

## **WESTERN SAHARA 2017 HUMAN RIGHTS REPORT**

*Note: This report was updated 5/15/18; see Appendix G: Errata for more information.*

### **EXECUTIVE SUMMARY**

The Kingdom of Morocco claims the territory of Western Sahara and administers the estimated 85 percent of that territory that it controls. The Popular Front for the Liberation of Saguia el Hamra and Rio de Oro (POLISARIO), an organization that seeks the territory's independence, disputes Morocco's claim to sovereignty over the territory. Moroccan and POLISARIO forces fought intermittently from 1975, when Spain relinquished colonial authority over the territory, until a 1991 cease-fire and the establishment of a UN peacekeeping mission. Since 1991, UN-facilitated negotiations on the territory's status have been inconclusive. The sides have not met face-to-face since 2012.

Morocco administers the territories in Western Sahara by the same laws and structures governing the exercise of civil liberties and political and economic rights as in internationally recognized Morocco. In 2011 Morocco adopted a constitution that it also applies to its administration of the territory. Morocco is a constitutional monarchy with a parliamentary national legislative system under which ultimate authority rests with King Mohammed VI, who presides over the Council of Ministers. The king shares executive authority with the head of government (prime minister) Saadeddine El Othmani. According to the constitution, the king appoints the head of government from the political party with the most seats in parliament and approves members of the government nominated by the head of government. International and domestic observers judged the 2016 parliamentary elections, held in both internationally recognized Morocco and the Western Sahara, credible and relatively free from irregularities.

Moroccan civilian authorities maintained effective control over security forces.

The most significant human rights issues were predominantly the same as those in internationally recognized Morocco, including allegations that there were political prisoners; limits on freedom of expression, including criminalization of certain political and religious content; limits on freedom of assembly and association; and corruption.

The lack of reports of investigations or prosecutions of human rights abuses by Moroccan officials in Western Sahara, whether in the security services or elsewhere in the government, contributed to the widespread perception of impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the Moroccan government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of Moroccan government authorities during the year.

During the year the Laayoune branch of the National Council on Human Rights (CNDH), a publicly funded Moroccan national human rights institution, continued to investigate individual claims from previous years. When warranted, the CNDH recommended reparations in the form of money, health care, employment, or vocational training to victims (or victims' families) of forced disappearance from previous years.

The CNDH continued to monitor the implementation of the recommendations of the Equity and Reconciliation Commission for former victims of human rights violations dating to the 1970s and 1980s. The International Committee of the Red Cross worked as neutral intermediary with the parties and families regarding the cases of persons still unaccounted for. For more information on unresolved disappearances dating from the 1970s, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Moroccan law and practice apply. The Moroccan constitution and Moroccan law prohibit such practices, and the government of Morocco denies it allowed the use of torture.

In the event of an accusation of torture, Moroccan law requires judges to refer a detainee to a forensic medical expert when the detainee or lawyer requests it or if judges notice suspicious physical marks on a detainee. Local and international human rights advocates claimed that Moroccan courts often refused to order medical examinations or to consider medical examination results in such cases. According to local and international nongovernmental organizations (NGOs), Moroccan authorities did not always investigate complaints, and medical personnel sometimes failed to document traces of injuries from torture and abuse.

In July, Sahrawi self-determination activist Hamza El Ansari reported to the court that police mistreated him and forced him to sign a statement while blindfolded. The court did not investigate his allegation or exclude the allegedly coerced statement from the proceedings in either the first instance or appeal trial. He was released in September after serving his court-imposed sentence.

Reports of torture have declined over the last several years, although Moroccan government institutions and NGOs continued to receive reports about the mistreatment of individuals in official custody. Reports of mistreatment occurred most frequently in pretrial detention. Most accusations stated that degrading treatment occurred during or following proindependence demonstrations or protests calling for the release of alleged political prisoners who were in detention.

