to express his/her opinion, or to give her/his consent, and even to file a legal act or undertake a legal proceeding. Juvenile justice establishes the child's right to personal expression, and the child's right to oppose or appeal judgements (art. 484 and 495 of the Penal Procedure Code)'. The same source considers that the participation of children in the tribunals is still very limited and that 'there is still plenty of work to be done in terms of harmonizing judiciary procedures with guiding directives in affairs involving child victims and witnesses of criminal acts (resolution 2005/20 of 22 July 2005)'.

133. All the same the associations observe¹⁶⁸ that:

'The number of complaints received is too low in relation to the existing cases. This is due on the one hand to distance, because there is only one Court of the First Instance for each city, and on the other hand to the associations' location in the court, which dissuades children from presenting themselves there'.

134. To this day, Morocco has not yet ratified the Third Optional Protocol to the Convention on the Rights of the Child, which establishes a procedure for the presentation of communications.

¹⁶⁶ UNICEF/ Najib Mouhtadi *Children and the media – The child in the press* (2012) mentioned in UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) pp.163-170.

¹⁶⁷ CRC/c/MAR/3-4 *Examination of the reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009* (5 August 2013) pp. 20-21 .

¹⁶⁸ Alternative report relative to the putting into operation of the International Convention for the Rights of the Child *Comments of the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee for the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention for the Rights of the Child* (July 2014) pp. 19-20.

5.3 Protection against interference in private life

135. The Constitution declares that ‘all people have the right to the protection of their private life’ (article 24). The Code of the Family mentions among the reciprocal rights and duties between spouses ‘the responsibility that both spouses share for the management of the household affairs and the protection of the children’.
136. A study by UNICEF in 2007¹⁶⁹ on the treatment of children in the press makes evident that, in the group of articles collected (223 in number), 33% have ethical deficiencies (75% for no citation of sources, 11% for no cross-checking of information, 9% for citing names of children likely to be subjected to reprisals, 5% for calling on children as witnesses without parental authorization). Thus, the editors, the government officials responsible, and the representatives of civil society ‘are unanimously aware of deficiencies in the written press in the treatment of child subjects’. The same source recommends ‘giving access to more detailed information and putting this information into perspective to transcend the current sensationalism’. The study concludes by affirming the need to establish a specific ethical charter for the treatment of children in the press and notes ‘the absence of support offered for children, with the goal of educating the readers of tomorrow and contributing to their development into autonomous entities’.
137. In 2012, another study pointed out¹⁷⁰ that journalists are not always respectful of the private lives of children:
- ‘Concerning the publication of quotes and opinions from children, journalists estimate (42.6% always – 44.7% often) that it should be submitted to parental approval and the approval of the child (38.9% always – 42.1% often). Further, journalists in general are aware that they should respect the dignity of the child (83% always – 14.9% often); respect the private life of the child (77.3% always – 19.6% often); respect confidentiality (69.1% always – 23.4% often); and protect children in all circumstances (66.7% always – 29.2% often)’.

¹⁶⁹ UNICEF The child in the written press in Morocco (2007) p. 53, p. 16 and p. 51.

¹⁷⁰ UNICEF/ Najib Mouhtadi *Children and the media – The child in the press*. (2012) mentioned in UNICEF, *Situation of Children and Women in Morocco - Analysis According to the Equity Approach* (Sitan, September 2014) p.163.



6 Basic rights

6.1 Nutritional state

138. The budget of the State dedicated to health has increased by 25%, from 7.6 billion dirhams in 2007 to 9.5 billion dirhams in 2013, or 3.5% of the budget of the State¹⁷¹. The total annual expenditures for health per inhabitant in 2012 was equivalent to 153 American dollars, while the average spent by the member countries of the OMS was 302 dollars per inhabitant. The same year, the expense of the Ministry of Health represented 5% of the expenses of the general budget of the State, while the OMS sets the norm in this area at 9%.
139. According to the figures from the Ministry of Health in 2011¹⁷², there are numerous deficiencies at the nutritional level:
- 31.6% of children aged 6 months to 5 years suffer from anaemia.
 - 40.9% of children aged 6 to 72 months have vitamin A deficiency.
 - 63% of children aged 6 to 12 years have an iodine deficiency (22% have a goitre).
 - 1/3 of children under 5 years have a folic acid deficiency.

¹⁷¹ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equality Approach* (Sitan, September 2014) p. 32 and 56.

¹⁷² Ministry of Health. *ENPSF 2011* mentioned in UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equality Approach* (Sitan, September 2014) p. 51.

140. The same source shows that delay in growth (severe or moderate) registers at a national rate dropping from 18% in 2004 to 14.9% in 2011, with a greater drop in urban environments in particular (from 13% to 8.5%), while in rural environments it dropped from 23% to 20%. The rate for underweight (severe or moderate) has dropped considerably between 2004 and 2011. This phenomenon is especially accentuated in rural environments where the rate is 20.5% in contrast to 8.6% in urban environments.

6.2 Accessibility and quality of health care for children

141. According to an official source¹⁷³, two schemes for basic medical cover were created in 2002. These are the basic Obligatory Illness Insurance (AMO), and the Medical Aid Scheme (RAMED). The first is founded on the principles and techniques of social insurance for people in the workforce, pensioners, former members of the resistance, members of the liberation army, and pupils. The second is founded on the principles of social aid and national solidarity for the impoverished.

142. The CESE considers¹⁷⁴ that:

‘The management modalities of RAMED are inadequate on several levels: insufficient direction, unsatisfactory access to care, eligibility rules that are difficult to read, etc. It is therefore essential that corrective measures be taken in order to ensure optimal management of the financial resources allocated to this mechanism. (...) Freedom from payment for care seems to go hand in hand with unsatisfactory care for patients, while it should in no way affect the quality of the care.’

143. According to UNICEF¹⁷⁵:

‘Morocco has achieved important social progress, with the universalization of the AMO and the effective establishment of RAMED in March 2012. Eventually, 85% of the population will benefit from socio-medical cover. Thus, RAMED should reduce the inequality in terms of medical cover between the urban and rural environments. The universalization of medical cover, benefiting 8.5 million people with low income, will play a crucial role in the coming years in terms of accessibility to health services and the reduction of health inequality. All the same, even if preventive care (prenatal care, post-natal care, vaccinations, etc.) is free, people must still pay for basic curative treatments, because of problems linked to the availability of essential medicines, biological analyses and basic radiology examinations. In effect, while the basic health care centres constitute the primary level of the care network imposed on the beneficiaries of the RAMED, these centres do not benefit from the financing of this regime.

Despite the establishment of basic medical cover, households continue to finance the largest part of their total health care expenditure (53.6%).’

¹⁷³ Ministry of Health Medical Aid Regime (RAMED) <https://www.ramed.ma/ServicesEnligne/APropos.html> (consulted 31 March 2015).

¹⁷⁴ Economic, Social and Environmental Council *Seisin n° 4 / 2013 Basic health care. Towards an equitable and universal access* (2013) pp. 11-12.

¹⁷⁵ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equality Approach* (Sitan, September 2014) p. 52.

144. According to a non-governmental source families that could benefit from RAMED complained about the quality and accessibility of care. Potential beneficiaries' ignorance of the existence of RAMED may also be a problem¹⁷⁶.
145. Certain categories of children, such as Sub-Saharan children, continue to lack free access to health care. During the preparation of the present report, a government source pointed out the development of a Circular between the Ministry Responsible for the MREs and Migration Affairs and the Ministry of Health concerning access to RAMED for the migrant population under the same conditions as the Moroccans¹⁷⁷.
146. The NGO Doctors Without Borders (MSF) also underlines the obstacles that Sub-Saharan migrants encounter in accessing health care¹⁷⁸:

'Due to the launch of the new system for financing health care, RAMED, it is essential that the Ministry of Health take measures to ensure that access for Sub-Saharan migrants to health care not be limited, and that it prepare without delay written clarification of the necessary procedures.'

RAMED

Universalized since its launch on 13 March 2012 by the king of Morocco, the Medical Aid Scheme (RAMED) was conceived for the poorest and most vulnerable families of Morocco. The criteria of vulnerability are established according to residence in an urban or rural location. Thus, by virtue of article 2 of decree no. 2-08-177 of 29 September 2008 as it was modified and completed by decree no. 32-11-199 of 26 September 2011, to benefit from RAMED's services, those people targeted in article 116 of Law no. 65-00 must meet the following two conditions: show that they do not benefit from any obligatory sickness insurance scheme either as insured party or as dependent; and demonstrate, on the basis of eligibility criteria depending on residence (urban or rural), that they do not have sufficient resources to pay for the expenses inherent in the health care.

Those residing in urban environments must:

- Have an annual income lower than 5,650 dirhams per household member after assessing declared income, including transfers, using the socio-economic variables of the household; and
- Have a socio-economic conditions score, calculated on the base of variables linked to household living conditions, of 11 or lower.

Those residing in rural environments must:

- Have a legacy score per household member, calculated on the basis of variables links to household living conditions, of 70 or lower; and
- Have a socio-economic conditions score, calculated on the basis of variables linked to household living conditions, of 6 or lower.

¹⁷⁶ Coordinator of CEFA, NGO responsible for a project on the implementation of the RAMED, interview of 17 March 2015.

¹⁷⁷ Director of Cooperation, Studies and Sectoral Coordination, and head of the Ministry Responsible for Moroccans Living Abroad and Migration Affairs, interview of 1 April 2015.

¹⁷⁸ Doctors Without Borders *Violence, Vulnerability and Migration: Blocked at the Gates of Europe* (March 2013) p. 36.

These criteria give access to the RAMED Card, which is currently reserved exclusively for Moroccan citizens and their families who possess a National Identity Card. Orphans, abandoned children, or children in foster care will also be RAMED beneficiaries. There are two categories of population in function of their level of vulnerability: the population qualified as 'poor', who will have free access to available services, and the population considered to be 'vulnerable', who fall under a sliding scale to establish partial payment for services. RAMED gives the right of access to Basic Health Care Centres near the beneficiary's home, for primary care, and to specialized health establishments by referral. Medicine is excluded except during a beneficiary's hospitalization.

147. According to the CRC maternal and infant mortality rates remain high¹⁷⁹.

148. The Economic, Social and Environmental Council specifies that:

'The rates of maternal and infant mortality remain among the highest in the MENA region, and are strongly correlated to poverty and rurality; maternal mortality is thus 75% higher in the rural regions; children of under five years, in the poorest segments of the population, are three times more likely to die following avoidable wounds and childhood illnesses, which could often be easily treated; people living in a city live on average five years longer than those who live in the rural regions'¹⁸⁰.

149. The most recent statistics published by Save the Children in 2015 on the situation of mothers throughout the world place Morocco in the 125th position, far behind Libya (50th), Tunisia (59th) and Algeria (76th)¹⁸¹. In Morocco, the risk of death during childbirth is 1 in 300; this compares to 1 in 2,700 in Libya and 1 in 1,000 in Tunisia. Nevertheless, Morocco's score is greater than the average for the MENA region¹⁸², where the risk is one death out of 850 deliveries. The mortality rate for children under 5 is 30 in 1,000 in Morocco, compared to 21 in 1,000 in Egypt and 25 in 1,000 in Algeria. In relation to the MENA region, Morocco's score is below the average of 16 in 1,000 for this indicator.

The opinion of the CESE¹⁸³ mentions unequal access to health for girls/women and migrants:

'Maternal and neo-natal mortality rates remain high, particularly in the rural regions. This situation is all the more unacceptable in that 92% of deaths could be avoided. The greater degree of illiteracy among rural women, cultural and economic barriers, and distance from delivery locations (Dar Al Oumouma) are all factors contributing to the lack of sufficient medical supervision during pregnancy and the fact that half of all rural women give birth at home.

¹⁷⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 54.

¹⁸⁰ Economic, Social and Environmental Council. *Seisin n° 4/2013 Basic health care. Towards an equal and universal access* (2013) pp. 7-8.

¹⁸¹ Save the Children *State of the world's mothers 2015* p.63. See also Aujourd'hui www.aujourd'hui.ma/maroc/societe/en-2015-mieux-vaut-etre-maman-en-syrie-qu-qu-maroc-classement-annuel-de-save-the-children-118200#.VXRlhFJx7lX (consulted 10 May 2015).

¹⁸² Middle East and North Africa.

¹⁸³ Economic, Social and Environmental Council. *Seisin n° 4 / 2013 Basic health care. Towards an equal and universal access* (2013) pp. 7-8.

Adolescent pregnancies, the main cause of death in girls aged 15 to 19 years, and abortions for non-medical reasons are equally important factors in maternal mortality. Violence based on gender, an increasingly alarming public health problem, constitutes a major violation of the fundamental rights of women. It also has a negative impact on their physical and mental health: rape and domestic violence represent a 5-16% loss of years of life in good health for women of childbearing age.

Morocco has changed from a transit country to a destination country by default for Sub-Saharan migrants. The dangerous living conditions to which the majority of these migrants are subjected, and the criminal and institutional violence to which they are exposed, create medical and psychological needs which are not taken into account at the current time’.

150. The CRC¹⁸⁴ confirms unequal access to health for migrant children and asylum-seekers and also mentions other groups of children who suffer discriminations on this area:
- ‘One fifth of children with disabilities never attend a health care facility, as recognized by the State.
 - Huge disparities in health status persist between children from urban areas and those from rural areas, with children living in rural areas reportedly being at twice the risk of death as children living in urban areas.’

151. UNICEF¹⁸⁵ again underlines unequal access to quality health care in the rural areas of the country:

‘Regarding available health care, the available data show that the number of basic health care centres has increased from 2,626 in 2009 to 2,689 establishments in 2011, of which 1,938 are in rural regions and 751 in urban regions. The territorial distribution indicates a strong inequality in the area of access to care, with a concentration of health care centres in the regions of Casablanca and Rabat-Zemmour-Zaer; these regions account for nearly 48% of the total of medical personnel and close to 60% of specialist doctors. Moreover, the disparities between cities and the countryside are equally large in terms of health infrastructure. Thus, rural populations mainly go to health centres, while the urban centres have hospital centres with quality human resources and equipment.’

6.3 Education

152. The National Education Charter (CNE)¹⁸⁶ establishes Moroccan education levels:

‘The education and training system consists of preschool education, primary education, junior secondary education, senior secondary (‘college’) education, higher education and ‘traditional’ education (a system emphasizing Islamic values and the Arabic language, but which is also becoming more modern). The universalization of education, means universal access to quality education for all children and young people in Morocco, in preschool, from the age of four to six years, and in primary school and college, from the age of six to fifteen’.

¹⁸⁴ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 52, 54, 62.

¹⁸⁵ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p.51.

¹⁸⁶ Ministry of Education *National Education and Training Charter* p. 13.

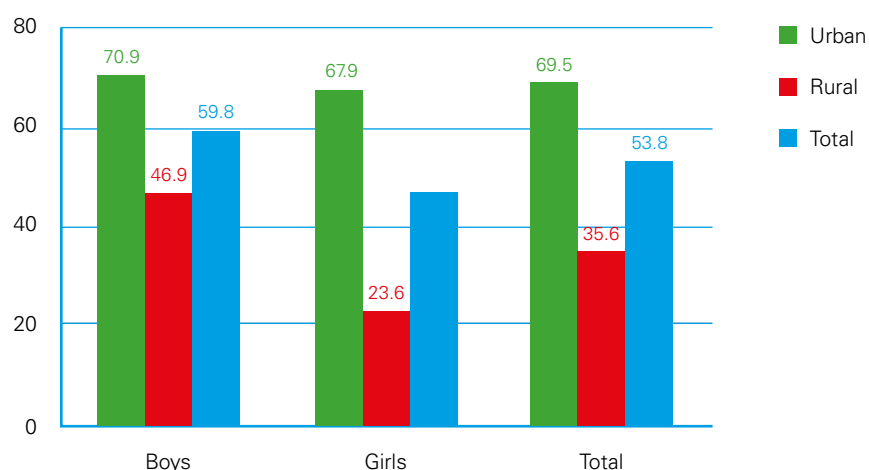
Compulsory education is fixed between 6 and 15 years.

153. The Emergency Plan(2009-2013)¹⁸⁷ placed universal schooling for children of compulsory schooling age at the centre of its objectives:

‘It is a question above all of making the obligation to attend school until the age of 15 effective, and to associate with this, for the youngest, a universal preschool education. It is in effect essential to apply the law in force with a determined approach so that almost 100% of children aged 6 years go to school and stay there until the age of 15 years’.

154. Morocco is facing an important challenge: reducing the rate of children who don’t go to school or who have prematurely left school, notably children in the rural regions and girls. According to the Assessment of the Directorate of Non-formal Education (DENF) of the Ministry of National Education¹⁸⁸, more than a million children are not in school, most of them aged 12 and older. Around 30,000 pupils return to school each year thanks to different DENF programmes. Nonetheless, the sources consulted¹⁸⁹ explain the refusal of certain school establishments to accept ‘DENF children’ if they are perceived to be ‘contentious’ children.
155. According to UNICEF¹⁹⁰, disparities in the education of children and young people remain strongly affected by gender and place of residence. In fact, 12.8% of young people at the national level have no education; this is particularly true in the rural regions, where 15% of boys and 30.7% of girls aged 15-24 years have never entered the school system.
156. In 2014, the CRC stated that it was concerned by the fact that ‘preschool education remains undeveloped and almost non-existent in rural areas’¹⁹¹.

Table 10: Net preschool rates in 2012-2013¹⁹²



¹⁸⁷ Ministry of Education http://www.enssup.gov.ma/doc_site/documents/Programme_urgence/Programme_urgence2009-2012/Rapport%20de%20synthese.pdf (consulted 20 March 2015).

