



# The National Dialogue on Civil Society and its New Constitutional Roles



## Synthesis Report

April 2014





The National Dialogue  
on Civil Society and its New  
Constitutional Prerogatives

The National Committee Dialogue on Civil  
Society and its New Constitutional Roles

# Synthesis Report

April 2014



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



*“We cannot but rejoice on what Moroccan associations have come to constitute –an immense national wealth, a diverse array of its fields of action, an effective proposition force earning them the status of an indispensable partner in attaining, for our country, the progress and modernization we strive for. We thus wish to urge nonprofit organizations to encourage youth membership, as associations are a model school for democracy and solidarity, and an outlet for unleashing the innovative potential of youth for the benefit of society and the common good. We likewise wish to invite these organizations to strive to break away with the counter-productive management styles that some are still holding onto and adopt instead a modern and efficient management culture and to assemble in federations in which their experiences blend; thereby, becoming an efficient focal point for all of their partners....”*

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The Royal Message to the participants in the nonprofit management study days 14/02/2012



*His Majesty the King Mohammed VI*







*The Prime Minister Posing for a souvenir picture with the members of the National Committee of the Dialogue, in the Committee's official appointment ceremony , on 13 March 2013 in Rabat*



## *Word of the National Committee Chairperson*

**T**his Dialogue is the first of its kind in the history of Morocco. It is the outcome of the arduous struggle of our country's civil society pioneers. The inception does not date back to the era of Independence and the enactment of the 1958 Law on Liberties; rather, civil society has been in action since the second decade of the 20th century -an offshoot of our deeply-rooted traditions which meant that our people take the initiative of substituting the work of the central State when the latter failed to meet citizens' needs.



This move became stronger. It underwent significant changes in the wake of the Protectorate, as a first response to the colonialist' plans to obliterate our deeply-seated traditions and their hallmarks, including the education of future generations.

Just as the country attained independence from the yoke of colonialism and began the building of the modern nation, civil society emerged with the aim of defending liberties and human rights in the face of tyranny and despotism. In the human development field and in response to the State's forsaking of a number of social domains since the 1980s, civil society began to do what the ancestors used to do; i.e., collective social work (otherwise known as Twiza) in an attempt to meet the needs of citizens living in rural areas in general and those in mountainous inaccessible areas in particular –all through building pathways, constructing roads, and making drinking water accessible among other achievements.

Today, given the diversified civil society activities and accomplishments, with a view to implementing the provisions and promising spirit of the

Constitution, and pursuant to the recurrent royal speeches that underscore the need for developing civil society, the Government created a national committee to oversee a free and independent national dialogue on civil society and its new constitutional roles.

Since its inception on 13 March 2013, the Committee, which has been conducting its work with a sense of openness and consensus that is founded on constructive dialogue, building communication bridges and bringing differing views closer, has reached out to over 10,000 associations. The Committee has thus conducted a series of consultation meetings with associations in the different regions of Morocco (18 regional gatherings) as well as among Moroccans living abroad (four gatherings). Additionally, it organized a number of academic and thematic conferences and listening sessions that were moderated by Moroccans and foreigners alike. Moreover, it contributed to an important number of interactive provincial events that were organized by associations. The Committee also received numerous detailed memoranda from these associations in addition to an important number of meetings held with a range of national institutions, competent line ministries as well as with a number of national and international experts and international organizations keen on widening the breadth of the fields of civic engagement, its organization, and the creation of an enabling environment.

These meetings were devoted to experience-sharing and exchange of ideas regarding the translation into action of this engagement in the public sphere through drawing up draft bills that should bring into effect the provisions of the 2011 Constitution.

The National Committee clustered the proposals gleaned from this dialogue and consultation process into three key deliverables, approved during the last meeting of the National Committee, which are:

- Draft outline bills on motions, petitions, and public consultations;



- The draft outline bill on nonprofit work;
- The National Charterer on Participatory Democracy.

What's more, the National Committee's discussions crystallized a whole host of ideas and orientations in relation to volunteering and contract-based volunteering, the Consultative Council on Youth and Nonprofit Work, the financial and fiscal aspects of public funding of associations, the issue of Moroccans residing abroad and nonprofit work, other aspects of relevance to nonprofit work, media and nonprofit work as well as employment and nonprofit work. We have thus decided to adopt some of these as memoranda annexed to the Dialogue's deliverables.

The significance of the National Dialogue on Civil Society and its New Constitutional Roles lies in its key highlight: the need for earnest work so that civil society can remain in a position to fulfill the desires and aspirations of our national community as a whole, and particularly the youth who are aspiring for the implementation of the principle of the State of the rule of law and institutions and the strengthening of the democratic choice in the country.

This is, in sum, what the National Committee has sought to achieve in all modesty and undivided commitment. We trust that the experience of the National Dialogue on civil society and its deliverables will serve the general interest of our country.

May Allah grant us success in this endeavor and guide us in the right direction!

***Mr. Ismail AL ALAOUI***

*The Chairperson of the National Dialogue on Civil Society*





**National Committee**  
**members and**  
**Experts**



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**2. Mr. Abdelali Hamieddine:**

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## **General Introduction**



**P**ursuant to the new constitutional provisions on civil society roles, in line with His Majesty's vision of establishing a modern, democratic society project that is founded on participation, pluralism and good governance, cognizant of the national responsibility and eagerly keen on achieving the goals of the launch of the National Dialogue on Civil Society and the New Constitutional Roles, the National Committee overseeing the Dialogue organized, during the period between 13 March 2013 and 13 March 2014, a series of consultation meetings and academic conferences. Over 10,000 associations participated in these events together with a wide array of national public institutions and international organizations interested in enlarging civic engagement action areas, its organization and upgrading. These meetings were devoted to experience-sharing and exchange of ideas and proposals for effective civic engagement in the public sphere through drawing up draft outline bills to implement the provisions of the 2011 Constitution.

The National Committee clustered the proposals gleaned from this dialogue and consultation process into three key deliverables, approved during the last meeting of the National Committee, which are:

- Draft outline bills on motions, petitions, and public consultations;
- The draft outline bill on nonprofit work;
- The National Charterer on Participatory Democracy.

Entrusted with spearheading extensive public debate within the framework of the National Dialogue, the Committee has been conducting its work with a sense of openness and a spirit of consensus that is founded on constructive dialogue, building communication bridges and bringing diverging views closer –all for the general interest. To this end, its bylaws centered around two core values, which are: responsibility-sharing among Committee members and their active involvement in spearheading the different stages of public consultation; hence, there was need for setting up three standing committees:

**1-The Constitutional Provisions Committee**, which has overseen the development of outline organic bills on motions, petitions and

public consultations;

**2-The Nonprofit Environment Committee**, which has been entrusted with spearheading the debate over drafting an outline bill on associations and nongovernmental organizations in tune with the roles provided for by the new Constitution of the Kingdom within the framework of “citizen participatory democracy;” the goal being to develop a legal framework for nonprofit work and civic volunteering. This legal framework should accurately address the state of affairs of the nonprofit field, its capacity-development needs, support, and integration into the democratic change process, a change envisioned by the Constitution as an end and a platform for building an ever-renewed pattern of relationship between the State and civil society. Core to this relationship is the outstandingly positive interplay between representative democracy and participatory democracy. It is a forum for associations and civil society organizations to take up their rightful roles in development and human rights promotion in a way as to live up to the aspirations of Moroccan citizens of both sexes in the country and abroad.

**3-The Committee on the National Charter of Participatory Democracy** has been in charge of proposing the pillars, principles and objectives of participatory democracy and the implementation mechanisms of the politico-ethical commitment to it in accordance with the provisions of the Constitution and the internationally recognized pacts, treaties and conventions on social, economic, political and cultural human rights and fundamental freedoms as ratified by the Kingdom of Morocco.

To ensure a wider participation of civil society activists from among Moroccans of the world, a thematic committee was set up to sound out the views of Moroccan associations abroad conveying the contributions of Moroccan female and male citizens living abroad to the National Dialogue’s debates, namely on the implementation instruments of the constitutional provisions on civic engagement. The aim is to best ensure that their needs,



interest and suggestions are reflected in the Dialogue's target legal outcome documents.

In parallel to the work of these committees, National Committee members were organized into four working groups each assigned a number of cross-cutting tasks. These are:

- ▶ **The Studies and Documentation Working Group**, which has been entrusted with gathering studies and all information shared during the National Dialogue's consultation process

- ▶ **The Working Group on Conferences**, tasked with the deepening of academic debate and exchange of national and international expertise on the National Dialogue's major themes and questions: participatory democracy in light of international experiences, namely motions, petitions and public consultations; the entry points for evaluating the support and capacity-development needs of associations and civil society organizations in view of the studies and reports conducted by line ministries, international organizations and research centers on nonprofit volunteering and the civic roles played by associations; and the support and funding channels targeted at associations as well as monitoring and evaluation of their project contract obligations.

- ▶ **The Listening Task Force**, which has been primarily set up to hear the views of the different civil society stakeholders on major issues regarding civic participation and nonprofit action. Among these, we can cite participatory democracy and the ways and means of capitalizing on related field experiences, the institutional component concerning the Consultative Council on Youth and Nonprofit work, the concept of volunteering in the nonprofit field, the need for bringing up to date the provisions of the 1958 Act on the Freedom of Association with a view to developing a comprehensive nonprofit legal framework, gender and the expectations of women's associations and welfare associations targeting special needs persons, the rights-based dimension of civic action and its

founding principles as the politico-ethical parameter for the outline bills that are to be approved as the Dialogue's deliverables.

► **The Memoranda Team**, working within the Dialogue's perspective of being open to civic and institutional stakeholders taking interest in developing the intellectual framework of the Dialogue's deliverables through detailed proposals that are formally sent to the chairmanship of the National Committee for approval. These are memoranda expressing views on issues of relevance to the themes of the National Dialogue on Civil Society, such as the issue of petitions; legislative motions; the internal life of the nonprofit field and its societal dynamics; its relationship to media and public institutions as well as to the democratic process and human rights; or issues pertaining to participatory democracy in its broad sense with regard to transparency, good governance, civil society's holding of public policies to account; and solidarity and cooperation between civil society organizations, public authorities and elected councils.

All this has yielded positive results constituting a force of proposition capable of developing the nonprofit field and upgrade its environment, on the one hand, and of lifting civic participation to a tangible reality and a societal culture of significant legal imports, apt to translate into effect the provisions of participatory democracy, which is one of the four pillars of the constitutional system of the Kingdom. The other pillars are "separation of powers", "the principles of good governance" and "accountability of duty-holders".

In this regard, the National Dialogue's events afforded female and male participants a venue for expressing their viewpoints on a wide array of issues related to civic action, the implementation of participatory democracy in all its manifold channels, and the contribution of civil society organizations to its development and the translation of its principles and specific objectives into reality.

All these considerations have made the "National Dialogue on Civil

Society and its Constitutional Roles” an historic opportunity and a credible democratic exercise to strengthen partnership between the State and civil society organizations.

The core essence of this partnership, viewed from the standpoint of the stakeholders who have participated in the Dialogue’s different regional, national, and international consultation forums and meetings, can be realized through:

**Firstly**, capitalizing on the progressively achieved milestone of Morocco’s transition into democracy from the beginning of Independence, through the struggle of all vital forces and State institutions for establishing a sound democratic life, to the promulgation of the 2011 Constitution and the new political state of affairs resulting from it. In this new state of affairs, Morocco has stood out by innovatively combining stability with continuing reforms.

**Secondly**, Considering participatory democracy one of the stages of the democracy-building process in Morocco, which seeks to create complementarity of roles with the different levels of representative democracy -locally, provincially, regionally, and nationally. The future of this complementarity can in no ways be envisioned with the logic of role jostling but through a new civic culture founded on complementarity, cooperation and regular public consultation...

**Thirdly**, significantly improving the relationship between citizens and State institutions by enhancing the efficiency and effectiveness of public policies, adopting a working approach based on dialogue, responsibility-sharing, listening, grassroots outreach, and mobilization. This should help anticipate the problems that could weaken citizen trust in public institutions due to the gradual and slow dilapidation of the quality of public services, shrinking of freedoms, along with the absence of transparency, justice and equality of opportunities.



In order to sound out a maximum number of views and opinions of the participants in the National Dialogue, the following events have been organized:

- ▶ Eighteen (18) regional gatherings, in which over seven thousand (7,000) local and national associations participated. The regions of Souss-Massa-Deraa and Taza-Alhoceima-Taounate were assigned two regional gatherings each given the vast surface area of the former and the massive number of associations in both of them.
- ▶ More than ten (10) parallel regional gatherings organized at on the initiative of local associations in Tetouan, Gercif, Amizmiz, Laayoune, Boujdour, Tangiers, Terfaya, Dakhla, Essaouira, Safi, Taroudant and Es-Smara. Members of the National Committee of the National Dialogue oversaw these gatherings.
- ▶ Three (3) meetings with Moroccan associations that are active abroad were held in Lyon, Paris and Brussels. A fourth meeting was held in Casablanca. Over five hundred (500) associations have participated in these meetings.
- ▶ A national closing conference held in Rabat on 20 and 21 March 2014. It drew together over five hundred (500) participants from both sexes representing human rights and development civil society organizations that are based in various cities and villages of the Kingdom, in addition to representatives of line ministries, civil society activists from within the country and abroad, representatives of the World Bank, ISESCO, the African Development Bank, of international nongovernmental organizations hailing from Turkey, Algeria, Libya, Tunisia and the Council of Europe as well as national experts and international experts commissioned by the World Bank to accompany the National Dialogue.

Besides, over three hundred (300) associations sent detailed memoranda outlining their conception of developing the legal framework that would regulate the work of civil society organizations and the smooth implementation instruments of the constitutional provisions on participatory

democracy.

To further develop the ideas and suggestions expressed during the Dialogue's public consultation events and for a more thorough analysis and discussion, the National Committee overseeing the Dialogue organized eight academic meetings, a number of thematic seminars and consultation meetings with international experts in collaboration with the World Bank. This helped the Committee to familiarize itself with numerous comparative experiences and more advanced international practices with regard to participatory democracy and civil society enhancement.

The National Committee has thus organized a study day on nonprofit-targeted public funding with the participation of concerned line ministries such as the Ministry of Interior, the Ministry of Economy and Finance, the General Secretariat of the Government, the High Commission for Planning and the National Human Development Observatory. Similarly, the Committee organized a number of consultation meetings with international organizations that are based in Rabat such as UNFPA and USAID among other organizations.

Additionally, listening meetings to several associations were held. Focus themes included: the concept of volunteerism and civic action; public funding and support, and public utility status; civil society and social and economic development; women and nonprofit work; persons with disabilities; participatory democracy; and petitions and legislative motions. In parallel, the views of various ministries and public institutions of relevance to civil society and participatory democracy were heard. These are:

- 1-The Ministry of Solidarity, Women, the Family and Social Development ;
- 2-The Ministry in Charge of Moroccans Living Abroad and of Migration Affairs ;
- 3-The Ministry of Employment and Social Affairs ;
- 4-The Economic, Social and Environmental Council ;
- 5-The National Human Rights Council ;
- 6-The Royal Institute for the Amazigh Culture ;

- 7-The Royal Institute for Strategic Studies ;
- 8-The Council of the Moroccan Community Residing Abroad;
- 9-The High Authority on Audiovisual Communication ;
- 10-The Central Authority for the Prevention of Corruption ;
- 11-l'Entraide nationale ;
- 12-The Social Development Agency ;
- 13-The Southern Provinces Development Agency ;
- 14-The National Human Development Observatory.

Moreover, various academic events were organized in coordination with university institutions and academic associations, among which we can cite: the seminar organized in Casablanca in collaboration with the USAID on the theme of “The US Civil society Experience” with the participation of researchers from John Hopkins University, and the seminar that was organized in Rabat in collaboration with the International Center for Not-for-Profit Law.

