

Ad-hoc Committee in charge  
of drafting an opinion on the new  
regional development model for the  
Kingdom's southern provinces

Assessing effective access to  
basic human, economic, social,  
cultural and environmental rights  
in the southern provinces

First Report

March 2013







The Economic, Social and Environmental Council

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# Assessing effective access to basic human, economic, social, cultural and environmental rights in the southern provinces

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## **Bibliography**

# Acronyms

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<b>ADS:</b>	Social Development Agency
<b>ANPME:</b>	National Agency for the promotion of small and medium businesses
<b>APDS:</b>	Agency for the promotion and the economic and social development of the southern provinces
<b>CDM:</b>	Clean Development Mechanism
<b>CDT :</b>	Democratic Labor Confederation
<b>CEDAW:</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CESE:</b>	Economic, Social and Environmental Council
<b>CNDH:</b>	National Council for Human Rights
<b>CNE:</b>	National Environment Council
<b>CNSS:</b>	National Social Security Fund
<b>CORCAS:</b>	Royal Advisory Council for Saharan Affairs
<b>CRC:</b>	Convention on the Rights of the Child
<b>CSR:</b>	Corporate Social Responsibility
<b>FAO:</b>	Food and Agriculture Organization
<b>FAR:</b>	Royal Armed Forces
<b>FDT:</b>	Democratic Labor Federation
<b>FIDH:</b>	International Federation for Human Rights
<b>FNE:</b>	National Fund for environmental protection and enhancement
<b>FODEP:</b>	Industrial pollution abatement fund
<b>GS:</b>	Guelmim - Es-Smara Region
<b>HCP:</b>	High Commissioner for Planning
<b>HCEFLCD:</b>	High Commissioner for water, forests and the fight against desertification
<b>ICPC:</b>	Central Authority for the Prevention of Corruption
<b>ICCPR:</b>	International Covenant on Civil and Political Rights
<b>ICESCR:</b>	International Covenant on Economic, Social and Cultural Rights
<b>IER:</b>	Justice and Reconciliation Commission
<b>ILO:</b>	International Labor Office
<b>INDH:</b>	National Initiative for Human Development

<b>ISO:</b>	International Organization for Standardization
<b>ISTA:</b>	Applied Technology Institute
<b>LBSH:</b>	Laayoun - Boujdour - Sakia - el- Hamra Region
<b>MEN:</b>	Ministry of National Education
<b>NICTS:</b>	New information and communication technologies
<b>OCP:</b>	Office Chérifien des Phosphates
<b>ODCO:</b>	Development and Cooperation Office
<b>ODL:</b>	Oued ed-Dahab – Lagouira Region
<b>ODT:</b>	Democratic Labor Organization
<b>OECD:</b>	Organization for Economic Cooperation and Development
<b>OFPPT:</b>	Office for vocational training and the promotion of employment
<b>OIF:</b>	International Organization of la Francophonie
<b>ILO:</b>	International Labor Organization
<b>MDGs:</b>	Millennium Development Goals
<b>NGO:</b>	Non-Governmental Organization
<b>OMDH:</b>	Moroccan Human Rights Organization
<b>OMPIC:</b>	Moroccan Industrial and Commercial Property Office
<b>ONDE:</b>	National Observatory on the Rights of the Child
<b>ONEE:</b>	National electricity and drinking water authority
<b>ONP:</b>	National Fisheries Office
<b>SIBE:</b>	Biological and ecological interest site
<b>UN:</b>	United Nations Organization
<b>UCESIF:</b>	French-speaking Union of Economic and Social Councils and Similar Institutions of Francophonie Governments and States
<b>UDHR:</b>	Universal Declaration of Human Rights
<b>UGTM:</b>	Morocco’s General Workers Union
<b>UNDP:</b>	United Nations Development Program
<b>UMT:</b>	Moroccan Labor Union
<b>UNESCO:</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNTM:</b>	National Labor Union in Morocco
<b>UPR:</b>	Universal Periodic Review
<b>WHO:</b>	World Health Organization



## BACKGROUND

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1. In accordance with the High Instructions of His Majesty the King, the CESE started considering, in November 2012, a new, rigorous and integrated regional development Model for the southern provinces. The Ad Hoc Committee in charge of the project prepared a framework paper introducing an initial diagnosis and defining a working methodology for the conduct of its mission. It identified five challenges requiring “in-depth reflection”: (1) boosting the economy; (2) consolidating social cohesion and promoting culture; (3) enhancing social inclusion and consolidating the fight against poverty; (4) ensuring effective protection of the environment and sustainable territorial development, and (5) defining responsible, inclusive governance. It indicated that the design of the new development model would be based on respect for and promotion of fundamental human rights, taking into account the strategic objectives of opting for the social market economy, broad-based regionalization, interregional solidarity and a positive approach to subsidiarity. The latter consists in empowering local and intermediate bodies to take part in the design and implementation of development projects. The framework paper was presented to His Majesty King Mohammed VI on January 2nd by the CESE President.
2. Since January 2013, the Commission has held a series of meetings in Rabat with various stakeholders, including MPs and Councilors from both Houses of Parliament. From 13 to 19 January 2013, three CESE subcommittees visited each of the three regional chief towns (Laayoun, Dakhla and Guelmin) as well as several provinces (Boujdour, Es-Smara, Tan Tan, Assa, Tata, Aousserd and Mhiriz). They held over 50 on-the-spot meetings with local elected officials, representatives of professional chambers, business leaders, trade union representatives, chiefs of external branch offices and representatives of dozens of civil society organizations involved in human and social rights.

During those meetings, over 1,000 stakeholders had an opportunity to convey their views, and all those who expressed a desire to participate took part in these meetings or met in small groups with CESE members. In addition to these meetings, CESE representatives visited facilities and activity sites (ports, farms, fishing villages, sports facilities, libraries...).

3. Throughout the process, a CESE citizens' forum, in the form of a Web-supported platform called *Al Moubadara lakum*, was made available to all contributors who wished to share with the CESE their works, contribute ideas or make suggestions about the format of the new development model for the southern provinces. Similarly, a call for proposals is expected to be issued for studies to be carried out by researchers and doctoral students in fields relating to the development of the southern provinces.
4. During the month of March, workshops were held by the CESE at each one of the main regional towns on access to basic social services and human development, community action and its role in development, economic governance and the business environment (Guelmim: 8 and 9 March 2013; Dakhla: 12 and 13 March 2013; Laayoun: 16 and 17 March 2013). A national seminar is due to be held in Rabat, at the Council's headquarters, on promotion of the *Hassani* cultural heritage.
5. The purpose of these meetings was to engage a debate, allowing for the broadest participation possible of local actors in the preparation of findings and the formulation of recommendations on the basis of which a new development model can be shaped, making sure it is economically vibrant, socially inclusive and equitable, environmentally sustainable, and culturally open and stimulating.

The southern provinces returned gradually under national Moroccan sovereignty: Guelmim and Tata in 1956, Tan Tan and Tarfaya in 1958, Es-Smara and the the Laayoun - Boujdour - Sakia-el-Hamra region in 1975, in the wake of the Green March, and that of Oued Ed-Dahab-Lagouira in 1979. In 2009, the number of Southern provinces went up from nine to ten with the creation of the Tarfaya province. The southern provinces make up three of the Kingdom's sixteen administrative regions and account for 58 percent of the country's surface area. 80 percent of the southern provinces consist of liberated land from Spanish colonial rule. This liberation is seared in the Moroccans' national memory, given the depth of the multifaceted historical ties, as well as the significant contributions - including at political and spiritual levels - these regions made to the shaping and vitality of the national identity.

The Guelmim-Es-Smara region, to the north, is made up of five provinces (Tata, Guelmim, Tan Tan, Es-Smara, Assa Zag) and accounts for 18.8 percent of the country's total surface area, with 133,730 sq. km. In the central part, the Laayoun-Boujdour-Sakia el Hamra Region accounts for 19.6 percent of the national surface area (139,480 sq. km) and is made up of three provinces (Laayoun, Boujdour and Tarfaya). Lying to the south is the third and largest region, that of Oued ed-Dahab-Lagouira (142,865 sq. km, or 20 percent of the country's surface area); it comprises two provinces: Aousserd and Oued ed-Dahab.

For 38 years, this immense, arid space, which has to contend with a harsh natural environment, has benefited from considerable state efforts and massive investments. In 2002, the speech delivered by His Majesty the King, in Laayoun, and the creation of the Agency for the promotion and economic and social development of the southern provinces signaled His majesty's desire to give fresh impetus to the regions' development policy. Ten years later, the record is paradoxical: while infrastructure is impressive, the mechanisms for the creation and redistribution of wealth as well as the rules for the exercise of authority and the management of public affairs urgently need to be reconsidered to preserve social cohesion and foster prosperity on sustainable foundations.



# Methodology

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## Subject

6. This paper is the first report of the Economic, Social and Environmental Council's Commission in charge of proposing a new development model for the Kingdom's southern provinces. It focuses on effective access to basic human rights in the three southern Moroccan Regions: Guelmim-Es-Smara, Laayoun-Boujdour-Sakia-El-Hamra and Oued Ed-Dahab-Lagouira.

## Objectives and scope

7. This report seeks to assess effective access to basic human, economic, social, cultural, environmental rights in the three southern Moroccan Regions as those rights are universally defined by public international law and recognized by the Kingdom's Constitution. These rights' governance, the exercise of individual and collective freedoms and the conditions for conducting civil and social dialogue are also covered by this review. Electoral political issues and political party activities are not within the purview of the present report. This report provides a frame of reference for the key elements contained in the framework paper of December 2012 for the formulation of a regional development model geared towards the creation of wealth and jobs and the promotion of social cohesion.
8. The task has consisted in identifying the achievements and strengths with respect to the situation of basic human rights in southern Morocco, as well as the gaps and weaknesses the country must address to develop, in these regions, the reform broad-lines required for the formulation of a renovated, sustainable development model for the southern provinces.
9. For each one of the rights under review, and in full respect for the plurality of views and interests of the stakeholders concerned, the report lists the viewpoints and observations of representatives of national public institutions, international institutional and/or community organizations, civil soci-

ety groups, elected officials and heads of external branch offices whom the CESE members met in the three southern regions in January, then in March 2013, or during hearings in Rabat.

10. All rights under review in this report are backed by numerical indicators or qualitative assessments, when available; cases of non-availability of data are reported. The facts, figures, allegations and opinions contained in this report come from documents or are collected from views expressed by the various stakeholders. They have a purely declaratory character and were not – in fact they could not be – verified by the Council. Moreover, some of the indicators included in this document may be outdated or come from a discontinued source. Although this does not fundamentally affect findings or the overall analysis of the situation in the southern provinces, certain aggregates were sometimes different from one official document to another. It should be pointed out that there is no single, comprehensive and up-to-date database - neither at national level nor at that of the southern provinces - on development indicators and effective access to human rights in the broadest sense.
11. This first report is limited to a collection of observations and opinions. It does not contain any recommendations. It brings to a close, in a diagnosis format, an important observation and listening phase concerning effective access to basic human rights, their governance, and the impact this governance has on entrepreneurship and social democracy in the southern provinces.

### Rights frame of reference

12. CESE is convinced that respect for basic human rights, prevention of their violation and the active promotion of those rights are a prerequisite and powerful lever for empowerment, social cohesion, social justice, preservation of the environment, economic prosperity and the consolidation of liberties and democracy. CESE was guided by this firm belief in the development of the frame of reference for the Charter of basic social rights and for its adoption in November 2011, under the title *"Basic human, economic, social, cultural and environmental rights: standards to comply with and objectives for which to seek contract-based agreements"*.
13. CESE's frame of reference is based on the Universal Declaration of Human Rights (1948) and its 1966 related Conventions, the International Covenant

on Economic, Social, Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the basic conventions of the International Labor Organization (ILO), as well as the treaties, recommendations and guiding principles of the United Nations agencies on the protection of human rights in general, UNESCO's protection and promotion of creativity and cultural diversity, the fight against climate change, the preservation of biodiversity and the fight against corruption. Also included in this frame of reference are the principles of the Council of Europe's European Social Charter, in accordance with Morocco's commitment to accomplish gradual integration into the European community's achievements record. The frame of reference also takes due account of the OECD Guidelines for multinational enterprises, as well as the norms and institutional or private initiatives that promote respect for human rights, the organizations' social responsibility and sustainable development (Ruggie Report on corporate responsibility to respect human rights, the UN Global Compact on Corporate Social Responsibility (Global Compact), ISO 26000 on Social responsibility of organizations, and Principles of Responsible Investment (PRI) of the UNEP-Finance Initiative). CESE's frame of reference served as a basis for the Social Charter adopted in Rabat on 18 December 2012 by the Union of Economic and Social Councils and Similar Institutions of States and Governments of the *Francophonie* (UCESIF).

14. The same frame of reference was used in assessing effective access to basic human rights in the southern provinces. This choice is based on the universal character of human rights, on the legitimacy and comprehensive nature of the principles and objectives underpinning that frame of reference; in fact, the provisions of those instruments are explicitly endorsed in the Kingdom's Constitution adopted on July 1st, 2011. The said frame of reference concerns 54 basic rights and principles listed under the seven sections below:
  - a. Access to services, basic rights and social welfare
  - b. Knowledge, training and cultural development
  - c. Inclusion and forms of solidarity
  - d. Protection of children
  - e. Social dialogue, civil dialogue and innovative partnerships
  - f. Environmental Protection
  - g. Responsible governance, development, economic security and social democracy.

15. The first six sections are based on universally binding standards; they set out principles which are explicitly recognized by the Constitution and which guarantee individual and collective freedoms and rights. Their protection, enjoyment and promotion are crucial to social cohesion and social justice; they also constitute a yardstick for democracy and development at both local and national levels.
16. Effective access to each right or principle has been assessed in light of quantitative indicators, reports by public or international institutions, and statements and testimonies gathered directly and on the spot from civil society actors, professionals and representatives of public authorities or external state services. International NGO reports, including those of human rights advocates, researchers' papers and newspaper articles were also taken into account. In fact, it is a unique information trove that the CESE has developed on the overall situation in the southern provinces. This body of information can be tapped into to advance knowledge about and analysis of the situation in the southern regions.

### How to use the report

17. This report is intended to be used as:
  - a. a grid that can provide, with the fullest measure of objectivity possible and in universally binding terms, information on the extent of realizing basic human rights in the Kingdom's southern regions; it builds on descriptions, official figures as well as perceptions and opinions - including the most critical ones - formulated by international observers, association representatives and local and national professionals;
  - b. a means to gain information about and understand the situation of basic human rights as well as the stakes involved in the development of the southern provinces;
  - c. a frame of reference for the collection of proposals and the development of recommendations which the CESE will be making towards the formulation of a new development model for the southern provinces;
  - d. guidance for the design, implementation, monitoring and evaluation of the impacts of public and private policies, and for prevention of violation of basic human rights in the southern regions.

18. This report will be forwarded by the CESE, for information and opinion, to all the stakeholders who took part in the meetings held in the southern regions or who kindly sent contributions in writing.



## Summary

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19. This document is a first step in the preparation, by the Economic, Social and Environmental Council (CESE), of the *Report on the new development model in the southern provinces*<sup>1</sup>, further to the high instructions of His Majesty King Mohammed VI. It is a tool that can help identify the «turning points» required for an overhaul and re-engineering of the development process in the southern regions. It is based on the premise - indeed the conviction of all CESE components - that respect for basic human rights as they are universally defined and as they are enshrined in the Kingdom's Constitution, is both the condition and critical lever for the success of any development policy, at both national and regional levels. This is the reason why this first report is devoted to reviewing effective access to basic human, economic, social, cultural and environmental rights in the southern regions, and of civil and political rights, which are part and parcel of the above rights.
20. The purpose of this work is to present, against the backdrop of legitimate and binding universal principles and standards, an « overview of the current situation » in the areas of human development in the three southern regions. These findings are the result of meetings held, in the regions concerned, with more than 1,000 people representing a wide range of stakeholders (advocacy associations, local community groups, trade unions, professional associations, chambers of agriculture, trade and industry, industrial leaders, central and external departmental services, the Agency for the development of the southern provinces etc..). Findings were also based on an extensive review of statistical data and analysis and information reports by central and local government agencies as well as by international institutions and associations.

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<sup>1</sup> Address by His Majesty King Mohammed VI on the occasion of the Green March anniversary (November -, 2002)

## A deeply transformed society

21. The territory, demography, economy and society in the three southern regions have changed dramatically since their decolonization (Guelmim and Tata from French colonial rule in 1958, then, successively, from Spanish colonization: Tan Tan and Tarfaya in 1958, Es-Smara and the Laayoun - Boujdour - Sakia el Hamra region in 1975, and the Oued Ed-Dahab-Lagouira region in 1979. Through its sovereign prerogatives, and in support of public investment, government expenditure and distribution of social assistance, the State was the key player in this transformation. The work done is impressive. It is worthy of praise on several accounts. But there are also shortcomings and limitations that need to be addressed - for the sake of a clear vision for the future - through a real reform of the conceptual approaches used in the development of the southern provinces. Also needed is a wake-up call for a change of the mindset, behaviors and habits of the policymakers and elites in charge of ensuring these regions' development.
22. In few decades, the population of the ten southern provinces has become predominantly urban and has increased more than tenfold. It now exceeds one million inhabitants, or 3.5 percent of the total population<sup>2</sup>. In 2010, the GDP of the three southern regions was 21.7 billion dirhams, or 3.5 percent of the national wealth produced annually. Local household spending amounted to 12.7 billion dirhams in 2011, again representing 3.5 percent of the country's total household expenditure.
23. However the ten southern provinces, which account for more than half the country's surface area, are home to barely more than 1 percent of bank deposits and loans. The private sector is weak: in 2010, the industry turnover represented a mere 1.2 percent of the value of the national industrial output. The 7,714 employees in the industrial sector represent 1.6 percent of the country's industrial workforce. On the other hand, in 2011, the region contributed 57.8 percent of coastal fishing products. Whereas unemployment<sup>3</sup> stands at 15.2 percent of the working population, against

<sup>2</sup> The rate of urbanisation is 93 percent in the Laâyoune-Boujdour-Sakia-el-Hamra region, 63 percent in Oued-ed-Dahab-Lagouira region

<sup>3</sup> 2007/2011 HCP survey

8.9 percent at the national level (with a rate of 35.1 percent for women, against 10.2 percent at the national level), the Laayoun and Dakhla regions are among the country's least poor regions (with poverty rates of 2.2 percent and 2.6 percent respectively, against an average national rate of 8.9 percent).

24. Nevertheless, the relative prosperity implied by the figures is not uniform, neither between regions - since Guelmim has a 9.7 percent poverty rate - nor within regions, considering the glaring disparities between urban centers and small municipalities, especially in rural areas. Overall, and according to figures from the HCP, the poverty rate in 2007 was lower in the south (4.9 percent) than in the rest of the country (8.9 percent). Although there are acute disparities - with a Gini<sup>4</sup> coefficient of 0.35 - they are less pronounced than in the rest of the country (national Gini coefficient of 0.41). However, vulnerability<sup>5</sup> to poverty is slightly higher in the south (19.6 percent, against 17.5 percent at the national level). In these regions, it is the State that plays the role of bulwark against poverty. Given that there is no observatory on development in the southern provinces, and considering the manner in which the national accounts are written, it is not possible to give a precise figure about the value of state transfers to these provinces. According to estimates provided by the APDS to the CESE, the annual state contribution - both direct and indirect subsidies - granted to the region to fight poverty is around 4.6 billion dirhams. Direct aid given by the *Promotion Nationale* program to some 34,000 beneficiaries, amounting to 589 million dirhams, represents half the total budget allocated to this program at the national level.

## Need for a holistic vision: taking into account the colonial legacy and the geopolitical constraint

25. To understand the situation in the southern regions, as a prelude to rethinking the development model for them and make it dynamic, it is important to have a holistic perception of these regions, taking duly into account the weight of history and the geopolitical constraints that have

<sup>4</sup> The Gini coefficient is a fairly recognized indicator which measures inequality, with 1 on the Gini scale meaning "total inequality", and 0 indicating "perfect equality".

<sup>5</sup> Vulnerability to poverty concerns the proportion of people whose average annual expenditure is between the poverty line and 1.5 times that threshold.

affected society and stakeholders in those regions. The CESE will commission studies of a scientific nature on this important aspect. Nevertheless, for the sake of a sound understanding of the situation, and in order to come up with feasible solutions that can boost activities and bolster social cohesion in the southern regions, it is essential to take into account the geopolitical hurdle that has impeded regional integration since the mid-1970s. Challenging Morocco's sovereignty over its southern provinces has meant that natural linkages which are essential to cooperation and exchanges were blocked between these provinces and their eastern neighbors, and, further down, with the Sahel region. Sooner or later, these barriers will be lifted. It is important that Morocco should continue to endeavor to develop its southern provinces in this spirit of openness and complementarity with its neighbors. Any development model for the Kingdom's Saharan provinces should rely on endogenous resources and dynamics on the one hand, and on state assistance, public support and linkages with the other provinces of the Kingdom, on the other, and, ultimately, with the vast North-West African sub-region. The CESE's ambition is to contribute to substantiating the role of the entire region as a hub for cooperation, prosperity and peace.

26. Given this environment of tension, and considering the limited financial resources available to Morocco, and in view also of the poor state of infrastructure and social services in the southern provinces at the time they were recovered, it is a fact that the demographic, economic and social evolution witnessed in the southern regions shows many strengths and real achievements. But alongside these accomplishments, there are also deficits, signs of loss of impetus, as well as failures in several of the key areas in the CESE's evaluation frame of reference.

