



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

Prison Crisis: A Shared Responsibility

100 recommendations for the protection of prisoners' rights

Executive summary
Report on the Situation of Prisons and Prisoners

- **Press conference** -
30 october 2012 - Rabat

I. Context and methodology

As part of the tasks and powers conferred on the National Human Rights Council (CNDH) under the Dahir (Royal Decree) of March 1, 2011, mainly those relating to visits to places of detention, being one of the most important mechanisms put in place to strengthen the monitoring of prison conditions and the protection of prisoners' rights (first paragraph of Article 11 of the said Royal Decree);

In the context of assessing the situation of prisons and prisoners, on the basis of the report which the former Advisory Council on Human Rights (CNDH now) had published in 2004, and monitoring prison conditions to assess the respect for the rights of this category of citizens and the nature of violations they may be victim of;

The CNDH set up a taskforce under the supervision of the Working Group on the Monitoring of Human Rights Violations and Protection of Human Rights to visit several penal institutions, taking into consideration multiple specific criteria according to a methodology consistent with the standard rules relating to visits of places of detention, seeking to achieve the following three main objectives:

- Creating an atmosphere of trust and cooperation with the directors of the (regional and local) penal institutions and their personnel;
- Gaining the trust of prisoners and raising their awareness of the importance of the visit in improving their situation and the role that the Council can play through these visits in protecting their rights and preventing the violation thereof;
- Obtaining the largest number of accurate information, details, testimonies and statements in order to prepare an objective and impartial report on the conditions of prison and prisoners.

II. Premises and approaches

I. Premises

- Conclusions of the previous report as well as the major legislative, administrative, organizational and executive measures taken during the interval between the two reports, which would improve prison conditions and prevent violations of prisoners' rights;
- Objective and impartial investigation of the possible violations of prisoners' rights, while determining the direct and indirect causes of these violations;
- Putting forward proposals and recommendations on the necessary proactive legislative and administrative measures and the practical steps to address the problems seen during the visits and prevent the violations detected.

2. Approaches

The visits were carried out following a participatory approach, as they were organized in coordination and partnership with the following entities:

- CNDH regional commissions;
- The General Delegation for Prison Administration and Reintegration;
- The Moroccan Prison Observatory for the prisons of Oujda, Nador and Al-Hoceima;
- Juvenile judges and enforcement judges in whose jurisdiction the visited penal institutions are located.

III. Normative framework

I. Internationally

The report is mainly based on the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as they constitute the basic framework for the international best practical rules relating to the treatment of prisoners. They are also an incentive for constant efforts to overcome practical constraints. The report rests as well on the Convention against Torture and its Optional Protocol, and some conventions with specific provisions on women and children in conflict with the law and persons with special needs.

2. Nationally

It includes the various legal and regulatory texts relating to prisons and the treatment of prisoners, whether the general legal texts (the Constitution and the Criminal Procedure Act) which include provisions directly or indirectly linked to prisons and prisoners, or the special texts that exclusively govern the organization of penal institutions and the treatment of prisoners (Act No. 98/23, Decree No. 2-00-485, Royal Decree No. 1-08-49, and all other related decrees).

IV. Background for the visits

- Sending pre-prepared forms to be filled out by the General Delegation for Prison Administration and Reintegration, including information about penal institutions, their infrastructure, prison population, administrative management, and the services provided to prisoners
- Developing a database to facilitate the compilation of data about all penal institutions in Morocco, and preparing an aggregate factsheet on all penal institutions as well as an individual factsheet for each institution.

V. Conclusions and observations

Based on the field visits, interviews and hearings of prisoners, the National Human Rights Council makes the following general recommendations and conclusions:

I. Management and operation of penal institutions

The Council notes with satisfaction the efforts undertaken by the General Delegation for Prison Administration and Reintegration to repair and restore prison buildings and construct new facilities, and to fight against corruption in prisons. However, its responsibility is clear regarding the excessive use of security policy at the expense of prisoners' safety and good treatment, and the immoderate enforcement of the disciplinary measures provided for in Act 23-98 and its implementation decree, in the absence of real and constant administrative and judicial supervision. Therefore, the Council makes the following observations:

