

NATIONAL INTEGRITY SYSTEM STUDY OVERVIEW MOROCCO 2009

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FOREWORD

In the analysis and communication diagram put forward by Transparency International, the national integrity system (NIS) is represented by a temple whose various pillars underpin the imposing weight of the roof and contribute to maintaining the balance of the building, with each pillar representing a state institution. Such a figure suggests, on the one hand, that the factors that determine the state of integrity in a given country are perfectly identifiable and, on the other hand, that they are interdependent, with the vulnerability of each pillar affecting the strength of the others and, subsequently, the soundness of the entire building.

If we are to apply this figure in analysing the integrity system in Morocco, we mean on the one hand to focus the analysis on each of the chief factors that determine the level of transparency and corruption in the country and, on the other hand, to identify the means likely to enhance their contribution to the overall governance.

The problem with such an approach is that it represents an abstract identification of the major elements thought to be responsible for the situation of integrity that we are seeking to identify and assess precisely. However, it has the advantage of simplicity by focusing on the widespread sources of corruption and facilitating comparative analyses of the various aspects of corruption, while enabling a comprehensive assessment of its causes and manifestations.

The present report is the last part of the first phase of the **MABDA project** (Measuring Anti Corruption Efforts and Building Demand for Effective NIS in the Arab World). It is designed to provide a comprehensive analysis of our national integrity system as well as to support similar approaches in the entire Arab region, particularly in the countries where concomitant studies have been launched as part of this Transparency International project, namely Egypt, Lebanon and Palestine.

The report is the culmination of teamwork carried out over eight months by a group of two external consultants and four officials of Transparency Morocco. They adopted the same methodology as was used in the studies made in Egypt, Lebanon and Palestine and abided by their guidelines, grouping the different pillars in three main axes. The theoretical investigations were then submitted to thematic focus groups to be examined during a workshop on the major recommendations.

The final version provides the analyses of the authors as enriched and amended during these meetings, which were attended by the members of Transparency Morocco and other individuals invited because of their expertise and professional practice.

Transparency Morocco hopes the report will be the first phase of an open-ended learning, investigation and communication process regarding our national integrity system, giving priority to the themes that proved crucial throughout this process, such as access to information, budget transparency and judicial appeals. Thanks to the activities carried out by the Observatoire and the Centre d'Assistance Juridique Anti-corruption (CAJAC), Transparency Morocco also hopes the analysis will be enriched with observation and direct analysis of facts.

The best tribute we can pay to all those who contributed to the report is to publicize it and enhance it by incorporating criticisms and suggestions so it can serve as a reference for future activities intended to strengthen the national integrity system.

Rachid Filali Meknassi
Secretary-General of Transparency Morocco

I. THE NIS

The National Integrity System (NIS) and Country Studies

1. What is the NIS?

The NIS encompasses the key institutions and sectors (the “pillars”) that contribute to integrity, transparency and accountability in a society. When it functions properly, the NIS combats corruption as part of the larger struggle against abuse of power, malfeasance and misappropriation in all of its forms. Strengthening the NIS is intended to promote better governance across all aspects of society.

The concept of the NIS has been developed and promoted by Transparency International, as part of TI's holistic approach to combat corruption.¹ While there is no blueprint for an effective system to prevent corruption, there is a growing international consensus about the salient institutional features that work best to reduce the phenomenon and promote integrity. The Country Studies are based on an assessment of the quality of institutions relevant to the overall anti-corruption system.

The NIS is generally considered to comprise the following pillars:

- Executive
- Legislature
- Political parties
- Electoral commission
- Supreme audit institution
- Judiciary
- Civil service/public sector agencies
- Law enforcement agencies
- Public contracting system
- Ombudsman
- Government anti-corruption agencies
- Media
- Civil society
- Business sector
- Regional and local government
- International institutions

These pillars may not constitute the comprehensive NIS in every country. For instance, in some countries the monarchy or military may play a pivotal role; in others some pillars may not exist. In such cases TI allows room for the NIS to be adapted in a fashion appropriate to local circumstances and based on suggestions from experts in the country. This should enable the most accurate analysis of a country's integrity system.

¹ Details of the NIS can be found in the *TI Source Book, 1997 and 2000*, and the *TI Anti-Corruption Handbook*, both available at www.transparency.org

Why conduct NIS Country Studies?

The purpose of each Country Study is to assess the national integrity system – in theory (law and regulatory provisions) and in practice (how well it works). Through these studies TI aims to provide an overview of the national integrity systems in countries from all regions of the world. The studies provide both benchmarks for measuring further developments in these countries, and a basis for comparison among a range of countries.

In terms of benchmarking, the studies provide a starting point for signalling areas requiring priority action. They also form the basis from which stakeholders may assess existing anti-corruption initiatives. NIS Country Studies help explain, for example, which pillars have been most successful and why, whether they are mutually supportive and which factors support or inhibit their effectiveness. Country Studies also assess where the emphasis should be placed on improving the system and which factors are required to support the overall development of the NIS.

In terms of cross-country comparisons, the Country Studies create a strong empirical basis that adds to our understanding of strong and weak performers. Within regions where several countries may function with similar economic, political or social frameworks, the results of Country Studies can create a sense of peer pressure for reform, as well as an opportunity for learning from countries in similar stages of development.

