



UNIVERSAL PERIODIC REVIEW
SUBMISSION FOR MOROCCO

NGO Submission

New York, March 2022

Prepared and submitted by:
The Human Rights Foundation
Center for Law and Democracy

Human Rights Foundation
350 Fifth Avenue, Suite 4202
New York, NY 10118

ABOUT HRF

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.

We focus our work on the founding ideals of the human rights movement, those most purely represented in the 1948 Universal Declaration of Human Rights (UDHR) and the 1976 International Covenant on Civil and Political Rights (ICCPR).

INTRODUCTION

This submission was prepared by HRF for the Universal Periodic Review (UPR) of the Kingdom of Morocco (Morocco). In this submission, HRF evaluates Morocco's implementation of recommendations put forth during its previous UPR, as it relates to the current human rights situations in the country, which is characterized by systematic, widespread, and gross violations of human rights, including: ongoing curtailment of the freedom of expression, assembly, and association; arbitrary arrests, detentions, and violations of due process of the law; gender-based violence and discrimination; and laws restricting the freedoms of the LGBTQ+ community.

FOLLOW-UP ON THE PREVIOUS REVIEW

1. As a member state of the United Nations (UN), Morocco has committed itself to protect, promote, and respect the individual rights of its citizens, as well as the fundamental freedoms delineated in the UDHR. The most recent UPR of

Morocco by the UN Human Rights Council took place on May 2, 2017.¹ Although Morocco accepted 191 of 244 recommendations put forth,² it has not made significant strides in implementing them.

2. Among many recommendations, the most common made by UN Member States suggest that Morocco should ratify international conventions and rescind reservations to core human rights instruments. However, critically, Morocco has yet to:
 - a. Ratify the First Optional Protocol to the International Covenant on Civil and Political Rights;
 - b. Ratify Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; and
 - c. Accept the Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance.
3. UN Member States also made recommendations to Morocco regarding international norms, including concerning:
 - a. The efforts towards the promotion and protection of the Saharo-Hassani cultural heritage;
 - b. Strengthening cooperation with UN special procedures;
 - c. The need to strengthen anti-trafficking endeavors, particularly child sex tourism;
 - d. The need to strengthen Morocco's national human rights institutions; and
 - e. Protecting citizens from sexual and gender-based discrimination.³

¹ Human Rights Council, Working Grp. on the Universal Periodic Review of the Twenty-Seventh Session, *Report of the Working Group on the Universal Periodic Review: Morocco*, U.N. Doc. A/HRC/36/6 (July 13, 2017), https://www.upr-info.org/sites/default/files/document/morocco/session_27_-_may_2017/a_hrc_36_6_e.pdf.

² *Morocco: Responses to Recommendations – Third Review, Session 27*, UPR-INFO, at 1 (Sept. 2017), https://www.upr-info.org/sites/default/files/document/morocco/session_27_-_may_2017/response_to_recommendations_morocco_2017.pdf.

³ Human Rights Council, *supra* note 1.

MOROCCO'S NATIONAL FRAMEWORK FOR PROTECTING HUMAN RIGHTS

4. Morocco's Constitution⁴ contains several provisions relating to the protection of the fundamental rights and freedoms of its citizens.

5. Regarding the equal protection of all individuals under the law, *Article 19* states:

The man and the woman enjoy, in equality, the rights and freedoms of civil, political, economic, social, cultural and environmental character, enounced in this Title and in the other provisions of the Constitution, as well as in the international conventions and pacts duly ratified by Morocco and this, with respect for the provisions of the Constitution, of the constants [constantes] of the Kingdom and of its laws. The State works for the realization of parity between men and women. An Authority for parity and the struggle against all forms of discrimination is created, to this effect....

6. Pertaining to the fundamental rights of physical integrity and liberty and freedom from arbitrary detention, *Articles 20, 21, 22, and 23* provide, respectively:

The right to life is the first right of any human being. The law protects this right.

All have the right to the security of their person and of their kin [proches], and to the protection of their assets. The public powers assure the security of the populations and of the national territory within respect for the fundamental freedoms and rights guaranteed to all.

