Arab Center for the Development of the Rule of Law and Integrity – ACRLI

"Promoting the Rule of law and integrity in the Arab World" Project

Report
On the judiciary in Morocco

Second Draft

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Table of Contents

1st : The Project general objectives (will be done by ACRLI)
2nd : The report objectives (will be done by ACRLI)
3rd : Methodology explication

This report committed to the typical plan elaborated by the "Arab Center for the Development of the Rule of Law and Integrity", as well as the methodology defined for each of its four chapters, in addition to this introductory chapter, respecting this report original author freedom and independence.

The first chapter of the report entitled "contextual background" recalls the historical evolution of the judicial system, and identifies social and political challenges and constraints governing its course.

The second chapter tackles the four principles of the judicial system to be considered in the typical plan, which are: judiciary independence, integrity and impartiality, competence and efficiency of the judicial system.

These two chapters constitute the theoretical part of the report which adopted criticism in law study methodology.

This study was carried out in the light of appropriate laws, decrees, measures and procedures, to determine the extent of respect to this principle or that, the way of implementation ensuring fair respect of this principle, and the impact of legal, political and other climate. This study considered as well previous and actual efforts in these fields, determined and evaluated their propagation, influence and results, on the basis of available data about the respect of this principle or that, through interviews, sessions or reports as well as point of views and perspectives of the civil society and of the media.

In addition, the study takes into consideration relevant international treaties, more particularly those which involve Morocco as a ratified party whether in conventions for Human Rights in general or in conventions with direct link to the independence of the judiciary and of lawyers.
This report was supposed to be backed up with statistics but they were not received despite the written request form the ministry of Justice.

This theoretical part was also subject to in-depth multidimensional overlapping discussions to which contributed academicians i.e. law professors teaching law in the University of Mohammad V, the most ancient and the greatest university in Morocco, with the participation of jurists as well especially lawyers and activists from the civil society in the field of human rights, fighting bribery and defending judiciary independence.

Chapter 1: Contextual Background

I- General view on the judicial system and its development

Almost all activists agree that the judiciary situation in Morocco is one of the situations characterized by deep deterioration and unsoundness... There are of course, disparities in the recognition of judiciary unsoundness degree, and differences about the origins and the approaches of reasons and factors generating the actual situation. But nobody, , including officials of the judicial system themselves, admit that the situation is sound to an extent where a previous minister of justice severely criticized the Moroccan judiciary course, in his statements declarations considered prejudicial by those who see themselves representatives of the judiciary .

In fact, this observation is not quite new. The judiciary reform always occupied the forefront place in all political statements and programs. It focuses on two interrelated axis:

The first, takes apparently a technical form, encompassing the justice system, the laws provisions and the rehabilitation of all players in justice.

The second has a conceptual aspect, being related to the justice position in society, and justice consolidation in the constitution as well as to the development of prevailing values.

1-1 Technical approach

The judicial system experienced many sustainable reforms and reconstructions which enabled the Moroccan justice, during the previous century, to have radical transformations leading presently to the adoption of worldwide values of independence, legitimacy, and on field efficiency.

The Moroccan judicial system was, before the French protectorate, subdivided into "the community" which applies usages, "Pasha" courts, religious courts which apply the Islamic Shari'a. This period witnessed also the emergence of consular courts for adjudication of cases whose litigates are foreigners or protected Moroccans.

During the French protectorate, a modern legal arsenal was established, applied by an up-date legal system on foreign litigates and those dealing with them, including the Moroccans. The judicial system "Al Ahli" was maintained being subject to amendments. This was the case in the French and Spanish protectorates marked by dual legal and judicial systems, whereas the region of "Tanja" was under an international system.

After independence, the Moroccan judiciary passed through many periods of reforms:
1959 – 1964: Continuity of judicial duality and emergence of national legal arsenal;
1965 – 1974: characterized by the judiciary Moroccanisation, arabization and unification.
1974: witnessed reforms that were of interest to the judicial system, the civil procedural law and the jurists' statute and amended some of the penal procedural

provisions. These reforms aimed at reorganizing and restructuring the judicial system, simplificating procedures, ensuring fast enforcement of provisions and bringing judiciary close to the litigants. It witnessed as well the creation of groups and districts courts to adjudge on simple disputes.

The current period which started in the beginning of the nineties holds intense procedural and legislative production aiming at establishing reform basis in accordance with economical liberalization and globalization, supporting the official commitment to join the line of reform and modernization which was noticed in late king statements, and mainly through the insistence of King Mohammad VI to build the modern democratic project, to confer to authority a new concept, and to open the workshop of institutional reform.. The reform's objective is also to attract investments by ensuring legal stability, daily problems resolution, and corruption restriction.

These reforms produced a specialized judiciary, in form of administrative and commercial courts and led to the amendment of specializations and organization of the ministry of Justice, the prisons' system, as well as the engagement in implementing judicial verdicts, human rehabilitation, judicial inspection strengthening, judiciary and jurists' rapprochement, criminal procedural code amendment, and penal code updating.

These reforms produced asserted positive points, particularly through the administrative courts outcome in order to extend the law and prevent abuse in administrative dealings, paving the way toward promoting the respect of public authorities for law and to refuse to grant them immunity without basis.

Thus, indications of openness to the requirements of modernity are extremely important, but the change experienced in the said sector remained restricted in a technical framework, differently or selectively applicable, preventing the occurrence of requisite qualitative move; this imposes more greatly the subject of judiciary reform as a whole.

1-2 Comprehensive approach

This approach aims at estimating the weakness of the judiciary system, demonstrating the objectives of the reform relative to challenges of independence, integrity, efficiency and accompanying actual international transformations.

1- **First challenge; Independence:** the judiciary was used to settle political accounts falling out-of-rules of peaceful and democratic conflict. And if The equity and reconciliation committee have submitted an inventory of the serious violations that has occurred in Morocco since its independence until 1999, this inventory would have revealed how judiciary was almost easily exploited, by the executive authority (state systems) in implementing repressive plans to suppress freedoms, cover crimes, torture the opposition, disputing the right to opposition, disrupt democratic practices, confiscate victims' rights to justice and society’s right to hold the perpetrators of serious violations accountable. According to many jurists and journalists, judiciary is also used today to deter again liberal press from criticizing the state.

2- **Second challenge: Ethical challenge:** Corruption touches different sectors in Morocco. Nevertheless, classifications submitted through locally conducted inquisitions and polls, reveals that the justice sector is ranked first among the sectors that are affected by corruption and bribery. This also appears in the reports of law organizations, the piles of checks presented by citizens, the officials' confessions in several occasions, and the continuous series of restraining measures against some judges.

3- **Third Challenge: Efficiency:** Courts have accumulated files, so that concerned persons wait long to get their rights. The pronounced verdicts face real obstacles hampering their enforcement, more particularly those promulgated against public institutions and administrations, thus undermining confidence in the judiciary as a mean to recover lost rights and treat litigants with justice.

4- **Fourth challenge: Modernity:** means shifting the Moroccan judiciary to the level of responding to the currents of modernity and globalization and enabling financial and human resources to interact with and respond to the modern era using its new tools and assimilating the new issues of the world development. In this context, it's worth mentioning the age-old and quasi-closed training of judges, the incapacity to exploit new human knowledge in this field and to confront urgent problems resulting from the in-depth transformations of the 21st century.

2- An overview of the political and cultural environment for the judicial reform:

After its independence, Morocco didn't practically and substantially manage to deviate from the traditional state pattern, already existing before the protectorate, which consists of having all the authorities under the control of one governor, surrounded by selected collaterals to promote and activate his decisions. This reveals the submission of powers to a superior exalted authority, because legitimacy in a traditional state goes upward and not downward.

It is true that Morocco has today modern structures and institutions, already common in a democratic state (Constitution, elections, government, parliament, administration…). However these structures do not impede the same traditional practice of authority from persisting, and failed from interrupting their enforceability even through the structures of the liberal modern state. This process is not easy but requires a complicated and a complex institutional adaptation, regularly innovated in order to monitor public affairs according to the traditional essence of governance. The adopted mechanisms in this monitoring process, i.e. the submission of modern structure to the traditional essence includes the elections' control, so that the political regime takes all necessary precautions to avoid unpleasant surprises (the emergence of a majority whose program contradicts the State's program, and calling for its implementation). This process synthesizes parties that are almost administrative annexes to the existing institution and integrates elites through different techniques, on top of which is the distribution of remuneration to guarantee loyalty.

Accordingly, it appears that the judiciary of Morocco is working on confronting the mentioned challenges within a context basically governed by a heavy historical

inheritance imposing, the persistence of the traditional essence on the state on one hand, and directly affecting the separation of power, the judge profession nature and his source of power on the other hand.

1- Rule of law and King's powers: Morocco lives under a regime governed by the monarchy rather than by the rule of law. The existing culture is built on the continuous renewed affirmation that the directives issued by the traditional authority should be implemented and not necessarily those stipulated by the law. In addition to the different tools and means that submit the established laws to the royal will, in a way that their respect, expresses originally the royal will which should be respected in the first place and not the law. The Moroccan judiciary asserted this trend when it considered royal speeches as laws, even if they are not legally formulated and published in the official gazette. Hence, law enforcement depends on the non-promulgation of opposite signs from the higher authority. The law enforcement is subject to interpretation of the ruling authority, even if this interpretation is strange to the law texts and provisions. Considering that the law is the product of the royal will, it is governed by the interpretations it inserts to the statutory text. This appeared in many occasions, especially when the King declared in one of his speeches that the independents are banned from running as candidates for elections although this right was not prohibited by the Constitution and the laws in force.

In addition, many texts guarantee freedoms that are common in democratic countries. These texts are usually used as a pretext to confirm that Morocco's regime is democratic, but still, their enforcement is governed by customs which restrict their functioning to a higher will and approval. There is a complete arsenal of tools and institutions that work on protecting these traditions and customs from vanishing after the emergence of a constitution and laws supposed to replace these customs and traditions. However, the Moroccan Constitution, even if formulated in writing and upon polls, it considers this double-standard situation which ensures the persistence of tradition within modern institutions. If article 2 of the Constitution stipulates that the nation practices its sovereignty directly through referendum or indirectly through constitutional institutions, and if article 4 stipulates that the law, which should be observed by all, is the noblest manifestation and expression of the nation will, with no retroactive effect, nevertheless, article 19 stipulates that the King is the Emir of El Mouminin (Prince of Believers) and the noblest representative of the nation. This legal system encompassing the King makes him not only an official representative of the State but the noblest representative of the nation. According to the official interpretation of the text, the members of the Parliament represent the people in a lower level than that of the eternal and immortal King's representation of all voters, yet of all people. When he takes a decision or promulgates a law, he acts on behalf of this prevailing representation.