## Achievements and strengths to be further enhanced

27. The right to life and security, as well as the safety of people and property are guaranteed in the southern regions through common law guarantees and under the same conditions as in the rest of the Kingdom. The right to move, to leave the southern provinces and municipalities or to settle therein is fully exercised.
28. There are no legal or regulatory provisions which specifically restrict individual liberties in the southern regions. However, cases of abuse of

power are denounced by human rights activists; they consist in intimidation, because of the views held, or ill-treatment in prison. Similarly, allegations of unjustified refusals to deliver a declaration receipt have been made by human rights activists who perceive this as an infringement of the right of association. It is regrettable that such allegations are not followed by investigations or official explanations.

29. There are no legal or regulatory restrictions to collective freedoms either. All representative unions are operating in these regions and can legally intervene in industrial relations. They hold meetings and demonstrations in the southern provinces, including on May 1, on the occasion of Labor Day. The right to strike is exercised freely, and there are no known cases in the region of application of Article 288 of the penal code, which punishes the organization or participation in strikes on grounds of «violation of freedom to work». Some unions have made credible allegations to the CESE concerning cases of refusal by certain civil servants to recognize union branches.
30. Similarly, the activities of political parties in the southern regions come under common law.
31. All children in the region benefit from pre-school education. The achievement of 100 percent access of all school-aged children - including girls - to primary education is undoubtedly one of the most important, most promising accomplishments in the region. The literacy rate in the southern regions (63 percent) is now higher than the national rate (57 percent). However, many observers criticize the quality of teaching and some regret that the history of the *Hassani* culture is not taught at school.
32. Life expectancy and health indicators have been greatly improved and are now in line with national indicators. Indicators of the average number of beds, doctors and nurses per thousand inhabitants are comparable to national averages. Beyond the figures, however, the populations are faced with serious problems of access to health facilities, the quality of technical equipment and the availability of medical and paramedical personnel.
33. Although the southern regions are remote from major production centers and distribution networks, the chief logistic services are efficiently ensured. Markets are busy, and price index variations are the same as in other provinces. Connections with the other regions of the Kingdom, including air and road traffic, however, remain difficult and costly.

34. Access indicators to key public services, including water, sanitation and electricity connection exceed national averages (over 84 percent, against 70 percent nationally for electricity, around 70 percent for drinking water, against 55 percent at the national level). As is the case in the rest of the country, disparities within and between provinces, particularly between urban and rural communities, still exist.
35. Slums have been mostly eradicated. However, pockets of substandard housing persist, and the failure of the program on developing fishing villages means fishermen in several places are facing unbearable living conditions.
36. The implementation of the National Initiative for Human Development (INDH) in the southern regions has had a significant impact. Between 2007 and 2012, approximately 10 percent of INDH projects were implemented in the southern provinces (2,242 projects out of a total of 23,000). 495,840 people benefited from those projects (compared to 5 million beneficiaries nationwide). Half of these projects concerned associations and cooperatives (1,065 out of 2,242), with funding accounting for 10 percent of the budget (152.4 million dirhams). 702 projects (31 percent) concerned income-generating activities.

## Some weaknesses and causes for concern

37. In addition to the above achievements, there have been serious difficulties with respect to the development policies applied in the southern regions.
38. The water policy - a key issue in an arid environment - is not very clear. In ten years (2000-2010), due to urban development and intensive household consumption, there was a 29 percent increase in drinking water consumption in the region (from 10,651 cubic meters to 13,817 cubic meters), compared with an 18.3 percent increase at the national level. While resources are limited (less than 100 mm of rainfall per year), the use of fossil water in areas such as Dakhla and its utilization for export-oriented vegetable farming do not seem to be a reasonable course of action. This challenge must be met through an approach that promotes conservation and sustainability, without monopolizing scarce water resources. Also required is an objective assessment of water reserves and rational use of the resource. Similarly, the use of sea-water desalination, as a «substitute» for fossil water to ensure the sustainability of agricultural activity, raises the question of the contribution to costs and the integration of costs in farming activity and products.

39. Environmental constraints in the southern regions are not properly taken into account. Although state resources for monitoring and preventing coastal pollution have improved, they are still limited. Excessive pumping of water resources is a serious threat. When they exist, actions for the protection of biodiversity and ecological sites are still too vague. On the other hand, local development opportunities for renewable and clean energy or for domestic and international ecological and cultural tourism have clearly been underestimated so far.
40. Town layout does not seem to be based on promoting a consistent or harmonious architectural style. The functionality of urban spaces and people's social needs (recreation, parks, sports and cultural facilities) are not adequately taken into account.
41. The housing policy is poorly integrated. Large private social housing operators are not engaged locally.
42. The same significant failures observed at national level in the management of the network of basic health care, distribution of medical assistance cards for the poor, or the implementation of health coverage for private sector employees, are found in the southern regions. On top of that, remoteness from decision-making centers in the capital city adds to the populations' dissatisfaction.
43. Most stakeholders interviewed by the CESE regretted the absence of university education in the region and the weak enrollment of students in scientific subjects.
44. There is no employment policy *per se* in the southern regions. Recruitment budget lines were allocated several years ago (6,000 jobs according to certain testimonies) to young people from the southern provinces who were recruited in various civil service departments and public institutions, but some of them apparently perform no tasks, nor do they report to work. The lack of information or corrective measures creates the impression that state officials have the discretionary authority to distribute remunerations and other stipends.
45. The tax system applied to the region's provinces is purely practical, without any specific legal framework. It has an adverse effect on investment and deprives communes, especially in rural areas, of means they need. The exemption system from value added tax (VAT) is partial (it does not concern

inputs), and causes widespread dissatisfaction. The same thing applies to the land tenure registration system which is characterized by significant malfunctions. Oppositions to registration, the slow pace in the examination of land issues and the payment of compensation raise legitimate complaints.

46. Private investment and the expansion of the commercial sector remain limited in the region. There are, in the 10 southern provinces, 125 bank branches, out of a total of 5,113 nationwide (2.4 percent). Access to bank credit is said to be very difficult because of unrealistic collateral requirements, which are also out of step with the activities and profiles of project developers. Conversely, several banking operators complain about the high failure rate and difficulties in claiming security rights. In some places, as in the Dakhla fishing villages, there are no banking services, and part or all of the sailors' remuneration is in the form of vouchers managed by intermediaries.
47. The lack of a social dimension in the fisheries policy is one of the most worrying public policy gaps in the southern provinces; it is also one of the most frequently mentioned causes of dissatisfaction. According to certain sources, the fisheries sector contributes 60 to 80 percent of the national catch. It accounts for 15 percent of the wealth produced in the southern regions and for 30 percent of jobs in the region. Fisheries resource development takes place outside the region, just like profit from deep sea fishing activities, which generate the largest share of added value. Likewise, the income of coastal fishing workers is insecure, and their living conditions are extremely poor.

The absence of a social policy is also felt in the agricultural sector which accounts for nearly 10 percent of local jobs. Although usable agricultural land represents a mere 1.2 percent of the total area in the southern provinces, the efforts made so far to create cooperative jobs in the livestock farming sector (camels, goats, sheep) are still very limited. Nor are there any significant efforts in the crafts sector or in small trade, which remain dominated by the informal sector. There is no real strategy to create jobs or foster the development of cultural and ecological tourism.

48. The very low local added value of private income from agriculture and the fisheries, combined with a lack of information in these areas regarding the criteria and requirements for licensing and access to financing, have led to a rent-seeking economy and spirit which benefit a privileged few.

49. The system whereby social benefits are defined and distributed in the region is one of the most controversial features of public policies at the regional level. The programs of the *Promotion Nationale*, the delivery of subsidies and food aid, subsidies to cover petrol and gas costs, the allocation of land and housing, student scholarships and recruitments in government services are all provided but without any apparent coordination or accountability regarding impact assessment. As a result, the state's social policy is problematic for three reasons: firstly, because expenditures are neither controlled nor optimized; secondly, as it is unintelligible, this type of window policy is neither understood nor supported by the citizens; and, thirdly, because this mode of assistance which is not or insufficiently targeted leads to no lasting effects on capacity building for the beneficiaries, nor does it foster entrepreneurship and empowerment.
50. The commitment to the principle of non-discrimination and gender equality remains very limited at all levels in the region, as in the rest of the Kingdom. Women's labor force participation has dropped by nearly 10 percentage points between 2000 and 2011, falling below 15 percent (against 25 percent nationally).
51. Similarly, commitments regarding non-discrimination and promotion of equal opportunity and treatment for vulnerable segments of the population are not clearly supported by government authorities, nor are they encouraged by economic and social actors. Many people in vulnerable situations rely on family solidarity networks as the ultimate support (veterans and retirees - whose contribution to pension schemes, at the time, was below the minimum required to entitlement to benefits - widows, people with disabilities, former prisoners of war).
52. Several of the associations with whom the CESE representatives have met in the various southern provinces stigmatized the predominance of security concerns in the behavior of local government authorities as well as their interference in the planning and conduct of their activities. These worrying allegations do not give rise to any explanation on the part of the authorities concerned.
53. There is ample room for improvement concerning the civil dialogue - which is both guaranteed and encouraged by the Kingdom's Constitution - especially if the independence of civil society actors were to be clearly respected, and

if institutional platforms were to be created at local and regional level for consultation and dialogue between civil society and public authorities. The lack of such a dialogue - which shows that civil society is not involved in the design, implementation, monitoring and evaluation of social policies - has an impact on the work of institutions such as the Agency for the development of the southern provinces. The action of the Royal Advisory Council for Saharan Affairs (CORCAS), whose membership and terms of reference made of it a first civil forum experience, is limited.

## Critical issues for democracy and development in the southern regions

54. Five basic issues are essential to release energies for the promotion of development and democracy in the southern regions. They concern the following:
- a. the steering of local public policies to promote, in order of priority, the creation of wealth and jobs, transparency, equity and social justice in the management of public affairs;
  - b. the refocusing of benefits derived from the region's resources to meet the basic needs of citizens and provinces;
  - c. the protection of the environment, making formal, measurable and controlled commitments to promote sustainable development;
  - d. revisiting the reflection on valorization of regional cultural specificities, and promoting its influence on shaping the national identity and interacting with it;
  - e. rekindling trust among the populations of the southern regions and fostering confident ties between the populations in these regions and public institutions.
55. The technical steering and administrative governance of development in the southern regions are becoming a breeding ground for dissatisfaction. The decision making and management methods used in connection with economic and social affairs are reaching their limits. The creation of the Agency for the development of the southern provinces has not made it possible to engage a comprehensive review of the approach to public investment in the southern regions. Prioritization work and determining the

social utility of public programs and projects are still not based on indicators that can help measure the number of jobs created, the income generated, the decline in poverty or gender discrimination, the improved conditions of vulnerable people or groups and, more generally, social betterment. A number of the major achievements made in recent years are criticized because of their cost or extravagance, because they were not completed, or because they were completed but are not operational (unreasonably large convention center, huge swimming-pool compared to the size of the population, gigantic library made of concrete, with expensive air conditioning and maintenance costs, a conservatory which is finished but not used, etc.).

56. Neither the Agency for the southern provinces nor any other government agency has a comprehensive, updated database on the conditions and mechanisms of social and economic development in the southern provinces. Part of the data available is centralized at the level of the HCP but the information available cannot help answer basic questions on the process of creation and redistribution of wealth, neither at regional level nor on a national scale. It is important to be able to determine as accurately as possible the destination of local added value and of inter-regional transfers in order to define and spell out key principles and equitable, predictable distribution mechanisms between the State, regions and municipalities. This approach is not only fundamental, but it is also an indispensable mechanism in the framework of advanced regionalization.
57. Protection of the environment is a kind of overlooked dimension in local public policies. The commitments made under Agenda 21 are not followed by monitoring or public reporting on the work in progress. Yet, critical issues are at stake, be it with respect to the protection of water resources and the fisheries, or pollution prevention, including that of the coastline, and the potential for clean and renewable energy (both solar and wind). As is advocated by the national Charter for the environment and sustainable development, the environmental dimension should be a central part of evaluation criteria for any investment project. It should be a defining element of any new regional development model.
58. Basic issues relating to the cultural specificities of the southern regions were raised on several occasions during the meetings held locally by the CESE in January and March 2013. These questions may seem uneasy because

they are not part of the customary public debate in our country, even though the Moroccan Constitution recognizes the pluralistic nature of the nation's cultural and linguistic heritage. The reflection on the society's mixed *Hassani*, Amazigh and Arab cultural identity in the southern provinces has not yet taken place. The absence of this reflection has an impact on the development and implementation of public policies as well as on the debate on social conditions and on these regions' future development. That reflection requires openness, integration, and the ability to listen and to engage in dialogue. It also implies that serious inadequacies should be pinpointed and addressed in connection with the proper understanding that officials in charge of government agencies and institutions in the region should have of the history and culture of these regions.

59. It should be noted that many of the deficiencies identified at the regional level are rooted in - and call for a solution at - central level. The devolution of greater powers to independent bodies such as the National Council for Human Rights (CNDH) or the ICPC (Central Authority for the Prevention of Corruption) does not guarantee, in and of itself, the actual effectiveness of regulatory and control functions that are needed in a democratic society based on the rule of law. The ICPC is not yet represented in the region; it receives few complaints from the southern provinces. The CESE received several testimonies regarding requests submitted by the CNDH and the ICPC to various administrations regarding alleged violations of human rights or acts of corruption committed in the southern provinces, for which no action was taken. The question of government accountability remains open. In this respect, and given that the relevance of advanced regionalization is no longer called into question, intensive modeling efforts should be made regarding the principles, technical preparation and procedural implementation of such an accountability objective.
60. In many respects, it may be argued that the southern provinces are a miniature replica of the impediments hindering development at the national level. This analysis applies to access to basic services and social welfare, employment, education, culture, social inclusion, the protection of the environment, the business environment, governance and control of public decision-making, as well as for civil dialogue and social dialogue. What is at stake, however, is the trust both in the operation of local government services and in the economic future and social cohesion of the southern

regions. The tragic events at Gdeim Izik in November 2010, and Dakhla, in September 2011, should be considered carefully because they are not mere epiphenomena due to some deficiency of the security apparatus. These events raise questions about the influence, the vibrancy and - ultimately - the credibility of mediation institutions, including associations, which are empowered and supposed to regulate and facilitate social relations. These are signs of a crisis of confidence which raises questions not only about the ability of social actors to build their representativeness and their action on their actual autonomy, but also the ability of government authorities to respect that autonomy and taken it into account. After listening to many stakeholders, it appears that expectations are high - and growing - in terms of social well-being, the realization and exercise of freedoms, and transparent, responsible attitudes by government authorities and their representatives.

61. Underpinning these expectations is an aspiration, in the southern provinces, for the advent of a mature civil society which is recognized and empowered to run local affairs. Because of this aspiration, the classical approaches of financial dependency and administrative control of the internal functioning of civil society organizations are rejected. Oftentimes, the following message was voiced by various local actors: « *We have liberated the land, we have invested heavily in concrete, but we must do much more for the dignity and well-being of the citizens*». This aspiration to participation should be leveraged in a positive manner by tackling the factors that impede economic activity and the development of the private sector, and by addressing the signs and root causes of the lack of the citizens' trust in the government's ability to respect and guarantee their human rights. The purpose of this first report is precisely to review the situation of fundamental human, economic, social, cultural and environmental rights, with a view to making appropriate recommendations to shore up their realization and improve governance in order to ensure social cohesion and prosperity in the southern regions.
62. This diagnosis will be made public and will be shared with the largest possible number of stakeholders so that they may enrich it with their comments and suggestions; further to the framework paper submitted by the CESE President to His Majesty the King on 22 January 2012, it is hoped that this diagnosis would serve as a frame of reference for the development of the new regional development model for the southern provinces.



Chapter 1 :

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## Access to basic services and social welfare

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# Right to life, freedom and security of person

## Improving life expectancy indicators for all

63. Life expectancy in the 10 southern provinces has improved significantly over the last thirty years, with 10 years gained between 1987 and 2009, reaching levels that are comparable today to those in the north (74.8 years at the national level in 2009, with 71.7 years in rural areas, and 77.3 in urban centers).

## Prohibition of cruel, inhuman or degrading treatment (torture, physical abuse, harassment)

64. No death penalty has been pronounced in the southern provinces since their decolonization. Since 1993, Morocco has observed a *de facto* moratorium on capital punishment. The meetings held with many stakeholders have indicated that, overall, the right to life is respected and is adequately protected by government authorities and the judiciary.
65. However, it cannot be reasonably ascertained that government authorities can effectively and systematically prevent or rescue sub-Saharan illegal migrants from the risk of death by drowning or as a result of their precarious living conditions. Local associations do not seem to be particularly mindful of this issue which calls for a joint action and the combined efforts of the Kingdom as well as origin and destination countries to safeguard the rights of migrants and their families.
66. The principle of prevention of cruel, inhuman and degrading treatment does not seem to have led to a clear, official policy. Civil society activists have deplored «*the predominance of security concerns*» and criticized the government authorities' resorting to intimidation and repression to restrict the right to protest. Criticism also concerns prison conditions in the absence of clear guarantees and procedures for appeal against torture and ill-treatment.

## **Abolition of torture**

67. According to testimonies by human rights advocates following the dismantling of the Gdeim Izik camp, police are said to have abused and tortured detainees in gendarmerie premises and police stations. Concluding a visit to Morocco from 15 to 22 September 2012, Juan Méndez, the United Nations Special Rapporteur on Torture, underscored the “*political will*” to “*build up an institutional culture that prohibits and prevents torture and ill-treatment*”; but he also referred to the existence of “*credible reports of beatings [by police] (with fists and sticks), application of electric shocks, and cigarette burns.*” More specifically, for the southern provinces, the Special Rapporteur said he was overwhelmed with the vast number of requests to meet and the hundreds of cases received prior to and during his two-day visit (to Laayoun), adding that he regrettably was able to meet with only a limited number of alleged victims.
68. The Committee against Torture expressed concern that the definition of torture, as referred to in section 231.1 of the current Penal Code, covers neither the complicity nor the consent or acquiescence of an enforcement officer or any other person acting in an official capacity. The Committee also regrets that the Penal Code has no provision that excludes the crime of torture from the statute of limitations. The Committee against Torture also recommended that Morocco establish an effective free legal aid system, particularly for at-risk persons and members of vulnerable groups.
69. Several speakers criticized the impunity enjoyed by enforcement officers responsible for acts of violence.
70. The CESE found no indications, neither at the level of civil society representatives, nor at that of public authorities, regarding the existence of cases of trafficking in human beings, sexual exploitation of women or minors, or concerning measures for the prevention and repression of such phenomena.
71. The rate of road accidents is considered to be “*uncommonly high*” on National Road 1, which is narrow and under-equipped, as well as on unpaved roads due to their condition.
72. Despite considerable efforts by the FAR (Royal Armed Forces) to clear the southern provinces of landmines planted during the war, explosions continue to pose a threat to nomads’ lives, in spite of the delimitation of hazard zones.

## Integrating the principle of precaution and respect for the dignity of the person in clinical research activities

73. Clinical trial activities are prohibited throughout the Kingdom pending a law designed, in particular, to protect the integrity, dignity, right to information and free consent of the people.

## Reduce the number of homicides, suicides and accidents

74. Figures on homicides and suicides in the southern provinces could not be collected.

### Right to health

## Enhancing equitable access to health services and constantly improving health care services and facilities

75. The stakeholders met by the CESE welcomed the “clear improvement” witnessed in the health situation in general, particularly maternal and child care (the maternal mortality rate fell from 227 per 100 000 live births in 1995-2003 to 112 in 2009).

76. Health care facility indicators in the southern regions are slightly higher than in the rest of the Kingdom (1 bed for 1,143 inhabitants, compared with a national average of 1 bed for 1,180 inhabitants). However, there are sharp disparities between the three regions, with very limited coverage in the Oued Ed-Dahab-Lagouira region (1 bed for 3,245 inhabitants), which is almost twice less than in the Guelmim - Es-Smara region (1 bed for 1,287 inhabitants), and four times less than in the Laayoun-Boujdour-Sakia-el-Hamra region (1 bed for 746 inhabitants). Paramedical personnel figures are also higher than the national average (1 paramedic per 814 inhabitants in the southern regions, against an average national ratio of 1 paramedic per 1,111 inhabitants). On the other hand, indicators for the number of physicians in the southern regions are below the national average: 1 physician per 2,625 people in the southern provinces, compared with a national average of 1 per 1,633 people.

77. The medical insurance coverage rate by the *Caisse nationale de sécurité sociale* (National Social Security Fund CNSS - private sector) for employees and their dependents, and by the *Caisse nationale des organismes de prévoyance sociale*

(National Provident Fund - CNOPS) was almost the same in the southern provinces (17.8 percent) as the national average (18.4 percent).

