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Ambassador Abdesselam Aboudrar  
Ambassador of the Kingdom of Morocco  
Embassy of the Kingdom of Morocco London  
6, Grosvenor Gardens  
London SW1W 0DH  
United Kingdom

17 December 2020

Your Excellency,

I am writing in response to your letter dated 26 November 2020. We would like to thank you for engaging with us about the case of Maati Monjib and confirm that we will publish your response to us along with our ongoing concerns. We welcome this dialogue with the Moroccan government and take this opportunity to set out our concerns and recommendations about this case in the appendix I have included.

If you require any further information, please contact our Deputy Regional Director for the Middle East and North Africa, Amna Guellali, on [amna.guellali@amnesty.org](mailto:amna.guellali@amnesty.org) or on the telephone number +21658545730.

Yours sincerely,

Julie Verhaar  
Acting Secretary General

## APPENDIX

### *Criminalization of activists in Morocco for receiving foreign funding and other violations of the right to association*

- In your letter, you mention that the 2015 lawsuit against Maati Monjib was not linked to his activities as a human rights defender or a university professor and was rather linked to his receipt of foreign funds. Having reviewed the charges against him, we found that the charges were indeed related to legitimate activities that fall under freedom of association.
- Amnesty International closely followed Maati Monjib and other activists' prosecution, dating back to 2015, for the charges of "harming the domestic security of the State by receiving from a foreign organization any form of gift, present or benefit destined to remunerate in Morocco an activity or propaganda that aims to [...] shake the loyalty due by the citizens to the State and the institutions of the Moroccan people", under Article 206 of the Penal Code, "fraud" under Article 540 of the Penal Code, and "leading an association exercising an activity non-compliant to those set out in its status" under Royal Decree 1.58.376 regulating the Law on Associations. In this case, Monjib was initially prosecuted with six other journalists and activists for receiving foreign funds to run a citizen journalism training programme.<sup>1</sup> On 7 October 2020, the prosecutor's office at the Rabat Court of First Instance, following a referral from the Financial Information Processing Unit, brought new charges of embezzlement and money laundering against him.
- In your letter, you stated that "common law contraventions" should be applied to everyone. We agree that human rights defenders and journalists should not be exempted from criminal liability for internationally recognizable offences, however the Moroccan Penal Code and other legal frameworks include a number of problematic provisions that criminalise activities protected by freedom of association and expression and are not recognizable offences under international law. We are particularly concerned by the use of Article 206 of the Penal Code as a catch all charge against journalists, activists, human rights defenders and others in Morocco. This vaguely worded article is open for a broad interpretation that could criminalize the work of individuals and associations with a critical stance towards the authorities. In fact, the Moroccan authorities have used this article against several individuals, including prominent journalist Omar Radi, for both journalistic work and research he conducted on contract for foreign-based clients.
- In the 2015 case, Monjib's other co-defendants are Hicham Mansouri, a journalist and administration chief at the Association Marocaine pour le journalisme d'investigation, who had previously served a 10-month prison sentence on trumped-up charges of "complicity in adultery;"<sup>2</sup> Hicham Khreibchi, known as Hicham Al-Miraat, former director of the Association for Digital Rights (Association des droits numériques, ADN); Mohamed Essaber, president of the Moroccan Association for the Education of Youth (Association marocaine pour l'éducation de la jeunesse, AMEJ), Abdessalem Ait Aicha, journalist and training project chief at Centre Ibn Rochd. They are all being tried under Article 206 of the Penal Code, in a trial which has been postponed 21 times and is still pending, five years after the initial investigation. Two other people were prosecuted solely for receiving foreign funding: Maria Moukrim, journalist, former AMJI president and Rachid Tarik, journalist and Human Rights Defender, AMJI president.
- In the 2015 case against Monjib and his six co-defendants, the police interrogation revolved around their receipt of foreign funds from the NGO Free Press Unlimited to conduct training sessions around the technique of StoryMaker, a secure storytelling app developed by Free Press Unlimited (FPU), the Guardian Project and Small World News, which enables citizen journalists to publish content anonymously if they wish to. The judicial police interrogated the individuals extensively about the funds received from Free Press Unlimited and accused them of using those funds "to incite young people to use those journalistic technologies to undermine the image of Moroccan institutions and shake security and stability of Morocco."

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<sup>1</sup> Amnesty International, Morocco: Journalists risk imprisonment for running smartphone app training | Amnesty International

<sup>2</sup> Amnesty International Urgent Action, <https://www.amnesty.org/download/Documents/MDE2932232016ENGLISH.pdf>

- As to the second case against Maati, and since it is still at the investigative stage, we have been unable to determine the exact basis of the charges but are concerned that this case also entails charges that stem from the peaceful exercise of his rights to freedom of expression and association. Our concerns are reinforced by your reference in your letter to the fact that the reasons for this new investigation as deriving from the annual reports of 2015 and 2016 of Free Press Unlimited, which suggests that this new investigation is linked to the old case of 2015 about the receipt of foreign funding from that NGO to conduct training workshops for citizen journalists.