Each Country Study also situates the NIS within the economic and/or developmental and corruption trends observed in the country, reporting on the Government's anti-corruption strategies and reform efforts, as well as those of other stakeholders, such as the private sector and civil society. When relevant, the study also evaluates donor-driven anti-corruption initiatives.

For Transparency International, Country Studies are an important measurement tool that complement TI's global indices and surveys – the Corruption Perceptions Index, Bribe Payers Index, Global Corruption Barometer and national surveys – by exploring the specific practices and constraints within countries and providing qualitative empirical results about the rules and practices that govern integrity systems. More than 60 such Country Studies have been conducted as of 2006.

TI believes it is necessary to understand the provision and capacity of the NIS pillars, as well as their interaction and practices, to be able to diagnose corruption risks and develop strategies to counter those risks. NIS Country Studies are a unique product of Transparency International that reflect the systemic approach TI takes to curbing corruption and the independent analysis offered by the world's leading anti-corruption NGO.

Methodology of the NIS Country Studies

2. NIS Country Studies offer a qualitative assessment of the integrity system in a country. The studies are based on both **objective** and **subjective** sources of data, which vary depending on the country evaluated. More specifically, data sources for NIS Country Studies include legislation, governmental and non-governmental reports, news media coverage, corruption diagnostics, academic analyses, expert interviews and focus group discussions. The studies therefore require both **desk research** and **field research**.

NIS Country Studies are **conducted by local, in-country organisations**, generally TI national chapters or independent country experts in corruption and governance. Authors are commissioned via a selective process organised by TI. In some instances the Country Study is written by a team of authors, with one individual serving as team leader, rather than by a single author. Each Country Study is refereed by at least one independent expert, also selected by TI.

“Questionnaire guidelines” provide the guidelines for the NIS assessment group.² In terms of national studies on NIS, this assessment is the central element. Researchers are then required to reconcile the requirements of an investigation (design and answers to questions) with those of reflection and analysis. The approach is structured by seven assessment categories and questions pertaining to each category, which aim to give a detailed idea of the formal, true capacities of each “pillar” of the NIS.

The general categories for questions about each NIS pillar are:

1. Resources/structure

- Size and composition of institution/sector
- Budget of institution/sector
- Sources of funding for institution/sector

2. Roles of the institution/sector as an NIS pillar

- Independence of the institution/sector
- Explicit or implicit responsibilities and objectives relating to the promotion of integrity/transparency/accountability or relating to the fight against corruption in the country
- Nomination and promotions within a career

3. Accountability

- Institutions relating to accounts/recording accounts
- Other forms of supervision
- Role of the public in regular consultation/oversight

4. Integrity mechanisms

- Codes of conduct/commitment to anti-corruption policies and practices
- Rules on conflict of interest
- Rules on gifts and hospitality
- Post-employment restrictions

5. Transparency

- Rules on disclosure, including disclosure of assets
- Reporting and publishing requirements
- Access to procedures/documentation

6. Complaints/enforcement mechanisms

- Provisions for the protection of whistleblowers
- Sanction mechanisms for infringement of rules
- Redress/recuperation mechanisms that are accessible to the public/civil society

² See “Questionnaire Guidelines. Etudes nationales d’Intégrité”, update of 30 January 2008, document of TI accompanying the terms of reference of this study.

7. Relationship to other NIS pillars

- Role of the institution/sector in relation to other aspects of the system
- Mode of institution/sector's interaction with other pillars in the system in order to promote integrity

Moreover, with regard to activities of Transparency Morocco, though the NIS has not been studied comprehensively, a host of studies have examined certain pillars and various themes in a cross-sectional way. Similarly, integrity investigations have been carried out, the conclusions of which are often cited by the press and analysts.³ It should also be noted that, parallel to the studies and activities carried out within the international transparency movement, the Moroccan Association for the Fight Against Corruption (Transparency Morocco) conducts other types of studies and activities and carries out various projects on transparency and integrity, whether in-house or in partnership with several other national or international networks. To cite three illustrative cases:

- The annual investigation: the Open Budget Initiative with the International Budget Partnership
- The qualitative observation of elections with Democracy Reporting International (DRI)
- The project of the Observatoire de la Corruption with the financial support of the Dutch embassy in Morocco

³ *La corruption au Maroc. Synthèse des résultats des enquêtes d'intégrité*, Transparency Morocco, with the support of the Friedrich Ebert Stiftung, 2005 (re-edited in 2008).

II. SUMMARY

The present study provides an analysis based on and structured around the pillars of the national integrity system in Morocco.

The national integrity system does not function in a vacuum. Rather, it is part of a complex political and social context that brings together stakeholders, resources and interdependences.

The national political system is heavily dominated by the executive, particularly the King. The royal institution is the cornerstone of the entire political system. It controls the various pillars of the system, and the wide powers it holds enable it to control the other pillars.

The **executive**, which is in theory partitioned between the King and the government, is actually weighted in favour of the King. He appoints the Prime Minister and, based on the Prime Minister's recommendation, all other Cabinet members, whose services he can also terminate. The King presides over Cabinet meetings, has the right to declare a State of Emergency, may dissolve the two Houses of Parliament and signs and ratifies treaties. These powers are enshrined in Article 19 of the Constitution, which grants the King a unique status by shielding his acts from judicial or any other form of control. This makes it possible for the King to make decisions in areas that may actually fall within the authority of the Parliament or the Government.

The King also holds vast powers in terms of making appointments **to high civil and military positions, including those in public institutions** (i.e. secretaries general, directors of the ministries, presidents and managing directors of the public institutions).

