



**TO HER EXCELLENCY THE SPECIAL RAPPORTEUR ON CONTEMPORARY
FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND
RELATED INTOLERANCE**

Country visit to Morocco, December 2018

The Amazigh Network for Citizenship (AZETTA AMAZIGH) takes peaceful struggle and advocacy as the core tools of its activities. It uses the international human rights as the framework of its thought and practice. On these grounds, and since its establishment in July 2002, the Network has chosen to engage in activities related to human rights, namely those associated with the Amazigh people and culture in Morocco.

Believing that any supremacy-based doctrine founded on racial discrimination is proved to be scientifically wrong, morally condemnable, unjust and socially dangerous, and that there is no theoretical or practical justification for racial discrimination whatsoever, the Network stresses that discrimination committed against people on account of their language, race, colour or ethnic origin represents not only an obstacle to peaceful relationships between Nations, but also a risk that might menace the coexistence of people living in two neighbouring States, or worse than that within one single State.

The Network restores no efforts to expose and oppose any discrimination, exclusion, restriction or derogation aims at or impairs the obstruction or impediment to the recognition, enjoyment or exercise of full human rights and fundamental freedoms on an equal basis as to the political, economic, social, cultural or any other spheres of public life.

In line with its continuous interaction with the UN Human Rights Mechanisms, which represents a key part in the activities of AZETTA AMAZIGH, the Network has already submitted parallel reports to some treaty bodies and to the Special Procedures, we list them as follows:





- Committee on the Elimination of All Forms of Racial Discrimination - 77th Session – 2010
- Meeting and submitting a report to the Rapporteur on Cultural Rights - September 2011
- Morocco's Universal Periodic Review–2ndSession - May 2012
- Committee on the Rights of the Child - 67th session 2014
- Committee on Economic, Social and Cultural Rights - 56th Session - October 2015
- Committee on Civil and Political Rights – 118th Session– 2016
- Morocco's Universal Periodic Review–3rdSession - March 2017; and
- Regular participation in the works of the UN Permanent Forum on Indigenous Issues.

Through these reports, our Network was able to highlight the aspects of discrimination against the Amazigh culture and Amazigh people, and made key ad hoc recommendations. Within this framework, the current report embraces our most important observations and remarks on the reality of the Amazigh language and cultural rights on the basis of the Kingdom of Morocco's implementation of its conventional commitments and its legal arsenal, as well as on the basis of facts and data collected by our Network, as a part of its field monitoring activities.

Examining the Kingdom's implementation of its conventional commitments, we notice that the State has done well in terms of accession to or ratification of international Conventions and Protocols, though it registers some delays in the submission of reports to some treaty bodies, namely the CERD, as this latter has not got any ad hoc report from Morocco since January 2014. Moreover, we note some delay in the implementation of some recommendations made by the United Nations bodies, namely those on the Amazigh language and cultural rights. With that in mind, we shall emphasise once more on the key recommendations related to the racial discrimination, as issued by the Committee on the Elimination of Racial Discrimination (CERD) on the occasion of the discussion of the Moroccan report on September 13th, 2010: (CERD C/MAR/CO/17-18).





"The Committee recommends that the State party engages more efforts to strengthen Amazigh language and culture, in particular through teaching. It recommends also that measures should be taken to ensure that Amazigh people are not subjected to any form of racial discrimination, especially in terms of employment and access to health services. And finally, the Committee recommends that the State party emphasizes in particular the development of regions inhabited by the Amazigh people and bans any forced eviction policies targeting the Amazigh community, under the pretence of development projects..."

"The Committee recommends that the State party clarifies the meaning and scope of the concept of "Moroccanisation of names" in its legislation, and entitles all citizens the right and freedom to register names they choose, especially Amazigh names..."

"To endorse legislation on racial discrimination and to inform the Amazigh community about all the available legal remedies and to simplify and facilitate access to such remedies."

It is worth mentioning that in its General Comment No. 32, which was made in August 2009, the CERD Committee shed light on the meaning and scope of special measures to eradicate all forms of racial discrimination. Such step was followed by the Committee on Economic Rights in its 56th Session, upon which Morocco was requested to take similar actions for the benefit of the Amazigh community.

Nationally, the New Constitution remains the most important legal recognition of Amazigh nature of Morocco and Moroccans, through the recognition of Tamazight as a major component of the country's identity, as well as the recognition of Amazigh language as an official language under Chapter-V of the aforementioned Constitution.