With this immense amount of documents, data, academic and public events, the National Committee of the National Dialogue on Civil Society has accomplished its consultation tasks. Having approved the key deliverables of its three committees during its closing session, the National Committee hereby submits this report to the Government, being the initiator of the Dialogue.

For a smooth cross-cutting reading of the deliverables and outcomes of the National Dialogue on Civil Society and the New Constitutional Roles, three major lines of thought can sum up the Committee's intellectual and legal endeavors and outlook. These are:

**1- The will of civil society associations to exist and develop in total independence from actors like the State, parties and trade unions.** This was regarded by both female and male participants in the National Dialogue's different public consultation forums as a crucial demand and a key challenge of the empowerment of the civil society movement in order for it to make a significant, effective

and voluntary contribution to the process of institutionalizing the July-2011 Moroccan Constitution instruments of participatory democracy. This entails addressing four major issues:

- ✓ The issue of non-compliance with the law regarding the creation of associations and public regulation of the nonprofit environment
- ✓ The issue of the lack of transparency in public funding and lack of fair treatment and equal opportunities in handling administrative transactions of all types of associations, including public-utility associations and weak fiscal incentives that are conducive for sharing nonprofit work burdens between the State and society
- ✓ The issue of the absence of a legal framework that recognizes volunteering, institutional capacity-building, human resources training and enhancing cooperation between associations
- ✓ The issue of nonprofit internal democracy and the compliance of its financial and administrative practices with the rules of transparency, control and accountability.

Given the difficulty of providing a legal answer to these four issues, the proposed outline bill for regulating the nonprofit field sets out to underpin three fundamental premises:

- ▶ The freedom of association as a form of civic engagement in public life ;
  - ▶ Associations' right to access all types of public support ;
- Good governance and the correlation of this freedom and right with responsibility and accountability.

**2.The implementation of the constitutionally enshrined civic engagement through drafting feasible outline bills on motions, petitions and public consultation, bills that are not founded on deliberately inflated rights.** Rather, they should be founded on a legally binding rights-based conception pursuant to what is stipulated by the Constitution and the internationally recognized human rights and fundamental freedoms covenants, treaties and



conventions, with a political scope of action and legal subject matter that cannot necessarily be attributed, in their entirety, to the provisions of the legal formulation/tailoring of public policies.

**3. Proposing a national charter on participatory democracy that combines both political and ethical commitments from a constitutional perspective and in accordance with internationally recognized practices, adopting a reasoned insight into the legal, cultural and sociological harmonization requirements.**

From this angle of vision, this charter is a “viable” innovation of a Moroccan participatory democracy model boasting a dynamic system whose “optimal” performance can be achieved depending on the extent of its ability to establish constructive cooperation for sustainable human development. The latter strikes a balance between the cultural background of the channels of solidarity, mutual help and social volunteering, which were crystallized through the historical stages of the development of the Moroccan nation, longstanding civilization, between national experiences (“line ministries and the National Human Development Initiative) and modern international models of good governance, grassroots democracy, the right to development, active citizen engagement and power devolution to local actors in matters pertaining to local development.

For all these considerations, this synthesis report attempts to “reproduce” the debate that took place during all the events and forums organized by the National Committee as part of its public consultation on the new constitutional roles of civil society. To this end, the report adopts a synthesis methodology which attempts to first examine the status of civic engagement, identifying strengths, weaknesses and the challenges that should be overcome. It will then propose means of developing this engagement in the lines of a “participatory citizen democracy” model in accordance with its set objectives, mechanisms and levels in 2011.



**Chapter one :**  
**A Situational Diagnosis**  
**of Civic Engagement**



## ***I - Strengths***

**C**ivil society has always been, throughout all the historical milestones of post-independence Morocco in particular, at the heart of the society's movement. It was present in the form of cultural, sports, youth and human rights associations, cinema clubs, scout movements, women's organizations and voluntary associations working in all areas of social life, in development, education and in issues related to mutual help, solidarity, health care, and social and family welfare.

In this regard, it has played a pioneer role in instilling ultimate civic and "national" values, in defending the rights of female and male citizens and in strengthening the success factors of the democratic transition. As a result, the evolution of the law hinged substantially on the vibrancy of civil society, its robust force of proposition, its alert sagacity, its fully fledged advocacy endeavors for freedom and the right to civic engagement, for capitalizing on its social mediation roles and grassroots democracy.

Although these laws remained, at times, subject to the logic of political tugs of war, they favored the logic of responsiveness and openness. A case in point was Dahir No.1.58.376 on Public Liberties, promulgated in the beginning of independence, on 15 November 1958 (3 Jumada I 1378), which established the notification-based system of the freedom of association. New developments and amendments have been introduced since the 2002 amendment of the Communal Charter Act No. 7800- up to the 2011 Constitutional provisions of the legal compliance of national laws and regulations on human rights, fundamental freedoms and civic engagement with international human rights covenants and declarations.

Public consultations conducted under the National Dialogue on Civil

Society and the new Constitutional Roles have highlighted civil society's keenness to play pivotal roles as a mediator between the State and society, along with political parties, trade unions and professional organizations, acutely cognizant, as it is, of its historical responsibility in the process of establishing full and inclusive citizenship which constitutes the foundation stone of a veritable democratic society.

Equal to the keen insistence, of female and male civil society participants in the National Dialogue's local, regional and national gatherings, on the independence of their roles from the State, on the one hand, and political parties and trade unions, on the other, is their eager desire to institutionalize their civic contributions and their demand for the recognition of the legitimacy of these contributions. Claiming their right to recognition, though free, as it may, of any desires to compete for power or plans to supersede any other actor in sheer rivalry and jostling, is imbued with the quest for social eminence and the status that is commensurate with a civil society activist who enjoys the full right of free, independent and voluntary involvement in and monitoring of public policies with a sense of social responsibility, which is immune from all attempts to alter and divert its roles from its noble moral values.

A 2007 study, conducted by the High Commission for Planning, on the historical increase in the number of civil society organizations which are legally recognized as associations and network associations, shows that civil society has become a framework for alternative solutions in grassroots democracy and development fieldwork, solidarity, civic education and human rights defense. This amounts to about 140 associations for every 100,000 persons, and three quarters of these associations were involved in local development, meeting the daily needs of female and male citizens in housing, health, solidarity, civic education, literacy, recreation, sports and cultural activities (over 62% of the overall number of associations).

The number of these organizations has significantly increased between 1997 and 2007, with eight out of ten associations created during this period. This is indicative of an inexhaustibly vibrant civil society that is capable of

living up to the society's will enshrined in the 2011 Constitution, namely participatory democracy in its different manifestations –be it regarding public consultation, motions and petitions, participation in governance bodies, or at the level of fostering the enabling environment for an NGO civic engagement that can live up to the Moroccan society's aspirations for transforming the country into a real democracy where fundamental rights, individual and collective liberties are exercised within the rule of law, transparency, accountability, social justice, equality of opportunities, human dignity, and correlation of responsibility with accountability.

Since the issuance of Prime Minister's Circular No.2003 / 7 on 27 June 2003 (26 Rabia II), efforts to improve line ministry policies have contributed to a growing awareness on the significance of civic engagement in public life, which is backed by a number of facts, among which we can cite the widening of the public funding base of beneficiary associations, which, in the past eight years, has accounted for 0.4% of total annual public expenditures.

In the same vein, the royal speech of 18 May 2005 launching the National Human Development Initiative marked a paradigm shift in State-civil society partnership relationship. This royal enterprise has been founded on the philosophy and guiding principles of transparency, faith in the future, participation, outreach to the needy segments of the society, and accountability of duty-holders. It also seeks to organize the channels of public funding through a multi-annual financial framework for consolidation and stewardship of resources. As a result, the State has managed to mobilize over 10 billion Dirhams during the period spanning 2005 to 2010.

The National Human Development Initiative has created new public funding avenues, which addressed, albeit partially, the challenges of limited resources and expertise confronting these organizations.

It is noteworthy that the first phase (2005 -2010) of this participatory project, which is of vital importance to the local development needs, has yielded significant positive outcomes. An advanced financial model aiming to “democratize” associations' access to public funding was piloted targeting



various levels: the scale of mobilized resources (earmarking over 4,235 million Dirhams to funding 9,651 nonprofit projects, or an average 706 million Dirhams annually, which amounts to 44% of the total expenditures); the level of governance rules, disbursement of funds, monitoring, evaluation and oversight (over 450 auditing assignments were conducted between 2005 and 2010); and the adoption of the culture of results-based management and the automatic justification of expenditures in State-CSO partnerships. Last but not least, this ever-renewed momentum of civil society in general and its associations in particular has cultivated, despite a few shortcomings and stumbling blocks that we will tackle later on, a veritable civic awareness, which has been characterized, since its inception, by diversity, a leaning towards independence, freedom and openness towards international initiatives and challenges. Cases in point are the notable contributions of environmental associations, human rights associations, public spending watchdog organizations, anti-corruption associations, and leading associations in networking, civic advocacy, public policy monitoring, and international cooperation.

The most notable achievement in this respect was the public authorities' realization of two paradoxical facts: the first is the critical need of associations for training and institutional capacity-building. The second is that these organizations are playing a pivotal role in offsetting "the failings" and "shortfalls" of the State's social outreach efforts and responsiveness to social issues. Noteworthy examples are the contributions of urban community associations and rural village associations to social outreach, the implementation of national accessible electricity, drinking water and sanitation programs for all, literacy programs, disease prevention, social and medical assistance, providing welfare assistance to the needy and bringing cultural and sports recreational activities to underserved areas.

## ***II. Challenges to overcome***

**F**or all these assets, there exist challenges and weaknesses that limit civil society and have a negative impact on its productivity and social roles. These are due to legal, administrative and financial obstacles, mentioned, for the most part, in the December 2011 National Study on Not-for-Profit Organizations, conducted by the High Commission for Planning, the annual Supreme Auditing Court reports, the annual auditing reports of the special accounts of the National Human Development Initiative, periodic governmental and nongovernmental reports on the status of associations in Morocco and the civil society index. These challenges have been substantiated by the conclusions of the National Dialogue on Civil Society and its New Constitutional Roles.

### **1. Administrative constraints and abuse that are due to noncompliance with the law or the failure to be in step with the profound transformation that civil society is undergoing**

As mentioned before, Morocco has made significant strides in the legislative and regulatory realms with regards to public liberties with simplifying the administrative procedures concerning the exercise of the freedom of association and the widening of the realm of civic engagement in public life. However, this has not prevented from the existence of legal challenges and administrative practices, some of which pertaining to abuse of power; hence, a limited scope of action of many associations, instilling in broad segments of society a sense of cautiousness that is inimical to volunteering. Likewise, there exists a whole host of administrative obstacles hindering the work of civil society organizations, including but is not limited to the “capricious selective behavior” of some officials towards nonprofit work, their refusal to receive documents notifying of the creation of associations, unequivocal delays in delivering final certificates of receipt, complicated

notification procedures regarding the establishment of local and provincial chapters by national associations, and non-enforcement of final court judgments ruling in favor of the legality of some associations. These are all practices that have led, in quite a few times, to legally unjustifiable restriction on the freedom of civic engagement.

The absence of a sustainable strategic response, of State components -public authorities and elected councils alike- to the growing civic awareness, particularly among civil society associations, has resulted today in disjointed legal, regulatory and administrative arrangements for organizing civic participation. What's more, they are neither up to date nor responsive, failing to be proactive in developing the rules and mechanisms that could be in tune with the profound changes in civil society performance and standing in the society, particularly in the first decade of the 21st century. This legislative and regulatory lag will impede the proper, prompt and rational implementation of the constitutionally enshrined new participatory democracy roles.

Aspects of the State's strategic nearsightedness in responding to civil society expectations are worth mentioning. They include the absence of a framework that regulates the different forms of civic volunteering; failure to develop clear criteria for granting the public utility status despite all the efforts exerted since 2005 in this regard; lack of proactiveness in proposing a regulatory framework that could allow associations to develop their own resources and foster participation in wealth and job creation, namely regarding income-generating activities; and the flagrantly unequal opportunities among associations in accessing public funding in the absence of standardized and transparent criteria. Add to this, the failure to regulate conflict of interest and to proactively develop mechanisms and procedures for an optimal implementation of Articles 14 and 16 of the Communal Charter Act regarding civic participation in the management of local affairs.

Findings and conclusions of the field monitoring of the National Human Development Initiative project funding and the degree of efficiency and

social impact, particularly the methodology of targeting the phenomena of poverty, social exclusion and social vulnerability, have revealed that, in some cases, the selection criteria have not met all eligibility conditions, and, in many cases, the warranted distance for ensuring civil society independence from public authorities and elected councils has not been observed. This has reinforced some doubtful practices which do not differ in their leanings from rent-seeking stratagems and biased allegiances which tarnish civic action in general and the work of associations in particular.

## **| 2. Limited resources**

The reality of civic participation highlights a severe lack of equipment and financial resources. According to the study, conducted by the High Commission for Planning, on the working conditions of civil society associations, more than half of the surveyed associations did not have their own offices. In 2007, 87.7% of associations relied on their own resources. Additionally, the contribution of public authorities did not exceed 7.9% of the total resources of associations, with local communes' contributions capped at 2.7%.

Considering the scale of financial resources, the annual budget of 78.8% of these associations was less than MaDh100, 000, while one out of five associations had an annual working budget of less than MaDh5, 000. Associations with a working annual budget of less than MaDh100,000 accounted for 80% of all associations, sharing 10% of the total financial resources available annually to nonprofits. Moreover, associations with a working annual budget of over a million did not account for more than 2.5% of all associations although it controlled 63% of the total financial resources available to nonprofits.

The same diagnosis holds true for human resources, as only 31.4% of all associations employed paid staff. Employees put at the disposal of associations did not exceed 16.5% (5,582 persons) of the total full-time professional staff (33,846 volunteering staff) and 1.6% of the total volunteer workers (352,000 regular and irregular volunteers). The daily reality indicates



that this situation has not changed.

There is a noticeable institutional capacity deficit among associations. The study conducted by the High Commission for Planning has shown that 94% of all associations do not keep accounts in accordance with the accounting standards, 78% are not members of any networks, and eight out of every 10 associations do not have a computer.

### **3. Inadequate training, lack of internal democracy, financial transparency and good governance mechanisms**

Inadequate training, weak internal democracy, lack of financial transparency and good governance are structural constraints and obstacles that are partly inherent in the structure of civic organizations. As such, they constitute a major challenge that should be overcome through institutional capacity-development, human, administrative and logistical resources development, and the upgrading of civic organizations' methodological, knowledge-based and management competencies.

In this regard, most evaluations of the status of civil society in Morocco have underlined a weak civic culture among associations and a huge gap between rhetoric and reality, especially in matters related to consensus and internal conflict management as well as financial transparency practices and acceptance of accountability. They have equally highlighted a "blatant" distinction between volunteering and professional work, an inclination to favor disorganized work in the absence of results-based work methods, inadequate training, self-seclusion, and reluctance to be open towards the other. These are all shortcomings that have negatively affected the credibility of nonprofit work and weakened its sincere commitment to the moral values of civic engagement.

This especially concerns weak governance of a great number of associations and related internal democracy issues, absence of a system for transparent administrative and financial management, control and accountability in the absence of an enabling legal environment that is compliant with



constitutional provisions and international obligations regarding rights of associations and their liberties. Other challenges include the failure to invest in enhancing the capacities of civil society activists and their empowerment and inadequate resources to boost scientific research regarding issues of relevance to nonprofit work and its current state of affairs. All this has an impact on nonprofit *modus operandi* which is based on activities in lieu of projects. This equally contributes to the absence of a strategic vision that has clear plans in perfect synergy with the objectives set by the associations. Ideas should not only be produced and remain on paper. Rather, progress in accomplishing target goals is measured through quantitative and qualitative monitoring indicators. Associations should clearly delineate their target areas and evaluate their internal and external performance and management styles, with the ever-persisting infiltration of the legacy of undemocratic practices of internal leadership, lack of transparency in decision-making and lack of direct links with citizens; hence, the critical need for strengthening the pillars of a democratic culture in civil society practices, developing its rhetoric, improving its performance, and reviewing its strategies.