78. The stakeholders with whom CESE representatives met in the three regions underscored persistent deficiencies in terms of access to health care and health care coverage. They emphasized that these deficiencies in the design and management of the health system further compound the problems usually associated with equipment/facilities.
79. There is no program that meets basic health needs in the region.
80. Persistence of cases of death during the transfer of patients to hospitals. Deaths have also occurred in connection with obstetric complications, during deliveries at home and back-alley abortions.
81. Neither local authorities nor community organizations seem to be involved in the development, assessment or improvement of the health system in the region.
82. The infrastructure and human resources are both insufficient and unevenly distributed (substandard hospitals, no intensive care units in some towns, inadequate number of general practitioners and specialists, intermittent presence at the rate of one or two weeks per month).
83. The assignment to work as a doctor in the southern provinces is not valued and is often perceived as a 'punishment'.
84. There are no physicians from the region (there is no local medical school, and even when citizens from the region graduate from medical schools, they practice medicine in the northern provinces).
85. The lack of private clinics contributes to the fact that the region is medically under-equipped.
86. A significant proportion of the indicators defined in the frame of reference of the CESE's Charter of basic human rights to assess effective access to the right to health are not yet collected at the national level. This makes it difficult to undertake an in-depth review of the health policy in the southern provinces. Below are examples of indicators which are not available:
  - Vaccination rate of pregnant women
  - Number of terminated pregnancies per year
  - Number of community organizations involved in the medical field

- Mortality rates associated with endemic diseases
- HIV prevalence rate in the 15-25 age group
- Proportion of population with advanced HIV infection with access to antiretroviral treatment
- Impact and performance indicators of specialized facilities for addiction-related problems
- Indicators on the existence and number of beneficiaries of population health awareness programs
- Number of associations involved in public hygiene awareness.

87. In general, the health care facilities available in the southern provinces suffer from the same deficiencies in terms of management and information as in medium-size rural communities in the rest of the country. However, these drawbacks are compounded by the long distances between communities, the quality of road infrastructure and the reliance on inexperienced medical personnel without adequate supervision.

### **Right to food security**

88. At the national level, 14.9 percent of children under 5 are stunted children (8.6 percent in urban centers, and 20.5 percent in rural areas). 3.1 percent of children are underweight (1.7 percent in urban area, and 4.3 percent in rural communities). No significant variation from these national figures is reported in the southern provinces.
89. In the southern provinces, the state actively compensates for market mechanisms to ensure access to basic foodstuffs through price subsidies and direct distribution of foodstuffs. During the meetings held by the CESE in the region, the central role played by the state through the supply of foodstuffs, price subsidies and provision of needy segments of the population with foodstuffs, was underscored. During those meetings, references were repeatedly made to issues of equity and efficiency in targeting beneficiaries, and to transparency and management control of the system.
90. The existence of parallel networks for the introduction and distribution of foodstuffs raises the question of product quality and health hazards (smuggled spoiled or expired foods).

91. If access to staple food is ensured in these provinces, the relationship between market channels and public assistance circuits does not seem to be properly controlled (subsidized goods end up in the market system: this leads to price distortion and crowding-out effects).

### Right of access to water and water management

92. Article 31 of the Constitution stipulates that *“The State, public institutions and local authorities shall seek to muster all the means available to facilitate equal access of citizens to their right to (...) access to water”*. The southern Moroccan regions have one of the highest levels of aridity in the world. This makes water, in these territories more than anywhere else in the country, a key element of any development policy.

93. In terms of effective access to drinking water, the performance of public policies has been particularly positive. In 2011, 87 percent of households in the southern regions had access to drinking water (against 79.4 percent nationwide). Similarly, 61.6 percent of households in the southern regions were connected to the public sewage system, against 58.4 percent at the national level (in 2007, those figures stood at 45 percent and 54 percent respectively).

94. The meetings held by the CESE with various stakeholders in the southern provinces revealed several types of concerns:

- Lack of a clear, transparent and fair policy for water management and conservation;
- Lack of civil society involvement in determining the management of water resources (consultation on water usage, awareness)
- Lack of a policy for the prevention of water wastage and for water resource valorization
- Lack of a policy for wastewater treatment.

95. Extreme situations have been reported such as that of the Dakhla fishing villages, which are not connected to the drinking water network.

96. Water stress and poor water quality in towns, including Dakhla (sulfur tasting water).

97. Use of fossil water for agricultural irrigation and lack of desalination plants or other water resource valuation techniques (Guelmim and Dakhla).

## Right to education

### Guaranteeing effective access to compulsory basic education and constantly improving its quality

98. Preschool attendance in the southern regions exceeds national average indicators. In the Oued Ed-Dahab-Lagouira region, it stands at 84 percent, and in the Laayoun-Boujdour-Sakia-el-Hamra region, it is 84.9 percent, against a national average rate of 64.9 percent. Guelmim, however, has a lower rate (53 percent).
99. The generalization of enrolment in primary education is spectacular for children (boys and girls) aged 6-11 years, with a rate of 100 percent in the Oued Ed-Dahab-Lagouira and Laayoun-Boujdour-Sakia-el-Hamra regions, against a national rate of 97.5 percent. Guelmim's is somewhat trailing with 95.2 percent. This excellent performance is confirmed by reduced dropout rates in primary education, with the Oued-Ed-Dahab-Lagouira and Laayoun-Boujdour-Sakia-el-Hamra regions achieving student retention levels of approximately 95 percent, well above the national average (86.5 percent). There are no figures for the enrollment of children with disabilities, which remains low at the national level (34.7 percent).
100. The literacy rate for people aged 10 years and over is higher in the southern regions (65.9 percent) than across the country (60.3 percent).

### Ensuring good command of basic learning tools and of basic education curricula: inadequacies and challenges

101. Despite the high preschool enrolment rate in the southern provinces, traditional teaching is predominant; there is no solid assurance as to its effectiveness and the quality of its impact on access to basic learning, childhood development programs and basic learning contents.
102. The meetings held by the CESE in the southern provinces show that whereas the public education system's legitimacy is not called into question, several actors pinpointed serious problems with respect to quality and efficiency, including the following:
  - the number and qualifications of the teaching staff are deemed insufficient
  - foreign language learning is deemed inadequate, especially that of French

- student counseling towards scientific subjects is deemed inadequate
- insufficient teaching of the region's history as well as of the Hassani culture and heritage
- weak childhood development programs and extracurricular activities; limited access to new technologies.

### Right to work and to fair, favorable and equitable conditions

103. The Labor Code guarantees the right to work, freedom to work and the right to fair, favorable and equitable working conditions. There are no specific measures or restrictions to these principles in the southern regions. Their implementation lies with regional and provincial government departments (including the Ministry of Employment).
104. In 2011, the activity rate in the southern provinces was slightly lower than in the rest of the Kingdom (41.8 percent against 49.2 percent). The difference is mainly due to the low activity rate among women in these regions (14 percent, against a national rate of 25.5 percent). Women's activity rate is almost five times lower than that of men. It was on a downward trend between 1991 and 2011 (-8.5 percent, against -5 percent at the national level). In 2007, the unemployment rate in the southern provinces was 27.6 percent for women (against 9.8 percent for women at the national level), and 17.1 percent for men (against 9.8 percent across the country). In the 25-34 age group, one in two women (52 percent) is unemployed, compared with 15.6 percent for men in the same age group.
105. As of 1987, significant budgetary measures were taken in the civil service for the recruitment of young people from the region (6,000 jobs). These measures have been criticized because of their «rent-seeking» nature ('ghost' civil servants, or «ashbah»). Government authorities are thus criticized for having *"perverted the young Sahrawi people's relationship with the State. In large towns today, the nature of the relationship between the Moroccan government and young people is seen through the lens of patronage"*<sup>6</sup>. Still, young people from the region have strong expectations in terms of priority access to jobs in the public and private sectors: *"Young Sahrawis ... (these are) two words that are linked to despair, lack of opportunity and unemployment. We work neither in the phosphate mines nor in the fishing sector"*<sup>7</sup>.

<sup>6</sup> Brouksy, Omar (2008)

<sup>7</sup> Carmen Gomez Martin (2012)

106. The Labor Code guarantees minimum statutory standards in terms of wages and working hours, and prohibits discrimination in the workplace on grounds of sex, regional or social background, or trade union activities or membership. Legislative texts also define specific health and safety regulations in the workplace. However, the following facts are reported:
- discrimination against women in terms of access to employment (bias and stereotypes favoring the recruitment of men; there are no affirmative action measures for women's recruitment);
  - discrimination against citizens from the region in terms of access to certain public service jobs (police, security forces);
  - lack of protection measures to avoid risks of discrimination against persons with disabilities.
107. There is no effective policy for the improvement of safety, health and well-being in the workplace: working conditions, the protection of health, hygiene and safety in some fishing villages are below the minimum legal standards, and the overall situation is worrying. Fishing villages in the southern provinces are referred to as «hell». In the Aarich village for example, north of Dakhla, there are nearly 1,500 octopus fishermen, living at *«hundreds of kilometers away from family (to earn) a few dozens dirhams»*. *«To live here means to accept the unacceptable. Accept or rather be forced to accept... the lack of water, the lack of electricity, the over-closeness which precludes any privacy»*<sup>8</sup>. A program for the rehabilitation of fishing villages was launched in recent years. However, in Ntirift for example, *«instead of adequate housing, (besides a large mosque built in the village), buildings were developed for the storage of fishing equipment, (in addition to) an auction hall to quickly remove octopus and fish, even a large walled building as large as two or three football fields to accommodate boats during the off-season! To date, the few homes built serve as lavatories for a population that has access to no such facilities»*.
108. The means of action of the labor inspection authority are insufficient; this hinders the control of statutory compliance with security and health requirements at work.
109. The minimum age for employment is 15 years, and forced labor is prohibited. These two principles are clearly observed across the southern provinces

<sup>8</sup> Bouhdou, Yanis. Actuel (2012)

(child labor risks persist, however, in the informal sector and in the so-called 'domestic economy').

110. Trafficking in human beings is a criminal offense, but there is only limited guarantee regarding the effectiveness of controls on labor trafficking (illegal migration networks).
111. In filling job vacancies, the State, which is the largest employer, does not give priority to young people from the region.
112. Business closures and layoffs are harshly criticized because of non-compliance with regulatory procedures (*Omnium des Pêches* at Tan-Tan, *Grands Moulins* at Guelmim).

### **Fishing villages: an acute example of a missing social dimension in the design and implementation of regional development policies**

113. Under a partnership between the Ministry of Agriculture's department of marine fisheries, the Agency for the development of the southern provinces and the National Fisheries Office (ONP), a program for the development of 10 fishing villages<sup>9</sup> was launched in 2004. It was designed to fit unsanitary sites, over the short-term, with minimum facilities, and to meet the immediate needs of fishermen in terms of improving their living and working conditions. In the long run, this program was designed to develop 10 socioeconomic microcenters around the fishing villages (the target population is estimated at 150,000 residents, corresponding to nearly 30,000 fishermen and 6,000 traditional fishing boats). It consisted of three components: (i) housing (development of serviced lots and community facilities), (ii) the fisheries (commercial equipment, fishing shops, boat and motor repair shop, wholesale stores ...), and (iii) off-site infrastructure (access roads, provision of drinking water and electricity). The amount committed stood at more than 915 million dirhams, 70 percent of which was provided by the APDS. The Hassan II Fund and the ONP contributed 118 million dirhams and 151 million dirhams respectively. The Court of Auditors (in its annual report for the year 2011) had the following observations:

<sup>9</sup> Amegriou and Tarouma in the Laâyoune province; Agti el Ghazi and Aftiessat in the Boujdour province; Imoutlane, N'tireft, Lassarga, Labouirda and Ain Beida in the Oued Eddahab province; Lamhiriz in the Aousserd province

- more than 7 years after the conclusion of the partnership, the objectives were still not achieved *«It is a fact that marketing conditions have improved, but it is also clear that the living conditions on the site remain difficult»;*
- Risk of departure from the original objectives, *«the allocation of lots to other categories such as boat owners is a deviation from the original purpose of the program, the more so as this category does not need to benefit from plots of land free of charge»;*
- Deficiencies in programming;
- Inadequacies in determining the criteria for the allocation of equipment;
- Equipment provided is non-operational;
- Degradation of equipment.

## Right to entrepreneurship

114. As far as the law is concerned, freedom to do business is exercised in the southern regions under the same conditions as in the other provinces of the Kingdom. Between 2006 and 2012, the growth rate of lending to the economy in these provinces was higher than the national average (13.8 percent compared with 11 percent). At the end of November 2012, banking sector deposits in the southern provinces reached the amount of 7.418 million dirhams, up nearly 31 percent compared with December 2011 figures. Serious difficulties of a structural nature impede start-ups.
115. The share of the southern provinces in national deposits and credits is very limited (1.1 percent and 0.7 percent respectively). Several factors explain this structural weakness in the mobilization of savings in the region:
- Large institutional depositors (ONP, IAM, RAM, OCP, ONEE, Ciment de Laayoun) centralize their cash and transfer it to the regions where they are headquartered (Rabat, Casablanca);
  - The contribution of the fisheries sector declined in recent years due to a decrease in the exports of seafood products to Europe and Japan;
  - The region's dependence on national economic hubs (Casablanca, Agadir) for supplies (vegetables, fruits, general food products, building materials, clothing) means funds are transferred to those regions;
  - Deposits collected by workers, particularly in the construction and the fisheries sectors, are transferred to hometowns in the form of provision or cash;

- Some important business people in the region have accounts abroad due to their administrative situation (Spanish nationality, residence).

### Several factors explain the weakness of credits in the southern provinces

116. The region's economic activity remains vulnerable because it dependent on a few sectors, particularly the fishing industry - which is the driving force of the regional economy - and phosphates;
117. Lack of a regional strategy for the development of products by promoters, especially seafood and phosphates, which are generally sold as raw products;
118. Issue of the tax status of the Saharan provinces, in the sense that the tax exemption they enjoy is not stipulated in a finance bill.
119. Non-recovery of VAT (investors in the Saharan provinces are not considered as tax producers since they are tax exempt).
120. Inadequacy of basic infrastructure in industrial areas (water, electricity, sanitation, roads)
121. Absence of property developers, apart from *Al Omrane Al Janoub*, whose role is limited to servicing plots of land.
122. Resorting to investment transactions of a speculative character, or to the creation of companies in the trade register of the southern provinces solely for tax considerations, without undertaking any activity or impacting the region in terms of creating jobs or generating cash flows.
123. Poor property registration with the *Conservation foncière* (Land Registration Authority). Limited use of the guarantees provided by the Central Guarantee Fund because of their cost and or their procedures which are perceived as too stringent (these public guarantees are sometimes seen as state subsidies, particularly home loans and incentive programs for start-ups. Indeed, some customers refuse to repay loans and ask the bank to resort to the state guarantee).
124. Mortgage realization is facing many difficulties relating to the slow pace of judicial procedures, especially as the commercial court that has jurisdiction for all the southern provinces is located in Agadir.

125. Difficulties relating to the granting and implementation of guarantees; limited use of public guarantee mechanisms (Central Guarantee Fund and ANPME).
126. Failure of the *Mouqawalati* Program:
- Complexity and slowness of validation process of the files submitted under this program;
  - Lack of post-business creation mechanisms even though they are provided for in the program; this leads to a fairly high rate of business failures;
  - Lack of provisions for the financing of working capital requirements (not provided at start-up phase);
  - Weakness of the current financing amount (maximum amount of 250,000.00 dirhams).
127. High loss ratio on approved files: nearly 75 percent of total files and 46 percent in terms value saw overdue payments or were handed over to the legal department.
128. Complexity of procedures for the development of cultural and craft projects.
129. There are no mechanisms for the encouragement of women's entrepreneurship in the region.
130. Scarcity of titled land and parceled or developed areas.
131. Lack of support, education and training of young people in the entrepreneurial sector. There are no universities, centers or schools specializing in entrepreneurship.
132. Effective access to microcredit, such as Amana, but fund usage is mostly for consumption purposes.

## Right to housing

133. Article 31 of the Constitution stipulates that: *"The state, public institutions and local authorities shall seek to muster all the means available to facilitate equal access of citizens to the conditions conducive to the exercise of their rights to (...) decent housing"* This right means each individual is entitled to a decent, appropriate place to live in; the exercise of this right leads to accessing other fundamental rights (health, education, employment etc..).

Whether in the area of budget commitments or development work, there have been remarkable government efforts to promote access to housing in the southern provinces. The near-total eradication of slums in the ten provinces (except in some fishing villages), the construction of housing units for a population that has increased more than tenfold in thirty years clearly attest, in a very positive way, to the proactive action of state authorities in terms of equipment and facilities in the southern regions and their integration in the nation's development process.

134. The housing policy, in the southern regions as in the rest of the Kingdom, is built around expanding and diversifying the offer, promoting rental housing, improving accommodation quality (connection to electricity, drinking water and sanitation networks), the key objective being slum clearance.
135. Compared with the national average rate of 5.6 percent, the proportion of households who are precariously housed was, in late 2011, higher in the southern regions taken together, namely 9.8 percent. This rate deteriorated compared to 2007, the proportion of precariously housed families in the southern regions stood, then, at 5.3 percent, compared with 5.6 percent nationally. The decline is due to the significant migration flows of citizens from the region who returned to the liberated territories, and the flow arrivals, from the Kingdom's northern provinces, of people in precarious situation.
136. In 2011, 97.9 percent of households in the southern provinces had access to electricity (98 percent in urban settings, and 96.4 percent in rural areas), which is more than the national rate of 94.8 percent (98.5 in urban centers, and 88.2 percent in rural areas).
137. It is also appropriate to underscore the satisfactory indicators regarding access to housing in the southern provinces. To improve those indicators, further attention should be given to qualitative aspects. The field visits carried out by the CESE missions in the southern provinces reveal the rather basic character of housing design, poor relevance to climate conditions, to parental structure and to community traditions in the southern regions, as well as the lack of community facilities for the effective social and landscape integration of neighborhoods (baths, markets, etc.).

138. In Laayoun, state action in the area of slum clearance and the re-housing of residents of the El Wahda camps is unanimously welcomed as far as the principle is concerned. However, relocation modalities are criticized, especially plot allocation and granting building permits in the absence of a master plan, the failure of community facilities and the lack of social diversity.
139. Many citizens from the region felt discriminated against compared with their fellow « *ralliés* » citizens, or citizens from the north (Al Wahda camps) in terms of access to assisted housing.
140. Several newspapers reported the views of protesters in the Gdeim Izik camp, who said that *«they lived in difficult social conditions and that they had decided to leave the city to protest and to make their voice heard by the authorities so that a solution may be found to their problems which are the result of the marginalization they have been enduring for years, especially in two key areas: housing and employment»*<sup>10</sup>. Along the same lines, a reference was made to a 2008 «major project» in Laayoun, concerning nearly 20,000 plots of land that were to be granted to the «*Sahrawi inhabitants*» to redress «*a major wrong*» dating back to the late 1970s. *«Morocco had then come up with 'doctored' elites following the departure of several sheikhs and tribal leaders to the east. The new makhzen elites came from Tan Tan and Guelmim. These elites totally marginalized people from Laayoun and Es-Smara, while pampering their relatives and those who, as of 1991, came from the northern part of the Kingdom to settle in the famous Al Wahda camps, as a prelude to a referendum that never took place»*<sup>11</sup>.
141. Several stakeholders have criticized the lack of commitment towards the region on the part of major national social housing private operators (*Al Omran*, a public operator, is the only developer involved in the region). They emphasize the insufficient housing supply and the difficulty to access social housing projects in the region.
142. Strong demand for titled land, high speculation, the lack of visibility and predictability of the land policy are issues that are repeatedly mentioned as factors contributing to the housing crisis.

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<sup>10</sup> FIDH and OMDH (2011)

<sup>11</sup> Bennani, Driss. Tel Quel (2010)

143. Failure of the urban policy in the region, lack of a typical architectural style and failure to take the cultural identity into account and promote the region's heritage.
144. The case of the fishermen's accommodation issue in the fishing villages epitomizes the conceptual and operational difficulties characterizing the housing policy in the region. The investments made proved to be inappropriate (the villages are far from social centers, with no access to basic services and no connection to water and electricity networks); they are mostly unoccupied today.
145. A significant proportion of housing units are substandard in the Guelmim region (Assa, Tata, Tan-Tan).

### Right to mobility and to transport

146. The right to mobility and to transport is affirmed by Article 13 of the Universal Declaration of Human Rights, Article 12 of the International Covenant on Civil and Political Rights, and Article 24 of the Constitution. In the area of transport, and since their liberation, the three regions have benefited from a sustained investment effort, which has greatly improved road infrastructure (almost non-existent under Spanish occupation). The social repercussions of this effort are uneven.
147. In terms of road length, the effort made is spectacular<sup>12</sup>: 4,023 km of paved roads and 2,953 km of unpaved roads have made it possible to bring down the cost of freight (from 300 dirhams to 150 dirhams per ton for 10 km), increase passenger transport services and reduce travel time to markets and social services. These efforts have also made it possible to increase fruit production (up 31 percent between 1985 and 1995), and contributed to a 150 percent investment increase in purebred livestock, and the use of fertilizers (up 60 percent in areas served by new roads).
148. According to many stakeholders, however, public road transport is expensive and inconsistent within and between the three regions; the Guelmim region suffers from a serious deficit in urban transport means.
149. Air travel is mostly denounced as a serious hurdle to development in the three regions, because of inadequate flight frequencies, often late departure

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<sup>12</sup> HCP (2010 figures)

and arrival times, extremely expensive prices and absence of connection flights between the regions concerned. Although it has four airports, there is no air traffic in the Guelmim region.

150. The national carrier has no flight connections between towns in the southern provinces and other countries; the only international flight - to the Canary Islands - is serviced by Spanish companies.
151. Despite significant efforts in terms of equipment, the road infrastructure, including National Road 1, remain insufficient given the potential for regional development and all that road transport can bring to growth and regional integration.