Even at the elaboration of a legal text, as noticed, dispute arouses among MPs. Each of them, from different teams, considers that the strongest confuting argument he presents before his colleagues is the proof that the idea he defends conforms to the King's noble will. This will is revealed through a sign, an indication or a speech that an MP recites. Pursuant to article 19, the King promulgates texts that do not pass through the official law-making channels, and that are not submitted, at any stage of preparation, to the nation's deputies. This legislative practice of the King is not controversial or disputable by most of the actors.

Consolidate judiciary practicing by mandate

According to this say, all powers emanate from a higher traditional authority and are exercised by mandate on behalf of this authority. Persons in charge of these sub-authorities represent the *imam* by mandate, thus at any stage, this authority can be restituted back to its original source.

This explains for instance why the amnesty system practiced by the King is a general not a special amnesty which is issued only after the final conviction. The King also, since he is the "Emir el Moumnin", is entitled to decide the sanctions even if they are not enacted by law according to article 19. Late King Hassan II, announced his clinging to this right when MPs from the opposition withdrew from Parliament 1977 in a legal manner, void of any written sanction by law.

Therefore, the promulgation of judicial verdicts on behalf of the King is not only a pure historical repetitive tradition, but it is an admission, under the Moroccan Constitution and its interpretation, of a real fact. The judiciary represents the King, practicing his duties to solve specific disputes. Hence, he has to adjudge the way the king would have adjudged in the same situation. Thus, we cannot envisage the judiciary independence the way it is put forth in the democratic regimes.

3- A special conception for the separation of powers:

As late King Hassan II stated in his speeches, the separation of powers cannot be envisaged at the level of the King. According to him, power practicing does not imply limiting its extent in favor of another authority. Such restriction is applied on sub-authorities inferior to the royal authority.

The Higher Council stated: "judiciary is one of the *imam* functions and part of his duties; the judge represents the *imam*; the rulings are pronounced in the name of His Majesty in accordance with article 83 of the Constitution; and in the context of the defined legal competences which should not be widely interpreted on the pretext of mandate; and the decisions issued by His Majesty the King cannot be subject to reconsideration unless if the concerned person resorts to the King imploring his sympathy as long as the Constitution did not explicitly delegate the right of decision but to him." Consequently, the Higher Council refused the annulment due to excess use of power.

A former head of the Higher Council confirmed this trend, saying: "If the mind does not accept that "Inferior" supervises "Superior", it is then illogical to think about entrusting courts to verify the conformity of the King's works with the law. Judiciary is a royal influence the King exercises through his direct deputies who are judges appointed by virtue of a *zahir sharif* (law). Therefore, provisions are issued on behalf of the King and implemented upon his order. How can it be proper and valid - when judiciary is in a position of dependence and submission- to empower the judges to control the King's administrative works?"

The former head of the Higher Council added: "The royal authority, including governance duties, such as legislation, judiciary, and administration is an integral unit, with no particular distinction of the administrative section. This is subject, as the

administrative functions carried out by administrative officials to judiciary monitoring because it is refused by the Reason, text and measure Immunity is mandatory for the *zahir sharifs* as for each royal regulatory or individual decree."

This came in the context of reply to critics of this judicial behavior by foreign jurisprudence. In this regard, the head of the Higher Council assures: "Hope this will be enough to clear suspicions and content critics who have a wrong impression about our religious status and Islamic traditions, through strange regulations and rules in which they think being superior but in reality it is far from being true".

4- Sensibility of the Moroccan judge stance:

Under this situation, the judiciary is assigned functions different from those it would have been entrusted with, in case of declaration of affiliation to the democratic system through integral integration in its mechanisms and rules. The judge feels for some critical cases having political consequences, that his function is not only to enforce law, but to satisfy as well what is considered to be an official trend.

This critical situation for the judge in such cases rises from wondering about the consequences of each stance or position and its impacts on him, fearing from any consideration of deviation or breach of commitment holding implicitly cultural highly-appreciated weight in the Moroccan context.

But how can he know "what to do"?
It has to do only with two things: The judge has either to capture from the general surrounding elements of political atmosphere that enable him to draw up a trend (line) and transpose it in his decisions, or he has to look for this trend through special tracks.

Therefore, there is an overlapping between the judiciary system and other systems. Over the years, the Ministry of Interior had a distinguished mechanism that ensures, if necessary, systems overlapping for what the system considers as strategic issues related to security and to the culture that the system encourages in society and state.

Moreover, it is worth asking if the Moroccan judge feels secured when independent. The independence of the judge is not just a statutory or constitutional text, it is rather real guarantees that make him secured and confident that the trend he chooses would not lead to consequences against him from a source whatsoever.

How can a Moroccan judge feel secure, while he is triple chained:

a- His delicate situation under the jurists' system which entitles the minister of justice to govern and control the judge's professional destiny, with no sufficient guarantees to resist against any abuse.
b- Absence of an effective and independent regulatory framework to materialize jurists' solidarity and defend their independence. They are deprived of the right to have a syndicate organization. The superior interference appears through poor forms of associations working on rules that do not permit the judges to build for their associations, the foundations of a common security.
c- Immunity surrounding the executive branch practices to a large extent and forbidding any submission to penal sanction or any accountability.

It goes without saying that the judiciary is not full of trials that interest the government and justify its representatives' interference in the course of trials. Consequently, on-site impacts may appear very limited. Therefore, the jurisdiction overlapping and the non-conformity to the law affect also the other public services and pave the way to acts difficult to be differentiated whether serving the public interest or the personal interest. This leads to trials running from inside and outside the judicial system and permits further vote-catching, opportunism and corruption.

Chapter 2: Analysis of Principles

1- Independence

1-1 Constitutional Guarantees for Judiciary's Independence

1-1-1 Specific Constitutional Guarantees

In its different forms, the Moroccan Constitution included multiple principles that theoretically form the constitutional guarantees for the judiciary's independence, which (they) are:

- Judiciary is independent from legislative and executive powers; (article 82)
- The King appoints judges, by virtue of a "zahir", upon the proposal of the High council for the judiciary; (articles 33 and 84)
- Judges are only isolated and transferred by virtue of the law; (article 85)
- The High council for the judiciary looks after the implementation of guarantees granted to the judges concerning their promotion and discipline (article 87).

One has to wonder about the extent of efficiency and limits of these principles/guarantees. Are they real and complete guarantees or guarantees having limited effect? Do legal and regulatory texts related to the judiciary's structural and institutional regulation and to the different relations of judges in courts, with the Ministry and the minister of Justice and with the High council for the judiciary guarantee the sound and full independence of the judiciary?

In general, the Constitution and the legislation do not guarantee quite definitely and effectively this independence; they do not permit the mentioned council to perform its complete task. This is obvious through the following:

According to article 87 of the constitution, the High council for the judiciary, presided by the King, is composed of members appointed by the force of law, as regards their judicial posts, as well as elected members, men and women jurists, pursuant to the system stipulated, amended and completed in the decree dated 27/12/1975.
The concerned members are: the minister of justice in his capacity as vice-president; the first president of the High council for the judiciary, the King's secretary general and the head of the first chamber.
The elected members are six: two representatives of the courts of appeals judges, four representatives of the primary courts (first instance) judges.

The Council's bylaws, ratified by the King, added to the Council's body another executive member being the general clerk of the Ministry of Justice who attends the proceedings without being entitled to vote; he is present in his administrative and executive capacity.

Since the King does not directly and effectively preside over the proceedings and the meetings of the High council for the judiciary during its days even months lasting sessions, the real presidency is transferred by the force of law to the Minister of justice, in his capacity as a vice-president.
Neither the constitution nor the statute set out the conditions for the appointment of the first president and the King's secretary general at the High council for the judiciary though they are highly-ranked posts in the judicial hierarchy. The appointment should take place by virtue of a "*zahir*" upon the proposal of the High

council for the judiciary. But they may have been appointed by a *zahir* according to the regulation of appointing senior civil and military servants. This means that the center of decision in the High council for the judiciary is not in the judges' hands, as it appears, but depends on the executive power, whether directly or indirectly; this affects negatively the principle of separate powers and empties the principle of the judiciary's independence of its content.

With respect to the system of electing judges' representatives in the council, it does not reflect the image of independence of a body empowered by the Constitution to safeguard for judges, the guarantee of independence among others.
The judges' bylaws granted to the Minister of justice, vast and absolute powers to determine rules and conditions for the election of judges' representatives in the council. It sets the electoral list, and has the power to hear relevant complaints and challenges. It is entitled to decide on them, to set the schedule of voting, to appoint the judges who are members of the polling stations upon the proposal of the first president and the King's secretary general submitted to the High council. Voting results are referred to him through the clerk of the High council for the judiciary, and then submitted to the committee in charge of counting votes.

To guarantee the council's daily affairs progress and organization and the judges' administrative life management, the law created the council's clerk body which is attributed to a second-level judge. If the legislator empowered the King, as president of the High council for the judiciary, to appoint the Council clerk, he entitled, at the same time, the Minister of Justice to advance proposals, and to appoint, in case of post vacancy for any reason, a successor for the clerk. The text did not specify the reasons of vacancy or the period for the successor's appointment, and did not require the consultation of the High council for the judiciary.

In addition to all of that, the structural system of the Ministry of Justice rendered the clerk office of the High council for the judiciary directly linked and affiliated to the minister of justice. Yet, they share the same premises at the ministry building, as the High council for the judiciary does not have its own location.

1-1-2 Creation of specialized courts

The creation of specialized courts is a violation to the United Nations principles, and to the international declarations and instruments about the human rights to have a fair and just trial.
Moreover, the Constitution should in general guarantee this principle and legislation and regulatory law should observe and respect it.

However, the Moroccan Constitution did not mention the principle, and the legislation recognized practically specialized courts, especially in the penal field, where parallel to ordinary courts, exceptional criminal courts, i.e. the Special Court of Justice and the Courts of Military Justice were instituted. The constitution established the court of Higher Jurisdiction (Higher Court) as well.

The Special Court of Justice was established to judge betrayal, bribery, embezzlement of public funds and abuse of power, crimes committed by public servants. It was

really a fully specialized court with competence, procedures and methods of challenge. (zahir 26/10/1976)

These courts were greatly criticized by various juristic, political and professional sides because of their exceptional regulation which violates the basis of just and fair trial on one hand, and because of the powers they granted to the minister of justice as regards the follow-up and the investigation on the other hand. In addition, these courts didn't manage, as expected, to eradicate crimes. Consequently, they were abandoned and annulled in 2004 by the state itself.