Nevertheless, all this is contingent upon the extent of existing freedom, trust and practical implementation of real partnership values. The stronger these are, the more civil society organizations will be capable of giving, will show maturity, commitment, voluntary engagement, and professional performance.

There exist disparate compliance styles among civil society associations regarding public funding. There is the noncompliant style, which fails to comply with the accounting rules requiring beneficiary associations of public funding to submit a financial accountability report of the funds received (the 2008 annual report of the Supreme Auditing Court, Part II). This is widespread among beneficiary associations receiving funding budgeted under the regular public expenditures. 97% of associations receiving funding did not submit the justified financial report provided for by Article 32 bis of the Associations Act (Dahir No.1.58.376 of 15

November 1958), the decision issued on 31 January 1959 and Prime Minister's Circular No.7- 2003). In contrast, there is the binding financial accountability reporting style regarding public funding under public expenditures special account earmarked for the National Human Development Initiative (NHDI). All NHDI beneficiary associations are required to file financial statements regarding the spending of project earmarked funds. In addition, these accounts are subject to the twin-track routine control of the General Inspection Office of Territorial Administration and the General Inspection Office of the Ministry of Finance as part of the annual auditing requirement pursuant to Decree No.205 - 1017 dated 19 July 2005.

Cases of conflict of interest exist among many beneficiary associations of public funding in the absence of any explicit legal provision in the law on associations or public funding procedures interdicting such cases, mainly with respect to local commune grants.

#### **4.The Absence of equity, equality of opportunities and transparency in State treatment of civil society organizations**

Elements of the historical trajectory of civil society in Morocco shows an infiltration of State clout and economic and political interests into civil society organizations, which led to the domination of resources and of the different forms of nonprofit support by “interest groups” that are made up of influential persons and persons who hold privileged access to networks of powerful political and economic relations.

As a result, only 20% of the overall number of associations benefit from public funding compared to more than one out of every two associations In France. This state of inequalities has engendered an institutional and organizational structure that is wrought with nepotism and shorn of transparency, equity, and equality of opportunities; hence, widening the disparities in terms of resource allocation between the few associations, which are powerful and enjoy privileged relationships with decision-

makers, and the throngs of associations which have not been afforded the opportunity to attain prominence and success.

The last decade has equally seen an unprecedented overlap between the State and civil society associations at the community level. Bluntly put, there has occurred an alliance of clout between local authorities and persons, who are purportedly engaged in community civic work. This observation was confirmed by the study of the High Commission for Planning, indicating four out of every ten associations were established after 2005, the date of the launch of the National Human Development Initiative. The National Human Development Observatory's evaluation of the first phase of the Initiative shows that, more often than not, the short-listing of beneficiary associations within local governance bodies is influenced by authorities' advice and on the basis of unclear criteria that are centered around the logic of the security approach and the will to preemptively control the decisions and conduct of civil society activists.

This last remark should not lead us, however, to deny the progress made during this period by associations in the local development field. No wonder that 25% of the total number of projects funded by the National Human Development Initiative were managed by associations.

Yet, many associations, particularly smaller ones, feel discriminated against as per the fiscal privileges that are granted to public-utility associations, considering that "working for the general interest," the grounds for granting these privileges, is a goal shared among most associations, especially those supervising social welfare centers that are authorized by Act No.14- 05 on the Conditions of Opening and Managing Social Welfare Establishments, dated 22 November 2006.

It has been observed that public funding under the State's General Budget targeting associations that are active in the social sectors is relatively weak compared to the scale of the NHDI-earmarked funding during the period spanning 2005 to 2010, which accounted for 2.431bn, or an average 405 million Dirhams annually. By contrast, public funding under the State's general Budget was less than 467 million Dirhams for the period covering



2011 to 2014, which amounts to an average 117 million Dirhams annually. The picture looks much bleaker if we consider the figures presented by the Ministry of Finance during the Study Day on Public Funding, organized on 18 February 2014, which indicated that the amount of public funding targeting this type of associations did not exceed, over the past four years, 6% of the total grants earmarked for all types of associations under the State's annual General budget. Conversely, staff associations of line ministries, public institutions and the public administration sector received 6.962 billion Dirhams, or 85% of the total funds earmarked for associations. Worse still is the noncompliance with the rules of transparency, proper management and observance of the law compounded by the ever-growing phenomenon of the recourse of public authorities and local communes to establishing associations as a means to evade abiding by the rules of public financial accountability (the 2005 - 2006 - 2007 - 2008 - 2009 - 2010 - 2011 Annual Reports of the Supreme Auditing Court).

This increases the feeling of frustration among associations, especially the smaller ones, owing to their institutional inability to meet the strict financial accountability requirements that are generally imposed by public administrations regarding disbursed public funds. This is regardless of the size of the grant, the legal specificity of the beneficiary association and the volunteer status of its members, which limits the professionalism of their obligations with respect to keeping records, book keeping and accounts management (Espace Associatif's Study of Morocco's Civil Society Index, April 2011).

In addition to this, the increasing recourse to calls for proposals typically requires certain eligibility criteria that weaken associations' chances of receiving public funding for covering its field activities that are not within the purview of "the project which is tailored for the administration's eligible funding areas" (model procedures guide of line ministries). Most calls for proposals will fund the purchase of equipment or planning and construction expenses, excluding the operating expenses of associations, which, according to the study of the High Commission for Planning, accounted for

2.9 billion Dirhams in 2007 –or over 50% of the associations’ overall annual expenses.

The national nonprofit field is also characterized by the infrequent updating of public funding procedures compared to France, where revisions with the aim of simplifying procedures have reached more than 25 updates in the past 30 years (in the form of decrees, decisions and statutory orders).

Further complicating the challenges confronting associations are the myriad public funding application templates and the absence of a uniform financial accountability report template given that there is no simplified not-for-profit accounting standards.

Likewise, regulatory texts make no explicit distinction between two different scenarios for the financial interpreting of public funding targeting associations: between public-procurement-exempt funding and funding through public procurement procedures. Add to this, an incremental freeze on public funding targeting associations both at the level of the State’s overall budget and at the level of commune budgets, which negatively affects their sustainability.





**Chapter two :**  
**The Broad Directions**  
**and Recommendations**



## **Towards a Civil Society that is Apt to Take up the Challenge of “Citizen and Participatory Democracy”**

**P**articipants in the events of the National Dialogue on Civil Society and the New Constitutional Roles recommended that attempts to find solutions to the challenges confronting civil society be directed towards developing a multidimensional reform strategy. Yet, this can only be achieved through building trust between civil society, public authorities, elected councils and the society as a whole.

It is fundamental, therefore, to clearly define the goals of this reform in such a way that will delineate this set of relationships in an optimally transparent manner, which should be safeguarded by procedural measures and by a genuine will to overcome the factors of failing to work in partnership and cooperation and break away from the logic of “mutual accusations”, which often would generate feelings of mutual misgivings and mistrust among these actors.

In this regard, public authorities should take up the responsibility of acting at all levels to draw up a comprehensive, well-integrated plan for reform and the fostering of civic engagement, with a view to effectively implement the new constitutional provisions on participatory democracy. The latter has become a foundation stone of the State’s constitution system, as provided for by Article one of the Constitution:

“Morocco is a constitutional, democratic, parliamentary and social monarchy. The Constitutional regime of the State shall be founded on the separation, balance and collaboration of powers, on citizen and participatory democracy, on the principles of good governance and on the accountability of duty-holders.

The nation shall base its collective life on unifying founding principles of tolerant Islam, national unity with multiple effluents, constitutional monarchy and the democratic choice. The territorial organization of the Kingdom shall be decentralized, founded on advanced regionalization.”

### ***I - The Broad Directions***

#### **| 1. On the Relationship between Civil Society and the State**

The relationship of civil society, as an independent actor that enjoys freedom and adequate space away from the other actors, and the State, as an institutional stakeholder that has the power to enforce the law and regulate rights and liberties, is a constantly developing concomitant relationship. After the once prevailing ebb and flow dynamics characterized by mutual reserve and cautiousness’, this relationship should be, from the standpoint of “showing proof of trust”, built on the need for a shared vision between the two parties and coordinating efforts to develop cross-cutting conceptions for democracy and civic engagement. This should help allay the antagonism connoted by the ordinary usage of the term “power” juxtaposing it with the terms “human rights”, “freedom” and “citizenship”. It should likewise help overcome the illusory rivalry between the notions of “civic engagement” and “public order”.

The belief in the inevitability of cooperation between civil society and the State springs from the self-evident fact that social mobilization has become a critical necessity for safeguarding the gains of the transition into democracy that is enshrined in the new Constitution. Mobilization cannot, however, be achieved in the absence of a shared coherent vision, knowing that civil society principles and values are themselves the essence of the constitutional model of “citizen and participatory democracy”... Both of them promote solidarity, tolerance and initiative, embrace pluralism, diversity and freedom, and commit themselves to a good, fair, peaceful and



balanced management of differences and conflicts along with the adoption of the principles of democracy, citizenship, the rule of law and the general interest.

It is on this basis that civil society-State relationship should, in the foreseeable future, develop into a strategic partnership for the smooth and sound implementation of the provisions of the Constitution on building a sound governing regime that is founded on justice, freedom and democracy. For this relationship to be transparent and credible and to rise above all that could wear it away and weaken it, it should be based on frankness, maturity and efficiency, and steer clear from overlaps and conflicts of interests as well as from interlaced influence seeking political control and the creation of allegiances that are bound by interests other than the general interest or the common good, away from the ethical parameters of civic action.

It is worth pointing out here that any attempt to contain and fetter civic action is no longer acceptable or productive in the age of technological alternatives and social media networks, which have offered civil society, and youth initiatives in particular, a wide-scale, real-time expression and communication outlet, breaking free from any censorship that could limit its contributions to the fostering of the culture of protest and denunciation of all forms of abuse and social injustice as well as to the monitoring of public policies. All this should give rise to new emerging elites, free from any preconceived ideologies, shared intellectual and political convictions or the interest in the issues of limited resources, funding and public outreach capacities, which are generally raised by the conventional civic culture.

This relationship should be based on a rethinking of the position of civil society and its societal roles for a more spontaneous, free, flexible and efficient civil society with an impact on society and the State.

The conception of civil society roles in light of the Constitution should consist in two main entry points, which are: achieving stability, in the sense of trust and confidence, in the relationship of the individual, female and male citizen, with the society and with power, and adaptability to factors of change and transformation entailed by the constitutionally enshrined

democratic model; in other words, “the sustainability of stability” is conditional upon social justice, the redistribution of power and wealth, the rule of law, the spreading of social accountability, and correlation of responsibility with accountability.

Civil society should not be viewed, in the future stage, as a substitute fulfilling the roles of other actors, particularly parties, trade unions and professional organizations; just as its roles should not be exaggerated in the democratic change process, as its performance can only be optimal with the existence of complementarity of roles in the outcomes of the rest of the actors involved in the mediation between citizens of both sexes and the State.

The conclusions drawn from this analysis emphasize that civil society-State relationship should be based on seven rules of good governance:

- ▶ Independent, free and responsible civic engagement ;
- ▶ The rule of law ;
- ▶ Transparency ;
- ▶ Equality and equal opportunities ;
- ▶ Questioning and accountability ;
- ▶ Consensus-building ;
- ▶ Meeting social expectations and fulfilling all citizens’ aspirations and daily needs for dignity, prosperity and social justice.

## **2. On Understanding the Intents and Purposes of the Constitution Regarding Civil Society**

Before looking into civil society roles with regard to Before looking into civil society roles with regard to participatory democracy, some questions should be answered as a prelude to this topic. For instance, what did the drafters of the Constitution of July 2011 mean by civil society? What are the participatory democracy channels and actions that the Constitution has provided for?

Civil society is understood to refer to that existing space in the process of organizing society together with the State, parties, and trade unions. Put differently, it refers to the social fabric, stakeholders, civic organizations and non-institutional mechanisms which work along with public authorities and elected councils, and in parallel to their official bodies, but which do not work under their banner.

In more simple words, civil society is the sum of associations, nongovernmental organizations and the persons who are voluntarily involved in activities of general interest, or who are committed to the defense of the values and constitutional intents and purposes of participatory democracy. This includes advocacy; defense of the fundamental rights of female and male citizens; provision of social services as with the case of associations interested in development, poverty eradication, social welfare, cultural and sports activities; governance, public policy monitoring and oversight, the fight against corruption and bribery and the safeguarding of public funds.

### **3. Towards Instilling the Culture of Initiative and Enhancing Civil Society Presence in the Society and in Public Policy Monitoring**

Attempts in this direction should base public authorities' approach to civil society roles in the realms of participatory democracy, the defense of human rights and freedoms and development on four pillars:

- ▶ Civil society should be independent and robust
- ▶ It should enjoy greater freedom of action
- ▶ It should be provided with the requisite institutional competencies and support for an impactful and efficient civic engagement
- ▶ Lastly, it should be a pivotal actor that is entrusted with social responsibility in the fields of grassroots democracy, mediation between society and State institutions, public policy monitoring and social accountability, the fight against corruption, development, the eradication of poverty, exclusion and social vulnerability.

### **4. Towards Bolstering the Independence of Civil Society Organizations and their Empowerment in Order for them to Play their Leading Roles in Achieving the Constitutional “Citizen and Participatory Democracy” Model**

Since these founding principles are based on a pragmatic perspective that takes into account the pivotal position of civil society associations in spearheading the awaited societal transformations, a new, realistic concept of State-Civil society strategic partnership should be developed.

This partnership seeks to accomplish the constitutional objectives and the new provisions on participatory democracy; thereby, setting reasonable conditions that enable these organizations to effectively and substantially contribute to public policy development processes.

This repositioning of civil society organizations entails introducing a set of principles and directions that extend the partnership scope to providing technical support and capacity-development as well as all the aspects of enhancing their societal roles of citizen engagement and the defense of civil, political, economic, social, cultural and environmental rights.

The move towards building a long-term strategic partnership requires the State to support nonprofit work through adopting the multi-year partnership method that is based on annual project evaluations and outcome monitoring.

Enabling civil society organizations to occupy a strategic position in spearheading the move towards participatory democracy implies, in addition to support and capacity-development, a real and effective involvement of these associations in the different territorial governance bodies, particularly selection committees of beneficiary associations receiving public funding under line ministry budgets or commune budgets. A results-based partnership between the State and civil society organizations with respect to the implementation of constitutional provisions on participatory democracy should allow us to define the eligibility criteria for receiving public funding



on the basis of four points of departure:

- ▶ Basing eligibility criteria for public funding on the principle of trust in the aptitude of associations, without setting restrictive criteria that are inimical to mobilization and initiative ;
- ▶ Standardizing these criteria following the recommendations of the Supreme Auditing Court's reports ;
- ▶ Compulsory conformity, in reporting public funding expenses, to a uniform financial accountability template that is tailored to the legal specificity of associations ;
- ▶ Requiring associations to routinely submit periodic and final reports on the use of public funding.

## **5. Mutually Binding Political and Ethical Contract for a Future partnership Based on the National Charter on Participatory Democracy**

The strategic dimension of partnership between the State and civil society means that the critical challenge of the relationship between the two cannot solely be addressed by a set of legislations but rather by political and ethical commitments. As a result, mutual trust and the belief in the benefits of collaboration are two values that safeguard cohesion, stability and continuity.