### Right to leisure

152. In Morocco, as in many countries, the concept of right to leisure as a human right is not informed by precise legal definitions. Article 24 of the Universal Declaration of Human Rights stipulates that *“Everyone has the right to rest and leisure”*. This right is also enshrined in Article 7 paragraph (d) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which reads as follows: *«The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular (...) rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays»*. The Kingdom's Constitution, adopted on July 1, 2011, states that *«Public authorities shall take all appropriate measures to (...) facilitate access for young people to culture, science, technology, the arts, sports and leisure, and foster conditions conducive to the expression of their creativity and innovative skills in all these areas»*.
153. In the southern regions, particularly in Laayoun and Dakhla, the state has devoted considerable budget resources to the construction of recreational and cultural facilities. Work is under way in Laayoun to build a library which will be the largest in Morocco (in terms of surface area). The town also has a media library. Dakhla has a conservatory of music. Modern multifunctional sports facilities were built in Dakhla, in addition to a large convention center in Guelmim.
154. Several stakeholders have denounced the failure or inoperability of leisure facilities and the lack of a clear policy on access to recreation in the region.

Several centers have remained closed due to inappropriate conceptual design, lack of coordination between the public parties concerned, or lack of operating budget allocations. The Agency for the development of the southern provinces, which is the main sponsor of these facilities, and the State's external services, which are in charge of their operation, lacked assessment tools and indicators to undertake even an approximate evaluation of the social impact of the said equipment and facilities.

155. Several parties concerned lamented the following during their meetings with the CESE representatives in the region:

- the marginalization of sports activities in the three regions;
- the insufficiency or lack of entertainment facilities that are open to the public;
- the lack of playgrounds for children and of entertainment facilities for young people;
- the lack of facilities/institutions that showcase the region's heritage;
- the serious threats looming over the preservation of historic sites and the local heritage.

156. Notwithstanding high government spending, the visibility and assertiveness of the State's commitment and effectiveness regarding access to leisure remain limited. As a result, many parties expressed dissatisfaction during the meetings with the CESE representatives in January 2013, particularly with respect to the following:

- programming efficiency: «*What is the use constructing buildings that remain closed?*»
- project scale (Laayoun's large library, Dakhla's Conservatory of Music ...)
- compliance with labor legislation in the operation of social facilities (the staff in some facilities are paid in cash and have no access to social security);
- integrating environmental considerations into the design of buildings
- functional access to major places (as in Laayoun).

157. The number of hotel beds, which is considered as one element in an array of indicators on recreational facilities, has been improving. In 2011, there were 66 graded establishments, 1,696 rooms and 3,524 beds, compared

with 40 graded hotels, 1,176 rooms and 2,374 beds in 2007. During the past five years, the increase in hotel capacity was higher in the southern regions (48.4 percent) than in the rest of the Kingdom (41.7 percent).

158. In 2011, the number of young people who benefited from summer camp programs in the southern regions stood at 6,172 (4.9 percent of total beneficiaries across the country).

### Right to justice and judicial protection

159. The right of access to justice for all, which is guaranteed by the Constitution, as well as access to legal aid, are exercised in the southern provinces in the same conditions as in the other parts of the country.
160. The three regions have one Court of Appeal, located in Laayoun, and seven trial courts. Court congestion seems to be less serious in the southern provinces. According to tentative estimates developed by the CESE by cross-checking several statistical data for the years 2009 to 2011, the average annual civil cases treated by all jurisdictions in the region stood at 17,000 registered cases, 16 000 decided cases and 6,000 pending cases. The number of criminal cases stood at: 33,000 registered cases, 32,000 prosecuted cases, and 10,000 pending cases. By type of cases, the average annual number of civil cases was 6,500, 6,300 personal status cases, 1,430 work-related accidents, 730 referred cases, and 789 labor disputes. In criminal cases, there were 21,000 contraventions, 16,000 offences, 3,000 traffic accidents and 1,100 juvenile cases<sup>13</sup>.
161. The effectiveness of the policy principles relating to control and improved compliance with the legal status of the child and the guarantee of maternity judicial protection are clearly ensured in all southern provinces. Civil society advocates did not inform the CESE of any serious complaints regarding these matters.
162. The conditions in which the principles governing the prevention and prohibition of all forms of exploitation and servitude are enforced in the southern provinces are comparable to those observed in the rest of the Kingdom. One can reasonably say that practices of slavery and debt bondage have disappeared in the Laayoun and Dakhla regions since their

<sup>13</sup> Statistical yearbooks, HCP (Oued Eddahab-Lagouira 2010, Guelmim-Es-Smara 2012, Laàyoune-Boujdour-Saquia El Hamra 2012)

liberation in 1975 and 1978. In the Guelmim region, these practices had ceased to exist since 1958. It is less certain, however, that the prevention and prohibition of procuring and sexual exploitation of women in the region are enforced.

### Right to a fair trial

163. Respect for the principle of guaranteeing the right to a fair trial is uncertain. Thus, in its preliminary observation report, the National Council for Human Rights concluded that the trial of the accused in the Gdeim Izik case “took place under normal conditions and was generally characterized by compliance with procedures”<sup>14</sup>. The points noted by the Council include: the public nature of the trial, the presence of families, observers, rights activists, journalists, parliamentarians and diplomats, respect for the principles and guarantees of a fair trial based on the presumption of innocence, the fact that the statements of offence were treated simply as information documents, and the translation of all proceedings into Spanish, French, English and *Hassani*. The Council also noted the proper steering of the proceedings, including through the notification to the accused of the charges against them in a language they understand.
164. It should also be noted that in a recent memorandum (dated February 2013), which was praised by His Majesty the King for its methodology and recommendations, the CNDH recommended to reduce the jurisdiction of the military court so as to bring the Moroccan judiciary in line with the provisions of the new Constitution and with the country’s international obligations. Thus, in times of peace, only violations of military discipline, or cases in which a member of the military is accused of jeopardizing state security, or cases of terrorism would be referred to the military court. Civilians would no longer be tried by a military court.
165. After the verdict against 24 accused persons following the Gdeim Izik events, several human rights organizations criticized the choice of a military court and expressed doubts about its fairness, impartiality and independence. They also expressed their concern over the allegations of torture and ill-treatment mentioned by the accused. The United Nations High Commissioner for Human Rights had this to say in this respect: «*This*

<sup>14</sup> CNDH (2013)

*[the events at Gdeim Izik] was a very serious event, involving substantial loss of life, and it is important that justice is done, but it is also important that the judicial processes scrupulously abide by international fair trial standards»<sup>15</sup>.*

166. The United Nations Human Rights Committee has invited Morocco to establish a mechanism allowing aliens who claim that their removal could put them at risk of torture, ill-treatment or the death penalty to file an appeal with suspensive effect. The Committee also recommended to Morocco to review its legislation and practice in matters of detention in custody to allow the arrested person to have access to a legal counsel from the outset of the custody period.
167. Several representatives of community-based organizations with whom the CESE met in the three southern regions hailed the progress made in the judicial sector in the region. However, they deplore the lack of courts in the region, including a court of appeal in the Oued Ed-Dahab-Lagouira and the Guelmim-Es-Smara regions, as well as the lack of commercial and administrative courts (the nearest courts are located in Agadir). Several of them deplored the trial by a military court of the accused after the dismantling of the Gdeim Izik camp. Several speakers criticized the lack of a public inquiry into allegations of torture and ill-treatment, calling this «*a violation of the right to justice and to a fair trial*».
168. The CESE did not find any signs in the region of an active policy of preventing risks of over-indebtedness of individuals and households in an environment of booming consumer credit and micro-credit. Government authorities do not seem to be sufficiently engaged in the region - as they are in the rest of the country - for the protection of consumer rights, including the right to information and appeal.
169. In the area of transitional justice, the CNDH and its three regional commissions say they are seeking to ensure that all the arbitral decisions of the Justice and Reconciliation Commission (IER) are implemented.

## Right to social welfare

170. The right to social welfare is asserted by all legal instruments on fundamental social rights (including ICESCR Articles 9 and 10). It is spelled out, for all workers and employers, in Convention 102 of the International Labor

<sup>15</sup> United Nations High Commissioner for Human Rights (February 2013). [Non-official translation

Organization (ILO). This right is guaranteed by the Constitution (Article 31): *“The right to social protection, medical coverage, mutual insurance or solidarity schemes organized by the State».*

171. Social welfare is the set of measures, mechanisms and services for solidarity, contingency assistance and group insurance plans which enable individuals and their families to cope with the consequences of major social risks (sickness, invalidity, old age, loss of employment, family support). It ensures survival, reduces inequality in exposure to risks in life and guarantees resources in kind or in cash for the needy to enable them to maintain or restore their independence.
172. Several institutions contribute to social welfare in the southern regions: they include public and private organizations (social security, mutual funds, pension funds, insurance companies), local authorities (transport costs), the State and enterprises (*Promotion Nationale*, food aid, scholarships, tax-free income) and private organizations (charities).
173. The *Promotion Nationale* devotes 50 percent of its overall budget to the southern provinces. In 2011, 598 million dirhams were paid out to 34,000 beneficiaries, of whom nearly 5 percent were of working age. This budget was significantly increased in 2010 and 2011 (up 31 percent and 20 percent respectively).
174. In 2011, the number of insured people under a social security scheme for employees and their dependents was 178,019, almost half of them live in the Guelmim-Es-Smara region. 78.6 percent of the insured are covered by the CNOPS (civil servants scheme), compared with 46 percent at the national level. This difference confirms the key role played by the State as the main employer and provider of social welfare benefits in the southern regions.
175. In the southern provinces, as in the Kingdom's other provinces, social welfare services for professionals, merchants, craftsmen and fishermen are still at the early stages. In the absence of a national compulsory social insurance scheme, private insurance experiences (*Wafa Assurance, Mutuelle Centrale Marocaine des Assurances*, etc...) have remained limited.
176. In 2012, the number of employees registered with the CNSS (social security fund) was low (35,257 employees). The achievement of rights to social welfare, insurance (against work hazards, illness, and occupational disease) seems to be insufficiently controlled.

177. Despite their share of *Promotion Nationale* activities (50 percent), the aid given to populations in precarious conditions in the region is deemed «limited», and the method used for the allocation of food aid and beneficiary cards (for *Promotion Nationale* aid) are perceived as unfair and «patronage-based». These populations are also vulnerable because of the lack of social security (health and retirement). Many civil society actors point to the dependency that this aid may entail for their beneficiaries with respect to public authorities as well its adverse impact on job prospecting. Several rights activists emphasize the risks of corruption in connection with to the modalities - which are inadequately controlled - for the distribution of *Promotion Nationale* benefits.
178. According to civil society actors, most food aid goes to the residents of El Wahda camps; they see this as a sign of «discrimination» against other segments of the population.
179. INDH programs are criticized for not paying enough attention to the vulnerability and needs of people in the southern provinces.

## Right to information

180. The right to information is enshrined in the Universal Declaration of Human Rights (Article 19), which affirms that everyone has the right to “seek, receive and impart information (...) regardless of frontiers». This right is reaffirmed by the International Covenant on Civil and Political Rights (Article 19). It is also guaranteed, in its various forms, by Articles 25, 26, 27 and 28 of the Constitution. It implies free access to information, including through new technologies (the Internet). It also implies respect for the right to inform, and it thus supports the freedom of the press and the protection of journalists’ independence. This right also implies a guarantee of media pluralism. To uphold this right, it is necessary to ensure that the dissemination of information by public institutions is done in a language and form that are accessible to users, including citizens in remote and disadvantaged communities.
181. The right to information is enshrined in the 2011 Constitution. This right is exercised under the same conditions throughout the country, including in the southern provinces, where the distribution of the local, national and international press and air and radio broadcasting - including propaganda

- programs hostile to the sovereignty of the Kingdom from the neighboring Algerian territory - are taking place without any notable hindrance from government authorities.
182. Internet access is free and effective in the southern provinces. In some remote rural communities, there is no communication and information equipment (in Tata and Assa for example).
  183. Civil society activists who met with the CESE representatives recognize and welcome effective access to the right to information in the southern provinces, including Internet access. According to some bloggers, however, that judgment needs to be qualified: they claim they have «*the feeling of being closely watched by the authorities*», hence the need, they say, to «*conceal their identity*».
  184. The CESE did not find evidence of an alleged breach of the independence of journalists in the southern provinces. National and local public television and radio stations opened an extensive, pluralistic debate on the CESE's framework paper concerning a re-engineering of the development model for the southern provinces.
  185. It is noteworthy that the defense of national sovereignty does not interfere with information on the activities and positions of parties that are hostile to Morocco's sovereignty over its Saharan provinces.
  186. The responsibility to inform, which lies with government agencies, remains unevenly shouldered. In general, technical access to administrative information is not user-friendly, not to say difficult. Several departments regularly publish economic and social data, but such information rarely covers the southern provinces. However, special mention should be made of the High Commissioner for Planning (HCP), which is building up a vast array of national and regional indicators on the basis of municipal and provincial data, including municipalities and provinces in the southern regions.
  187. The Agency for the development of the southern provinces, which is in charge of promoting and monitoring economic and social development in the ten southern provinces, does not maintain a detailed, up-to-date database on regional development indicators in the southern provinces.

## Right to freedom of expression

188. The right to freedom of expression is a fundamental right which is protected by Article 19 of the Universal Declaration of Human Rights: *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”*. The International Covenant on Civil and Political Rights (ICCPR, 1966) reaffirmed this right in Article 19: *«1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice»*.
189. Freedom of expression is also recognized as a fundamental right under the Kingdom’s 2011 Constitution, whose Article 25 stipulates that *«All forms of freedom of thought, opinion and expression are guaranteed»*.
190. International human rights organizations have repeatedly pointed out that *«Moroccan authorities apply restrictions to the exercise of freedom of expression, association and assembly by Sahrawi advocates of self-determination in Western Sahara»*.
191. According to testimonies by several civil society activists, strict prior authorization procedures are allegedly imposed on foreign media for meetings with purportedly *«separatist»* NGOs or individuals. The journalists concerned allegedly must have prior authorization. No prohibition was reported in 2011.
192. It is a fact that despite the imperative need to defend the country’s territorial integrity, people who embrace separatist views - using terms that are similar to those found in campaigns orchestrated by foreign governments that are hostile to the Kingdom’s sovereignty over its southern provinces - have expressed their views in local and national media outlets. There is, in neither law nor fact, no specific provision that limits freedom of expression of individuals or groups in the Kingdom’s southern regions.
193. In general, the meetings held by the CESE representatives in the regions in January 2013 with several civil society representatives and organizations have shown an obvious freedom of criticism and tone regarding the behavior

of representatives of public authorities (*walis*, governors, representatives of external services and public offices, local elected officials). It is important to note that the criticism, whether it is based on reasons that are factual or not, was leveled, depending on the cases concerned, at compliance with basic standards relating to human rights, efficiency, fairness, transparency and probity in the behavior of those in charge, or their abuse of power, but not at the legitimacy of the institutions they represent or from which they derive their authority.

### Right to security

194. The right to security is a fundamental right; it supplements and is closely linked with the right to life. This right is enshrined in the Universal Declaration of Human Rights, whose Article 3 reads as follows: *“Everyone has the right to life, liberty and security of person”*. The International Covenant on Civil and Political Rights states (in Article 9) that *«Everyone has the right to liberty and security of person»*. This right is also enshrined in Article 21 of the Constitution: *«Everyone shall have the right to their physical integrity, to that of their relatives and to the protection of their property. Public authorities shall ensure the security of people and of the national territory, in accordance with the fundamental rights and freedoms guaranteed to all people»*.
195. Data relating to the safety of people and property are rarely included in the statistics released by government agencies, whether it is the HCP, the Ministry of Justice or the Ministry of Interior. A bill is being prepared concerning a national observatory on crime, announced in the speech delivered by His Majesty the King on 20 August 2009. This observatory should bring together representatives of the police force, the gendarmerie, the customs authority, the Ministry of Justice, the National Council for Human Rights, the prison authority, judges and academics.
196. During the meetings held by the CESE in the provinces of the southern regions with key civil society actors, the security situation of people and goods prompted no specific comments by stakeholders. The only exception was the town of Tan Tan, where a sense of growing insecurity is felt due to an increase in crime (no specific figures furnished). Based on a media scan, no anomalies are detected as far as the protection of the safety of persons and property is concerned.

197. Obviously, security is adequately ensured in the southern provinces. The movement of individuals and groups within and between the southern regions is taking place in normal conditions of security. Seen against the backdrop of various tensions and risks in north-west Africa and the Sahel region bordering the Moroccan provinces, this aspect provides compelling evidence as to the effectiveness of access to the right to security in the southern regions.
198. However, many speakers emphasized the existence of a “*more pronounced*” sense of distrust towards what they call «*biased*» enforcement officers.



## Chapter 2 :

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# Knowledge, training and cultural development

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# Knowledge, training and cultural development

## Right to secondary education

### Junior secondary education

199. Achieving everyone's right to access secondary education is one of the most tangible social achievements by the State in the southern provinces. The enrolment rate per age bracket is high and stands at levels which are well above the national average.
200. In its 2008 annual report, the Higher Council on Education indicates that *«impressive progress was made in terms of quality»* during the early years in the implementation of the National Charter for education and training. According to the Council, this progress *«paved the way for breakthroughs in terms of quality in four main areas: generalized access to education, resource development, educational reform, and, finally, better governance»*. The 2008-2012 *Najah* Program (dubbed «Emergency Plan»), which was developed following the assessment made by the Higher Council for Education, targeted the following objectives: (i) an enrollment rate of 90 percent for children 12-14 years, and (ii) a cycle completion rate of 80 percent for college students in the 2009-2010 cohort.
201. In fact, most students who enter junior high school complete this level of education. The proportion is 81.7 percent in the Laayoun-Boujdour-Sakia-el-Hamra region and 68 percent in the Guelmim-Es-Smara region, compared with 64.6 percent nationally. Success rates at the baccalaureate (end of high school) exam are higher than the national average. In 2011, the Oued Ed-Dahab-Lagouira region had a 75 percent success rate, followed by the Guelmim-Es-Smara region (64.7 percent), and the Laayoun-Boujdour-Sakia-el-Hamra region (53.4 percent), compared with a national success rate of 58.2 percent.

202. It should be pointed out, however, that between 2008 and 2012, the number of high school enrolments declined in the Guelmim-Es-Smara region (-6.2 percent) and in the Oued Ed-Dahab-Lagouira region (-1,8 percent). The decrease rate was more significant among girls (-8.6 percent and -3.9 percent respectively).
203. Conversely, the number of secondary-school pupils was up 40 percent in the Oued Ed-Dahab-Lagouira region.
204. Meanwhile, the number of new secondary-school pupils dropped in all three regions, -7.7 percent in the Guelmim-Es-Smara region, -7.9 percent in the Laayoun-Boujdour-Sakia-el-Hamra region, and -1.4 percent in the Oued Eddahab-Lagouira region. This decline concerned the private sector in particular, whereas at the national level, it is the private sector which compensates the slow growth pace of the public sector.
205. Several factors have contributed to this downward trend:
- inadequate high school coverage rate of rural communities (33 percent in the Laayoun-Boujdour-Sakia-el-Hamra region, and 14.3 percent in Oued Ed-Dahab, compared with 56 percent nationally);
  - questionable quality of education;
  - limited or insufficiently encouraged contribution of the private sector to the promotion of junior secondary education in the southern provinces.
206. This is a worrying trend. In an environment marked by unemployment and a structural weakness of private investment, the school is seen less and less as an essential means for the acquisition of knowledge and skills and for the achievement of social integration.
207. Most stakeholders interviewed by the CESE stressed the clear improvement in terms of enrolment rates and access to secondary education in the southern provinces. Enrollment in the three regions, which was the lowest in the Kingdom at the time of these regions' liberation, is now among the highest in Morocco (second only to the Greater Casablanca region). One can reasonably say that this obvious improvement is undoubtedly an achievement of the human resource development policy in the region.

208. Several stakeholders emphasized, however, the «*low quality*» of secondary education, which apparently prompts a feeling of graduating with «*'devalued'* » diplomas from the public schools in the southern provinces. This presumably explains the limited access to prestigious schools and to scientific fields.
209. Many regret that the student counseling towards scientific branches is not encouraged further.
210. Teacher training has been criticized for its content and quality; many teachers have been recruited directly, without proper training. Employment in education is not seen as particularly attractive, especially among young people from the regions concerned, who perform poorly in national **competitive exams**.

### **Skill-based secondary education**

211. The increase rate in the number of pupils enrolled in skill-based secondary education institutions was higher than the national average (29.4 percent): 69.2 percent in the Oued Ed-Dahab-Lagouira region, and 31.8 percent in the Laayoun-Boujdour-Sakia-el-Hamra region. The increase in the Guelmim-Es-Smara region (24.1 percent) was more modest.
212. The technical branch of secondary education skills training program is the least attractive. The most significant disaffection was recorded in the Guelmim-Es-Smara region, with only 2 percent of pupils choosing this technical branch, against 4.3 percent for the Oued Ed-Dahab-Lagouira region, and 4.0 percent for the Laayoun-Boujdour-Sakia-el-Hamra region. For comparison purposes, it should be pointed out that the highest proportion was recorded in the Doukkala-Abda region (7.9 percent), followed by the Souss-Massa-Draa region (7.2 percent).
213. The main problems affecting technical education in Morocco in general, and in the southern provinces in particular, are as follows:
- upstream, a lack of linkages with post-secondary education and a lack of career opportunities to build on the technical education started; the dual role of the OFPPT (young people's initial training and on-the-job training of employees) adds to the ambiguity, which could be an obstacle to the creation of private technical continuing training institutions;

- downstream, the absence of an effective sensitization and counseling policy that would help pupils avoid dropping out of school, in addition to problems accessing the labor market.