As for the courts of military justice, dating 1958 and still existing, they include : army's military courts, occasionally established during the war, and the permanent military court.
This latest is characterized by its composition of military judges ranked according to the accused military degrees, and civil judges presiding over the court's bodies. They are appointed, by virtue of an administrative decision, from different degrees according to the military gradation.
It is also characterized by its general jurisdiction to try all members of the army for committing, in times of peace, misdemeanors and felonies, which are punishable by the public penal code. This means that all army members are not submitted to the jurisdiction of criminal judiciary of first instance courts or criminal chambers.
But the most important characteristic is the submission of non-military people to its jurisdiction when they commit acts considered as a serious crime against the armed forces, or perpetrate acts that betray or violate the state's external security.

There is another criminal specialized court, which is the Court of Higher Jurisdiction stated in the Constitution. This court examines the misdemeanors and felonies perpetrated by members of the government while on duty. However, until today, it remained a symbolic court as it has never convened to exercise its jurisdictions..

1-1-3 Harmony of laws of judicial regulation & litigation procedures with constitutional guarantees for the judiciary's independence

Constitutional and legislative requirements relevant to the independence of the judiciary are related to the right to litigation whose rules are defined in the civil and criminal procedural codes and other texts having a procedural nature. In order to determine the degree of consistency between these different requirements, legal guarantees ensuring the right to litigation and its procedures should be considered. This will be later discussed in this report’s sections.

As for the degree of consistency with the judiciary regulation laws, and in spite of explicit constitutional requirements, legislative and statutory texts included many requirements susceptible, in a way or another, to restrict these guarantees. These texts granted many powers to the minister of justice relative in terms of the judges' statute , starting from appointment, to promotion and transfer, then to discipline, isolation and retirement, as it will be further developed later.

The judicial attachés are appointed by virtue of a decision by the the Minister of Justice. If the judicial attaché is not a judge yet, the judges' statute, as well as the new

system for training and education at the Judiciary Higher Institute (decree dated 21/04/2006) did not exclude him from submission to many obligations imposed on judges. In fact, he participates in judicial work by helping the investigation magistrates, attends sessions wearing the formal suit, and takes part in the deliberations without enjoying the right to vote. He also has the same days off and vacations as official judges.

On another hand, the law granted the Minister of Justice the right to appoint for three years, the judge in charge of marriage affairs, the judge of minors' affairs, and the examining magistrate before the first instance courts or the courts of appeal, upon the motion of the president of the court.
Though it has to do here with delegation for a specified task in time and place, the Minister of justice is after all, the only person to decide without consulting the High council for the judiciary. It is natural that whoever has the power to appoint has the power to exempt, with a power of estimation subject to no control.

It is worth-mentioning that the members of the Justice and Legislation committee at the Parliament had reserves on this requirement while discussing the draft-law on criminal procedural code; nevertheless, the Ministry of Justice kept to it as a firm guarantee since appointment is made upon the proposal of the president of the court!

With respect to guarantees to judges' transfer, we notice that the text of the Constitution makes exclusive reference to the judges of court. This constitutes clear and unacceptable discrimination between judges of court and judges of the public prosecution. Moreover, the judges' statute and the criminal procedural code put the judges of the public prosecution under the authority of the Minister of Justice on one hand, (article 56 of the judges statute and articles 38 and 51 of the criminal procedural code) and under the supervision of their superiors on another hand. They are transferred by virtue of a *zahir* upon the proposal of the Minister of Justice after consulting the High council for the judiciary. (Article 56 of the judges' statute)

The same statute (article 56) permitted the Minister of Justice to delegate judges of court, judges of the public prosecution or investigating magistrates. This power limits the guarantees of the judges' transfer, although the legislator restricted its use to the existence of need, or for filling vacancy in courts, investigation or public prosecution. It also set for this procedure a definite delay of three renewable months, once a year. At the expiry of this period, the judge restores his original post.

1-2 Institutional Independence of the Judiciary

1-2-1 Financial Independence, Independent Budget and Resources

The judiciary in Morocco has no aspect of financial independence. The budget of the Ministry of Justice is part of the state's overall budget stating revenues and expenditures related to the management and the equipment of the ministry and the judiciary courts.

The judiciary courts are financially linked to the ministry's budget and process systems, and the authorities conducting financial affairs are rely on the central administration. Moreover, courts' needs and financial requirements to run and manage

daily affairs are submitted to the Budget Directorate and the Equipping Directorate, which are two central directorates organizationally and legally dependent on the ministry's general secretary and then on the minister himself.

For the High council for the judiciary, things do not differ. Although it is an independent constitutional institution, it is financially closer to a department of the Ministry of Justice and dependent on it in terms of expenses, expenditures and premises. The Council, set its offices and secretariat at the Ministry of Justice premises where it holds its meetings, because it has no private location.

It is natural that this legal and financial status of the Council and the Courts' budget and its direct dependence on the ministry, renders talk about resources meaningless although the courts score significant financial revenues through judicial fees and expenses, as well as the through various collected criminal fines.

1-2-2 Administrative autonomy

The judiciary in Morocco has no administrative autonomy. Yet, its employees and judicial administration are subordinated to the ministry in terms of regulatory status and administrative hierarchy.

1-3 Personal Independence of Judges

1-3-1 Guarantees to ensure physical and economic security of judges

By virtue of the law, the state guarantees to protect the judges against probable threats, assaults, cursing and tossing by virtue of the penal code provisions and the applied special codes. The state also guarantees- when deemed necessary- and in accordance with the regulatory texts in force, indemnities for the damages that they might incur in exercising or by result of their tasks, other than legal salaries and death indemnity. In this case, the state substitutes to the prejudiced and guarantees its rights and actions against the perpetrator of damage. (article 20 of the judges' statute).

1-3-2 Prohibition of external or internal interference with judicial decisions

The penal legislator banned any external interference on judges that might influence their decisions and convictions with respect to follow-ups and petitions laid before them.

Is sanctioned for bribe every judge-or every employee in general- who requested or accepted an offer or a promise, requested or received a grant, a gift or any other benefit, in order to perform or abstain from performing his judicial tasks, whether in person or by abusing his position to influence on another judge for the same purpose. The same is applied in case of positive or negative partiality, in the context of his judicial tasks exercise (article 248 of the criminal code)

To guarantee transparency in the distribution of work among judges, the legislator entrusted the court's general assembly composed of the court's president, the King's secretary, the judges of the courts and the public prosecution, with the organization of

the work inside the court and the appointment and transfer of judges in the chambers, as well as the setting of the sessions schedule and date..

As for the High Council, the legislator entrusted with this task the Council office which is formed of the council's first president, each chamber president and its most senior counselor, as well as the King's secretary general and the head of the attorneys general.

Nevertheless, this procedure that might guarantee, in principle, a fair, rational and impartial distribution of disputes' files among chambers and judges, presents a basic procedural defect. The law permitted every chamber to decide on any case even if it does not fall under its internal jurisdiction when submitted to it by the president of the court.

On another hand, the power of judges' appointment to examine lawsuits files submitted or presented to the court is assigned to the courts' presidents, who are also entitled to delegate or exempt a chamber or a judge from adjudging on a certain file. The King's secretaries are empowered to review and examine certain minutes. The King's general secretary before the court of appeal is entitled to designate or exempt an examining magistrate for a certain file without revealing or justifying the reason behind the decision.
After cassation, the High council for the judiciary is entitled to refer the case to the same or to another court.

1-3-3 Proportional judicial immunity against civil and criminal suit

The judge's immunity is not absolute, as he is subject to accountability on the civil, disciplinary and penal levels.

On the civil and disciplinary levels, the Moroccan legislator issued texts that confirm the principle of the judge's professional responsibility and permit the motion of disciplinary and civil action against him according to the gravity of the act or the error he is convicted of (article 58 of the judges' statute, article 81 of the code of obligations and contracts and article 391 and following articles of the civil procedural code)

On the penal level, the legislator punished the judges just like other employees for crossing the limits in power, torture, embezzlement or bribery. He incriminated them for specific crimes such as denial of justice and conspiracy.

In all cases, should be guaranteed their trial according to the judicial privilege system stated in the criminal procedural code and should be prevented the repetition of the law violation and non respect by the public prosecution.

1-4 Freedom of Expression and Freedom of Association

1-4-1 Freedom of Expression

The judges' statute gave apparently the judges the right to practice the freedom of expression without fear from its consequences, when article 56 stipulated to avoid, in

the judge personal administrative file, any indication to his political and religious ideas. However, this freedom is not legally protected, because no legal text enables the judge to have a look at his personal file, verifying its contents and ensuring absence of the above said indication.

His freedom is also really restricted because he can not declare himself as a judge on the cover of a book he writes or an article he publishes unless after the permission of the Minister of justice. Thus, the judge is subject to the minister who is entitled to estimate, with no restriction or control in this regard.

On another hand, the judge's right to expression is also effectively restricted. The judge is practically prohibited from participation in any seminar or demonstration that is not organized by the ministry and regardless of its nature without the minister's prior approval and acceptance.

In return, the ministry's judicial publications and the seminars it organizes or supervises, in which judges take part, include always indications to their judicial qualities even without their prior permission or approval.

2-4-1 Freedom of association

The judges' statute bans absolutely and explicitly, a judicial body from practicing any political activity, taking any politically-marked standpoint, establishing or belonging to any professional syndicate or performing any work that would stop or hinder the running of courts. (Articles 13 and14 of the judges' statute)

This prohibition which needs in fact no comments constitutes the harshest image of breach to the rights and freedoms of the judge as a citizen and of constriction preventing him from having a politically-colored opinion, even if it is related to his right as a judge.

In spite of inexistence of an explicit text that prohibits judges from establishing or joining civil associations, nevertheless, the real prohibition has reached some judges who practiced their constitutional right and founded associations whose objectives are refuted by the ministry. (Such as what happened in mid-70's when some were forced to withdraw from a Moroccan law association, or as what happened in 2004 when pressure was exerted on some judges to withdraw from a civil association involved in the judiciary's independence or to resign from judicial work itself, with all negative consequences this could generate).
In return, the ministry pretends not to see, yet, it even encourages some judges to join associations that have social or cultural objectives accepted by the ministry and the state. (The associations dealing with women, children, etc)

Prohibition is also applied on the founding of or adhering to professional syndicates. This puts the judge in a legal position that is inferior to the position of any employee or wager. The judge should then obey and surrender to all what might prejudice his interests or the interests of the profession itself. This constitutes a violation of citizen and employee's rights, according to international instruments for human and union rights. It is worth mentioning that Morocco hasn't adhered yet to the International

Labor Organization (ILO) Convention No.87 related to union freedom, and this is a way of disengagement towards the international instruments in this regard.

1-5 Security of Tenure

1-5-1 Retirement Age

The law sets the retirement age of judges at 60 with the possibility of extending their period of work for two renewable years, twice successive, in case it is necessary to retain the judge in his position for the interest of the work. (Article 65 of the judges' statute).

