



MOROCCO – CONTINUED PRESSURE ON RIGHTS

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
REVIEW – 27TH SESSION OF THE UPR WORKING GROUP, MAY 2017

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SEPTEMBER 2016

Amnesty International

INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of the Kingdom of Morocco (hereafter Morocco) in May 2017. In it, Amnesty International evaluates the implementation of recommendations made to Morocco during its previous review, as well as the current situation of human rights in the country, and makes a number of recommendations to the government of Morocco to strengthen the protection of human rights and address the human rights concerns raised in this report.

In the four and a half years since Morocco's last review the government has taken some steps towards adopting some of the recommendations, yet has ignored other key recommendations.

Amnesty International is concerned about ongoing restrictions on freedom of expression, association and assembly, including by prosecuting journalists, forcibly dispersing peaceful protests, and restricting the activities of NGOs. The organization regrets that the current draft law to amend the Penal Code leaves provisions that restrict the right to freedom of expression largely unchanged. It is also concerned about the repeated violent dispersal of peaceful protest, notably in Moroccan-controlled Western Sahara.

The organization welcomes the move to end the jurisdiction of military courts over civilians. It regrets, however, the continuing violations of the right to a fair trial, both in Morocco and Western Sahara. A preliminary draft law to reform the Code of Criminal Procedure contains some improvements, but does not guarantee key safeguards in custody and the right to a fair trial, such as access to a lawyer during interrogation for all suspects.

Amnesty International acknowledges steps taken by Morocco to address violence against women and girls including through a draft law proposing to strengthen the protection of survivors of violence. The organization is concerned, however, that its definition of rape is not in line with international standards, while other barriers to the protection of women and girls, such as the general criminalization of abortion and ban on sexual relations outside marriage, remain in place.

Furthermore, same-sex sexual relations between consenting adults continue to be criminalized and Morocco has yet to adopt a law on the right to asylum. Impunity persists with regard to crimes under international law committed during the "years of lead" between 1956 and 1999 and human rights violations committed in the context of counter-terrorism, particularly between 2002 and 2011.

Morocco retains the death penalty and death sentences continue to be handed down despite the fact that no executions are known to have been carried out since 1993.

FOLLOW-UP TO THE PREVIOUS REVIEW

The human rights record of Morocco was last assessed under the UPR in May 2012. Of the 148 recommendations made to Morocco during its previous UPR, it accepted 140 and rejected eight recommendations.¹ Amnesty International regrets that Morocco rejected recommendations to withdraw declarations and reservations to the Convention on the Elimination of All Forms of Discrimination against Women,² to introduce a *de jure* moratorium on executions and to commute all death sentences,³ to revise the provisions in the Family Code that contravene international human rights law,⁴ and to establish a permanent human rights component in the United Nations Mission for the Referendum in Western Sahara.⁵

Following the promulgation of the 2011 Constitution, Morocco passed organic laws amending the Statute of Judges and establishing a Higher Judicial Council in 2015. However, these reforms have fallen short of ensuring judicial independence, as was recommended during Morocco's 2012 UPR.⁶

Morocco is currently reviewing its Penal Code and Code of Criminal Procedure with the stated aim of bringing national legislation in line with the 2011 Constitution and its international human rights obligations.⁷ The current draft laws partially fulfil the UPR recommendations in this regard, despite not fully upholding human rights.⁸

As previously recommended, Morocco acceded to the International Convention for the Protection of All Persons from Enforced Disappearance in 2013,⁹ although it has yet to recognize the competence of the Committee on Enforced Disappearance to receive and consider communications from or on behalf of victims, and its competence to receive inter-state

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Morocco*, A/HRC/21/3, 6 July 2012.

² A/HRC/21/3, recommendations 131.1 (Slovenia), 131.2 (Switzerland).

³ A/HRC/21/3, recommendations 131.3 (Belgium), 131.5 (France).

⁴ A/HRC/21/3, recommendations 131.6 (Belgium), 131.7 (Belgium).

⁵ A/HRC/21/3, recommendation 132.1 (Uruguay).