The **Government** is answerable to both the **Parliament** and the King. Yet the two Houses of Parliament have limited means to exercise their control and legislative powers. The legislative domain is strictly limited by the Constitution. The Parliament's intervention in finances is reduced to the level of budget voting and the law of regulation and its power of approving international treaties that commit state finances remains symbolic.

The law is not subject to evaluation by the Parliament, and its implementation is within the powers of the executive. The Prime Minister wields statutory powers that he may delegate to ministers. At the level of the provinces and prefectures, the governors ensure the functioning of the entire machinery of state, under the exclusive supervision of the Minister of the Interior.

Moreover, in view of the lack of qualified staff and a parliamentary profile that rarely possesses the sufficient technical capacities, the Parliament lacks the means to work with the executive on an equal playing ground.

The Parliament's other means of control, such as filing a censure motion or setting up a fact-finding committee, are difficult to implement. The conclusions of the fact-finding committees formed to investigate the cases of CIH Bank⁴ and the National Security Fund (CNSS⁵) were not followed up. In particular, legal measures were lacking. This casts doubt on the approach by these committees and reinforces the impression that the impunity of the ruling elite prevails.

Judges are also appointed by the King based on recommendations by the Supreme Council of Magistracy. This constitutional institution, presided over by the King, ensures the implementation of the guarantees granted to magistrates regarding their career promotion and discipline.

The subordination of the **judiciary** (designated in the Constitution as an authoritative body lacking exclusive competences) to political power is further exacerbated by a number of shortcomings, namely a lack of material means, insufficient training especially for court administrative staff, an inadequate number of judges, a lack of ongoing training, and difficulty accessing information, including case law.

The **Constitutional Council** is made up of 12 members. Six of these, including the president are appointed by the King. Its key mandate consists of overseeing laws during their adoption procedure to ensure that they are consistent with the Constitution. The Council also ensures the validity of elections in the absence of a body in charge of overseeing their organisation and orchestration. Declaring the results of elections falls within the authority of the Ministry of the Interior.

The **Audit Court**, whose chairman is appointed and may be dismissed by the King, fulfils a three-fold duty: first, conducting overall supervision of the implementation of the budget; second, ensuring the sound conduct of incoming and outgoing finances of agencies placed under its control; and third, taking action, when necessary, against the violation of rules governing such operations.

Its activity has been upgraded since its inception in 1996 (i.e. expansion of duties, reports published by the press). The effectiveness of its work hinges on reinforcing its means as well as efficient sanctions. In the absence of a national strategy to reinforce governance, the Audit Court suffers from the same shortcomings as other bodies covered by this report: inadequate human and financial resources, and impediments to effective legal proceedings and sanctions.

The same holds for the **Diwan al-Madhalim and the Central Authority for the Prevention of Corruption (ICPC)**⁶. The Diwan al-Madhalim is entrusted with two main functions. The first consists of examining complaints by citizens who consider themselves victims of any act inconsistent with the rule of law committed by public administrations, local governments or any other public institution. The second function consists of the preparatory review for cases relating to disputes between the state and an individual or a non-government association. Practically speaking, it is in no way an ombudsman or an independent administrative mediator as in the French model. Besides the intercession it conducts with the state on behalf of victims, it prepares a periodic report that is submitted to the King and published in the Official Gazette.

The Government set up the Central Authority for the Prevention of Corruption in August 2008. It has neither direct investigative powers, nor the compe-

⁴ *Crédit Immobilier et Hotelier.*

⁵ *The acronym stands for the French title; Caisse Nationale de la Sécurité Sociale.*

⁶ *The acronym stands for the French title: L'Instance Centrale de Prévention de la Corruption.*

tences to take legal action or issue sanctions. Its ability to perform its duties depends to a great extent on collaboration by the departments of the Prime Minister and the other ministerial departments.

Regarding public procurement contracts, it should be noted that despite two textual reforms,⁷ the situation shows no signs of improvement. Moreover, the impact of amendments remains limited. Notwithstanding the importance of public purchases and the stakes they involve, the transparency of state purchase orders is not guaranteed. This impinges on both the credibility of institutions and socioeconomic development.

Some aspects of the **territorial management** reflect the shortcomings facing the national system, although the management has developed a separate and more independent character.

Local governments hold transferred and consultative powers. Their most significant competences are of an economic, social and cultural nature.

Practically speaking, the powers of the local assemblies are limited and their room for manoeuvre is restricted. The supervision of the Ministry of the Interior, coupled with a significant shortage of human and financial resources, considerably limits the powers of local governments.

Both citizens' participation and access to administrative information are extremely limited for want of any legal measures and initiatives to support this within the supervisory agency. At both the central and local levels, the operation of public service is marked by a lack of transparency.

As part of the multi-party system, the political landscape is extremely fragmented and has developed in the absence of any effective regulation of finances. Given the small amount of members' financial contributions and the decline in volunteer political activism, political parties are inclined to resort to notables and businessmen. This may undermine their independence and expose them to pressure from private interests, including through state purchase orders.

Regarding **civil society**, we note a wide range of associations, not all of which have the same impact on the national integrity system. This is particularly true of associations that constitute intermediaries for the executive and the administration. Because they are closely controlled, they serve as a state tool to give a large amount of flexibility to political and administrative actions.