- Persistence of abuses by the staff of visited prisons against inmates, which constitutes a violation of the laws governing prisons and all relevant conventions which consider this as a form of cruel, inhuman or degrading treatment. These violations are as follows: beating with sticks and hoses, hanging on doors with handcuffs, beatings on the soles of the feet (falaqa), slapping, pinching with needles, burning, kicking, forcing to undress in view of other prisoners, insults and the use of malicious, damaging and degrading words. These abuses were observed in most of the visited prisons, with different extent from one prison to another, with the exception of prisons of Inezgane and Dakhla where only isolated cases have been witnessed;
- Excessive use of discretion in interpreting the actions of detainees as a threat to the institution, causing the detainees to be deprived of some of their rights, such as receiving food from their families, and the implementation of collective punishment in some cases;

- Abusive use of administrative transfer as a disciplinary measure (for Salafi jihadist detainees);
- Lack of investigation about prisoners' complaints against some of the staff, including health personnel, as well as those published in the media or included in reports of associations or any other party;
- Inobservance of the progressive disciplinary steps in proportion to the offense, and the immediate placement of detainees in disciplinary cells with the application of the maximum duration on some of them;
- Inefficient supervision and inspection to eliminate corruption prevailing in some facilities with varying degrees;
- Absence of an integrating approach for the services and education and training programs.

2. Non-enforcement of laws and procedures

Despite the strengths of the criminal legislation, the non-enforcement or misapplication of some legal provisions in the absence of real and effective judicial control and monitoring jeopardizes the rights of the various categories of prisoners. In this regard, we make the following observations:

- Excessive recourse to pretrial detention, the direct cause of the overcrowding phenomenon;
- Slow judgment delivery, thus infringing on the fair trial guarantees set forth in the law;
- Inactivation of the legal provisions relating to conditional release (Articles 622 to 632 of the Criminal Procedure Act), as well as the absence of a clear definition of the party responsible for the implementation of these provisions, and the failure to agree to most requests in this regard (only two detainees benefited from this measure in 2011);
- Non-enforcement of the reconciliation procedure provided for in Article 41 of the Criminal Procedure Act, which concerns crimes punishable by two years or less or a fine not exceeding 5000 Dirhams, as 14,522 prisoners serve a sentence of one year or less, of whom 9,228 are sentenced to six months or less as on April 30, 2012;
- Problematic implementation of the judicial transfer provided for in the implementation decree of Law 23/98, which gives the public prosecutor power over the movement of detainees in accordance with the rules laid down in the Criminal Procedure Act, amid a lack of transportation and inadequate human resources in addition to slow trials and the violation of the fair trial guarantees;
- Ineffective application of the judicial oversight mechanisms although Article 249 of the Criminal Procedure Act stipulates that the President of the Criminal Chamber or his representative must visit penal institutions at least once every three months to take stock of the situation of prisoners in preventive detention and the justification for their detention, giving him the possibility to make direct recommendations to the examining judge in this regard. However, the Council noted that most facilities were not visited by the President of the Criminal Chamber in 2011, with the exception of Ain Kadous local prison in Fes, which received three visits during the year 2011;
- Irregular visits to most penal institutions by the provincial commissions set forth in Articles 620 and 621 of the Criminal Procedure Act.

3. Juvenile justice

Morocco has worked to comply with most provisions contained in the Convention on the Rights of the Child and the relevant guiding principles, and enshrined them in the Criminal Procedure Act which all parties concerned see as protectionist regarding the treatment of juveniles in conflict with the law taking into account the child's best interests. However the Council makes the following remarks:

- Non-enforcement of the provisions of Article 460 of the Criminal Procedure Act, which states: "Without prejudice to the requirements of Article 470 (...), the judicial police officer in charge of juveniles may detain the alleged juvenile under police custody in a place dedicated to juveniles for a period not exceeding the specified period of custody. He shall take all measures to avoid harm to him."
- Absence of special police squads or police stations for juvenile cases, and systematic juvenile detention in all police stations;
- Lack of deputy public prosecutors specializing in juvenile cases, contrary to the legal requirements, as any deputy public prosecutor may be responsible for juvenile cases, without taking into account the specificity of this category;
- Failure to provide the necessary arrangements to prevent harm to the juvenile (feeding, medication, psychological and social assistance, etc.);
- Failure to inform parents of the measure taken in some cases, or to respect their right to contact the juvenile;
- Rare visits by the public prosecutor's office to police stations that the law places under its effective control to best ensure the protection of juvenile rights, allowing therefore for the possibility of abuse;
- Rare recourse to the reconciliation procedure in misdemeanors committed by juveniles;
- The public prosecutor's office rarely requests from juvenile judges the delivery of the juvenile to his parents or the substitution of prison detention with another measure (Articles 501 to 504 of the Criminal Procedure Act);
- The change in judicial measures, particularly the replacement of prison with a child protection center, is not implemented immediately or at all; most often, juveniles benefiting from this measure long remain in prison before the decision is enforced.