⁶ A/HRC/21/3, recommendation 129.72 (Chile). See also International Commission of Jurists, “*Morocco: flawed draft laws on High Judicial Council and Statute for Judges must be revised*”, 19 June 2015, <http://www.icj.org/morocco-flawed-draft-laws-on-high-judicial-council-and-statute-for-judges-must-be-revised/>.

⁷ A/HRC/21/3, recommendations 129.20 (France), 129.80 (Sweden).

⁸ For instance, the draft law to amend the Penal Code makes no change to provisions on defamation (Articles 442 and 443), public insult (Articles 443 and 444), offending the King or Crown Prince (Article 179), offending public officials (Article 263) including falsely reporting an offence to an official (Article 264), “slandering denunciation” (Article 445), offending “public bodies” (Article 265), and disrespecting state symbols and emblems (Articles 267-1 to 267-4). These provisions unduly restrict the right to freedom of expression and punish its peaceful exercise with imprisonment, in breach of Morocco's obligations under Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

⁹ A/HRC/21/3, recommendation 130.1 (Argentina).

complaints. A draft law to amend the Penal Code, which proposes to criminalize enforced disappearance in line with a recommendation Morocco accepted during its previous UPR,¹⁰ is currently being finalized.

In response to recommendations to ensure the right to freedom of expression, Morocco did remove prison penalties from its Press Code in 2016.¹¹ However, journalists and critics of the authorities continue to be prosecuted under the Penal Code.¹²

Amnesty International welcomes Morocco's amendment of military justice laws in 2015 to end the trial of civilians before military courts, in accordance with recommendations accepted during its previous review.¹³ However, Amnesty International has continued to document unfair trials, including convictions based on reportedly coerced "confessions", and the failure to adequately investigate allegations of torture and other ill-treatment in police custody.¹⁴

In line with accepted recommendations, Morocco acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2014,¹⁵ although a National Preventive Mechanism has yet to be established.¹⁶ Prisoners continue to report severe overcrowding and sub-standard medical care, despite Morocco's acceptance of recommendations to rectify this in 2012.¹⁷

Morocco accepted recommendations to promote and protect women's rights.¹⁸ In 2014, it amended the Penal Code to prevent rapists from escaping prosecution by marrying their under-age victims.¹⁹ Draft law 103.13 on combating violence against women, finalized in May 2016, was under debate by legislators at the time of this submission.²⁰ With regard to gender equality, Morocco has yet to implement recommendations to remove discriminatory provisions in the Family Code relating to marriage, divorce, inheritance, child custody and women's ability to transfer their nationality to their children.

¹⁰ A/HRC/21/3, recommendation 129.1 (Uruguay).

¹¹ A/HRC/21/3, recommendation 129.82 (United States of America)

¹² See Amnesty International, "Journalists risk imprisonment for running smartphone app training", 28 June 2016, available at: <https://www.amnesty.org/en/latest/news/2016/06/morocco-journalists-risk-imprisonment-for-running-smartphone-app-training/>.

¹³ A/HRC/21/3, recommendation 129.74 (Iraq).

¹⁴ A/HRC/21/3, recommendation 129.70 (Australia).

¹⁵ A/HRC/21/3 recommendation 129.4 (Denmark).

¹⁶ Amnesty International, "Accession to OPCAT must be followed by swift implementation" (Index: MDE 29/011/2014).

¹⁷ A/HRC/21/3 recommendations 129.52 (Austria), 129.60 (Italy).

¹⁸ A/HRC/21/3, recommendations 129.2 (Australia), 129.7 (Maldives), 129.11 (Slovenia), 129.12 (Switzerland), 129.14-129.17 (Belgium, Belgium, Brazil, Denmark), 129.19 (Estonia), 129.21-129.27 (Germany, Mexico, Norway Slovakia, Spain, Congo), 129.39-129.41 (Thailand, Turkey, Zimbabwe), 129.43-129.47 (Bangladesh, Canada, Djibouti, Russian Federation, Slovenia), 129.51 (Austria), 129.53 (Belarus, Belgium, Botswana), 129.57 (Indonesia), 129.61 (Malaysia), 129.63 (Netherlands), 129.64 (Portugal), 129.93 (Greece), 129.98 (Thailand) and 129.114 (Singapore).