One of the major entry points of attaining this ethical and political goal lies in the translation into action of the constitutional model of participatory democracy as one of the four foundations of the constitutional regime of the Kingdom of Morocco.

Nevertheless, the translation into reality of this form of democracy is confronted with major challenges, namely:

- ✓ The epistemic and cultural command of the significations of participatory democracy and its implementation instruments and action areas vis-à-vis the processes of representative democracy,



the mechanisms of public decision-making and the implementation of public policies ;

- ✓ Mutual trust among actors ;
- ✓ The existence of a legal framework for safeguarding rights and duties ;
- ✓ The existence of political will for opening up to new, unfamiliar actors within the conventional processes of the work of the State and its public institutions ;
- ✓ Rallying the support of the wider society in such a way that safeguards and strengthens this democracy and asserts its reason for being.

## II - Recommendations

### 1. Recommendations Regarding the Constitutional Provisions

These recommendations address three outline bills:

- 1 - Motions in the field of legislation ;
- 2 - Petitions ;
- 3 - Conducting public consultation.

The drafting of these outline bills draws from three underlying principles:

- ▶ The constitutional provisions regarding participatory democracy and civil society ;
- ▶ The proposals and ideas put forward by civil society and public institutions ;
- ▶ Comparative legislation and international best practices.

They also adopted a rights-based approach that is based on:

- ▶ The interrelation of rights and duties ;
- ▶ Building a balanced relationship between civil society and the constitutional institutions with a view to ensuring complementarity between representative democracy and participatory democracy ;
- ▶ Adoption of clear and accessible procedures for presenting

petitions and legislative motions ;

- ▶ Undertaking to provide the legal protection for the signatories of petitions and motions and provide financial and technical support to them.

Five key challenges were raised in the drafting of the two outline bills on petitions and motions, which are:

- 1- Comparative legislation does not offer one unique version but presents various, often diverging, options;
- 2- It is difficult to define the identity of eligible initiators of petitions and motions, given that the Constitution does not explicitly grant this right to associations as opposed to the right of female and male citizens;
- 3- Motions are not of equal rank to “a legislative initiative,” which falls within the competence of the Government and the Parliament. This necessitates developing the motion into a bill;
- 4- Adopting electronic signature as part of the legal procedures is unfeasible since it raises the issues of the authentication, reception and followup of motions and petitions;
- 5- The right of appeal against public authorities’ decisions raises a legal challenge, especially in relation to the Parliament which is not an administrative authority.

### *1.1. Recommendations Regarding Motions*

Given that Article 14 of the Constitution merely refers to female and male citizens without any restrictions, the legal identity of motion initiators (those who are eligible for initiating a motion) can be defined as all female and male citizens enjoying full civil and political rights. This definition does not, thus, stipulate the criterion of being an eligible voter.

On this basis, this definition does not exclude legally established civil society organizations from the exercise of this right as its members can participate, as physical persons, in presenting motions, as initiators or within the framework of “a Motions Committee” in charge of collecting

signatures and communicating with the competent authorities.

Since presenting motions entails organizational, mobilization and coordination efforts across the country, there is need for allowing motion initiators to set up “a motions committee,” a structure that is composed of nine citizens entrusted with coordinating the process of presenting motions, particularly the collection of signatures and communication with public authorities.

Pursuant to Article 14 of the Constitution, the scope of application of motions includes the fields falling within the Parliament’s legislative competence. Thus, a motion may propose a new legislation or seek to amend or abrogate an existing law.

For better regulation of the scope of motions, the following fields have been excluded:

- ✓ Constitutional amendment ;
- ✓ General amnesty ;
- ✓ The legal regime for issuing currency and the Central Bank regime ;
- ✓ The rules of procedures of the two houses of Parliament.

To organize the procedure of receiving motions, five simplified eligibility conditions have been adopted. These are:

- ✓ The topic of the motion should fall within the legislative competence of the Parliament as provided for by the Constitution ;
- ✓ The motion should not include anything that runs counter to the national founding pillars, the constitutional provisions, or the international covenants and treaties which the State has ratified;
- ✓ It should not seek to jeopardize the constitutionally enshrined fundamental rights and freedoms;
- ✓ It should seek to achieve general interest

- ✓ It should fulfill the substantive and formal conditions set by the organic law on legislative motions.

As to the procedure of presenting motions, the following rules have been established:

- ✓ Allowing for the drafting of the motion in either Arabic, or Amazigh and in both of them
- ✓ Collecting a minimum signature threshold of 25,000 citizens that are distributed equally among the different regions, which should not be less than a third of the regions of the Kingdom, considering that this law shall be applicable nationally.
- ✓ Guaranteeing the right of Moroccans residing abroad to present motions, while setting, by a regulatory text, the conditions for the collection of signatures
- ✓ Opening up the possibility of accepting electronic signatures in accordance with the laws that are in force
- ✓ Requiring signature authentication by competent authorities so as to ensure that the signature collection process is responsible and serious.

To promote citizen initiatives in this regard, motions may obtain public grants or seek other sources of funding in accordance with the laws applicable to associations, requiring the Motions Committee to submit a financial report, which should be addressed to the speaker of either house of Parliament, as may be the case, within a maximum deadline of one month.

This report must consist of documented proof of funding and expenses related to motions.

Since motions relate to legislation, it is recommended that the possibility of assigning the treatment of motions to competent authorities other than the Parliament should be ruled out. In this respect, it was recommended that motions be first filed with the Bureau of the House of Representatives or of



the House of Counselors, depending on the subject treated.

Upon filing, the speaker of the concerned house will forward the motion to the board of the house, which shall examine the motion's fulfillment of eligibility conditions within 90 days.

On the event that the motion is rejected, the motions committee should be notified in written. It is recommended that justifying the decision of rejection should neither be mandatory, nor appealable before the court, given that legislation pertains to the realm of sovereignty and the Parliament is not an administrative entity whose decisions can be appealed against.

If the motion is accepted and seconded by at least one Member of Parliament, it is recommended that it be subject to the legislative procedure, as to its debate and approval, pursuant to the provisions of the Constitution and the rules of procedure of the two houses of Parliament.

### *1.2. Recommendations Regarding Petitions*

In an attempt to use petitions as a means of implementing the constitutional provisions on participatory democracy, its function should not be relegated to a mere grievance that citizens address to public authorities. Rather, it should be elevated to the rank of a proposal mechanism for the effective participation of citizens in the development, implementation and evaluation of public policies.

On this basis, petitions shall be defined as follows:

“A proposal, grievance or remark addressed in written by a citizen or a group of citizens who reside within or outside the national territories, individually or collectively, to public authorities, with the aim of obtaining an answer, finding a solution, or causing public authorities to act on the issue of the petition.”

Since Article 15 of the Constitution has not defined the term “public authorities”, it was recommended that the term be clearly defined in such a way that cannot limit citizens' right to address petitions to public institutions,



while possibly excluding certain special domains.

As such, the outline bill on petitions defines “public authorities” as referring to any “public moral person having the status of a public body, be it central or local, administrative or elected, and which is entrusted with a given responsibility in the drafting, implementation, execution or evaluation of a public policy”.

Given the legal nature of petitions, the proposed outline bill has opted for a broad definition of the identity of petitioners, who may be Moroccan citizens residing in the country or abroad. Moreover, it has not required that they enjoy civil and political rights; nor has it required a minimum threshold (a given number of signatures) since both the Constitution and comparative legislation infer that it is a freedom that may be exercised individually or collectively.

For legal considerations, weapon carriers and public servants affiliated to administrations or public institutions, whose special laws interdict the exercise of the right to join trade unions, have been excluded from this right.

To ensure the free and responsible exercise of the right to petition, the outline bill has guaranteed the following rights for petitioners:

- ✓ The protection from any harassment of petitioners
- ✓ Obtaining the support of citizens or foreign legal residents in Morocco
- ✓ Requiring public authorities to ensure follow-up and treatment of the petition.
- ✓ In line with the principle of the interrelation of rights and duties, stipulated by Article 37 of the Constitution, the outline bill on petitions has proposed that the mention of any calumnious, deceitful or defamatory statements or accusations in a petition should be prohibited.

Likewise, it has ruled out jeopardizing the following principles by way of addressing a petition:

- ✓ Continuity of public service
- ✓ Equality of Citizens as public service users
- ✓ Preserving public order and home and international security of the State
- ✓ Preserving individual and group rights and the right to personal privacy.

The procedure of treating petitions has been organized through five simplified conditions, which are:

- 1 - Petitions may not include anything that runs counter to the national founding pillars, the constitutional provisions, or the international covenants and treaties which the State has ratified
- 2 - The subject of the petition shall fall within the competence of the intended public authority
- 3 - The issue raised may not be –or have been- the subject of a judicial proceeding
- 4 - The subject of the petition should not seek to demand public intervention in matters that can be addressed through regular legal procedures.

Following comparative legislation practices and with a view to preserving the powers conferred on certain public authorities, such as the judiciary, the following fields should be excluded from the scope of petitions:

- ✓ Judgments regarding the Islamic religion, the State's monarchical regime and the national unity of the Kingdom
- ✓ Actions falling within the realm of sovereignty
- ✓ Matters falling within the jurisdiction of the judiciary
- ✓ Fiscal measures
- ✓ Amnesty and general pardon.

As to the procedure regarding petitions, it has been organized as follows:

- ✓ Allowing for drafting the petition in either Arabic or Amazigh or in both of them
- ✓ The possibility of enclosing a list comprising the signatures of the persons supporting the petition, who may be Moroccan nationals or legal aliens
- ✓ Signatures of both petitioners and supporters shall be subject to authentication procedures by the competent administrative authorities
- ✓ Electronic signatures may be accepted in accordance with applicable laws.

For an effective accomplishment of the petition's objective, public authorities should:

- ✓ Deliver a certificate of receipt immediately upon filing the petition
- ✓ Act to provide a response, find a solution or intervene as requested, notifying the petitioner of the course of action taken within 60 days

Strive to provide the necessary information on the progress of treating petitions through written or electronic means

- ✓ If the petition does not fall within its competence, the authority concerned shall refer the petitioner to the competent body or provide guidance as per the subject of the petition
- ✓ The intended public authority shall be liable for any act of negligence or intentional delay in the reception and treatment of petitions pursuant to the organic law on petitions. Petitioners may file a grievance with the head of the administration or the Institution of the Mediator, or have recourse to the competent judicial jurisdiction.

The outline bill on petitions has not examined the case of Article 139 of the Constitution, granting female and male citizens and associations the right to address petitions to the regional councils and the other territorial

communes, considering that legislating this right should be part of the organic law on advanced regionalization along with the other laws related to territorial governance pursuant to Article 146 of the Constitution.

### *1.3. The Recommendations on Public Consultations*

Debates of the National Dialogue on Civil Society Roles and the New Constitutional highlighted the significance of public consultation as the best implementation mechanism of participatory democracy and the fostering of citizen participation in developing, implementing, monitoring and evaluating public policies.

For these considerations, it is fundamental to provide a legal framework for regulating public consultation, allowing for the creation of real venues of communication, dialogue and partnership between citizens, State institutions and territorial communes as well as the commitment to diversity and nondiscrimination in the drawing up, implementation and evaluation of public policies.

This law should be based on a definition of public consultation that allows for regulating the different deliberation, communication and negotiation mechanisms and activities, which public authorities employ to listen and reach out to citizens, and exchange information with them; the goal being to sound out their views, expectations and needs concerning a project, plan or a public policy throughout its drafting, implementation, monitoring and evaluation stages.

Public consultation bodies are understood to refer to all permanent or provisional public institutions, committees and commissions that are entrusted with managing and conducting the different consultations spearheaded by national or local public authorities, with a view to reach out to and interact with citizens on decisions related to the drafting, implementation, monitoring and evaluation of public policies at the national, regional and local levels.

As to the goals and objective of public consultation, they can be summed up as follows:



- 1- Institutionalize the forums of communication, dialogue, discussion, and collaboration between public authorities and citizens
- 2- Foster dialogue and mutual understanding between State institutions and citizens regarding the objectives and challenges of the public management process and proactively address all potential tensions
- 3- Promote the culture of contracting between State Institutions and civil society organizations and establish the principle of results-based management
- 4- Foster the culture of volunteering, which shall be regulated by law, and cultivate the true spirit of partnership between the State and its partners, comprising civil society associations, territorial communes and economic actors
- 5- Encourage the development, honing, harnessing and enhancement of the force of proposition of civil society organizations, gearing it towards targeted sector programs and projects
- 6- Enrich the public decision-making process through widened community participation in the social, economic, cultural and political development of the country.
- 7- Mobilize human resources and social capital for a sustainable human development
- 8- Enable female and male citizens to take ownership of development programs and policies, to participation in their implementation, and become actively involved in their maintenance and improvement
- 9- Bolster and enhance good governance, deepen and strengthen transparency and integrity.

In view of the aforementioned objectives, public consultation should be an integral part of an ethical and legal system in order for it to carry out its role of a participatory mechanism that contributes to lowering the cost of public



decisions and providing the requisite legitimacy.

To this end, it is recommended that public consultation be based on the following principles:

- 1- The principle of the right to consultation, which derives from the Constitution and Morocco's international obligations regarding the fundamental rights and freedoms. The aim is to empower citizens to effectively participate in the management of public affairs, taking into account the categories for which the Constitution stipulated special provisions
- 2- The principle of independence which should characterize civil society relationship with the State and political actors
- 3- The principle of contracting, which reinforces the culture of responsibility, accountability and mutual appreciation of the rights and duties of all parties
- 4- The principle of complementarity, which helps prevent the tendency for conflict and rivalry, sometimes characterizing interactions between civil society organizations and State institutions
- 5- The principle of efficiency, given that participatory public management is expected to produce efficient policies that have a positive impact on the daily lives of citizens and on national development in general
- 6- The principle of solidarity since participatory public management is the natural forum for translating the values of equality, equal opportunities, non-discrimination, mutual help and social cohesion
- 7- The principle of proactive anticipation, in that partnership between the State and civil society organizations seeks to cultivate Moroccans' "collective intelligence" by identifying opportunities and challenges, anticipating threats, and shielding the country from crises.

As accomplishing these objectives and principles is conditional on the existence of legal rules to regulate this, the Government should enact a law-framework to organize public consultations at the national and local levels in accordance with the constitutional provisions in this regard, namely Articles 1, 6, 12, 13, 33, 37, 139, 154, 156 and 170.

It is recommended that this law-framework be centered on four key dimensions:

- 1-The objectives and principles of public consultation
- 2-The rights, roles and responsibilities of the public consultation parties
- 3- The mechanisms and forms of public consultation
- 4- The organization and powers of the local and national consultation bodies.
- 5- Civic and citizen consultation mechanisms.

It is recommended that the structure of public consultation bodies be organized in the following manner:

### ***A. Public consultation bodies at the national level:***

1. These bodies shall be set up by central public authorities in the form of committees, councils or any other institutional structure so as to conduct public consultations on national public policies, decisions, programs, plans, and legislations that are of strategic structural nature or that are related to the rights and freedoms of female and male citizens
2. National public consultation bodies shall bring together public stakeholders representing the State and private stakeholders, representing citizens, civil society organizations, the private sector and all stakeholders involved in the project or the policy
3. National public consultation bodies shall be independent public organizations that are entrusted by public authorities with

conducting consultations in the different stages of the process of drafting, implementing and evaluating public policies, decisions and budgets

4. The established consultation bodies shall enjoy full independence and shall be allocated the needed funds for accomplishing their mission

5. The gender approach, youth representation and the dimension of sustainable community development shall be taken into account in the establishment of central public consultation bodies

6. National consultation bodies must have their own offices within the national institutions spearheading the consultation process and must be endowed with adequate and specialized human resources

7. Public authorities shall provide consultation bodies with the needed information and documents for the accomplishment of their tasks

8. The said Consultation bodies shall carry out their work in accordance with the rules and conditions to be stipulated by a regulatory text, which shall take into consideration the specificities of the field and sector in question and the nature of the objectives and expected outcomes.