4. Other categories of prisoners

4.1 Women

In addition to the overall situation of prisons and the violations of prisoners' rights in general, women -for social and cultural reasons- suffer more from humiliating and degrading treatment (insults and obscene language), from police stations until imprisonment, especially women arrested on grounds of debauchery or adultery.

Women who give birth inside prison and have no breadwinner receive personal aid from the prison staff or director to support their children and provide clothes for them. The Council noted that many penal institutions are deficient in adequate spaces for female prisoners, let alone the lack of nurseries and baby recreation areas. When these exist, they lack the necessary equipment.

After expiry of the period during which female prisoners are allowed to keep their children inside prison, they are compelled to leave their babies with persons who may exploit them in begging and other things, especially in the absence of relatives or when the latter abandon them.

4.2 Persons with mental illness

- The Moroccan criminal legislation distinguishes between this category on the basis of the crime committed, whether it is an infraction, a misdemeanor or a felony. In fact, Article 134 of the Moroccan Penal Act stipulates that whoever commits a misdemeanor or felony as a result of mental defect must be placed in an institution for mental diseases, while perpetrators of infractions are handed over to the administrative authority if proven exempted from criminal liability. It is imperative that all offenders suffering from a mental disability be placed in a psychiatric institution, regardless of the degree of the offence, in order to be under medical monitoring and receive the necessary treatment;
- Absence of individualized punitive measures on the basis of the crime committed and the degree of its impact on the perpetrators themselves and on public order;
- Non-application of Article 134 requirements, despite its flaws, as evidenced in the imprisonment of perpetrators of criminal acts with mental illness in the penal institutions either because of the length of the investigation or trial, or due to the non-enforcement of the order to transfer these offenders to a psychiatric institution;
- Lack of prison psychiatrists to monitor the health condition of this category of prisoners;
- The period of treatment is not deducted from the sentence in the case of partially liable offenders who are placed in a therapeutic institution during the investigation but finally sentenced to prison, which may cause the prisoner to have a relapse from the disease.

4.3 Persons with disabilities

The most important remarks concerning the situation of persons with disabilities in penal institutions are as follows:

- Unavailability of adaptive access within these institutions;
- Lack of wheelchairs for some prisoners with physical disability, which hampers their movement and deprives them of many rights, such as the easy movement inside cells, the walks and the use of hygiene facilities;
- Lack of specialists in sign language within penal institutions who can facilitate communication for the deaf and dumb, either with fellow prisoners, the prison administration or the outside world.

4.4 Foreigners

While this category should in principle enjoy all the rights benefiting to other prisoners, the Council nonetheless notes that, in addition to the direct and indirect violations of these rights:

- Foreign prisoners suffer from other violations relating to racial discrimination from prisoners themselves and the administration, as well as poor communication and contact with the outside world; even inexistence thereof in some cases. This can be attributed to the language barrier and the impossibility to arrange visits, especially for sub-Saharan Africans who fail to make contact with the embassies of their respective countries either because of the low interest shown by the latter despite being notified by the Moroccan authorities, or because of negligence and indifference;
- They do not benefit from training programs because of the aforementioned obstacles;
- They are not provided with legal assistance for the sake of a fair trial.

4.5 Addicts and people with chronic diseases

According to data provided by the General Delegation for Prison Administration and Reintegration, the number of detainees on charges related to drug trafficking and consumption accounted for 37.25% of the total inmate population. This category of prisoners also suffers from addiction and dependency on these drugs, which represents a serious problem requiring the intervention of all parties concerned. The Council note that the restraining measures taken by the General Delegation against the staff involved in the illicit trafficking of drugs into prisons are insufficient and require the implementation of other accompanying measures like establishing centres for the treatment of addiction and providing the appropriate conditions for the rehabilitation of the addicted.