¹⁹ A/HRC.21/3 recommendation 129.51 (Austria); 129.54 (Belgium), 129.55 (Botswana), 129.63 (Netherlands), 129.64 (Portugal); Amnesty International, "Morocco: Amendment of rape provision is a step in the right direction", 23 January 2014, available at: <https://www.amnesty.org/en/latest/news/2014/01/morocco-amendment-rape-provision-step-right-direction/>

²⁰ A/HRC/21/3, recommendations 129.12 (Switzerland), 129.19 (Estonia), 129.24 (Norway), 129.26 (Spain), 129.27 (Congo), 129.39 (Thailand), 129.41 (Zimbabwe); 129.51 (Austria), 129.55 (Botswana) and 129.57 (Indonesia); See Amnesty International, "Morocco: Violence against women bill needs stronger safeguards" (Index: MDE 29/4007/2016).

Impunity persists for past gross human rights violations, including torture and enforced disappearance alleged to have occurred between 1956 and 1999 in Morocco and Western Sahara²¹ and at a secret detention centre in Temara between 2002 and 2011.²²

THE HUMAN RIGHTS SITUATION ON THE GROUND

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Journalists and those criticising the authorities continue to be prosecuted, sentenced to heavy fines and suspended prison terms, and in some instances imprisoned.²³ In a worrying development, some are currently being prosecuted on charges of “advocating terrorism”²⁴ and “undermining internal state security” due to their journalistic work.²⁵

The security forces continue to forcibly disperse peaceful protests, including those advocating for self-determination of Western Sahara, and some protesters have been sentenced to prison terms in unfair trials.²⁶

Obstacles to the registration of associations continue, including of human rights groups, as local officials refuse to accept applications or provide receipts for those deposited. The authorities also continue to ban some of their activities, including internal meetings. The Moroccan Association for Human Rights has been particularly affected and had its youth summer camp, human rights trainings and public events banned throughout 2014.²⁷ Amnesty International also regrets the government’s decision to ban Amnesty International’s 16th Youth Camp in September 2014.²⁸

²¹ A/HRC/21/3 recommendation 129.68 (Switzerland).

²² A/HRC/21/3 recommendation 129.124 (France).

²³ See Amnesty International, “Morocco, court orders suspension of news website, editors fined for “false news” and “defamation”” (Index: MDE 29/2260/2015).

²⁴ See Amnesty International, “Morocco ramps up crackdown on press freedom with trial over citizen journalism”, 26 January 2016, available at <https://www.amnesty.org/en/press-releases/2016/01/morocco-ramps-up-crackdown-on-press-freedom-with-trial-over-citizen-journalism/>; Amnesty International, “Morocco: Stop using “terrorism” as a pretext to imprison journalists”, 20 May 2014, available at: <https://www.amnesty.org/en/latest/news/2014/05/morocco-stop-using-terrorism-pretext-imprison-journalists/>; Amnesty International, “Morocco: Harassment of outspoken journalist” (Index: MDE/2211/2015); Amnesty International, “Morocco: Journalist jailed for press freedom work” (Index 29/1489/2015).

²⁵ See Amnesty International, “Journalists risk imprisonment for running smartphone app training”, 28 June 2016, available at: <https://www.amnesty.org/en/latest/news/2016/06/morocco-journalists-risk-imprisonment-for-running-smartphone-app-training/>

²⁶ Amnesty International, “Morocco: Release or fairly retry Marrakech protesters over soaring prices” (Index: MDE 29/007/2013); Amnesty International, *Shadow of Impunity: Torture in Morocco and Western Sahara* (Index: MDE 29/001/2015), Amnesty International, “Morocco: Sidi Ifni protesters must be given fair appeal trial and released unless assault charges are proved” (Index: MDE 29/4763/2016).

²⁷ Amnesty International, “Lift restrictions on associations” (Index: MDE 29/010/2014).

²⁸ Amnesty International, “Amnesty International deplores the Moroccan authorities’ decision to ban youth camp” (Index: MDE 29/006/2014).

