Morocco Experts Surveys Report: Judiciary Data (Draft)

This summary is compiled for the exclusive use of authors working on the state of the judiciary in Morocco and ACRLI advisors. The findings reported below are extracted from the survey of expert users (Judges and Lawyers) carried out by Information International for the benefit of ACRLI. The survey included a sample of 80 judges and 120 lawyers from Marakesh, Casablanca, and Rabat (Morocco).

The total population of registered lawyers in the three cities is 4245, of which 120 were selected for the survey [city: population/sample; Rabat: 1073/30; Marakesh 563/16; Casablanca 2609/74]. On the other hand, the total population of judges is 754, of which 80 were selected for the survey [City: population/sample; Rabat: 199/21 Marakesh: 164/17; Casablanca: 391/42].

Although an exhaustive list of lawyers registered in the three cities was made available, no such list exists for judges. This complication significantly hindered the ability of Information International to conduct a systematic randomised sampling of judges. In consultation with ACRLi, Information International proceeded to the relevant courts in each city, secured the approval of the court's president and administered the questionnaire to a random sample of available judges at random time slots across a span of two weeks [see appendix C for details].

Refusal rates were the lowest in the four Arab countries surveyed. To reach the target of 120 lawyers, Information International had to contact 194 lawyers, while the target of 80 judges was reached with only four judges refusing outright to participate. It is important to note that the intervention of court presidents facilitated the data collection process.

Although refusal rates were relatively low, it is important for authors to note that the selection of judges for this survey was not based on an exhaustive listing of the population (see appendix C for details).

The findings from the survey are presented in two parts. The first part presents an overview of the major findings from the survey, while the second part presents detailed findings from the individual items in the survey. Appendix A presents the detailed findings for each item from the survey and will be referred to during the discussion of the main findings from the survey below.

I. OVERVIEW OF KEY FINDINGS FROM SURVEY

Main Findings: Item Analysis

An important finding is that lawyers and judges expressed significantly different amounts of negative evaluations on the state of the judiciary in Morocco. While judges rated 7 items negatively (the lowest in the 4 countries surveyed), lawyers rated 44 items negatively.

Of the seven items rated negatively by judges, four where also negatively rated by lawyers while three were unique to judges. The four items that constitute common grievance between lawyers and judges are (the higher the score, the more negative the evaluation):

1- Judges are free to express their political opinions (item 17 (independence), $x = 3.45$)

2- Judges are free to join any professional association (item 1 (independence), x = 3.37) [Missing data]
3- The judiciary receives funding from sources other than the government allocated budget (i.e. besides bribery money) (item 6 (independence), x = 3.30) [caution, missing data]
4- Courts have the adequate number of staff to assist judges (item 73 (efficiency), x = 3.11)

The three remaining items that were rated negatively by judges are:

5- Men have better opportunities than women (item 54 (competence), x = 3.47)
6- the judiciary has adequate resources at its disposal (item 7 (independence), x = 3.44) [missing data]
7- Judges have adequate salaries (item 15 (independence), x = 3.20)

It is important to note that five out of the seven items rated negatively by judges relate to the independence of the judiciary.

The lawyers' list of negative evaluations spans items from all principles. 13 items referred to the independence principle (highest), 11 items referred to the efficiency principle, 10 items referred to integrity, and 10 items referred to the competence principle. The three most negatively rated items referred to integrity (items 26, 34, and 27).

Main Findings: Dimension Analysis

When items are combined to measure a dimension of a specific principle (e.g. items 1,2,3,4 as measures of "guarantees of judicial independence", a dimension of the general "independence" principle), only one dimension (*freedom of expression and association*) was rated negatively by judges, while ten were rated negatively by lawyers. These 10 dimensions are distributed as follow: 4 in the independence dimension (4/5), 2 in the integrity dimensions (2/3), 3 in the efficiency dimension (3/4), and 1 in the competence dimension (1/5) [see appendix A for details].