### ***B. Regional and local consultation bodies***

These are:

1. Organizational and administrative structures set up by line Ministry branches, public institutions and territorial communes, depending on their local specificities and their human and administrative resources.

2. Entrusted with organizing, spearheading and managing consultations with citizens of both sexes and civil society stakeholders with the participation of associations in the process of making decisions, developing public policies, programs and budgets (through disseminating information / public hearing / receiving remarks and suggestions / listening sessions / social accountability sessions...)

3. Territorial commune councils, State local branches and all public institutions carrying out their work at the regional, provincial or commune level shall endeavor to involve citizens, associations, social and economic stakeholders in the drafting, implementation and evaluation of the programs that fall within their competence in the following manner:

- ✓ Territorial commune councils and the above-mentioned local public authorities shall, on their own initiative, issue a public call for participation, which shall be circulated among all stakeholders of the project or program under consultation. The call shall take the form of a notice that shall be disseminated, by all possible means, to all stakeholders and rights-holders, in a nondiscriminatory, transparent and equitable manner.
- ✓ Citizens, associations, and social and economic stakeholders may initiate consultation with competent authorities on a project or program that is of interest to them
- ✓ Territorial commune councils and the said local authorities shall conduct and manage public consultations through their administrative units. The latter shall be in charge of receiving citizens of both sexes, associations and all local stakeholders, collecting their proposals and views regarding the project or program in question, and providing followup
- ✓ Territorial commune councils and the said local authorities shall disseminate information, data and documents regarding the policies, decisions, projects and budgets under consultation, through all accessible means such as by mail and on their official websites
- ✓ Competent authorities shall hold consultation meetings and workshops so as to allow citizens, associations and social stakeholders to express their views and present their proposals
- ✓ Competent authorities shall strive to diversify and simplify public consultation methods and channels, according to the particularity of target geographical area and the conditions and state of female and male citizens



- ✓ The results of the public consultation and the outcome decisions and processes shall be disseminated through all possible means.

Given that successful public consultations are conditional on establishing the mechanisms needed for the effective running of consultation bodies, setting up consultative committees within local public facilities has been proposed. These committees shall adopt the participatory enquiry method (community situational analysis, encouraging the creation of neighborhood councils, local outreach and vigilance committees, strengthening civic and citizen public consultation mechanisms, which refer to all the mechanisms and structures set up by citizens, civil society organizations and social stakeholders with a view to coordinating, spearheading and organizing their participation in the public policies and decisions as well as the development plans at the local, regional and national levels, within the framework of participatory democracy and in accordance with the constitutional provisions.

The creation of a digital platform for the exchange of information and expertise on participatory management and the enhancement of the role of national organizations and agencies in promoting volunteerism and networking have likewise been proposed, providing a support and guidance system and technical assistance in the field of public consultation to associations. The creation of local branches of the Ministry in Charge of Relations with Civil Society has been proposed within the framework of promoting the policy of administrative decentralization.

## **2. Recommendations Regarding the Nonprofit Environment**

From the viewpoint of the participants of the different public consultation activities of the National Dialogue on Civil Society and the New Constitutional Roles, the will of civil society associations to exist and develop independently from such stakeholders as the State, parties and trade unions. This is a crucial demand and a key challenge for the empowerment of the civil society movement in order for it to make a significant, effective and



voluntary contribution to the process of institutionalizing the instruments of participatory democracy of the July-2011 Moroccan Constitution. This entails addressing four major issues:

- 1.The issue of non-compliance with the law regarding the creation of associations and public regulation of the nonprofit environment**
- 2.The issue of the lack of transparency in public funding and lack of fair treatment and equal opportunities in handling administrative transactions of all types of associations, including public-utility associations and weak fiscal incentives that are conducive for sharing nonprofit work burdens between the State and society**
- 3.The issue of the absence of a legal framework that recognizes volunteering, institutional capacity-building, human resources training and enhancing cooperation between associations**
- 4.The issue of nonprofit internal democracy and the compliance of its financial and administrative practices with the rules of transparency, control and accountability.**

Given the difficulty of providing a legal answer to these four issues, the proposed outline bill for regulating the nonprofit field sets out to underpin three fundamental premises:

- ✓ The freedom of association as a forms of civic engagement in public life
- ✓ Associations' right to access all types of public support
- ✓ Good governance and the correlation of this freedom and right with responsibility and accountability.

### *2.1. Recommendations Regarding Freedom of Association*

Achieving freedom of association passes through the creation of a legal and institutional not-for-profit environment, in accordance with the constitutional provisions and international obligations with regard to the human rights field in general and the freedom of associations in particular, which entails:

- ✓ Working on enforcing the law, especially in relation to the associations that have as yet to be given the provisional or the final certificate of receipt

- ✓ Implementing court decisions in favor of appellant associations against administrative decisions regarding their establishment or renewal
- ✓ Requiring concerned authorities to deliver certificate of receipt of the legal application file for the establishment of associations within a set deadline determined by the law
- ✓ Limiting public authorities' discretion to prohibit the creation of a given association. To this end, the law should clearly determine the special cases that warrant the recourse to this decision, provided that these cases should not compromise the rights guaranteed by the Constitution and the International Covenant on Civil and Political Rights
- ✓ Explicitly requiring public authorities to justify, in written, the decision of banning the creation of a given association within a set deadline, while granting founding members of the said association to appeal the decision before the court
- ✓ Simplifying the procedure of creating local branches of national associations that enjoy legal capacity
- ✓ Abrogating criminal penalties of violating the provisions of the Law on Associations by explicitly stipulating procedural protections such as issuing a written notice of the breach granting the association committing it the opportunity to make rectifications before subjecting it to administrative penalties
- ✓ Extending the Constitution applicable to national associations to foreign associations pursuant to Paragraph 3 of Article 30 of the Constitution, stipulating that "aliens enjoy the same fundamental freedoms granted to Moroccan female and male citizens".

Revising Dahir No.1.58.376 on the Freedom of Association dated 15 November 1958 (3 Jumada I 1376), so as to underline the notification option that constituted the underlying principle of the law upon its promulgation

in 1958 and reinforce the legislative attempts that have been made in this regard since 2002.

Incorporating this amendment in a law that shall comprise all the legal provisions on the nonprofit environment, which are:

- ✓ General provisions
- ✓ Establishing associations
- ✓ Public support, funding and partnerships
- ✓ The National Agency for Nonprofit Capacity-Development
- ✓ Fundraising
- ✓ Penalties
- ✓ Legal and legislative harmonization.

In view of the UN standards for nonprofit organizations and voluntary associations, it is recommended that the legal definition of associations be based on five provisions:

- ✓ Possessing organizational structures (a general assembly, board of directors...)
- ✓ Be different and distinctive from public authorities and their formal administrative structures
- ✓ Self-management and moral and financial independence
- ✓ Not-for-profit goal
- ✓ Freedom and the non-binding nature of participation.

To overcome the legal and administrative obstacles listed in the section on the challenges of civic work, the following rules are proposed as the foundation of establishing associations:

- ✓ Assigning the public prosecutor office at the court of first instance within the jurisdiction of which the main offices of association are located to be the administrative body in charge of receiving legal

notification application files with reference to the establishment of associations

- ✓ Respecting the procedure of establishing associations by delivering a certificate of receipt immediately upon receiving the legal application file without any delay or postponement
- ✓ entitling associations to enjoy the rights of lawful associations immediately after its board receives the certificate of receipt, including conducting the activities set forth in its articles of incorporation
- ✓ Interdicting the refusal of the notification of incorporation except by virtue of a court decision.

To highlight the diversity of not-for-profit organizations and bodies that are organized by a special law, five key organizational structures should be distinguished:

✓ **Associations and nongovernmental organizations** : a civic nongovernmental organization which is of a national or local scope. It is a moral person enjoying administrative and financial independence, which is established on the voluntary agreement of two or more persons to collaborate for the accomplishment of development, educational, social, rights-based or cultural objectives or any other lawful objectives, other than for the goal of distributing profits among them.

✓ **International associations and nongovernmental organizations:** Any organization that is established in Morocco and that is made up of physical or moral persons, who are solely Moroccans or Moroccans and foreigners, with the goal of carrying out a national or international activity, for purposes of general interest other than the distribution of profits, and which do not conflict with the laws of the Kingdom of Morocco

✓ **Foreign associations and nongovernmental organizations:** Any chapter of an association or a nongovernmental organization



whose headquarters are based abroad. This chapter is established in accordance with the provisions of this outline bill.

✓ **Public-benefit foundations:** A moral person created by earmarking funds and charitable gifts by one or more physical or moral persons, or by a private entity, and registered in the name of its trustee or the person entrusted with its articles of incorporation. This status is established for an indeterminate period of time seeking to accomplish goals that benefit the wider society and objectives, other than the distribution of profits among its members

✓ **Network associations, unions, leagues, federations, coalitions and coordination of associations:** The coalescing, joining of forces and coordination of a group of associations with the aim of accomplishing shared objectives.

Creating a robust nonprofit field passes through the conscientious distinction of the different forms of civic volunteering. Therefore, it is fundamental to differentiate four statuses:

✓ **Volunteer work:** Any activity exercised on a voluntary basis, bound by contract or not, which seeks to achieve goals of general interest and which is conducted by individuals in associations, unions, or networks of associations by way of participating in the activities, programs and management of the associations.

✓ **Contractual volunteering:** Any volunteering work carried out on the basis of a written contract, which defines the rights and obligations of the contracting parties and which shall be regulated by a special law on contractual volunteerism.

✓ **Membership in associations:** Any relation of “affiliation” binding a physical or moral person with one of the aforesaid organizations, and which is based on adherence and, in many cases, on paying a fee. Membership is disclosed through lists and by delivering cards. This results in a set of rights and obligations for their bearers pursuant to the bylaws of the association.

✓ **The intern:** A person who is engaged by an association to undergo an internship period for not more than one year, volunteering in its management and programs in return for a certificate of completion of the internship.

The principle of “State duty to protect human rights” guarantees to associations the right to freely exercise civic work following a rights-based approach which is founded on six fundamental rights:

- ✓ The right to establish an association
- ✓ The right to work freely and independently with no State interference
- ✓ The right to freedom of expression
- ✓ The right to communicate and collaborate with other civil society organizations, the private sector, international organizations, and other international development programs of other States or of United Nations agencies
- ✓ The right of peaceful assembly
- ✓ The right of mobilizing and obtaining resources, regardless of the source –be they individuals companies, governments, or international nongovernmental organizations.

In view of these six fundamental rights and pursuant to the constitutional provisions on public liberties and civil and political rights, associations should enjoy the following rights:

- 1.The right to initiate a law suit, acquisition, ownership and the management of resources and properties, opening bank accounts among other rights that are crucial for the carrying out of activities
- 2.The right to receive public support for institutional capacity-development and human and administrative resource development in accordance with the conditions and standards set forth in the law
- 3.The right access public media in accordance with the applicable laws in force

- 4.The right of access to public media in accordance with the applicable laws in force
- 5.The right to an active contribution to civic diplomacy for the defense of the just causes of the country and its vital interests
- 6.The right of access to information and data pursuant to Article 27 of the Constitution
- 7.The right to advance the social, cultural and economic conditions of citizens
- 8.The right to use the public facilities, rooms, centers and equipment targeted at social, educational cultural, artistic and sports activities
- 9.The right to petition pursuant to the law regulating this right
- 10.The right to present motions pursuant to the law regulating this right
- 11.The right to consultation and to local, regional and national participation in the drafting, implementation and evaluation of public decisions, projects and programs undertaken by elected institutions and public authorities.

In addition to these rights, associations should enjoy the freedom of:

- ✓ Receiving charitable gifts, bequests, assistance, and monetary and in-kind donations made by physical persons and the private sector
- ✓ Use of the revenues gained from properties, activities and investments
- ✓ The use of fundraising revenues in accordance with the law
- ✓ Receiving foreign donations and support
- ✓ Opening one or more bank or postal account in their name, which can only be subject to a freeze of accounts by virtue of a court decision.

In contrast to these freedoms and rights, associations have to abide by the following obligations:

- ✓ Adopting, upon establishment, a Constitution that must include the name of the association, its official address, objectives, the rights and obligations of its members, its governance structures. It must lay down the rules of internal democracy with regard to its management, appointment to board positions, conflict resolution, and the rules of financial and administrative transparency and integrity
- ✓ Respecting the shared cultural values of the Moroccan people as provided for by the Constitution, chiefly those related to the Islamic religion, national unity of multiple affluents, constitutional, democratic, Parliamentary and social Monarchy, and the democratic choice
- ✓ Observing the principle of democracy, pluralism, equality, and human rights enshrined in the Constitution and the internal conventions ratified by Morocco.

To safeguard nonprofit work from the pitfalls that could hinder its adherence to the democratic value system that is imbued with the culture of volunteering, tolerance, solidarity, freedom and equality, associations are prohibited from the following acts:

- ✓ Adopting in their Constitution, statements, programs or activities any form of discrimination on the basis on sex, color, faith, culture, social or regional background, language, disability or any personal status of any kind
- ✓ Adopting, in their Constitution, statements, programs or activities, any condoning or incitement to violence, hatred, and extremism or seeking to undermine the Islamic religion, the monarchical regime, the constitutional principles, the democratic pillars, the national and territorial unity of the Kingdom, or the fundamental rights and



freedoms provided for by the Constitution and the international human rights law

- ✓ Engaging in commercial activities for the sake of distributing profits among the members.

### *2.2. Recommendations Regarding Access to the Different Forms of Support*

Public support is understood to refer to in-kind, technical logistical and financial assistance targeted at associations by the State, territorial communes, public institutions and semi-public companies with the goal of enhancing their institutional capacities and human, administrative and financial resources, developing their volunteer activities, and providing support in the accomplishment of their projects and their roles in the fields of citizen participation in public policies, human rights, development, culture, sports, the environment, social outreach, welfare and solidarity.

Public support should be based on criteria of eligibility, equal opportunities, transparency, competition, competence, and funding value.

Public support to associations is founded on the following principles:

- ✓ Public support to the capacities of associations and their financial, administrative and human resources is a right of all associations that have filed the legal notification of establishment
- ✓ This support shall be subject to the rules of transparency, good governance, accountability and control provided for by the Constitution and applicable laws, with the need for adapting them to the nature of the diverse and disparate voluntary not-for-profit associations
- ✓ Establishing legal and institutional guarantees for attaining equity and equality of opportunities in obtaining public support and funding and partnerships
- ✓ The right of access to information related to funding and partnerships.

- ✓ Setting transparent management of associations and the observance of the principles of internal democracy as one of the prerequisites of forging partnerships
- ✓ Granting associations appropriate tax and customs exemptions that are tailored to the nature of their work and activities in accordance with the applicable laws that are in force
- ✓ Establishing special provisions for the associations of persons with disabilities with regard to public support, funding and partnership that take into account their specificity
- ✓ Setting special provisions for associations in rural areas, taking into consideration their geographical conditions
- ✓ The standards of public support shall be determined by a decree.

To facilitate the associations' training and mentoring roles and enhancing their social visibility, public authorities should allow associations:

- ✓ To benefit from the services of public sector servants within the framework of the "status of Mise à la Disposition (personnel assignment to a nonprofit or other entity), in accordance with the conditions and formalities to be determined by a regulatory text
- ✓ To benefit from training programs and professional degree tracks jointly organized by the administration and universities on institutional capacity-development and enhancing the accomplishment of their roles, in accordance with the conditions and formalities to be set forth by a regulatory text

To use, free of charge, within accessible resources, public conference owned by the State and the territorial communes for the organization of their activities, in accordance with the conditions and formalities to be set forth by a regulatory text.