International NGOs also face restrictions. In 2015 the Moroccan authorities initiated a prosecution against the French NGO, Action by Christians for the Abolition of Torture (*Action des Chrétiens pour l'abolition de la torture* - ACAT), and against individuals who filed torture complaints against Moroccan officials in French courts on charges including defamation and insulting state institutions.²⁹

In October 2014, Morocco denied entry to Amnesty International research staff for a fact-finding visit to investigate the situation of migrants and refugees at Morocco's northern borders with Spain. A second fact-finding visit scheduled for November 2014 was cancelled by the organization after the Moroccan authorities imposed conditions amounting to restrictions on it taking place.³⁰ In June 2015, the authorities detained and expelled Amnesty International research staff on a similar visit.³¹ On 23 September 2015, Morocco requested that Human Rights Watch suspend their activities in the country.³²

RIGHT TO A FAIR TRIAL

Amnesty International has documented unfair trials, in both Morocco and Western Sahara that relied on statements reportedly extracted under torture.³³ Morocco has failed to implement calls by the UN Working Group on Arbitrary Detention to release and adequately compensate individuals arbitrarily detained following an unfair trial, including Mohamed Hajib,³⁴ Ali Aarrass,³⁵ Abdessamad Bettar,³⁶ and Rachid Ghribi Laroussi,³⁷ all of whom remain imprisoned.

In July 2016, Amnesty International welcomed the decision by the Court of Cassation to set a retrial before a civilian court for 23 Sahrawi protesters unfairly convicted by a military court in 2013 in the Gdeim Izik case; 21 of the protesters remain imprisoned.³⁸

²⁹ Amnesty International, International Federation of ACAT (FIACAT), International Federation for Human Rights, Alkarama Foundation, Human Rights League (LDH), World Organization Against Torture (OMCT), Euro-Mediterranean Human Rights Network (REMDH), REDRESS, Track Impunity Always (TRIAL), “*10 ONGs inquiètes des mesures d'intimidation exercées contre les victimes de torture et une ONG qui les représente*”, 9 February 2015.

³⁰ Amnesty International, “*Lift restrictions on associations*” (Index: MDE 29/010/2014).

³¹ Amnesty International, “*Amnesty International staff members expelled from Morocco*”, 11 June 2015, available at <https://www.amnesty.org/en/latest/news/2015/06/amnesty-international-staff-members-expelled-from-morocco/>.

³² Human Rights Watch, *Statement Regarding Human Rights Watch Activities in Morocco*, 2 October 2015, available at: <https://www.hrw.org/news/2015/10/02/statement-regarding-human-rights-watch-activities-morocco>

³³ Amnesty International, “*Morocco: Release or fairly retry Marrakech protesters over soaring prices*” (Index: MDE 29/007/2013); Amnesty International, *Shadow of Impunity: Torture in Morocco and Western Sahara* (Index: MDE 29/001/2015).

³⁴ Opinion no. 40/2012

³⁵ Opinion no. 25/2013

³⁶ Opinion no. 3/2013

³⁷ Opinion no. 23/2015

³⁸ They had been arrested and prosecuted in the wake of clashes following the forcible dispersal of a protest camp in Gdeim Izik near Laayoune, Western Sahara, in 2010. Their first trial by a military court was grossly unfair and relied on “confessions” tainted by torture allegations. For further information, see Amnesty International, *Morocco: Free or retry 21 Sahrawis jailed 5 years ago* (Index: MDE 29/2800/2015); Amnesty International, *Sahrawi defendants granted civilian re-trial* (Index: MDE 29/4615/2016).

HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF COUNTER-TERRORISM

Amnesty International has documented no new cases of enforced disappearance or secret detention since Morocco's last review in 2012. However, Morocco has yet to adequately investigate the existence of a secret detention centre in Temara, near the capital Rabat, where dozens of persons accused of terrorism and other serious offences allege that they were detained incommunicado and tortured between 2002 and 2011,³⁹ including following their extraordinary rendition to Morocco by the government of the United States of America.⁴⁰

The draft law to amend the Penal Code fails to bring greater precision to the vaguely-worded definition of "advocacy of terrorism," while the draft bill proposing to introduce changes to the Code of Criminal Procedure fails to reduce the length of pre-arraignment detention for terrorism suspects, which can last up to 12 days.