The UN Human Rights Committee's final observations on Morocco's sixth periodic report in December 2016 for the International Covenant on Civil and Political Rights noted that the government of Morocco has taken steps to combat torture and ill treatment and that there was a "marked reduction" in such practices since its 2004 report. The committee remained concerned, however, by continued allegations of torture and mistreatment by government agents, in particular on persons suspected of terrorism or threats to national security or territorial integrity, which Morocco defines to include Western Sahara. The April 10 UN Secretary-General's report noted that lack of accountability and the persistent lack of investigation into allegations of violations against Sahrawis were major concerns.

CNDH's regional offices in Tan Tan-Guelmim, a province that is partially in Western Sahara but mostly in internationally recognized Morocco, and in Laayoune-Sakia El Hamra, a province that is completely in Western Sahara, investigated seven allegations of torture but did not find the allegations to be substantiated.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally mirrored those in Morocco. Conditions improved during the year, but in some cases they did not meet international standards. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Physical Conditions: Prison and detention center conditions generally were similar to those in Morocco.

Families of detainees charged that prison conditions were unusually harsh. The Moroccan Prison Administration (DGAPR), which oversees prisons in the territory, contested this claim and asserted that prisoners in Western Sahara and Sahrawi prisoners in Morocco received the same treatment as all other prisoners under DGAPR authority.

For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Administration: Moroccan law and practice apply. While authorities generally permitted relatives and friends to visit prisoners, there were reports that authorities denied visiting privileges in some instances. The DGAPR assigned each prisoner to a risk classification level, which determined visiting privileges. At all classifications, prisoners may receive visits, although the length, frequency, and number of visitors may vary. Most prisons assigned each prisoner a designated "visit day" to manage the number of visits to the prison.

Independent Monitoring: The CNDH conducted 31 monitoring visits to prisons in or near Western Sahara as of September 15. Various NGOs conducted at least 33 monitoring visits through June.

Improvements: For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

#### **d. Arbitrary Arrest or Detention**

Moroccan law and practice apply. Moroccan law prohibits arbitrary arrest and detention and provides for the right of any person to challenge in court the lawfulness of his or her arrest or detention. Observers indicated that police did not always respect these provisions or consistently observe due process, particularly during and in the wake of protests. According to local NGOs and associations,

police sometimes arrested persons without warrants or while wearing civilian clothing.

### **Role of the Police and Security Apparatus**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Human rights organizations continued to track alleged abusers who remained in leadership positions or who had been transferred to other positions. International and domestic human rights organizations claimed that authorities dismissed many complaints of abuse and relied only on police statements. Government officials generally did not provide information on the outcome of complaints. The CNDH and the Prison Administration reported human rights training for prison officials and members of the security forces in Western Sahara.

### **Arrest Procedures and Treatment of Detainees**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Arbitrary Arrest: Security forces often detained groups of individuals, took them to a police station, questioned them for several hours, and released them without charge.

NGOs reported several cases of alleged arbitrary arrest and detention, particularly following proindependence demonstrations, although there were fewer allegations than in previous years. Authorities argued that such temporary detentions without charges were not arbitrary but legal under Moroccan law, which allows detention of suspects without charge for preliminary investigations for up to six days for non-terrorism-related crimes, and 12 days for terrorism-related crimes. Detentions noted by local NGOs were generally less than six days.

Pretrial Detention: Conditions generally were similar to those in Morocco, with large proportions of detainees in pretrial detention; the government of Morocco does not disaggregate statistics for Western Sahara. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

#### **e. Denial of Fair Public Trial**

Moroccan law and practice apply. The Moroccan constitution provides for an independent judiciary, and, as in previous years, NGOs asserted that corruption and extrajudicial influence weakened judicial independence. On April 6, the king of Morocco formally appointed the elected and pro-forma members of the Supreme Judicial Council, a new government body whose creation and composition was mandated by the 2011 constitution to manage the courts and judicial affairs directly in place of the Ministry of Justice. While the government of Morocco stated its aim of creating the council was to improve judicial independence, its effect on judicial independence was not clear by the end of the year. The outcomes of trials in which the government had a strong political stake, such as those touching on Islam as it related to political life and national security, the legitimacy of the monarchy, and the Western Sahara, sometimes appeared predetermined. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