The physical or moral integrity of anyone may not be infringed, in whatever circumstance that may be, and by any party that may be, public or private. No one may inflict on others, under whatever pretext there may be, cruel, inhuman, [or] degrading treatments or infringements of human dignity. The practice of torture, under any of its forms and by

⁴ Morocco's Constitution of 2011, Constitute Project (2011),
https://www.constituteproject.org/constitution/Morocco_2011.pdf.

anyone, is a crime punishable by the law.

No one may be arrested, detained, prosecuted or condemned outside of the cases and the forms provided by the law. Arbitrary or secret detention and forced disappearance are crimes of the greatest gravity. They expose their authors to the most severe sanctions. Any detained person has the right to be informed immediately, in a fashion which is comprehensible to him, of the reasons [motifs] of his detention and of his rights, including that of remaining silent. He must benefit, as well, from juridical assistance and of the possibility of communication with his relations, in accordance with the law. The presumption of innocence and the right to an equitable process are guaranteed. Any detained person enjoys the fundamental rights and humane conditions of detention. He must benefit from programs of instruction and of reintegration [reinsertion]. All incitement to racism, to hatred and to violence is prohibited.

7. Regarding the rights to freedom of expression, association, assembly, and religion, Articles 25 and 29 state, respectively:

The freedoms of thought, of opinion and of expression under all their forms[,] are guaranteed. The freedoms of creation, of publication and of presentation [exposition] in literary and artistic matters and of scientific and technical research[,] are guaranteed.

The freedoms of reunion, of assembly, of peaceful demonstration, of association and of syndical and political membership [appartenance], are guaranteed. The law establishes the conditions of the exercise of these freedoms.

8. Regarding women's rights, Article 19 states:

The State works for the realization of parity between men and women.

POLITICAL BACKGROUND

9. In 1956, Morocco achieved independence from France and established Sultan Mohammed as king.⁵ The Constitution of Morocco, first adopted in 1962,

⁵ Morocco Country Profile, BBC News (Sept. 14, 2021), <https://www.bbc.com/news/world-africa-14121438>.

provided for a monarchy alongside multiparty institutions and a separation of power from the other branches.⁶

10. In 1961, Hassan II became king and played a prominent role in mediating peace in the Middle East, and worked closely with the West.⁷ But while allowing a relatively free press and opposition parties, King Hassan II ruthlessly suppressed opposition.⁸

11. In 1975, King Hassan II annexed Western Sahara, a region claimed by both Morocco and Mauritania but still officially under Spanish administration at the time.⁹ The dispute over the territory continues, with reports of Moroccan authorities violating the rights of Sahrawis in Western Sahara by restricting freedom of expression, suppressing civic activism, and engaging in enforced disappearances of Sahrawi leaders.¹⁰

12. In 1999, King Hassan II's son, Mohammed VI, became king. Under his rule, Morocco has undergone some political and economic reforms. In 2011, in response to pressure inspired by the Arab Spring protests, King Mohammed VI introduced a series of reforms that would effectively transition Morocco into a constitutional monarchy. The new Constitution broadened the powers of the prime minister and parliament while leaving the king with broad authority over all branches of government.¹¹ For example, the king must respect election results and name the prime minister from the party that receives the most votes. While more power is passed to the other branches, the new constitution reserves religion, security issues, and strategic major policy choices as residing solely with

⁶ Rabéa Naciri, *Women's Rights in the Middle East and North Africa - Morocco*, Freedom House (Oct. 14, 2005), <https://www.refworld.org/docid/47387b6d2f.html>.

⁷ BBC News, *supra* note 5.

⁸ Joseph R. Gregory, *Hassan II of Morocco Dies at 70; A Monarch Oriented to the West*, The New York Times (Jul. 24, 1999), <https://www.nytimes.com/1999/07/24/world/hassan-ii-of-morocco-dies-at-70-a-monarch-oriented-to-the-west.html>.

⁹ *Id.*

¹⁰ Daniel Samet, *The Western Sahara Dispute Drags On after 27 Years in Limbo*, Freedom House (Jan 9., 2019), <https://freedomhouse.org/article/western-sahara-dispute-drags-after-27-years-limbo>.