Some human rights associations, such as the Moroccan Association for Human Rights (AMDH),⁸ the Moroccan Organisation for Human Rights (OMDH),⁹ and Transparency Morocco play a significant role in the battle against corruption.

Under current laws, associations of persons are placed under a system of administrative declaration. Obtaining a declaration receipt becomes a formidable legal weapon against certain associations. Even after the 2002 "reform", the administration continues to postpone or refuse to deliver receipts for a host of reasons (i.e. public security, respect for territorial integrity, the aftermath of the September 11 attack, the fight against terrorism).

The recognition of an association as serving the public good has become an object of contention in the battle of definitions between the Government

⁷ The 1976 text was first reformed in 1998, with the accession of the "consensual alternation" government led by Mr. A Yousoufi, then in 2002. The present text governing public procurements is the decree n° 2.06.388 of 5 February 2007, published in the Official Gazette, issue n° 5518 of 19 April 2007.

⁸ The acronym stands for the French title; Association Marocaine des Droits Humaines.

⁹ The acronym stands for the French title; Organisation Marocaine des Droits Humaines.

and some associations. Associations deem it a right to which civil society associations that have displayed seriousness and usefulness on the ground are entitled. For the executive, however, it is a “favour granted by the Government to associations.”

An association that is recognised as serving the public good is able to benefit from certain advantages, especially tax exemptions for their sponsors in return for administrative control.

Free enterprise was guaranteed by the 1996 Constitution. The legal framework of free competition and prices is enhanced by measures to promote investment and preserve private interests. In this connection, we can cite the standards governing the stock market and banking transactions, protection of shareholders, banking secrecy and the crackdown on economic breaches. However, the many shortcomings identified in this report suggest the economic reforms have been ineffective when not accompanied by political reforms. These include rent-seeking with the myriad unfair practices associated with it, namely corruption, discretionary power, lack of transparency and subjugation of regulation authorities. However, the General Confederation of Moroccan Businesses (CGEM)¹⁰ and several individual businessmen have called for reforms and transparency in the face of the economic forces that seek to maintain the status quo.

International stakeholders can play an extremely important role in reinforcing civil society. Yet the lack of coordination among them, together with financing problems, particularly in the field of external financing, greatly impact on their efficiency and weaken their initiative and pressure capacities. Projects and programmes are drawn up and implemented not so much because they are deemed priorities for the country, but because they attract external financial resources. Without question, the emergence and development of a whole class of associations can be explained in terms of the pursuit of this form of rent.

¹⁰ The acronym stands for the French title; *Confédération Générale des Entreprises Marocaines*.

III.

ANALYSIS OF THE NATIONAL INTEGRITY SYSTEM

The various indicators that this study employs to analyse corruption in Morocco suggest a negative image of the national integrity system. Similarly, field investigations and video reports provided by anonymous citizens question the system's efforts to combat corruption.

Whether qualitative or quantitative, available studies and investigations make it possible to identify, inter alia, the following problems:

- The national integrity system's inability to play a decisive role in addressing corruption; hence, the need for profound reforms
- The intrinsic weakness of most pillars
- The judiciary's inability to discharge its duty properly
- The non-recognition of the right to access to information as a key factor contributing to the lack of transparency, non-accountability and corruption

Signs of improvement can, in effect, be drawn from the 2006 adoption of a government plan to fight corruption, as well as the potential contributions of certain pillars:

- The commitment by civil society, including the private sector
- Growing awareness on the part of media
- Incentives to international stakeholders

It should be noted, however, that in the present situation the lack of international governance – as exposed by the global financial downturn and constraints stemming from the fight against terrorism – have eclipsed the demand for urgent political reforms and highlighted the gap between the near-unanimous denunciation of corruption and the weak commitment to transparency, accountability and taking action against those involved in corruption. It is increasingly obvious that the phenomenon has become a feature of everyday life. The analysis of the national integrity system should contribute to an understanding of this paradox and of the measures likely to address both its causes and its effects.

This report is part of this approach. It participates in a process that combines research and practical action to understand the subject of corruption. Transparency Morocco is an essential player in this endeavour. In light of both its methodology and objectives, the report is also a means of raising awareness and encouraging a progressive, inclusive reform process addressing the challenge posed by corruption to national development.

IV.

PRIORITIES AND RECOMMENDATIONS

General recommendations:

- Generalising accountability, especially with regard to officials of public institutions;
- Promoting citizen participation in decision-making and interpellation;
- Coordinating and diversifying the action of anti-corruption institutions;
- Reinforcing and diversifying complaint mechanisms;
- Legally addressing and clarifying situations of conflict of interest, and post-employment and post-function restrictions;
- Recognising the right of access to information (i.e. administrative information, public archive material, journalists, institutions, public budget, shareholders and investors, accountability);
- Protecting whistleblowers, witnesses and experts, and encouraging them to get involved in the battle against corruption;
- Promoting transparency, good governance, ethics and the right to have access to public services through education and training.

Recommendations for strengthening the role of the executive

- The establishment of a parliamentary monarchy. This should enable the Government, which is answerable for its acts to the people and their representatives, to define the general policies of the state and make it possible for ministers to appoint officials who meet the requirements of seniority, competence and integrity to the various departments;
- A review of the constitutional and legislative provisions of the High Court of Justice related to trying ministers for crimes and felonies committed during the exercise of duties;
- Ensuring the independence of the High Court of Justice in relation to member appointment and daily functioning;
- Enabling citizens seeking justice to resort to this Court and allowing for members of the Government to be held to account, under a simplified procedure;
- The publication of the statement of assets by members of the Government and the introduction of a procedure to remove them from office should they fail to comply with the law on the declaration of assets.