On July 19, the civilian Rabat Court of Appeals issued new verdicts ranging from time served to life imprisonment for 23 Sahrawi individuals arrested during the 2010 dismantling of the Gdeim Izik Camp and subsequent violence in Laayoune, which resulted in the death of 11 members of the security forces. The individuals had been previously convicted in a military trial in 2013. A 2015 revision of the Code on Military Justice eliminated military trials for civilians, and in 2016 the Court of Cassation ruled on appeal that the group should receive a new civilian trial. Two received reduced sentences (from 25 years to 4.5 years and 6.5 years) and were released, joining two others whose 2013 sentences of time served were confirmed by the civilian court. Two other individuals also received reduced sentences (from 30 years to 25 years and from 25 years to 20 years). Until the retrial, the Gdeim Izik prisoners constituted the highest-profile group of civilians still serving sentences imposed by a military court.

In December 2016 the UN Committee against Torture issued a decision finding that Morocco had violated its treaty obligations in the case of Gdeim Izik detainee Naama Asfari, who alleged he was convicted by the military court based on a confession obtained under torture and that no adequate investigation was conducted. In 2017 the civilian court, as part of the new trial, offered medical

exams in accordance with the Istanbul Protocol to look for residual signs of torture to the 21 individuals who remained in detention from the group's 2010 arrests and interrogations; however, Asfari declined to participate. Reports on the 15 detainees who willingly participated in the exams were admitted as evidence at the trial and did not find a link between the detainees' complaints and the alleged torture.

### **Trial Procedures**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

### **Political Prisoners and Detainees**

Moroccan law and practice apply. Moroccan law does not define or recognize the concept of a political prisoner. The Moroccan government did not consider any of its prisoners to be political prisoners and stated it had charged or convicted all individuals in prison under criminal law. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Human rights and proindependence groups considered a number of imprisoned Sahrawis to be political prisoners. This number included the Gdeim Izik prisoners (see section 1.e.) as well as members of Sahrawi rights or proindependence organizations.

### **Civil Judicial Procedures and Remedies**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

Moroccan law and practice apply. The Moroccan constitution and Moroccan law generally provide for freedom of expression, including for the press, although they criminalize and restrict some freedom of expression in the press and social media--specifically criticism of Islam, of the institution of the monarchy, and of the government's positions regarding territorial integrity and the Western Sahara. Authorities were sensitive to any reporting not in line with the state's official position on the territory's status, and they continued to expel, harass, or detain persons who wrote critically on the issue.

Freedom of Expression: Moroccan law criminalizes the criticism of Islam, of the legitimacy of the monarchy, of state institutions, of officials such as those in the military, and of the Moroccan government's position regarding territorial integrity and the Western Sahara. Sahrawi media outlets and bloggers with opposing views to the government often practiced self-censorship on these issues.

For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Press and Media Freedom: Moroccan law and practice apply. Self-censorship and government restrictions remained serious hurdles to the development of a free, independent, and investigative press. NGOs asserted that authorities harassed some journalists by filing charges against them for activities outside of their profession and delaying prosecution of these charges indefinitely. A press code passed in 2016 provides greater protection for accredited journalists but does not cover commentators or bloggers without accreditation, who continue to face charges under the criminal code. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

The government of Morocco enforced strict procedures governing journalists' meetings with NGO representatives and political activists. Foreign journalists needed, but did not always receive, approval from the Ministry of Communication before meeting with political activists.

Domestic and international media, including satellite television and POLISARIO-controlled television and radio from the Sahrawi refugee camps in Algeria, were available in the territory.

Moroccan government practices were the same as those in internationally recognized Morocco concerning violence and harassment, censorship or content restrictions, libel/slander, and national security issues. For more information on



these subheadings, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

### **Internet Freedom**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco

### **Academic Freedom and Cultural Events**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

### **b. Freedoms of Peaceful Assembly and Association**

Moroccan law applies. As in internationally recognized Morocco, the Moroccan government limited freedoms of peaceful assembly and association.