### Promotion and development of technical education

214. The OFPPT, which is financed by a levy on private sector wages (1.6 percent, of which at least 30 percent theoretically goes to continuing education), is the key player in the area of vocational training. It set up 13 schools in 2011 (against 7 in 2007): 8 in the Guelmim-Es-Smara region, 4 in the Laayoun-Boujdour-Sakia-el-Hamra region, and 1 in the Oued Ed-Dahab-Lagouira region. Total enrolment in these institutions stands at 2,608 students, or 3.7 percent of total OFPPT enrolments. The specialties offered are the hotel trades, construction, industry, new information and communication technologies and business services.
215. The 2009 employment rate of graduates of vocational training institutions was higher in the southern provinces than the national rate (61 percent): 74.9 percent in the Oued Ed-Dahab-Lagouira region, 64.8 percent in the Laayoun-Boujdour-Sakia-el-Hamra region, and 70.5 percent in the Guelmim-Es-Smara region.
216. Despite a constantly growing student population, vocational training in Morocco continues to suffer from a variety of problems: low capacity (20 percent of young people entering the market annually); a system of training based on training supply rather than corporate demand; extremely loose linkages with the educational system; marginalization of rural areas: rural populations benefiting from only 3 percent of vocational training facilities<sup>16</sup>.
- 217 The stakeholders interviewed and the observations made on the spot by the CESE delegations confirm that the investments made by the OFPPT in training infrastructure are important and of good quality. The teaching materials and methods observed firsthand in Laayoun by the CESE delegations were of the highest quality.
218. Several stakeholders regretted only the limited possibilities offered in the region in terms of quality technical education and poor linkages with local employment opportunities.

<sup>16</sup> UNESCO (2010)

219. The content, purpose and even the steering of the regional vocational training policy do not seem to be governed by an integrated vision or monitoring and evaluation mechanisms to improve their functioning and their consistency with corporate needs and local market demands.

### Promoting access to higher education AND DEVELOPING professional skill training

220. Up to January 2013, there was no university in the southern provinces. This hampers the efforts made in primary and secondary education and represents a serious obstacle to further studies. A “master’s program in Saharan studies” was offered at the Rabat-Agdal University in October 2012, with a first class consisting of 22 students. This program does not compensate for the need for a university in the region.

221. In post-secondary education, 396 students were enrolled in preparatory classes for the *grandes écoles* in the 2011-2012 academic year: 161 in Guelmim-Es-Smara, 181 in Laayoun-Boujdour-Sakia-el-Hamra, and 54 in Oued Ed-Dahab-Lagouira. The southern regions comprise 5.7 percent of total enrolment figures.

222. During the 2011-2012 school year, 313 students were attending the BTS program (higher technician certificate), with 133 students in Guelmim-Es-Smara, 50 in Laayoun-Boujdour-Sakia-el-Hamra, and 130 in Oued Ed-Dahab-Lagouira, representing 8 percent of total national enrolments.

223. According to several observers, the renewal of «elites» and the emergence of intellectuals, scientists and technicians from the southern provinces are severely hampered by a failed local secondary school system and poor linkages with the higher education system (at the national level, the southern regions are under-represented in the pool of researchers, engineering students and doctors).

224. Many stakeholders bemoan the lack of a network of academic institutions in the three regions, no university in Laayoun and Dakhla; one college was set up in Guelmim in 2012 (Economics) and in Es-Smara (Islamic Studies).

225. Several associations advocated affirmative action measures (quotas or access procedures other than competitive exams) to enable young people from the region to access universities and the *grandes écoles*.

226. Students from the southern provinces can enroll only in Agadir and Marrakech. They have special advantages: priority access to university campuses and restaurants, facilities to young employees wishing to continue their studies ... «*This unequal situation is interpreted by young people in Western Sahara as a set of privileges that will not last, and that as soon as the conflict is 'resolved', the Moroccan State will cancel them and change its attitude towards them*»<sup>17</sup>. This policy is fueling mistrust between the State and young people.
227. There are no incentives for people with disabilities to help them access higher education.

### Right to continuing training

228. In addition to initial training, OFPPT provides various services in the southern provinces in the area of continuing training: specific training, inter-company training, engineering training, recruitment consultancy, training through evening classes.
229. Evening class training is offered during the academic year 2012-2013 by four training institutions in the service industry, industry and information and communication technology. There was a 40 percent increase in the number of beneficiaries between 2007 and 2012, from 545 to 762.
230. Continuing training is very limited. At the national level, only 16 percent of employees registered with the CNSS received in-service training. Continuing training is therefore not considered a right in the region, or, for that matter, in Morocco in general. In-service training is offered at the initiative of certain departments and offices in the region and some government agencies, banks and large companies to meet their own needs.

### Right to culture

231. The right to cultural development is enshrined by the International Covenant on Economic, Social and Cultural Rights (Article 15); it is also guaranteed by the Constitution (Article 33). UNESCO adopted a Convention (2000), which serves as an international standard on the protection and promotion of the diversity of cultural expressions.

<sup>17</sup> Brouksy, Omar (2008)

232. The exercise of social responsibility, in the broad sense, by the government and civil society in general (companies, investors, professional organizations, civil society organizations), and in accordance with the Kingdom's Constitution and ISO 26000, implies a shared responsibility to commit to the preservation and development of the heritage and the cultural expressions of the Kingdom's southern provinces.
233. The official number of libraries in the three regions stood at 33 according to Ministry of Culture statistics, with a higher number of titles per thousand inhabitants than the national average (122 in Guelmim, 180 in Laayoun, and 95 in Dakhla, compared with a national average of 87 titles). However, the library usage rate in these regions is even lower than in the rest of the country (less than 0.1 percent, compared with a national average of 5.5 percent).
234. There are no reports of cultural sponsorship measures by the private sector in the region. The funds allocated by the Ministry of Culture have been on the rise in the past five years and are growing at a faster pace than at the national level. Moreover, between 2007 and 2012, the INDH funded 116 cultural projects.
235. The region is home to one of the events listed by UNESCO, since 2005, as Intangible Cultural Heritage of Humanity. The Tan Tan *Moussem* is indeed a major annual get-together of Saharan nomads. It brings together more than thirty tribes from southern Morocco and other parts of northwest Africa. In addition to commercial activities (food items and products; camel breeding competitions), social activities (wedding ceremonies..) and medicinal events (consulting herbalists), the *moussem* is a focal point for cultural expression and perpetuation of the region's artistic expressions (music, folk songs, games, poetry contests and other *Hassani* oral traditions).
236. The Agency for the development of the southern provinces is sponsoring the publication of a collection of books (16 to date) entitled *Histoire et société du Maroc Saharien* (Moroccan Saharan history and society), which is designed to showcase the natural and cultural riches as well as the heritage of the southern provinces.
237. The CNDH has also contributed to promoting the *Hassani* culture - with funding by the OCP and the Agency for the development of the southern

- provinces - through the organization of an international conference, in December 2012, for the creation of the Sahara Museum, in Dakhla. The publication of that conference's documents is in progress.
238. The Centre for Saharan Studies, which was established on 7 February 2013, is tasked with conducting multidisciplinary research in historical, social and cultural fields, primarily in the southern provinces, and to open up onto other Saharan and pre-Saharan neighboring regions. The center is the result of a partnership between the Faculty of Arts and Humanities of the Mohammed V - Agdal University, the National Council for Human Rights, the Agency for the Promotion and Economic and Social Development of the Kingdom's Southern provinces and the *Office Chérifien des Phosphates*. In 2013, the center plans to commission two scientific surveys on animal herding and the urban question, to issue a call for proposals for the publication of doctoral theses, and to translate into Arabic Caro Baroja's *Estudios Saharianos*, which is a great classic on the Sahara.
239. During her visit to Dakhla in 2011, the UN Independent Expert said she had been informed that, for the organization of numerous festivals, a «*disproportionate amount of funds*» was spent on inviting international musicians, particularly from Mauritania. At the same time, bands and musicians are said to have been «*selected by a committee empowered to ask them to change, for example, the lyrics or modify traditional performances they considered inappropriate. (...) Some of them were not allowed to participate in festivals. Such practices limit the freedom of expression of cultural diversity, which ought to be promoted and realized*»<sup>18</sup>.
240. Some observers deplored the fact that «*school curricula include only Morocco's official history, without reference to the Sahrawi culture and history*», which can be seen as «*a violation of Article 29 of the Convention on the Rights of the Child, and Article 5 of UNESCO's Declaration on Cultural Diversity*».
241. Similarly, claims not refuted by the authorities indicate that Sahrawis «*do not always enjoy the right to register their children in the civil status registry under the names they choose, especially in accordance with the Hassani tradition of giving compound first names*».

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<sup>18</sup> UN Human Rights Council (2012)

242. Several of the stakeholders interviewed by the CESE complained about the lack of interest on the part of the institutional and corporate sectors in the recognition, respect and development of the region's arts and knowledge. They underscored the threats looming over the region's heritage and historical sites (example: the Tarfaya airmail landing strip, rock engravings; oases, kasbahs and ksours ...)
243. Little or no initiatives are taken for the preservation of the *Hassani* memory and oral culture, except for the Tan Tan *Moussef*, recognized by UNESCO as an Intangible Cultural Heritage of Humanity, the Oued-Eddahab-Lagouira festival and the Aousserd festival.
244. The attention of the CESE has been drawn to the challenges and the complexity of procedures with respect to the organization of cultural events; stakeholders and observers sometimes blame obstacles, other times monopolizing, but systematically bemoan what they call «*undue interference*» by or «*paranoid attitudes*» of local administrative authorities with respect to cultural projects and activities developed by local associations (festivals, conferences, fairs, exhibitions).
245. Building huge cultural infrastructure (such as the Laayoun library) is criticized as window dressing without any meaningful impact, a process driven by considerations of budget allocations and construction spending without any rational objectives or specific indicators to measure project usefulness and efficiency.
246. There are few local initiatives for artistic development (movies, theater, dance) and no assistance for literary production.
247. The production of book collections on the arts, culture and history of the region, which is actively supported by the Agency of the development of the southern regions, does not have the support of community organizations, which criticize its cost and excessively elitist character.

## Right to sport

248. The Universal Declaration of Human rights states in Article 24 that «*Everyone has the right to rest and leisure, including reasonable limitation of working hours*». This right is confirmed in Article 26 of the Constitution which

provides that «*Public authorities shall provide support, through appropriate means, for the development of cultural and artistic creativity, scientific and technical research, and the promotion of sport*».

249. According to the statistics of the Ministry of Youth and Sports, some 9,500 persons have sporting licenses in a dozen sports in the three southern regions. The Ministry's budget for the three regions is around 50 million dirhams. At the end of 2012, sports facilities consisted of 10 sports halls (twice the number available in 2005), 4 swimming pools, 5 athletic fields, 31 football stadiums, 5 basketball stadiums, 6 handball stadiums and 5 volleyball stadiums.
250. Despite the obvious variety of disciplines, practicing sports is still very limited, especially in the Guelmim-Es-Smara and Oued-Eddhab-Lagouira regions.
251. The ambitions and coherence of the sports policy in the southern regions are not sufficiently showcased. Several facilities lack operability means or are too disproportionate (a huge indoor arena in Dakhla has no operating budget, a fitness gym in Guelmim is unused).
252. There is no tangible action in support of access to sport by persons with disabilities.
253. There is no regional directorate of Youth and Sports in Dakhla and Guelmim.

## Intellectual property rights

254. There is no public indicator on patent registration in the southern provinces for the protection of intellectual property rights (in artistic, literary, scientific or technological fields). Nor is there any data on the prevention of counterfeiting (number of detected violations, the complaints filed and the actions taken).
255. More generally, there is no mechanism for the recognition and protection of intellectual property rights of communities in the region's provinces over their time-honored knowledge, including their medicine, traditional pharmacopoeia, knowledge of the properties of fauna and flora, oral traditions, and their right to protect, promote, manage and safeguard their collective intellectual property.

## Chapter 3 :

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# Inclusion and solidarity

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# Inclusion and solidarity

## Non-discrimination and gender equality

256. The extent to which there is actual compliance with the principles of non-discrimination and the promotion of equality between men and women is basically the same as in the rest of the Kingdom as far as accomplishments, difficulties and challenges are concerned.
257. In this respect, school attendance of girls is one of the most significant developments notwithstanding the fact that important disparities remain between urban and rural areas. Today, the southern provinces are performing better in the area of basic education than other parts of the country. However, in preschool education, the figures remained unchanged between 2007 and 2011, while they continued to increase at the national level. There was even a drop in the Guelmim-Es-Smara region, since the parity index went down from 91.1 percent to 89.4 percent. At junior high school level, and despite a decline in the parity index, the southern provinces' performance is much better than the national average. At primary education level, in 2011-2012, no ratio was higher than the national average, i.e. 91.8 percent and 90.7 percent respectively. By place of residence, the gap is greater in rural areas in favor of the southern provinces, compared to the national average in rural areas, with rates of 91.6 percent and 88.7 percent respectively.
258. As regards employment, the participation rate of women in the southern regions (14.5 percent) is very low compared to the national average (25.5 percent). This rate is almost five times lower than that of men in the region. Furthermore, the downward trend in the proportion of women in the labor force is more noticeable in the southern provinces than it is at national level.
259. Female unemployment has worsened, going from 27.6 percent to 35.1 percent between 2007 and 2011, compared with 9.8 percent and 10.2

percent nationally. 51 percent of working women are employed in the south, against 33.5 percent at the national level, and 63.4 percent for men in the region. Similarly, the proportion of female family workers or helpers does not exceed 26 percent in the southern provinces; that rate is 49.6 percent at the national level.

260. In 2011, the percentage of women employees in the civil service was estimated at 23 percent. The Laayoun-Boujdour-Sakia-el-Hamra region has the highest rate in this respect, with 27.9 percent, against 20.5 percent in Guelmim-Es-Smara, and 24 percent in Oued Ed-Dahab-Lagouira.
261. Although the rate of women heads of households in the region is the same as the national average (around 12 percent), the traditional barriers to equality between men and women are more acute in the three regions:
- Women's employment rate in the region has declined from 19.1 percent in 2000 to 14.5 percent in 2011; it is lower than the national rate (25.5 percent) but higher than that of the Eastern region (12.3 percent) and the Tangier-Tetouan region (11.9 percent);
  - There are no indicator figures on women's participation in the activities and management of associations. There is no indicator on stereotypes and discriminatory barriers to women's access to decision-making positions in economic, party and union activities. This access, clearly, remains limited.

## Family protection

262. The Covenant on Economic Social and Cultural Rights upholds the right of the family to protection and calls for special protection for mothers (Article 10). The Constitution guarantees the protection of the family at legal, social and economic levels (Article 32).
263. In 2011, the average household in the southern regions was estimated at 4.1 persons, against 4.3 at the national level. As with national figures, the proportion of married persons predominated among adults in 2011, with 54.9 percent and 55.8 percent respectively. The proportion of divorced women in the southern provinces was 4.2 percent, compared with 2.9 percent at the national level.

264. The legal framework for the judicial and social protection of families in the southern provinces is an ordinary law framework.
265. A family mutual assistance fund was created in September 2011. With an estimated budget of 160 million dirhams, the fund intervenes in three cases: (i) a delay of at least two months in the payment of alimony, (ii) failure to enforce a court decision on the payment of alimony, (iii) absence of the husband. In accordance with Article 13 of Law 41-10, entitlement to these fund benefits is restricted to destitute divorced spouses and their children. Beneficiaries receive a monthly amount of 350 dirhams, and total payments granted to a family may not exceed 1,050 dirhams.
266. Significant social benefits (access to housing and food aid) were granted to residents of the Al Wahda camps and groups and persons who returned to the motherland; these positive measures have been criticized because they were perceived as unfair to persons and families who are from the region.
267. The definition of poverty and the criteria for granting public aid are viewed as being unrealistic given the specific lifestyle of families and individuals in the region. This has led to the exclusion of a significant number of individuals and families from this aid (they are culturally uncomfortable at describing themselves as «poor» or «needy»).
268. There are no international aid programs in the regions.
269. The lack of incentives for the families of civil servants does not make those regions attractive enough for civil servants.

### **Protection of vulnerable persons and groups**

270. The concept of vulnerable persons or groups applies to people whose physical, mental, social or economic condition impedes their right to equality, to the actual enjoyment of their human rights and to the exercise of citizenship.
271. The Constitution upholds the right of vulnerable persons and groups to protection and to measures that promote their right to equality. It stipulates that it is up to government authorities to develop appropriate policies, prevent vulnerability and promote the reintegration of these individuals and groups (Article 34).

272. The provisions of the Kingdom's Constitution are consistent with the principles stated in the International Covenant on Economic, Social and Cultural Rights (Article 10) as well as in numerous United Nations instruments, including the Convention on the Rights of Persons with Disabilities (2006), which recommends that solutions be found to the difficulties of communication and mobility, and that effective measures be taken against all forms of discrimination.
273. The disability prevalence rate in the southern provinces is almost the same as the national rate (2.8 percent, against 2.2 percent across the country). However, the aid system and the support given to people with disabilities are confronted with even greater difficulties in these regions because means are more limited.
274. As is the case throughout the Kingdom, there is no institutional definition in the region of vulnerable persons and groups, nor are there any specific programs or criteria to prevent discrimination against vulnerable people (people with chronic health conditions, people with disabilities, dependent elderly people, sexual minorities, migrants, migrant families, etc).

### Protection of migrant workers and their families

275. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003), to which Morocco is a signatory, aims to protect migrant workers against discrimination in employment and occupation, as well as against the exploitation and violation of their human rights, and to ensure their right to privacy. The ILO reaffirms the need for the protection of migrant workers, insisting on equal treatment between domestic and foreign workers; it advocates the implementation of active policies to this end (information, protection against discrimination, living conditions).
276. After having been a transit country, Morocco has become a «destination country by default» following the tightening of border controls in the European Union. In a report published in March 2013, *Médecins Sans Frontières* (MSF) called for «concrete action (...) to resolve the paradox of European and Moroccan policies which view migration through the security lens and criminalize, marginalize and discriminate against sub-Saharan migrants in Morocco on the one hand, and, on the other hand, protect and defend their fundamental human rights».

277. In a reply carried by the press on March 15, 2013, the Moroccan Ministry of the Interior recalled the non-discrimination guarantees introduced by the Kingdom's new Constitution (adopted on July 1st, 2011), and «*the principles and commitment of the Moroccan authorities*» not to expel «*vulnerable migrants, pregnant women, minors, refugees and asylum seekers*». Law 02-03 on the entry and residence of foreigners in the Moroccan territory includes protection measures for undocumented migrants, including the right to appeal against administrative decisions, the right to have an interpreter, a lawyer and consular assistance as well as the right to judicial review of their detention conditions. In its statement, the Moroccan Ministry of Interior rejected what it called «*MSF allegations*» according to which migrants are victims of «*institutional violence*».
278. Sub-Saharan workers perceive the southern provinces as a transit area and do not intend to settle there.

### Right to protection in case of termination of employment

279. Convention No. 158 on Termination of Employment (1982) and Recommendation (No. 166) on termination of employment define the principles relating to the protection of employees' rights in the event of dismissal. Similarly, Convention No. 173 (1992) lists the rules relating to the protection of employees in the event of insolvency of their employer. These instruments are designed to protect the rights of employees in the event the company employing them faces difficulties, and to provide social protection, including temporary income and assistance to persons who lost their jobs to facilitate reinsertion.
280. There are no mechanisms in the southern provinces, or anywhere else in the Kingdom, which are dedicated to social welfare or to the financing and/or provision of assistance to people who lose their jobs.
281. From a regulatory standpoint, the Labor Code governs the modes of dismissal and its reasons, and sets compensation for termination of employment. A project for the establishment of compensation for loss of employment has been under discussion by the State and the social partners since 2004.
282. Civil society and union representatives who met with the CESE deplored the lack of social protection measures and of support for people in case of

dismissal. They reported several cases of layoffs and lockouts in the region, the most recent being the one at *Omnium de pêche*.

### Curbing social exclusion

283. The International Covenant on Civil and Political Rights (ICCPR, 1966) affirms that extreme poverty and exclusion from society constitute a violation of human dignity. Anyone who is in poverty or distress is entitled to the assistance of the community by virtue of the right to life and the restoration of independence. Curbing social exclusion and promoting solidarity are aimed at strengthening the effectiveness of access to employment, health, housing, education, vocational training and generally increase the effectiveness of social integration (Vienna Declaration and Programme of Action, 1993).
284. In 2007, the two southern regions - Laayoun-Boujdour-Sakia-el-Hamra and Oued Ed-Dahab-Lagouira - had reduced their relative poverty rate, making it the lowest nationally, at 2.2 percent and 2.6 percent respectively. The rate in the Guelmim-Es-Smara region (9.7 percent) was slightly higher than the national average (8.9 percent). Rural areas in Guelmim-Es-Smara remain particularly vulnerable to poverty, with a rate of 17.3 percent, almost eight times the rate in Oued Ed-Dahab-Lagouira.
285. In the southern regions, aid programs of the *Promotion Nationale* benefited a proportion of the working population which is higher than the national average: 8.3 percent in Laayoun-Boujdour-Sakia-el-Hamra, 6.8 percent in Oued Ed-Dahab-Lagouira, and 3.1 percent in Guelmim-Es-Smara, against a national rate of 0.3 percent.
286. Between 2007 and 2012, the INDH contributed to the implementation of 442 projects in the southern provinces, with a total disbursement of 997.6 million dirhams (corresponding to approximately 6.5 percent of the national total); 561.6 million dirhams of the above amount were covered by the INDH. Projects benefited 495,840 beneficiaries. They included the following activities: support for access to basic social services, construction, equipping and upgrading of reception centers, promotion of employment and income-generating activities, support for social, cultural and sport activities, training and capacity building, promotion and support for associations. More specifically, 559 projects concerned the fight against

social exclusion in urban settings, with a budget of approximately 431 million dirhams.