Items Rated Most Positively

On the more positive end of the analysis, the six items most favourably evaluated by judges and lawyers are presented below:

Judges ranked items 39, 38, 33, 43, 71, and 37 most favourably. Four of these are within the integrity dimension, and three relate to procedural integrity.
On the other hand, lawyers ranked items 39, 43, 74, 10, and 11 most favourably. Items are scattered across the four pillars measuring the state of the judiciary [see appendix A for details]

	J	**L**
39. Litigants can appeal any rulings allowed by the law	X	X
74. Judges can call upon relevant experts		X
43. Candidates to the judiciary know the rules and the qualifications needed	X	X
71. The courts maintain an up-to-date daily records	X	
33. Judges do not look into any case in which they may have interest or relation	X	
37. Trial procedures are impartial in all situations (equal treatment, non	X	

discrimination)		
11. Judges do not get pressured with threats of economic sanctions		X
38. Right to defense and public trials are strictly enforced in all situations	X	
10. Judges do not get pressured with threats of physical harm		X

Opinions on Most Needed Reforms in Judiciary

The questionnaire included a series of "reform" questions. Participants were asked to rate the importance of reform in each of the subsections of the state of the judiciary questionnaire.

Judges indicated the following five domains as those that require the highest need for reform (presented from highest to lowest):

1- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70: competence)
2- Reforms are needed to strengthen the qualifications and skills of judges (item 47: competence)
3- Reforms to increase job security within the judiciary are needed (Item 25: independence)
4- Reforms to strengthen the personal independence of judges is necessary (item 16: Independence)
5- Reforms targeting the improvement of the enforcement system are needed (item 87: effectiveness)

Two of the five domains highlighted above refer to competence issues. Two other domains relate to independence. Such clustering is highly indicative of the concerns of judges in Morocco.

Lawyers indicated the following seven domains as those that require the highest need for reform (presented from highest to lowest):

1- Reforms are needed to strengthen the qualifications and skills of judges (item 47: competence)
2- Reforms targeting the improvement of the enforcement system are needed (item 87: effectiveness)
3- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70: competence)
4- Reforms to increase institutional integrity are needed (item 30: integrity)
5- Reforms are needed to improve the speediness of delivery of judgments (item 83: effectiveness)
6- to promote judicial officials' personal integrity are needed (Item 36: integrity)
7- reforms are needed to improve the integrity of trial procedures (Item 42: integrity)

The main reform interests expressed by lawyers seem to hover around increasing integrity and improving the competence and efficiency within the judiciary system.

II. DETAILED FINDINGS FROM SURVEY

Independence of Judiciary

The respondents have positive to mixed opinions on the independence of the judiciary in Morocco. The personal independence of judges, the judiciary's independence under the constitution, and the judges' job security enhance the independence of the judiciary. Respondents highlight such concerns as the freedom of expression and association for the judicial officials as well as the judiciary's institutional independence.

Judicial Independence

- A majority of respondents agree that the judiciary is granted independence under the constitution. Seventy-two percent agree that the constitution ensures the selection of judges by the judiciary and 60% believe that the constitution outlines a clear and limited jurisdiction for special courts. Laws regulating the judiciary are viewed as compliant with the constitution (53%) and constitutional guarantees for the independence of the judiciary are perceived as effectively implemented (51%).

Personal Independence

- There is a perception among respondents that judges are not pressured with threats of physical harm (75%), economic sanctions (71%), and sources outside (54%) and inside (50%) the judiciary.
- Fifty-eight percent believe that judges enjoy limited judicial immunity against civil and criminal suits, and a plurality of respondents agrees that judges receive adequate salaries (45%).

Security of Tenure

- There is a perception that judges possess job security.
- A majority of respondents agree that it is prohibited to remove judges without relevant justification (62%).
- Respondents agree that the appointments of judges are based on objective and transparent criteria (50%).
- Pluralities of respondents think that neither transfers (46%) nor the threat of being reassigned outside the judiciary (45%) are used to pressure judges. There are mixed views on whether disciplinary measures are clear and reasonable. (41% agree, 38% disagree, 20% neutral).