¹¹ BBC News, *supra* note 5.

the king.¹²

13. Despite King Mohammed VI's reformation efforts, Morocco is best described as a fully authoritarian regime.¹³ A decade after the Arab Spring, King Mohammed VI has continued to consolidate power and weaken the other branches of government.¹⁴ While a multiparty system exists, it is overshadowed by decisions of the monarchy. Civil liberties are constrained, with journalists and activists often surveilled and detained for criticism of the government. The COVID-19 pandemic exacerbated constraints as the Moroccan government instituted mass-gathering restrictions, arrested individuals accused of spreading purportedly false information, and maintained internal movement restrictions.¹⁵

FREEDOMS OF EXPRESSION, ASSEMBLY, AND ASSOCIATION

14. The rights to freedom of expression and freedom of assembly in Morocco are legally protected by the Constitution of Morocco, but legal loopholes and the COVID-19 pandemic have been used to arrest journalists and activists. Morocco has experienced a continued use of force against protests and an increased crackdown on dissent online.¹⁶

15. Authorities have used a number of repressive laws relating to national security, the press, and the global public health emergency to stifle dissent. Spurious charges have been applied to stifle journalists, and police have also been involved in dispersing demonstrations with force. The following examples reflect

¹² Marina Ottoway, *The New Moroccan Constitution: Real Change or More of the Same?* Carnegie Endowment for International Peace (Jun. 20, 2011), <https://carnegieendowment.org/2011/06/20/new-moroccan-constitution-real-change-or-more-of-same-pub-44731>.

¹³ See Steven Levitsky and Lucan Way, *The New Competitive Authoritarianism*, *Journal of Democracy* (Jan. 2020), available at <https://muse.jhu.edu/article/745953/pdf>.

¹⁴ Ahmed Eljehtimi and Angus McDowall, *Looming Moroccan Election Reveals Parliament's Dimming Sway*, Reuters (Sep. 4, 2021), <https://www.reuters.com/world/africa/looming-moroccan-election-reveals-parliaments-dimming-sway-2021-09-03/>.

¹⁵ *Morocco: Freedom in the World 2021*, Freedom House (2022), <https://freedomhouse.org/country/morocco/freedom-world/2021>.

¹⁶ *Morocco: Freedom on the Net 2021 Report*, Freedom House (Sept. 21, 2021), <https://freedomhouse.org/country/morocco/freedom-net/2021>.

this situation:

- a. In June 2018, editor-in-chief of the news site *Badil*, Hamid Mahdaoui, was sentenced to three years in prison, following his coverage of the Hirak Rif demonstrations and after uploading YouTube videos that expressed support for the movement.¹⁷ The Hirak movement began in 2016 in the northern Rif region, following the death of Mouhcine Fikri, a fishmonger crushed by a garbage truck. Since then, Moroccan security forces have arrested and prosecuted hundreds of protesters, including dozens of children.¹⁸ In June 2018, a court sentenced Nasser Zefzaki, leader of Hirak Rif, to 20 years in prison, and upheld the sentences of 54 other Hirak activists.¹⁹
- b. In April 2019, journalist Omar Radi was questioned by police for a tweet that was critical of a judge's sentence for Hirak Rif activists. Radi was then arrested and charged with "insulting a magistrate" under Article 263 of the Penal Code. After an international campaign on Radi's behalf, he was given a four-month suspended sentence.²⁰ However, Radi was again arrested in July 2020 after reports that he was targeted by surveillance software.²¹ Radi was then sentenced to six years in prison for trumped-up charges, including undermining state security through espionage and illegally receiving foreign funding.²²
- c. In November 2019, Moroccan rapper Mohamed Mounir (widely known as Gnawi) was arrested and sentenced to one year in prison and a fine of

¹⁷ Freedom House, *supra* note 16.

¹⁸ Morocco: End Intimidation of Hirak Protest Leader Nawal Benaissa, *Amnesty International* (Oct. 17. 2018), <https://www.amnesty.org/en/latest/news/2018/10/morocco-end-intimidation-of-hirak-protest-leader-nawal-benaissa/>.

¹⁹ Morocco protests: Thousands demand release of activists, *BBC News* (Apr 22, 2019), <https://www.bbc.com/news/world-africa-48008463>.