To secure the right of association to access public support, it is recommended to explicitly stipulate that the State, territorial communes, public institutions and public and semi-public companies allocate, in their annual budgets, grants to support associations that have filed the notification of establishment.

The total annual funds earmarked for supporting associations should be recorded in the State's annual budget, to which an annual report on the disbursed grants shall be annexed.

Public funding shall be granted on the basis of the two following rules:

- ✓ To support the associations' activity and cover their operating and capacity-development expenses following a request for funding submitted by the association
- ✓ To implement projects that are of interest to the granting public entity following a call for proposals made by the granting entity.

Contracting conditions, fund disbursement modalities and uniform templates of the calls for proposals shall be determined by a decree that shall annul the Prime Minister's Circular No.72003/ on Partnerships between the State and Associations, dated 27 July 2003.

By partnership, we mean a contract concluded for a maximum period of three years between a granting public entity and an association or a network of associations, the latter being a private partner entrusted with the public management for its institutional capacity-development or for the carrying out of a project that is part of the priority areas of the granting public entity. Partnership areas include all matters related to sustainable human development and democratic development, namely:

- ▶ The development of the culture of citizenship and democracy.
- ▶ The promotion of individual, collective and group human rights.
- ▶ Social, cultural, educational, economic and environmental development.
- ▶ Enhancement and promotion of citizen engagement.
- ▶ Fostering of civic behavior and the culture of volunteering and solidarity.
- ▶ The drafting, implementation and evaluation of public policies and services.
- ▶ The drafting, implementation and evaluation of commune

development plans.

- ▶ Governance and the promotion of the culture of transparency and social accountability.
- ▶ Parallel diplomacy and the defense of national causes, interests and unity.
- ▶ Combating poverty, marginalization and social exclusion.
- ▶ Integration of persons in critical situations.
- ▶ Promotion of scientific research and development of information and communication technologies.

To involve the stakeholders in the public grant making process through fair representation, we recommend the setting up a technical selection committee within the granting public entity, in charge of examining, evaluating, and deciding on the requests for proposals presented by associations, setting the amount of the public grant that can be allocated to the proposed project or activity.

This committee shall be composed of the chairperson, representing the granting public entity, two members representing the administration in question, and three members chosen among associations, taking into consideration gender parity in its composition.

The project and activity selection method shall be based on the criteria of transparency, aptitude, equality of opportunities, and absence of any conflict of interests.

To reinforce the associations' right to access public funding, equity, equality of opportunities and participation in the drafting, implementation, monitoring and evaluation of public policies, the existing applicable laws should be revised, namely:

- 1- The General Revenue Code, in aspects related to the fiscal incentives and income tax deductions granted to physical and moral persons making charitable gifts, bequests, aid, or donations to associations as well as the criteria and tax exemption thresholds and fees applied to movable and real estate properties registered in the name of the association, extending the tax deductions and



exemptions and registration and stamp fees, stipulated in the General Revenue Code (2010), to all “institutionally-qualified” associations instead of restricting them to the public utility status associations.

2- Act No.78.00 on the Communal Charter, regarding the participation in the drawing up, implementation, monitoring and evaluation of communal development plans and in the annual budget preparation of construction and equipment expenditures and grants targeted at associations.

3- Act No.08.45 on the Financial Organization of Local Communes and their Groups, requiring the incorporation of a report on the obligations of territorial communes concerning the annual funding of associations in their administrative accountability.

4- Act No 06.47 on the Fiscal Regime of Local Communes, dated 3 December 2007, with regard to exempting associations and their nonprofit transactions from communal fees

5- The Organic Law on the State’s Annual Budget, namely the annexing of a report on the State’s funding obligations of associations to the Budget Review Act and Performance Auditing, along with the possibility of allowing associations to participate in the discussion of the annexed report.

### *2.3. Recommendations Regarding Good Governance and the Correlation of Freedom of Association and the Right to Access Public Funding with Responsibility and Accountability*

The principle of the interrelation of responsibility and accountability requires that beneficiary associations from public funding submit to the granting entity an annual financial report no later than 31 Mars of the subsequent year. The report must indicate the amount of the received grant, the expenses incurred as per the set spending schedules and in accordance with the formalities and the objectives set forth in the concluded partnership agreement.

If the beneficiary association fails to submit a report on the public funding received, it forfeits its right to receive public funding of whichever type.

Associations should comply with the financial control and accountability system to be established by a regulatory text, which shall be drafted by the Finance Department. To ensure that it is easy to use, this financial control and accountability system should take into consideration the legal specific of associations, their flexible and voluntary nature, and the scope of their investments.

Keeping the principles of transparency and proper management in view, associations should do their accounting in accordance with the aforementioned accountability system and should keep their books in the manner stipulated in their Constitutions and bylaws and in compliance with their contract obligations with their partners. They should keep a record of all the financial accountability documents that are related to public support, funding and partnership for five years.

In the same vein, beneficiary associations from public or foreign funding or of both should disseminate their financial accounts that have been approved by the general assembly by all possible means, including mass media and website publicity and bulletins sent to the competent ministry in accordance with the conditions set forth in the law.

In line with the principle of the interrelation of rights and duties, associations are prohibited from:

- ✓ Using all or parts of the public grants for purposes other than those for which they have received funding
- ✓ Distributing to other associations part or all of the funding received from the State, territorial communes, public institutions or semi-public companies
- ✓ Raising and using funds to support political parties or national, regional or local candidates or to provide them with financial support. This prohibition does not prevent associations from making their positions on public and political affairs known.
- ✓ For an effective control of the use of public funding by associations,

public authorities should:

- ✓ Revise Act No.69.00 on State Financial Control of Public Enterprises and Other Entities, for the application of which was issued Dahir No.1.03.95, dated 11 November 2003 (16 Ramadan 1424, namely the auditing of public funding granted by public institutions to associations by the auditing committee provided for by Article 14
- ✓ Providing financial and human resources needed for implementing the provisions on financial control and annual auditing of associations that received public funding, namely the powers of the regional auditing courts.

### **3. Recommendations Regarding the National Charter on Participatory Democracy**

The National Charter on Participatory Democracy constitutes a framework for making mutually binding commitments regarding the implementation of the constitutional provisions of civic participation in public life, namely Articles 1, 6, 12, 13, 14, 15, 18, 19, 27, 31, 33, 34, 154, 136, 139, 155, 156, 157 and 159 in addition to Articles 160 - 170.

This charter combines both political and ethical commitments from a constitutional perspective in accordance with internationally recognized practices, adopting a reasoned insight into the legal, cultural and sociological harmonization requirements

From this angle of vision, this charter is a “viable” innovation of a Moroccan participatory democracy model boasting a dynamic system whose “optimal” performance can be achieved depending on the extent of its ability to establish constructive cooperation for sustainable human development. The latter strikes a balance between the cultural background of the channels of solidarity, mutual help and social volunteering, which were crystallized through the historical stages of the development of the Moroccan nation and longstanding civilization, between national experiences “line

ministries and the National Human Development Initiative) and modern international models of good governance, grassroots democracy, the right to development, active citizen engagement, and power devolution to local actors in matters pertaining to local development.

- ✓ The implementation of the constitutionally enshrined civic engagement through drafting feasible outline bills on motions, petitions and public consultations, bills that are not founded on deliberately inflated rights. Rather, they should be founded on a legally binding rights-based conception pursuant to what is stipulated by the Constitution and the internationally recognized human rights and fundamental freedoms covenants, treaties and conventions, with a political scope of action and legal subject matter that cannot necessarily be attributed, in their entirety, to the provisions of the legal formulation/tailoring of public policies.

This contractual framework is guided by key underlying principles, including:

- ✓ Extending the fields of citizen and civic engagement to all aspects of public life and the management of public affairs, participating in development, in monitoring of public policies (observance of transparency rules, equality of opportunities, social justice, and in protecting the dignity of all citizens and defending their individual and collective freedoms as well as their social, economic, political, cultural and environmental rights

- ✓ -Keeping in view the values, principles, and practices needed for adapting the constitutional model of participatory democracy to the international rights-based value system of human rights, namely the right to development, dignity, stability, security, freedom in its manifold individual and collective manifestations

Placing a high stake in the complementarity of roles between participatory democracy and representative democracy, which is based on solidarity rather than antagonism rivalry.

- ✓ Innovation and freedom of initiative in creating innovative



channels of implementing the constitutional model of participatory democracy

- ✓ Entrenching the democratic identity and role of civil society as a holder of constitutionally guaranteed and legally regulated rights, working independently from the other parties, responsibly contributing to the implementation of the programs after having participated in their drafting, and whose roles can in no ways be effective outside the realm of democracy. It adopts practices pertaining to its ultimate civic values.

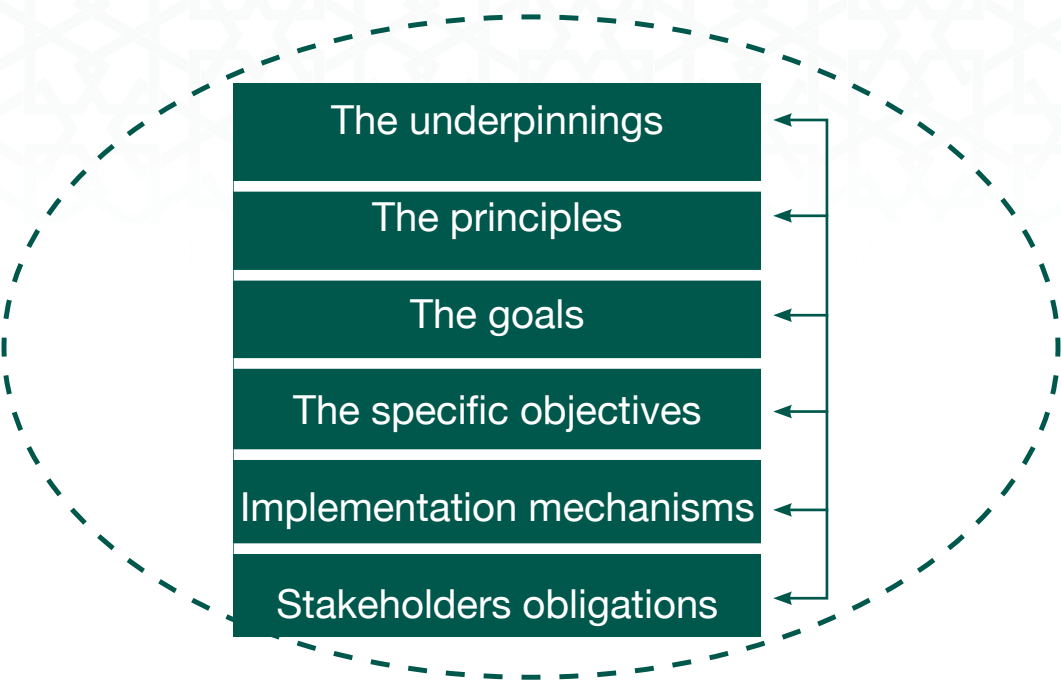
- ✓ Capitalizing on the progressively achieved milestones of Morocco's transition into democracy since the beginning of independence, tapping into the positive experience in participatory management, with regard to the National Charter on Country Planning, the National Charter for Education and Training, the recommendations of the Equity and Reconciliation Commission, the National Human Development Initiative, the National Charter for the Environment and Sustainable Development, the Social Charter, the Charter on Justice Reform among other State and civil society initiatives for the promotion of the culture of public consultation.

- ✓ To foster the results-based culture in the exercise of rights and duties regarding the implementation of the constitutional model of participatory democracy, the National Charter on Participatory Democracy has adopted a logical framework illustrated in this chart:

In this chart, the underpinnings, the principles, the goals and the specific objectives constitute the core cultural and ethical starting points for the effective implementation of the constitutional model of participatory democracy, while the implementation mechanisms represent the rules and the channels of the optimal implementation of the provisions of this model. Similarly, the stakeholders' obligations are the inputs needed for collaborating to produce this model. Additionally, the key concepts of

civic engagement and the time frame related to the public authorities' accomplishment of their commitments constitute the set of performance indicators.

The context



III. Concluding Recommendations

Along with the broad directions and the aforcited recommendations, participants in the different events of the National Dialogue on Civil Society and the New Constitutional Roles have a made a number of recommendations, which can be summed up as follows:

1. Concluding Recommendations on Parity and Positive Discrimination

Given the central importance of the value-based dimension in the implementation of the constitutional model of citizen and participatory

democracy, civic engagement, which is founded on mutual support, cohesion and solidarity, is conditional on empowering all segments of society to participate. This entails encouraging the participation of socially disadvantaged persons, owing either to their sex, physical status, or age bracket.

Aimed at social mobilization and fostering of participation, this approach necessitates the adoption of parity and positive discrimination to give women, the youth and persons with disabilities the opportunity to participate in the different governance structures of participatory democracy and in the various public consultation bodies and those related to petitions and motions. Equally important, it requires a progressive move towards adopting the gender approach in the preparation and allocation of financial resources to sector-based development programs and development plans of territorial communes.

## **2. Concluding Recommendations on Moroccans of the World**

The special status of Moroccans of the World combined with the profound changes that receiving countries are undergoing, due to the increasing international financial crisis, the mounting issues of instability, unemployment, the challenge of social and economic integration, and the emergence of new needs regarding religious guidance, cultural identity, facilitating return to the home country and providing followup and support to the youth and immigrants in critical situations, mean that public authorities should deal urgently with:

1. Developing practical tools and procedures to guarantee the rights of those female and male Moroccan citizens to participate in public consultation and civic engagement in all their forms
2. Providing followup and support to, and encourage the civic initiatives of the different associations and nongovernmental organizations interested in the affairs of Moroccans of the World,

that are based in receiving countries or in Morocco

3. Implementing and securing the right of Moroccans of the World to address motions and petitions, and their civic engagement in public life in their home country, including the right to vote pursuant to Article 17 of the Constitution.

### | 3. Concluding Recommendations on Volunteering

Given the difficulty and particular technical and management nature of the measures of implementing the mechanisms of participatory democracy, in general, and the new constitutional roles of civil society in particular, public authorities are impelled to provide the necessary means for civic participation. This could be achieved through the prompt promulgation of the law on volunteerism, recognizing professional contract-based volunteering.

*In this regard, it is recommended that this law:*

1. Draft a law on volunteerism that is based on the United Nations volunteering model and the shared objectives of international volunteering laws and policies. These objectives can be summed up in:
2. Draft a law on volunteerism that is based on the United Nations volunteer model and the shared objectives of international volunteering laws and policies. These objectives can be summed up in: to mobilize citizens to achieve development goals, support public policy priorities, develop intervention mechanisms for humanitarian and disaster relief, and foster citizenship and civic engagement and economic development
3. Establish contractual volunteering as a niche area of associations fulfilling certain conditions while setting up a system of licensing and certification
4. Adopt flexible standards that encourage associations, youth and



highly skilled persons to engage in contractual volunteer work

5. Incorporate financial and fiscal measures in the State budget and in the budgets of territorial communes, so as to incite associations to engage in this type of professional contracting

6. Define the rights and obligations related to contractual volunteering as part of a work contract which meets the conditions set forth by the Code of Labor

7. Grant public servants, who are working in the public sector or in territorial communes and who are availed to associations, certain advantages related to field work indemnities.