TORTURE AND OTHER ILL-TREATMENT

Amnesty International continues to receive regular allegations of torture and other ill-treatment in Morocco and Western Sahara. Cases documented since Morocco's previous review in 2012 reveal a lack of adequate investigations, even when detainees brought before the court bear visible injuries or when defendants request medical examinations.⁴¹

Amnesty International welcomed the decision on 29 May 2014 by the Minister of Justice and Liberties to circulate ministerial instructions to prosecutors and judges encouraging them to order medical examinations when faced with reports of torture or other ill-treatment.⁴² While Amnesty International has noted reports of investigations being opened following some cases of alleged torture in detention in 2015, it continues to receive reports of judicial authorities refusing to order medical examinations in other cases.

Prisoners frequently launch hunger strikes to protest against harsh conditions, including poor hygiene and sanitation, inadequate nutrition and health care, severe overcrowding, detention far from their families, as well as limited visiting rights and access to education.⁴³

DISCRIMINATION AGAINST WOMEN AND GIRLS

Draft law 103.13 to combat violence against women introduces new offences, increases existing penalties in cases of spousal or family violence, proposes new measures to protect survivors of violence during and after judicial proceedings, and establishes new bodies to coordinate and complement judicial and governmental efforts to combat violence against women. However, it fails to define rape in line with international standards and to recognize marital rape. It also perpetuates derogatory gender stereotypes and does not address obstacles to accessing justice

³⁹ Amnesty International, *Morocco/Western Sahara: Torture in the "anti-terrorism" campaign - the case of Temara detention centre* (Index: MDE 29/004/2004); Amnesty International, *Shadow of Impunity: Torture in Morocco and Western Sahara* (Index: MDE 29/001/2015), p. 78-80.

⁴⁰ Amnesty International, *USA: Crimes and impunity: Full Senate Committee report on CIA secret detentions must be released, and accountability for crimes under International law ensured*, (Index AMR 51/1432/2015), p. 66.

⁴¹ Amnesty International, *Shadow of Impunity: Torture in Morocco and Western Sahara* (Index: MDE 29/001/2015).

⁴² Memoranda on this issue were also circulated within the General Directorate for National Security and the General Delegation for Penitentiary Administration and Reinsertion.

⁴³ Amnesty International, Annual report 2014/2015 - *The State of the World's Human Rights* (Index: POL 10/0001/2015).

and services for survivors due to the continuing criminalization of consensual sexual relations outside marriage.⁴⁴

In May 2015, King Mohammed VI initiated a review of legislation on abortion.⁴⁵ New exceptions to the criminalization of abortion were later integrated into the draft law to amend the Penal Code.⁴⁶ The draft is yet to be adopted, and at present abortion remains criminalized unless the health of the mother is at risk, and is subject to spousal consent, which restricts women's autonomous decision-making. In all other cases, women seeking or undergoing abortion and health professionals alike risk imprisonment and other penalties, causing women to turn to clandestine abortions despite the associated risk of maternal mortality and other health concerns.

DISCRIMINATION AGAINST LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PERSONS

Morocco continues to imprison people under laws criminalizing same-sex sexual relations between consenting adults, including Article 489 of the Penal Code. In May and June 2015, the courts in Oujda and Rabat convicted five men on charges that included "indecency" and engaging in homosexual acts, and sentenced them to prison terms of up to three years, reduced to five months on appeal.⁴⁷

Such legislation and related prosecutions encourage the stigmatization of lesbian, gay, bisexual, transgender and intersex persons in the country. In particular, gay men and transgender women are reported to face physical and verbal attacks from members of the public because of their real or perceived sexual orientation.

REFUGEES AND MIGRANTS

In 2013, Morocco began to overhaul its policies towards migrants and asylum-seekers. Although it has since granted residency permits to some UNHCR-recognized refugees and some migrants, it has yet to adopt asylum legislation.

In 2014 and 2015, Amnesty International documented the involvement of Moroccan security forces in the summary expulsion of migrants, asylum-seekers and refugees by Spain, in particular near the Spanish enclaves of Ceuta and Melilla, but also on the Spanish mainland. The organization documented excessive or unnecessary use of force by Moroccan security forces against migrants and asylum-seekers attempting to enter Spain irregularly, causing serious injuries to them.⁴⁸ Amnesty International is concerned that these incidents have not been subject to a thorough investigation.