Recommendations for strengthening the role of the Parliament

- Consolidating the powers of the Parliament in terms of legislation and at the political level: widening the scope of law; reinforcing financial competences, including the right of the Parliament to control the management of public institutions; the approval of international conventions and reinforcing rights and freedoms;
- Consolidating the Parliament's political power, which requires forming control commissions and devising less restrictive procedures to make the Government's political responsibility more effective;
- The need to revise the Parliament's structure to prevent a house elected by indirect suffrage from holding disproportionate powers relative to the economic interests it represents;

- Granting the Parliament the power to demarcate electoral constituencies, thus preventing the Government from drawing districts in a fashion serving the interests of certain parties at the expense of a fair division among citizens based on “one man, one vote”, as is constitutionally advocated and protected in modern democracies;¹¹
- Reviewing the law on the lifting of the parliamentary immunity so that it may be implemented for parliamentarians involved in non-political cases;
- Introducing referendum and citizen-initiative procedures to enable citizens to propose or adopt legislative texts.

Recommendations for strengthening the role of the political parties

- Rehabilitation of political and representative activity in the field of parliamentary powers and the improvement of elections;
- Reinforcement of controls and sanctions for voters and candidates who encourage the practice of vote-buying, or other practices that affect the integrity and transparency of elections;
- A constitutional commitment to the recognition of political pluralism, such as the charter of the opposition and the role of the parties in the field of developing and implementing public policy;
- Reform of the law on parties and a more precise definition of the mechanisms, acknowledging the extensive interpretations, particularly in the field of sanctions;
- Removal of confusion about the prohibition of changing party allegiance to end the debate about whether the relevant legal mechanisms for parties are constitutional or not.

Recommendations for strengthening the role of the electoral regulation body

- Reform of the Constitutional Council to establish a balance between the various nomination authorities, and restricting nomination to candidates who meet both the legal and the moral requirements;
- Endowing this institution with a code of ethics to avoid conflicts of interest and fully enable members to perform their duties;
- Reinforcing the powers of the Council in the area of controlling the validity of elections by granting it the right to carry out investigations and request assistance from experts;
- Establishment of deadlines to settle electoral complaints;
- Establishment of commissions, composed of representatives of the state and the major political parties, to ensure the validity of elections.

Recommendations for strengthening the role of supervision bodies

- Improvement of the efficiency of the supervisory system for public finances by means of:
 - Better coordination between supervisory bodies (GIF, GIM¹² and the audit board)
 - Mutual support between the agencies for supervision, prevention and mediation (MPEE¹³, GTK¹⁴, Central Authority for the Prevention of Corruption, Diwan al-Madhalim)
- A guarantee of the independence of the supervisory bodies in all their institutional and material forms (evaluation by the administrative council of the PEE¹⁵ of the nomination and remunerations, verification of the

¹¹ See manuals of constitutional rights: J. Gicquel, *Droit constitutionnel et institutions politiques* (Paris : Montchrestien, 2008). We have noted that the latest districting of 2007 (decree No 2-07-160 of 30 March 2007, Official Gazette issue No 5514 of 5 April 2007) was aimed at reducing the influence of some political parties in cities such as Casablanca, Fez, Tangier and Tetuan, which provoked criticism on the part of many political parties, especially the Justice and Development Party (PJD) and Socialist Union of Popular Forces (USFP). See Al Ahdath al Maghribia, 26 February 2007; *Aujourd'hui le Maroc*, 6 February 2007; *Libération*, 24 February 2007.

¹² General Inspection of Finances (Fr. : *Inspection Générale des Finances, IGF*), General Inspection of Ministers (Fr. : *Inspections Générales des Ministères, IGM*).

¹³ Management of Public Establishments and Enterprises (Fr. : *Direction des Etablissements et Entreprises Publics, DEEP*).

¹⁴ General Treasury of the Kingdom (Fr. : *Trésorerie Générale du Royaume, TGR*).

¹⁵ Public Establishments and Enterprises (Fr. : *Etablissements et Entreprises Publics, EEP*).

absence of abuse in the choice of replacements, revocation and resignation of officials in supervisory bodies, improved training, availability of sufficient human and material resources, effective exercise of duties, verification of the management of the bodies in question and audit institutions insofar as the latter are solely accountable to the general management and in strict respect of authority and their responsibilities).

- The creation, in each administrative council of a public establishment or enterprise, of an audit committee composed of various stakeholders. The internal audit body will provide its expertise within the context of transparent relations characterized by cooperation and monitoring;
- A systematisation of the audits in all public establishments and enterprises, which are entities managing public wealth and public markets;
- An evaluation (by an auditing committee) of the mechanism, auditing plan, risk-mapping and the internal control of a public establishment or enterprise;
- Better developed supervision of the effective functioning of internal processes relative to the reliability of the branches for restoring information and information systems;
- Improvement of supervision methods (establishment of risk-mapping techniques, prioritising the initial assessment on the basis of regular quality checks, supervision of outgoing expenses, institutionalisation of the use of performance indicators and the use of appropriate instruments as required).

