

Universal Periodic Review

Morocco

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Report submitted by:

CODAPSO

(The Committee for the Defence of the Right to Self-Determination for the
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Western Sahara

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Introduction

Article 1 of the UN Charter establishes that all peoples have the right to self-determination. More than 100 UN resolutions, and the International Court of Justice, have confirmed that the right to self-determination specifically applies to the people of Western Sahara.

According to the peace agreement between the Government of Morocco, and the Saharawi liberation movement Frente Polisario, the people of Western Sahara were promised the right to exercise the right of self-determination in a referendum in 1992. Two decades later, the referendum has not taken place. The peace process between Morocco and Polisario has seen little, if any, progress. Since 2004, Morocco has refused a referendum in Western Sahara, no matter who takes part in it. The King of Morocco in public speeches now labels the Saharawis who demand their legitimate right as “traitors”. Attacks against Saharawis both take place by legally criminalizing those that urge their right to independence, as well as through day-to-day violations of Moroccan legislation committed by Moroccan security forces and institutions.

After a mission to Western Sahara of the Office of the United Nations High Commissioner for Human Rights in 2006, the delegation concluded that “the right to self-determination for the people of Western Sahara must be ensured and implemented without any further delay. [...] The delegation concludes that almost all human rights violations and concerns with regard to the people of Western Sahara [...] stem from the non-implementation of this fundamental human right.”¹

It is CODAPSO’s opinion that this is still the case.

In Morocco’s previous national report in 2008, no reference was made to the human rights situation in Western Sahara, nor to the Saharawi people’s right to self-determination. We consider this to be a serious omission in Morocco’s

¹ ‘Report of the OHCHR Mission to Western Sahara and the Refugee Camps in Tindouf 15/23 May and 19 June 2006’. Office of the United Nations High Commissioner for Human Rights (OHCHR), 8 September 2006, <http://www.arso.org/OHCHRrep2006en.htm>

submission that needs to be addressed in its national report for 2012. We expect Morocco to separately report on this topic in its next session.

Western Sahara is treated in the United Nations as a Non-Self Governing Territory. No state recognizes Morocco's sovereignty claims over the territory. Morocco's claims have been rejected by the International Court of Justice. Even though Morocco is considered neither as the sovereign nor the administering power of the Non-Self-Governing territory of Western Sahara, the Moroccan government is still obliged to respect its international obligations in relation to the human rights in the territory it has illegally annexed. Its institutions are furthermore obliged to follow the government's own legislation, in its treatment of the people of Saharawi origin, both in Morocco and in the Morocco-controlled parts of Western Sahara.

Considering the history of violations against the people in Western Sahara, and documented violations occurring within this territory, it is preoccupying that Morocco regularly prevents international bodies and observers entering these territories, such as journalists, foreign parliamentarians and human rights experts. Several groups have been told upon their expulsion from Western Sahara that they need a special permit to meet with Saharawis. Morocco furthermore refuses to cooperate with the other party to the Western Sahara conflict to allow the UN mission in Western Sahara to monitor the human rights situation in the territory.

Moroccan authorities to this day severely oppress individuals and organisations defending the right to self-determination. This report presents cases of abuses committed against human rights defenders requesting their right to self-determination.

Through these actions, Morocco considerably violates its international obligations. Morocco ratified the International Covenant on Civil and Political Rights on 3 May 1979, yet fails to respect central articles of this article on a day-to-day basis, such as Art.1 (all peoples' right to self-determination), Art.10 (detainees to be treated with humanity), Art.14 (equality before courts), Art.19 (freedom of expression), Art.21 (right to peaceful assembly).

This report will document cases through which Morocco violates ICCPR Articles 7 and 9.

Morocco and the International Covenant on Civil and Political Rights (ICCPR)

Article 9

When ratifying the ICCPR, Morocco recognized the idea of human beings being free, and hereby ensuring freedom from arbitrary detention. Arbitrariness within the meaning of the ICCPR, is where persons are arrested and detained solely on account of the expression of critical political opinions.

Since Morocco's previous UPR review in 2008, there have been numerous cases of arbitrary arrests of peaceful demonstrators in violation of Article 9. There is an apparent and indisputable link between the work carried out by Western Sahara human rights defenders, and their arrest.

Saharawi human rights defenders and collective groups of such activists operate under close scrutiny. They are kept under constant watch by the Moroccan authorities and exposure to arrest and abuse is commonplace:

CASE A

The Moroccan police arrested six men and one woman, all human rights defenders, on 8 October 2009, as they returned from a visit to the Saharawi refugee camps near Tindouf, Algeria. They were Brahim Dahane, Ali Salem Tamek, Ahmed Naciri, Degja Lachgar, Yahdih Etarrouzi, Rachid Sghaier, and Saleh Lebah. They had met openly with Polisario officials. They were charged with "undermining state security", initially in a military court. The detainees are all advocating the right to self-determination in Western Sahara. In a statement 18 March 2010 they explained the visit to Tindouf was conducted in order to discuss human rights and humanitarian issues.