### **4. Concluding Recommendations on the Relationship of Civil Society with Public authorities**

The new constitutional roles require public authorities to work towards:

1. Going beyond the mere consultative role of associations and civil society activists, provided for by Articles 14 and 36 of the Communal Charter, to a gradual move, in the future, towards adopting participatory budgeting as an integral part of the financial management of territorial communes, which is based on the participation of local associations in drafting, monitoring, and overseeing the execution of the annual budgets of commune councils

2. Taking the pivotal roles of civil society and participatory democracy in the new draft code of territorial communes, which were also the recommendations of the Consultative Committee on Advanced Regionalization (2011) and the 50th Anniversary Report on Human Development (2006).

### **5. Concluding Recommendations on Universities and Scientific Research**

It is with deep interest and keenness that we choose to focus last on the role of universities and academic research in spearheading and accompanying this profound change, which is critical for the implementation of the

constitutional model of citizen and participatory democracy. This is because the translation of the constitutional provisions on civic engagement require expertise, upgrading of skills and institutional capacity-development of public service departments and numerous civil society organizations. Equally fundamental is providing followup through observation, scrutiny and evaluation that are based on scientific indicators to ensure “rigor” and objectivity to better anticipate the potential challenges confronting the strategic objectives of participatory democracy.

This highlights the need for:

- ✓ Evaluating the results of the partnership agreement between the Ministry of Social Development and the Ministry of Higher Education, which aims to develop university degree tracks in the fields of social mediation and social work;
- ✓ Creating academic research programs on participatory governance, capitalizing field expertise in the field of partnership between the State, territorial communes and civil society associations
- ✓ Designing a monitoring system through a set of performance indicators measuring the legal, administrative and management mechanisms of implementing constitutional provisions on civic engagement
- ✓ Developing training and capacity-development programs and working on creating short-term and medium-term trainings that cater for the needs of upgrading the capacities of civil society associations
- ✓ Creating laboratories for academic research on social work, nonprofit professions and the civil society map
- ✓ Encouraging workers in nonprofit volunteering to continue their education through scholarships and the incentive of the academic recognition of field experience

- ✓ Incorporating human rights and civic culture trainings at all university levels
- ✓ Encouraging university students to undergo a fieldwork internship, during their last year of university, in one of the fields of civic volunteerism, namely in social welfare, providing support to persons in critical situations, literacy programs and school support, medical and human assistance, and other civic actions of relevance to the culture of citizenship and social solidarity.





## **General Conclusions**



**T**he National Dialogue on Civil Society and the New Constitutional Roles has helped deepen the public debate over a whole host of issues related to understanding the constitutional provisions on participatory democracy, their interpretation, and their implementation methods, keeping in mind the stakeholders' will to collaborate and join forces.

In this regard, female and male participants in the Dialogue's events, locally, regionally and nationally, have expressed unprecedented keenness to make this key milestone in the history of Morocco's democratic transition a success.

Yet, this keenness would, often times, falter whenever there would be heated discussions about having trust in the stakeholders' commitment and in the State and public authorities will, primarily the earnest and efficient implementation of the new constitutional gains regarding the civic engagement outlets that were granted to female and male citizens, residing either in the country or abroad..

Participants have stressed that dispelling this apprehension of the lack of will passes, first and foremost, through rethinking all the levels of the relationship of the citizen with society, public authorities and civil society organizations.

This rethinking of relationships is of prime importance in the building of a new assimilation of civic action, which is based on the values of solidarity, collaboration, consultation and the meaning of participation in public life on the security and stability of the society or on raising awareness about our shared destiny and coexistence.

Of major importance in this respect is the necessity of building trust among

the different stakeholders in order for them to work together, partner, develop a shared vision, and deal positively with one another. These are all challenges, which entail adaptation to and practice of civic engagement along with a profound transformation in the cultural and value-based structure of society and the State, namely the assimilation of the notions of power, security, public order, public decision and the roles of institutions in mentoring citizens.

The breadth and promptness of civil society responses and the maturity of its initiatives and “judicious” prompt moves in dealing with the major societal changes in the Arab world in general and Morocco in particular, in the past four years warrant its repositioning in the drafting, implementation, monitoring and evaluation of public policies and in shaping the needs of society in the fields of protecting individual and collective human rights, grassroots democracy, community development, environmental protection, social welfare and the restructuring of the channels of social volunteering.

Last but not least, the pressing and critical need for the implementation of the constitutional model of citizen participatory democracy requires public authorities to:

- 1- Place emphasis on capacity-development for civil society organizations, the enhancement of their independence, and the creation of a national agency for the promotion of civil society
- 2- Update the legal and regulatory texts regarding l’Entraide nationale, national la Promotion Nationale, the - Development Cooperation Office, the Social Development Agency, and the National Human Development Initiative, with a view to amalgamating them under one public umbrella structure
- 3- Set an annual funding threshold of no less than 1% of the Gross Domestic Product to ensure the financial sustainability of associations interested in the field of fundamental human rights protection, development, social citizen empowerment and the promotion of the new civil society roles



4- Develop a short-term time frame for the enactment of the legal and regulatory texts needed for the optimal implementation of the aforementioned ethical and political obligations, considering that the implementation of these obligations will be progressive and should begin with the public authorities' adoption of the National Charter on Participatory Democracy and the enactment of the laws regulating the deliverables of the National Dialogue on Civil Society, namely motions, petitions, public consultation, nonprofit environment and volunteering. This should be followed by the needed legal adaptations of the new constitutional roles of civil society, primarily the Code of Territorial Communes, the General Tax Code and the Annual Budget Act.



## **Annex**





# ***The Concept Note on the National Dialogue***

## **Preamble**

**T**he national Dialogue on civil society subscribes to a responsible vision seeking to strengthen civil society roles, enabling it to occupy its rightful position as a key partner in building up a democracy and development model, in line with the Constitution and the various royal speeches. The latter have promoted civil society to the rank of a fundamental partner in the development, implementation, and evaluation of public policies. .

The National Dialogue on Civil Society and the New Constitutional Roles is of a strategic importance as it subscribes to a renewing modernistic vision striving to meet the expectations of the Moroccan nonprofit movement, which has steadfastly contributed since decades to the promotion of civil society to the position it currently occupies. Furthermore, its roles have been enshrined in the Constitution, and its position strengthened as a key player in the process of building up democracy.

In all societies, the term “civil society” refers to a body of associations established by citizens freely and independently of the State. These associations are of a nonprofit nature, work in a transparent manner, are keen on social responsibility and possess a sense of citizenship. No association or group of associations can claim to represent all citizens or seek to dominate the public arena. Governmental organizations do not pertain to civil society.

Excluded from the term civil society, according to this note, are political parties, trade unions, professional chambers, professional organizations as provided for in Articles 7 and 8 of the Constitution.

The civil society concerned by the Dialogue is described in the Constitution, namely Article 12, which stipulates that:

“Civil society associations and nongovernmental organizations are established and may conduct their activities freely while abiding by the Constitution and the law. They can by no means be dissolved or suspended except by virtue of a judicial ruling. The associations interested in public affairs and nongovernmental organizations shall contribute, within the framework of participatory democracy, to the development, implementation, and evaluation of the decisions and projects of elected institutions and public authorities. The said institutions and authorities should organize the said contribution in accordance with the terms and modalities provided for by the law. The organization and the running of the associations and nongovernmental organizations should comply with the principles of democracy” (the law in force being the Dahir (royal decree) on General Liberties of 1958 as was modified and amended).

By the same token, the governmental program has manifestly committed itself to “embarking upon the undertaking of participatory democracy, implementing the relevant constitutional provisions and striving to develop relations with civil society so as to bolster development, enhance rights and liberties, and encourage the culture of accomplishing duties and exercising rights”.

### **1. The national Committee: nature and mission**

The National Committee of the Dialogue on Civil Society and the New Constitutional Roles is of a consultative nature, established at the government’s initiative. The Committee is independent in its decisions. It is a mechanism which is entrusted with the management of the national Dialogue, deepening it and extending its scope so as to come up with a collective response to the question of civil society and the new constitutional roles and contribute to the institutionalization of a partnership between the latter and the State. The Committee is open to all stakeholders of the Moroccan society, namely all the components of the Moroccan civil society and nongovernmental organizations in Morocco and abroad. It is equally open to civil society support institutions as well as to Moroccan expertise

and international experiences.

This openness is founded on the philosophy of sharing, of deliberation, of openness, of coexistence, and flexibility. The values of citizenship and equality, which draw upon the universality of human rights as recognized by the Constitution, are core guiding principles in its work approach. The Committee is mindful of the principles of the culture of social genre, of equal opportunities, of cultural diversity, and of linguistic and geographic pluralism of Morocco. It taps into the assets, value system, and the expertise of the nonprofit movement in its conception of the ownership of the public action.

The Committee takes into account the logistical and financial resources allocated to the Dialogue's events and activities.

### *1.1. Structure of the Committee*

In an attempt to conduct an independent national Dialogue while complying with the internationally accepted criteria of conducting national consultations, a mixed committee was established to manage this strategic undertaking. The Committee is made up of members who have been appointed on the basis of their expertise and experience and of members who have been chosen on the proposal of their respective line ministries and constitutional and national institutions. The Committee is presided over by the Chairperson, who is a national militant figure known for his intellectual integrity and impartiality. All members, both those representing their line ministries and constitutional and national institutions, and those appointed for their expertise, sit on the committee in their personal capacity and work with integrity, impartiality, and voluntarism.

### *1.2. Tasks of the national committee*

The Committee strives to accomplish the following tasks:

- ✓ The management of the National Dialogue On Civil Society And The New Constitutional Roles

- ✓ The drafting of a global report on the work of the proceedings of the Dialogue
- ✓ Adoption of a final document gathering the deliverables of the Dialogue

Carrying out these tasks entails the following:

- ✓ Identifying the concepts pertaining to civil society in the Constitution
- ✓ Drawing up draft law proposals
- ✓ Gathering and treating the propositions and deliberations of civil society

## 2. Standing committees and thematic committees

The National Committee consists of three committees as follows:

### ► The Committee on the constitutional provisions

This committee will be in charge of identifying, studying, and analyzing the constitutional provisions on civil society. It will adopt a scientific and rigorous approach in defining relevant concepts and presenting draft bills that could be initiated by the government, the Parliament, or civil society.

### ► The nonprofit environment committee

This committee is entrusted with surveying the legal and regulatory environment regulating the associations and nongovernmental organizations (be it their establishment, management, or functioning) with a view to complying with the letter and spirit of the Constitution. A whole host of issues will be raised: the enshrining of rights and liberties, establishing nonprofit governance structures both within the association or in relation to its national and international institutional environment, namely on ensuring equal and fair access to partnership opportunities with line ministries, public institutions, and territorial authorities, drafting of a framework guaranteeing the rights of nonprofit volunteer workers, and



instituting a nonprofit accountability system to cite but a few important nonprofit reforms.

► **The Committee of the national charter on participatory democracy**

This committee will embark upon the drawing up of a national charter of participatory democracy as well as on defining related principles, values and good practices, in an attempt to anchor it in the spirit of the human rights reference system, in line with the Constitution, while capitalizing on the innovative link of complementarity between participatory democracy and representative democracy to ensure a wider citizen participation in public affairs and build up the society of active and responsible citizenship.

Thematic committees are temporary ad hoc committees set up by the Committee, in order to translate into action this note and accomplish Committee's tasks.

### **3. The Dialogue's tools**

1. National seminars
2. Regional seminars
3. Thematic seminars
4. International conference (s)
5. National closing conference
6. Reception of memoranda
7. Listening sessions
8. Web-based interactive dialogue

### **4. Work and communication tools**

- ✓ Literature survey
- ✓ Action plan
- ✓ Organization of a closing conference
- ✓ Printing and translation of dialogue deliverables

- ✓ Launch of a website devoted to the Dialogue

### **5. The deliverables**

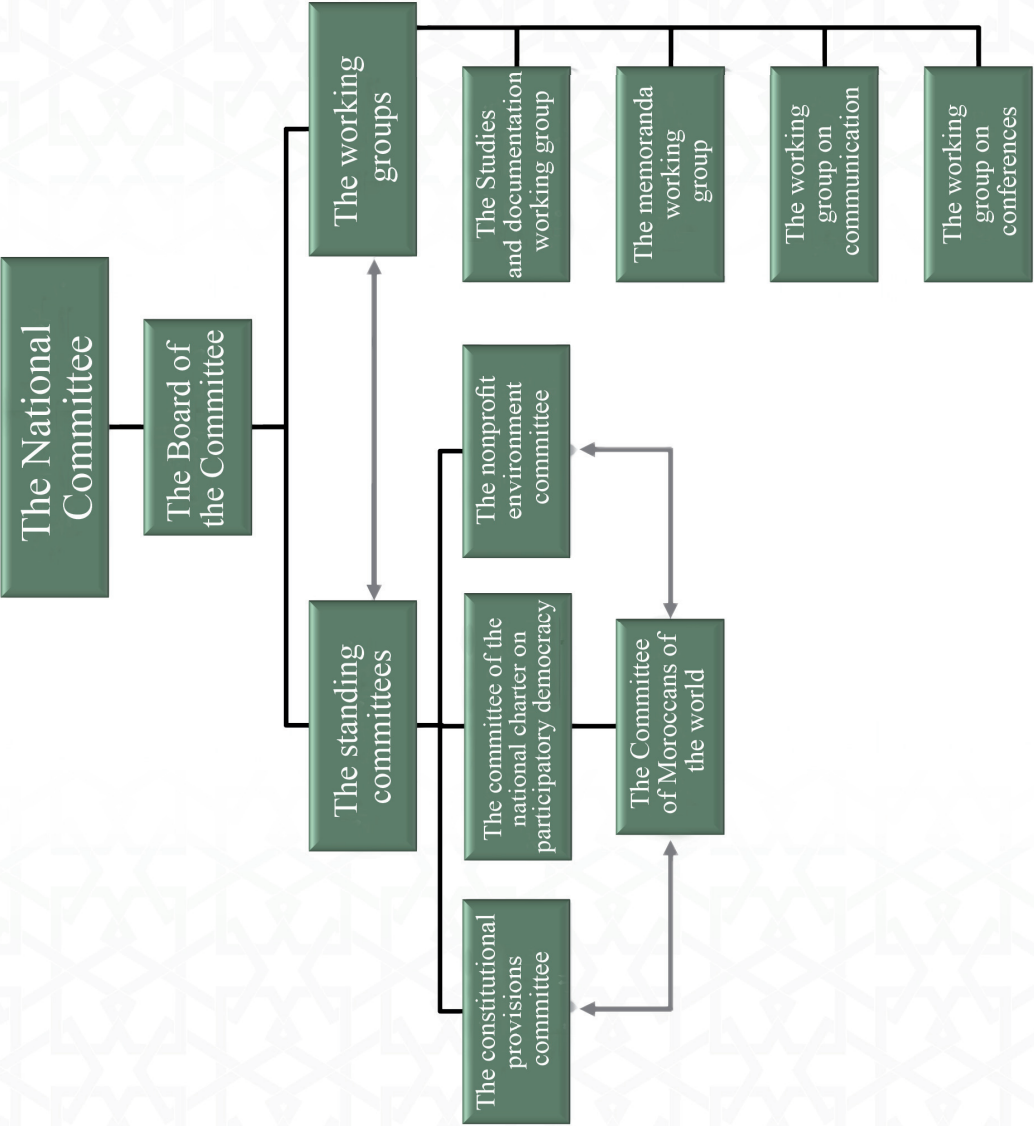
- A general report on the Dialogue's proceedings
- An outcome report taking stock of the Dialogue's outputs
- Drawing up of draft law proposals

### **6. Implementation milestones**

The Committee will develop a detailed action plan listing all the events and activities and their respective dates.