#### **Freedom of Peaceful Assembly**

Moroccan law provides for the right of peaceful assembly. The government generally permitted authorized and unauthorized peaceful demonstrations to occur. According to Moroccan law, groups of more than three persons require authorization from the Ministry of Interior to assemble publicly. As in internationally recognized Morocco, some NGOs complained that the government used administrative delays and other methods to suppress or discourage unwanted peaceful assembly. Security forces intervened on occasion to disband both authorized and unauthorized protests when officials deemed the demonstration a threat to public security. The April 10 UN Secretary-General's report on the Western Sahara cited claims by some human rights organizations that authorities prevented or dispersed 66 out of 776 demonstrations in the territory from April 2016 to April 2017.

Several proindependence organizations and some human rights NGOs stated that in recent years the submission of applications for permits to hold demonstrations declined because police rarely granted them. In most cases the organizers proceeded with planned demonstrations in the absence of authorization, and there was no discernable difference in security forces' reaction to authorized or unauthorized protests. Violent confrontations between security forces and protesters were less common than in previous years, according to several local

NGOs, although violent dispersals did occur on occasion. Security force practices were similar to those in internationally recognized Morocco; however, in Western Sahara there was often a higher ratio of members of security forces to protesters.

On March 23, according to media and first-hand reports, a group of approximately 50 unemployed Sahrawis in Laayoune boarded a private personnel transport bus belonging to a subsidiary of the state phosphate company, one of the major employers in the region, to protest what they viewed as the company's broken promises to employ more Sahrawis. The group ordered the driver and other passengers to leave, threatening to set themselves on fire if their demands were not met or if Moroccan police intervened. Following unsuccessful negotiations, police used water cannons on March 24 to gain access to the bus, causing minor injuries to approximately a dozen protesters. Injured protesters were transported to a local hospital and released from care overnight. Several protesters were detained but released after a few hours.

### **Freedom of Association**

Moroccan law and practice apply. Generally, the government denied official recognition to NGOs that it considered advocates against Islam's status as the state religion, the legitimacy of the monarchy, or Morocco's territorial integrity. During the year the CNDH reported receiving complaints from 10 organizations that their registration requests were denied. Authorities noted that 2,984 organizations were registered in Laayoune and 937 in Dakhla, the two largest cities in Western Sahara.

The government tolerated activities of several unregistered organizations.

On June 20, Sahrawi activist and president of the unregistered NGO Collective of Sahrawi Human Rights Defenders (CODESA) Aminatou Haidar organized a public commemoration, with Moroccan authorities' permission, of the 2016 death of POLISARIO leader Mohamed Abdelaziz. The event, which took place in an open-air tent and included public display of separatist Sahrawi Arab Democratic Republic flags as well as a banner describing the location as "occupied Laayoune," proceeded without intervention from authorities.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

#### **d. Freedom of Movement**

Moroccan law and practice applies. Moroccan law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. NGOs and activists alleged that Moroccan authorities sometimes restricted access to Western Sahara for foreign visitors, including journalists and human rights defenders. The government of Morocco claimed it only restricted access when such visits challenged Morocco's territorial integrity or were perceived to be a threat to internal security and stability. The UN Secretary General's report covering April 2016-April 2017 indicated that Morocco confirmed the expulsion of 187 foreigners from Western Sahara for threatening internal stability or failing to meet immigration requirements.

According to Sahrawi NGOs, on January 21, Moroccan authorities removed six Norwegian activists from international political and human rights organizations from Western Sahara. According to CODESA and British-based pro-Sahrawi NGO Adala UK, the activists were removed for conducting interviews without permission. The government of Morocco responded that the individuals were expelled from Western Sahara to cities in internationally recognized Morocco in the interest of maintaining public order in the territory, as the government believed their purpose was to organize protests. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

The government of Morocco encouraged the return of Sahrawi refugees from abroad if they acknowledged the government's authority over Western Sahara. Those refugees wishing to return must obtain the appropriate travel or identity documents at a Moroccan consulate abroad, most often in Mauritania.