¹⁸⁸ Ministry of Education. Directorate of Non-formal Education *Assessment 2014 and strategy for 2015*. Presentation of November 2014.

¹⁸⁹ Head of the Division of Programme Management of the DENF, interview of 19 March 2015.

¹⁹⁰ NICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 72.

¹⁹¹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 60.

¹⁹² UNICEF *Situation of Children and Women in Morocco. Analysis According to the Equity Approach. General presentation* (25 March 2015).

157. The CNDH¹⁹³ confirms that access to preschool education is restricted to the urban regions. Moroccan preschool education remains characterized by a general fragmentation, due notably to the large number of those involved, to insufficient coordination among them, and to the use of contrasting pedagogic practices which are therefore not integrated within the framework of the shared education paradigms, ranging from traditional apprenticeship modes (in the *msids* or *kouttab*) to the more or less modern pedagogic methods applied in certain schools in large urban centres aimed at the average and better-off social levels. This heterogeneity is also reflected in the pedagogic methods and content of socialization, as well as in the choice of language of communication and of education. With a capacity of no more than 700,000 children (2010-2011), the preschool education sector is far from attaining the objective of universalization as defined by the Charter, and this is because of its concentration in the urban regions and the poor school enrolment of girls in the *kouttabs* (around 39%) in the rural regions.
158. UNESCO¹⁹⁴ points out that 'the net rate of schooling in Morocco, which was 71% in 1999, has reached universal primary schooling, up to the fifth year (99%) in 2013'. The same source¹⁹⁵ notes that 'in Morocco access to education has improved thanks to the National Education and Training Charter installing the 'decade of education' (2000-2009) of which one of the priority objectives is to reinforce equality. Following important investment in school infrastructure in the rural zones, impressive progress has been achieved in terms of access to primary education, particularly for girls in the rural regions'.
159. According to UNICEF¹⁹⁶:
- 'The rate of schooling has experienced an improvement. For the 2012-2013 school year this rate was at the national level of 63.5% for the 4-5 year group, compared with 99.6% for the 6-11 year group, 85.1% for the 12-14 year group and only 58.5% for the 15-17 year group. However, it should be pointed out that there are disparities. There is a significant difference in level of education for rural women as compared to urban women. In fact, 58.2% of rural girls and women aged 10 and older were without schooling in 2011, in contrast to only 29.8% in the urban regions. This disparity is strong at the level of higher education where the rate drops to 0.6% in the rural zones, against 8.7% in the cities. The level of education is, however, expected to improve in the years to come, thanks to the universalization of schooling. On this point, it must be noted that the specific rate of education for rural girls aged from 6 to 11 increased from 62.2% in 1999-2000, to 97.7% in 2012-2013, in contrast to the increase in the urban regions from 87.4% to 100%.'

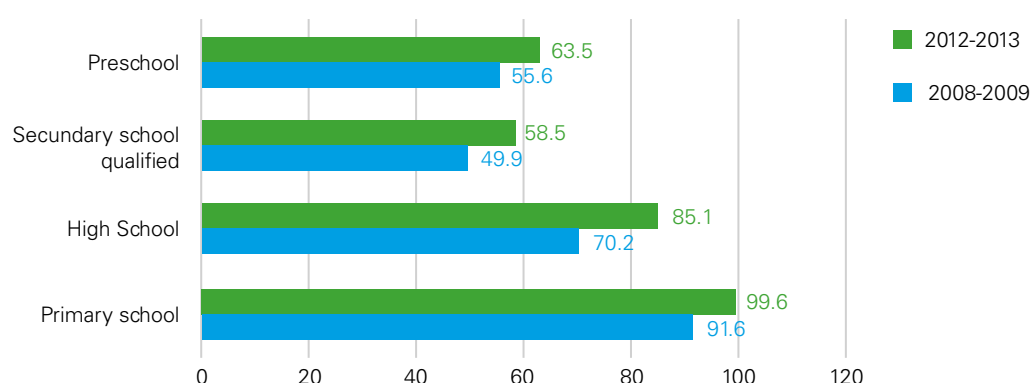
¹⁹³ CNDH *For an equal and equitable right to education and training*. Series contribution to the public debate – N° 6 (2012) p. 5.

¹⁹⁴ UNESCO *Worldwide Follow-up Report on the EPT* (2015) p. 60.

¹⁹⁵ UNESCO *Worldwide Follow-up Report on the EPT* (2015) p. 92.

¹⁹⁶ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 73.

Table 11: Specific schooling rates between 2008-2009 and 2012-2013¹⁹⁷



160. According to the same source¹⁹⁸:

‘The improvement of the results of the education policy has necessitated investment efforts from the Ministry of National Education (MEN). The investment budget of the Ministry rose from 2 billion dirhams between 2001 and 2004 to 3.1 billion dirhams between 2005 and 2012, an average annual increase of 6.7%. Investment in the sector increased, notably since the launching of the Emergency Programme in 2008, to 3.9 billion dirhams during the period 2008-2012. In percentage of GDP, total expenditure of this department increased by 0.3% to 6.5% during the period 2005-2012. With regard to function, the Ministry of National Education’s share in the general budget for the State was approximately 251% in 2012. This budget represents nearly 91.9% of the general budget of the Ministry of National Education’.

161. According to the United Nations Report 2014 to Morocco¹⁹⁹, ‘The rate of schooling is 98% for primary education, 57% for junior secondary education, and 32% for senior secondary education. Access to primary school has improved considerably (...). In junior secondary education, the schooling rate is nearly 79% for boys in the cities but only 26% for girls in the rural regions’.

Lack of schooling and premature school leaving

162. The National Education Charter²⁰⁰ includes measures directed at early school leavers:

‘For the category of young people aged 8 to 16 years who haven’t gone to school or who have left school early, an integral national programme of non-formal education must be put into operation to ensure their literacy, before the end of the national decade focusing on education and training. This operation must aim to help these children to acquire necessary knowledge and offer them a second chance at formal education in training, establishing links that will give them access to this education(...). This group would benefit from intensive programmes, using an educational organization that takes account of their specific needs and reduces the factors that have impeded their schooling or which have caused them to leave school prematurely’.

¹⁹⁷ Ministry of Education in: UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach. General presentation* (25 March 2015).

¹⁹⁸ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 532.

¹⁹⁹ United Nations Morocco Annual Report 2014, *United Nations framework for support to development 2012-2016* p. 17.

²⁰⁰ Ministry of Education *National Education and Training Charter* p. 17.

163. The CRC²⁰¹ is concerned, however, by the fact that:

‘The prevalence of private education is increasing very quickly, especially at the primary level, without the necessary supervision regarding the conditions of enrolment and the quality of education provided, which has led to a reinforcement of inequalities in terms of the right to education as well as resulting in a situation whereby teachers are increasingly giving private lessons in public schools and placing more importance on teaching work they undertake in private schools’.

164. One academic source mentions the following data²⁰²:

‘Data gathered in four AREFs²⁰³ in 2012 show a more detailed picture of the situation of children aged from 6 to 18 years. The non-schooling rate for all AREFs is 1.9% (0.8% in the urban zone and 3.4% in the rural zone), which confirms that education is nearly universal, at least in the early years. On the other hand, the rates of premature school leaving are more worrying: 7% in urban regions (Greater Casablanca), but between 10.3% and 19.4% in more rural regions. For all AREFs, the early leaving rate rises to 12.3%. This means that almost one child in eight leaves school early.’

Table 12: Effectiveness of the educational system – Main education indicators in 2012-2013

| Educational levels for 6-to-17-year-olds | | |
|---|-----------|-----------|
| Primary | Taux 2012 | Taux 2013 |
| Average rate for repeating a year | 8.2% | 10.5% |
| Average rate for leaving school prematurely | 3.2% | 1.9% |
| Average rate of completion | 86.2% | 90.2% |
| Junior secondary school | | |
| Average rate for repeating a year | 16.0% | 16.7% |
| Average rate for leaving school prematurely | 10.4% | 9.3% |
| Average rate of completion | 65.3% | 70.6% |
| Senior secondary school | | |
| Average rate for repeating a year | 17.1% | 16.7% |
| Average rate for leaving school prematurely | 11.0% | 8.7% |
| Average rate of completion | 35.5% | 41.9% |

Source: Ministry of National Education.

²⁰¹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 60.

²⁰² Bouhaddou, M. *Strategy of non-formal approaches for school and professional insertion of those who have not been to school or have given up school* (October 2013) p. 13.

²⁰³ Regional Academy of Education and Training.

Inequalities in access to education

165. The CRC²⁰⁴ notes with concern inequalities in education:

- a) 'A significant proportion of children living in rural areas, children with disabilities, children from poor households and working children are deprived of their right to education, and do not attend school.
- b) Girls still face difficulties in obtaining secondary education.
- c) The lack of transparency and efficiency in the management of education resources reportedly leads to the effective use of only two thirds of the resources intended for improvements to the education system'.

166. This observation is shared by the CNDH²⁰⁵:

'Despite progress and efforts in the area of schooling, inequalities in access to quality education more seriously affect rural children, particularly girls, children living on the outskirts of urban regions, and children with disabilities. (...) Thus the gender indicator of equality, which is at 91% for secondary education in the urban regions, is still only at 55% in the rural regions. Moreover, unfortunately the Moroccan school system largely perpetuates social inequalities and helps reinforce the position of the elite classes. This is illustrated by the results of the Plan High Commission inquiry on 'intergenerational social mobility' (2011) which shows, in effect, that upwards social mobility is more prevalent in the urban regions than in the rural regions (respectively 51% and 14.1%) and more likely to be enjoyed by men than women (respectively 43.7% and 17.9%). This social mobility, made more likely by educational level and type of diploma, increases from 26.5% among non-diploma holders to 84.3% among those with diplomas from the major schools and institutions'.

167. According to the UNICEF-INAS study²⁰⁶, migrant children have difficulty integrating in school:

'Access to education for migrant minors depends on age: for linguistic reasons, minors aged 9 years and older encounter many difficulties integrating in the public schools. For this reason the NGOs organize courses in Arabic, since in certain cases minors can no longer be integrated into private or informal centres.'

More information on education for refugee children and returned children can be found in chapter 8 and 9.

The same problem is encountered in relation to access to professional training courses in the Moroccan public system: a 'parallel circuit' is created through the networks of HRC employees. A refugee minor may have access to better assistance than merely migrant minors, even if the network often constitutes a sort of 'parallel circuit' managed by the humanitarian organizations.

²⁰⁴ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 60.

²⁰⁵ CNDH *For an equal and equitable right to education and training. Series contribution to the public debate* – N° 6 pp. 10-11.

²⁰⁶ UNICEF-INAS *Invisible minors. Migrant minors and the challenge of protecting them in Morocco* (no publication date) pp. 44-45.

168. The NGO Handicap International²⁰⁷ explains that:

‘Children with disabilities are often refused education at a nursery school, primary school or secondary school; or they receive an education of poor quality. For children with disabilities, the rate of school enrolment is invariably low, and the rates of premature school leaving and repeating a year are high; and as a consequence their level of education is low, which reinforces this problem’.

169. The NGOs for the defence of the rights of the child specify that²⁰⁸:

‘The State has put into place integrated classes for children with disabilities, primarily in the urban regions. However, this initiative does not promote the integration of these children in the educational system beyond the primary level. The absence of an inclusive educational policy at the national and local levels means that almost 80% of children with disabilities are excluded from compulsory education.’

170. According to UNICEF²⁰⁹:

‘The national system of public education does not include schooling for children with disabilities at a level equal to that of other children. In fact, the ordinary establishments are not accessible and do not have adequate planning. Further, the school inclusion classes are insufficient and do not respect the norms. Qualified staff are very limited and the school programmes are not adapted to the needs of these children. In addition, insufficient support is offered to the associations that manage the inclusion classes and the specialized institutions and there is no system for monitoring and inspecting these institutions’.

171. According to the most recent Annual Report of the United Nations to Morocco²¹⁰:

‘It appears that the obstacles to the schooling of children with disabilities are essentially: the fact that parents underestimate the capacities of their child; the lack of adapted education; and non-adapted infrastructures’.

Prevention measures: monitoring units

172. This concerns a measure provided to detect difficulties that pupils may encounter and to prevent violence as well as educational disinterest.

173. According to UNICEF²¹¹:

‘The monitoring unit is installed in primary schools and junior secondary schools. It consists of the

²⁰⁷ Handicap International *Assessment of schooling of children with disabilities in the region of Souss Massa Draa* (February 2014) p. 17.

²⁰⁸ Alternative report relative to the putting into operation the International Convention on the Rights of the Child *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention for the Rights of the Child* (July 2014) p. 12. Citation from Handicap International *National Study on abandoned children with disabilities* (2014).

²⁰⁹ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 83.

²¹⁰ United Nations Morocco *Annual Report 2014, Framework plan of the United Nations for support to development 2012-2016* p. 18.

²¹¹ MEN/UNICEF *Accompaniment of local participants in the putting into operation of the project for combat against school abandonment and school year doubling. Case study – Restitution report* (2014) p. 29.

school director, primary school teachers, district inspectors, orientation counsellors, members of the school cooperative, members of the AMPTE²¹², neighbourhood associations, and municipality officers; and it works in collaboration with the teachers. In cases where teachers are required to discuss problems relating to each pupil with the monitoring unit, and to provide the monitoring unit with lists of pupils with school problems, the data gathered shows that 76% of primary school teachers and 54% of secondary school teachers never direct their pupils towards this unit. 12% of primary school teachers and 14% of secondary school teachers rarely refer their pupils to the monitoring unit, while only 6% of primary school teachers and 8% of secondary school teachers always do so.

To explain this phenomenon, certain teachers questioned refer to the weak operation of these monitoring units and the lack of training in the area of individual follow-up. Others state that they don't refer pupils in difficulty to the monitoring unit for the simple reason that they have little information about the unit in their own school'.

174. Ministerial sources²¹³ confirm the fact that most of the units have not been established in the schools or that they are not operational.

²¹² Moroccan Association of Pupils' Parents and Guardians.

²¹³ Head of the Division for Programme Management of the DENF, interview of 19 March 2015.



7 Family environment and alternative care

7.1 Protection against physical and emotional abuse (in families, in alternative care and in institutions)

175. Moroccan legislation has a large number of articles that ensure the protection of children against all sorts of violence and abuse, including exploitation in prostitution and child labour. *These articles are indicated in chapter 2 of this report.*
176. According to the latest statistics published by the Ministry of Justice²¹⁴ in 2013, the Moroccan tribunals have seen a total of 11,324 cases involving violence and abuse against children.
177. In 2014, the CRC²¹⁵ stated itself to be acutely worried by the following facts:
- 'Many children are still reported to suffer ill-treatment in police stations, especially children living on the street.
 - (...) corporal punishment is still widespread (...) In children's homes and other government-run child care institutions, violence is the most frequently used disciplinary measure.
 - The State has yet to adopt legislation criminalizing all forms of domestic violence, including marital rape.

²¹⁴ Ministry of Justice. Statistics 2013 on violence done to children.

²¹⁵ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraphs 34, 36, 38. Concerning violence in public establishments for the protection of children, see also Le Vif <http://www.levif.be/actualite/international/la-maltraitance-dans-les-orphelinats-marocains-est-monnaie-courante/article-normal-18719.html> (consulted 24 May 2015).

- The age until which a child is entitled to specific protection under the 2004 Criminal Code has been raised to 15 years only.
 - Child victims of violence, children living on the street, children removed from their family environment, children with disabilities and children in conflict with the law are often placed all together in protection centres where they are deprived of their liberty and are often subjected to living conditions that amount to ill-treatment.
 - Child protection units are reported to be operational only in Casablanca and Essaouira.
 - Insufficient support is allocated to non-governmental organizations that provide child victims of violence with support, shelter and rehabilitation services.'
178. The National Observatory for Children (ONDE) recently established a *numéro vert* (child emergency phone line) to respond to calls when needed. Opinions are divided on the effective operation of this line among the consulted NGOs for the protection of children.
179. According to UNICEF²¹⁶, there has been 'a dizzying rise in family abandonment and a persistence in sexual and physical violence from 2010 to 2012:
- Sexual violence: More than 2000 cases each year during 2010, 2011 and 2012.
 - Physical violence: More than 2000 cases each year 2010 and 2011, and more than 2500 cases in 2012.
 - Negligence: 2160 cases in 2010, and 2538 cases in 2011 and even worse in 2012 with 5169 cases.'
180. Regarding sexual violence towards minors, an article in the press²¹⁷ cites figures from the Minister of Solidarity, Bassima Hakkaoui:
- '871 cases of rape were registered in 2012, of which 382 cases of rape of virgins. This is a drop of 9.47% in comparison with 2011. In total 940 people have been prosecuted in this type of case. The Minister has also revealed that 147 cases of rape of children were registered in 2012, which is an increase of 3.52% in relation to 2011. The prostitution of minors was also discussed: 56 cases were identified, which is an increase of 1.82%'
181. An article published in November 2014 by StarAfrica.com²¹⁸ cites the 'END violence' Campaign, supported by UNICEF and led by the MSFFDS, discusses combating violence towards children in these terms:
- 'The campaign targets the elimination of violence against children, particularly violence committed within the family, in foster institutions, in the school environment, and via the internet, by publishing messages inciting non-tolerance of violent practices and seeking to create a sense of responsibility in all those involved in the protection of children. According to the Minister for Solidarity, Women, the Family and Social Development, the protection of the rights of children to be free of all forms of violence is one of the 'principal construction sites' for the promotion of human rights in Morocco; and one of the priorities of the government is to prepare a proposal for integrated public policy for the protection of children against violence, exploitation and marginalization'.