Having said that, the constitutional framework remains liable to quick changes and twisting due to the challenges imposed by the actual reality. For instance, the Organic Law recognizing the official status of the Amazigh language, as provided for in the Paragraph 4 of





Chapter 5, which is considered as a framework for the exercise of the right to language and also as a constitutional guarantee to protect it from marginalization and to ensure its development, has not been adopted properly yet, though it has been now nearly eight years after the adoption of the new Constitution-2011. In this regard, an ad hoc bill, being discussed now in the parliament, does not meet the aspirations and demands of the Amazigh movement. On that issue, AZETTA AMAZIGH has been the first entity to propose the draft organic law on the government and parliament in December 2012. And in April 2017, the Network also submitted a memorandum to the government in order to express its views and remarks concerning the draft organic law.

The delay in full implementation of the aforementioned organic law, its void and meaningless content and the absence of guarantees to protect the language and its speakers is considered as an irresponsible evasion of the State's constitutional obligations to ban all discrimination forms and achieve full equality among citizens. On the contrary, such acts shows the State's systematic marginalization and disempowerment of Amazighs, when it aims at encouraging other languages and cultures, and urges its use.

In addition, the Moroccan legal arsenal represents another tool of discrimination against the Amazigh culture and language. Up to the present, the legislative and regulatory texts, even the newly promulgated ones, contain discriminatory provisions against the Amazigh and Amazigh culture, and thus, they constitute an obstacle to the enjoyment of rights in many spheres:

THE RIGHT TO LITIGATION AND FAIR TRIAL:

The Convention, especially in its Articles 5 and 6, guarantees the right to equal treatment before and justice, as it guarantees the obligation of this latter to protect such right in respect of any racial discrimination violating the human rights and fundamental freedoms. It also entitles the right to access justice to claim fair remedy for any harm suffered due to such discrimination.

Up to the present, the Article 21 of the Moroccan Civil Procedure Law provides that Arabic language is the sole language of the judicial sphere. Thus, filing an action before the court





and the submission of ad hoc document must be in the aforementioned language. Moreover, according to Articles 21, 112 and 318 of the CPC, the judicial police, the investigating judges and the jury are all required to seek the assistance of an interpreter to translate statements, correspondence and communications into Arabic, whenever a foreign language is used. On this basis, the Moroccan law considers the Amazigh language as a foreign language in a flagrant violation of the new Constitution, obliging its speakers to translate or communicate in a language other than their own language when they are before the justice. It is worth mentioning though that the institutes of translation and interpreting and the institute of the judiciary do not provide courses in Amazigh language, worse than that, they don't give linguistic courses dedicated to the Amazigh in general.

REGISTRATION OF AMAZIGH NAMES

The Universal Declaration of Human Rights, namely its Article 6, provides for the right of everyone to the legal personality. The Convention on the Rights of the Child affirms the obligation of immediate registration of every new child and the right to acquire a name (art. 7). However, if a child is deprived of some or all of his or her identity, the State shall provide appropriate assistance and protection in order to expeditiously re-establish his/her identity (art. 8).

Nevertheless, the applicable civil status law in Morocco requires that the name should have a Moroccan character and a list of names approved in the civil status registry has been established. An administrative grievance mechanism has been provided in case a chosen name is rejected, but it remains vague and requires time and effort to undertake it. As a result, many families are deprived of the right to choose Amazigh names for their children and fully enjoy pride of their identity and roots.

The ongoing deprivation of the right to immediate registration and the acquisition of a legal name and personality due to such racial discrimination, constitutes a grave and systematic violation of human rights, and reflects the wording of paragraph B of Human Rights Council resolution 34/7 of March 28th, 2008.





THE FREEDOM OF EXPRESSION AND RACIST DISCOURSE

In its General Comment No. 15, the CERD Committee declared that "the prohibition of the dissemination of all ideas based on racial superiority or hatred goes in line with the freedom of opinion and expression";

Unfortunately, the racist discourse against the Amazigh community and culture takes different forms, namely over official and non-official media platforms. Other forms can be found in the contents of school curricula and in some statements and opinions given by individuals or groups of individuals. It should be noted that the interface between all these cases is the absence of any serious intervention by the State and its institutions, and the absence of any remedies for those affected on an ad hoc basis. Add to that, the Moroccan Criminal Code does not criminalize discrimination based on language (sect. 2 bis.).

FREEDOM OF PEACEFUL ASSEMBLY AND CONSTITUTION OF ASSOCIATION

Morocco regulates public freedoms under a law dated back 60 years ago. Thus, it is considered outdated and urgently needs modification so as to meet international standards in this regard.

Amazigh associations, just as in the case of many other associations, encounter tremendous systematic difficulties during their establishment phase. In this respect, authorities shows certain reluctance and stiffness in issuing authorisations to organize activities and use public halls. This fact affects the normal functioning of their activities and weakens their ability to develop and keeps on their sustainability. Besides, the public security forces in Morocco have been intentionally preventing the national march of the Tamazight movement, suppressing the participants and torturing them.