We also noted the inadequate healthcare conditions, the insufficient number of health professionals as well as the poor first aid services provided to both male and female prisoners with chronic diseases, whose situation requires a placement in public hospitals and an urgent intervention to save their lives by providing them with a special treatment, as is the case for people with AIDS, renal insufficiency or cancer, etc. This situation reveals the poor existing communication between the concerned parties, whether the penal institution, General prosecution or hospitals that refuse admission to patients in the majority of cases, either on grounds of the shortage of beds or an insufficient budget to ensure the right to healthcare, treatment and medicines, especially for prisoners who do not have other sources of livelihoods.

5. Legislative deficiencies

Building new prisons or increasing the accommodation capacity of existing prisons cannot be by itself an efficient solution to improve the conditions of prisons and prisoners, as a reform of the criminal policy and its accompanying measures is also imperative. Overcrowding is one of the major problems facing penal institutions and is the cause of many serious violations that affect such aspects as service-delivery, healthcare, hygiene, nutrition and security as well as rehabilitation. Therefore, addressing the situation of prisons and prisoners requires a legal and judicial reform which should be on top of the priorities of the national dialogue for the reform of the judicial system.

5.1 The Criminal Procedure Act and the Penal Act

The Council notes several weaknesses relating to the implementation of the Criminal Procedure Act with the ensuing negative consequences, which can be summarized as follows:

- The limited and ineffective role assigned to the enforcement judge;
- The difficulty for persons imprisoned for debt to obtain a certificate proving their inability, which would exempt them from being imprisoned for debt, as provided for in Article 635 of the Criminal Procedure Act;
- The deadlines set for the exercise of the right to rehabilitation by law or judicial rehabilitation constitute one of the main obstacles to the integration of prisoners into society after completing their sentence, and a major factor of recidivism and social stigmatization;
- Lack of integrating the major criminal policy guidelines in the preamble of the Criminal Act in order to adjust the sanctions and punishments regime which has become, in many respects, inconsistent with community developments;
- Absence of alternative sentencing in the current criminal legislation, especially in the case of misdemeanors punishable by a maximum sentence of five years;
- Non-implementation of the principles of fairness, equality and legitimacy in the definition of criminal liability and partial exemption from criminal liability for persons committing criminal acts while experiencing psychological and mental disorders or unwillingly, which affected their cognitive capacity at the time of the crime.

5.2 Law No. 23/98 and its implementing decree

- Absence of a preamble in this law providing for the general guidelines relating to the rights of prisoners;
- Depriving detainees from making collective demands and subjecting them to disciplinary actions by the supervisors of the penal institution in accordance with Article 99 of Law 23/98;
- Ambiguity in Article 66 of the implementing decree of Law No. 23/98 on who should be responsible for the implementation of the measures taken against a juvenile sentenced to a penal institution according to the provisions of the Criminal Procedure Act;
- Limited scope of activities which associations can exercise, confined to special events and conditioned by the approval of the Delegate General of Prison Administration and Reintegration as stipulated under Article 10 of the implementing decree, which plays down the role of these associations in contributing to the reintegration of prisoners through the dissemination of a culture of human rights within the penal institutions, and any observations, recommendations or effective support they may provide in order to help authorities provide an adequate physical environment on the one hand and improve the prisoners' personality on the other ...;
- Absence of clear criteria on the basis of which the penal institution assesses good conduct and adopts, consequently, the encouraging measures stipulated for under Articles 32 to 34, as well as the absence of control over the ways and conditions surrounding the taking of such measures, especially the proposal to change the system of detention, deportation or nomination to benefit from pardon, release under conditions or special licenses. This contributes to a weak implementation of these measures and ineffective benefit thereof from the part of prisoners, and finally a difficult reintegration.

6. Conclusion about the budget

All the remarks and conclusions relating to prisons and prisoners' conditions point to the need to develop a strategy based on integrated approaches which rest mainly on a clear criminal policy and an effective management policy. This is also conditional on the development of a fiscal policy which takes into account the identification of requirements and the earmarking of appropriate funds.