If the justification behind extension was legitimate and logical, the conditions for implementing the authorization of extension would be problematic. The law gave once more the Minister of justice the authority and the power to assess the need for the judge and for the extension of his mandate. (Article 65 of the judge's statute). The minister sets the list of judges who can benefit from the extension and submits it, after consulting the High council for the judiciary, to the King in order to promulgate the *zahir* of extension. Hence, the judge, whose extension was not proposed by the minister, is automatically retired on pension apart from the degree of integrity, education, seriousness and courts' need for him, whereas a judge who does not have these qualities might have his term extended.

1-5-2 Promotion System

In the judges' statute, the legislator revealed the conditions of their promotion. The bylaws of the High council for the judiciary set objective standards and constraints to a large extent, for the implementation of those requirements. Yet, once again, he put the mechanism and the tool of establishing the list of candidates for promotion or appointment in the hand of the Minister of justice. He annually sets and limits the list of aptitude, i.e. the list of candidates who are qualified for promotion. If the legal text stipulated the need of the list submission to the consultation of the High council for the judiciary, nevertheless, its opinion is consultative and not binding to the minister.

1-5-3 Transfer System

In accordance with the Moroccan Constitution, judges of courts enjoy immunity against transfer unless by virtue of the law. This means that the judge is not transferred from a court to another except upon his request or when the law permits this transfer. Yet, this guarantee was belittled.

On one hand, the judge' statute decided that the judge promoted to a higher degree must accept the new post which often requires a shift from one town to another, under penalty of promotion cancellation.

This rule was tempered through distinction between the promotional degree and the assigned functions. Law nº 35 of 2001 permitted the High council for the judiciary to suggest the promotion of a judge with attribution of lower degree functions.

On the other hand, the judges' same statute gave the Minister of justice the power to delegate judges to fill vacancies in the judiciary of courts, investigation or the public prosecution (article 57 of the judges' statute). In case the delegation geographically linked to the original place of the judge's work, is accepted, this turns into violation of the transfer immunity of the judges of courts if the delegation requires transfer to another city.

Moreover, the immunity against transfer, interests only the judges of courts. As for the judges of the public prosecution, being hierarchically submitted to the minister of justice power, they are transferable upon the proposal of the Minister of justice and after the unbinding formal consultation of the High council for the judiciary.

1-5-4 Prohibition of delegating judges to tasks of no judicial or legal nature

Texts in principle didn't stipulate any prohibition from delegating judges to such functions. Accordingly, judges were charged with functions such as presiding the regional committees and the national committee monitoring elections, which is a task revealing judicial and legal nature even if linked to a political activity.

1-5-5 Disciplinary System

Each violation of professional duties, honor, respect and dignity perpetrated by the judge, is considered as a disciplinary error that necessitates follow-up and discipline measures. If the disciplinary system is a positive measure for the judge self-protection, and the protection of the judicial institution and litigants from his errors, the basics and the rules to move disciplinary actions against the judge and sanctions when necessary, constitute the essence of contradiction because of the disparity between the judge's rights and the High council for the judiciary authority as a disciplinary court, on one hand, and the powers of the Minister of justice in this field on the other hand. This empties the constitutional principle from its real value, in terms of the High council for the judiciary's role to implement the judges' guarantees.

The provisions of the judges' statute permitted the Minister of justice to move the disciplinary action and relevant procedures; and also to move the sanctions (article 58 and the following articles of the judges' statute)
These provisions entitle the Minister of justice to follow-up he action, submitting to the High council for the judiciary acts attributed to the judge. He then appoints the judge rapporteur charged with investigation after consulting the Council whose opinion is not necessarily binding.

Moreover, in his relation with the rapporteur, he has the needed time to conduct the investigation and to decide about the submission of the case to the Council or not. The text does not fix for the appointed rapporteur or the minister, a limited period to conduct the investigation. Thus, the minister may decide, after the end of investigation by the rapporteur, to conserve the case for example, without consulting or notifying the council.

The minister is also empowered to suspend the judge mandate immediately in one of the two cases: criminal pursuit and serious error. In this latter case, the estimation of

the value and the nature of the serious error are left to the minister, without any condition or constraint. The minister may decide, in addition to the suspension of work decision, to stop salary partially or entirely.

If article 69 of the judges' statute has apparently restricted this decision effect by calling the council to convene soon and adjudge on this case within four months, it did not specify accurately this authority extent to decide the existence or non-existence of follow-up or investigation. It also did not ban the minister from deciding the suspension then annulling it after one or two months for instance.

On another hand, article 61 gave the Justice Minister direct powers to impose first-degree sanctions, i.e. warning, reprimand, delay in promotion and deletion from the qualification promotion list. This is beside his authority to sign an additional sanction, which is automatic disciplinary transfer to another court.

2- Integrity

2-1 Institutional Integrity

2-1-1 Clear and effective jurisdiction of courts

The Moroccan judicial organization includes on different levels, many courts with different powers and jurisdictions ranging between a comprehensive judicial mandate attributed to the first instance courts and courts of appeal, and a definite and specialized mandate assigned to the courts of groups and districts, commercial courts, commercial courts of appeal, administrative courts and administrative courts of appeal. .
All regulatory texts of these courts stipulated accurately and in details, their jurisdictions. We will not be discussion them in details in the present report.

On another hand, the judicial system brings up an essential paradox about the efficiency of courts, especially the specialized (exceptional) courts. If the 66 first instance courts, relatively cover the geographical judicial need, the only 21 courts of appeal, do not achieve the same goal.

Things become more difficult for the specialized courts, as they do not cover the overall judicial map, and do not bring judiciary close to litigants. The 8 commercial courts have each a very wide territorial power. As for the commercial courts of appeal, which are only 3 across the national territories, they suffer from lack of efficiency. The same applies for administrative courts, whose number does not exceed 7. As for the administrative courts of appeal, their number was not yet determined when this report was drafted.

2-1-2 Code of ethics

The Moroccan law does not include judicial ethics as it is the case for some professions such as medicine. But a few ethical rules may be extracted from legal texts relative to the status of judges, especially the judges' statute and the bylaws of the High council for the judiciary, as well as the judicial regulation and the Civil and penal procedural codes.

Based on these requirements, many ethical rules have been indicated and commented in this report, in various passages, such as the declaration of the fortune of the judge and this of his/her spouse, the safeguard of the profession requirements in terms of honor, respect and dignity, the automatic commitment to the rules and pledges to guarantee impartiality. This is in addition to electing domicile at the place where the court in which he exercises his task is established; taking the oath and abstention from practicing before the oath-taking; preserving confidentiality and wearing the official suit.

These rules are backed by a disciplinary previously defined system. They are also backed by an inspection system of courts assessing their functioning and the functioning of the related authorities or organizations. They also assess the performance of their employees, i.e the judges and the clerks.
But the impact it has on professional practice is weak. These rules and regulations were judged inefficient because the concerned actors are not interested to activate them. This is why the judiciary ethics is considered, since mid ninetieth, by the officials, the central pole in the judiciary reform process.

It's worth mentioning that Morocco is an active member in the organization of the chiefs of the judicial inspection systems in the Arab countries. This organization issued during its conference held on February 2004, a recommendation for the elaboration and the formulation of judges' ethics code on regional and Arab level.

2-2 Personal Integrity

2-2-1 Impartiality in decision-making, including respect for Principle of Equality

The legislator compelled the judge to commit himself to integrity and impartiality in his relations with litigants, and to respect equality between them.
This commitment is moral, taking the form of an oath pronounced by the judge on his appointment. It is consolidated by a strong penal-natured guarantee, as the penal code imposed sanctions on any judge or governor for partiality, favoritism and nepotism, by a sentence depriving him of freedom and a financial fine.

2-2-2 Clear and mandatory conflict of interest rules

The penal and civil procedural codes and the judicial system include, in addition to the public regulation of civil, penal and disciplinary responsibility of judges, explicit rules regarding the protection of litigants against any conflict of interests that might arise between them and the judges of courts. These regulations are: defamation; prohibit spouse, relatives and correlates judges gathering in one court; prohibit the judge from adjudging on conflict, when one of its parities is a relative or correlate; prohibit a court from adjudging on a conflict, when one of its parties is a judge or his/her spouse working in the same court; paving the way for challenges for verdicts

cancellation when judges overcome their powers; paving the way for lawsuit withdrawing based on legal doubts about the integrity of the investigating body or the judgment.

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2-2-3 Periodical and mandatory statement of income and properties.

The judge is committed to declare, within the first three months of his appointment, by writing, on his honor, what he, his spouse, and his minor children own in terms of real-estates and movables. He has also to submit an additional declaration in occurrence of changes in assets and financial status (article 16 of the judiciary statute).

The legislator gave the Minister of justice the power to track and assess the fortune of judges and their families. The minister is entitled, after the approval of the High council for the judiciary, to designate judicial inspectors to estimate the judges' fortune along their professional life (article 17 of the same statute).

Judicial inspectors are originally judges affiliated to the central administration of the Ministry of Justice, and they work under the supervision of the general inspector of the ministry who is a senior judge. The law empowered them with the authority of inquisition, verification, monitoring and access to the documents in the context of judge's fortune estimation process.

It is noticeable that this regulation does not bound the judge to declaration at the end of service, and do not stipulate any penalty for non-declaration whether for the original, the amended or the final text.

2-3 Integrity of the Trial

2-3-1 Transparent and impartial trial administration: (right to defense, public trials, equality and non-discriminatory treatment)

Right to defense: The civil and penal procedural codes defined a number of requirements that guarantee the right to defense before various regular and administrative courts of different degrees.
The judicial support of the parties by the lawyer before the civil judiciary is a basic and essential issue, as it empowers them with sufficient and adequate defense means before these courts.
In fact, each person enjoys the freedom to choose a lawyer to back him in case the law does not stipulate compulsory representation via lawyers. This is the case before commercial and administrative courts, courts of appeal and the Higher Council for the judiciary.
A person who cannot financially afford to appoint a lawyer, may request judicial assistance in case he does not enjoy it by the force of law.

In the context of the penal trial in general, this issue differs a lot with respect to the guarantees of defense as they are related to the personal freedom, whether in the stage of suspicion, preliminary search, preparatory investigation stage or in the stage of referral and summon before the court. Thus, the availability or the lack of defense

guarantees stimulates more negative and serious problems and effects which the Moroccan legislator tried to confront.

Public trials: According to the applied rules, publicity includes public hearings and public pronunciation of verdicts. As for public hearings, they are stipulated in texts with respect to all courts of different degrees and to the Higher Council as well.
The principle of publicity can be widely implemented before penal judiciary, where publicity is a principle standard for the trial and procedure transparency. Thus, the penal procedural code (article 287) stated that the court's rulings should be based, under penalty of annulment, on arguments that were orally and in presence exposed and discussed before the court. It also decided that searches and discussions shall be carried out in a public hearing unless opposite law provisions.