Institutional Independence

- Forty-eight percent believe that the judiciary is influenced by sources outside the judiciary (30% disagree), with another 46% who think that the judiciary does not have adequate resources at its disposal.
- Positively, 44% of respondents indicate that judges do control the administration of the judiciary.

Freedom of Expression and Association

- The majority of respondents do not think that judges enjoy freedom of expression or association. Fifty-six percent disagree that judges are free to join any professional association while 59% disagree that judges enjoy complete freedom of expression.

Reforms

- Respondents support improving the independence of the judiciary through the implementation of reforms to increase job security (90%), institutional reforms (85%), reforms in the personal independence of judges (83%), reforms of constitutional texts (82%), and reforms to strengthen the freedom of expression and association of judges (82%).

Integrity/Impartiality

The impartiality of the judiciary system is regarded as one of its major strengths. Respondents agree that the judiciary possesses institutional, personal and procedural integrity.

Institutional Integrity

- Forty-five percent of respondents think that laws to fight corruption are not rigorously enforced, with a mixed response over whether the laws to fight corruption within the judiciary are rigorously enforced (43% agree, 40% disagree. 16% disagree).
- A majority identify a clear code of ethics that regulates the behavior of judges (61%), with only a plurality of 43% who believe that this code is clearly enforced.

Personal Integrity

- There is a perception that the judges in Morocco possess personal integrity.
- Forty-five percent think that court decisions are completely impartial, but remain mixed as to whether the principle of equality before the law is strictly enforced (39% agree, 37% disagree, 23% neutral).
- Respondents agree that judges do not look into any case in which they may have interest (62%). According to respondents, judges both regularly disclose their assets (50%) and also have a high degree of personal integrity (56%).

Procedural Integrity

- Most respondents believe that basic judicial rights for citizens are upheld, including the right to appeal a judicial decision (85%), the right to defense (57%), and the right to have an impartial trial (52%). While a majority agree that judges have easy access to legal information and judgments (53%), respondents remain mixed as to whether citizens also have easy access to legal information (36% agree, 37% disagree, 26% neutral).

Reforms

- Eighty-eight percent of respondents cite personal integrity as in need of reform, with 84% indicating that reforms are necessary to increase the institutional integrity and 83% stating that reforms are needed to improve the integrity of trial procedures.

Competence

The opinion of the competence of the judiciary is positive. The results indicate that the strengths of the judiciary system include clear and objective promotion and transfer processes and selection processes, as well as adequate qualifications of judges and judicial personnel. The disciplinary process and judicial training system undermines the respondents' confidence in the competence of the judiciary system.

Adequate Qualifications

- Candidates to the judiciary are viewed as knowing the rules and qualifications needed to obtain a position in the judiciary (88%), and the qualifications criteria are believed to be applied to all candidates (69%).
- Respondents think that judges have both adequate professional training (68%) and technical skills (51%).

Selection Process

- The selection process is believed to be clear and objective (65%), with a plurality who agrees that the criteria for evaluating the qualifications of judges are clear (56%).
- Selection of the candidates is believed by a plurality of respondents to be based upon the results of a competitive public examination (60%). Also, the moral integrity of judges (52%) and the psychological assessment are important components of this selection process.
- The selection process does not discriminate against women as 68% think that women have the same chance of being selected as men. Additionally, forty-five percent do not think that the chances for men are higher than women.

Promotion and Transfer Process

- According to 72% of respondents, the performances of judges are regularly evaluated and 61% think that this performance evaluation is the most important factor in promotion. Fifty-nine percent agree that promotions are based on clear and objective criteria.
- A majority of respondents indicate that women have exactly the same chances of promotion as men (67%).
- A little less than a majority agree that transfers are made in a clear and transparent way (49%).