Subsequently, four of them were released. The remaining three, Brahim Dahane, Ali Salem Tamek and Ahmed Naciri were kept in detention for more than 18 months. None were ever sentenced nor acquitted.

CASE B

The Western Sahara human rights defender Naâma Asfari was on 27 August 2009 arrested and sentenced for four months imprisonment for allegedly "showing contempt towards a public agent". The argument between himself

and the security official was based on Asfari's refusal to remove a Western Sahara flag from his key chain.

This was Asfari's third conviction in three years, and the charges were directly related to his work as a Western Sahara human rights defender. Asfari stated to the court that he had been tortured under interrogation. Asfari was later released, but has the last 12 months been in jail following the so-called Gdeim Izik incident in 2010.

CASE C

Three human rights defenders were on 20 July 2010 sentenced to two years in prison. The students Ibrahim Beriaz, Ali Salim Ablagh and Saeed Al-Wa'ban are all members of the Saharawi Committee for the Defence of Human Rights in Glaimim, Southern Morocco. These three students were arrested shortly after their participation in a peaceful demonstration for the Saharawi's right to self-determination.

CASE D

As of 18 November 2011, 24 Saharawis are still in jail after the violent dismantlement of the Gdeim Izik protest camp on 8 November 2010. No trial has yet taken place.

The Gdeim Izik tent camp was erected as a peaceful protest against the socio-economic marginalization and discrimination of the Saharawis in Western Sahara, and later transformed into a camp urging the self-determination of the Saharawi people. The camp, set up outside of El Aaiun, was a manifestation of the Saharawi people's legitimate right to peaceful assembly, as established in ICCPR Article 21. The camp was dismantled by excessive use of force by Moroccan police forces. More than 120 Saharawis were detained. Several were subjected to unfair treatment, including forcing statements under torture. Some families were, for a period up to 16 days, refused information on the whereabouts of their detained family members. From 9 November 2011 Moroccan security forces were directly involved in attacking the homes of Saharawi people in El Aaiun.

Article 7

Article 7 of the ICCPR establishes that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

A number of Saharawis are subjected to severe human rights abuses while under interrogation and detention, in violation of Article 7. Many Saharawis are reluctant to present their exact stories, due to the intimate nature of the torture methods.

Following the dismantlement of the Gdeim Izik camp, for instance, a number of Saharawis explained that their treatment under detention included; beatings with weapons, some even falling unconscious, rape, threat of rape, long periods in blindfold, forced to shout pro-Moroccan slogans, lack of food, urine in the drinking water. Both women and elderly were subjected to such abuses.

CASE E

Human rights defender Mohamed Bani, was detained on 8 November 2010, following the dismantlement of the Gdeim Izik protest camp. Upon detention, he was in good health. When he later was visited by his wife, Bani had clear signs of torture on his body. Bani testified to his wife that he had been subjected to beatings on his head. A poor treatment to his injury had led to an infectious swelling of his head. As of 18 November 2011, Mr. Bani, born 1969, is still in jail, without any sentence.

CASE F

Cheikh Banga, member of the Saharawi human rights organisation CODESA, also arrested on 8 November 2010, was physically attacked by a staff of Salé prison on 13 September 2011. The attack led to a broken nose, followed by the prison authorities' denial of medical treatment. Members of his family observed him in jail, and filed a complaint against the attacker. The prisoner has been hunger striking in protest of the treatment against him.

Recommendations

The Government of Morocco should:

1. protect and defend the human rights of Saharawis, individually and collectively, who advocate their legitimate right to self-determination;
2. release immediately all Saharawi political prisoners;
3. cease using military courts against civilians of Sahrawi origin;
4. in accordance with international law, undertake effective disciplinary and criminal procedures against members of the police and security forces allegedly involved in torture;
5. take all necessary measures to ensure full respect for the rights of association and assembly in accordance with Morocco's Constitution and its international obligations;
6. ensure that the procedures governing registration of civil society organizations are in conformity with international human rights standards, transparent, nondiscriminatory, expeditious and inexpensive. The government should particularly facilitate the easy registration of organisations advocating for the Saharawi people's right to self-determination in line with the signed peace agreements;
7. issue an open-ended and standing invitation to all special procedures. More specifically this entails responding positively to the requests for visits by the Special Rapporteurs and the Working Group on Arbitrary Detention and torture. The invitation shall both cover the territory of Western Sahara and Morocco proper; and
8. welcome the inclusion of a human rights mechanism in the MINURSO mandate, as the other party to the Western Sahara conflict has already done.

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