²⁰ Freedom House, *supra* note 16.

²¹ David Pegg, Paul Lewis, Michael Safi, and Nina Lakhani, *FT Editor among 180 Journalists Identified by Clients of Spyware Firm*, *The Guardian* (Jul. 20, 2021), <https://www.theguardian.com/world/2021/jul/18/ft-editor-roula-khalaf-among-180-journalists-targeted-nso-spyware?fbclid=IwAR1afV5jQlJ15aJb2c4vuOPuTsC4rK6BfblEwxZ9X9xhop6zSi42UAaLbjI>.

²² Moroccan Journalist Omar Radi Sentenced to 6 Years in Prison; Imad Stitou Convicted of Complicity, *Committee to Protect Journalists*, (Jul. 19, 2021), <https://cpj.org/2021/07/moroccan-journalist-omar-radi-sentenced-to-6-years-in-prison-imad-stitou-convicted-of-complicity/>.

1,000 Dirham for insulting the police and government in a music video.²³ Mounir's song, "Aacha Chaab," or "Long Live the People," spoke of oppression and corruption in Morocco and gained over 15 million views.

- d. In December 2019, high school student Ayoub Mahfoud was arrested and sentenced to three years in prison for quoting a rap song on Facebook that was critical of the royal government.²⁴

16. Several recommendations from the 2017 UPR for Morocco are related to safeguarding the rights to freedom of expression, assembly, and association, including that Morocco should:

- a. Fully ensure the freedoms of expression and association and take all necessary measures to ensure that human rights defenders can carry out their missions (France);
- b. Ensure the Constitution's provisions on freedom of the press, freedom of opinion and expression and freedom of assembly and association are respected, including for people who want to express their views on the situation of and in Western Sahara (Sweden); and
- c. End the prosecution of and release journalists and other individuals detained solely for exercising their rights to freedom of expression, peaceful assembly and association (United States of America).²⁵

ARBITRARY ARREST, DETENTIONS, AND VIOLATIONS OF DUE PROCESS OF THE LAW

17. Morocco supported recommendations from the 2017 UPR to bring its Code of Criminal Procedure in line with the ICCPR, as it only partially fulfills human

²³ Morocco: Sentencing of Rapper Gnawi to One Year in Prison a Flagrant Assault on Freedom of Expression, Amnesty International (Nov. 25, 2019), <https://www.amnesty.org/en/latest/news/2019/11/morocco-rapper-sentenced/>.

²⁴ Freedom House, *supra* note 16.

²⁵ Human Rights Council, *supra* note 1.

rights obligations under the ICCPR. Morocco stated it intends to reform the Code to meet its obligations under the 2011 Constitution, as well as its international human rights obligations.²⁶

18. The 2011 Constitution prohibits arbitrary arrest and detention.²⁷ However, Moroccan authorities continue to arbitrarily arrest activists and critics.²⁸ In recent cases, Morocco has arrested, prosecuted, and imprisoned several critics for offenses related to sex or embezzlement, despite scant or dubious evidence. Some of these trials involved clear fair-trial violations.²⁹
19. Uyghur activist Yidiyesi Aishan was arrested in Casablanca per a Red Notice issued by China's fully authoritarian regime that labeled him a "terrorist" for his involvement in the East Turkestan Islamic Movement. In objection to the UN and international human rights organizations, the Moroccan Court of Cassation allowed Aishan to be extradited to China.³⁰
20. Moroccan journalist Soulayman Raissouni spent his career covering corruption and the abuse of power in the face of the Moroccan regime's strategic campaign to stifle independent media. Raissouni's coverage on anti-government protests in the aftermath of 2011 and the mismanagement of public health during COVID-19 resulted in his arbitrary detainment that left him without trial for over one year and in declined health due to his hunger strike. He is one of at least 10 independent journalists jailed because of unsubstantiated allegations of sex crimes.³¹ In January 2022, prosecutors requested a maximum jail time of 10

²⁶ Morocco: Amnesty International Submission for the UN Universal Periodic Review, Amnesty International (April 2017), https://www.upr-info.org/sites/default/files/document/morocco/session_27_-_may_2017/ai_upr27_mar_e_main.pdf.