²¹⁶ UNICEF *Situation of Children and Women in Morocco. Analysis According to the Equity Approach. General presentation* (25 March 2015).

²¹⁷ TelQuel http://telquel.ma/2014/05/22/bassima-hakkaoui-annonce-871-cas-de-violence-sur-mineurs-en-2012_136394 (consulted 24 May 2015).

²¹⁸ StarAfrica.com <http://fr.starafrika.com/actualites/maroc-lancement-dune-campagne-de-lutte-contre-la-violence-a-legard-des-enfants.html> (consulted 7 May 2015).

7.2 Adoption and foster care

182. The Constitution of 2011 mentions the family at length, indicating (art. 32) that:

‘The family, founded on the legal union of marriage, is the basic unit of society. The State works to guarantee the legal protection of the family in its legal, social and economic plans, in order to guarantee its unity, its stability and its preservation. The State ensures equal legal protection and equal social and moral consideration for all children, no matter what their family situation (...). It has created a Consultative Council of the family and of children’.

183. The CRC²¹⁹ ‘duly notes with satisfaction the dispositions of the Code of the Family of 2004 which place the family under the joint responsibility of the two spouses (...) (...). However, the Committee notes with concern the following statements:

- a) Despite certain restrictions introduced in the law and in spite of the low number of polygamous unions, polygamy remains permissible, a situation which is contrary to the dignity of the women and girls who enter into this type of marriage and which negatively affects children.
- b) Although the State ensures equal legal protection as well as social and moral consideration to all children regardless of their family status, children born of the marriage between a Muslim and a non-Muslim might not be legally acknowledged, a situation that may prevent them from enjoying all their rights in the condition of equality with other children’.

The Kafala

The system of protection of children recognized in Morocco, as well as in all other countries of the Muslim faith, is the Kafala. In Moroccan law, the Kafala is regulated by law 15-01 relating to the fostering of abandoned children, which was published by the Dahir 1-02-172 of 13 June 2002. This law stipulates that ²²⁰: ‘The fostering (the Kafala) of an abandoned child, in the sense of the present law, is the commitment to take responsibility for the protection, the education and the maintenance of an abandoned child in the same way that a father would do for his own child. The Kafala does not give the right to filiation nor to inheritance.’ Different measures of the same legal text (article 12) establish those people likely to become guardians or *kafil* of abandoned children, that is: 1 – Muslim married couples; 2 – Muslim women; 3 – Public organizations charged with the protection of children, as well as ‘the bodies, organizations, and associations of a social nature recognized to be of public service and possessing material means, resources and human competence likely to ensure the protection of children, to give them a good education and to bring them up in conformity with Islam.’ Also foreseen by the law is the right of the child to express her/his opinion in certain cases (article 9) but ‘the consent of the abandoned child is not required if the party requesting the Kafala is a public organization charged with the protection of children: a body, an organization or an association of a social nature recognized to be of public service.’ The procedure is set out in articles 15 and 16. A commission gives to the judge for minors

²¹⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 44.

²²⁰ Art. 2 – First Chapter: *General Dispositions*, of the law 15.01 on the Kafala, Dahir n° 1-02-172 of 13 June 2002.

in the Court of the First Instance the information relating to the circumstances in which the Kafala will be provided. If at the end of this inquiry the required conditions are fulfilled the judge entrusts the Kafala to the applicant or legal guardian (art. 18).

Follow-up and monitoring of the Kafala child's situation is also foreseen (article 19), and if necessary according to the results of different inquiries, the Kafala can be annulled, and measures benefitting the child can be taken. The ruling is open to appeal. The following articles of the law on the Kafala concern the measures for registering the ruling on the Kafala status of the abandoned child in the civil status register. The fostering of the child continues until s/he reaches the age of majority, with the legal exception of children with a disability or otherwise incapable of caring for themselves; the foster parents' responsibility of care for a foster daughter continues until her marriage.

The foster parent may take the child out of the country with the advance authorization of the tribunal (art. 23).

The law²²¹ 'gives the right to parents of the child or to one of them the power, after the reasons for the abandonment cease to apply, to regain responsibility for the child, through a judiciary decision. The tribunal will listen to the child who has reached the age of understanding. If the child refuses to return to its parents, or to one of them, the tribunal takes its decision taking into account the interest of the child'.

184. In 2014, the CRC²²² expressed concern about the legal insecurity of children adopted under the Kafala regime:

'The legal situation of children in Kafala remains uncertain (...) this law does not prescribe a psychological evaluation of applicants before Kafala is granted, does not give priority to the extended family and does not entail any follow-up to the placement in Kafala (...) in some instances, the Kafala system is used to exploit girls in domestic labour or to place children from poor families. (...) (the) circular 40S/2 of 2012 contradicts the best interests of the child by prohibiting non-residents from adopting children'.

185. According to the Moroccan associations²²³ the law of the Kafala does not conform to the Constitution nor to the Convention on the Rights of the Child:

'This law came into force nine years after the ratification of the CRC by Morocco. Despite that, this text, prepared hastily, without consultation with experts in human sciences, also ignores 'the rights approach', [...] the fundamental needs of the child in the area of psycho-affective development.

²²¹ Art. 29 – Chapter V: *Reasons for Cessation of the Kafala*, law 15.01 on the Kafala, Dahir n° 1-02-172 of 13 June 2002.

²²² Committee on the Rights of the Child *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 50.

²²³ Alternative report relative to the putting into operation of the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports of Morocco on the Convention on the Rights of the Child* (July 2014) pp. 8-9. See also L'Économiste <http://www.leconomiste.com/article/917591-Kafala-non-assistance-des-g-n-rations-en-danger> (consulted 25 May 2015) and <http://www.leconomiste.com/article/922191-pourquoi-la-loi-sur-la-Kafala-bloque> (consulted 25 May 2015).

(...) Law 15-01, rather than giving a family to the child, merely ensures that his/her material needs will be met. In this way, the law confirms the instability of the child by establishing abandonment as a status that discriminates against the child and its foster family by a series of measures: no psychological evaluation of the future parents before foster placement and little or no follow-up afterwards; children can be given back after a relatively long trial period because they are no longer 'suitable'; there is no right to filiation; no right to inherit; no right to emotional stability; no administrative acknowledgement of the family created by the Kafala and after 18 years of age automatic revocation of the fostering relationship as well as its potential revocation whatever the age of the child; a guardianship decided by the judge (who is already fulfilling too many roles in the situation) and thereby complicating the daily lives of families with respect to decisions as simple as a school trip; etc.'

186. The NGOs also point out the numerous difficulties when the child wants to travel:

'The difficulties are equally numerous when the Kafala child emigrates: the entry and the stay in the country of residence for Kafala children, the instability of their status in the country of residence, the family benefits, the acquisition of nationality in the country of residence, the follow-up of the Kafala, the risk of expulsion of the child when s/he reaches majority, etc. (...) the circular 40 S/2 of 19 September 2012 from the Ministry of Justice limited Kafala only to applicants who are residents in Moroccan territory, arguing the impossibility of ensuring follow-up of the child abroad (...). Law 15-01 no longer conforms to any of the national legislative texts (the Constitution of the Kingdom of Morocco – in its art.32) or international texts that Morocco has ratified or approved (the CRC – art. 2; the UN directives of 2009 on alternative care), which implement the principle of non-discrimination and equality of rights for all children'.

187. As far as **alternative** is concerned, there is no legislation in Morocco that regulates Foster Families or Group Homes.

188. The only existing law in the area of regulation of child care facilities is the law of 14 May 2006. This law relates to the management of all types of welfare institutions (EPS, Dar Atfal, etc.) According to one of the sources consulted²²⁴ the law's objective is 'to improve the quality of care in and supervision and management of social institutions, particularly those that care for children in difficult situations. (...). However, the law makes no provisions as to the quality of the care within these centres.'

189. Several care facilities for abandoned children exist in Morocco:

- welfare institutions, which are managed by the National Mutual Aid or by civil society associations.
- centres made available by the National Initiative of Human Development (INDH), which are managed by associations.
- Child Protection Centres (CPC), which are under the responsibility of the Ministry of Youth and Sports.

²²⁴ Alternative report relative to the putting into operation of the International Convention for the Rights of the Child *Comments from Moroccan associations on the responses of the Government of the Kingdom of Morocco on the Convention for the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention for the Rights of the Child* (July 2014) p. 11.

190. One non-governmental source affirms²²⁵ that '60% of children without family protection aged from 0 to 6 years are entirely in the care of the civil society'.

191. In 2014, the CRC²²⁶ expressed its worries in relation to the adoption of Law 14.05 and notes with concern that:

- (a) 'The number of children deprived of a family environment is growing, as is evident from the number of institutions, which is reported to have doubled since 2005.
- (b) Two thirds of children are placed in institutions on the sole basis of poverty.
- (c) The financial resources provided by the National Mutual to the welfare institutions do not even cover the basic needs of the beneficiaries, and two thirds of abandoned children are being taken care of by associations.
- (d) The insufficient number of well-trained personnel and the absence of monitoring in these institutions leads to limited supervision of the situation of children, who are increasingly subjected to violence and abuse.
- (e) Children are moved from one centre to another every three to four years, as these institutions are organized by age groups, so they experience repeated separations, including separations from their siblings, thereby aggravating attachment disorders.
- (f) Some abandoned children live in hospitals in extremely harmful situations.'

192. One government source²²⁷ acknowledges that:

'The huge demand for foster care sometimes results in unjustified placements. For child care facilities set up within the framework of the INDH²²⁸, their staff are often insufficiently qualified, if at all, and they do not have professional experience or appropriate training. As for the programmes, they are not always adapted to suit the needs of the child. The charity approach is favoured above the rights of the child, and children have no specific mechanisms of recourse guaranteeing their protection. Finally, the follow-up and evaluation system is very poor. Alternatives to institutionalization are poorly developed, and done so only by the few NGOs'.

193. In their alternative report to the CRC, the Moroccan associations²²⁹ also denounce the fact that:

'The law does not take into account the psychological and emotional side of these children, already traumatized by being abandoned, and who have to move to a different centre every three or four years (centres are organized according to age group: 0-3 years, 3-6 years, 6-12 years, 12-15 years and 15-18 years), experiencing separation several times in their young lives, and aggravating their difficulties in attachment. Further, there are few welfare institutions: 45 centres for children

²²⁵ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p. 11.

²²⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 48-49.

²²⁷ CRC/c/MAR/3-4 *Examination of the reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009* (5 August 2013) p. 24.

²²⁸ INDH – Initiative Nationale de Développement Humain.

²²⁹ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p. 10; data from the CNDH *Memorandum on the Kafala and the question of children in need of protection* (2013).

in difficult situations, 58 Dar Atfals and only 49 establishments for abandoned children. Thus they cannot take in all children in need of protection, nor provide specialized centres as recommended by the law. This leads to deplorable levels of care for children with specific needs, who suffer from a lack of dedicated structures and qualified personnel. When a disability is added to abandonment, a child has a particularly heavy burden to bear.’

The same associations consider that the law does not provide a clear and sustainable budgetary line.

194. According to the last report presented by the CNDH²³⁰ in 2013, violence in the child care facilities is a worrying reality.

195. One source explains²³¹ that:

‘Children there are exposed to different forms of physical and/or sexual abuse, at the hands of either adults (...) or other children (...). The younger children are the victims of violence and abuse carried out by older children, stronger or more violent. These younger children have stated that they are fearful, especially at night. It has also been noted during visits that, because no instructor is available, the responsibility for a group of children is sometimes entrusted to another child, who (...) may be violent towards those whom s/he is looking after. The mixture of children, the lack of privacy in the dormitories, and the inadequacy of the support system constitute risk factors for aggression and violence (...).’

196. According to several NGOs²³² that work with children in orphanages, the placement in institutions of children deprived of a family environment is not suitable. Further, long-term institutionalization has devastating effects on the children. At the institutions, the children are deprived of individualized care, of personal positive attention, and of affectionate relationships. Upon reaching adulthood, the young people leave these institutions in a state of extreme vulnerability: emotional immaturity, fragmented personality, an insufficient level of education, and a lack of professional training.

7.3 Kidnapping and sale of children

197. According to ONUFEMME²³³, ‘the sale of children principally affects minors coming from underprivileged families or from situations such as children born to unmarried mothers. These mothers, confronted by social pressure, stigmatization, rejection by their families and difficult economic conditions, decide to give their child to another family, believing that this is the best solution for the child and for themselves. People or organizations may also intervene and help the mother to find a foster family, considering it to be a charitable action that will contribute to the well-being of the minor. This situation, referred to by the CRC, is considered as an infringement on the fundamental rights of the child and risks leading to trafficking situations (...). According to data from the Ministry of Justice, such cases are limited: only three cases of ‘involvement in the sale of minors’ were judged during the year 2013(...).’

²³⁰ Yabiladi <http://www.yabiladi.com/articles/details/17466/maroc-violences-brimades-dans-centres.html> (consulted 7 May 2015).

²³¹ CNDH *Children in safeguard centres: a childhood in danger* (2 May 2013) p. 30.

²³² NGO of the Kafala Collective Morocco, interview of 26 March 2015.

²³³ ONUFEMME, *The trafficking of women and children in Morocco* (2015) p. 61.

198. Among all the sources consulted within the framework of the present report, it has not been possible to find concrete information on the phenomenon of child kidnapping, nor on specific activities in the fight against the kidnapping and sale of children other than activities that are part of the fight against human trafficking. Certain sources consulted within the framework of the present report mention the use of migrant children and the children of trafficked women as ‘human passports’²³⁴.

The issue of trafficking is addressed in chapter 8.

7.4 Legal definition of parental responsibilities

199. According to a government source²³⁵:

‘The obligation to provide for the child and to ensure its well-being falls principally on the parents or on guardian(s) in the absence of parents or in case of incapacity on their part.

Moroccan legislative texts lay out in a clear and detailed way the terms of this responsibility and its implementation. Also, the Code of the Family dedicates four chapters to the question of custody (*hadana*). Article 164 stipulates that the care of the child is the responsibility of both parents so long as the marital bond exists. Article 165 governs protecting the interests of the child in custody, particularly in the absence of the parents.

Other legislative texts also address the responsibility of the parents, both in the civil sphere, under article 85 of the royal decree concerning obligations and contracts, and in the penal sphere, to the extent that parents may maybe held criminally liable if they fail to enrol the child in an educational institution under articles 3 and 5 of the royal decree 1.63.071 of 13 November 1963 on compulsory education, which was modified by Dahir 1.00.200 of 19 May 2000 concerning application of Law 04.00. In this regard, the Government developed several programmes encouraging needy families to enrol and keep their children in the school system.

In addition, article 553 of the Penal Procedure Code punishes negligent parents, notably if they fail to keep watch over a criminal child under house arrest’.

200. According to the statistics of the Ministry of Justice²³⁶, the tribunals dealt with 6,406 cases (56.6% of the total) in 2013 that had to do with family negligence.
201. According to a source²³⁷, many unaccompanied minors have parents who fail to fulfil their parental duties, preventing these children from reintegrating in the event of their return to Morocco.

Please see chapter 9 for information on return.

²³⁴ El Pais http://politica.elpais.com/politica/2013/12/11/actualidad/1386761510_335571.html (consulted 5 June 2015).

²³⁵ CRC/c/MAR/3-4 *Examination of the reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009* (5 August 1013) p. 26.

²³⁶ Ministry of Justice. Statistics 2013 on violence committed to children.

²³⁷ Reintegration authority of the International Organization for Migration, interview dated 17 August 2015.

75 Specific groups of children requiring protection: children in difficult situations

202. The most recent reform of the Penal Code permits the justice system to act in cases of children in difficult situations. The term 'child in difficult situation' is defined in article 513 of the Penal Procedure Code (Title VII of book III) as 'every minor not having reached the age of 18 years whose physical, mental, psychological or moral safety or education is in danger because of her/his contact with delinquent people or those known for their bad reputation or having a criminal record; when the child rebels against the authority of its parents, foster parent(s), guardian, the godfather, caregiver, or the person or institution to whom s/he has been entrusted; when s/he habitually runs away from the institution where s/he is pursuing studies or training; when s/he leaves home and when s/he does not have an adequate place to live'.
203. Since the reform of the Penal Code, article 33 addresses cases in which a child may be considered to be in a difficult situation: when 'his/her parents have been sentenced to imprisonment for more than one year, and s/he cannot be cared for by members of the family or by a public institution or private person in satisfactory conditions'.
204. According to the CNDH²³⁸, children in difficult situations represent 53% of all children placed in the Centres for Child Protection. The others are children in conflict with the law (47%) and child victims of various crimes (1%). According to different sources²³⁹, migrant children and refugees, street children and abandoned children are also placed in establishments of this nature (CPCs, welfare institutions or orphanages). The lack of places available, the lack of adequate structures, and the lack of information and awareness on the part of judges for minors are why such a diverse group of children are placed in the CPCs.
205. The analysis of the situation of children placed in the CPCs carried out by the CNDH²⁴⁰ explains that 'globally, the living conditions in these centres do not guarantee the fundamental rights of the children placed there. They constitute an infringement on their dignity and compromise their physical and psychological development'.
206. The same source mentions dormitories housing 20 to 40 children:
- 'which makes the separation of children according to age and degree of vulnerability impossible (...) beds as well as sheets and covers are not maintained or replaced often enough to ensure cleanliness (...) The hygiene in toilets and bathrooms is often lacking (...), insufficient personal hygiene products are available (...). This lack of hygiene explains the lice and scabies in a good number of children. (...) Many of the beneficiaries have said that they had not changed their clothes since their arrival (in some cases approximately a month ago) because they did not have a second set of clothes nor the possibility of washing them. (...). The daily food budget of 20 dirhams²⁴¹ allocated per child does not permit the children's needs to be covered qualitatively or quantitatively.