287. Direct assistance, in the form of donations in kind and in cash, is the main component of the State's social policy in the southern provinces. In the absence of a self-supporting market sector, aid to individuals and families plays a key role both as a safety net and as a support mechanism for the economy. However, the targeting, fairness, transparency, control, and efficiency of social assistance mechanisms in these regions do not seem to be properly assessed using formal standards, principles and evaluation, and are strongly criticized.
288. **Assistance for resettlement in the homeland:** «*ralliés*» associations (associations of people who returned to the motherland) criticize the unequal treatment and the absence of stable reception and integration modalities for people who return to the motherland. Other associations, on the other hand, criticize the treatment - deemed too favorable - reserved for the «*ralliés*», compared with the social conditions experienced by the local populations. Several observers underscored the need for active support and assistance to achieve the socio-cultural and community integration of young separatist people.
289. **Aid to veterans:** some associations referred to a lack of material support to veterans who had been detained in the Algeria-controlled camps and their families.
290. **Aid to persons with disabilities:** there are no specific measures for people with disabilities; public policies for people with disabilities are the same as in the rest of the Kingdom.
291. **Pension and retirement schemes:** Pensions and retirement schemes in the southern regions are the same as to those applied in other parts of Morocco.



## Chapter 4 :

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# Protection of children

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## Protection of children

### Right of children to information, education and training

292. Since 2005, Morocco has a «National Action Plan for a country worthy of its children» (PANE); it aims to create an environment where children have a guaranteed right to life, development, protection and participation. There are conclusive indicators in the southern provinces regarding improved social conditions for children.
293. In the area of preschool education, performance indicators in the southern provinces between 2007 and 2011 were higher than the national average. In Guelmin-Es-Smara, Laayoun-Boujdour-Sakia-el-Hamra and Oued Dahhab-Lagouira, the number of girls' enrolment grew by 15.5 percent, 15 percent and 10.4 percent respectively, compared with a national average rate of 3.7 percent.
294. In 2011, there were 44 youth centers in the southern regions. With the exception of Laayoun-Boujdour-Sakia-el-Hamra, youth center attendance was declining, as is the case in the rest of the country. In 2009, the Ministry of Youth and Sports launched a new concept: local social and sports community centers (known as CSPIs), which offer sports and cultural activities for young people. By 2016, the southern regions are expected to be home to 24 CSPIs.
295. The national press has broken several taboos, at the national level, regarding the status of child rights (pedophilia, child labor).
296. In its 2012 report, UNICEF observed that Morocco has made significant progress since the ratification of the Convention on the Rights of the Child and is about to reach the Millennium Development Goals (MDGs) by 2015. *«But there is a problem of growing concern, that the progress made on the basis of national averages can conceal broad disparities in terms of poverty and child development within the country's regions, and social classes in the*

country. The significant progress made in various fields should not conceal the many constraints to the achievement of the rights of children, adolescents, and young boys and girls in various sectors (health, education, protection)»<sup>19</sup>.

297. UNICEF calls for the fair achievement of MDGs and child rights: «equity, meaning striving to ensure that all children have an opportunity to survive, develop, be protected and reach their full potential, without discrimination, bias or favoritism».
298. The meetings held by the CESE in the southern regions have shown that the public childhood policy applied in the southern regions is basically the same as that applied in the rest of the Kingdom, with its strengths and its shortcomings. The generalization of primary education and the dramatic improvement in girls' access to education and to school medical services are valuable achievements. On the other hand, the limited budgets and human resources involved in extracurricular activities, the inadequacy and unequal distribution of budgets and initiatives which promote artistic awareness and interest in science and technology are drawbacks.

### Mother and infant medical protection

299. During the 2010-2011 school year, 30,933 children and young people in the southern provinces benefited from routine medical visits, representing 3.3 percent of beneficiaries across the country. The coverage rate exceeded the national average of 87.5 percent: 99.8 percent in Oued Ed-Dahab-Lagouira, and 95 percent in Guelmim-Es-Smara. As regards eyesight tests, 3.9 percent of visits took place in the southern provinces, peaking at 62.4 percent in Guelmim Es-Smara.
300. The national vaccination coverage rate reached 90 percent during the 1990s and has exceeded 95 percent during the past five years. In 2011, 98.5 percent of children aged 12-23 months were immunized against tuberculosis, and 95 percent against polio and DTP.
301. According to the conclusions of the national survey conducted in 2011 on population and family health, Morocco has made significant progress in improving mother and infant health, particularly with respect to the achievement, before 2015, of the Millennium Development Goal (MDG) 4

<sup>19</sup> UNICEF (2012)

on reducing under-five mortality. Between 2004 and 2011, under-five child mortality (infant and child mortality) was reduced by 35 percent, from 47 ‰ in 2004 to 30.4 ‰ in 2011. But rural areas are significantly lagging behind compared to urban settings. For example, the post-neonatal mortality rate is twice as high in rural areas (13.05 ‰) than in urban settings (6.59 ‰). The same applies to the malnutrition situation.

302. Mother and infant medical and health protection presents the same characteristics as those typically observed in mid-urban centers and rural areas. However, the shortage of pediatricians and gynecologists is less acute in the provinces that were liberated in 1975 and 1979 (Laayoun and Dakhla) than in those liberated in 1958 (Guelmim).
303. The difficulties in terms of care arrangements for children with disabilities are similar in the southern regions to those observed in the rest of the Kingdom.
304. The dynamism of some national and local associations which seek to support children with disabilities and facilitate their integration deserves to be underscored.

### **Protection of children against violence, trafficking, abuse and exploitation**

305. The progress made by Morocco in the area of child protection is illustrated by the national legislation which has been brought in line with international commitments as well as in the development of sector-specific strategies to combat violence. However, the actual protection of children's rights remains complex. Several categories of vulnerable children have been identified: children who are off the school system, street children, child maids, children placed under supervision, child victims of economic exploitation, abused children (including sexual abuse), abandoned children, especially those who are abandoned at birth...
306. According to HCP statistics, 123,000 children aged 7-15 years were working in 2011. The reasons for this phenomenon include the place of residence, household income and the parents' education level. Children in the Doukkala-Abda region are 15 times more likely to work than in the Guelmim-Es-Smara region.

307. Care for abandoned children is done in very different ways in the southern provinces. In Laayoun-Boujdour-Sakia-el-Hamra, there is a sustainable management dynamic, and coordination between stakeholders is real. The data on Guelmim-Es-Smara, on the other hand, are insufficient.
308. The attention of Council delegations visiting the region was drawn to the need to reinforce child protection against the impact of any indoctrination on their psychological integrity, and to guard against their instrumentalization and use as a shield in unauthorized demonstrations.
309. A national associations' network (*Ligue pour la Protection de l'Enfance*) manages reception facilities for abandoned children in the main cities of the region. Donors, including the Mohammed V Foundation and INDH, have made it possible for the network to secure premises and equipment; the sustainability of their action hinges on the permanence of their financial resources and on support for continuous improvement of their technical and operational capabilities.

Chapter 5 :

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**Social dialogue  
Civil dialogue  
and innovative partnerships**

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# Social dialogue

## Civil dialogue

### and innovative partnerships

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#### Freedom of association and the right to organize

310. Fundamental human rights are achieved on the workplace through a series of legislative provisions emanating directly from the Universal Declaration of Human Rights (1948). They include the principle of non-discrimination and equality, freedom of association and opinion, the right of assembly and the right to participation in political, economic and social life. These rights are either individual rights which are exercised collectively, or rights recognized to organizations, including labor unions and professional employers' associations.
311. The ILO Convention 87 on Freedom of Association and Protection of the Right to Organize (1948), the Universal Declaration of Human Rights (Article 23) and the Constitution (Articles 8, 9 and 29) guarantee respect for freedom of association and the right to organize. These standards imply guaranteeing the right to establish trade unions and employers' organizations without discrimination or retaliation, as well as the individual's right to join or not to join, respect for the independence and the free exercise of the activities of unions and professional organizations, including in the company.
312. National trade union organizations, in particular the *Union Marocaine du Travail* (Moroccan Labour Union - UMT), the *Confédération Démocratique du Travail* (Democratic Labour Confederation - CDT), the *Union Générale des Travailleurs du Maroc* (General Union of Morocco's Workers - UGTM) and the *Union Nationale des Travailleurs Marocains* (National Union of Moroccan Workers - UNMT) are present in the three southern regions, mainly in Laayoun and Dakhla. Trade unions are active mostly in administration, the

fisheries and phosphates. The participation rate of employees in the private and public professional elections is high (77 percent in Guelmim-Es-Smara, 93 percent in Laayoun-Boujdour-Sakia-el-Hamra and 93 percent in Oued Ed-Dahab-Lagouira, against a national rate of 75 percent). However, the percentage of women staff/employee delegates in the region is lower than the national average: 13 percent in Guelmim, 12 percent in Laayoun and 18 percent in Dakhla, against a national average of 21.6 percent.

313. In addition to cooperation and support programs to revamp labor relations, the ILO encourages Morocco to ratify Convention 87 on freedom of association, especially as the Moroccan legislation is largely in line with that international benchmark.
314. Freedom of association in the workplace and trade union rights are exercised in the southern regions within the same legal framework as in the rest of the Kingdom. The trade union environment is characterized by the same features as in the other provinces: diversity of organizations, active participation in professional elections and participation of staff/employee delegates to the electoral college vote for employee representatives in the Parliament's House of Councilors, free election of leaders, notice posting, meetings, filing of claims, participation in international trade union activities. Some private export companies indicated that they accept to be audited by their clients to assess the conditions in which freedom of association and their employees' collective bargaining rights are exercised.
315. The main trade unions are represented locally and are active through their regional union sections or their trade associations' sections. Union activists with whom the CESE had met reported hurdles to the establishment of local unions in private companies and in some government agencies (*Entraide Nationale*, a public social welfare agency). These barriers, which unions denounce as violations of constitutional guarantees of the right of all employees to form and join trade unions of their choice without discrimination, are clearly not followed by administrative investigations or judicial remedy.
316. Union education activities are ensured by union organizations for the benefit of their members.

## Collective rights

317. The fundamental principles and rights at work aim to uphold freedom of association and the right to organize, the right to collective bargaining, elimination of discrimination in respect of employment and occupation, respect for the right to strike, elimination of forced labor and elimination of the worst forms of child labor. These rights are asserted by the ILO Declaration on Fundamental Principles and Rights at Work (1998 and 1999), which is binding on all UN members, even if they have not ratified the Conventions relating to these rights.
318. Revamping social dialogue requires promotion of the definition of bilateral and multilateral contractual relationships as well as networking that involves businesses, local authorities, trade unions and professional associations for the achievement of social and / or environmental objectives.
319. However, treaty law remains very limited, in the south as in other parts of the country. At the national level, there are less than 40 sectoral collective agreements. There is no regional collective agreement. However, company agreements, commonly called «protocols of agreement», seem to be a frequent practice and a key instrument for resolving rights disputes and conflicts of interest. These agreements and the negotiation to which they lead concern mostly wages and compliance with labor laws.
320. In 2012, nine company agreements were signed in the three southern regions, three agreements in each region.
321. The Moroccan Labor Code prohibits forced labor. No case of forced labor has ever been reported. The Labor Code also prohibits child labor. It is possible that children may be employed in family businesses and farming. Control of health and safety requirements in the workplace is rudimentary, except for the employment of women in hazardous industries and occupations.
322. In practice, working hours in the seafood processing sector during peak seasons is 12 hours per day, 6 days a week.
323. No hindrances or restrictions to the application of the national collective agreements are noted in the three southern regions; nor are there any initiatives for the conclusion of collective agreements at the provincial or regional levels.

## Right to strike

324. The principle of the right to strike is enshrined in the International Covenant on Economic, Social and Cultural Rights, adopted in 1966 (Article 8 reads: *“The right to strike, provided that it is exercised in conformity with the laws of the particular country».*
325. In Article 29, the Constitution reaffirms the right to strike *«Freedom of gathering, assembly and peaceful demonstration shall be guaranteed (...) The right to strike shall be guaranteed. An organic law shall determine the conditions and procedures for the exercise of this right».*
326. With the exception of certain statutes, in which the right to strike is prohibited for certain categories of civil servants, the general statute of the civil service, for the public sector, the labor code for the commercial sector and the specific statutes (statute for the employees of mining companies and the seafarers commercial code) guarantee the protection of this right.
327. The right to strike is not regulated in Morocco. Strikers are sometimes prosecuted by criminal courts under Article 288 of the Penal Code which criminalizes *«obstructing freedom to work».* These indictments are strongly criticized by trade unions as a violation of freedom of association; they have been asking that this provision be repealed.
328. According to official statistical data, most strikes in the private sector occur because of differences in interpretation between employee and employer representatives and conformity of corporate situation and company social practices with labor laws. One dispute in five (20 percent) relates to legislation, 20 percent relate to the minimum wage, 12.47% concern the lawfulness of dismissals, 8.05 percent relate to working hours, 9.98 percent concern social welfare and 10.7 are related to the recognition of the right to organize and collective bargaining.
329. In 2012, there were 413 strikes in the commercial sector, including agriculture, against 474 strikes in 2011. The strikes concerned mainly industry, services, construction and agriculture. 24.18 percent of strikes took place in the Greater Casablanca region, against 0.90 percent for the Guelmim-Es-Smara region.
330. The largest proportion of avoided labor disputes was in the Guelmim-Es-Smara region with 119 cases, corresponding to 14.82 percent of avoided

disputes, followed by the Greater Casablanca region with 13.82 percent (each avoided conflict situation is counted as an avoided dispute even if it occurs several times in the same company/institution).

## Freedom of association

331. Freedom of association and the right to collective bargaining are guaranteed by two ILO Conventions: Co 87 on the Freedom of Association and Protection of the Right to Organize, and Co 98 on the Right to Organize and Collective Bargaining.
332. Article 29 of the Constitution stipulates that «*Freedom of gathering, assembly, peaceful demonstration and association shall be guaranteed*».
333. In its 2013 report, Human Rights Watch noted that the authorities have refused to grant legal recognition to all local human rights groups whose leaders support the territory's independence, including associations which obtained administrative tribunal rulings that they had been unfairly denied legal recognition. This seems to be the case for the Group of human rights Sahrawi defenders (CODESA) and the Sahrawi Association of Victims of Grave Human Rights Violations (ASVDH)<sup>20</sup>. The latter was invited by the CNDH to join but refused to consider the proposal until it has been legally recognized.
334. The right of association is guaranteed by the Constitution and is exercised in the region without any particular regulatory restriction. Although civil society organizations are considered to be quite active in the southern provinces, unjustified refusals by administrative authorities of permission to register associations have been reported. The number and reasons for such refusals are not publicly disclosed by the authorities concerned.
335. Many organizations lament the low financial support as well as the fact that aid is focused on a limited number of associations. This is denounced as a disincentive for social actors and as a barrier for community organizations' action with respect to the national and international environment. The limited resources available for training in the voluntary sector are also criticized. Several stakeholders pointed out that the main victims of the limited aid to associations are women who are thus deprived of

<sup>20</sup> US Department of State (2012)

opportunities for information and participation in local life and public decision-making.

336. Many stakeholders criticized the abusive control of associations by administrative authorities as well as their lack of independence in terms of finance and programming. Given that there are no objective criteria for assessing the relevance and actual implementation of their activities, several associations have been criticized as «artificial».

### Promoting civil dialogue

337. Civil dialogue is the exchange, consultation and communication between public institutions and civil society organizations; it enables civil society actors to participate in managing community affairs. The right to civil dialogue is affirmed by the UDHR (Article 21) and the ICCPR (Article 22). It is guaranteed by the Constitution (Article 12).
338. The experience of the Royal Advisory Council for Saharan Affairs (CORCAS) has met with mixed reactions on the part of the stakeholders whom the CESE interviewed in January 2013 in the southern provinces. Some speakers felt that the Council represents a unique framework for civil dialogue and is a leading player in the region. Several elected officials stressed that this institution is, to date, the only forum where civil society organizations can express their views. An elected official from the Laayoun region even called the Council the «legitimate representative» of the population and the region. Conversely, others criticized this institution's lack of representativeness and the limited nature of its activities.
339. The involvement of associations in local decision-making is limited, not to say nonexistent. There is no procedural or formal framework, in the region, for dialogue between the government, elected officials and civil society organizations.
340. Public benefit inquiries are clearly not activated prior to the implementation of major infrastructure projects and facilities in the region.

### Corporate social responsibility

341. Any organization, regardless of its nature, size or mission, has a social responsibility, given the impact of its decisions and activities on its stakeholders, society and the environment.

342. The social responsibility of any organization requires an ethical, transparent behavior which:
- contributes to sustainable development, health and community well-being;
  - takes into account the expectations of stakeholders;
  - conforms to applicable laws while being consistent with international standards;
  - is an integral part of the organization concerned and is observed in its relationships.
343. The concept of social responsibility is not a right in itself, but a behavior principle designed to ensure that the rule of law and dialogue with stakeholders are integrated, on a priority basis, in the definition and pursuit of the objectives of any organization.
344. A standard for social responsibility (ISO 26000) was published by the International Organization for Standardization on 1st November 2010. It was developed by a working group involving representatives of consumers, government, industry, NGOs, trade unions and services, support and research. The General Confederation of Moroccan Enterprises (CGEM) adopted, in 2006, a social responsibility Charter made up of nine axes and 35 objectives pertaining to respect for human rights in the workplace and in society, constant improvement of employment and working conditions as well as industrial relations, protection of the environment, prevention of corruption, respect for the rules of fair competition, transparent governance, corporate contribution to development, employment, training and the economic development of the areas in which businesses operate, and contribution to promotion of public interest. The CGEM has established a label awarded, following an independent audit, to companies wishing to prove that they fully comply with their social responsibility obligations. Up to April, 2013, some 45 companies had been awarded that label; none of them was operating in the southern regions.
345. So far, few companies in the southern provinces have formally pledged or made arrangements to ensure that the specific objectives and principles of social responsibility are effectively included in their strategy and activities.
346. Several civil society representatives have expressed the wish that companies operating at local level undertake, in a tangible way, to respect fundamental

human rights in the workplace and in the wider community, including respect for freedom association and collective bargaining, non-discrimination, promotion of equality between women and men, promotion of sustainable, quality employment, and the protection of the environment.

347. Several speakers called for an increased number of private sector companies and public institutions to start operating in the southern provinces. The absence of large supermarket chains, banks, real estate developers has been repeatedly cited as a lack of corporate social responsibility in respect of citizens in the region.
348. In fact, some large companies, such as OCP made commitments towards the promotion of local employment, but visibility still remains limited.
349. Some importers of fishery and agricultural products have formally agreed to some limited social responsibility requirements towards their local partners which mostly concern food safety traceability.
350. CESE meetings with local stakeholders have revealed major expectations which are likely to become urgent as far as investors and business leaders are concerned, namely in the field of environmental protection and sponsorship of sport and cultural events.
351. One of the clients of the OCP Group's subsidiary Phos-Boucraâ, PotashCorp, in Boucraâ, made a positive assessment of the OCP Group's policy and social responsibility commitments:
  - local training and recruitment: the percentage of staff from the region went up from 39 percent in 1997 to 54 percent in May 2011 ; similarly, the skill content of the positions held has improved;
  - no wage discrimination between Phos-Boucraâ employees and OCP Group employees in the other regions;
  - beneficial social policy (health insurance, old age pensions which are among the highest; facilitated access to home ownership);
  - Despite operating losses by the Group, a cumulative amount of 38.8 million dirhams was spent between 2007 and 2010 to finance social, cultural and sporting projects.
  - Completion of a desalination plant for the Group's own needs and those of the city<sup>21</sup>.

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<sup>21</sup> PotashCorp (2012)

## Partnership contracts for the promotion of economic and social progress

352. The social and solidarity-based economy refers to all activities for the production of goods and services, managed through private, cooperative or mutual arrangements, whose operation, products or profits are dedicated to serving public utility social or environmental objectives, or meeting the needs of vulnerable individuals or groups.
353. The activities of the social and solidarity-based economy contribute to curbing social exclusion, fighting poverty, promoting social welfare and cultural development, and serving the well-being of society and social cohesion in general.
354. Moroccan social traditions strongly promote the social and solidarity-based economy through the institution of *habous* (endowments), cooperatives, the public benefit status granted - under certain conditions - to associations, as well as through legislation on the mutual insurance system.
355. Updating the legislative framework of the social and solidarity-based economy and revamping it would likely foster innovative partnerships.
356. While several stakeholders interviewed by the CESE in the southern provinces have welcomed «government efforts in favor of the social economy», most stakeholders deplored its inadequacy given the needs and potential of the region.
357. Flagship projects (success stories) are being highlighted, including women's cooperatives or projects based on the development of local products (argan oil, dates, milk, couscous, cactus etc..). However, during the workshop on economic governance held in Laayoun, several speakers criticized the lack of diversification of activities and regretted the clichés and outlandish approach to the regions (the Sahara meaning no more than couscous and pastries). Several speakers regretted that other projects had not been implemented due to shortage of funds, including deposit requirements for banks and lack of support from stakeholders such as the Agency for the development of the southern provinces and the INDH.
358. The potential for cooperative development is seen as important and stimulating, providing it is encouraged: camel breeding, crafts, cultural and ecological tourism, etc..

359. NGOs in the region have mixed reactions regarding the action of the Agency for the development of the southern provinces. Although the Agency has made it possible to implement more than 500 projects related to local NGOs, reservations have been expressed about the transparency of its intervention modalities and the lack of impact assessment.
360. Several speakers underscored the need to strengthen support for income generating activities (IGA), especially for women and young people in the region.