Recommendations for strengthening the role of the judiciary

- Establishing the judiciary as an independent authority in the constitutional texts and preventing any interference by the executive power in the judicial domain;
- Strengthening the powers of the Supreme Council of Magistracy (SCM) by going beyond the role of a consultative body and granting it all the competences related to promotion and disciplinary power;
- Overhauling the statutes of the Supreme Council of Magistracy, in particular those relating to its composition and chairmanship;
- Enhancing the independence of the Supreme Council of Magistracy by reducing the interference of the ministry in election supervision, the management of its expenditures, the incorporation of its secretariat into the ministry and the financing of its activities, as well as by earmarking a sufficient budget for the Council;
- Promoting the independence of judges by reforming the procedures for promotion¹⁶ and disciplinary action;
- Reinforcing the training of magistrates at the Supreme Institute for Magistracy as well as improving the standard of further training by heightening their awareness of human rights and the fight against corruption;
- Reinforcing the independence of prosecutors from the Justice Minister and making them subject to the same conditions as judges.

Recommendations on civil service

- Setting up codes of good conduct for civil servants with regard to citizens, based on integrity, transparency and good governance;
- Subjecting all civil servants to the procedure of the declaration of assets;
- Combating nepotism, cronyism and clientelism, and ensuring that appointments to high positions are based on merit and transparency;
- Guaranteeing equality and non-discrimination, particularly at the end of civil servants' careers;
- Protecting whistleblowers, witnesses and experts, and encouraging their participation in the fight against corruption;
- Improving training in terms of professional ethics and corruption prevention;

¹⁶ Currently the interference of the Justice Minister and his freedom to establish the lists of candidates for promotion place magistrates in a situation of dependence.

- Ending clientelism and the practice of exploiting a civil service position to benefit a future or existing private sector position, following the end of mandates and civil services.

Recommendations relating to law enforcement agencies

- Submission of the nomination of all personnel to a competitive procedure in order to avoid clientelism and nepotism;
- Clarification and information about the role of the various agents in relation to the rights of suspects during investigation and arrest to avoid abuse;
- Sensibilisation of authorities responsible for applying the law in relation to corruption and engendering respect for human rights by providing adequate training;
- Subjection of all authorities to a declaration of assets;
- Providing for post-employment restrictions.

Recommendations for public markets

- Development of integrity mechanisms (obligatory regular rendering of accounts, separation of the functions of contracting body and buyer, generalisation of CPS practice types, development of manuals for management procedures and guides to good practice, publication of information relative to the conditions for acceptance and rejection);
- More effective recourse mechanisms; quicker response to requests, possibility to oppose an opinion issued by a commission to contractors by tribunals, possibility of recourse for professional associations, taking into consideration the delays in cases of recourse to the judiciary;
- Improved access to information (improvement and generalisation of procedure “dematerialisation”, putting procurement practices into place, facilitating access to archives and to information on public market procedures, planning the obligatory delays for the conservation of documents for tender of offers, institution of a pedagogical accompaniment for public administration);
- Allotment of sufficient means to the Commission of Markets to make optimal use of its allocations in the field of arbitrage, complaints procedures and the proposition of regulatory reforms;
- Harmonisation of rules in the field of public markets applicable to different public entities (Administrations, Local Collectivities and Public Establishments and Enterprises);
- Establishing an observatory of public markets associating public administration, professional associations and civil society.

Recommendations for the media

- Review of the legal restrictions for the activity of the media in a fashion more favourable to freedom of expression, pluralism and diversity, based on international¹⁷ models of good praxis;
- Review of the criteria for dispensing public aid to the media in the context of a participatory approach and acknowledging the needs of the sector;
- Encourage the public and civil society to participate in the development of a public policy in the field of information and regulation of the media;
- Unification of the efforts of different medias and NGOs towards a programme of fighting corruption;
- Development of the ethical aspect by adopting different mechanisms such as a code of good conduct based on international models and pluralist models of mediation;
- Ensuring ethical supervision; delimitation of conflicts of interests, particularly for media belonging to large economic groups, the proposition of a law prohibiting the acquisition of media enterprises by large conglomerates whose primary source of income is state commissions, or regulating the conflict of interests in this milieu;

¹⁷ Cf. norms, models and recommendations of UNESCO.

- Guarantee of the right of assembly of persons working within the media; academic and professional training, number of days of training per year;
- Reinforcement of the role of investigative journalism.

Recommendations for strengthening the role of civil society

- Recognition of the importance of involving civil society associations in planning, supervising and implementing public policies, and of questioning public authorities in matters relating to this aspect;
- Assessing and monitoring administrations' respect for and implementation of the current legislation on freedom of association;
- Granting without delay a provisional receipt for the creation and registration of associations;
- Improving the transparency of the handling of applications for state approval and setting up a legal framework that objectively defines the conditions for this;
- Preparing an annual report listing all the projects and agreements made between the state and associations, stating their budgets, and the eligibility and selection criteria adopted for the financing;
- Instituting an obligation of certification and audit by requiring a financial section for all projects devised by associations;
- Promoting the public financial control of associations;
- Authorizing associations to take civil actions in their areas of activity whenever transparency or integrity abuses affect public funds;
- Facilitating access to information for associations inquiring about transparency and integrity in the management of public funds.