The students, affiliated to the Amazigh Student Union, continue to suffer due to restrictions made on their activities, where others are menaced in their physical safety. The Amazigh political party has been banned since 2005, the Moroccan law even prohibits the establishment of parties on a regional basis.





RIGHT TO EDUCATION

The figures and statistics provided by the official authorities in terms of teaching Amazigh contradict reality and do not give a true picture. The Amazigh still undergoes a number of problems, which can be summarized in three major axes:

1. Mainstreaming at all levels within all institutions, and in the public and private sectors.
2. Didactic methods, textbooks, research and pedagogical innovation.
3. Training and recruitment of educational and administrative officers (professors, inspectors ...etc.)

THE RIGHT TO CONTRIBUTE TO CULTURAL AND ARTISTIC ACTIVITIES

The abovementioned **Resolution 34/7** states that cultural diversity must be respected and taken as a means of preventing racial discrimination. Though the Amazigh cultural component is a source of pride for large segments of the Moroccan society and attracts the attention of many researchers and people within Morocco and outside it, Moroccan institutions still work with the logic of exclusion and marginalization.

Out of 29 public media channels in Morocco, there is only a single channel dedicated to Amazigh media. This latter suffers from several problems related to personnel and human resources building capacities added to the quality of programs broadcasted. In addition to the some technical shortcomings related to the quality of its technical equipment and its ability to broadcast continuously and more broadly to reach the different regions.

The financial support to cinematographic productions, offered by the Moroccan Film Centre,prerequisites the submission of the script in Arabic only, which reflects the intentional exclusion of Amazigh artists and creators. Such exclusion and discrimination can also be noticed in festivals sponsoring and in the wages of Amazigh artists compared to their peers in the country.

Moreover, it is worth mentioning that all Institutes of Arts do not use Amazigh language and do not embraces the Amazigh artistic heritage. For instance, the Music Observatories do not provide any composition in Amazigh music, and the same held true for the Higher Institute





of Drama or similar institutes.

RIGHTS OF INDIGENOUS PEOPLES

The Amazigh component is characterized by its originality in North Africa and its deep-rooted civilization and culture in the Mediterranean region. Whereas, the CERD Convention applies to indigenous peoples (General Comment 23), the Moroccan State does not recognize any protection of the rights of Amazigh tribes and communities to own, develop, control and use their lands, territories and joint natural resources. Instead, there are applicable policies on reducing land ownership and permit its misappropriation to the benefit of the State or private investors, without even consulting its owners or requesting their explicit and informed consent in this respect.

The lack of respect for the culture, history, language and life-style of indigenous peoples, and the failure to embrace them as an essential component of development and public policy programs, have seriously damaged the social fabric of the country. In this respect, a true sustainable economic and social development won't be achieved, unless ad hoc policies go in line with the local cultural and linguistic characteristics of the country.

ENFORCING MECHANISMS FOR COMBATING RACIAL DISCRIMINATION

The abovementioned examples of racial discrimination against Amazigh people and culture in Morocco are exacerbated by the absence of grievance and remedy mechanisms. Morocco, as a State party to the Racial Discrimination Convention, recognized the competence of the CERD Committee to receive and examine individual grievances and undertook to establish a national organ competent to receive and address such grievances.

The role and mission of this entity are as follows:

- Review of government policies on the protection against racial discrimination;
- Monitoring legislations compliance with the provisions of the Convention;
- Raising public awareness about the obligations of States parties under the Convention;
- No impunity for acts of racial discrimination and maximization of remedies for





victims of such violations;

- Assisting Governments in preparing reports to the Committee on the Elimination of Racial Discrimination;

RECOMMENDATIONS

The promulgation of a just and equitable organic law, which gives effect to the official character of the Amazigh language, represents a constitutional duty. Such step may embody the first sign of fairness to Amazigh, giving it the status it deserves in the Moroccan social and institutional fabric. This sort of law can serve also as an input to create a perfect harmony between the institutions, the State's legislation, the spirit and meaning of the Constitution and the international obligations of Morocco towards the international community.

As a result, the AZETTA AMAZIGH recommends the following:

- Opening discussion and making amendments to the draft regulatory law before the parliament, so as to redress its shortcomings and deficiencies found therein, if any.
- Accelerating the revision of the Moroccan legal arsenal to root out all sorts of racial discrimination and offering the possibility to the unconstitutionality of laws by issuing the organizational law provided for in Chapter 133 of the Moroccan Constitution.
- Strengthening grievance and remedies mechanisms for victims of racial discrimination, especially by the establishment of the mechanism provided for in article 14 of the CERD Convention.
- Assessing the efficiency of government programs related to the integration of Amazigh in public life, with a view to developing an integrated program to give effect to the constitutional obligations of the State and to provide the necessary means in that respect.

Amazigh Network for Citizenship (AZETTA AMAZIGH)

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