²³⁸ CNDH: Children in safeguard centres: a childhood in danger (2 May 2013) p. 24. See also: <http://www.yabiladi.com/articles/details/17466/maroc-violences-brimades-dans-centres.html> consulted 7 May 2015).

²³⁹ Adjoint to the protection official of HCR Morocco, interview of March 24, 2015, concerning unaccompanied minors with refugee status or in the process of determining refugee condition. Training and expertise official of Bayti, interview of March 25 2015. Director of the CPC of Benslimane, interview of 25 March 2015.

²⁴⁰ CNDH *Children in safeguard centres: a childhood in danger* (2 May 2013) p. 28. See also TelQuel http://telquel.ma/2014/12/07/orphelins-places-dans-les-memes-centres-que-les-delinquants_1425374 (consulted 23 May 2015).

²⁴¹ 20 dirhams = 1,80 euros.

(...) It has been noticed that some children suffer from health problems (...) It has also been noticed that some children have drug addiction problems and many children have self-mutilation scars. (...) The personnel in the centres are not trained in the area of prevention and first aid in case of medical emergencies (...), the problems linked to mental health and drug addiction are not detected in time, and the instructors are forced to handle overwhelming problems on their own.(...) With the exception of the Abdeslam Bennani-Casablanca centre, which has a volunteer psychiatrist, children placed in the other centres have no access to a psychologist/psychiatrist (...) The children with disabilities or psychiatric problems do not benefit from help or specific care, nor are they moved, should the case require, to specialized centres'²⁴².

207. According to different official sources²⁴³ there are 20 CPCs, of which three are under reorganization at the time of writing of the present report. The centres are distributed in thirteen cities of Morocco (five centres for girls and fifteen centres for boys) and fall under the authority of the Ministry of Youth and Sports. In 2011, 5,027 minors were registered in the Child Protection Centres. As for distribution according to sex, 63% of children in the CPCs are boys and 37% are girls.

Table 13: Distribution by age in the CPCs in 2012²⁴⁴

| | |
|--------------------------------------|-------|
| under 12 years ²⁴⁵ | 14.8% |
| 12 to 18 years, of which: | 85.2% |
| from 12 to 14 years | 29.1% |
| from 14 to 16 years | 28.8% |
| from 16 to 18 years | 27.2% |

7.6 Corporal punishment as disciplinary measure in the alternative care facilities

208. The CRC²⁴⁶:

'is concerned that in spite of the commitment made during the 2012 universal periodic review (A/HRC/21/3, para. 129.65), the State has still not prohibited corporal punishment in the home, alternative care institutions, day care centres or schools. The Committee is particularly concerned that corporal punishment still constitutes a widespread phenomenon, the vast majority of children having been subjected to violent forms of discipline including, in many instances, severe forms of punishment. The Committee is further concerned that in children's homes and other government child-care institutions, violence is the disciplinary measure used most often'²⁴⁷.

²⁴² CNDH *Children in safeguard centres: a childhood in danger* (2 May 2013) pp. 27- 30.

²⁴³ Directorate for Youth, Children and Female Affairs, Ministry of Youth and Sports Directory of Child Protection Centres of Morocco. (July 2012). Head of Child Protection Service of the Ministry of Youth and Sports, interview of 20 March 2015.

²⁴⁴ Visits to the 17 open establishments, from 15 to 29 November 2012. Information compiled in the CNDH report *Children in Protection Centres: Childhood at risk* (20 May 2013) pp. 22- 41.

²⁴⁵ The presence of babies living with their young mothers has been noticed.

²⁴⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 36.

²⁴⁷ Briefing on Morocco for the committee on Economic, Social and Cultural Rights, pre-sessional working group (March 2015) pp. 9-13. See also Le Vif <http://www.levif.be/actualite/international/la-maltraitance-dans-les-orphelinats-marocains-est-monnaie-courante/article-normal-18719.html> (consulted 24 May 2015).



8 Special protection measures

8.1 Children in conflict with the law

209. Moroccan legislation prohibits placing a minor who has not reached the age of 12 years in a penitentiary establishment, whatever the offence committed, not even on a provisional basis. The minor aged 12 to 18 can only be imprisoned in a penitentiary establishment if this measure appears necessary or if it is impossible to take any other steps (art. 473 of the CPP).

210. A government source explains²⁴⁸:

‘Capital punishment is never required with respect to minors aged under 18 years in conformity with the general principle of the penal lack of responsibility of minors. To the extent that the penal responsibility of the minor might be engaged, article 493 of the Penal Code indicates that if the offence committed is subject to the death penalty or life imprisonment, the judge will pronounce a diminished sentence of 10 to 15 years’ imprisonment’.

²⁴⁸ CRC/c/MAR/3-4 Examination of the reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009 (5 August 2013) p. 19.

211. In 2014, the CRC²⁴⁹ notes all the same with concern that:

- a) 'The State's juvenile justice system remains mostly punitive, as children are subjected to long periods of pre-trial imprisonment.
- b) The principle of the presence of legal counsel at all stages of the preliminary investigation, including in the case of flagrant offence, has still not been recognized.
- c) The use of restorative justice measures remains rare and imprisonment is, in most of the cases, the first option.'

212. At the same time, the CRC 'notes as positive the measures taken by the State to reform its juvenile justice system, in particular since the entry into force of the Code of Criminal Procedure in October 2003, which marked a real improvement in this respect. The Committee also notes as positive the training on the rights of the child organized for judges dealing with juvenile justice'²⁵⁰.

213. According to the CNDH²⁵¹:

'The major changes of the Penal Procedure Code concerned the raising of the age of penal majority to 18 years (articles 458 and 459) (...), the reinstatement of specialized jurisdictions for minors (article 462), the institution of the juvenile judge (articles 467 and 477), the reinforcement of the role of counsel responsible for minors in the Court of Appeal (articles 485, 488, 489, 490 and 494) and the establishment of a specialized judiciary police responsible for minors'.

The same source explains that the Penal Code accords to the juvenile judge the capacity to place minors 'in the care of a trustworthy person or in a public or private institution charged to provide assistance (...). The placement of the minor in custody is unusual (article 473)'²⁵².

214. In practice, the CNDH²⁵³ points out that:

'The effective application of the laws suffers from numerous dysfunctions through lack of means, capacities and supervision, frequently leading to the recourse of placing children in institutions. The placement is often unjustified, going against the best interests of the child. Furthermore, the terms under which children can participate in the judicial procedure do not conform fully to international standards on juvenile justice.'

215. UNICEF stresses that numerous children in difficult situations are placed in the same institutions as children in conflict with the law²⁵⁴:

'Beyond these measures and programmes, there is the question of the placing of children aged under 12 years and children with disabilities in these establishments. Indeed, from the report of the CNDH it appears that the group of children placed in the Child Protection Centres primarily consists of children in difficult situations at 53%, in contrast with minors in conflict with the law

²⁴⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 74.

²⁵⁰ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/MAR/CO/3-4 paragraph 74.

²⁵¹ CNDH *Children in safeguard centres: a childhood in danger* (2 May 2013) pp. 13-14.

²⁵² CNDH *Children in safeguard centres: a childhood in danger* (2 May 2013) p. 17.

²⁵³ CNDH *Children in safeguard centres: a childhood in danger* (2 May 2013) p. 17.

²⁵⁴ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p.112.

at 47%. This situation is confirmed by data from the MJS that reveal the presence of children under 12 years of age in the CPCs and also, that of children whose parents are in prison, who are lodged with their mothers during their placement in the CPCs. This situation poses problems in that these children find themselves in an environment not adapted to their needs. This situation is imposed on the MJS, which finds itself obliged to receive these children in the centres not adapted to their ages and needs’.

216. A government report²⁵⁵ explains that:

‘The great majority of minors are placed in the three centres of reform and rehabilitation, constructed between 1999 and 2002, which contain an educational complex and have the equipment necessary for good detention conditions’.

Within the framework of this report we have not been able to obtain more concrete information on the situation of children deprived of liberty in these establishments.

217. In the framework of this report, we have not been able to obtain concrete information on the situation of children imprisoned in adult prisons. All the same, several sources mention the presence of children in conflict with the law in special wings of adult prisons, from the age of 12 years. Several sources consulted who are in charge of visits in penitentiary centres confirm that there is no mechanism of surveillance for children deprived of liberty, and that it is impossible for the NGOs to have access to the prisons²⁵⁶.

218. In its recommendations to Morocco, the CAT (Committee Against Torture)²⁵⁷ mentions the impossibility of observing the situation of Moroccan prisons and states that it is:

‘worried by the fact that several non-governmental organizations, who wish to observe the situation in the penitentiary establishments, have been refused the right to visit detention centres. By virtue of article 620 of the Penal Procedure Code, these visits seem to be the exclusive remit of the provincial commissions. It also regrets the absence of information on the follow-up to visits and the results obtained’.

The same Committee affirms that²⁵⁸ ‘all detention locations should be submitted to a regular system of monitoring and surveillance’.

²⁵⁵ CRC/c/MAR/ 3-4 *Examination of the reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009* (5 August 2013) p. 43.

²⁵⁶ The sources that confirm the impossibility of such visits are members of the AIDA association, the Ai.Bi. association, and members of programmes for the protection of children from the Coopération Espagnole.

²⁵⁷ Committee against torture (CAT) *Examination of reports presented by the participating States in application of article 19 of the Convention. Final observations of the Committee Against Torture. Forty-seventh session* (31 October – 25 November 2011) Morocco CAT/C/MAR/CO/4 paragraph 18.

²⁵⁸ Committee against torture (CAT) *Examination of reports presented by the participating States in application of article 19 of the Convention. Final observations of the Committee Against Torture. Forty-seventh session* (31 October – 25 November 2011) Morocco CAT/C/MAR/CO/4 paragraph 15.

219. According to UNICEF²⁵⁹:

‘The number of children in contact with the law because of having a case in the courts for all reasons is clearly growing. According to the Ministry of Justice, in 2012 19,960 cases were recorded, implicating 22,879 persons, in contrast to 20,417 in 2011; that is an increase of 13.58%’.

The two forms of deprivation of liberty, placement in the CPCs and in the penitential establishments, represent almost 27% of the penalties.

8.2 Orphans and unaccompanied and separated children

Orphans

220. Law 15.01 regulating the Kafala gives the following definition of an ‘abandoned child’²⁶⁰:

‘Any child not having reached the age of 18 complete Gregorian years when s/he finds himself/herself in the following situations:

- being born of unknown parents or of an unknown father and a known mother who has willingly abandoned her/him.
- being an orphan or having parents incapable of providing for its needs or not having legal means of subsistence.
- having parents whose conduct is poor, not assuming their responsibility of protection and guidance in order to lead the child in the right direction, such as when they have been deprived of legal guardianship, or when, upon the death or incapacity of one parent, is shown to be delinquent and not carrying out his/her aforementioned duty with regard to the child.

(...) Any person who discovers an abandoned child must give him/her the assistance that his/her condition necessitates and must immediately inform the police services or the local authorities in the jurisdiction where the child has been found’.

221. A study from 2010 about children abandoned at birth²⁶¹ underlines that the Penal Code punishes abandonment (articles dedicated to the *exposure and desertion of children*)²⁶². According to this source, ‘the Code punishes the fact of abandoning a child, regardless of what will happen to it, but it does not require punishment if the abandonment occurred in a situation where there are people who have agreed to take care of the child’.

222. The same source affirms that:

‘Article 88 of the Penal Code foresees the forfeiture of parental authority, as a measure of security applicable when a jurisdiction pronounces sentence against a parent for a crime or offence legally punishable by imprisonment, committed on the person of one of his/her minor children. The Penal

²⁵⁹ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p.111.

²⁶⁰ Law 15.01 regulating the Kafala, article 3.

²⁶¹ LMPE-UNICE *Abandoned children in Morocco. Extent, legal and social status, taking in charge, lived experiences* (2010) p.23.

²⁶² Articles 459 to 467 of the Penal Code.

Code does not indicate the duration nor the monitoring of this measure. Nor does it indicate the fate of the child whose parents have been deprived of parental authority. As far as this is concerned, since the pronouncement of the law on the Kafala, the child must be considered as an abandoned child’.

223. Certain sources consulted²⁶³ consider that the measure of forfeiture of parental authority is in reality exceptional and reserved for extreme cases.
224. The CRC²⁶⁴ expressed its opinion on the theme of children deprived of a family environment, highlighting its ‘criminalization of sexual relations outside of marriages (art. 490 of the Criminal Code), which reportedly results in the abandonment of dozens of babies every day in Morocco’.
225. According to UNICEF²⁶⁵, most cases of child abandonment in Morocco are the result of sexual relations outside marriage. As for the terms of abandonment, the same source distinguishes different forms:
- 1) ‘**The placement in a family or with a nanny** (...) here, the child, generally the offspring of an ‘illicit relationship’, is entrusted to a woman in exchange for remuneration, with the expressed intention of taking the child back at some point in the future. In this situation, the mother, usually unmarried, visits the child and takes it back when her living conditions improve. This placement in a family may develop into a genuine abandonment (...).
 - 2) **The abandoned child gift** (...) this form is found, in its original expression, in the ancient habits of social regulation, which aim to comfort an infertile couple in offering them a newborn child. The genuine gift of a child is most often undertaken by close family members, particularly women otherwise threatened with repudiation and judged ‘solely responsible for the situation’. Depending on the circumstances, the child received as a gift from its biological parents may or may not be told the truth of its situation by the adoptive parents.
 - 3) **Woman-to-woman transfer without brokerage**: two women, one of whom is pregnant and in an ‘irregular’ situation, the other of whom is in a legal marriage and wants a child, enter into contact ‘by chance’. An agreement is struck between them: the child will be given at birth to the adoptive mother, who will give it a father’s name and raise it without telling it who its birth mother is.
 - 4) **Abandonment through illegal brokerage**: this brokerage network is likely to be found in all social and professional spheres; but most often, it is done for profit. The profitability varies depending on those involved: intermediary broker considered to be contributing ‘to a good cause’ is recompensed in a symbolic way for his/her ‘good act’. The ‘criminal’ network is distinguished by the existence of professional (usually male) brokers and the fees requested: this network is prevalent in hospitals, and consists mainly of paramedical staff’.
226. The latest data on the abandonment of children were published in 2010²⁶⁶ and state that 153 babies are born each day outside of marriage in Morocco, and 24 of them are abandoned, amounting to 8,760 per year. Once the children have been abandoned, and in accordance with the ‘legal’ circuit of

²⁶³ Director of the CPC of Benslimane, interview of March 25 2015.

²⁶⁴ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraphs 47 and 48.

²⁶⁵ LMPE-UNICEF *Abandoned children in Morocco. Extent, legal and social status, taking in charge, lived experiences* (2010) pp. 41-42.

²⁶⁶ See online newspaper <http://www.bladi.info/threads/association-insaf-24-bebes-abandonnes.333230/> (consulted 06/05/2015) in reference to the INSAT report with the support of ONUFEMMES The Morocco of unmarried mothers (December 2010).

abandonment, the children are taken in by the Child Protection Centres or Children's Homes.

For more details, see chapter 7, concerning the family environmental and replacement protection.

227. According to several sources consulted²⁶⁷, children who do not find an adoptive family during the first years of their lives will spend their entire childhood in an institution. The socio-economic vulnerability of the family is also a factor of abandonment; poor families are 'obliged' to give up the child, who is often placed in the Child Protection Centres or Children's Homes. These children may also be placed in Safeguard Centres, together with children in conflict with the law.

The question of children in conflict with the law is dealt with in chapter 8.1.

Unaccompanied children and children separated from their parents

228. Article 50 of law 02-03²⁶⁸ forbids irregular departure from the Moroccan territory:

'The following is punished by a fine of 3,000 to 10,000 dirhams and imprisonment from one to six months, or one of these two penalties alone, without prejudice to the disposition of the Penal Code applicable in the matter: any person who leaves the Moroccan territory in an irregular way, using at the moment of crossing the land, sea or air border posts, using fraudulent means to avoid the presentation of the official documents necessary, or the fulfilling of formalities prescribed by law and the regulations in force, or using falsified documents or a false name, or any person who enters or leaves the Moroccan territory at locations other than the border posts created for this purpose'.

229. According to a government source²⁶⁹:

'The laws in force in Morocco do not fully protect children throughout the migration process. They need to be revised and brought into compliance with international standards. The Law of November 2003 (Law 02-03) on the entry and stay of foreigners in the Kingdom of Morocco and irregular emigration and immigration should be revised urgently in order to exclude minors from its scope of application and to stop migrant children from being detained and penalized. Furthermore, new laws should also be created which comply with the international standards on return and repatriation procedures.'

230. The statistics of 2013 from the Ministry of Justice point out four known cases of irregular immigration which have been brought before the tribunals. Two of these cases concerned minors.

231. According to UNICEF²⁷⁰, Morocco has been facing the phenomenon of unaccompanied minors for several years:

²⁶⁷ Kafala Collective Morocco, during their monthly meeting, interview of 26 March 2015.

²⁶⁸ Law 02-03 relative to the entry and residence of foreigners in the Kingdom of Morocco, and to irregular emigration and immigration (article 50).

²⁶⁹ The Ministry of Social Development, Family Affairs and Solidarity, with support from UNICEF *A guide to procedures for the protection, concerted return and reintegration of unaccompanied Moroccan migrant children* (January 2009) p. 3.

²⁷⁰ UNICEF *New face of migration: unaccompanied minors* (2005) p. 14.