VI. Recommendations of the National Human Rights Council

I. In the short term:

The National Human Rights Council, with a view to protecting the rights of prisoners, makes the following recommendations:

I.1 Recommendations to the General Delegation for Prison Administration and Reintegration:

A. On the treatment of prisoners

- The Council underlines its previous recommendations on ensuring equal treatment for prisoners and without discrimination on any ground; and on applying the provisions of Articles 3 and 4 of the implementing decree of Law 23/98, especially with regard to refraining from the use of violence against prisoners, the use of demeaning or rude language or of means of pressure such as shackles, chains and straightjacket except in rare circumstances ordered directly by the Director of the institution, or based on the doctor's instructions, unless there are no other means, and avoid using solitary confinement as a disciplinary measure of revenge and limit its use to the cases provided by law;
- Respecting the procedure for filing grievances, complaints and disputes by inmates in accordance with Article 98 of Law 23/98;
- Strengthening the role of this mechanism to guarantee the right to appeal for those affected by disciplinary decisions, and respect the deadlines set to this end, as well as their right to appoint persons to defend them before the relevant Ad Hoc Committee;
- Fighting all the unsound practices of extortion, bribery and threats inflicted on prisoners in return for benefiting from the rights they are entitled to by law (visits, use of the phone, meeting the Director, medical treatment outside prisons, etc.);
- Facilitating access for civil society groups to the penal institution and enhancing partnership with them in order to ensure the implementation of their role in raising awareness, spreading the culture of human rights and contributing to upgrading the capabilities of staff who are directly supervising the administration of penal institutions.

B. Facilities and buildings

- Speeding-up the closure of the Ain-Kadous local prison in Fez;
- Demolishing the separation wall erected in the visitors' room of the local prison in Laayoune;
- Carrying out the needed repairs and renovations in prisons whose facilities require so;
- Keep just one space for behind-the-fence visits in the Oudayas prison in Marrakech, instead of three, because such form of visit is part of disciplinary measures;
- Expanding the walking space devoted to patients in the hospital of the Oudayas prison in Marrakech;
- Taking into consideration the access points allocated for inmates with special needs in the design of penal institution buildings, while subjecting these designs to development and urban master plans and observing the international standards generally accepted in the building of such institutions.

C. Human resources

- Deploying staff according to the internationally applied ratio of 1 guard for 3 prisoners;
- Training penal institutions staff and strengthening their abilities in the field of human rights as they are universally recognized, mainly in areas related to the protection of the rights of prisoners and the development of a motivating system for them (annual recognition awards, honoring);
- Creating a lump sum compensation system for housing to the benefit of employees of penal institutions, when no personnel accommodation can be provided.

D. Sports, recreational activities and religious practice

- Attaching greater importance to social, recreational and sport activities to the benefit of inmates, by encouraging prisoners with talents and abilities in the relevant areas, and enabling concerned associations to organize such activities;
- Providing spaces for worship in all penal institutions and allowing access thereto during all prayer times and throughout the month of Ramadan.

E. Walks

- The Council reiterates its previous recommendation regarding the respect of the law and the need to make all prisoners without exception benefit from the break period for exposure to sunlight and walking for a period of time not less than one hour, including during holidays.

F. Services

Healthcare

- The Council re-affirms the need to implement its previous recommendations, especially those concerning the attribution of health care services in penal institutions to the Ministry of Health, the development of programs to treat drug addicts, the establishing of centers for the treatment of addiction and the provision of psychiatric services in all prisons. The Council also recommends the following:
 - Encouraging civil society initiatives for the organization of medical convoys to the benefit of patients in penal institutions;
 - Conducting medical campaigns by the Ministry of Health to combat infectious diseases, especially skin diseases;
 - Organizing awareness campaigns among prisoners to shed light on the seriousness of infectious diseases, especially AIDS; and arrange for medical awareness convoys to encourage stopping drug use to the benefit of addicted prisoners;
 - Taking special measures to protect some vulnerable groups such as people with disabilities and people with serious illnesses like AIDS, cancer and mental patients and the elderly;
 - Strengthening human resources and increasing the number of doctors and health staff;
 - Providing the needed medicines, supplies and medical equipment inside penal institutions.

Nutrition

- Improving the quality of food provided to prisoners while respecting the implementation of the food program established by the central administration and increase the budget allocated to nutrition;
- Respecting the regular prices of foodstuffs in stores opened within penal institutions and not forcing prisoners' families to purchase goods from these stores.

