

## HUMAN RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: REVIEW OF 2018

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# MOROCCO/WESTERN SAHARA

## Kingdom of Morocco

Head of state: **Mohammed VI**

Head of government: **Saad-Eddine El Othmani**

The rights to freedom of expression and assembly were heavily restricted, mainly in relation to peaceful protests in the northern cities of Al Hoceima and Jerada. Courts sentenced journalists, protesters and human rights defenders to long prison sentences following grossly unfair trials. Authorities banned or limited the activities of several associations. In Western Sahara, Moroccan authorities, which administer the non-self-governing territory, used unnecessary force to disperse peaceful demonstrations. Migrants and refugees continued to face unlawful arrest, detention and forcible return to their countries of origin. Despite flaws, new laws improved protection of women from violence and strengthened the rights of domestic workers.

## BACKGROUND

The UN Security Council prolonged the mandate of the UN Mission for the Referendum in Western Sahara (MINURSO) for six months in both April and October without adding a human rights component.

In December, the parliament adopted a law restoring compulsory military service for men and women, without adequate provision for conscientious objection.

The European Commission increased its financial support to Morocco aimed at containing migration.

## FREEDOM OF EXPRESSION

Journalists, citizen journalists and human rights defenders were sentenced to prison terms for expressing their views peacefully online. Prosecutors used disproportionate and inappropriate security-related charges based on offences in the Penal Code and counter-terrorism legislation.

In February, a court in Al Hoceima sentenced lawyer Abdessadak El Bouchattaoui to two years in prison and a fine for online posts in which he criticized the use of excessive force by the authorities during sustained social justice protests in the northern Rif region in 2017, commonly known as Hirik El-Rif. Later in February, the same court sentenced Nawal Benaissa to a 10-month suspended prison term and a fine for online comments in which she criticized the authorities' approach to Hirik El-Rif.

In November, a Casablanca court convicted Taoufik Bouachrine, director of *Akhbar Al-Youm* newspaper, of sexual assault charges that he has always denied and sentenced him to 12 years in prison.

In June, a Casablanca court convicted journalist Rabie Lablak and online citizen journalists Mohamed El Asrihi, of Rif24.com, and Fouad Essaidi, of Facebook page Awar TV, to five years in prison in relation to their coverage of Hirik El-Rif. The same court convicted Hamid El Mahdaoui, Badil.info director, to three years' imprisonment for "failing to report a security threat" in connection with the same protests. On 14 November, a Rabat appeal court confirmed the five-year jail sentence against Hirik El-Rif protester El Mortada lamrachen for posts he published on Facebook.

Seven people, including academic Maati Monjib, outspoken journalist Ali Anouzla and other journalists and activists, remained on trial at the end of the year on charges including "threatening state security" for promoting a mobile application for citizen journalism and "advocating terrorism" for an article Ali Anouzla published in 2013.

In June, the UN Working Group on Arbitrary Detention called on Morocco to immediately release Saharawi Equipe Media journalist Mohamed El Benbari, imprisoned since 2015, on the grounds that his detention violated his rights to freedom of expression and association and to a fair trial.

## **FREEDOM OF ASSOCIATION**

Authorities imposed restrictions on freedom of association by banning or limiting the activities of several associations.

Between January and June, authorities prevented at least five activities related to human rights education that were being organized by the Moroccan Association for Human Rights (AMDH) from taking place. In June they banned a conference on individual freedoms being organized by another NGO, the Democracy and Liberties Collective, which was due to be held in Casablanca. On 26 December, authorities issued a dissolution order against Racines, a cultural association based in Casablanca, after it hosted in its office the recording of three episodes of the controversial web-based chat show *1 dîner, 2 cons*.

The authorities continued to restrict the access to the country of international organizations, including Amnesty International, to conduct research on human rights.

## **FREEDOM OF ASSEMBLY**

Authorities banned demonstrations or used excessive or unnecessary force at least twice in 2018. Courts used the law on public gatherings to sentence peaceful protesters to harsh prison terms.

On 13 March, the interior minister banned protests in the mining city of Jerada after a series of protests following the December 2017 deaths of two brothers in a mine. The following morning security forces violently dispersed a sit-in by protesters; five police trucks drove into the crowd and ran over at least one individual, paralysing 15-year-old Abdelmoula Ziker's lower body. No investigation was opened. Authorities prosecuted at least 70 people in relation to the peaceful protest.

In June, Moroccan police violently dispersed a peaceful protest in Laayoune during a visit by the UN special envoy for Western Sahara. In September, Moroccan police used unnecessary force against peaceful protesters opposing an EU-Morocco fisheries deal that was agreed in August; the EU Court of Justice had ruled in February that the deal did not apply to the waters adjacent to the territory of Western Sahara.