'The emigration of unaccompanied minors who, since the late 1990s, have increasingly become an issue in international migration. Unaccompanied minors are children and adolescents aged under 18 years who emigrate alone in Europe, crossing borders irregularly and using various risky methods. (...) Moroccan minors emigrate to Europe on their own, crossing the borders irregularly. To do this, they use a wide range of dangerous methods: they hide under the axles of a lorry or a trailer or stow away on 'pateras' or other boats. The migration of minors started occurring in the middle of the 1990s. The first destinations chosen by minors were France (Migration Studies, 2002) and Belgium. In the late 1990s, Spain and Italy were new destination countries for these minors. This new phenomenon increased in frequency in the late 1990s and early 21st century. Furthermore, because of some immigrant minors ended up in the streets of European cities in their destination countries, and because of the concern aroused by the media, this phenomenon became the object of studies, although in-depth work on this topic is still rare. The minors who arrive in Spain come from different regions of Morocco. There are notable differences between the numbers of unaccompanied minors from urban regions and those from rural regions, and between the numbers of unaccompanied minors who come from northern cities and those who come from southern cities. Tangiers and its metropolitan region are the major sites of origin of the minors.'

Table 14: Border crossing points

| Zone | Exit points |
|------------|--|
| North-West | <ul style="list-style-type: none"> • Port of Tangiers • Al Hoceima • Tarahal / Port de Ceuta border • Pateras exit from the Tangiers zone • Pateras exit from Oued Laou |
| North-East | <ul style="list-style-type: none"> • Port of Nador • Pateras exit from the Al Hoceima zone • Beni Nsar / Port de Melilla border |
| Centre | <ul style="list-style-type: none"> • Port of Casablanca |
| South-West | <ul style="list-style-type: none"> • Pateras exit from Tarfaya in direction of the Canary Islands |

232. The Guide for Protection Procedures for Unaccompanied Moroccan Minor Migrants²⁷¹ underlines that:

'All these children have in common the very strong desire to emigrate, which reveals:

- The unease and the difficulties that they encounter in their search for a decent life and work opportunities in their country.
- The perception that these minors have of European countries as countries where the quality of life would be better.

The great majority of them do not succeed in their plans to reach Europe and be integrated there. However, they continue to try their luck, without achieving their goals or their dreams.

²⁷¹ Ministry of Social Development, the Family and Solidarity with the support of UNICEF *Guide for protection procedures for the combined return and reinsertion of unaccompanied Moroccan minor migrants* (January 2009) p. 10 ; see also chapter 8 of this report on conditions for return (repatriation) http://www.unicef.org/morocco/french/Guide_de_procedures_de_protection_de_retour_concert_e_des_mineurs_migrants_non_accompagnes.pdf (consulted May 6, 2015).

Studies have shown that numerous children, sometimes very young, live around the ports, notably that of Tangiers, awaiting the moment to make the crossing. As well as suffering very difficult living conditions in the port, they are often at the mercy of unscrupulous people, and thus are liable to be victims of abuse and exploitation. This is a serious problem, and it is difficult to measure the human cost: death, shipwrecks, vagrancy, etc.

233. UNICEF specifies²⁷² that among the factors underlying the decision of minors to emigrate:

‘the first is certainly their family situation and the degree of their integration in the city. The majority of families of immigrant minors come from rural regions, having migrated within the country to urban regions. The level of integration in the city, the housing conditions and social relations with neighbours (on top of the work situation) affect the degree of inclusion/ exclusion of the family and the likelihood of future emigration of the minors. In fact, the greater the degree of social exclusion (the more the family networks are poor, the more housing is unstable, etc.), the more likely it is that the minor will emigrate. Another important element is the level of education of the parents and siblings, and the level of professional training, on which the quality of social integration depends. The majority of mothers are illiterate and the professional training of the parents is poor. Problems of school absenteeism and being held back exist for children of both sexes; in fact, school absenteeism increases the likelihood of being held back in school, which in turn leads to definitive early school leaving. The third essential element is work: the type of employment of the parents and siblings affects the quality of integration in work. In reality, often families originating in the MENAs work in the informal economy, without CNSS²⁷³ contributions, or contracts, and in unstable working conditions, thus affecting their social integration’.

234. According to IOM Morocco²⁷⁴, unaccompanied Moroccan minors arriving in Europe are often sent by their own families who expect them to find a job. For younger children aged 10 or 11, IOM states that families believe their children will be supported by social services until they can support themselves and their respective families.
235. Moroccan adolescents from the Fassia de Fes children’s home, interviewed as part of this report²⁷⁵, expressed their wish to go to Europe. They have all have tried to cross the border between Morocco and Spain several times. They had hoped to get into Europe to become professional footballers and to become legal immigrants.
236. According to Caritas²⁷⁶, an NGO that works with children of Sub-Saharan origin, unaccompanied minors taken into migrant reception centres from January 2004 to March 2011 consisted of 74% boys and 26% girls. The majority of these children (75%) were aged between 16 and 18 years, 21% were 12 to 15 years old, and 4% of children were under 12 years. The same source points out that:

‘719 children registered from January 2004 to March 2011 come mostly from Central and West African countries; and in terms of unaccompanied minors, the tendencies are as follows; 29% come

²⁷² UNICEF *New face of migration: unaccompanied minors* (2005) p. 22.

²⁷³ CNSS – Caisse Nationale de Sécurité Sociale.

²⁷⁴ Reintegration authority of IOM, interview 17 August 2015.

²⁷⁵ Thirteen adolescents, aged between 15 and 18, from Fassia de Fes children’s home, interview 30 March 2015.

²⁷⁶ Caritas *Migrant minors separated from their parents, a childhood in danger* (2011) pp. 11-13 mentioned in UNICEF, *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 109.

from the Republic of the Congo, 21% from the Ivory Coast, 10% from the Republic of Guinea, all countries that were shaken by political crises or armed conflicts, and more generally, countries facing difficulties of an economic nature (...). Furthermore, the fact of being separated from parents leads to great vulnerability for unaccompanied minors. Without the protection of an adult to ensure their well-being, these children are often victims of physical and psychological violence’.

8.3 Children seeking asylum

237. According to the Ministry for Moroccans Living Abroad and for Migration Affairs²⁷⁷, since the re-opening of the Office for Refugees and the Stateless on 25 September 2013, the ‘registration of more than 524 asylum seekers (out of 853 files received) has taken place.’ On 24 December 2013, the first residence permits were granted to refugees. These refugees included 243 minors. Seventy minors’ files were still in processing²⁷⁸.
238. The CRC²⁷⁹ welcomes the development of a new law on asylum, the reopening of the Office for Refugees and the Stateless in 2013, and the instructions given in October 2013 by the Ministry of Education to facilitate the enrolment of all migrant, refugee and asylum-seeking children in public and private schools. Nevertheless, in view of the growing number of unaccompanied children and child asylum seekers in the State, the Committee is concerned that procedural safeguards to identify and determine the best interests of these children have not been developed, and that the State does not provide these children with any type of assistance and protection from violence, exploitation or trafficking. The Committee is particularly concerned about:
 - (a) The deportation of unaccompanied children, which takes place in spite of the provisions of the Migration Act (Law No. 02-03) which provide for the protection of children from expulsion (art. 26) and deportation (art. 29), five children having been deported at the risk of their life in the desert between Morocco and Algeria in 2013.
 - (b) The arrest and detention of refugee and asylum-seeking children.
 - (c) The deteriorating health conditions of children present in the Migrant Reception Centre.
 - (d) The obstacles that migrant, refugee and asylum-seeking children face to accessing health services;....
239. Concerning the acquisition of documents, different sources²⁸⁰ confirm, in the case of asylum-seekers, the reception of a provisional receipt (valid during the period in which their file is examined) and the acquisition (in the case of acknowledgement of their refugee condition) of a refugee card that gives the right to a residence permit renewable every year.
240. Concerning access to basic services, the same sources explain that for asylum-seekers and refugees, the UNHCR finances associations that provide health care (medicine and specific treatments not available in the public system), emergency housing and training. They point out the

²⁷⁷ Ministry for Moroccans Living Abroad and Migration Affairs *The new Immigration and Asylum Policy of the Kingdom of Morocco*. See also Apanews http://demo.apanews.net/news/fr/article_archive.php?id=504144 (consulted 23 May 2015).

²⁷⁸ Adjoint to protection official of the UNHCR, interview of 24 April 2015.

²⁷⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 62.

²⁸⁰ Coordinator of ‘Migrants Centre’ Project of the East West Foundation, interview of March 18, 2015. Adjoint to protection official of HCR Morocco, interview of 24 March 2015.

non-existence of socio-economic integration and the lack of alternative services of psycho-social rehabilitation for cases of violence.

8.4 Child trafficking victims

Legislative framework

241. Morocco signed and ratified the United Nations Convention against Transnational Organized Crime and the additional Protocol to the United Nations Convention against Transnational Organized Crime, aimed at preventing, repressing and punishing human trafficking, in particular of women and children (April 2011). The country has adhered to a certain number of the international human rights instruments, notably the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Convention on the Rights of the Child, as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography²⁸¹ and the Convention on the Elimination of All Forms of Discrimination against Women.
242. In 2014, the CRC²⁸² invited Morocco 'to adopt its legislation on trafficking and ensure that it fully addresses and responds to the specificities of child trafficking. The State should also take firm measures to end impunity for child traffickers'.
243. The Special Report of the United Nations on human trafficking²⁸³ specifies that:
- because the offence of trafficking is not expressly prescribed by the law, victims cannot be officially acknowledged as trafficking victims. Lacking a specific legislative framework, the judiciary and law enforcement officials cannot rely on any clearly defined legal basis to take the necessary measures for the investigation, prosecution, and punishment of these offences (...)'.
244. One source²⁸⁴ reports that in September 2013, the Inter-ministerial Delegation for Human Rights and the Ministry of Justice met in a committee to manage efforts in order to prepare legislation against human trafficking.
245. According to one government source²⁸⁵, the reform of the Penal Code and the Penal Procedure Code currently in progress should respond to the recommendations of the CRC in introducing an adapted response to child trafficking and in reinforcing the sanctions against violent acts committed towards children, including in their family environment.

²⁸¹ Optional Protocol to the Convention relative to the Rights of the Child, concerning the sale of children, the prostitution of children, and pornography using children.

²⁸² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 69.

²⁸³ Human Rights Council (HRC) *Report of the Special Rapporteur on Trafficking in Persons, in particular women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 14.

²⁸⁴ US Department of State *Traffic In Persons Report 2014* p. 283.

²⁸⁵ Official for Women and Children Affairs – Directorate of Penal Affairs and Pardons – Ministry of Justice, interview of 23 March 2015.

The practice of trafficking

246. According to the CRC²⁸⁶, Morocco 'remains a country of origin, destination and transit for children, primarily from sub-Saharan Africa and south Asia, who are subjected to forced labour, including as domestic workers, and to sex trafficking and forced begging, two thirds of victims of trafficking being children'.
247. According to the United Nations Special Rapporteur on Trafficking in Persons, since 2002 around 2,500 Moroccan girls have been trafficking victims for sexual purposes in the countries of the Gulf²⁸⁷.
248. The United States Department of State underlines also that²⁸⁸:

'Morocco is a country of origin, destination and transit for men, women and child victims of forced labour and sexual exploitation. Rural Moroccan girls from the age of six years are recruited to work as domestics in the cities and risk becoming victims of forced labour; not receiving salaries; receiving threats and restrictions on their movements; and being victims of physical, psychological or sexual abuse. All the same, one NGO reports that the incidence of child domestic labour has dropped since 2005, in part because of the promotion of national programmes in primary school, and consciousness-raising programmes financed by United Nations organizations and the NGOs. Moroccan boys have also had experience of forced labour when they were employed as apprentices in crafts, in construction and in mechanics'.

249. A recent source explains the different types of trafficking present in Morocco²⁸⁹:

'They include a great variety of expressions, very different from each other, and the extent of which varies according to the region of the country, whether trafficking from rural or urban environments, their geographic proximity to borders or their level of tourist development. Thus in the eight cities visited during the preparation of this study, the cities of Oujda, Nador, Tangiers and Rabat have the biggest concentration of numbers of cases of women migrants who are victims of sexual exploitation and migrant minors forced into begging. In contrast, in the large tourist cities like Marrakech, cases of trafficking are more linked to the exploitation of Moroccan women and children with a sexual objective'.

250. ONUFEMME²⁹⁰ specifies that:

'The sexual exploitation of children for prostitution is a phenomenon that seems very prevalent in tourist cities like Marrakech and Agadir (...). So minor girls and boys in extremely vulnerable situations prostitute themselves, primarily with men who are travelling who pay them with money and/or drugs (...). Cases of minor girls and boys used by their families to get income have been mentioned in different interviews and in focus groups run by sex professionals in Rabat. According

²⁸⁶ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 68.

²⁸⁷ Human Rights Council (HRC) *Report from the Special Rapporteur on Trafficking in Persons, in particular women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014).

²⁸⁸ US Department of State *Traffic In Persons Report 201*, pp.282-284.

²⁸⁹ ONUFEMME *Trafficking of women and children in Morocco* (2015) p. 23.

²⁹⁰ ONUFEMME *Trafficking of women and children in Morocco* (2015) p. 57.

to the information collected during interviews in the cities of Marrakech and Agadir, the exploitation of children appears in cases that are not linked one to another – in other words, the traffickers are not organized within a criminal network. However, the intervention of intermediaries between the children and their clients seems to be typical’.

251. Even if the methods of recruitment differ, ONUFEMME²⁹¹ adds that:

‘The conditions of exploitation with which these people are confronted present similarities: non-payment or retention of a part of the salary, or payment of an extremely low salary(...). Trafficking victims being exploited are often submitted to multiple types of violence, blows, wounds or burns. They are often underfed, and have no access to a place where they can rest in minimal sanitary conditions. They are exposed to sexual violence, especially in the case of minor girls’.

252. Another source consulted explains²⁹² that:

‘Moroccan men, women and children are exploited in forced labour and sexual trafficking in Europe and in the Middle East. Moroccan women are obliged to prostitute themselves principally in the United Arab Emirates, Bahrain, Jordan, Libya, Syria and European countries. Some of them suffer from restricted movement, threats and psychological and physical violence; the recruiters had offered them work in the Persian Gulf, then afterwards seized their passports and once the victims arrived, forced them to work in order to pay their debts. Some Moroccan men and boys are lured to Europe by fraudulent offers of work and then are forced to sell drugs’.

253. The United Nations agency for women confirms²⁹³:

‘The case of Moroccan girls recruited to go to the Gulf States in order to work there and who are exploited at work or sexually has been mentioned very frequently during interviews’.

The United Nations agency adds:

‘The Kafala seems to be the recruitment system most utilized by the trafficking networks, according to the cases identified during research, and the data contained in the revised bibliography. This said, the lack of statistics does not permit us to know other types of recruitment. The Omra²⁹⁴, and traditional marriage customs, have been mentioned in other research as a means to transporting trafficking victims (...), other cases of female and male victims have been identified in other Arab countries (like Jordan or Lebanon), in Turkey or in European or Sub-Saharan African countries’.

254. Men, women and children migrants, notably of Sub-Saharan origin, also find themselves in situations of exploitation and trafficking in Morocco. The networks of traffickers and pimps are headquartered in their countries of origin and transport these men, women and children to

²⁹¹ ONUFEMME *Trafficking of women and children in Morocco* (2015) p. 46.

²⁹² US Department of State *Traffic In Persons Report 2014* pp. 282-284.

²⁹³ ONUFEMME *Trafficking of women and children in Morocco* (2015) pp. 48-49.

²⁹⁴ Omra: small pilgrimage to Mecca.

Morocco. According to different sources²⁹⁵ most of the child migrants in a trafficking situation are minor girls of Nigerian origin, but some also come from Mali and Cameroon²⁹⁶.

255. Concerning the exploitation in begging, a study from ONUFEMME²⁹⁷ explains that in addition to women and men:

‘unaccompanied minors are victims of extortion by traffickers and are forced to pay large sums to obtain their ‘protection’ in Morocco. Recruitment of these people happens once they are in Morocco, using constraint because of the vulnerability of their situation. They can be obliged to move to a different city in order to have more income. According to information collected in the field, Cameroonian networks exploit the unaccompanied minor boys and girls, the majority coming from Guinea or from Cameroon.

IOM detected nine cases of exploitation in begging in the framework of its programme of voluntary return in 2014 (all concerning migrants from Nigeria) and fifteen in 2013.

Frequently, people forced to beg (women and men) are accompanied by children who are not necessarily their own. The minors are a means of arousing compassion and increasing what is given. This situation constitutes a violation of the rights of the children who are also victims of exploitation and utilization for a lucrative goal, which leads them too to be trafficking victims’.

256. As far as the trafficking of very young minors is concerned, the same study explains²⁹⁸ that:

‘The exploitation through trafficking networks of minor migrants or minors born in Morocco of mothers of Sub-Saharan origin without civil status has become a common phenomenon (...). These children born of mothers who are trafficking victims are in the hands of the networks that use them according to their needs. Most often, they constitute a means for constraining their mothers to remain in their situation of exploitation, or are sent out to beg with other people forced to do so. They may also be utilized by the networks as a ‘human passport’ in order to facilitate the entry of trafficking victims into Europe (...). Many travel at a time when their pregnancy is very advanced or with newborn children’.

Identification and protection of the victims

257. The CRC²⁹⁹ notes with concern the absence of assistance and protection for child victims of violence, exploitation or trafficking in Morocco. The Committee ‘is also concerned that insufficient measures have been taken to investigate, prosecute, convict and adequately punish child trafficking offenders.’