The work of the Committee will last one year, spanning until 13 March 2014

*The organigram of the National Committee*



# ***Bylaws of the National Committee***

## **Chapter 1: Establishment, membership, powers, and structure**

In this text, the following terms are understood to mean:

- ✓ The Minister: The Minister in Charge of Relations with the Parliament and Civil Society
- ✓ The Ministry: The Ministry in Charge of Relations with the Parliament and Civil Society
- ✓ The Committee: The National Committee of the Dialogue on Civil Society and the New Constitutional Roles
- ✓ The Chairperson: The Chairperson of the National Committee of the Dialogue on Civil Society and the New Constitutional Roles
- ✓ The Dialogue: The Dialogue on Civil Society and the New Constitutional Roles
- ✓ The concept note: The concept note of the Dialogue on Civil Society and the New Constitutional Roles as approved by the Ministry
- ✓ The concept note of the Dialogue's Work: The note on the work of the Committee as approved by the Committee
- ✓ The bylaws: The ground rules that constitute the bylaws of the Committee

### **Article 1: Establishment**

By virtue of Decision No. 313/ of the Minister in Charge of Relations with the Parliament and Civil Society dated 12 March 2013 the National Committee of the Dialogue on Civil Society and the New Constitutional Roles was created



## Article 2: General Supervision

The Minister shall be the general supervisor of the dialogue. He shall ensure, in coordination with the Chairperson, the smooth relations of the Ministry with the Committee so as to accomplish the dialogue's objectives.

The Minister shall follow up on the work of the Committee through monthly reports submitted to him or when and if need be. A meeting may be held at his request or at the request of the Chairperson for this purpose, which shall be attended by the members of the Committee's board...

## Article 3: Membership

The Committee shall be a mechanism of the dialogue. It shall be composed of:

- Members appointed on the basis of their expertise and experience;
- Members appointed on the recommendation of line ministries and constitutional and national institutions.

All appointed members shall enjoy the same rights.

Observer members may be co-opted on the proposition of the Minister or members of the Committee's board and upon the approval of the Committee, on the condition that their number shall not exceed 10 members.

Observer members may not vote.

## Article 4: Powers

The Committee shall be entrusted with overseeing the Dialogue in all independence. It shall primarily carry out the following duties:

- Drafting the action plan in accordance with the concept note on the work of the Dialogue
- Taking the necessary arrangements for its smooth functioning
- Making decisions on the proposals received by the different stakeholders
- Adopting a detailed working paper on the different mechanisms

of the Dialogue and working tools

- Setting qualitative and quantitative criteria for the participation of the different stakeholders in the events of the Dialogue
- Approving the deliverables of the Dialogue and the general report.

### **Article 5: structure of the Committee**

The Committee shall be structured as follows:

- The Committee
- The Board of the Committee
- Standing committees
- Thematic committees

### **Article 6: The board of the Committee**

The board of the Committee shall be composed of the chairperson, his deputies, the general Rapporteur and his deputies, and chairpersons of the standing committees and their deputies.

The chairperson's tasks:

- Coordinating between the Committee and the Ministry
- Chairing meetings of the board and the Committee and signing all documents issued by both of them
- Ensuring the execution of all decisions of the Committee
- Serving as the spokesperson of the Committee
- Submitting the general report and the deliverables of the Dialogue to the Minister
- Proposing names of committee chairpersons and their deputies to the Committee for approval

The chairperson may delegate some of his powers to a member of the Committee. In case of his absence, he shall be represented by one of his deputies following a ranking order.

Duties of the general Rapporteur

- Overseeing drafting of the general report and the Dialogue's deliverables
- Overseeing the drafting of activity reports of the Committee
- Overseeing the drafting of the Committee's minutes
- Overseeing the drafting of the meeting minutes of the board
- Keeping a record of and archiving the Committee's documents.

The general Rapporteur may delegate some of his powers to one of his deputies irrespective of their ranking order. In case of his absence, he may be represented by one of his deputies following their ranking order.

Duties of the board :

- Preparing the meetings of the Committee
- Drafting the agenda of the Committee and the draft decisions needed for the smooth functioning of the Committee
- Taking necessary management measures for the smooth running of the Committee
- Organizing communication between members of the Committee
- Following up on the implementation of the decisions taken by the Committee
- Drawing up the draft action plan of the Dialogue's events

Meetings of the board

- The board shall hold one ordinary meeting every two weeks upon invitation of the chairperson. It shall hold extraordinary meetings at the request of one of its members and on the approval of the chairperson.
- Board meetings shall be presided over by the chairperson or one of his deputies by ranking order, and, if need be, by a member assigned to chair the meeting
- The board shall adopt the ground rules of managing its work

## **Article 7: Standing committees and thematic committees**

Pursuant to the provisions of the concept note, three standing committees shall be set up, which are:

- The Committee on the constitutional provisions
- The nonprofit environment Committee
- The Committee of the National Charter on Participatory democracy

Thematic committees shall be established on the proposal of the standing committees and on the approval of the board of the Committee

### **Article 8: Meetings of the Committee**

The Committee shall meet once every two months and extraordinarily at the request of the board of the Committee

Committee meetings shall be presided over by the chairperson or one of his deputies by ranking order.

### **Article 9: The action plan**

The Committee shall adopt an action plan with a view to accomplishing the Dialogue's objectives within the set deadlines. It shall enter into effect upon its approval by the competent body.

## **Chapter 2: Conditions of Holding Committee Meetings**

### **Article 10: Meeting notices**

Meeting notices shall be published on the website or sent by email to the members at least two weeks ahead for ordinary meetings and at least three days ahead in case of extraordinary meetings.

### **Article 11: Committee Meeting agendas**

The board of the Committee shall propose a draft meeting agenda. It shall comprise, in addition to the points tabled for discussion, the following agenda points:

- Approval of the minutes of the previous meeting
- A report on the progress of the Dialogue between two ordinary



sessions ordinary meetings, presented by the Chairperson or a delegated person

- A list of correspondences sent to the Committee and the decisions taken in this regard

Members may ask to insert, at least ten days before the meeting, a point in the agenda.

The meeting agenda and the draft papers to be presented shall be sent to the members of the Committee at least seven days before the meeting.

Meeting reports shall be sent to the members within one week after the meeting

### **Article 12: The meeting quorum**

Meetings shall be held on the attendance of the majority of the appointed members (50% + 1) counting the number of apologies as present. In case the quorum is not gathered, it shall be waited for one hour before the meeting is held.

### **Article 13: Absence**

- An attendance sheet shall be signed during meetings
- Absentees shall notify the chairperson at least 24 hours ahead of the meeting

Attendance lists shall be posted on the Dialogue's website

### **Article 14: Decision making**

- Decisions shall be taken in the meetings by consensus, and, if need be, by vote while incorporating all the views expressed in the minutes and reports
- In case of a tied vote, the chairperson of the meeting shall have a casting vote.

### Chapter 3: General provisions

#### Article 15: The administrative unit

The Minister shall designate an administrative unit that is made up of the Ministry's chief officers and public servants and that are in charge of the following tasks:

- Accompanying of the work of the Committee
- Providing administrative and logistical support to the Committee under the oversight of the Chairperson or one of his deputies
- Archiving and keeping records of the Committee's documents under the oversight of the General Rapporteur or one of his deputies
- Drafting minutes and reports under the oversight of the General Rapporteur or one of his deputies.

#### Article 16: The financial management of the Dialogue

The Ministry shall be entrusted with the financial and logistical management of conducting the Dialogue in coordination with the Chairperson of the Committee. The Minister shall issue a decision determining the formalities and conditions of disbursing expenses related to the work of the Committee.

#### Article 17: Main offices of the Committee

The Ministry shall put at the disposal of the Committee administrative offices and equipped rooms for the smooth carrying out of its tasks.

On the initiative of the board, the Committee may organize its different activities in other venues.

#### Article 18: Amendment of the bylaws

These bylaws may be amended on the proposal of the Board or one third

of the Committee's members and the approval of the Committee.

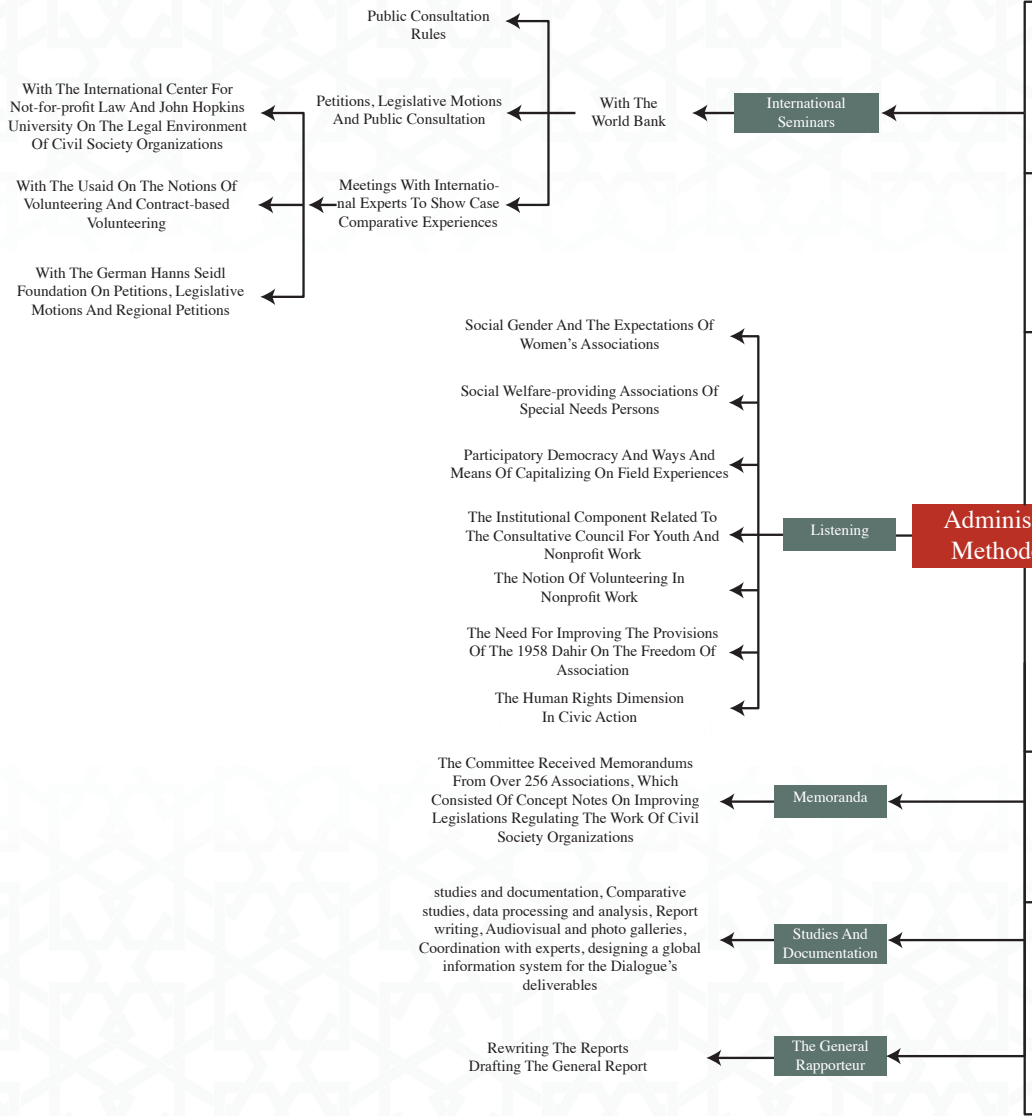
### **Article 19: Handing the archives of the Dialogue**

The Chairperson shall hand the archives of the Dialogue to the Minister, handing a copy of the archives to Archives du Maroc.

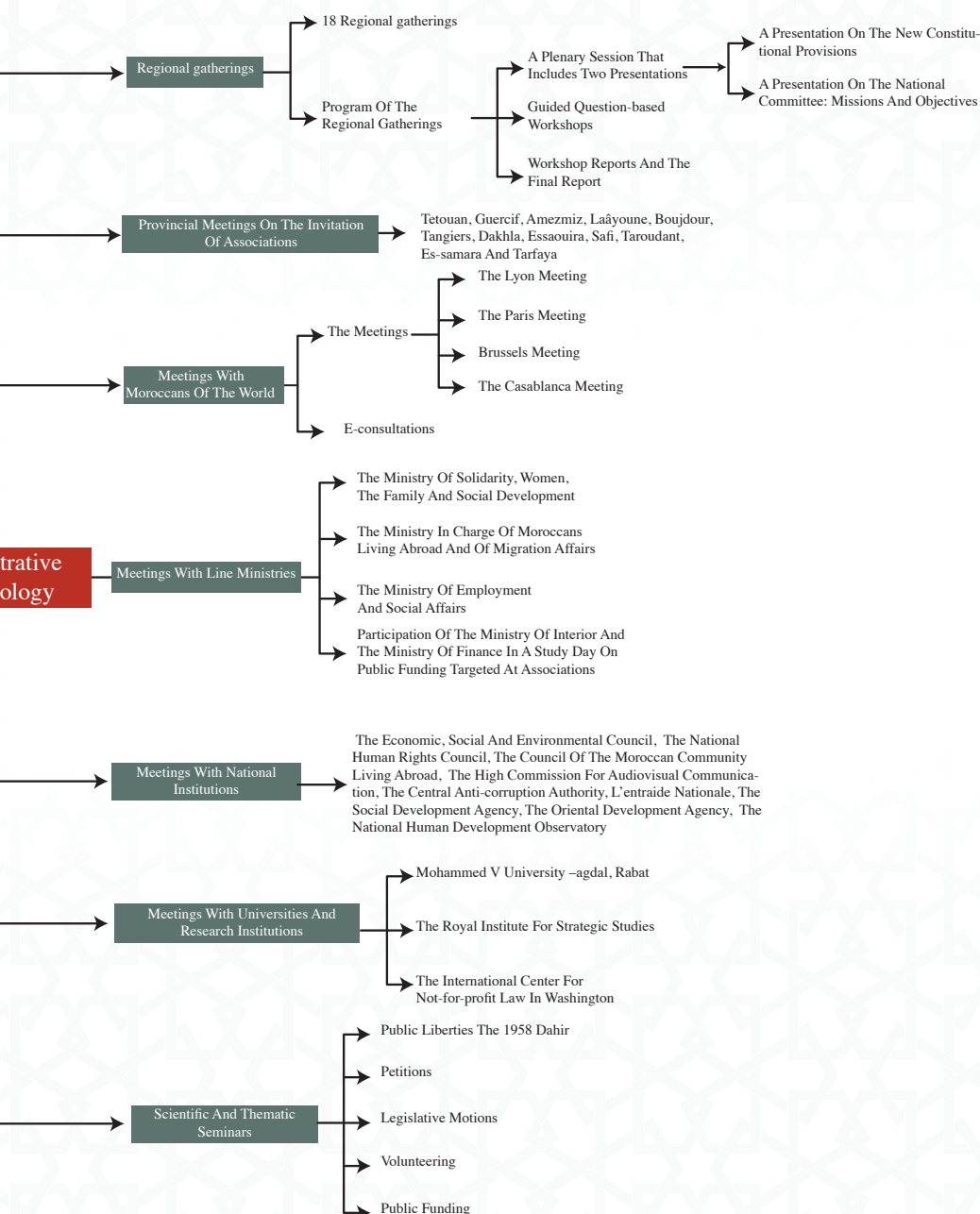
### **Article 20: Approval of the bylaws**

These bylaws were adopted in the ordinary meeting of the Committee held in Rabat on 20 and 21 April 2013.

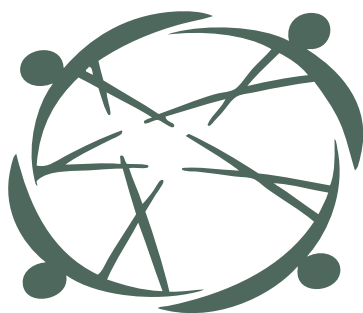
# Outline of The Dialogue











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