Chapter 6 :

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## Environmental protection

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# Environmental protection

## right to a healthy environment

361. The right of all citizens to a healthy environment is enshrined in Article 31 of the Kingdom's Constitution.
362. Morocco ratified the three Rio Conventions on the fight against climate change, protection of biodiversity and the fight against desertification<sup>22</sup>.
363. Protection of the environment in the ten southern provinces is a matter of general law; there are no legislative provisions or objectives specifically targeting the protection of the environment for present and future generations. The principle of environmental liability and its corollary, the «polluter pays» principle, are not enforced in these regions or in Morocco in general.
364. The national legal framework, which is applicable to the southern regions, is improving. It aims at protecting the environment (water, air, waste), requires impact studies, defines protected areas, and encourages the production of renewable energy as well as energy efficiency. The Moroccan regulatory framework is likely to be reinforced with the adoption of the National Charter for the environment and sustainable development, as well as the provisions that protect the coastline and enshrine the right of access to information.
365. The Ministry of the Environment says it concluded, in each of the three regions, a convention on environmental upgrading, based on a «partnership process» involving local authorities, economic operators and local NGOs. Thus, 23 agreements were signed at the Guelmim-Es-Smara region for a total amount of 765 million dirhams, 9 agreements in the Laayoun-Boujdour-Sakia-el-Hamra region amounting to 295 million dirhams, and 4 agreements in the Oued Dahab-Lagouira region for a total of 124 million dirhams.

<sup>22</sup> United Nations coordination system (2010)

366. Surveillance and monitoring action in the southern provinces led to: the establishment of «*regional observatories in the areas of the environment, sustainable development, health and local development*»; the institutionalization of Regional Committees for environmental impact assessment ; the establishment of sanitary quality control of water intended for human consumption; mechanisms to monitor the quality and safety of the marine environment by the regional center of the *Institut national de recherche halieutique* (National Institute for fisheries research) in Dakhla ; and the monitoring of the quality of fishery products. No indicators are available to assess the performance of these mechanisms.
367. There are few government surveys on environmental issues in the region, as in the rest of the Kingdom. According to the Ministry of the Environment, four surveys were conducted in 2009 and 2010 in the Guelmim-Es-Smara region. They concerned issues of air pollution, wastewater treatment and management of green spaces and cultural monuments. Only one survey was conducted in the Laayoun-Boujdour-Sakia El Hamra region during the same period; it concerned the management of green spaces. No documented survey was carried out in Oued Ed-Dahab region.
368. At the national level, the resources devoted to environmental awareness and education in the Ministry of the Environment's budget are very limited (4.7 million dirhams, or 0.4 percent). There is no data on figures or actions - probably very limited - undertaken in this area in the southern provinces.
369. Many civil society actors whom the CESE met in the region deplore the lack of a strategy for the creation of wealth that is based on a clear vision and integrated projects for environmental conservation and for the sustainable development of the southern provinces' natural resources.
370. Many stakeholders view the production of solar and wind energy as the kind of investment that can be a lever for sustainable development in the region. Through renewable energy production, the southern provinces could play a key role as an energy supplier to cover their own needs and those of the neighboring African regions.
371. Several NGOs advocate the implementation, at school, in the workplace and for the public at large, of environmental awareness and education campaigns and training programs. They argue that insufficient attention is given to environmental impacts in the design, development and operation of infrastructure and equipment/facilities.

372. The lack of visibility and consultation of economic and social stakeholders as well as NGOs in the design of programs to protect the bay of Dakhla has frequently been pointed out.
373. NGOs consider that there should be better information regarding the existence, quality and content of the impact studies required by the law prior to any major investment project or equipment plan.
374. There are few organizations involved in environmental conservation in the three provinces.

### Environmental conservation

375. **Water resources:** water resources are becoming scarce and water quality is deteriorating. This is due to reduced rainfall, droughts and loss of water resources due to the deterioration of drinking water pipelines in cities and to various forms of pollution. The price of water, which is heavily subsidized by the State in the southern regions and across the Kingdom, does not promote rational or controlled use, or reduced consumption.
376. In the three southern regions, pressure on water resources is significant. No data is available on the application of legislation regarding the protection of and access to water resources.
377. In the Guelmim-Es-Smara region, wastewater is discharged into the environment without treatment; pollutant loads from agriculture have worsened in recent years due to greater pumping activity. Overexploitation of groundwater resources threatens the sustainability of the region's development, particularly in the Guelmim area and the Tan Tan palm oases. Similarly, some domestic and industrial waste is being discharged along the coast without prior treatment, with risks of adverse effects on the environment and the sustainability of seaside tourism.
378. The quality and quantity of water resources in the Laayoun-Boujdour-Sakia-el-Hamra region are deteriorating, a situation which has been aggravated by repeated droughts. The quality of groundwater resources is average to poor due to high salinity levels.
379. In the Oued Ed-Dahab-Lagouira region, the issue of water resources is serious. Deep groundwater abstraction from the deep aquifer and expanding farming activity in the Taourta region (near Dakhla) are a threat to

fossil water sources. Groundwater resources in the region are not currently threatened by pollution; however, there is no river basin survey that sheds light on aquifer boundaries in the region. Drinking water supply for the city of Dakhla comes from seven wells connected to a treatment plant. Eight new boreholes were drilled with a view to doubling supply capacity.

380. **Air emissions:** there are no data on air emissions and air pollution in the three southern regions. According to the Ministry of the Environment, air quality monitoring stations are planned for 2014 and 2015. In the Guelmim-Es-Smara region, air quality is affected mainly by quarry operations and transport, as most vehicles are old. In the Laayoun-Boujdour-Sakia-el-Hamra region, phosphates extracted by opencast mining impacts the ecosystems. Fishmeal and fish oil production plants cause strong odor nuisance. Other gaseous emissions are caused by the Phosboucraa phosphate processing unit, the Laayoun cement factory and the use generators for the production of electricity.
381. **Water and coastline pollution:** In the Guelmim-Es-Smara region, the pollutant load of industrial liquid waste remains limited compared to the national average. The region has four wastewater treatment plants. In the Laayoun-Boujdour-Sakia-el-Hamra region, untreated household and industrial wastewater discharges, especially in Laayoun, and the solubility of salts at Akhenfir and the Khnifiss lagoon are a threat to the shoreline and the sustainability of wetland areas. In this respect, the ONEE (the national water and electricity company), launched an operation to strengthen the water drainage network and to build a wastewater treatment plant in the Laayoun province for a total investment of approximately 200 million dirhams. In the Oued Ed-Dahab-Lagouira region, the rate of access to the sewer network in Dakhla is 96 percent. However, the liquid waste collected by the network is not treated prior to discharge into the bay of Dakhla. A wastewater treatment plant is scheduled for 2014, with an investment of 131.7 million dirhams. The bay of Dakhla is also exposed to pollution risks linked to the maintenance of the vessels berthing in the bay.
382. **Solid waste:** the amount of solid waste generated in the Oued Ed-Dahab-Lagouira region is approximately 13,000 tons per year, compared with 75,000 tons per year in Laayoun-Boujdour-Sakia-el-Hamra, and 59,000 tons per year in Guelmim-Es-Smara. Average solid waste production per capita per day in the Oued- Edahab-Lagouira region is 0.72 kg, Laayoun-

Boujdour-Sakia El Hamra 1.00 kg, and Guelmim-Es-Smara 0.60 kg. There are no reports of specific risks relating to hazardous industrial waste. In the Laayoun-Boujdour-Sakia-el-Hamra region, solid waste production is estimated at 2,446 tons per year. For hazardous medical waste, data is available only for the Laayoun-Boujdour-Sakia-el-Hamra region, with a total reported volume of about 87 tons per year. Two secure landfills were built, one with a 23,000 tons capacity in the Guelmim region, and the other with a 26,000 tons capacity in the Laayoun region. Similarly, these two regions have benefited from the rehabilitation projects for uncontrolled dumping sites (rehabilitation of an uncontrolled garbage dump in Guelmim, and rehabilitation of Laayoun's garbage dump).

383. **Agricultural pollution:** In the Guelmim-Es-Smara region, cereal growing covers 45 percent of land and is mainly for self-consumption and animal feed. Vegetable crops, which are grown in pumping-irrigated areas, do not exceed 4 percent of the usable agricultural area. In the Laayoun- Boujdour-Sakia-el-Hamra region, the usable agricultural area is 127,500 ha, including 146 ha if irrigated land. The primary activity in the region consists of extensive stock-farming. It is in the Oued Ed-Dahab-Lagouira region, and mainly in Dakhla, that the farming activity is intensive. The use of chemical fertilizers and pesticides is a potential source of agricultural pollution.
384. **Energy efficiency and renewable energies:** The action program of the National Agency for development of renewable energy and energy efficiency does not provide specific data for the southern regions.
385. Several NGOs with which the CESE representatives met called for tighter controls on the granting of drilling permits and the use of water resources for farming purposes in the southern provinces. The criticism concerns mostly the Dakhla region because of the intensive farming of speculative products (melons, tomatoes) destined for international markets, without due consideration for the real cost of water. This economic model amounts to exporting water, a practice which is all the more detrimental as irrigation in this region comes from a fossil water source whose reserves are yet to be accurately determined.
386. Local associations lament the lack of conservation programs for oasis areas; they call for the development of scientific research programs on the protection of the environment, water management and preservation of the natural heritage.

387. Many associations complained that the decisions and plans for the development of the Dakhla bay are decided without a prior public benefit inquiry; several local NGOs asked that civil society actors be consulted.
388. Although the rate of households connected to the sewer network is relatively high in the main cities in the region, some municipalities still do not have a sewer network due to lack of resources.

### Preservation of biodiversity and the ecosystems

389. The Convention on Biological Diversity (1992) states that the conservation of biodiversity is a “*common concern of humankind*» and an «*integral part of the development process*». The Convention’s objectives are the conservation of biological diversity (or biodiversity), the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The 1971 Ramsar Convention on the conservation and sustainable use of wetlands is an international treaty which was ratified by Morocco.
390. The objectives targeted in the area conservation of biodiversity and ecosystems in the southern regions concern the protection of the diversity of living species, the fight against desertification, the preservation of marine ecosystems and balanced exploitation of fishery products.
391. **Biodiversity and ecosystems:** The southern provinces are home to 16 Sites of Biological and Ecological Importance (known as SIBE) out of a total of 154 national SIBEs. Six were classified as having first priority: the Tissint Oasis; Ait Oumribt; Oued Tighzert; Msseyed; Foum Assaka and the Dakhla Bay.
392. There is considerable pressure on forest and oasis ecosystems in the Guelmim-Es-Smara region:
- Overexploitation of natural resources due, in particular, to overgrazing, which results in significant degradation of rangelands aggravated by successive years of severe drought;
  - Weakening of forest ecosystems and depletion of vegetation cover mainly because of the arid climate and successive years of severe drought;
  - Lack of forest delimitation and certification;
  - Sand-silting threatening public infrastructure;
  - Desertification and oasis degradation.

393. The Laayoun-Boudjour-Sakia-el-Hamra region has significant natural resources, but they are becoming increasingly fragile. The natural environment in the region is characterized by a great variety of landscapes (beaches, deserts, oases) and varied flora and fauna. The region is home to six sites of biological and ecological importance (SIBEs), including the Khnifiss National Park, which has been protected and classified, since 2006, under the RAMSAR Convention. The Khnifiss lagoon and vast *sebkhas* (salty shallow lakes) which extend southward (Tazra Sebkha) are characterized by a great diversity of habitats and high biological productivity (thanks to ocean upwelling). It owes its status as a national park classified under the Ramsar Convention to its rich flora and fauna heritage, including vulnerable, endangered species, and to its status as a wintering place for many bird species. The lagoon's resources are being heavily exploited: fishing and salt extraction. An oyster farm was created there in 1996 and a development plan was prepared in 2006 for shellfish aquaculture in the lagoon.
394. The ecosystems and natural sites in the Oued Ed-Dahab-Lagouira region are exposed to the pressure of population growth and development (expansion of fishing and tourism activities, infrastructural development, urbanization, development of industrial units, greater volumes of solid and liquid waste).
395. **Fisheries resources:** The Kingdom's southern regions, especially the Oued Ed-Dahab-Lagouira region and the Laayoun-Boujdour-Sakia-el-Hamra region have made significant progress in environmentally friendly fishing methods, thanks to the implementation of plans to manage fish stocks covering all fishery products to ensure sustainable exploitation of fisheries resources and the preservation of biodiversity in the region.
396. According to the United Nations coordination system (2010), biodiversity is facing serious risks in Morocco despite its richness. The Kingdom has a flora of about 7,000 species and a fauna of over 24,602 species. There are, however, multiple pressures: overexploitation, including of fishery products, loss of habitat and wetlands due to deforestation and urban sprawl, pollution of the flora and fauna environment. Thus, various species are threatened or becoming extinct. This is the case for 1,641 plant species and 613 animal species, including 85 fish species<sup>23</sup>.

<sup>23</sup> United Nations coordination system (2010)

397. In terms of fisheries, scientists agree that they are fully exploited - even over-exploited - with the exception of the sardine stock south of the 29° N. Industrial fleet catches of small pelagic fish in the south include sardines, which is considered as underexploited, but also catches of horse mackerel and Spanish mackerel, for which indicators of stock status are alarming. Certain categories covered by the fisheries agreement between Morocco and the European Union have adverse environmental impacts. This is the case of category 2 longline vessels fishing sharks that are listed by the International Union for Conservation of Nature<sup>24</sup>.
398. Although several institutional stakeholders show their commitment to the protection of oasis spaces, marine ecological balance and fishery resources, their actions are strongly criticized by civil society actors because of lack of coordination; they also criticize the insufficient consultation of civil society groups and socio-professional organizations.

### risk Prevention and disaster risk reduction

399. Given its geographical position and hydrogeological specificities, Morocco is prone to natural disasters (earthquakes, floods, torrential floods, desertification and droughts). During the past decade, several such events led to loss of life and significant property damage and environmental degradation<sup>25</sup>.
400. 15 municipalities in the Guelmim Province were affected by floods on January 7, 1985. In the Province of Tata, 13 people were killed, 2 were injured, 4 were reported missing, 350 families were made homeless and 655 homes were destroyed by floods on March 31, 1995. On 23 October 2003, floods destroyed 25 houses in the same region, and 1 person was killed on November 3, 2006.
401. Provincial and prefectural committees in charge of developing prevention and risk management plans at the local level are operational in the three southern regions. Some municipal development plans, including the one for Tata, include risk management. Flood forecasting is based on the

<sup>24</sup> Oceanic Développement (2010)

<sup>25</sup> United Nations coordination system (2010)

monitoring of rivers, a responsibility that lies with the Regional Directorates of Hydraulics and Hydraulic Basin Agencies (ABH). The network of ground-based measurements includes manned observation and alarm posts. As part of a project called «VIGIOBS», 17 stations will be located in the Guelmim-Es-Smara region, 6 in Laayoun-Boujdour-Sakia-el-Hamra and 6 in Oued Ed-Dahab-Lagouira.



## Chapter 7 :

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# Responsible Governance, economic development and social democracy

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# Responsible Governance, economic development and social democracy

## Compliance with international conventions and treaties

402. Compliance with international conventions and treaties, and their primacy over domestic law are principles enshrined in the preamble to the Constitution: *“The Kingdom of Morocco (...) reaffirms and vows to (...) grant international conventions duly ratified by the Kingdom supremacy over domestic laws - within the framework of the provisions of the Constitution, the laws of the Kingdom, and respect for its immutable national identity, and as soon as these conventions are published - and bring the national legislative provisions concerned in line with the above conventions».*
403. To date, Morocco has ratified 34 international human rights instruments. The new Constitution, adopted by referendum on July 1, 2011, recognizes and explicitly names the set of economic, social, cultural and environmental rights, as well as the civil and political rights set forth by the United Nations system. However, the government has not withdrawn its reservations concerning the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Kingdom has not yet approved Convention 87 on Freedom of Association (which is part of fundamental ILO conventions and of the United Nations human rights system).

## Human rights

404. The National Council for Human Rights (CNDH), to which the new Constitution has given enhanced investigative powers, was endowed with Regional Commissions (CRDH) tasked with monitoring and controlling the human rights situation at the regional level, receiving and investigating complaints, and compiling special or periodic reports. Three regional CNDH commissions were set up in the southern provinces in the summer of 2011 and installed in December 2011, using an open, participatory approach,

including actors embracing separatist views: *«All shades of opinion have been approached, regardless of their political standpoint on the future of the region»<sup>26</sup>*. The CNDH believes that *«human rights action has its own benchmarks and specific methods of action»*.

405. The CNDH held human rights training sessions for the benefit of members of its committees and of civil society actors. It also set up databases to ensure follow-up to complaints. It appears, from the monitoring of these complaints, *«in which the behavior of some enforcement officers is often involved, (that) devolved State services are slow to respond and almost always reject the citizens' claims»*.
406. In recent CNDH studies and surveys, the southern provinces are systematically incorporated in the Council's scope of work (example: the investigation concerning places of deprivation of liberty, and the study on child protection centers).
407. The existence and powers of the CNDH and its regional commissions were welcomed by the Security Council in 2011.

### Populations' benefit from economic activities

408. The position of the Moroccan State, which is supported by all of the nation's forces, is that the three southern regions are an inseparable part of the national territory, and that the exercise of Moroccan sovereignty over these provinces is the result of the same continuing, historical process of national liberation, decolonization and completion of the country's territorial integrity. Therefore, the issue of exploiting these provinces' natural resources does not arise in terms of *«legitimacy of collecting resources in a non-self-governing territory»*. However, and in accordance with the commitments made by the late King Hassan II, and regularly reaffirmed by His Majesty King Mohammed VI, it would serve the national interest if the question of the destination of those proceeds is addressed and evidence is produced that they are being used for the development of these regions and the well-being of all components of the local population. To date, all observers agree that public transfers to the southern regions are substantially higher than flows from the region to the northern provinces.

<sup>26</sup> CNDH

Moreover, a generally accepted principle of international law stipulates that even if a territory is labeled as «non-self-governing», the development of its resources is fully legitimate when it is done in the interest of its people and in consultation with the populations' representatives. The trend and level of human development indicators and the expanding infrastructure in the southern provinces show that, although there is room for quantitative and qualitative improvements, regional economic policies have improved local prosperity indicators.

409. UN Resolution 50/33 dated 6 December 1995 confirms this approach. It makes a distinction between economic activities that are detrimental to the populations of non-self-governing territories and those that are deployed for their benefit. It affirms the value of *«foreign economic investment, when done in collaboration with the peoples of the Non-Self-Governing Territories and in accordance with their wishes, could make a valid contribution to the socio-economic development of the Territories»*. This position has been affirmed by the General Assembly in subsequent resolutions (resolutions 52/72 of 10 December 1997, 53/61 of 3 December 1998, 54/84 of 5 December 1999, 55/138 of 8 December 2000 and 56 / 66 of 10 December 2001).
410. «The recent State practice, though limited, is illustrative of an *opinio juris* on the part of both administering Powers and third States: where resource exploitation activities are concluded in Non-Self-Governing Territories for the benefit of the peoples of these territories, on their behalf, or in consultation with their representatives, they are considered compatible with the Charter obligations of the administering Power, and in conformity with the General Assembly resolutions and the principle of *«permanent sovereignty over natural resources enshrined therein»*<sup>27</sup>. According to this logic, contracts for reconnaissance and evaluation of oil resources are not illegal.
411. As regards the fisheries agreement between Morocco and the European Union, a legal opinion dated 13 July 2009 from the European Parliament's Legal Service stated that the Moroccan fisheries policy does not contain specific actions explicitly foreseen with a view to benefit the population. *«It is true that some actions foreseen in the matrix target port towns situated in the territory of Western Sahara, such as Laayoun, Dakhla and Boujdour (...) This is*

<sup>27</sup> UN Security Council (2002)

*not necessarily equal to benefiting the people of Western Sahara insofar as (...) it is not known whether and to what extent they are able to take advantage of such improvements».*

412. Some community-based organizations claim that «Morocco does not respect international law» because the local population does not benefit from the exploitation of natural resources in the region. They point out «negligence» on the part of some government officials in the region and say this creates «a sense of discrimination among Sahrawis.» They add that hospitals «are so poorly equipped that many seek treatment elsewhere».
413. Other reported signs of «negligence» - sometimes referred to even as «discrimination» - include the absence of a university in the southern regions ; the unemployment rate is high, and there is a feeling that priority with respect to employment in the civil service, the fishing industries or phosphate extraction is given to citizens from the northern provinces.
414. A customer of the OCP Group in Boucraâ, the PotashCorp company, conducted due diligence on the social impact of the activities of its supplier. Its findings, which were made public, indicate that «OCP's operations and investments in the region have significantly contributed to the development of Western Sahara and continue to provide substantial economic and social benefits to the Saharawi people»<sup>28</sup>. As part of this due diligence, PotashCorp says it received, on a confidential basis, copies of two separate legal analyses undertaken by highly respected global law firms, DLA Piper and Covington & Burling LLP. «Both firms - and Ana Palacio, Spain's former Foreign Minister, who was a signatory to the DLA Piper opinion - concluded that OCP's operations in the region directly benefit the people of the region and are consistent with international legal obligations».