²⁷ Constitute Project, *supra* note 4.

²⁸ Morocco/Western Sahara: Crackdown Against Activists for Criticizing the King, Public Institutions and Officials, Amnesty International (Feb. 11, 2020), <https://www.amnesty.org/en/latest/news/2020/02/morocco-western-sahara-crackdown-against-activists-for-criticizing-the-king-public-institutions-and-officials/>.

²⁹ Morocco and Western Sahara: Events of 2021, Human Rights Watch (2021), <https://www.hrw.org/world-report/2022/country-chapters/morocco-western-sahara>.

³⁰ Morocco: UN Experts Say Extradition of Uyghur Asylum Seeker to China Violates Principle of Non-refoulement, United Nations Office of the High Commissioner for Human Rights (Dec. 16, 2021), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27974&LangID=E>.

³¹ Nicholas Casey and Aida Alami, *Journalist's Monthslong Hunger Strike Points to Perils of Reporting in Morocco*, The New York Times (Jul. 3, 2021), <https://www.nytimes.com/2021/07/03/world/africa/morocco-journalists-jailings.html>.

years.³²

GENDER-BASED VIOLENCE AND DISCRIMINATION

21. In 2018, Morocco passed a law to provide a stronger legal framework to protect women from violence, sexual harassment, and abuse. Under the law, a sexual assault conviction may result in a prison sentence of six months to five years and a fine.³³ However, the law did not explicitly outlaw spousal rape or violence, despite reports of this abuse against women in Morocco.³⁴ The fear of being shamed and the lack of trust in the police are often barriers to women reporting sexual violence. In 2019, a survey showed only three out of 100 women survivors of sexual violence report incidents to the police in Morocco.³⁵
22. Article 453 of the Penal Code originally only allowed the termination of a pregnancy in cases where the health of the mother was in danger. In 2016, Morocco amended the law to allow termination in cases of incest, rape, and birth defects.³⁶ In 2018, 73 individuals were tried for pregnancy termination.³⁷
23. In 2019, 28-year old female journalist Hajar Raissouni was arrested and interrogated by Rabat police, due to a suspicion of having engaged in “sexually deviant activities” with her fiancé. She then endured a non-consensual gynecological exam and other violations to her bodily autonomy. She was

³² Morocco Prosecutors Seek Double Jail Time for Journalist on Appeal, Alarabiya News (Jan. 31, 2022), <https://english.alarabiya.net/News/north-africa/2022/01/31/Morocco-prosecutors-seek-double-jail-time-for-journalist-on-appeal>.

³³ Law no. 103.13. See Mor OG (Mar. 12, 2018), no. 6655, p. 1449.

³⁴ Morocco Criminalises Violence Against Women and Sexual harassment, Al Jazeera (Sep.12, 2018), <https://www.aljazeera.com/news/2018/9/12/morocco-criminalises-violence-against-women-and-sexual-harassment>.

³⁵ Ending Violence Against Women: Layla from Morocco Shares Her Story, UN Women (Nov. 24, 2021), <https://www.un.org/africarenewal/magazine/december-2021/ending-violence-against-women-believe-survivors-act-now>.

³⁶ Bryn Miller, Morocco Liberalizes Abortion Laws, Amends Penal Code, Morocco World News (Jun. 10, 2016), <https://www.morocroworldnews.com/2016/06/188740/morocco-liberalizes-abortion-laws-amends-penal-code>.

³⁷ Moroccan Women Say They are Abortion 'Outlaws' in Protest at Journalist's Trial, France24, (Sep. 23, 2019), <https://www.france24.com/en/20190923-morocco-women-sex-abortion-manifesto-protest-journalist-raissouni-leila-slimani>.

charged with sex outside of marriage and having an abortion, and was sentenced to one year in prison.³⁸ Raissouni was later pardoned and released by King Mohamed VI following international attention that the case amassed.³⁹