*The right to receive foreign funding under international standards and Moroccan law*

- As stated in the report of the UN Special Rapporteur on the situation of human rights defenders, "Access to funds and resources is essential for NGOs, and is an integral component of the right to freedom of association. Without funding, NGOs obviously cannot effectively engage in the defence and promotion of human rights".<sup>3</sup>
- The Declaration on the right and responsibility of individuals, groups and organs of society to promote and defend universally recognised human rights and fundamental freedoms adopted by the United Nations General Assembly in 1998 explicitly provides that human rights defenders have a right to access funding. Article 13 of this Declaration states: "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means".
- The UN Human Rights Council has stressed the importance of safeguarding the capacity of civil society organizations to engage in fundraising activities, calling upon states not to criminalize or delegitimize activities in defence of human rights on account of the origin of funding.<sup>4</sup> Similarly, the UN Human Rights Committee and the Special Rapporteur on the rights to freedom of peaceful assembly and of association have stressed the importance of safeguarding NGOs' capacity to engage in fundraising activities, and have argued that funding restrictions that impede the ability of associations to pursue their statutory activities constitute an interference with Article 22 of the ICCPR.<sup>5</sup>
- Moreover, the United Nations Special Rapporteur on the situation of human rights defenders emphasized that the Declaration protects the right to "receive funding from different sources, including foreign ones". The Special Rapporteur considered that "Governments should allow access by human rights defenders, in particular non-governmental organizations, to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments". The Special Rapporteur also insisted that governmental regulation for reporting foreign funding should not undermine the independence of associations or place discriminatory restrictions on potential funding sources.<sup>6</sup>
- Article 6 of Dahir (royal decree) No. 1-58-376 issued on 15 November 1958 regulating associations states that each legally established association has the right to acquire and administer funds from both public and private sources, from domestic and foreign parties as well as from international organizations. Chapters 32, 32 *bis* and 32 *ter* include posterior measures to regulate the receipt of such funds or subsidies, including the obligation to declare foreign funds to the secretary of state within 30 days. While, breaching such regulations entails risks of dissolution for the association, the law does not provide criminal penalties for failing to comply with it.
- The criminalization of the receipt of foreign funding through Article 206 and other laws and the prosecution of individuals for their collaboration with intergovernmental organizations and NGOs is therefore inconsistent with the Moroccan obligations under international law and with the Moroccan law on associations. The trials against human rights defenders, journalists and other critical voices in Morocco for receiving foreign funding seem to be politically motivated and indicate the Moroccan authorities' disregard for the rights to freedom of expression and

<sup>3</sup> UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, UN Document A/66/203, July 28, 2011, paragraph 70.

<sup>4</sup> Human Rights Council Resolution, 22/6, Protecting human rights defenders, UN Doc. A/HRC/Res/22/6, para. 9.b

<sup>5</sup> Human Rights Committee and Viktor Korneenko et al v. Belarus, (1274/2004) UN Doc CCPR/C/88/D/1274/2004, 2006, para 7.2; Report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, 2013, UN Doc. /AHRC/23/39, para. 16

<sup>6</sup> UN Human Rights Council, "Report of the Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association", 23rd session April 2013, para. 14, available at [goo.gl/pmcQil](http://goo.gl/pmcQil)

association. Penalizing a broadly defined range of peaceful expression and activities that benefit from foreign funding interferes with the right of Moroccans to seek, receive and utilize such funding, which is integral to the exercise of the right to freedom of association. We call on the Moroccan authorities to repeal article 206 of the Penal Code and ensure this or other laws are no longer used as a way to target and harass human rights defenders and journalists. We also call on the government not to abuse administrative regulations on the receipt of foreign funding as a means to target independent human rights associations or journalists and ensure that civil society organizations can work in a safe and enabling environment.

*Previous instances of harassment against Maati*

- Maati has faced numerous hurdles to conduct his human rights work in the past. He created the Rabat-based Ibn Rochd Center for Research and Information, which he founded but then decided to close at the end of 2014, citing authorities' efforts to prevent its activities.
- In 2013, he co-founded and became president of Freedom Now, a media freedom group for which the authorities have refused to register. Maati and the executive board filed a complaint to contest the Ministry of Interior decision to refuse legal registration to the NGO and the administrative tribunal ruled, in 2016, that the refusal was illegal.<sup>7</sup> [Nevertheless, the authorities have still not registered the organization].

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<sup>7</sup> <https://lakome2.com/liberte/47004/>