As for the public pronunciation of verdicts, they are also stipulated with respect to the law of courts of groups and districts, before the first instance courts, the courts of appeal, the Higher Council, the commercial and administrative courts and before the penal judiciary. In all of them, verdicts shall be pronounced on behalf of his Majesty the King in a public hearing. The penal procedural code (article 370) decided that a ruling, decision or order shall be annulled in case of absence of data including its pronouncement in a public hearing.
However, the principle of publicity is not absolute. The legislator set many restrictions, where hearings or verdict pronunciation sessions turn from publicity into confidentiality for reasons related to the nature of conflict, the nature of the legal procedure, the interests of people or the public order.

The law takes an interest in a very significant issue with respect to media and informing the public opinion about procedures of penal trials, particularly those interesting economically and politically, for media. The legislator set a general rule prohibiting the filming, recording and live broadcasting for the sessions process, unless with the approval of the president of the session after taking the opinion of the public prosecution. In case of filming without prior permission, the perpetrator is subject to a financial punishment and his tools and equipment will be confiscated. (article 303 of the penal procedural code)

Equality and Non-Discrimination in Treatment: The Moroccan law did not include an explicit text with respect to the principle of equality before the judiciary. The Constitution only stated equality before the law.

Equality before the judiciary brings up the issue of financial potentials and negative impacts whose absence or lack might affect the right to litigation. It is known that each application submitted to the judiciary should, in addition to other formal conditions, and in order to be accepted in form, have settled the due judicial fees for the Public Treasury.

And so that the social and financial status does not impede person from practicing his right to litigation, the Moroccan legislator took many measures for the benefit of people with limited income or having no income, through total and automatic exemption from paying judicial fees with respect to disputes rising within the code of work. They were given the right to seek the assistance of a lawyer personally chosen or appointed for them. This is also the case about the requests of alimony in the

context of the family code, divorcees and separated lawsuits. Are also exempted from the same fees, according to a decision taken by an ad-hoc committee, persons other than the above mentioned, who are bound to litigation and incapable to fulfill financial obligations.

The legislator promoted this right in the penal field when he confirmed the right to have the support of a lawyer in all the stages of investigation and procedure. The investigating magistrate and the criminal court shall appoint a lawyer in the context of judicial assistance to back the convicted who has not personally selected a lawyer for himself.

Nevertheless, the fact is that there was no good guarantee to this right. Sometimes, trained lawyers were designated to support accused in penal crimes, or official lawyers nominated during the session, having a limited time for file consideration and trial.

2-3-2 Effective judicial control over trial

Clerks, who are in charge of different procedures of the trial, are not subject to a direct administrative monitoring by the rapporteur or the president of the chamber. They are subject to a hierarchal administrative monitoring by the head clerk, the president of the court and the King's secretaries according to judicial progression.
The judicial delegates (the judicial assistants before) are submitted to a double control by the president of the relevant first instance court and its King's secretary.
In case they do not respect during their duties the procedural measure relevant to notification or enforcement, a disciplinary action may be moved against them according to this profession conditions and formalities stipulated by the new law. The disciplinary punishment, issued by the first instance court (Primary Court), might lead to the dismissal, i.e the final withdrawal of the practice license.

Experts appointed by courts for technical and vocational experience are subject to professional commitments, relative to integrity, impartiality and respect of the procedural regularizing laws. For instance, they fulfill their tasks under the supervision and the control of the judge who can attend, if he deems it advantageous, the procedure. The judge is also entitled to repeat the procedure in case on incompliance with the procedural rules regarding the right to defense or in case of lack of objectivity. In all cases, the expert might be subject, in case he failed from fulfilling these commitments, to disciplinary penalties ranging from warning, removal of his name from the list of judicial experts, to compensation when necessary.

2-3-3 Definite Methods to Challenge Judicial Decisions

The Moroccan legislation adopts the basic general principle in judicial regulation, which is the right to litigation on two levels. This principle was consolidated in the civil and penal procedural codes, the laws of administrative and commercial courts. The legislator identified and enumerated exclusively the methods of challenge, and distinguished between regular and exceptional challenges, as it is common in different comparative legislations.

An essential important exception, not included in this principle, is that the judgments rendered by the groups and districts' courts are unchallengeable in a regular or irregular way, with the exception for the rule of transfer to the primary court.

2-3-4 Access to legal information and judicial verdicts

No official commitment by the state is found in legislative and regulatory texts or in real situation, in order to guarantee the right to access and obtain the legal and judicial information. There is no free access to judicial verdicts even if for educational purposes. Different private and official publications, issued by the Ministry of Justice or by the Higher Council for the judiciary and which include judicial verdicts, are expensive in consideration of the purchasing power of citizens and consumers of the legal documents, such as the students and the researchers who do not benefit from any preferential prices. The same procedure is applied on civil society associations.

3- Competence

3-1 Adequate Qualifications of judges and judicial personnel

3-1-1 Adequate educational and professional qualifications

With respect to clerks, the law does not include conditions of high educational or even university qualifications. The law only stated grade 6 secondary, which is a low level of education in comparison with the serious duties and responsibilities that a clerk should assume. Parallel to that, the law required university levels to access some administrative judicial posts in some courts as is the case with respect to judicial editors and judicial delegates.

The law regulated judicial professions assisting the judiciary, which are: law, justice plan and judiciary assistance, and it set rules and conditions relative to the practice of each profession.
It is noticeable that the legislator sets now as condition, university higher certificates starting from license and more.

As for the translation, the law provided for a university diploma from a specialized institution in translation in Morocco, or its equivalent. For copier, it was sufficient to get a certificate of success at the end of the diploma first phase. For experts, the law stipulated norms in compliance with university qualifications and specialization elements along with a field experience.

In addition to the said university diplomas, the legislator stated as a condition a professional training after succeeding the test of admission. This training aims at rehabilitation to practice the profession.

For legal profession, the required training institutes stipulated by the legislator didn't occur yet. So, the sole recourse is the training in a lawyer office, and after this period of training, the trainee becomes an official lawyer.

Regarding the justice plan, the legislator exempted from examination and training, the holder of doctorate from Dar El Hadith Housnieh, or from any of the faculties of Shari'a, Arab language, religion or literature (section of Islamic studies) or law (section of private law or public law), and holders of diploma from Karaween University.

3-1-2 Rules of moral standards

Different texts regulating the assisting judicial professions defined some professional commitments and obligations that can be considered as principles and rules to promote the ethics of professional practice. Ethics are promoted by diversified and different monitoring. Part of this monitoring is professional and internal permitting disciplinary penalties, while another part is judicial and external practiced by the judicial authority itself on the civil and penal level sometimes.

However, the impact of moral standards seems to be weak in the professional practice. It is heading in a descending direction opposite to the ascending direction of corruption and deterioration amid the assisting judicial professions. This reality revealed the inefficiency of those ethical regulations not in terms of their form as regulations but from the perspective that the concerned actors do not work on promoting them effectively and efficiently. This appears in the statistics published by the Ministry of Justice in its report on the judiciary reform for 2002.

3-2 Objective Standards for the Selection of Judges

People qualified to practice judiciary are selected by two ways, one of which is regular, through joining the Judicial High Institute upon successful examinations; whereas, the second one is exceptional, through direct appointment. Each of the two methods has rules and standards relative to selection.

3-2-1 Standards and objective selection criteria

The legislator was keen, through the measures he took in 1999, not to restrict the entrance exam to the institute to pure legal information, but to the assessment of the candidate qualifications and general mental and intellectual potentials which could be useful in judicial thinking and verdicts justification. Thus, candidates are tested in social, economic, legal and general cultural information. They are also tested in foreign languages to make sure they can read and understand comparative law as an influential judicial legal mechanism in judicial work.
The categories of people qualified as candidates to pass the entrance exam of the Judicial High Institute are determined according to the required university degrees after submission to procedures and criteria of primary selection of candidates admitted to take part in the exam.

It is noticeable that the legislator reconsidered the university diploma empowering the candidate to present the entrance examination at the Judiciary High Institute, and ignored the license. The law ceded its right in this critical issue to the Minister of justice who became the competent authority to define the university diploma requisite

for attending the entrance examinations. The sole condition set by law is to have a university diploma dating not less than four years.

It is to be noted that since 2002 no entrance examinations were organized to the judiciary attaché body.

3-2-2 Standard mandatory evaluation system

With respect to the second method, which is the direct appointment, its objective is to open the judiciary to other professions and jobs, so that their practitioners might develop and enrich the judiciary, once affiliated to it. This is especially related to lawyers, some senior employees and university professors.

However, the conditions of this selection do not make it reach its destination since they are based on one main and joint element, which is the seniority in the profession or the job. This is undoubtedly an important condition, but it is not the basic condition in determining the qualifications of the candidate, his capacity and benefits to the judiciary. On the other hand, the list of candidates for direct appointment remains within the competence of the minister of justice, initiated in special writing to the High council for the judiciary.

3-2-3 Psychological Test

This test is not applied in the Moroccan judicial system whether in case of examination-based appointment or direct appointment. Nevertheless, the prosecution carries out researches about the candidate to adhere the judiciary body.

3-2-4 Gender equality staffing

From the legal point of view, there is no discrimination between men and women in terms of the right to have access to a job in the judiciary. Morocco is at the head of the Arab states permitting women assumption of judiciary affairs.

But on the level of practice, there has been real discrimination in the appointment of female judges in positions of judicial responsibility, i.e. on the top of courts or public prosecution. This situation started to change by the end of the ninetieth, as female judges were delegated to preside over the first instance courts, and the commercial and administrative courts.
However, discrimination remained effectively practiced regarding their appointment in positions of the King’s secretaries, as well as in judiciary of investigation, authentication, and minor affairs.
Moreover, no female judge was appointed as clerk in the High council for the judiciary or in any of the important directorates in the ministry, where such posts are still absolutely restricted to men. Discrimination appears in the main title of judges’ statute which is "the statute of men jurists" (men of the judiciary).

3-3 Clear and objective promotion system

3-3-1 Training in a specialized judicial institute

According to its legal and administrative structure, the Judicial High Institute (the national institute for judicial studies before) includes many directorates that are supposed to encompass enough frameworks to manage and run it, as well to carry out different tasks and duties attributed to the Institute. However, facts reveal the opposite.
The new law stipulated that the Institute shall be considered as a public institution enjoying of financial and administrative independence, with the determination of its financial resources in annual allocations registered in the state's annual budget, the services' revenues, the studies, the financial aids from people other than the state, the grants and the legacies.