Recommendations for the private sector

- Support for the efforts of national actors who demand the cancellation of rent economy (private monopolies, discretionary granting of privileges by the state and other agreements with certain individuals or enterprises) and the adoption by state institutions of a participative approach in every legal project in this aspect;
- Continue efforts for good governance and sensibilisation of enterprises (particularly family businesses) to this effect;
- Supporting the activities of parties calling for more competition and fighting monopoly in economic sectors;
- Identification of the instruments that may be used by the Moroccan enterprise in its battle against corruption;
- Strengthening and expanding the relations with NGOs and other professional associations;
- Combating conflict of interest, the practice of exploiting a public sector position to create advantages for a subsequent private sector position, and clientelism in cases where a businessman becomes the holder of a public mandate.

Recommendations for strengthening the role of political parties

- Promoting political and representative action by respecting the Parliament's powers and making elections more transparent;
- Reinforcing control and sanctions against voters and candidates who resort to vote-buying and any other practices affecting the integrity and transparency of elections;
- Constitutional recognition of political pluralism, the status of the opposition and the role of parties in terms of devising and implementing public policies;
- Revising the law on political parties by specifying the provisions that allow leeway for extensive interpretation regarding sanctions;
- Reducing confusion regarding the ban on changing political party affiliation in order to end the debate on the constitutionality of provisions relevant to this issue.

Recommendations for regional and local administrations

- Review of the method of electing regional and provincial councils and reinforcement of the capacities of elected assemblies;
- Establishing new relations between state and local governments, and awarding more flexibility to local financial management;
- Setting up ombudsmen in the larger cities to serve as a link between the administration and the citizens;
- Providing the possibility of holding local referendums;
- Reconsidering the plurality of mandates, particularly in the larger cities.

Recommendations for international actors

- Creation of an environment of cooperation/information/debate to provide NGOs with a national and strategic visibility to assure them a means of unifying their varying orientations;
- Supervision of the integration of the audit obligation and project audit to each financing of the NGO;
- Supervising the development, in a participatory environment, of the principles of the Declaration of Paris on the efficacy of aid, to enlarge the adoption of these principles¹⁸ and to integrate their criteria amongst the mechanisms of good governance in the field of managing aid funds.

¹⁸ Particularly in relation to international NGOs.

V. COUNTRY PROFILE

Morocco is located at the northwest corner of Africa. The country gained its independence in 1956, and its first Constitution was adopted in 1962. The first Parliament, formed as a result of the legislative elections of 1963, did not finish its term (four years) due to the proclamation of emergency rule in June 1965. The Constitution was amended four times – in 1970, 1972, 1992 and 1996. The current Constitution of 1996 provides a bicameral Parliament: a House of Representatives elected by universal suffrage and a House of Councillors elected by indirect suffrage. As the first line of the Constitution states that “Morocco is a hereditary constitutional monarchy”, the core of the power is concentrated in the hands of the King. Morocco has 16 regions and each is headed by a Wali appointed by the King, as well as a Regional Council.

The organisation of the legislative and communal elections of 2002, 2003 and 2007 marked an improvement compared to previous elections, as the authorities made fewer direct interventions in the progress of the elections. It was found, however, that the development of buying votes through intermediary networks was done with the full knowledge of the authorities.

Regarding freedom of the press, in 2006 Morocco was ranked 97 out of 168 countries.¹⁹ In 2008 observers²⁰ reported several violations of freedom of speech and freedom of the press.

The economy of the country went through a phase of planned development until the beginning of the 1980s, when a debt crisis made it possible for the International Monetary Fund (IMF) to impose Structural Adjustment Programs (SAPs), which have re-routed the economic policy towards more liberalisation, privatisation and the opening of borders. The Moroccan economy remains dependent on agriculture. In 2006, it registered an 8.1 per cent growth rate, boosted by a good harvest; this rate was lower in 2007 (3.2 per cent).

Indicator	2006	2007	2008
Gross Domestic Product in billion US\$	65.4	72.7	79.7
Per capita GDP (USD)\$	2149	2368	2569

Source: Banque Marocaine du commerce extérieur BMCE BANK

This growth has not benefited all citizens. In 2007 the human poverty index (HPI-1) ranked Morocco 61 out of 108 countries, with a poverty rate of 33.4 per cent. Morocco’s human development index ranked 126 in 2007 (0.646, “average” category). Unemployment reached 9.8 per cent in 2007. The labour force participation rate stands at 76.9 per cent among males, compared to

¹⁹ Annual ranking of Reporting without Borders, 2006.

²⁰ Reports from 2008 from Reporters without Borders, the National Union of the Moroccan Press (Syndicat National de la Presse Marocaine) and the three principle human rights Moroccan NGOs.

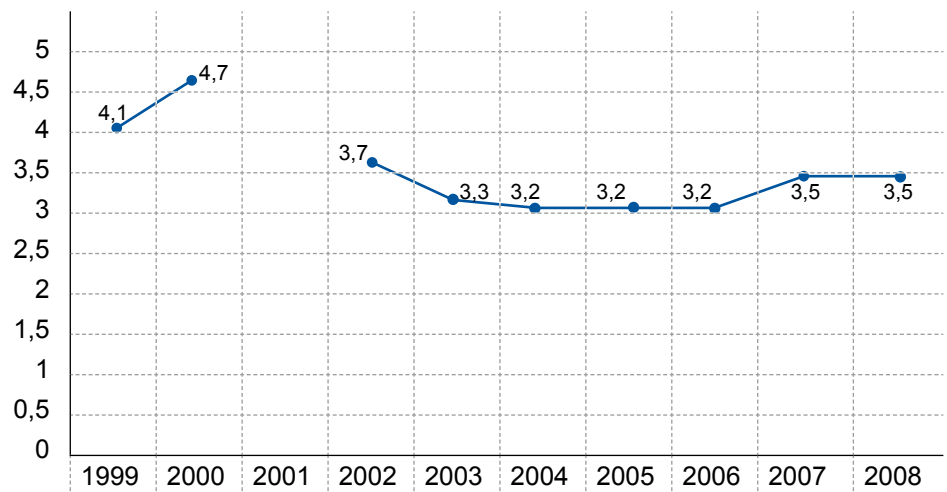
47.9 per cent among women. In 2004 the Moroccan Diaspora amounted to 3 million people, of which about 85 per cent live in Europe. In 2007, urban dwellers represented 55.1 per cent of a population that numbered 31 million inhabitants. Urbanisation has evolved in parallel with the growth of shanty towns, ruralisation of cities, a booming of mafia practices and the trivialisation of corruption in real estate and the building and public works sector.²¹