## Compliance with laws and regulations

415. In the southern regions, as in the other parts of the Kingdom, human rights violations, unequal access to basic services, loss of confidence in the functioning of the administration and public institutions, the threats to social cohesion, the damage to the environment, the feeling of legal insecurity and economic hindrances have this in common that, in most

<sup>28</sup> PotashCorp (2012)

cases, they result from failure to enforce the law. While it is recognized that Morocco has an advanced body of legislative and regulatory provisions, failure to realize the need to respect the rule of law entails many hidden costs, in the southern provinces and elsewhere: (lack of trust in institutions and between citizens, corruption, conflicts, illegal acquisition of interest, failure to participate in public life, low investment, tensions and outbreaks of violence). It is clear, from the meetings held by the CESE in the region, that what is at stake in the southern provinces is neither the sense of belonging to Morocco, nor the legitimacy of institutions, but the functioning of the State services and the ability of its representatives and local government agencies to uphold the rule of law, without discrimination.

416. The 2011 Constitution has formally enshrined the fundamental need to respect the rule of law (Articles 36 and 37). It has enhanced the independence and authority of various control and regulatory organs. Thus, for instance, the institution for integrity and the prevention and fight against corruption is now mandated to coordinate, supervise and monitor policies for the prevention and fight against corruption, to collect and disseminate information in this area, to contribute to moralizing public life and to consolidate the principles of good governance, the culture of public service and the values of responsible citizenship. Similarly, the *Conseil de la Concurrence* (Competition Council) has become «*an independent authority. In organizing free, loyal competition, it shall ensure transparency and fairness in economic relations, mainly by means of analyzing and regulating competition on the market, checking anti-competitive practices, unfair trading practices, economic concentration operations and monopoly*». (Article 166)

### Sharp criticism of the tax situation

417. Several stakeholders interviewed by the CESE strongly criticize the outrageous situation of ordinary law and the inconsistency of the tax system in the southern provinces. The exemption policy applied in these regions is not based on a legal text. Civil servants consider it «*demagogic and all show*», as it concerns only the base salary. The Value Added Tax (VAT) is paid on inputs but is not recovered by companies. Tax exemption for the southern regions also makes municipalities impoverished and totally dependent on transfers from the Directorate General for Local Governments.

418. Sharing their views with the CESE, several speakers stigmatized «non-compliance» and «corruption» and the «sense of impunity of elites,» as factors of concern that could lead to social disintegration, and as reasons for loss confidence in the functioning of the institutions.
419. Several stakeholders questioned the reliability of the region's development indicators, even claiming that they are «inflated» by and for the benefit of government officials in the region.
420. The Agency for the southern provinces, which has played a pivotal role in facilitating development programs in the region in recent years, but whose mission is clearly not sufficiently explained or clear for local public opinion, was the object of several complaints - reported to the CESE delegations - regarding its functioning, transparency and efficiency.

### Obligation of transparency and accountability

421. Several speakers questioned the discretionary and - according to them - abusive nature of the authority exercised by administrative officials in the management of the southern regions' public affairs and resources, the conduct of social policies, the allocation of land, housing, and all sorts of licenses and aid. The lack of public accountability criteria in granting fishing licenses and agricultural land has been harshly criticized. At the same time, the security of goods and persons, the effectiveness and continuity of public services, the significant investment in infrastructure and equipment, as well as access to essential goods and services are cited as evidence of the successful integration of the southern provinces into the Kingdom. Nevertheless, the proper functioning of the State's key technical services does not absolve public authorities of their responsibilities in terms of transparency and accountability regarding fundamental human rights and public governance.
422. The progress made in the area of transparency deserves to be mentioned. The enhanced powers of the CNDH and the creation of its regional delegations, as well as the Kingdom's commitment to grant free, unfettered access to Special Procedures of the Human Rights Council have been recognized and welcomed by the United Nation Security Council<sup>29</sup>.

<sup>29</sup> Security Council Resolution 1979 (2011)

423. For the first time, the Court of Auditors devoted a part of its annual report (2012) to the operation, activities and achievements of the Agency for the Development of the southern provinces. It reported serious deficiencies in the Agency's ability to be convincingly accountable for the conduct of its projects and their results: no formal project monitoring strategy, lack of indicators to measure the social and environmental impacts of implemented projects, lack of transparency and coordination. In its replies, the Agency's General Directorate argued that it had a «*cross-cutting*» mission, that it was tasked with supporting projects that are decided, initiated and co-financed with other partners (including the Ministry of Interior - as far as INDH projects are concerned - the Hassan II Fund, the ministries and public institutions concerned by the various sector-specific plans and the regional authorities).
424. The conclusions of the Court of Auditors regarding the APDS and the latter's replies underscore the need to specify roles, duties and responsibilities, as well as steering, coordination and control mechanisms in connection with development programs in the southern provinces.
425. The sentiment voiced by many civil society actors is that the vision, programs and projects relating to social and economic development in the southern regions are exceedingly developed and deployed according to a top-down approach, leaving only little or no room for consultation and, much less a possibility to take into account the views and expectations of civil society stakeholders.
426. Allegations of patronage and cronyism are made by civil society actors who question the transparency of public procurement, but without producing any evidence.
427. Several speakers criticized the «*lack of visibility of municipal development plans*», the lack of training of elected officials and the insufficient support provided to them in management.
428. According to some stakeholders, the commitments made under Agenda 21 are not implemented or acted upon.

## governance of public services and social programs

429. Equitable access to and proper functioning of public services, which are essential for social cohesion and economic development, require a certain level of transparency and efficiency of the devices to steer and assess activities, and to prevent and control related risks.
430. Whether general interest services are being carried out by public institutions, through concessions to private companies, or national or regional social programs, or through international partnerships, it is essential that there should be reasonable assurance as to their quality, reliability, sustainability and proper management.
431. In addition to the obligation of accountability lying with their executive bodies, it is important that internal control systems and the performance of the governing bodies of public institutions and social programs be subjected to credible, independent evaluation.
432. Independent control of the governance of public institutions has been enshrined in the Constitution (Articles 157 and 159).
433. The report of the Parliamentary Committee of Inquiry on the Gdeim-Izik events strongly criticized the mode of distributing social subsidies saying it prompts *«feelings of injustice and marginalization»* among a large segment of the population in the southern provinces. *«The budgets of elected councils, the programs of Promotion Nationale, social housing, the INDH, fuel and food subsidies, and the promotion of investment are subject to the vested interests of the prevailing political elite, thus preventing the majority of the population from benefit from these economic and social projects which were initially meant by the State to improve the living standards of citizens»*.
434. The two main reasons for the protests were housing and the distribution of aid, two items for which State budget commitments are admittedly massive. Since 1976, the State provided more than 44,000 homes and lots, most of them in Laayoun (6,777 units and 28,500 lots). Similarly, the number of beneficiaries from *Promotion Nationale* aid in the region is estimated at 34,000 people, with a budget of 589 million dirhams<sup>30</sup>. It is not so much the size of public spending on social subsidies that is criticized as the fairness in the selection of beneficiaries.

<sup>30</sup> «Interview with the Governor in charge of the Promotion Nationale program»; September 2012 study forwarded to the CESE by the ADPS

435. The Parliamentary Committee of Inquiry also notes that *«the proactive public investment policy has not been accompanied by its corollary, namely fruitful and inspiring management of human resources within local governments responsible for the provision of public services (...). Such institutional weakness at the level of local governments, coupled with collusion with some civil servants, elected officials and community leaders explain the magnitude of deficiencies in local governance»*. The Committee concludes that *«beyond the mistakes in managing the Laayoun events, the latter seem to be the result of profound failures due to the predominance of some vested interests at the expense of the best interests of the nation»*.
436. When the Gdeim Izik events broke out *«no local, administrative or elected institution could contain the inhabitants' anger or channel it»*. A civil society observer perceived this as *«evidence of the failure of public institutions in the Sahara»*<sup>31</sup>. According to international observers - themselves quoting allegations made by local community-based organizations, a «local elite», described as the product of *«non-transparent elections»*, allegedly controls *«all sources of state funding»*. The lack of transparency and fairness is echoed in the comments of international human rights activists regarding the distributions of aid to impoverished populations poor and the conditions in which land allocation for the construction of social housing takes place. *«One cannot talk about the citizens' social demands and ignore their political demands. In fact, the social issue is essentially a political one in the sense that it is the result of discrimination and the plundering of the region's wealth»*<sup>32</sup>.
437. Many community group leaders lament the deficiencies, lack of fairness and lack of control in the management of public goods; they point out the existence of networks and *«real kingpins»* of corruption. Several leaders say that the distribution of the aid provided by the *Promotion Nationale* is done in a *«non-transparent»* and *«unfair»* fashion, thus potentially encouraging corruption.
438. According to civil society actors, welfare policies, as they are being carried out, contribute to *«creating social tensions because they are a clear sign of discrimination against Sahrawis who oppose Morocco's presence in the*

<sup>31</sup> Tel Quel (2010)

<sup>32</sup> FIDH and OMDH (2011)

*territory. These actors have come to the conclusion that access to decent housing, state aid and basic social services depends entirely on supporting the regime or being a member of an ethnic group».*<sup>33</sup>

## Fighting corruption

439. The Convention against Corruption, which was adopted by the United Nations General Assembly on 31 October 2003 (resolution 58/4), was signed by Morocco in December 2003 and ratified on 9 May 2007. Article 36 of the Constitution provides that *“Public authorities shall prevent and punish, in accordance with the law, all kinds of offenses relating to the work of government and public institutions, to the use of the funds at their disposal, or to the management of public procurement»*. The same article provides for the principle of legal sanction against offenses relating to conflict of interest, insider trading, other financial offenses, influence peddling and abuse of dominant position.
440. Of the 272 corruption complaints received via mail by the ICPC between 2009 and 2012, 2.94 percent originated from the southern provinces (8 complaints in all). From early December 2009 till the end of 2012, the number of complaints received via the ICPC portal ([www.stopcorruption.ma](http://www.stopcorruption.ma)) stood at 37, including 22 complaints relating to corruption, 6 to arbitrary bureaucracy and 6 for breach of public procurement regulations. Almost 50 percent of these complaints concern the Guelmim-Es-Smara region.
441. Among the difficulties reported by the ICPC in ensuring follow-up to the complaints it receives is the *«lack of serious consideration by most government authorities that do not consider it advisable to respond to the complaints submitted to them or inform the ICPC of the action taken»*.
442. Corruption in the areas of security and justice is often identified as a cause for concern. According to Transparency International's Corruption Perceptions Index for 2012, Morocco fell 8 places (80th in 2011, 88th in 2012), out of 176 countries, but scored 37 points on a scale of 0 to 100 (against 34 a year earlier).
443. Many association leaders condemned the trivialization of corruption in the region, arguing that this could lead to all sorts of trafficking.

<sup>33</sup> Carmen Gomez Martin (2012)

444. Many speakers criticized the distribution of *Promotion Nationale* welfare cards to «*people who do not need them*». Welfare benefits for the residents of El Wahda camps are distributed in an allegedly «*anarchic*» and discriminatory fashion insofar as the so-called «*local*» population does not benefit from them.
445. Allegations regarding integrity in the management of the Social Affairs Directorates were communicated to the CESE missions in the region. Government authorities do not provide enough information to maintain public confidence.
446. Several community activists criticize the use by some officials in their election campaigns of access cards to *Promotion Nationale* subsidies.

### Protection and Promotion of corporate rights

447. As a legal person, a company has rights and enjoys protections set out in the legislation with respect to contracts, transactions, and governance. As a private person, it has a right to protection against arbitrariness and may initiate legal proceedings to enforce those rights. The recognition, protection and promotion of corporate rights are essential to building and maintaining an environment conducive to investment and economic growth.
448. There are no instruments in regional economic policy that encourage long-term investment. Nor are there any regional initiatives for the improvement of the business environment.
449. In 2010, the gross domestic product of the three regions was 21.7 billion dirhams, or 3.5 percent of the national GDP. The economy of the southern provinces is mainly driven by the government; state expenditure accounts for 36 percent of GDP and 27 percent of jobs. Per capita public investment places the region in third position at the national level. At the same time, the coverage rate (share of revenues that cover expenditures in a region) peaked at 15 percent in the southern provinces, against 62 percent nationally.
450. Fishing, which represents 17 percent of GDP and 35 percent of jobs in the region, is dominated by a rent-seeking philosophy focused on upstream activities, which means a low contribution to local added value.

- Companies do not recover VAT on investments and exports; this has an adverse effect on investment.
- Small and start-up companies are particularly affected by a lack of access to orders and procurement. Several association representatives have referred to «a lack of transparency in selection and bidding criteria for public procurement», arguing that «contracts are often awarded to privileged parties»
- There are no measures to encourage young people's involvement.

## Information and stakeholder participation

451. Informing and consulting individuals and groups (stakeholders) whose interests, legitimate expectations or rights are likely to be affected, positively or otherwise, by the decisions, behavior or activities of any organization, are fundamental principles of social responsibility. These principles are embodied in the International Covenants (1966) relating to the Universal Declaration of Human Rights (UDHR, 1966).
452. Stakeholders information and consultation, and their participation in the design, achievement and evaluation of the objectives and policies pursued by an organization, whether public or private, is a lever for improving decision-making processes and for strengthening both the perception and exercise of democracy.
453. The dynamic development of community-based organizations and the increasingly important role of civil society reinforce the interest in the principle of stakeholder information, consultation and participation. This principle is enshrined in the Constitution (Article 156), which significantly strengthened the principles of representative and participatory democracy, making Parliament the only source of legislation and granting citizens the right to petition, to introduce bills and to challenge the constitutionality of laws. Moreover, the new advisory councils (the Council for youth and community action, the Council for languages and cultures) are designed to increase citizen participation in the development, implementation and evaluation of public policies<sup>34</sup>.
454. Several associations deplore the lack of consultation and participation of NGOs in the development, definition and assessment of public policies.

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<sup>34</sup> CNDH (2012)

## Promotion and protection of community action

455. The contribution of civil society to social cohesion and progress is essential; its role as a mediator between state/corporate bodies and the public is invaluable. The participation of community-based organizations, through advocacy and outreach activities, is essential to strengthen social rights and safeguard social cohesion. The Constitution protects the role of community-based organizations (Article 33).
456. The amount of grants provided by the APDS to community-based organizations, including in the cultural and sporting sectors, jumped from 2.89 million dirhams in 2006 to 42.35 million dirhams in 2011, totaling 165.24 million dirhams during that full period.
457. Of the 350 community-based organizations which were given grants by the Agency, 20 received more than 57 percent of total subsidies. In the section of its 2012 annual report devoted to the ADPS, the Court of Auditors deplored that *«financial reports, though they were approved by the local authority and included some evaluation memorandums by beneficiary organizations, do not make it possible to check the proper use of funds»*.
458. The Court of Auditors also pointed out that *«the Agency should play a structuring role concerning the community organizations it finances, namely through capacity building»*. The Court goes on to say that the Agency should also *«create a ripple effect, focusing on niches with add value that would and that would make it possible to move from a logic dependence to an approach based on actual impacts and income generation»*<sup>35</sup>.
459. According to the APDS, the support provided to some associations to organize important regional events which are typical of the southern regions, *«falls within the territorial marketing of the greater southern region; it makes it possible for the public gain an insight into the broad range of local potentialities: natural, cultural, artistic and traditional, which are perceived both as assets and as features of attractiveness, including for economic operators. For example, the Dakhla Sea and Desert Festival Festival has showcased the region as a new tourist destination, naturally underscoring its potential»*<sup>36</sup>.

<sup>35</sup> Court of Auditors (2011 Report)

<sup>36</sup> Court of Auditors (2011 Report)

460. In 2012, the Ministry of Social Development gave grants to community organizations in the southern provinces totaling 4.6 million dirhams, including 3.9 million dirhams in Guelmim-Es-Smara.
461. The magnitude of the fiscal effort for the benefit of community organizations is both recognized and frequently mentioned as a sign of the government's commitment to make civil society in the southern provinces more vibrant.
462. The conditions under which aid is furnished to community groups and the criteria for project selection are perceived as «*non-transparent*» and insufficiently «*inclusive*». There is no assessment of program efficiency.
463. Many observers believe that, in the absence of transparent rules and control mechanisms regarding the allocation of aid to community groups in the southern provinces, the State representatives «*are squandering public funds*».

### Expanding the contribution of collective agreements

464. The collective agreements freely concluded between employers' associations and labor unions illustrate the effectiveness of social democracy at company, branch and sectoral levels. However, non-compliance with these agreements by companies that are not signatories may distort competition rules in a manner which is detrimental to signatory companies. To maintain the momentum of improving social standards, it may serve the public interest to extend the provisions of collective agreements that cover a significant part of a sector or branch to the entire sector or branch concerned.
465. Encouraging the conclusion of collective agreements is a goal which is enshrined in the Constitution (Article 5) and their extension is provided for in section 133 of the Labor Code.
466. Trade unions with which the CESE met in the southern provinces come up with converging conclusions (between organizations) and pinpoint difficulties that are similar to those observed in other provinces in the Kingdom: frequent violations of the labor legislation by both public and private sector employers, under-reporting or failure to register employees with social security schemes and to pay contributions, unfair dismissals, difficulties in establishing contractual relations on the basis of formal collective bargaining mechanisms.

467. Trade unions maintain that the difficulties they encounter in the southern provinces are basically the same as those experienced elsewhere in the Kingdom; they say they face no regulatory, procedural or behavioral restrictions that would be specific to the southern regions as far as the right to collective bargaining is concerned. It should, however, be pointed out that the case of a public sector employer (*Entraide nationale* - national mutual aid institution) which refused to recognize a union branch on the ground that «*These are the Sahara provinces*» was mentioned during a meeting in Laayoun with the CESE representatives.

### Giving a territorial dimension to the preparation and management of social development

468. Advanced regionalization, as it is defined in Article 1 of the Constitution adopted on July 1, 2011, gives a greater role to regions and local authorities in terms designing, steering and actively managing their own economic and social development.

469. By making the principle of subsidiarity the cornerstone of their powers, the Constitution (in Article 140) gives the regions and local governments a crucial role in the design, implementation and evaluation of local social programs. To date, there are no legislative or regulatory provisions and no jurisprudence that define the principle of subsidiarity in Morocco. This concept is likely to help inform future discussions on advanced regionalization projects.

470. The setting up of the APDS in 2002 was aimed at boosting regional development. The mission entrusted to the Agency was «*to study and propose development strategies, to pool the efforts of various departments and to secure the funding needed in order to promote the development and implementation of projects with a definite economic and social impact*»<sup>37</sup>. Given this vague definition and its cross-cutting mission, and also in the absence of strong leadership vis-à-vis the State's external services and the local authorities, the APDS mission has become similar to that of a counter, considering the failure to compensate for the absence of an integrated strategy.

<sup>37</sup> APDS website ([http://www.lagencedusud.gov.ma/presentation\\_generale.php](http://www.lagencedusud.gov.ma/presentation_generale.php))

471. The first program for the development of the southern provinces, which was prepared by the APDS for the 2004-2008 period, contained 226 projects, for a total investment of 7.2 billion dirhams. It was built around seven main areas: housing, upgrading and urban development; fishing villages, traditional and coastal fishing, water resources and the environment; roads, ports and electrification; outreach and studies, tourism and handicrafts, agriculture and livestock farming. The Court of Auditors noted that *«despite the important role given by the legislator to the Agency, the review of its plans of action shows that this institution is intervening in areas that could be left to other local actors, such as road works and the construction of socio-educational and sporting facilities»*<sup>38</sup>.
472. During the 2005-2011 period, the APDS spent more than 5.6 billion dirhams. Community outreach activities accounted for more than 55 percent of those commitments and included:
- local development, construction and collective equipment programs for a total of 2.1 billion dirhams ; support for access to basic services and support to local governments (general studies for formal project development, expert consultations, consultancy and assessment of activities) for a total amount of 230 million dirhams;
  - support for socio-cultural and sporting events and for territorial marketing, for a total amount of 193 million dirhams;
  - various outreach activities for a total amount exceeding 441 million dirhams;
  - support for civil society, involving a total amount of 98 million dirhams.
473. The APDS maintains that out of the amount of 202 million dirhams spent on socio-economic, cultural and sporting activities, 132 million dirhams (65 percent of the total) generate revenues either directly or indirectly for the beneficiary community organizations concerned. However, the Court of Auditors recommends that the Agency *«undertake to assess the socio-economic impact of its actions and to use cost accounting that allows for closer, more detailed monitoring of operations and of the beneficiaries of allocated funds. It should reconsider its action and program nomenclature for the sake of enhanced consistency and clarity. Grants awarded by the Agency should focus on policies which have a direct impact on the incomes of target populations»*.

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<sup>38</sup> Court of Auditors (2011 Report)

474. The implementation of the Constitution adopted in July 2011 should lead to deep changes in the design and local management of economic, cultural, social and environmental development practices. The Constitution provides that «*Local government in the Kingdom shall be organized (...) (to) ensure the involvement of the populations concerned in the management of their affairs, and promote their contribution to sustainable, integrated human development*»<sup>39</sup> (...). It provides for participatory mechanisms to ensure dialogue and consultation at the level of Regional Councils and of other local government councils in order to «*support the involvement of the citizens, men and women alike, as well as associations, in the preparation (of) and follow up (to) development programs*»<sup>40</sup>. The Constitution also recognizes the right to petition.
475. Several stakeholders interviewed by the CESE stigmatized the tax exemption policy in the region which they say «*impoverishes communes*» and makes them totally dependent on transfers from the Kingdom's Treasury.
476. Today, the tax exemption system is a serious obstacle to the establishment of a strong regional administrative setup based on mechanisms for tax collection and redistribution of wealth at the local level.
477. In the absence of a local institution, like a regional economic, social, cultural and environmental council, there is no structure or consultation mechanisms that are in charge of examining, defining and conducting development programs and projects involving the active participation of local economic stakeholders and community groups.

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<sup>39</sup> Article 136 de la Constitution

<sup>40</sup> Article 139 de la Constitution



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