The high judiciary institute is basically a space to form future lawyers. It was instituted to contribute in the building and the strengthening of the concept of independent judiciary for the adherents. This requires, seeing its legal form as a public institution enjoying of financial and administrative independence, a real independence in its formation, competences and methodologies, apart from the minister power and hegemony.
The texts of the institute itself, its organizations, regulations, and the relations of the trained judiciary attaché with it and the ministry, reveal the opposite:

- the minister of justice is the institute administrative board chairman. This is contrary to the case in all public institutions where the prime minister is the administrative board chairman, and the sector minister his deputy;
- the text excluded from the administrative board membership the first president of the Higher Council and the King secretary general in the council, and replaced them by the head of the first Chamber and the first general attorney;
- The text designated to the administrative board membership : the clerk of the High council for the judiciary which is, as seen before, considerably dependent on the minister of justice in person;
- The minister of justice nominates the first president of the court of appeal and the King' secretary general in this court chosen from all the first presidents and secretaries on duty, to be members in the administrative board, without consulting the High council for the judiciary;
- The minister of justice designates, among the presidents of the bar in Morocco, the president to be member in the board, without prior consultation of the bar association supposed to be empowered in this regard;
- The minister of justice designates all the assistant directors in the institute, as well the institute's general clerk.

3-3-2 Preparatory training and continuing education

Candidates for the job in the judiciary, and after they succeed in the Judicial High Institute's entrance exam, undergo specialized theoretical training that is mainly supervised by judges and university professors when necessary.
They also undergo practical training for one year in courts before passing the graduation test.

However, what can be observed in this training is that it does not affect the assessment of the potentials and the personality of the trained judicial attaché, nor does it contribute in judging him in the graduation test.
Training is not crowned by the judicial attaché report or by the report of the president of the court where he has been trained, or even by the report of the judge or judges who trained the judicial attaché. These are considered as gaps with respect to judging the trained judicial attaché capacity to practice the judicial work successfully.
The new training system in the Judicial High Institute (cited above in page 16) tried to overcome them by stipulating expressively on the report submitted by the judge to the institute administration.

As for continuing education for judges, the new law of the Judicial High Institute had set among its tasks, the organization of continuing education for judges through seminars and panels inside and outside Morocco. This is really carried out but in a slow or non intensive rhythm.

The same thing was decided by the mentioned law regarding continuing education for judiciary's commissioners, practitioners of judicial professions, clerks and judicial associates on functioning and management techniques.

3-3-3 Training on foreign languages

Since the ninetieth, stress was put on strengthening foreign languages potentials for trained judicial attachés and judges in general. This was obvious in the entrance exam and the graduation test, where the subject of "translation" was introduced in both oral and written tests, for candidates and trained attaché, in conformity with decree nº 1999.

4- Efficiency of the Judicial System

4-1 Transparent, Clear and Effective Procedural Codes

4-1-1 Modern Procedural Code and Regulations

The Constitution includes requirements indirectly related to civil and penal procedural codes.
On one hand, it decides a world right-related principle, which is prohibition of arresting, detaining or punishing any person arbitrarily. It also guarantees the principle of protecting household dignity and prohibiting its violation and search except in the context of procedural rules defined in the penal procedural code (article 10 of the constitution).

On another hand, civil and penal procedural codes witnessed successive developments and amendments during the past few years in order to achieve and guarantee a fair and just trial on the civil and penal level, whether in terms of the conditions to appear before courts or finish trials in an adequate and short period of time, or in terms of developing procedural rules in form to keep apace with grand changes on the level of some legal systems such as the household system, and giving care, even if partial and limited, to carry out judicial rulings through establishing the judiciary institution in charge of enforcement.

However, depending on technology to facilitate recourse to the judiciary and follow up the stages and the end of trial is still stumbling and weak, as it has only been decided on the level of the commercial courts.

4-1-2 Clear and Mandatory Procedures to Institute Lawsuits

The civil procedural code regulated different stages of lawsuits and determined different procedures and proceedings to protect the right to litigation before different judicial parties and degrees.
The new penal procedural code set the same, whether in terms of following-up, stimulation and instituting a public lawsuit or in terms of the rights of petitioners of the civil right, as well as methods of challenge and enforcement of rulings.

4-1-3 Adequate court staff, including Experts

Based on available statistics on the number of judges and their distribution among different courts, one can notice the inadequacy of the number of judges with model international standards in this field. This was supposed to place regular entrance exams to the Judicial High Institute; however, this exam hasn't taken place for more than three years.

The same numeric remark applies also on the clerks and independent judicial commissioners (previously independent judicial associates). As for lawyers, their number is continuously increasing due to the rush of graduates of the 11 Moroccan law faculties and foreign faculties as a result of the lack of other job outlets for this type of education and the closure of public employment opportunities. Moreover, the number of certified judicial experts registered in their professional records is increasing as well.

If sworn experts are characterized by their specialization and their registration in the record according to this specialization, lawyers have not reached the stage of professional specialization yet, which makes any lawyer, in principle, qualified to plead in any case or before any court, taking into account the condition related to seniority to plead before the High council for the judiciary. It is worth-mentioning et the practical level, the existence of monopolization of certain cases, by some lawyers in large cities, whether in national, international or maritime commercial field or in the insurance field.
Some litigants and sometimes some official parties related to the judicial sector, criticize lawyers and experts as well for lack of integrity, professional competence and mental effort in defense or in experience.
With respect to courts' employees, especially clerks, there is almost a total agreement on the insufficiency of their number, considering the width of the judicial map and multiplicity and diversity of courts, as well as the increase of cases registered before courts.
The same thing is applied on the clerks' assistants who are in charge of the notification and enforcement, as well for the judicial commissioners.

4-1-4 Clear procedures to challenge all judicial decisions without exception

This element was previously mentioned. We will reiterate here that the legislator confirmed the general principle regarding the fact that all verdicts are challengeable.

At the same time, he restricted this right sometimes, as is the case with respect to courts of groups and districts, the verdicts of which are categorically not challengeable, whether in regular or exceptional way. They are only liable to be submitted to the Court of first instance in specific cases.
There are other cases that do not constitute a violation to the rights of defense since they impose some constraints on challenging some judicial decisions, such as the non-challengeability of some decisions.

4-2 Transparent and Objective trial management

4-2-1 Clear, just and objective case assignment system

The distribution of cases inside courts is linked to their structural formation which is based on the system of specialized chambers, which are designated according to the procedural code, with examination of files of cases submitted before the court.
This system is marked by the fact that it entrusts the total power in distributing files among chambers and appointing deciding judges, to the president of the court of all degrees (first and second degree). With respect to the Higher Council, this goes back to the head of the chamber.

We can find the same power in the hand of the King's secretary or the King's secretary-general before the Court of Appeal, who are free to appoint one of the public prosecutors or attorney generals to follow a certain case or replace him without justification, as well as appointing the investigation magistrate to whom a case has been referred among investigation magistrates in the same court. This position contradicts the situation under the old law which attributed the power of appointing an investigation magistrate, in case they were numerous, to their senior.
Moreover, the public prosecution, is entitled, automatically or upon a request by the civil party or the accused, to submit a justified request to the offense chamber at the court of appeal in order to retrieve the file of a case from the appointed investigating magistrate and designate another investigating magistrate to take over (article 10 code of criminal procedure code).
The legislator did not set any division for chambers in commercial and administrative courts, even if he gave their presidents and general assemblies the same powers.

The new penal procedural code of 2003 introduced an essential amendment to the organization and division of the chambers of the court of appeal in the penal field. By virtue of this new code, an offense chamber of appeal for minors was established, in addition to two chambers for crimes, one is a first-instance chamber while the other is a chamber of appeal and two chambers for minors' crimes, one is a first-instance chamber while the other is an appeal chamber. This is the way the legislator responded to the demands of the civil society, the lawyers' organizations, and the law associations ensuring guarantees of rights to defense and trial in first and second degree courts, in the field of offenses.

On the level of the Higher Council, it is divided into six chambers, a civil chamber and a chamber for personal status and inheritance (its name was supposed to be changed into a chamber for familial judiciary by virtue of the amendment introduced to article 2 of the same code), as well as a commercial chamber, an administrative chamber, a social chamber and a criminal chamber.

With respect to the internal distribution of work and the designation of the judges' field of work in chambers, the legislator entrusted these tasks to a collective body which is formed, on the level of all first and second degree courts, of all its judges working together in the judiciary of courts and the public prosecution judiciary. This body convenes obligatory in an annual general assembly, at least once a year during the first fifteen days of December. It can be held when necessary upon the convocation of the president of the court.

The legislator entrusted this general assembly with the right to determine the constitution of the chambers, the days and hours of the sessions. This assembly usually decides, according to the interests, to change the constitution of chambers and transfer judges from one chamber to another so that they complete, if new, their training, or they serve, if veterans, others with their experience.

In the Higher Council, the legislator entrusted the council's bureau instead of the general assembly with these tasks, as it is the case in the courts stating on specific subject. It is known that the bureau is composed of the council's first president, the heads of chambers and the most senior advisors in each one of them, in addition to its secretary-general and the most senior general attorneys. This deprives all the Higher Council judges from contributing in the Council Affairs processing.

4-2-2 Case assignment based on specialization

The distribution of cases among the courts depends on the court’s jurisdictions and judicial competence, is included within the frame of the law and consequently falls within the competence of the Parliament.

It is known that Morocco has a double system which is based on public specific jurisdiction courts which are the courts of groups and districts, on one side, and the courts of comprehensive public jurisdiction which are the primary courts (courts of first instance). On the other hand, there are specialized courts which are the administrative and the commercial courts.

4-3 Judgment within a reasonable time

4-3-1 Clear and reasonable procedural timeframe for every case according to its classification

There is no constitutional text in Morocco that is related to the right to quick trial. The civil and penal procedural codes do not include a general rule with respect to the duration of a lawsuit at court.
Perhaps, the absence of such time ceiling carries interest and benefit to parties themselves. Defining a time ceiling to reach a decision might push the judge to hastiness instead of rapidity, and they are two different matters.
However, leaving it open without any restriction might lead to arbitrary decisions, retardation and loss of litigants' rights in some lawsuits. This is noticed in general in civil and real estates actions where some take many years, and in some actions of civil responsibility.

Are also noted the aspects of retardation and long-length duration before the High Council where adjudging on challenges takes many years.

This is why the legislator intervened in different forms. He worked on accelerating the procedures with no fixed term, and on fixing time for adjudication. This appears in some cases such as commercial actions for which the legislator determined reasonable terms, familial actions, more particularly actions of divorce, repudiation and alimony for which the legislator fixed a term of less than six months. Penal trials have no definite term exception for few cases of crimes in the press code.