²⁹⁵ MSF *Violence, Vulnerability and Migration. Blocked at the Gates of Europe* (2013), MSF *Sexual violence and migration* (March 2010), US Department of State *TIP 2014* and Human Rights Council (HRC. *Report of the Special Rapporteur on Trafficking in Persons, in particular women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014).

²⁹⁶ ONUFEMME *Trafficking of women and children in Morocco* (2015) p. 41.

²⁹⁷ ONUFEMME, *Trafficking of women and children in Morocco* (2015) p. 47.

²⁹⁸ ONUFEMME *The trafficking of women and children in Morocco* (2015) pp. 47-48. See also: El Pais http://politica.elpais.com/politica/2013/12/11/actualidad/1386761510_335571.html (consulted 5 June 2015).

²⁹⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraphs 62.

258. The CAT³⁰⁰ appears 'concerned by the general lack of information about the trafficking of women and children for purposes of sexual or other forms of exploitation and about the scale of trafficking in the State'.

259. During the preparation of the present report, the absence of information on the extent of the phenomenon of child trafficking in Morocco and on the cases of children identified as victims of trafficking still remains a concern³⁰¹: 'while children in Morocco may still be exposed to an elevated risk of being trafficking victims, to this day no in-depth study has been undertaken on the extent of child trafficking'.

According to official statistics³⁰², no case of sexual exploitation in the trafficking networks came before the Moroccan Tribunals in 2013.

260. Approximate data have been published by different organizations that develop follow-up reports on the subject³⁰³. The United Nations Special Rapporteur on Trafficking in Persons points out that the government had dismantled 130 human trafficking and migrant traffic networks in 2009, 92 networks in 2010, and 108 networks in 2011.

261. During her mission to Morocco in 2014, the United Nations Special Rapporteur³⁰⁴ noted that:

'The extent of the problem of trafficking seems to be underestimated and should be the subject of a more in-depth examination on the part of the authorities, the courts and law enforcement. This situation persists mainly because of the absence of a mechanism adapted to collect data that would permit a better understanding of the prevalence, forms, tendencies and manifestations of trafficking in Morocco. Often, because there are no mechanisms and protocols for identification, trafficking victims are not identified or are wrongly seen as irregular migrants'.

262. The Special Rapporteur points out that³⁰⁵ 'the Moroccan government does not do enough to protect trafficking victims and does not report information concerning their identification and the services provided to trafficking victims'. She denounces the lack of services to assist the vulnerable women and children who are victims of trafficking, and highlights 'a lack of proactive identification procedures for these trafficking victims'. She also mentions a 'problem training and preparing their personnel to provide adequate protection to trafficking victims'.

³⁰⁰ Committee Against Torture (CAT) *Examination of reports presented by the States parties in application of article 19 of the Convention. Final observations of the Committee Against Torture. Forty-seventh session (31 October-25 November 2011)* Morocco CAT/C/MAR/CO/4 paragraph 27.

³⁰¹ Human Rights Council (HRC) *Report of the Special Rapporteur on Trafficking in Persons, in particular women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 6.

³⁰² Ministry of Justice Statistics 2013 on violence committed on children.

³⁰³ UNODC *Worldwide Report on Human Trafficking. Analytic summary* (February 2009); US Department of State *Traffic In Persons Report* (2014).

³⁰⁴ Human Rights Council (HRC) *Report of the Special Rapporteur on Trafficking in Persons, in particular women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 11.

³⁰⁵ US Department of State *Traffic In Persons Report* (2014) p. 282.

263. In its conclusions, the Human Rights Council declares³⁰⁶:

‘The Special Rapporteur has noted that one of the principal problems was the lack of assistance to trafficking victims, the absence of adapted structures, and the absence of a legislative framework regulating aid to victims. According to the NGOs and the international humanitarian organizations, Morocco does not have shelters for trafficking victims. The shelters receiving women and children who are victims of violence lack financial and human resources, and no adapted assistance is proposed for trafficking victims. Up to now there is no reintegration programme for irregular migrants, refugees and asylum-seekers who have not been registered and who are thus exposed to the risk of trafficking. Trafficking victims are always considered as irregular migrants.’

264. The same source notes a lack of protection and aid for trafficking victims and irregular migrants³⁰⁷:

‘They have difficulty getting access to justice. (...) Household employees do not come under the Labour Code, which means that women and girls – whether Moroccan or foreign – are extremely vulnerable and faced with the risk of exploitation and mistreatment. The absence of adapted protection services dissuades trafficking victims from asking for help and leaves them at the mercy of criminals who can act with complete impunity, fully conscious that their victims have no legal recourse. The Special Rapporteur was informed of the case of a girl who, when she tried to escape the traffickers, was caught and assaulted. According to the available information, even after she escaped the country, the staff member in the transit centres who helped her was threatened by the traffickers (...). The organizations willing to offer shelter or medical or legal support to victims cannot rely on contacts and official networks to do so. Moreover, as the victims have very little opportunity to return to their country of origin, they run the risk of falling into the hands of the traffickers again in the future. (...) Few organizations provide effective assistance to trafficking victims and the authorities have not established protection centres or shelters to receive them’.

265. There is no NGO that works specifically in the area of child trafficking in Morocco. Certain NGOs do work with migrant women and minor girls, some of whom are trafficking victims.

Sex tourism

266. According to the official statistics of the Ministry of Justice, no case of sex tourism came before the tribunals in 2013. All the same, according to the CRC³⁰⁸, sex tourism is growing in Morocco. The Committee³⁰⁹ ‘is concerned that, while tourism constitutes one of the main pillars of the State’s economy, the State has not yet adopted measures to protect children from violations of their rights arising from tourism activities’.

³⁰⁶ Human Rights Council (HRC) *Report of the Special Rapporteur on Trafficking in Persons, in particular of women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 12.

³⁰⁷ Human Rights Council (HRC) *Report of the Special Rapporteur on Trafficking in Persons, in particular of women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 13.

³⁰⁸ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 40.

³⁰⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 22.

267. According to the Moroccan government³¹⁰:

‘The Kingdom of Morocco has established a cooperative relationship with the countries tourists generally come from. The Moroccan police has an Interpol focal point, allowing better transnational cooperation with police in terms of information exchange, in order to identify child victims of sex tourism or trafficking as well as sexual predators. Police squads for the assistance of tourists have been reinforced by police officers trained in and sensitized to the protection of children against all form of sexual exploitation by possible paedophiles visiting the Kingdom. (...) However, the businesses involved in tourism (tourism and travel industry) are not very aware of their social responsibility. In fact, very few businesses have adopted codes of conduct, or have undertaken initiatives aiming to guarantee responsible tourism, guaranteeing the protection of children against sexual exploitation’.

268. Another source mentions³¹¹:

‘According the estimates of the Ministry of Tourism, some 9 million tourists visit Morocco every year, and the figure is expected to reach 20 million between now and 2020. The Moroccan Committee for Responsible Tourism, under the direction of the Ministry of Tourism, has adopted the Charter of Responsible Tourism, which conforms to the World Ethical Tourism Code of the World Tourism Organization, adopted by the General Assembly in December 2001³¹². This charter contains important measures concerning the protection and promotion of human rights in the tourist industry and indicates that all form of exploitation, particularly sexual exploitation, and especially when children are involved, is incompatible with the fundamental objective of tourism and should be punished’.

8.5 Children in armed conflicts

269. Morocco was among the first countries to sign and ratify the Optional Protocol of the Convention on the Rights of the Child concerning the involvement of children in armed conflicts³¹³.

270. The CRC³¹⁴ notes that:

‘Recruitment into the armed forces has been voluntary, with a minimum enlistment age of 18 years; the Committee is, however, concerned that the recruitment and use of children in hostilities by armed forces and non-State-armed groups, as well as the recruitment and use of children by private security companies, have still not been explicitly prohibited and criminalized. The Committee is also concerned that the recruitment of children under the age of 15 has not been defined as a war crime in the State’s legislation’.

³¹⁰ CRC/c/MAR/3-4 *Examination of reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009 Morocco* (5 August 2013) pp. 47-48.

³¹¹ Human Rights Council (HRC) *Report of the Special Rapporteur on Trafficking in Persons, in particular of women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 11.

³¹² Resolution 56/212 of 21 December 2001 of the General Assembly that approves a World Tourism Code. Mentioned in the HRC report.

³¹³ The signature took place on 08/09/2000 and the ratification on 22 May 2002 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=fr (consulted 29 March 2015).

³¹⁴ *Concluding observations on the report submitted by Morocco under article 8, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (2014) paragraph 15.

271. The Committee is concerned³¹⁵ by:

‘the absence of a body mandated to coordinate the comprehensive and effective implementation of the Optional Protocol throughout the State(...); the absence of information on the budgetary allocation for the implementation of the Optional Protocol (...); the fact that the provisions of the Optional Protocol are not included in the training programmes and that other relevant professional categories do not receive adequate training on the Optional Protocol.(...) Given the presence of child refugees in the State coming from States affected by armed conflict, the Committee is concerned by the absence of a system that promptly identifies and registers children who may have been recruited in armed conflicts abroad or are at risk of such recruitment.’

272. The Committee expresses serious concern ‘regarding the numerous cases of refoulement of refugee and asylum-seeking children and regarding the absence of information on the measures in place to protect the rights of child victims of recruitment and against the use of children in armed conflicts abroad (...)’³¹⁶.

The Committee is concerned that insufficient attention has been paid to the early identification of refugee and asylum-seeking children who may have been involved in armed conflict or subject to conflict-related trauma. It is also concerned that children suffering from profound distress as well as sensory, intellectual or mental health disabilities after experiencing and witnessing war-related violence and conflict have had limited access to assistance for their physical and psychological recovery³¹⁷.

8.6 Early and forced marriages

Protection legislation and policies against forced or early marriage

273. The Code of the Family fixes the age of matrimonial capacity at 18 full years for both sexes (art. 19). However, article 20 stipulates:

‘The family judge responsible for marriage may authorize the marriage of a couple younger than the age of matrimonial capacity indicated in article 19 above, by a justified decision specifying the interest and motives justifying this marriage. He will have interviewed, in advance, the parents of the minor(s) or his/her legal representative. In addition, he will have called for a medical expertise or a social inquiry. The decision of the judge authorizing the marriage of a minor is not subject to appeal’.

274. Article 21 of the Code of the Family gives the judge the right to authorize the marriage in the case of the refusal of the child’s legal representative.

³¹⁵ Concluding observations on the report submitted by Morocco under article 8, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2014) paragraph 5, 7, 11, 13.

³¹⁶ Concluding observations on the report submitted by Morocco under article 8, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2014) paragraph 19.

³¹⁷ Committee on the Rights of the Child (CRC) Concluding observations on the combined third and fourth periodic reports of Morocco (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 21.

275. According to the associations for the defence of the rights of the child and the rights of women, articles 20 and 21 of the Code of the Family violate the rights of the child and the rights of women³¹⁸.

Prevalence and practise of early or forced marriage

276. The CRC³¹⁹ notes with worry that early marriages are on the increase in Morocco:

‘The minimum marriage age for both girls and boys was fixed at 18 years by the 2004 Family Code, early marriage is on the rise in the State party, and thousands of girls, some of them as young as 13 years, are married every year as a result of the extensive use of exceptions to the law by family judges. The Committee is also seriously concerned about the widespread practice of forced marriage and about girls committing suicide as a result of such marriages.’

In this context, the Committee is concerned that:

- a) The State is considering lowering the minimum age of marriage to 16 years.
- b) Child marriage can be authorized by a judge in spite of the child’s legal representative’s refusal to allow the marriage.

277. According to the figures from the Ministry of Justice³²⁰:

‘The rate of marriage of minor girls increased from 7.75% in 2004 to 11.47% in 2013. The year 2011 had the biggest proportion of this type of marriage, with a rate of 11.99% of the total of marriage certificates issued during the course of that year’.

A total of 43,000 marriages of minors were carried out in 2011, according to the Ministry of Justice.

278. Different sources consulted in the preparation of this report are unanimous and point out the impossibility of annulling an early marriage carried out according to the Koranic tradition (*Fatiha*), even if that marriage is not legally valid and has not been registered in the civil records.
279. After certain cases of forced marriage that were widely publicized because of the suicide or suicide attempts by minor girls obliged to be married to their aggressors³²¹, in January 2014 the

³¹⁸ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) pp. 15-17. See also INSAF *Premature marriage in Morocco, negation of the rights of the child. Elements for an appeal* (10 June 2014), also in Amane-CNDH-UNICEF: *Study on sexual violence against children in Morocco* (December 2014). See also *Report from the NGOs for defence of the rights of women in Morocco in regard with the 2nd Universal Periodic Examination (EPU)* Submitted to the High Commission for Human Rights. Democratic Association of Women in Morocco (no date).

³¹⁹ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 42.

³²⁰ Siham Mengad *Morocco, what assessment 10 years after the code of the family?* Published June 11, 2014 in *Afrique* <http://www.contrepoints.org/2014/06/11/168536-maroc-quel-bilan-10-ans-apres-le-code-de-la-famille> (consulted 6 May 2015); data from the Ministry of Justice and Liberties.

³²¹ *Morocco: adopting legal reforms to reinforce sanctions in cases of sexual violence and to prevent premature marriages*. (29 May 2013 (updated 28 January 2014)). Equality now http://www.equalitynow.org/fr/take_action/agissez_action412 (Consulted 31 March 2015) see also the online newspaper *Aujourd'hui le Maroc* <http://www.aujourd'hui.ma/maroc/societe/deux-ans-apres-le-suicide-d-amina-filali-la-loi-sur-le-mariage-d-un-mineur-avec-son-ravisser-abrogee-107406> (consulted 23 March 2015).

Moroccan government amended article 475 of the Penal Code that permitted rapists to escape punishment if they married their victims. In October 2014, the CRC expressed its concern³²² because: 'no specific measures have been taken to remove girls from marriages that they were forced to enter into before the repeal of this article, and who are reported to be still subjected to sexual abuse and violence'.

Testimony of the YTTTO foundation³²³:

'In the province of Azilal, where we took our caravan, we noticed that the traditional marriage/Orfi marriage was still common. In those regions, the Family Code remains unknown. The majority of marriages are still concluded by Fatiha alone, without any written certificate. Girls are also sometimes married off without being personally present before the judge. An elected official or representative of the authorities has the responsibility to present the marriage application files to the adoul, who is responsible for issuing marriage licences. In the majority of cases, these marriages are between older men and girls aged under 18 years old. Sometimes these girls are as young as 7 or 8 years (...) In October 2010, there were forty marriages of this type in Anefgou. These are arranged marriages organized by the tribe to marry girls at a very young age. The marriage of these minor girls is almost automatically accompanied by successive pregnancies because of the lack of contraceptives'.

280. One source³²⁴ explains that: 'The number of marriage applications for minor girls as a percentage of the total number of applications for early marriage since 2007 represents more than 99% of the cases (...). These figures do not include marriages concluded informally, without going before a judge'.

³²² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 40.

³²³ Mentioned in Amane-CNDH-UNICEF *Study on sexual violence committed against children in Morocco* (December 2014) p. 29. The YTTTO Foundation is an NGO that works in the area of the combat against gender-based violence and creates consciousness-raising caravans against early marriages, among other violence, in the isolated zones of Morocco. See also Women of Morocco <http://femmesdumaroc.com/societe/le-mariage-dans-la-ligne-de-mire-1875> (consulted 23 May 2015). See also TelQuel http://telquel.ma/2014/12/03/certaines-regions-maroc-83-mariees-mineures_1425032 (consulted 23 May 2015).

³²⁴ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p. 7.

Table 15: Applications for premature marriage 2007-2013³²⁵

| Year | Boys | Girls | Total |
|------|------|--------|--------|
| 2007 | 379 | 38,331 | 38,710 |
| 2008 | 308 | 39,296 | 39,604 |
| 2009 | 174 | 46,915 | 47,089 |
| 2010 | 438 | 44,134 | 44,572 |
| 2011 | 326 | 46,601 | 46,927 |
| 2012 | 106 | 42,677 | 42,783 |
| 2013 | 92 | 43,416 | 43,508 |

281. The same source indicates³²⁶ that: ‘The rate of acceptance of applications for early marriage, which concerns 99% of girls, shows that the judges approve them almost automatically’.

Table 16: Rate of approval by judges of early marriage applications 2007-2013³²⁷

| Year | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|----------|--------|--------|--------|--------|--------|--------|--------|
| Approval | 86.79% | 88.48% | 90.77% | 92.21% | 89.56% | 85.99% | 85.46% |
| Refusal | 10.72% | 11.05% | 8.59% | 7.79% | 10.44% | 14.01% | 14.54% |

282. According to one source³²⁸:

‘The reasons put forward by the judges in the majority of cases for authorizing the marriage of minor girls have to do with safeguarding the girl and the honour of the family in cases where the girl is no longer a virgin, has been raped, or is pregnant; or they state that early marriage is preferable to the chance that the girl will have premarital sex and possibly become pregnant; or they state that the families of the girls would rather have them married than punish their rapists. The conservative attitude of the judges indicates a very widespread social perception that marriage is the best protection of the minor girl, while disregarding the physical and emotional effects of early marriages. By limiting their life choices, the fundamental rights of these minors are violated, notably their right to education and development’.

³²⁵ Official statistics of the Ministry of Justice and Liberties published in *Family law: reality and perspectives, 10 years after the coming into effect of the Moudawana* (May 2014) (Arab).

³²⁶ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses from the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) p. 8.

³²⁷ Official statistics from the Ministry of Justice and Liberties published in *Family law: reality and perspectives, 10 years after the coming into effect of the Moudawana* (May 2014) (Arab).

³²⁸ Amane-CNDH-UNICEF *Study on sexual violence towards children in Morocco*, p. 36 (December 2014) in reference to the study of FNUAP *The child-mother: facing the challenges of adolescent pregnancy* (2007) and to the report of the INSAF *Premature marriage in Morocco, negation of the rights of the child: elements of appeal* (2014).