⁴⁴ Amnesty International, *Violence against women bill needs stronger safeguards* (Index: MDE 29/4007/2016).

⁴⁵ Amnesty International, *Morocco: Amnesty International's submission in the context of the national debate on abortion* (Index: MDE 29/1341/2015).

⁴⁶ The draft law adds new exceptions to the criminalization of abortion including incest, rape, severe foetal malformation or untreatable genetic disease, although with added third part notification and approval procedures which could delay access to legal abortions and generate health risks for pregnant women and girls.

⁴⁷ Amnesty International, *Annual report 2015/2016 - The State of the World's Human Rights* (Index: POL 10/2552/2016).

⁴⁸ Amnesty International, *Fear and fences: Europe's approach to keeping refugees at bay* (Index: EUR 03/2544/2015).

Moroccan authorities also forcibly removed migrants and asylum-seekers from the northern borders with Spain. In February 2015, the authorities arrested over 1,000 migrants and asylum-seekers in raids in and around the north-eastern port city of Nador. They were transferred to cities in southern Morocco and detained for several days before being released.⁴⁹ Amnesty International is also concerned at the lack of adequate investigations into the deaths of sub-Saharan migrants in the context of police raids in northern Morocco in 2014.⁵⁰ In November 2015, two migrants allegedly died of asphyxiation when the authorities lit a fire outside a cave where they had taken refuge during a raid near the northern city of Fnideq.⁵¹

IMPUNITY FOR PAST VIOLATIONS

The authorities have yet to hold accountable officials allegedly responsible for gross human rights violations, including torture and enforced disappearance, in Morocco and Western Sahara during the “years of lead” between 1956 and 1999.⁵² Furthermore, some of the alleged perpetrators remain in positions within the security forces, in some cases as high-ranking officials.⁵³

Despite the transitional justice process launched in 2004, the fate of many victims of enforced disappearance during this period remains unknown. The Equity and Reconciliation Commission, inaugurated in January 2004, fell short of identifying individuals suspected of criminal responsibility for grave human rights violations during that period, and did not call for individuals suspected of committing these crimes to be held accountable. However, it recommended a national strategy to combat impunity, which has yet to be put in place.⁵⁴

THE DEATH PENALTY

Amnesty International welcomes the absence of executions in Morocco since 1993. However, it is concerned that new death sentences continue to be imposed and that the death penalty has yet to be abolished. The organization is also concerned that the draft Penal Code proposes to expand the scope of the death penalty to three new categories of crimes: genocide, war crimes and crimes against humanity. In 2014, nine death sentences were imposed. The same number was reported in 2015, with no commutations or pardons granted.⁵⁵ By the end of 2014, there were 117 people – 114 men and three women - on death row in Morocco and Western Sahara.⁵⁶

⁴⁹ Amnesty International, Annual report 2015/2016 - *The State of the World's Human Rights* (Index: POL 10/2552/2016).

⁵⁰ Amnesty International, *Annual report 2014/2015 – The State of the World's Human Rights* (Index: POL 10/001/2015), p. 259.

⁵¹ Amnesty International, Annual report 2015/2016 - *The State of the World's Human Rights* (Index: POL 10/2552/2016).

⁵² The “years of lead” refer to the period of rule of King Hassan II of Morocco between 1956 and 1999 which were marked by state repression of democracy movements and extensive human rights violations, including enforced disappearances.

⁵³ Amnesty International, *Time for truth 50 years after enforced disappearance of opposition leader Mehdi Ben Barka* (Index: MDE 29/2747/2015); Amnesty International, Annual report 2015/2016 - *The State of the World's Human Rights* (Index: POL 10/2552/2016).

⁵⁴ Amnesty International, Annual report 2015/2016 - *The State of the World's Human Rights* (Index: POL 10/2552/2016).

⁵⁵ Amnesty International, *Death sentences and executions in 2015* (ACT 50/3487/2016).

⁵⁶ Amnesty International, *Death sentences and executions in 2014* (Index: ACT 50/0001/2015).