4-3-2 Disciplinary measures if judges delay court processes

The legislator took precautions for any even slight possibilities, where the judge or the court stalls and abstains from reaching a decision in the dispute before him/it. This is how the legislator guaranteed protection for the holders of rights from justice denial and judiciary discord, as previously revealed in this report.

4-3-3 Disciplinary procedures for lawyers who use dilatory tactics

It is difficult to talk about lawyer's stall in performing his tasks due to the nature of his profession of defending rights, based on many principles, moral, ethical and legal basis that contradict the concept of lingering.
Nevertheless, disputes might rise between a lawyer and his client or from the profession's correlation with judicial institutions. All these issues stimulated regulation and control by legal profession.

The law prohibited lawyers in general from concluding collusive agreements to stop providing due assistance to the judiciary, in terms of sessions or procedures.
The reasons differ behind the agreed suspension of assistance to the court or to the clients. Some reasons have political aspect, where the suspension of assistance is only symbolic and does not aim the court, some are professional due to local disputes on the level of a certain court, or national relative to the relation between the Bar Association on the national level in general and the judicial institution as a whole, or between the association and the Justice Ministry or any other governmental party.
Relations between some courts and local bar associations have been subject to tensions, resulting into lawyers' suspension of work or abstention from providing their traditional professional assistance.
As for the relation between the lawyer and his client, the lawyer should not, in case of tension or dispute, harm or cause damage to the interests and rights of his client.
The legislator considered that any dispute between the lawyer and his client means a lack of confidence between them, this confidence which is the basis of the relation. Hence, the legislator empowered the client to dismiss the lawyer and deny him the proxy, with the condition to pay the lawyer his due fees and expenses before the date of dismissal.
The legislator also granted the lawyer, in case of dispute with his client, the right to relinquish the defense provided he notifies the client according to rules set by the law.

4-4 Fair and effective enforcement system

The enforcement of judicial rulings is considered as an evidence of the effective of the judicial work in general.
However, the enforcement in Moroccan courts reveals many obstacles and much delay in implementing the judicial rulings.
The long enforcement procedures in different courts in Morocco led to prevalent impression, rather a conviction among citizens in general and sometimes among officials in the justice sector, that the judicial administration failed to materialize and enforce the ruling. It failed from giving the right holders their due rights. This failure results from many reasons and phenomena provoking disappointment and mistrust in the effective of the judiciary.

4-4-1 Specified enforcement procedures

The Moroccan legislator defined in the civil procedural code details regarding different enforcement methods and systems that are recognized in the comparative legislations. He specified the shapes and forms of enforcement regarding the funds of the convicted, revealing, in different ways, the procedures to be followed by the plaintiffs to enforce the pronounced ruling issued in their own interest, and taking into account at the same time, the rights of the convicted and the guarantees to ensure in order to avoid any deviation or breach.

4-4-2 Effective enforcement

In this regard, one can notice the quasi-general consensus among different actors in the judicial field, i.e. lawyers, litigants, law associations and the Ministry of Justice, on the inefficiency of the enforcement system in Morocco, and its lack to sufficient effective and beneficial means and methods. This system suffers from many defects, whether in terms of legislative organization or real implementation. This is in addition to its growing costs and expenses transforming the enforcement process into a real crisis with respect to all rulings, whatsoever their subject is, in private or public litigation.

In private litigation, the civil procedural law set, rules and provisions and various mechanisms of enforcement. The enforcement of civil and commercial provisions should be voluntarily approved and executed by the incriminated person. Nevertheless, in case of abstention or refusal from his part, the case is submitted to the judicial private procedural for coercive execution, stating for the seizure of the convicted movable and immovable assets.

Although law requirements are precise regarding these means, multiple difficulties prevent its activation and make the case last many years after the judgment pronouncement.

The judgment enforcement stipulating indemnities, against the insurance companies, is one of the most difficult forms of enforcement because these companies are mainly established in the city of Casablanca, requiring from all the Kingdom courts to send judicial delegations to the primary court of Casablanca in order to supervise real enforcement.

The enforcement of the in-kind verdicts isn't less difficult. Provisions stipulating evacuation are extremely difficult when the convicted refuses the enforcement, and thus the official in charge has recourse to the public force governed by officials in the ministry of justice.

In public litigation, the situation is more difficult in the absence of a clear regulation and definite rules. In addition to the lack of specific provisions regarding this enforcement in the civil procedural law, the official in charge of the enforcement remains incapable to constrain the administration to execute the provisions, whether in performance or work nature. This exposes the enforcement to disruption.

The state was aware that the situation is very dangerous and has serious impacts, so successive prime ministers sent, during the last ten years, notices in form of administrative publications to urge public administrations and institutions and local groups to execute judicial provisions rendered against them requiring the allocation of sufficient funds in yearly budgets to ensure the enforcement of judicial judgments. Even though, the problem persisted and is still urgent. A draft law is under examination to find a solution to this problem.

4-4-3 Effective enforcement apparatus

Enforcement is a legal process, taking place via apparatuses and people in charge qualified to undertake such a process. The provisions of enforcement, and its real situation in different courts, through the successive reactions of the lawyers and the public, revealed that the enforcement process suffers, in addition, from other difficulties resulting mainly from institutional reasons relative to the apparatuses, and to the competent bodies empowered to carry out and monitor the enforcement.

The enforcement assistants' body, suffering from lack of man power and financial resources, is incapable to tackle thousands of enforcement requests.
And the body of independent judicial assistants, established specifically to face this problem, which was reorganized under the name of "judicial commissioners" became also inefficient by reason of insufficient number of assistants and their unavailability in all courts.
Moreover, the monitoring of the work of the bodies and the departments in charge of enforcement before different courts, raises another significant problem. Until recently, monitoring was assigned to presidents of courts who were so occupied that they could not supervise sufficiently and efficiently the authorities of enforcement. They also could not interfere unless if a person complains before them.

The legislator tried to avoid this situation by establishing the institution of the judge who is in charge of the enforcement procedures.
Despite this positive development in the judicial enforcement system, its remains limited due to the lack of clear, explicit and accurate definition of the legal nature of the judge's tasks, competencies, links or differences with the powers of the president of the court.

4-4-4 Objective selection criteria for enforcement process

The enforcement apparatus in Moroccan courts is composed of two categories of employees: a category that includes enforcement assistants who are part of the courts' employees, and another category include the independent judicial commissioners.
With respect to enforcement assistants of the first category, there are no special required standards, qualifications, conditions or terms for their selection. The decision in this case belongs only to the president of the court. The conditions required for an assistant's recruitment do not guarantee the good performance of selection as regards to the required educational level of candidates for such jobs.

With respect to independent judicial commissioners, the law reorganized this profession stating conditions for admission and others for license.
In accordance with these conditions, good performance and efficiency in execution should be reached, overcoming negative aspects of the judicial commissioners' previous practice.

Yet, the problem persists and may aggravate. This necessitates a legislative intervention to develop the enforcement system in general and the officials in charge legal system, and to improve means and resources to ensure tasks performance in the best circumstances.

Chapter 3: Policy Recommendations

This report and relevant discussions led by prominent jurists and experts over three sessions held on 27 May, 10 June and 20 July 2006, revealed that the situation of the judiciary in Morocco witnesses a quasi-crisis. This quasi-crisis has structural aspects that affect the judicial institution's relation with the government on one side, and other aspects on the other hand that affect the relation between the citizen and the judiciary, manifested in civil and penal trials.

These aspects represent obstacles against a real independence for the judiciary as an authority, and impediments against a real independence for the judges who are responsible for justice implementation in the society. Consequently, they prevent the establishment of a sound judiciary system, and the instituting of a just and impartial trial, according to international instruments relative to the human rights.

After consideration and analysis of defects, it is necessary to treat the reasons behind such defects and their aspects, draw and plan basis of reform and development, in the light of sound judiciary principles defined in the present report which are: independence, integrity, competence and efficiency.

I- Guarantees of judiciary independence

Confirm the tight relation between the constitutional reform, the strengthening of the basis of construction of a democratic society and the judicial system reform through:

1- Stipulate explicitly in any ulterior constitutional reconsideration that the judiciary is an independent authority, and expand the extent of immunity against transfer for the interest of the public prosecution judges.
2- Annul all modes and forms of courts and exceptional civil and penal procedural code.
3- Review the legal system to control the laws constitutionality and extend their scope through the following :
    a- Consider laws and rules relative to the judiciary as regulatory laws subject to tribal control of laws constitutionality;
    b- Draft a procedural mechanism to prevent the judges from implementing unconstitutional texts;
    c- Acknowledge the right of citizens to challenge the unconstitutionality of laws;
    d- Reconsider the structure and the formation of the Constitutional Council and equilibrate its components to guarantee its independence and expand its jurisdiction;
4- Assure that the real and effective independence of the judiciary under separate powers requires, in application of the United Nations principles and the relevant international instruments and treaties, the following:
    a- Separate between the management of the justice sector, on both administrative and human levels delegating this charge to the Ministry of Justice on one hand and the management of the judiciary, delegating this charge exclusively to the Higher Council for the judiciary.

b- Review the legal and constitutional system of the formation and work of the Higher Council for the judiciary, in a way to remove the minister of justice hegemony and to guarantee in its formation a real and large representation of judges and ensure its human, financial and administrative independence;

c- Review and amend the structure of all legal texts relative to the judge's statute, as to the form and to the provisions, in a way that guarantees to the judges freedom and independence in their judicial activity and ensure them fundamental rights and freedoms, mainly the right to association and expression, and annul all the aspects of the minister of justice hegemony and interference in the judges professional process .

II- Guarantees of integrity and impartiality

5- Support transparency in courts procedures and strengthen the judicial ethics.
6- Draft a code for judges' ethics.
7- Bind the judges to declare their assets and those of their spouse and minor children at the end of service and define a penalty for original, amended or definite non-declaration.
8- Decide the principle of the state direct responsibility of defective and unsound process in justice and of judiciary defaults, in addition to the principle of personal responsibility of judges and employees of the justice sector.
9- Review the system of judiciary assistance in such a way to guarantee access to the judiciary and assure a sufficient protection to the rights of the accused and the poor.
10- Raise awareness among citizens about the guarantees decided in law in their favor as litigants to avoid conflict of interests among them and among judges and work on their activation.
11- Enable citizens and civil society organizations to have access to legal information (mainly legal texts and judicial jurisprudence) at the cost price, and at no cost for the judges.

III- Guarantees of competence

12-Review the legal system of the Judiciary High Institute in view of guaranteeing its independence from the central administration and the minister of justice hegemony, ensuring its openness and enabling it to perform its tasks in judiciary education in the best way.
13-Confirm the organic correlation between the competence of the judicial attaché and the judge on one hand, and the actual system of education and study at the university on the other hand, through the following

a- Work on the revision of the study and education system at the faculties of law unable presently to provide sufficient, strong and solid law education;

b- Open education to judicial practice and professional environment in a way to enable the student to acquire aptitude to practice judicial and law professions.