Consequences of forced marriages on minor girls

283. The same source³²⁹ indicates the proportions of the consequences of early/forced marriages according to the following statistics:

- 80% of the girls aged under 11 years who enter an early or forced marriage are abandoned after the wedding night.
- 40% of women rejected or abandoned become prostitutes in order to support their families.
- In general, children in these marriages are not listed on the civil register and cannot continue their schooling beyond the sixth year of primary school.
- Polygamy is encouraged because of the lack of marriage certificates attesting to the existence of a marriage.
- 98% of rejected women have no right to alimony.
- Incest is present in many regions because of marriage customs.

284. While preparing this analysis of the situation, we have not found precise analyses on the consequences of forced/early marriages in relation to the education and health of the children concerned, even though these rights are one of the major concerns of the different sources consulted. Thus according to UNICEF³³⁰:

‘The negative consequences of marriage of children are numerous, especially for girls. They can be cut off from their families and deprived of schooling. Their development – and the protection of their human rights – may be compromised. Marriage of children also raises concerns with respect to health, since it often leads to premature pregnancies. In developing countries, in more than 90% of cases where an adolescent girl gives birth, that girl is also married. In several countries, the data suggest that women who marry while they are still children are exposed to the risk of marital violence. Numerous adolescent girls who marry or cohabit often do so against their will, with much older men’ (*see chapter 7 on violence*).

8.7 Domestic violence

285. Articles 408 to 411 of the Penal Code punish the abuse and ill treatment of children. In Moroccan legislation, all violence that is punishable when committed against adults is equally punishable when committed against children. Certain acts are punished more severely when the victim is a child (serious bodily harm, incitement to immorality, rape, and indecent assault). Other acts are considered to be offences when they are committed towards children (lack of care, child pornography, sale and purchase of children, exploitation of children for begging).

286. Despite the recommendations of the CAT and of the CRC, the Kingdom of Morocco still has not forbidden corporal punishment within the family, in alternative care institutions, in child care centres, or in schools:

³²⁹ Amane-CNDH-UNICEF *Study on sexual violence towards children in Morocco* (December 2014) p. 30.

³³⁰ UNICEF *Progress for children. An assessment in relation to adolescents* (10 April 2012) pp. 9-10.

- In 2011, the CAT³³¹ noted 'with concern that there is no law in Morocco that prohibits the use of corporal punishment within the home, at school or in institutions that provide child care services (art. 16)'.
- In 2014, the CRC³³² was concerned by the fact that Morocco 'has still not prohibited corporal punishment in the home, alternative care settings, day care, or schools. The Committee is particularly concerned by the fact that corporal punishment is still widespread, the vast majority of children having been subjected to violent forms of discipline including, in many instances, severe forms of punishment. The Committee is further concerned that in children's homes and other governmental child-care institutions, violence is the disciplinary measure used most often'.

287. Concerning the extent of violence, a recent study indicates that six children out of ten undergo corporal punishment in Morocco:

'According to the ACPF, 60%, or six children out of ten, undergo corporal punishment by members of their family. This figure is the same for two other countries, Uganda and Zambia'³³³.

288. Another recent study³³⁴ on sexual violence towards children indicates that:

'Violence, including sexual violence, perpetrated within families is insufficiently investigated, even when it is systematically cited in the existing literature (...). It can be seen to a certain extent in cases of violence against child domestics, or in cases of foster care (Kafala). 8% of the cases of sexual violence recorded by the helplines run by the ONDE in the year 2009 were committed by the child's father, and 42% were committed by close family members and neighbours'.

289. Recently the press repeated reports of a case of abuse of a child aged 6 who had been taken into Kafala 6 months before: 'The child is in a serious state: his body shows traces of torture inflicted on him during a period of nearly six months, with burns, blows, and serious sexual abuse'³³⁵.

290. Since the year 2000 and in conformity with the directives of the ministerial circular 985/DHSA of 28 August 2000, eleven helpline and counselling centres for child victims of violence (also called 'support centres for women and children who are victims of violence') have been established in the hospitals of eleven provinces and prefectures: Agadir, Fes, Tetouan, Casablanca, Laayoune, Marrakech, Meknes, Oujda-Angad, Rabat, Safi, and Tangiers-Assilah³³⁶.

³³¹ Committee against Torture (CAT) *Examination of reports presented by the participating States in application of article 19 of the Convention. Concluding observations of the Committee against Torture. Forty-seventh session* (31 October-25 November 2011) Morocco CAT/C/MAR/CO/4 paragraph 24.

³³² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 36.

³³³ Lesecoc <http://www.leseco.ma/maroc/25830-6-enfants-sur-10-subissent-des-chatiments-corporels-au-maroc.html> (consulted 29 March 2015).

³³⁴ AMANE-UNICEF-CNDH *Study on sexual violence committed on children in Morocco* (December 2014) p. 31 – data from the National Observatory for the Rights of the Child *Centre for helpline and protection of mistreated children: 10 years* (1999-2009).

³³⁵ TELQUEL *The ordeal of a child tortured for 6 months reveals the weak point of the Kafala*, (13 March 2015), http://telquel.ma/2015/03/13/calvaire-un-enfant-torture-pendant-six-mois-Kafala_1438305 (consulted 25 March 2015).

³³⁶ UNICEF *Violence with respect to the child in Morocco* (November 2006) pp. 35-36.

8.8 Labour, the commercial exploitation of children, and other forms of exploitation

Protection legislation and policies

291. Morocco has adhered to several International Conventions that protect children against exploitation and sexual commerce (the Convention on the Rights of the Child and its Optional Protocol concerning the sale of children, the Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the Convention of the International Labour Organization and the Worst Forms of Child Labour Convention).
292. Since 2004, modifications to the Labour Code have been introduced to harmonize national legislation with international commitments. Thus, article 143 establishes the minimum age for work at 15 years, and at 18 years in the case of hazardous labour (article 147). The list of the worst forms of child labour was published in Decree 1/10/183, adopted in 2004 and revised in 2010, enumerating 33 types of dangerous work. The Labour Code also forbids forced labour (article 10) and the Penal Code criminalizes all forms of sexual commerce and exploitation of children (article 503). Compulsory education until the age of 15 years is registered in Law 04-00.
293. According to the report of the Moroccan government³³⁷ to the CRC, new measures were taken by the Ministry of Employment to combat child labour:
- ‘a) The creation of a National Office to combat child labour; b) The establishment of a National Steering Committee, a tripartite body working to combat child labour (...); c) The designation in the various provincial and regional employment delegations of 43 labour inspectors³³⁸ as focal points responsible for coordinating efforts aimed at combating child labour; d) The organization of several training sessions in the area of combating child labour for 300 work inspectors; e) Consciousness-raising of social partners on the detrimental effects of early labour and hazardous labour; f) Conducting studies and research in the area of combating child labour; g) The establishment of a new strategy for the vocational training sector (2008-2012) developed by the Department of Vocational Training focusing on early school leavers and young people in general’.
294. Various sources confirm³³⁹ the efforts of legislators and the government to put an end to the exploitation of children in labour. However, the same organizations confirm that Moroccan children continue to be employed in agriculture, the crafts, and domestic service at very young ages.

³³⁷ CRC/c/MAR/3-4 *Examination of reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009 Morocco* (5 August 2013) p. 45.

³³⁸ United Nations Morocco *Annual Report, Framework Plan of the United Nations for support to development 2012-2016* p. 26.

³³⁹ Human Rights Watch *Worldwide Report 2015* <http://www.hrw.org/fr/world-report/2015/country-chapters/132218> (consulted 12 March 2015); US Department *Traffic In Persons* (2014) pp. 281-282 US Department of Labor’s Bureau of International Labor Affairs *Findings on the worst forms of child labor* (2013) p. 538.

295. According to several sources³⁴⁰, a bill was introduced specifically to regulate domestic labour:

‘In early 2010 the Ministry of Social Development, the Family and Solidarity and the Ministry of Employment and Professional Training submitted two distinct bills to the government’s General Secretary concerning the question of minors employed as domestics. The first bill would criminalize the employment of minors as domestics through high fines and prison sentences, both for the family employing the minor, and also for the family having sent the child to work, as well as all neighbours aware of the crime. The second bill would expand the Labour Code to cover all domestic workers and would make it possible for labour inspectors to enforce the child labour legislation in private residences. Neither of these two bills has been presented to the Parliament’.

296. One source³⁴¹ points out, however, the delay in the adoption of this bill:

‘This situation is exacerbated in Morocco by the absence or the delay in the adoption of the draft law relating to domestic labour initiated in 2011. This law was challenged by representatives of civil society (the associations) who protest that it indirectly recognizes and authorizes the work of young girls aged 15 to 17 years as domestics, as well as other issues. At present, therefore, there is no regulatory framework, which weakens the protection of these children’.

Prevalence and practice of child labour

297. According to the official statistics³⁴² of 2014 from the HCP:

- In 2014 there were 69,000 children in labour aged 7 to 15 years (in contrast to 86,000 in 2013 and 147,000 in 2010³⁴³).
- This represents 1.5% of all children in this age group, against 9.7% in 1999.
- 90% of children who work are in the rural regions (that is 62,000).
- 60.1% of child labourers are boys (56.7% of whom are in the rural regions and 90.1% of whom are in the urban regions).

298. Concerning economic exploitation, including child labour, the CRC³⁴⁴:

‘welcomes the 2003 Labour Code which increased the protection of children against labour exploitation, and the progress in reducing overall rates of child labour and in increasing school enrolment. However, the Committee remains deeply concerned by the fact that insufficient measures have been taken to remove girls, some as young as eight, working as domestics in hazardous conditions in private homes’. The Committee notes its concern for the cases of girls who ‘continue to be exploited in private homes and to be subjected to physical and verbal violence,

³⁴⁰ CRC/c/MAR/3-4 *Examination of reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports of the participating States having to be submitted in 2009 Morocco* (5 August 2013) p. 7 and US Embassy report <http://french.morocco.usembassy.gov/2011-tip.html> (consulted 12 March 2015).

³⁴¹ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p. 108.

³⁴² HCP Information note downloadable on <http://www.e-joussour.net> (consulted 15 July 2015).

³⁴³ Data from the Plan High Commission cited in CRC/c/MAR/3-4 *Examination of reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports from the participating States having to be submitted in 2009 Morocco* (5 August 2013) pp. 45-46.

³⁴⁴ Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 64.

isolation, excessive working hours (100 or more hours per week), without rest breaks or days off, with denial of education, and sometimes without adequate food or medical care (...). There is no legal provision to enable labour inspectors to inspect private homes and no system to inform child domestic workers of the existence of child protection units, resulting in little action being taken against those who economically exploit these children (...). Laws prohibiting the employment of children under age 15 are not effectively enforced, due to weak enforcement mechanisms’.

299. The United Nations Special Rapporteur on trafficking in persons, especially women and children points out also in a recent report that:

‘Children are exposed to the risk of trafficking with the goal of exploitation through work. According to official statistics, in 2012, 92,000 children aged 7 to 15 were working. The number of children who work is dropping. However, the data on children who work as household employees is incomplete. Representatives of the civil society sector say they are concerned by the high number of children who work, and they have stressed that it is important to raise the legal minimum working age to 15 years, and to impose the legal sanctions in cases where the employer does not respect the minimum working age (...)’³⁴⁵.

300. According to the Ministry of Justice, 130 cases of child exploitation through begging and eleven cases of sexual exploitation of children were reported in 2011. In 2013, according to the statistics from the Ministry of Justice, 20 cases of child exploitation through begging, four cases of child exploitation through drug selling, and 101 cases of sexual exploitation of children came before the courts³⁴⁶.

301. According to UNICEF³⁴⁷:

‘At the regional level, during the five past years more than 70% of children in work were found in four regions of the Kingdom. The region of Doukkala Abda was home to more than a quarter of these children. In 2013, the proportion of children in work in these regions was:

- 24.8% in Doukkala-Abda
- 18.2% in Marrakech-Tensift-Al Haouz
- 16.1% in Chaouia-Ouardigha
- 10% in the region of El Gharb-Chrarda-Beni Hssein.’

³⁴⁵ Human Rights Council (HRC) *Report of the Special Reporter on human trafficking, in particular women and children, Joy Ngozi Ezeilo. Mission to Morocco from 17 to 21 June 2013* (published in April 2014) p. 7.

³⁴⁶ Ministry of Justice *Statistics 2013 on violence committed against children*.

³⁴⁷ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach* (Sitan, September 2014) p.108. Data from the HCP http://www.hcp.ma/La-Journee-mondiale-contre-le-travail-des-enfants-Evolution-et-caracteristiques-du-travail-des-enfants_a1412.html (consulted 27/05/2015).

302. According to the Moroccan associations³⁴⁸:

‘21.7% of children work as well as going to school, 59.2% have left school, and 19.1% have never been to school (in other words, 78.3% of all children who work do not attend school). Child labour remains concentrated in certain economic sectors. Thus, in the rural regions, 95.5% of children who work are employed in ‘agriculture, forests and fishing’. In urban regions, the service sector, employing 58.4% of children who work, and industry (including the crafts), employing 31.3% of children who work, are the main sectors employing children. In the rural regions, more than nine out of ten economically active children work as household help. In the urban regions, around half (51.5%) of children are apprentices (51.5%), around a quarter (25.3%) work as household help, one child in five (22.1%) works as an employee, and one in one hundred (1.1%) as an independent labourer³⁴⁹.

Children who work come from different origins, for the most part from families living in working-class neighbourhoods or shantytowns. Some of these children left the rural regions where their families live hoping to find work or better living conditions in the city. Obviously, these children left school at a very young age and the vast majority are illiterate. In addition, of these children who on the street, 80% smoke and a third sniff organic glue or consume hashish’.

303. In its global report for 2015³⁵⁰, the NGO Human Rights Watch mentions that:

‘According to the United Nations, non-governmental organizations, and government sources, the number of child domestic workers has dropped in recent years, but girls from the age of 8 continue to work in private homes up to 12 hours a day for low salaries, in some cases as little as 11 USD per month. In some cases, employers beat and verbally abuse the girls, prevent them from getting an education, and don’t feed them properly. In January 2014, a tribunal in Agadir sentenced an employer to twenty years in prison for having caused the death of her child domestic worker. In September 2014, the Committee on the Rights of the Child expressed its concern over the fact that the government had not taken effective measures to remove children from dangerous domestic labour.

The labour law in Morocco excludes domestic workers from its protection mechanisms, including the guarantee of a minimum wage, limitation of working hours, and a weekly day off’.

304. According to a government source, debt bondage is also present among migrant human trafficking victims³⁵¹, particularly women and girls (but sometimes men), who may be obliged to pay a very high price for their own freedom or to prostitute themselves in order to acquire the demanded sum.

³⁴⁸ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the response of the Government of the Kingdom of Morocco on the Convention for the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention for the Rights of the Child* (July 2014) p.35. See also: HRW *Lonely Servitude. Child Domestic Labor in Morocco* (2012).

³⁴⁹ Report on the Gender Budget – Ministry of Economy and Finance Proposal for a finance law for the budgetary year 2014. Cited in the Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child*. (July 2014).

³⁵⁰ Human Rights Watch *Worldwide Report 2015*.

³⁵¹ Official responsible for women and children – Directorate of Penal Affairs and Pardons – Ministry of Justice, interview of 23/03/2015; and Head of Mission of MSF in Morocco, interview of 15 March 2013, within the context of an evaluation of the UPEs.

305. Different sources consulted in the development of this report are unanimous in noting that in practice, there is widespread tolerance of the exploitation of girls in domestic service and of child labour in general.

8.9 Children living on the street

306. The CRC³⁵² notes that, despite the absence of precise data on the number of children living and working on the street, this number is reportedly on the rise in Morocco.

307. A government report³⁵³ confirms the progress and the challenges:

‘As regards these children, some progress has been achieved, including legislative developments in the Penal Code and the Penal Procedure Code, which provide a legislative framework for better protection of street children. In 2006 the MSFFDS, in partnership with the Council of the City of Casablanca and local NGOs and other institutional partners, established a Social SAMU (mobile aid service for social emergencies) dedicated to street children. A survey of street children in Casablanca was undertaken in April 2011 and determining the characteristics of the phenomenon and identifying the locations where these children are found. Meanwhile, the National Mutual Assistance has implemented a programme specifically for minors on the street in the provinces of Tangiers, Béni Mellal, Nador and Khouribga. In 2009, the MSFFDS carried out a training programme for those involved in the reintegration of street children. This training programme, aimed at judges, specialized educators, health professionals, juvenile brigades, and social workers, focuses on new techniques for and approaches to rehabilitation, emphasizing human rights, proximity, mediation techniques and family reintegration. This programme involved more than 150 participants in the seven major cities of the Kingdom. Nevertheless, there are still limits to the availability of specialized educators, the sustainability and quality of the programmes initiated, and alternatives to rehabilitation’.

308. According to UNICEF³⁵⁴:

‘One factor that makes it difficult to combat the phenomenon of street children in an effective way is the absence of official data about this population, the size of which is not fully known in Morocco. The associations estimate the size of this population of children at 25,000 nationwide, of which 20% to 25% are in Casablanca’.

309. According to the report of the Moroccan associations to the CRC³⁵⁵:

³⁵² Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 68.

³⁵³ CRC/c/MAR/3-4 *Examination of reports submitted by the participating States in application of article 44 of the Convention. Third and fourth periodic reports from the participating States having to be submitted in 2009* Morocco (5 August 2013) p. 49.