#### **Protection of Refugees**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

#### **Section 3. Freedom to Participate in the Political Process**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

#### **Elections and Political Participation**

Recent Elections: In October 2016 Morocco held direct elections for the Chamber of Representatives (the lower house of parliament). Registered voters in Western Sahara elected representatives to fill 13 regionally designated seats and for parties' candidates to fill the nationally allocated quotas for women and youth representatives. The major political parties and domestic observers considered the elections free, fair, and transparent. International observers considered the elections credible, noting voters were able to choose freely, and deemed the process relatively free of irregularities.

Participation of Women and Minorities: Moroccan law and practice apply. No Moroccan laws limit participation of women or members of minorities in the political process, and participation of women and minorities was substantively similar to that in internationally recognized Morocco. A substantial number of candidates for elected offices self-identified as Sahrawi. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

#### **Section 4. Corruption and Lack of Transparency in Government**

Moroccan law and practice apply. Moroccan law provides criminal penalties for corruption by officials, but the government generally did not implement the law effectively. Officials often engaged in corrupt practices with impunity. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Corruption: Substantial development spending and military officers' involvement in private business created susceptibility to corruption, as well as opportunities for impunity, in Western Sahara. Some military officers reportedly relied on government connections to gain preferential access to fishing licenses or lucrative contracts for sand and other quarries on state lands. The government and state-owned enterprises were the territory's principal employers, and residents sought civil service jobs and taxi licenses through official contacts.

On March 31, a Moroccan captain of a fishing boat died after setting himself on fire in front of the local office of the Ministry of Agriculture and Maritime Fisheries in Dakhla, Western Sahara, to protest the lack of response to a complaint regarding corruption. The sailor's widow alleged that her husband had been pressured to falsify a report submitted to the Royal Moroccan Navy about the sinking of his ship last year to ensure the ship's owners received insurance money. Authorities denied that the captain submitted a complaint alleging corruption but

have since referred the case to the regional office of the CNDH for investigation. There has been no publicly announced result of the investigation.

Financial Disclosure: Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

The government generally tolerated but did not recognize domestic NGOs that exhibited proindependence or pro-POLISARIO tendencies.

The United Nations or Other International Bodies: The Moroccan government cooperated with the United Nations and permitted requested visits on human rights issues, including an October 22-28 visit by the Subcommittee on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT). The SPT met with various ministries, courts, and parliament, and visited detention centers to interview detainees in Morocco, but it did not publicly confirm whether it visited Western Sahara or any Sahrawi prisoners in internationally recognized Morocco.

Government Human Rights Bodies: The same government human rights bodies operated in the territory as in internationally recognized Morocco. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Via its regional offices in Dakhla and Laayoune, the CNDH continued to carry out a range of activities, including monitoring demonstrations, visiting prisons and medical centers, and organizing capacity-building activities for various stakeholders. It also maintained contact with unrecognized NGOs. The CNDH also occasionally investigated cases raised by unrecognized NGOs, especially those that drew internet or international media attention.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

The government and employers generally respected freedom of association; Moroccan unions covering all sectors were present but not active, except in the phosphate and fishing industries. The largest trade union confederations maintained a nominal presence in Laayoune and Dakhla, and most union members were employees of the Moroccan government or state-owned organizations.

### **b. Prohibition of Forced or Compulsory Labor**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The Moroccan government continued to invest in education in the territory through the Tayssir cash assistance program and continued to provide child protection services through the second phase of the National Initiative for Human Development Support Project. Sahrawis received more assistance per capita from this program than persons living in internationally recognized Morocco.

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

Also see the Department of Labor's annual *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings](http://www.dol.gov/ilab/reports/child-labor/findings).

### **d. Discrimination with Respect to Employment and Occupation**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

There were anecdotal reports that Sahrawis faced discrimination in hiring and promotion.

**e. Acceptable Conditions of Work**

Moroccan law and practice apply. For more information, see the Department of State's 2017 *Country Reports on Human Rights* for Morocco.

As an inducement to relocate to the territory, wage-sector workers earned up to 85 percent more than their counterparts in internationally recognized Morocco. The government also provided fuel subsidies and exempted workers from income and value-added taxes.