14- Reconsider the system of continuing education for the practicing judges and accompany successive legal, economical and social developments and mutations.
15- Establish institutes for lawyers' education and permit the judiciary assistants to benefit from the education granted by the Judiciary High Institute.
16- Perform a regular admission test to the Judiciary High Institute, enlarge the base of admissions to the test with the aim to cover the citizens and courts needs to judges.
17- Operate openness to university and professional competences and aptitudes within the framework of direct appointment and its standards regulation.
18- Adopt the system of psychological test to occupy a judiciary post.
19- Promote the principle of equality between woman and man in judicial and administrative responsibilities.
20- Promote ethics in judiciary assisting professions.

IV – Guarantees of judiciary system efficiency

21- Review and reconsider the civil procedural law all-inclusive instead of the presently applied mode of patching since 1974.
22- Review the legal system of mandatory enforcement of provisions against private law or public law litigants, and work on removing legal and material obstacles that impede the verdicts execution against the administration.
23- Organize and strengthen the enforcement judge institution.
24- Stipulate explicitly a certain reasonable time ceiling to adjudge on cases submitted to courts.
25- Employ further qualified cadres to assume the charges of judges' assistance especially on the level of clerks.
26- Promote and strengthen the role of public associations in all courts and different degrees especially in the context of cases distribution at judges and chambers.
27- Support education and specialization in administrative and financial management of the judiciary administrative services.

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Al-Wadghir Kamal	Judicial experience in the Moroccan law, Moroccan Law Magazine, comprehensive legal magazine involved in legal affairs, legal and jurisprudential researches and studies, and judicial jurisprudence (Rabat)	Article		2002
Baghdadi Miliani	Judicial experience in civil matters		Book	1992
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Barada Abdel-Rahim (Lawyer)	Bribery in the Judicial Sector, Bribery in the daily life: bribery and society, public school and health, public hospital and administration, internal administration	Article		1999

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Al-Jarari Abdel-Wahad	Basic guarantees for the independence of the judiciary in Morocco (Rabat), Magazine of the Judicial Annex	Article		2002
Al-Dahhak Idris	Justice at the service of growth (Rabat), Magazine of the Judiciary and the Law	Article		1968
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Ledidi Mohammed	New Law on Prisons: context and dimensions, New Law on Prisons and international standards for treatment of prisoners: proceedings of the first training session, organized on January 22, 23, 24, 2001 at the National Institute for Judicial Studies in Rabat	Article		2001
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Kardoudi Qaed	Military judiciary (Rabat), Trend (community) of the Judiciary and the Law	Article		1958
Al-Iraqi Hamad	Moroccan Judiciary: Today and Yesterday		Book	1975
Bin Abduallah Bin Abdul-Aziz (1923-…)	Moroccan Judiciary: Characteristics, fatwas, documents and the call for right, monthly magazine involved in religious researches and cultural and intellectual affairs (Rabat)	Article		1982
Khaloufi Rashid	Judiciary after 1996: judicial reform or merely a structural change? (Algeria) Administration: Magazine of the national school for management	Article		2000
Banani Mohammed Said	Judiciary between the right and the State of Law, building the State of Rights through guaranteeing the sovereignty of law	Article		2004
Akomi Ezzeddine	Judiciary: an authority or a job? The Law: periodical published by the bar associations in Morocco (Rabat)	Article		1995
Alorfli Ahmed	Judiciary in the Arab Maghreb, international commercial arbitration between monitoring and assistance, Arab Maghreb and Mechanisms of settling commercial diputes in the context of the World Trade Organization (WTO): proceedings of the first Moroccan-Tunisian seminar that was held in Rabat on May 2-3, 2002	Article		2003
Bahaz Ibrahim	Judiciary in the Arab Maghreb: as of Conquests until the Fatemite Caliphate, 96-296 Hijri, 715-909 AD		Book	2001

Al-Mahiri Mahmoud	Judiciary at the reach of citizen: developing judicial procedures and human rights: proceedings of the regular scientific seminar in Tunis on November 12, 1998	Article		1999
Balhaseen Mohammed al-Saleh	Judiciary close to the citizen: judicial map and human rights: proceedings of the regular scientific seminar in Tunis on November 12, 1998	Article		١٩٩٩
Said al-Hadi (1921)	Judiciary: a system and responsibility		Book	1998
Al-Idrissi al-Alami al-Mashishi Mohammed	Judiciary and development, work of the Higher Council and economic and social transformations: proceedings of the seminar held in Rabat on 17-19 Shaaban, 1418 Hijri, Dec. 18-20, 1997	Article		1997
Al-Walladi Abduallah	Judiciary and Civil Society in Morocco, Role of Judiciary in supporting the culture of civil society: discussion panels.	Article		1997
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Zaim Ibrahim	Judiciary and the sovereignty of law (Rabat), Moroccan Magazine for local governance and development	Article		2003
Al-Jayi Mustafa	Judiciary and customs of the profession of law (Aghadir), pleading			2000
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Zaraiqi al-Bashir	Judiciary and Protection of public freedoms, Al-Munadara Magazine: magazine involved in legal culture	Article		1999
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Al-Badrari Yehia	Civil Society and reform of judiciary; The Law: periodical published by bar associations in Morocco (Rabat)	Article		1995
Tawfiq Abdel-Aziz	Higher Council: Nature and Characteristics (Casablanca); Moroccan magazine for the law and economy of development	Article		1988
Zaim Ibrahim	Higher Council: reality and horizons of economic and social transformations: proceedings of the seminar held in Rabat on 17-19 Shaaban, 1418 Hijri, Dec. 18-20, 1997	Article		1999
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Al-Alawi Hashem	Higher Council in the light of comparative Moroccan legislation		Book	1988
Al-Wakili Mohammed	Higher Council: is it really a supreme court (Casablanca). Moroccan Magazine for the law and economy of development	Article		1988
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Azaghouri Andre	Hebrew courts (Rabat), Magazine for Judiciary and Law	Article		1957

Ibn Jalloun Ali	Contemporary courts (Rabat), Magazine for Judiciary and Law	Article		1957
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Fajr Idris	Civil Courts: competency and procedures regarding the copy rights in the Maghreb: reality and horizons: proceedings of the panel organized on April 28, 1999 at the National Institute for Judicial Studies in Rabat	Article		1999
Mashqaqa Rashid	Courts in the media (Qoneitra), Ishaa'a	Article		1994
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Al-Reisouni Mohammed Mustafa	The Law: basics and purposes; Al-Munazarah (Debate) Magazine: magazine involved in legal and professional culture (Wajda)	Article		1998
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Abu Salham Abdel-Jalil	The Law in Morocco		Book	1993
Bin Amro Abdel-Rahman (1933-…)	The Law in Morocco: Conflict amid a crisis		Book	1993
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Iskandar Mahmoud Tawfiq	The Law: profession and responsibility		Book	1998

Binhaso Ahmed	The Law and Human Rights in contemporary Morocco		Book	1994
Binjaloun Ahmed Majid	The Law and its virtues (Rabat), Magazine of the Judicial Attaché	Article		1986
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Ibn Abdel-Wahhab Hassan	History of the Judiciary in North Morocco under the protectorate (1) (Rabat), scientific research	Article		1964
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١٩٨١		University thesis	Organization and competence of the Moroccan Justice Minister	Habib Mohammed Ali
٢٠٠٢	Book		Enforcement of social rulings in the Moroccan legislation	Kawkabi Said
١٩٨٩		Article	Bar Associations in Morocco: History and Stands defending the Independence of the Judiciary and the Freedom of Defense	Al-Qabab Mohamed Bin Abdel Hadi
١٩٩٥		Article	Apparatus of Justice between Reform of Structures and Orientations. The Law: Periodic published by bar associations in Morocco (Rabat)	Al-Dabbagh Mohammed
١٩٨٩		Article	Freedom and Independence of the Law and Achieving Justice; (Qoneitra), Ishaa'a	Al-Jamei Abdel-Rahim
١٩٩٨		Article	Immunity of Judge and Immunity of the Lawyer (Algeria) by the University of Algiers	Marouk Nasreddine
١٩٩٣		Article	Immunity of Lawyer (Marrakech), the Lawyer	Mohammed BelHashmi
١٩٩٥		Article	Resultants of judicial reforms, 1965-1995, The Law: Periodic published by bar associations in Morocco (Rabat	Al-Jamei Abdel-Rahim
١٩٧١	Book		Rights to Defense	Bin Jalloun Ahmed Majid
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١٩٩٠		Article	On Independence of the Judiciary and Defense in Morocco (Fez), Magazine of the Law and Economy	Hosni Abdel-Qader

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١٩٨٩		Article	Remarks around the Justice Sector in Morocco (Qoneitra), Ishaa'a	Biniob Ahmed Shawqi
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١٩٩٨		Article	Profession of Law: Customs and Traditions Al-Munzarah (Debate) Magazine, magazine involved in legal and professional culture (Wajda)	Oqweider Qantari
١٩٩٩		Article	Profession of Law: Profits of Yesterday and Questions of Today (Marrakech), Moroccan Magazine for economy and comparative law	Al-Sharayibi Abdel-Wafi

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1933	Book		Muslim Civil Justice in Morocco (microfiche)	Marty Paul
١٩٩٦		Article	Constitutional Justice in Morocco; (Tunis) Moroccan Magazine for Law	Ghomari Mohamed Pr. Universitaire
١٩٩٧		Article	Constitutional Justice in Morocco Magazine on public law and political science in France and abroad (Paris)	Bendourou Omar
1945	Book		Customary Justice in Morocco (microfiche)	Caillé Jacques
1917	Book		French Justice in Morocco: Judicial organization and practice	Berge Stéphane
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١٩٩٧		Article	Moroccan magistrate and the evolution of Moudawana (code) (Casablanca: Moroccan magazine for the book	Moulay Rachi Abderrazzak (1946-…)
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١٩٩٩		Article	Judge of Administration and right to equal access: a bit decisive rationale in Morocco; 1958, 40 years of freedom; proceedings of the panel on November 12, 1998 at the Law Faculty in Rabat (Acdal)	Boudahraïn Abdellah
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1964	Book		Moroccan experience of unity of judiciary and separation of disputes	Renard-Payen Olivier
2004	Book		Public freedom and State of Law in Morocco	Bendourou Omar
1941	Book		Organization of Justice of chra parle Makhzen	Pesle Octave
1969	Book		Judicial Organization in Morocco	Chawad Haddou

١٩٩٧		Article	Rehabilitation of Justice, (al-Qoneitra) Ishaa'a	Azziman Omar