Disciplinary Process

- A plurality of respondents perceives the disciplinary committee's decisions to be clear and fair (44%) and having sufficient explanation (49%).
- There are mixed opinions on whether court proceedings are regularly inspected (42% agree, 38% disagree, 19% neutral).
- A majority agree that the disciplinary process is managed by judges (51%), but respondents are mixed as to whether the process is independently managed (40% agree, 36% disagree, 22% neutral).

Adequate Judicial Training

- Sixty-nine percent agree that judges follow specialized training programs, but 43% are mixed as to whether there are adequate resources for these judicial training programs.

Reforms

- Ninety-seven percent of respondents stress the need to implement reforms to improve the judicial training systems and 96% agree that reforms are needed to strengthen the qualifications and skills of judicial officials. Reforms are also required to enhance the competence of the court by improving the promotion and transfer process (84%), the judges' selection process (81%) and the disciplinary process (81%).

Efficiency

The efficiency of the judicial system raises the most concern among respondents in comparison to all of the four areas of interest. While judicial procedures are cited as clear and transparent, respondents are split on how the timeframe for judgments and the enforcement system affects the efficiency of the judiciary. The management of trials is for the most part effective, with some concern specifically over how the specialization of judges is not used to determine case assignments.

Trial Management

- A strong majority of respondents agree that the courts maintain up-to-date records (69%), and that judges are able to call upon relevant experts (68%). A plurality think that the processing of court documents occurs without noticeable delays (43%), but does not agree that the court staff has adequate qualifications to assist judges (46%, 36% neutral, 17% agree).

Judicial Procedures

- A plurality of respondents thinks that the case assignments are based on clear and objective rules (47%) and are managed in a transparent manner (43%). Thirty-eight percent disagree that case assignments are based on the specialization of judges (33% neutral, 27% agree).

Timeframe for Judgments

- Fifty-nine percent of respondents agree that decisions are rendered within a reasonable timeframe. There are mixed opinions on whether the delays in the case processing are sanctioned (44% disagree, 42% agree, 13% neutral), and whether disciplinary measures are taken against those that delays cases (45% disagree, 40% agree, 14% neutral).

Enforcement System

- Forty-six percent think that there are an insufficient number of enforcement personnel. Respondents are mixed on the issue of the consistent enforcement of judgments (36% disagree, 33% agree, 30% neutral) and whether there are external pressures that interfere with the efficient enforcement of judicial decisions (42% disagree, 39% agree, 18% neutral).

Reforms

- Ninety-one percent think that reforms are needed to improve the speediness of the delivery of judgments, with 88% saying that reforms targeting the improvement of the enforcement system are also necessary. Additionally, reforms of court procedures (85%) and trial management rules (83%) are both needed to improve court efficiency.

III. Missing Data Analysis:

Analyses of missing data indicate that the overall pattern of missing responses did not exceed 2%. On the whole, the questionnaire did not create unexpected complications for participants. However, closer attention to the pattern of missing data points to

1- **item 6** "the judiciary received funding from sources other than the government allocated budget (excluding bribery)" had the highest rate of missing data with 59% of participants reporting their inability to assess this item. Either participants felt the item to be too sensitive or they did not feel confident enough to provide an assessment on that question.

2- **Ten items** had 16 to 24% of missing data. These are items **1, 7, 23, 34, 56, 64, 65, 66, 69, and 86** (see appendix C, p. 10 for details). Any analysis that includes the 11 items above needs to be treated with caution.

IV. LIMITATIONS

It is important to note that the study does not allow sweeping generalisations about the state of the judiciary; the survey used a random sample of judges and lawyers, but the sample size is too small to allow for confident generalisations. Furthermore, difficulties accessing these population (see refusal rates) limit the ability to generalise to the population since those that accepted to participate in this survey and those that refused may have different characteristics and perspectives.