Education and vocational training

- Strengthening cooperation between the General Delegation for Prison Administration and Reintegration, the Ministry of National Education, the Ministry of Employment and Vocational Training and the Mohammed VI Foundation for the Reintegration of Prisoners in the fields of education, training and reintegration, as well as with other stakeholders;
- Not restricting the right to education and training on any grounds whatsoever;
- Conducting awareness campaigns among inmates about the importance of education and vocational training.

Prisoners' labor

- Giving special importance to the work of prisoners given its role in helping prisoners rapidly reintegrate their social surroundings;
- Ensuring the payment of all dues to the prisoners as a compensation for the duties entrusted to them;
- Establishing production factories as was the case in the past;
- Benefiting prisoners from the insurance on work-related accidents;
- Monitoring the work of prisoners in penal institutions by labor inspectors..

Hygiene and bathing

- Activating the provisions laid down in the law governing penal institutions, particularly Article 130, which calls attention to the importance of hygiene and its relationship with the health of the detainee;
- Respecting the prisoners' right to privacy through repairing toilet doors;
- Respecting the provisions of the implementing decree of Law No. 23-98 relating to hygiene and health protection (Articles 84 to 88).

Blankets, mattresses and clothing

- Providing the needed blankets, mattresses and clothing for inmates while respecting the conditions of hygiene as a fundamental right enshrined in law;
- Activating the role of the Minister of Justice and Freedoms under Article 82 of the implementing decree in identifying and specifying the clothing and bedding of prisoners and the conditions for keeping them clean and in good shape as well as ensuring their periodic renewal;
- Distributing blankets fairly and equally to all inmates without exception.

Contact with the outside world

- Facilitating collective, simultaneous and direct visits by relatives to inmates, without using visits behind fences, except in cases prescribed by law;
- Taking appropriate measures to facilitate contact between foreign prisoners and the outside world;
- Equipping visitor rooms with chairs and tables to improve the conditions of the visit;
- Terrestrial broadcasting of the Amazigh channel;
- Providing trained staff in sign language inside penal institutions;
- Making it easy for prisoners to obtain the National Identity Card and have the address of the hosting penal institution.

1.2- Recommendations to the Ministry of Justice and Freedoms:

In order to ensure the implementation of the law and the relevant measures and procedures, the Ministry of Justice is required to undertake the following:

A – In terms of managing the overcrowding phenomenon

- Rationalizing pretrial detention, whereas thousands of pretrial detainees are released each year by virtue of a judgment of acquittal, a conditional sentence or a decision to drop prosecution;
- A judgment of acquittal, a conditional sentence or dropping prosecution (benefiting 6867 of pretrial prisoners);
- 9228 are sentenced to less than six months of prison;
- 17939 prisoners served two-thirds of their prison sentence and have not benefited from a pardon for the remainder of the prison sentence.
- Reducing short-term imprisonment and replacing it with conditional sentence or fine payment, until effective alternatives are adopted;
- Accelerating the judgment process in cases of pretrial detainees;
- Setting-up mechanisms for conditional release and pardon for prisoners with outstanding behavior and/or those who served two third of their prison sentence (17939 in 2011) the elderly or prisoners sentenced to less than six months (9228 in 2011) and prisoners with chronic diseases;
- Rationalizing equal distribution of inmates among prisons according to their accommodation capacity;
- Applying the conciliation procedure provided for by Article 41 of the Penal Procedure Act.

B - For juveniles in conflict with the law

- Training judges specialized in juvenile justice;
- Applying the principle of non-recourse to the imprisonment of children, unless for exceptions, as a last resort and for the shortest period possible;
- Urging juvenile judges and advisors to inspect juvenile imprisonment conditions on a regular and practical basis;
- Giving juvenile judges and advisors freedom to change measures whenever it is required for the best interest of the child;
- Ensuring immediate implementation of the decisions to change measures and designing the authority that will be responsible for that;
- Ensuring that the imprisoned child is not deprived from the right to education (schooling) and the other rights provided for by the law;
- Providing legal assistance for all juvenile delinquents and promoting social supervision for this category;
- Creating subsequent care centers for released juvenile delinquents and generalizing such centers at the national level.

C - Applying the mechanisms of judicial control

- Strengthening public prosecutor's control of police custody places;
- Applying judicial control over penal institutions and making it mandatory, through regular visits aiming to highlight the real situation in penitentiary institutions, and strengthening the powers of the enforcement judge in such a way to enable him to effectively control these institutions, monitor penalty enforcement and verify its validity.