³⁵⁴ UNICEF *Situation of Children and Women in Morocco – Analysis According to the Equity Approach*, (Sitan, September 2014) p.109. See also HuffPostMaghreb http://www.huffpostmaghreb.com/2015/05/26/plus-de-25000-enfants-sdf-maroc_n_7443186.html?n_cid=fcbklnkfrhpmg00000007 (consulted 27 May 2015).

³⁵⁵ Alternative Report submitted by NGOs for the Committee on the Rights of the Child (CRC) *Comments from the Moroccan associations on the responses of the Government of the Kingdom of Morocco solicited by the Committee on the Rights of the Child following the third and fourth periodic reports from Morocco on the Convention on the Rights of the Child* (July 2014) pp. 38-39.

'Children living and working on the street come from different regions and primarily from families living in poor neighbourhoods or shantytowns. Some of these children left the rural regions where their families live hoping to find work or better living conditions in the city. Obviously, these children left school at a very young age and the vast majority are illiterate. Furthermore, it has been pointed out that 80% of these children smoke tobacco and that 30% are drug addicts. The street children come from various backgrounds, but everyone's story is tragic:

1. The child prefers the street to having to support his/her family financially.
2. Beaten and tortured children: burns, confinement, being chained up, blows leading to fractures, etc.
3. Children from broken homes and/or stepfamilies, or with alcoholic or drug-addicted parents or parents who have just given up.
4. The children of unmarried mothers; even though article 147 recognizes filiation through the mother, the fact that these women are veritable pariahs in Moroccan equally society marginalizes the mother and the child.
5. Children who have undergone illegal adoption and who discover the truth at adolescence.

Up to now, data on children living in the street are based on the fieldwork of civil society organizations. In fact, no large-scale study has been undertaken as yet, and these data were the only way to understand the question better. Thus, it is currently estimated that there are between 4,000 and 5,000 children living and working on the street in Casablanca alone. These children are obviously confronted with all the other problems already mentioned (abuse, violence, sexual abuses...). According to a study on violence against children, street children are the main victims of torture and other cruel, inhumane or degrading treatment in Morocco. They are kicked, beaten with sticks, or burned with cigarettes at the police station. From November 2001 to September 2003, the association Bayti reported around 200 cases of young people aged between 7 and 18 years who were victims of police violence(...) Numerous projects have been implemented by the government and the associations since (...) 2005. Unfortunately, the work of these organizations is not coordinated. The government launched the Indimaj programme, aiming to eradicate the phenomenon of children living or working on the street (...). Child protection units or the Social SAMU provide emergency aid. However, these activities are insufficient to deal with the problem (...). Since 2009, governmental organizations³⁵⁶ (...) have taken numerous measures together with the volunteer sector in an attempt to establish a common strategy for action, and to integrate the NGO sector (...). In fact, one major activity was the launching of the action programme for Casablanca and territorial convergence for children (Territorial Convergence Action Programme for Casablanca - PACCTE). Supported by UNICEF, on the surface this programme looks like a governance model between all the social partners committed to the rights of the child.'

Unfortunately, the civil society organizations have had no information since the event took place in February 2010.

310. An article consulted online affirms that³⁵⁷:

'According to the Moroccan secretariat for children, women and the family, it is difficult to know

³⁵⁶ Through the Ministry of Social Development, the Family and Solidarity.

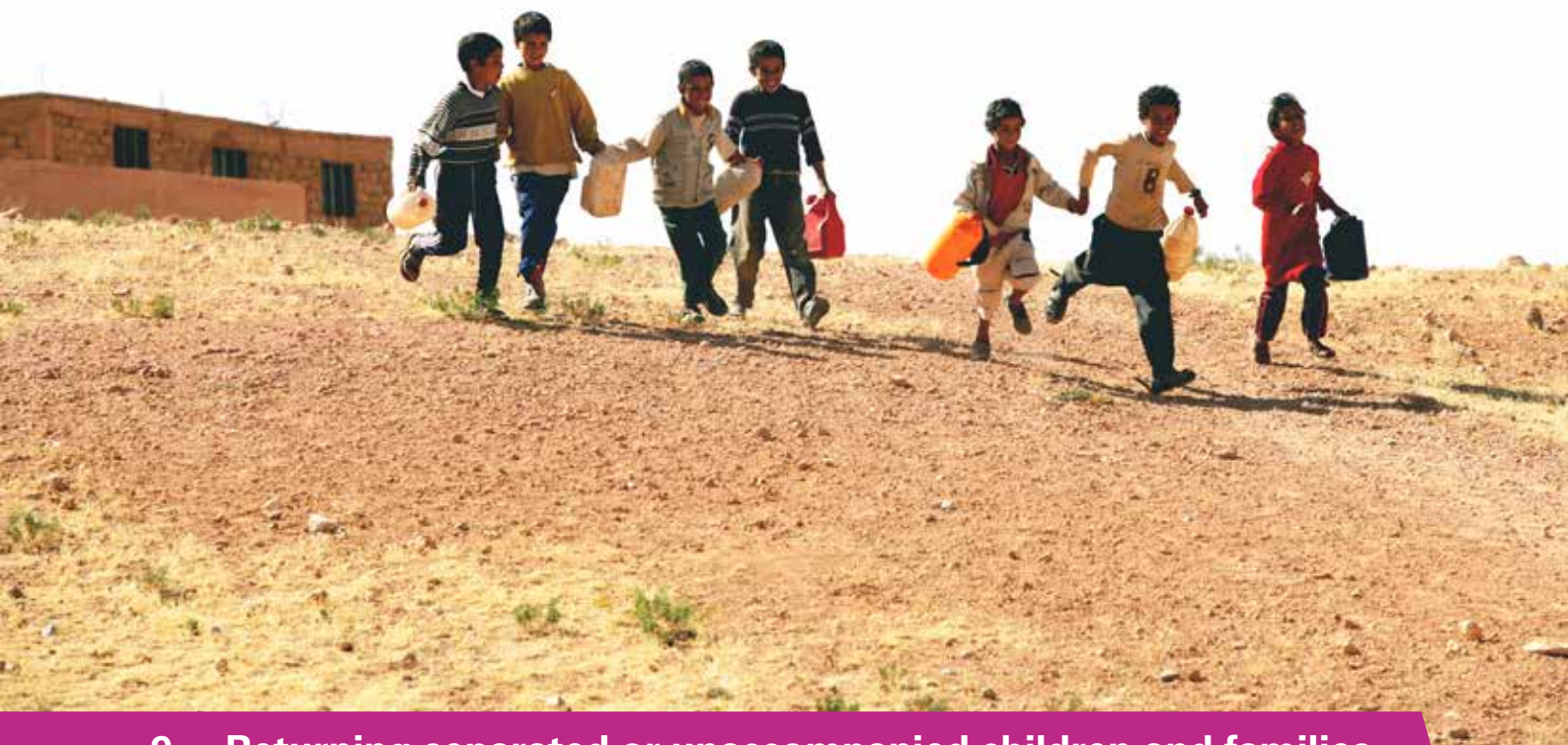
³⁵⁷ Le Vif, <http://www.levif.be/actualite/international/tous-les-jours-24-enfants-sont-abandonnes-sans-compter-les-cadavres-laissees-dans-une-poubelle/article-normal-18679.html> (consulted 20 March 2015).

the exact number of children who live on the street, since they often travel to a different city and even region. This makes any official study nearly impossible. There are certainly some attempts to estimate the population, but the results vary widely from one study to another. A report from 2011 from the Child Rights Governance Programme, which is linked to the international organization Save the Children, states that the number of homeless children is increasing exponentially. Between 2002 and 2004, the number of children living in shelters had grown from 29,304 to 46,500. Moroccan journalists regularly cite a figure of 30,000. UNICEF evaluates that there are between 10,000 and 30,000 children who live on the street. In 2008, 6,480 children had been abandoned. And if we expand the definition of abandonment, UNICEF estimates that close to 650,000 children would be living without any parental protection’.

311. The same article indicates³⁵⁸ that street children are subjected to police violence: ‘The children are beaten by the police’. Children who have not been fortunate enough to be born to married parents or to be taken in by an institution must survive in the street. Often the only way for these children to survive is to take part in illegal activities such as pickpocketing, begging or prostitution. Street children also constantly deal with violence. 30% of street children sniff glue or smoke hashish, which may lead to violent behaviour. But they also deal with police violence.

A UNICEF study from 2006 concludes that ‘street children and juvenile offenders are the main victims of torture and inhuman treatment in Morocco. When children are arrested, they run the danger of being hit in the police station and even of being burned with cigarettes’.

³⁵⁸ On ill treatment in police stations, see also: Committee on the Rights of the Child (CRC) *Concluding observations on the combined third and fourth periodic reports of Morocco* (14 October 2014) CRC/c/MAR/CO/3-4 paragraph 34.



9 Returning separated or unaccompanied children and families

312. The social component of the new strategy of the Ministry responsible for Moroccans Living Abroad³⁵⁹ provides for some programmes aiming at the reintegration of Moroccans abroad who return to Morocco. The strategy aims mainly to provide support to the Moroccans living abroad, and it also provides for support in cases of return to Morocco including the following aspects:
- Support in the administrative procedures and raising awareness of social rights.
 - Development of a programme of professional reintegration for working Moroccans.
 - Definition of an integration programme in the school and university system.
 - Opening access to social housing in Morocco.
313. According to IOM³⁶⁰, Moroccans returning from abroad have to date not received structured or organized support from government bodies. The only support they have received is from non-governmental initiatives. These associations (including IOM) are faced with a wide range of very diverse cases and serious issues, for which solutions are seldom found. One of the most significant challenges to overcome is the issue of identity for young people, minors and those who were minors when they left Morocco. Ejected from their host countries after having spent many years there (sometimes almost their whole lives), they are repatriated to Morocco and faced with a life that is completely different from and alien to the one they once knew. This new environment may mean that they are deprived of their right to education, a right which they previously held in their

³⁵⁹ Ministry for Moroccans Living Abroad and Migration Affairs *Strategy for help to Moroccans Living Abroad*.

³⁶⁰ Reintegration authority of IOM, interview dated 17 August 2015.

host country (as all of these children were enrolled in schools). The lack of educational opportunities and job prospects, as well as the problems associated with accommodation centres in Morocco (which do not take international standards into account in any way) were highlighted by IOM. Lastly, the issues of adaptation and mutual understanding between these children and their friends and families are also causes for concern. All these things lead to a failure to reintegrate these children.

314. According to an association³⁶¹ for help to Moroccans who have returned to the country, expat families who return to Morocco very often face problems of adaptation. Often these families have lost their residence permits in the country where they were living or they have been on unemployment for months, or even years, so they decide to return to Morocco. Among these people, a large number have benefited from social housing or food allowances in the country where they were living. In general, the adults have a very low level of education and professional training. For each family, the association initiates a plan for reintegration and follow-up for a year and a half. Financial assistance is granted to families in the amount of €2,000 for each adult member of the family (other criteria such as number of children, children with disabilities, single-parent families, etc., are not considered). According to the same source, the main problems that children will face are: language (the level of spoken Arab is not a problem but written Arab has many limitations); the recognition of the level of studies (equivalences are not the same, and young people often find themselves placed one or two years lower in the school curriculum); the environment (a significant number of families settle in their cities of origin, very often in rural areas) and dealing with social customs (clothing, freedom of schedules, relationships among young people of the same age).
315. As for Moroccans living abroad who return to Morocco, an official source³⁶² explains that even if their right to access the health care system is unclear from a legal standpoint, in practice they would have access to medical care.
316. No case relating to difficulties of access to basic social services (education, health, civil status, etc.) because of the returned-person status has been found among the sources consulted within the framework of the present report. However, that does not mean that these cases/situations do not exist. According to all the sources consulted, returning families are free to settle anywhere that they wish.
317. Concerning the repatriation of unaccompanied Moroccan minors, an official source³⁶³ explains that:

‘The process of repatriation of minors is not always respectful of the best interests of the child and does not always guarantee appropriate protection and care in the long term for minors in order to ensure their reintegration, including social reintegration:

 - The monitoring of returned children is not institutionalized.
 - The mechanisms and modes of coordination between the different actors both in the country of origin and in Morocco do not function very well.

³⁶¹ Coordinator of the Hermes project of the NGO CEFA, interview of 17 March 2015.

³⁶² Director of cooperation, studies and sectoral coordination. Ministry for MREs and Migration Affairs, interview of 1 April 2015.

³⁶³ MSFFDS-UNICEF *Guide for combined return and reinsertion procedures for unaccompanied minor Moroccan migrants* (January 2009) pp. 5-6 and 15.

- The information system, composed solely of fragmented and episodic data, is not reliable(...).'

Other gaps in the Moroccan legal measures are worth pointing out, such as the absence of laws regulating the repatriation and reintegration process of minor migrants. These gaps could open the way for abuses: according to some accounts, children's rights may sometimes be violated in the course of the repatriation process. The absence of neutral legal representatives during this process increases the risks of this.

318. According to a previous study from UNICEF³⁶⁴:

'Despite the political will to protect children in conformity with national and international law, the mechanisms utilized to repatriate and reintegrate minor Moroccan migrants lack consistency, efficiency, and coordination, and do not conform to international standards. The Moroccan government has the responsibility to guarantee the return and family reintegration of migrant children in secure and humane conditions. It also has the responsibility to lower the pressure on adolescents to migrate, by strengthening the support given to vulnerable families. Today, social services to returning migrants are only provided by local NGOs or by the National Mutual under the technical coordination of Spanish NGOs appointed and funded by the Spanish autonomous regions. National social services are sorely needed.'

319. According to one source³⁶⁵ the repatriation of Moroccan minors under protection from Spain stopped for some time because the authorities concerned did not respect established procedures (listening to the minor, respect for the child's best interests, contact with the family). Before this interruption, the authorities were required to contact the minor's family, show interest for the family's situation and verify the family's will to take the child back. In certain cases, Moroccan NGOs were requested to undertake this search for and identification of families.
320. Between 2012 and 2015, IOM Morocco took part in a 'Family assessment' programme in partnership with the Belgian government in order to investigate and identify the families of origin of Moroccan minors who were eligible for return. According to IOM³⁶⁶, families' reticence, the lack of basic services in the villages (health services and education facilities, sometimes even water and electricity shortages) and the specific family situation and structure (which has often broken down) have never allowed for the successful reintegration of these children. Over the last five years, IOM has reported just two cases of unaccompanied minors returning to Morocco: in 2010, two 10-year-old boys were 'ordered to return'³⁶⁷, one of whom left Morocco two weeks after returning. There is a third case, a girl, who was being repatriated at the time of this report being drawn up.
321. According to a non-governmental source³⁶⁸ the search for the family of origin is often unsuccessful, and does not always guarantee adequate conditions for the return of the minor to his/her family.

³⁶⁴ UNICEF, *Moroccan minors towards Spain* (2007) pp. 3-4.

³⁶⁵ Coordinator of the APS Foundation for the Convention for the putting into place of three child protection units, interview of 18 March 2015.

³⁶⁶ Reintegration authority of the International Organization for Migration, interview 17 August 2015.

³⁶⁷ The migrant children were 'ordered to return' by their respective families of origin.

³⁶⁸ Officer for education and expertise from Bayti, interview of 25 March 2015.

322. This information has been confirmed by other sources³⁶⁹:

‘Repatriated children are faced with very diverse situations. They are treated differently depending on the city where they arrive. For example, the children who arrive at the airport of Casablanca are greeted by the juvenile police and taken to the police station, where they are put into a cell with adults; their case is then presented to the juvenile judge, who almost always orders their release after two days. In Tangiers, children usually stay one day at the police station before being released. Sometimes they are asked to pay money to ensure their release’.

According to the same source, only in exceptional cases are the children supported by an association³⁷⁰; in cases where the family is absent, they are sent to a Welfare Institution.

According to IOM³⁷¹, children that return to Morocco through illegal migration are all accused of crime. Most minors do not give information on this episode out of mistrust, fear or shame, depending on their case.

³⁶⁹ MSFFDS-UNICEF *Guide for combined return and reinsertion procedures for unaccompanied minor Moroccan migrants* (January 2009) p. 22, makes reference to the report: UNICEF *Migration to Spain of unaccompanied children: the case of Morocco* (2008). On the irregularities in the procedure before arriving in Morocco, see also pages 20 and 21 of the Guide that the UNICEF report reproduces.

³⁷⁰ See also: UNICEF *Migration to Spain of unaccompanied children: the case of Morocco* (2008) p. 21.

³⁷¹ Staff member responsible for reintegration at IOM, interview of 17 August 2015.

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The country report on Morocco can be found at:

<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e4860d6&submit=GO>

Last checked on 21 October 2015.

The Concluding Observations for Morocco's Periodic Reports can be found at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&TreatyID=10&TreatyID=11&DocTypeID=5

Last checked on 21 October 2015.

| Demographic information/statistical data on children | Numbers | Source |
|--|---------|--|
| <i>Total population (2013)</i> <i>Thousands</i> | 33,008 | UNICEF The State of the World's Children 2015 (2014) |
| <i>Population under 18 (2013)</i> <i>Thousands</i> | 11,010 | UNICEF The State of the World's Children 2015 (2014) |
| <i>Population under 5 (2013)</i> <i>Thousands</i> | 3,422 | UNICEF The State of the World's Children 2015 (2014) |
| <i>Infant Mortality Rate under 1 (2013)</i> <i>Expressed per 1000 live births</i> | 26 | UNICEF The State of the World's Children 2015 (2014) |
| <i>Under-5 mortality rate (2013)</i> <i>Expressed per 1000 live births</i> | 30 | UNICEF The State of the World's Children 2015 (2014) |

UNICEF Morocco

<http://www.unicef.org/morocco/french/>

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