## **UNFAIR TRIALS, TORTURE AND OTHER ILL-TREATMENT**

Courts continued to convict activists after grossly unfair trials. In Al Hoceima, Oujda and Casablanca, courts relied heavily on "confessions" extracted under duress. On 26 June, a Casablanca court convicted 53 prisoners detained in relation with HIRAK EL-RIF; the sentences ranged from fines to 20 years in prison. During the trial, the court did not exclude evidence allegedly obtained by torture or other ill-treatment and refused to hear more than 50 defence witnesses. The court held the prisoners in a high-sided box with tinted glass, a practice which is degrading and undermines the presumption of innocence.

By the end of the year, the authorities had yet to establish a National Preventive Mechanism against torture, as provided for by the law on the reorganization of the National Human Rights Council (CNDH), adopted in February, and by the Optional Protocol to the Convention against Torture, ratified by Morocco in 2014.

## **DETENTION – PRISON CONDITIONS**

Prison authorities moved detainees connected with protests between prisons and to prisons far from their home cities as a form of reprisal.

HIRAK EL-RIF protester Achraf El Yakhloufi was held in Ain Sbaa 1 Local Prison, known as Okacha prison, near Casablanca, over 550km from Al Hoceima, his home town. In August, he was transferred to another prison between the cities of Taza and Rabat for nine days after he began a hunger strike to protest against the prison administration's refusal to allow him family visits.

In September, Okacha prison officials moved prisoner of conscience Nasser Zefzafi, a leader of HIRAK EL-RIF, out of solitary confinement, in which he had been held since his arrest in May 2017.

## **RIGHTS OF MIGRANTS, ASYLUM-SEEKERS AND REFUGEES**

From July onward, the authorities launched a widespread and discriminatory crackdown on thousands of sub-Saharan migrants, asylum-seekers and refugees, especially in the north of Morocco, raiding neighbourhoods and informal settlements inhabited by refugees and migrants. Thousands of sub-Saharan migrants, including children and pregnant women, were unlawfully arrested during the raids and transported to remote areas in the south of the country or close to the Algerian border. On 12 August, two sub-Saharan nationals arrested in Tangiers died during their transfer to the south. In September, dozens of sub-Saharan migrants, including minors, were detained without due process in the basement of the police headquarters in Tangiers for at least four weeks. According to the AMDH, dozens of sub-Saharan migrants arrested in the north were held in an informal detention centre in Arekmane, close to Nador,

Security forces continued to co-operate with the Spanish authorities in the summary expulsion and push-back of migrants and asylum-seekers from Spain to Morocco. Between August and October, the Spanish authorities expelled as a group at least 171 sub-Saharan migrants and potential asylum-seekers to Morocco after they crossed into the Spanish enclaves of Ceuta and Melilla. Moroccan authorities forcibly returned dozens of those arrested and expelled from Spain to their countries of origin, including Cameroon, Côte d'Ivoire, Guinea and Senegal, in some cases in violation of the principle of *non-refoulement*.

On 25 September, the Moroccan navy intercepted a boat with at least 15 Moroccan nationals in Moroccan waters close to the northern town of Fnideq. They shot at them to make them stop the boat, apparently believing they were migrants seeking to reach Spain. A woman was killed and three men were injured.

## **WOMEN'S RIGHTS**

A law to combat violence against women came into effect in September. It 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 co-ordinate and complement judicial and governmental efforts to combat violence against women. However, it fails to define rape in line with international standards or recognize marital rape. It also perpetuates derogatory gender stereotypes and does not address obstacles to accessing justice and services for survivors of violence owing to the continuing criminalization of consensual sexual relations outside marriage.

Women continued to be subjected to sexual and gender-based violence and were discriminated against in practice. 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.

## **RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX (LGBTI) PEOPLE**

Same-sex sexual relations remained a criminal offence punishable by up to three years in prison under Article 489 of the Penal Code. LGBTI people continued to face police harassment. Victims of homophobic and transphobic attacks reported being afraid to approach the police to file complaints because of the risk of arrest under Article 489.

## **RIGHTS OF DOMESTIC WORKERS**

In October, parliament passed a new law on domestic workers. It stipulates that domestic workers are entitled to written contracts, maximum working hours, guaranteed days off, paid vacations and a specified minimum wage. It sets the minimum age for domestic workers at 18, with a phase-in period of five years, during which 16- and 17-year-old domestic workers can still work. Employers who violate these provisions will face financial penalties, with prison sentences for repeat offenders in some cases. Despite these gains, the new law still offers less protection to domestic workers than the Moroccan Labour Code, which does not refer to domestic workers.

## **DEATH PENALTY**

Courts continued to hand down death sentences. No executions had been carried out since 1993.

## **POLISARIO CAMPS**

The Polisario Front again failed to hold to account those responsible for committing human rights abuses in the 1970s and 1980s in the camps that have been under its control since that period.