1.3 Recommendations to the Ministry of Interior

- Accelerating the creation of judicial police stations for juvenile delinquents;
- Applying control of regional commissions which aims at the improvement of the situation in prisons and of prisoners, through regular and effective visits to prisons and drawing-up of thematic reports on the situation of prisons and prisoners;

1.4 Recommendations to key stakeholders

- Applying legislative control by the Parliament at the level of legislation, inquiry, investigation and accountability, in a way that allows the legislative branch to improve relevant laws and harmonize them with the relevant international standards;
- Expanding the areas on which civil society organizations can work and strengthening their roles to include monitoring prison conditions through field visits and the organization of training sessions on citizenship, human rights and gender equality for the staff and prisoners as well; this implies amending Article 84 of the law on the organization and management of prisons and granting regional directors the power to authorize civil society organizations to visit the institution, while merely informing the General Delegate of such visits;
- Activating the role of the commission provided for by the last paragraph of Article 2 of the Royal Decree of April 29, 2008, created under Decree No. 2-09-212 relating to the composition and mandate of this commission, which includes the following departments:
 - the Ministry of Justice, the Ministry of Interior; the Ministry of Endowments and Islamic Affairs, the Ministry of Economy and Finance, the Ministry of Housing, Urbanism and Space Development, the Ministry of Health, the Ministry of Youth and Sports, the Ministry of Agriculture and Fisheries, the Ministry of National Education, Higher Education, Staff Training and Scientific Research, the Ministry of Employment and Vocational Education, the Ministry of Craftsmanship, the Ministry of Culture and the Royal Gendarmerie; the objective is to establish a joint management of prisons, improve the detention conditions, provide prisoners with health care, ensure their rehabilitation after release to reintegrate them into society, and ensure training of the prison personnel in social, health and security fields;
 - Taking necessary legal measures to preserve the dignity of persons convicted and respecting the ethics of journalism to avoid showing images of detainees or write their names and surnames without their consent;
 - Strengthening and supporting the role of the Mohammed VI Foundation in the area of subsequent care for released prisoners;
 - Creating care centers for children born within prison institutions and who may live in difficult situations either because there are no relatives who would take care of them or because their relatives deny them; physical, moral, psychological and social care should be provided in these centers.

2. Medium and long-term recommendations

To improve the situation in prisons and promote the rights of prisoners, the National Human Rights Council recommends the following:

2.1 Awareness-raising and promotion of the culture of human rights

- Launching a broad national dialogue on prison conditions, through the organization of a national symposium bringing together all governmental and non-governmental organizations to analyze together the real situation of prison institutions and develop proposals for reform concerning prisons and juvenile rehabilitation and integration centers;
- Involving all relevant stakeholders, including the Council, in the organization of training courses for prison personnel in the field of human rights, citizenship and good governance;
- Implementing the recommendations of the Equity and Reconciliation Commission to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights relating to the abolition of the death penalty, because it is not considered an ideal and effective example in the penal policy.

2.2 Legislative guarantees

The Council urges the Ministry of Justice and Freedoms, the Parliament and the High Commission for National Dialogue on the Reform of the Judiciary to:

- Implement the provisions of the Constitution of 2011, which stipulate that everyone shall have the right to physical and moral integrity which shall not be undermined under any circumstances by any person, private or public (the first paragraph of Article 22 of the Constitution); that “no one shall inflict upon another, under any pretext whatsoever, any cruel, inhuman or degrading treatment which undermines their dignity” (second paragraph of the same article); in addition to the criminalization of all forms of torture (the third paragraph of Article 22); and linking responsibility to accountability;
- Harmonize most of the provisions of this law with the international human rights standards, mainly those related to the treatment of prisoners and the duties of law enforcement officers, in compliance with the new mandate of the Parliament;
- Amend Article 473 of the Penal Procedure Act to change the age in which a juvenile delinquent can be imprisoned from 12 to 15 years old, and stress that the imprisonment of juvenile delinquents is an exceptional measure;
- Enforce the protection of female prisoners from all forms of discrimination and violence based on gender, and considering sexual violence that they may be victims of at detention places as a form of torture and
- Adopt procedures and means of proof to ensure the protection of women and prevention of violence and discrimination against them;
- Fight impunity through the criminalization of ill and degrading treatment by the authorities or one of their agents, etc.;
- Strengthen fair trial conditions in the Penal Procedure Act, by means of:
 - Strengthening the role of defense, expanding its scope and establishing a true balance between defense and prosecution;
 - Reducing the period of police custody to a rational duration, while accurately determining its conditions and humanizing custodial detention places;
 - Imposing severe sanctions on procedural breaches;
 - Amending judicial rehabilitation procedures and conditions so that it will not be related to specific deadlines, and reducing the deadline of legal rehabilitation;
 - Restricting, by virtue of the law, the discretion of judges by identifying the purport of legal provisions, in particular those relating to the aggravating and mitigating circumstances and recidivism.
 - Adopting a specific procedure for compensation for judicial error; thereby enforcing Article 122 of the new Constitution, and imposing sanctions on error;
 - Rationalizing the system of intimate conjugal visits as a right for married prisoners;
 - Amending Article 66 of the implementing decree of law 23/98 to define responsibilities in the event of a change in the measures against a juvenile in conflict with the law;
 - Considering mental diseases and willingness disorders among the conditions of total or partial exemption from criminal liability under the Penal Act, in line with the principles of legality, fairness and equality;
 - Deducing the period of treatment from the prison sentence in the case of partially liable offenders who are placed in a therapeutic institution during the investigation but finally sentenced to prison;
 - Providing for alternative sentencing in the Penal Act, including unpaid community service and driving license revocation, and empowering the enforcement judge to monitor the implementation, validity and efficiency of alternative sentencing, verify its effective impact on the behavior of the convicted and refer back to the court to review the decision in case of non-conformity with the purposes sought.

3.A recommendation on the budget

- The Council recommends the allocation of adequate budget that takes into account harmony with the penal policy and is consistent with the strategic horizon aiming at the rehabilitation and reintegration of prisoners and making prisons correctional institutions.

VII. General conclusion

Because of the non-enforcement inefficiency of the various supervisory judicial authorities and regional committees, on a regular basis, and given the legislative deficiencies, the weak control of Parliament in this context, the overlapping competence, the continued unsound practices and violations of prisoners' rights and the fact that there are many stakeholders;

on the basis on the visits that the Council's team made to some penal institutions, which enabled it to take stock of the scope and nature of these violations;

In light of the continued practices that constitute, sometimes, a serious violation of prisoners' rights, and taking into consideration the relevant complaints, the possible cases of revenge (the Council received complaints about cases of revenge after visiting some penal institutions) and the importance of protecting witnesses, which requires constant and frequent monitoring;

The National Human Rights Council recommends the Government to speed up the ratification process of the Optional Protocol to the Convention against Torture, and to accelerate the creation of an independent national body for the prevention of torture in accordance with this Protocol, whose Article 17 obliges state parties to establish independent national preventive mechanisms for the prevention of torture at the domestic level.

In addition, the National Human Rights Council also recommends the following:

- Accelerating the process of launching a public debate on the creation of the independent national mechanism for the prevention of torture that seeks to consolidate the principle of non-impunity and ensure non-repetition of human rights violations. In addition to the visits to all public and private places of detention, it shall be a key instrument to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment, in total compliance with a number of international standards as part of the procedures vested in the national mechanism in accordance with Article 12 and 15 of the OPCAT and providing the conditions and guarantees in order for the national preventive mechanism to discharge its mission, by allowing it to access information related to persons deprived from liberty and to places of detention and their location, as well as all information related to treatment and detention conditions, and all detention places and their facilities, namely police stations, prisons, juvenile detention centers; (correctional centers and child protection centers), border police stations and transit areas in airports, ports and land border points, detention centers for immigrants and asylum seekers, psychiatric institutions, security and intelligence service headquarters, detention places under military justice jurisdiction, transportation vehicles for prisoners and detainees, public or private places of detention in which the person concerned is not allowed to leave as he wills, by order of any judicial, administrative or other authority. The national preventive mechanism shall have all guarantees stipulated in Article 18 of the OPCAT, mainly functional independence, appropriate expertise, professional knowledge and financial independence.
- Developing an action plan against torture and setting up working groups in partnership with all stakeholders, including the judiciary, the parliament, the government and civil society.