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF MOROCCO TO:

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

- Remove provisions criminalizing peaceful free expression from the Penal Code;⁵⁷
- End the prosecution of journalists under the Penal Code for peacefully exercising their right to freedom of expression;
- Remove obstacles to non-governmental associations seeking registration from the authorities and arbitrary restrictions on the peaceful activities of associations permitted in domestic law;
- Respect the right to peaceful protest and refrain from forcibly dispersing peaceful protest;
- End restrictions on the access to Morocco and Western Sahara for journalists, peaceful activists and human rights defenders.

RIGHT TO A FAIR TRIAL

- Amend the Code of Criminal Procedure to protect the rights of all detainees to legal counsel of their choice promptly after arrest and with no time limit and to have a lawyer present at all times during interrogation;
- Ensure that statements or confessions made by a person deprived of liberty, other than in the presence of a judge and with the assistance of a lawyer, have no probative value in legal proceedings;
- Remove all exceptions from the Code of Criminal Procedure to prompt access to a lawyer for terrorism suspects and those held on state security charges;
- Amend the Code of Criminal Procedure to enable the defence to compel, through the courts, the presence of prosecution witnesses and to cross-examine them;

⁵⁷ The following articles of the Penal Code criminalize peaceful free expression: defamation (Articles 442 and 443), public insult (Articles 443 and 444), offending the King or Crown Prince (Article 179), offending public officials (Article 263) including falsely reporting an offence to an official (Article 264), “slandorous denunciation” (Article 445), offending “public bodies” (Article 265), disrespecting state symbols and emblems (Articles 267-1 to 267-4), and disrespecting Islam, the monarchy, or Morocco’s “territorial integrity” understood by the Moroccan authorities to include Western Sahara (Article 267-5);

- Implement decisions by the UN Working Group on Arbitrary Detention regarding individual cases, including Mohamed Hajib,⁵⁸ Ali Aarrass,⁵⁹ Abdessamad Bettar,⁶⁰ and Rachid Ghribi Laroussi,⁶¹ all of whom remain imprisoned.

HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF COUNTERING TERRORISM

- Investigate allegations of torture and secret detention in Temara between 2002 and 2011 and hold those responsible accountable;
- Amend the Penal Code to include a precise definition of “advocacy of terrorism”.

TORTURE AND OTHER ILL-TREATMENT

- Ensure that whenever torture or other ill-treatment is alleged or suspected, the authorities undertake a prompt and impartial investigation, including a forensic medical examination in conformity with the Istanbul Protocol, or an autopsy in conformity with the Minnesota Protocol in case of a death in custody;
- Ensure that legal proceedings are postponed pending the outcome of investigations into alleged torture and other ill-treatment; that the scope, methods and findings of such investigations are made public; and that officials suspected of committing torture or other acts of ill-treatment are suspended from active duty during the investigations;
- Ensure that all reports of torture and other ill-treatment are promptly, impartially, independently and effectively investigated, including by conducting medical examinations in line with the Istanbul Protocol.

WOMEN’S RIGHTS AND GENDER-BASED DISCRIMINATION

- Review all laws and practices that discriminate on the basis of gender and bring them in line with international law and standards;
- Abolish the provisions of the Penal Code that criminalize abortion;⁶²
- Guarantee access to legal and safe abortion, as a minimum, in case of pregnancies resulting from rape, sexual aggression or incest or when a pregnancy poses a risk to the life or health of the woman or girl, as well as in cases of severe or fatal foetal impairment, in accordance with the recommendations of the human rights treaty bodies;⁶³
- Decriminalize consensual sexual relations, including by repealing Penal Code provisions prohibiting same-sex sexual relations (Article 489), sexual relations outside marriage (Article 490) and adultery (Articles 491, 492, 493).

REFUGEES AND MIGRANTS

- Adopt asylum legislation in line with international law and standards;
- End collusion in Spain’s summary expulsion of migrants, asylum-seekers and refugees;

⁵⁸ Opinion no. 40/2012

⁵⁹ Opinion no. 25/2013

⁶⁰ Opinion no. 3/2013

⁶¹ Opinion no. 23/2015

⁶² A prison sentence or fine is prescribed for women who knowingly have or attempt to have an abortion (Article 454), as well as for anyone practicing or inciting abortion outside of this legal framework (Articles 449-452).