24. In 2020, 17-year old Oumaima was kidnapped from a Casablanca shopping mall and missing for three weeks. Oumaima reported that she was held captive in a Casablanca slum, where she was repeatedly gang raped, abused, and forcibly intoxicated at the hands of approximately 20 men. When she was released by her abusers, her mother filed a police report, but it led to no arrests or recourse. Her story ignited a country-wide movement, *Kulna Oumaima*, to protest the lack of accountability for abusers of young women, many of whom have faced similar traumas without substantial protections from the police or court system.⁴⁰

LGBTQ+ RIGHTS

25. LGBTQ+ people in Morocco face significant legal and societal barriers. Homosexuality is illegal under Article 489 of the Moroccan Penal Code of 1962, which states that any person who “commits a lewd or unnatural act” with an individual of the same sex may be sentenced to six months to three years of imprisonment and fined 120 to 1,000 Dirham.⁴¹ Since April 2020, LGBTQ+ individuals have been threatened and exposed by “outing campaigns” via social media.⁴²

26. Cases of homosexuality accusations most often prosecute men. In October 2016, the first known case involving two girls was reported to Marrakech police by one

³⁸ Morocco: Human Rights Watch Submission to the Committee On the Elimination of Discrimination Against Women On Morocco, https://www.hrw.org/news/2020/10/21/human-rights-watch-submission-committee-elimination-discrimination-against-women#_ftn14.

³⁹ Morocco Pardons Journalist Hajar Raissouni Jailed on Abortion Charges, BBC News, (Oct. 17, 2019), <https://www.bbc.com/news/world-africa-50077353>.

⁴⁰ Susanna Spurgeon, *Casablanca Police Investigate Gang Rape of 17-Year-Old Oumaima*, Morocco World News (Jan. 24, 2020), <https://www.morocroworldnews.com/2020/01/291977/casablanca-gang-rape-oumaima>.

⁴¹ Morocco: *The treatment of homosexuals, including protection offered by the state and the attitude of the population*, Immigration and Refugee Board of Canada (Mar. 5, 2007), <https://web.archive.org/web/20121010074937/http://www.unhcr.org/refworld/country,,IRBC,,MAR,456d621e2,469cd6af0,0.html>.

⁴² Morocco: *Online Attacks Over Same-Sex Relations*, Human Rights Watch (Apr. 27, 2020), <https://www.hrw.org/news/2020/04/27/morocco-online-attacks-over-same-sex-relations>.

of their mothers. The girls, both underage at the time, were physically assaulted and served a week-long detention. They both faced a 1,200 Dirham fine, and an acquittal four years later, in December 2020.⁴³

27. In 2020, it was estimated that up to 100 homosexual men were involuntarily outed, after a leak of a location-based dating app released users' identities. Due to the stigma surrounding the LGBTQ+ community and the criminalization of homosexuality, these individuals faced public persecution, familial excommunication, and grave violations of privacy.⁴⁴

RECOMMENDATIONS

HRF calls on Morocco's government to:

- a) Protect the rights of all individuals to freedom of peaceful assembly, association, and expression, including without regard for sexual orientation;
- b) Promote, without reserve, the rights to freedom of expression and association, and ensure that activists, journalists, and opposition groups can operate peacefully within Morocco without fear of retribution in the form of censorship, harassment, arbitrary detention, and extrajudicial killings, among others.
- c) Abolish the use of the death penalty for all crimes;
- d) Strengthen its commitment to gender equality, including by:
 - i) withdrawing all its reservations to CEDAW; and
 - ii) equalizing rights for men and women in family law;
- e) Cooperate with regional and international human rights mechanisms by allowing the special procedure mandate holders to carry out an independent assessment of the human rights situation in Morocco and advise the government;

⁴³ Morocco: Human Rights Watch Submission to the Committee On the Elimination of Discrimination Against Women On Morocco, All Africa (Oct. 21, 2020), <https://allafrica.com/stories/202012020432.html>.

⁴⁴ Aida Alami, *Dozens of Gay Men are Outed in Morocco as Photos are Spread Online*, The New York Times (Apr. 26, 2020), <https://www.nytimes.com/2020/04/26/world/middleeast/gay-morocco-outing.html>.

and

- f) Engage in constructive national dialogue with religious, political, and social groups — particularly opposition groups — to generate a sustainable solution to ensuring peace and protection of human rights within the country.