School is compulsory for children under 15, but in 2007 the illiteracy rate at the national level²² was 37 per cent. Average life expectancy was 71.22 years.²³

Morocco receives a consistently low ranking on most international rating scales of corruption. The King ratified the United Nations Convention against Corruption²⁴ and the Government has adopted anti-corruption plans²⁵ and laws, in addition to establishing the Central Authority for the Prevention of Corruption. However, these measures have not been supported by definitive measures to curb corruption.

As the taboo surrounding corruption has been partially lifted over the past 10 years, this phenomenon has come to be considered as an aspect of “the everyday behaviour” of economic, social and political actors. This trivialisation is evidenced by the number of investigations into the experiences of the population and their perceptions of corruption.

Thus, in 1999, following the institutional change of the 1990’s, Morocco obtained a score of 4.1 in Transparency International’s Corruption Perception Index. This score rose to 4.7 in 2000 but decreased to 3.7 in 2002 and then to 3.3 in 2003 and 3.2 in 2006. These figures reveal that corruption is endemic.



The 2009 Global Corruption Barometer²⁶ revealed that 60 per cent of Moroccan households reported paying bribes in the year preceding the survey. Morocco is thus ranked in the critical “over 40 per cent group”, along with Albania (40 per cent), Cameroon and Gabon (60 per cent).

21 In the last two years, the press has reported on several cases of corruption and acquisition of public terrains at low prices. For a press release and a debate on the issue, please see *Transparency News, la revue de l'Observatoire de la Corruption de Transparency Maroc*, n° 4 à 6, January-June 2009.

22 It is still higher among women and in rural areas.

23 Ranked at 68,88 years for males and 73,67 years for females.

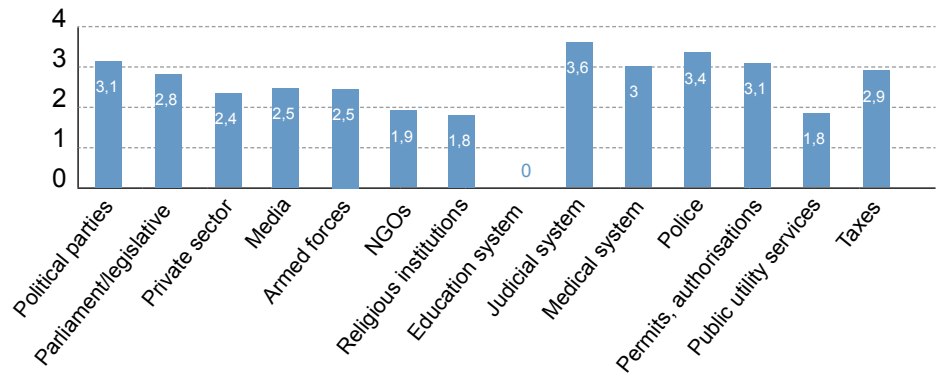
24 Morocco signed the UN Convention against Corruption in 2003, ratified it in May 2007 and published the ratification of text B.O. No., 5596 on 17 January 2008.

25 The governmental action plan was adopted in May 2005.

26 TI's Global Corruption Barometer explores the opinions and experiences of corruption among citizens. For further information relating to the 2009 Global Corruption Barometer, see: www.transparency.org/publications/gcr

Poll surveys based on analysis by sector showed that respondents consider the judiciary to be the most corrupt of all sectors. The judiciary received a score of 3.65 (using the same scale as the Global Corruption Barometer). This was followed by the police,²⁷ with a score of 3.4, and political parties and health services, who received 3.1 and 3.0 respectively. This survey therefore reveals that the same sectors are considered to be the most corrupt as reported in the Global Barometer of 2006.

Evolution of the CPI Score for Morocco



Source : Enquête, ICPE, 2008

Corruption thrives in situations where the public interest intersects with private interests in areas marked by the absence of information, and in poorly governed sectors or those not governed by law. Taking on a coercive aspect in relation to the field of regulatory authority, “petty” corruption occurs in the transactions of everyday life through many forms. The accumulation of minor offences slowly undermines the very foundations of a country. As for large-scale corruption, it pervades certain levels and decision-making mechanisms and involves large sums of money. It is often linked to public procurement, certain authorisations giving way to large-scale investment projects, the establishment of import quotas, regulation of natural monopolies, privatisation and even delegation of local public utilities (water, electricity, sanitation).

²⁷ In Middle Eastern countries, the police force is considered to be the most corrupt.