⁶³ Committee against Torture, Concluding Observations: Nicaragua, UN Doc. CAT/C/NIC/CO/1 (2009), para 16; Human Rights Committee, Concluding Observations: Ireland, UN Doc. CCPR/C/IRL/CO/4 (2014) para 9; CEDAW Committee, Concluding Observations: Kuwait, UN Doc. CEDAW/C/KWT/CO/3-4 (2011) para. 43(d); CEDAW Committee, Concluding Observations: Peru, UN Doc. CEDAW/C/PER/CO/7-8 (2014) para 36(a).

CONTINUED PRESSURE ON RIGHTS

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW – 27TH SESSION OF THE UPR WORKING GROUP, MAY 2017

SEPTEMBER 2016

Amnesty International

- End the use of disproportionate or unnecessary force against migrants, asylum-seekers and refugees by law enforcement officials.

IMPUNITY FOR HUMAN RIGHTS VIOLATIONS AND ABUSES

- Conduct full, impartial and independent investigations into all allegations of crimes under international law and, where sufficient admissible evidence exists, prosecute those responsible in fair trials without recourse to the death penalty;
- Accept the competence of the UN Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims and interstate complaints.

THE DEATH PENALTY

- Review all provisions that provide for the death penalty, in order to reduce the number of capital offences, with a view to abolishing capital punishment.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE⁶⁴

NEWS

Morocco: Journalists risk imprisonment for running smartphone app training, 28 June 2016

UN must monitor human rights in Western Sahara and Sahrawi refugee camps, 26 April 2016

Morocco: Stop using ‘terrorism’ as a pretext to imprison journalists, 20 May 2014

Morocco: Amendment of rape provision is a step in the right direction, 23 January 2014

Morocco/Western Sahara: Two years too long – repression of protests must end, 20 February 2013

REPORTS AND BRIEFINGS

Morocco: Convictions based on tainted “confessions” – Frenchmen had disavowed statements prepared in Arabic (Index: MDE 29/5189/2016)

Morocco: The authorities must swiftly implement the recommendations of the UN Human Rights Committee (Index: MDE 29/5158/2016)

Morocco: Submission to the United Nations Human Rights Committee 188th Session, 17 October-14 November 2016 (Index: MDE 29/4858/2016)

Death sentences and executions report 2015 (Index: ACT 50/3487/2016)

Amnesty International report 2015/2016, the state of the world’s human rights (Index: POL 10/2552/2016)

Morocco: Sidi Ifni protesters must be given fair appeal trial and released unless assault charges are proved (Index: MDE 29/4763/2016)

Morocco: Torture survivor still detained despite UN calls for his immediate release (Index: 29/4119/2016)

Morocco: Violence against women bill needs stronger safeguards (Index: MDE 29/4007/2016)

Fear and Fences: Europe’s approach to keeping refugees at bay (Index: EUR 03/2544/2015)

Morocco: Free or retry 21 Sahrawis jailed 5 years ago (Index: MDE 29/2800/2015)

Morocco/Western Sahara: Time for truth 50 years after enforced disappearance of opposition leader Mehdi Ben Barka (Index: MDE 29/2747/2015)

Morocco: Amnesty International seeks clarifications on arrest and expulsion of two delegates (Index: MDE 29/2037/2015)

Shadow of Impunity: Torture in Morocco and Western Sahara (Index: MDE 29/001/2015)

Morocco: Unprecedented reforms must uphold human rights (Index: MDE 29/1438/2015)

Morocco: Amnesty International’s submission in the context of the national debate on abortion (Index: MDE 29/1341/2015)

⁶⁴ All these documents are available on Amnesty International’s website:
<https://www.amnesty.org/en/countries/middle-east-and-north-africa/morocco/>

Morocco/Western Sahara: Lift restrictions on associations (Index: MDE 29/010/2014)

Amnesty International deplores the Moroccan authorities' decision to ban youth camp (Index: MDE 29/006/2014)

Morocco/Western Sahara: New revelations on Sahrawi disappearances cases highlight truth and justice deficit (Index: MDE 29/011/2013)

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MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

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