

## WESTERN SAHARA 2016 HUMAN RIGHTS REPORT

*Note: This report was updated 3/29/17; see Appendix F: Errata for more information.*

### EXECUTIVE SUMMARY

The Kingdom of Morocco claims the territory of Western Sahara and administers the estimated 85 percent 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 the Spanish Government 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 2009.

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 internationally recognized Morocco. In 2011 Morocco adopted a constitution that also applies to its administration of the territory. Morocco is a constitutional monarchy under which ultimate authority rests with King Mohammed VI, who presides over the Council of Ministers. The king may dismiss ministers, dissolve parliament, and call for new elections or rule by decree. The king shares executive authority with the head of government (prime minister), whom he must appoint from the political party with the most seats in parliament, and approves members of the government nominated by the prime minister. International and domestic observers judged the October 7 parliamentary elections, held in both internationally recognized Morocco and the territory of Western Sahara, as credible and relatively free from irregularities. During the year Morocco continued to implement its "advanced regionalization" plan, allowing local bodies elected in 2015 to exercise certain budgetary and decision-making powers, including in the provinces of Western Sahara.

Civilian authorities at times did not maintain effective control over the security forces. For more details, see the 2016 *Country Reports on Human Rights* for Morocco.

The most significant human rights problems in the territory were government restrictions on the civil liberties and political rights of proindependence advocates,

including limitations on the freedoms of speech, press, assembly, and association that restricted dissent.

Other significant human rights problems were the same as those in internationally recognized Morocco, including corruption, discrimination against women, and disregard for the rule of law by security forces. A variety of sources reported other human rights problems. These included security forces occasionally committing human rights abuses, including reports of mistreatment in detention. While prison and detention center conditions improved during the year, in some instances, they still did not meet international standards. Pretrial detention conditions were especially a concern due to overcrowding, and detention periods were often prolonged. The judiciary lacked full independence and sometimes denied defendants the right to a fair public trial. Domestic and international nongovernmental organizations (NGOs) asserted there were political prisoners, although the government stated that these individuals were charged with criminal offenses. The government placed restrictions on domestic and international human rights organizations depending on its evaluation of the political orientation of the organization and the sensitivity of the issues. Trafficking in persons and child labor continued to occur, particularly in the informal sector.

The lack of reports of investigations or punishment of abuse or corruption in Western Sahara contributed to the widespread perception of impunity. Sahrawi human rights organizations claimed that the majority of police and other officials accused of abuse remained in positions of authority.

### **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 government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reported cases of politically motivated disappearances during the year.

During the year the Laayoune branch of the National Council on Human Rights (CNDH), a publicly funded national human rights institution that operates

independently, continued to investigate claims of enforced and involuntary disappearance from previous years (see section 5). 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. In the last several years, the government shifted its focus from outstanding and new individual claims to community reparation projects. The CNDH continued to receive and investigate reparation claims throughout the year.

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 (ICRC) worked as neutral intermediary with the parties and families regarding the cases of persons still unaccounted for. On January 14, the CNDH presented arbitration decisions on 59 cases raised by the ICRC relating to civilian deaths during the conflict. For more information on unresolved disappearances dating from the 1970s, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

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

Moroccan law and practice apply. The constitution and law prohibit such practices, and the government denied using them. 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. Government institutions and NGOs, however, continued to receive reports about the mistreatment of individuals in official custody. In contrast with previous years, however, reports of abuse and mistreatment have declined. The UN Human Rights Committee monitoring implementation of the International Covenant on Civil and Political Rights final observations on Morocco's sixth periodic report issued December 1 noted that the government has taken steps to combat torture and mistreatment and that there was a "marked reduction" in such practices since the 2004 report. The committee remained concerned 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.

Reporting in previous years had alleged more frequent use of torture. A May 2015 Amnesty International report alleged that between 2010 and 2014 mistreatment in official custody amounting to torture persisted, although it was not systematic.

Local and international organizations noted a decrease in allegations of torture and abuse in prisons under Morocco's administration since the signing of the UN Optional Protocol of the Convention against Torture in November 2014.

According to 2015 information from the Association of Sahrawi Victims of Grave Human Rights Violations, family members of inmates regularly complained of physical abuse and occasional torture of inmates in Laayoune Prison. Activists who were detained and subsequently released, as well as family members of many of those still in custody, made similar accusations. According to the regional office of the CNDH, no complaints of torture were received from Laayoune Prison during the year. CNDH's regional office in Tan Tan-Guelmim, a province that is partially in Western Sahara and mostly in internationally recognized Morocco, investigated two allegations of torture in other locations, but it did not find the allegations to be substantiated. The CNDH conducted 16 monitoring visits to prisons in Western Sahara as of September 30.

Reports of torture and 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.

Local and international human rights advocates claimed that courts often refused to order medical examinations or to consider medical examination results in such cases. According to local and international NGOs, authorities did not always investigate complaints, and medical personnel sometimes failed to document traces of injuries from torture and abuse.

### **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 2016 *Country Reports on Human Rights* for Morocco.

Physical Conditions: Prison and detention center conditions generally mirrored those in Morocco.

On April 15, Brahim Saika, a leading activist in the Coordination of Unemployed Sahrawis, a movement of unemployed university graduates, died at a hospital in Agadir, after falling into a coma after being detained on April 1. Saika claimed to have been mistreated at a police station in Guelmim, a claim that could not be

substantiated upon further investigation. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

Families of detainees charged that prison conditions were unusually harsh; family visitation rights were sometimes limited. 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. Observers reported a lack of certified medical examiners capable of conducting independent investigations into prison deaths. According to DGAPR, autopsies were conducted on all 129 prisoners who died in custody during the year in Morocco or Western Sahara. The government does not disaggregate statistics for Western Sahara, and consequently it was impossible to determine whether causes of death differed between prisons in internationally recognized Morocco and the territory of Western Sahara.

Administration: Moroccan law and practice apply.

Improvements: For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

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

Moroccan law and practice apply. The constitution prohibits arbitrary arrest and detention. Nonetheless, 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, held detainees beyond the statutory deadline to charge them, and failed to identify themselves when making arrests.

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

Moroccan law and practice apply. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

Civilian authorities failed at times to maintain effective control over the security forces, and there were reports of abuses and impunity. Human rights organizations continued to track alleged abusers who remained in leadership positions or whom authorities transferred to other positions.

During the year alleged victims of human rights abuses in the territory made occasional complaints against police and auxiliary forces, according to international, domestic, and Sahrawi NGOs. According to local Sahrawi NGOs, the number of complaints decreased in comparison with previous years, although problems remained. International and domestic human rights organizations claimed that authorities dismissed many complaints of abuse and relied only on the police version of events. Information on the internal and/or external mechanisms to investigate security force abuses was not publicly available. Government officials generally did not provide information on the outcome of complaints. The CNDH and the Prison Administration reported nationwide human rights training for prison officials and members of the security forces during the year.

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

Moroccan law and practice apply. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

Arbitrary Arrest: NGOs reported several cases of arbitrary arrest and detention, particularly following proindependence demonstrations, although there were fewer arrests 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 up to six days for nonterrorism-related crimes, and 12 days for terrorism-related crimes. Detentions noted by local NGOs were generally less than six days.

Pretrial Detention: Conditions generally mirrored those in Morocco, with large proportions of detainees in pretrial detention, and the government does not disaggregate statistics for Western Sahara. For more information, see the Department of State's 2016 *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 2016 *Country Reports on Human Rights* for Morocco.

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

Moroccan law and practice apply. The constitution provides for an independent judiciary, and in previous years government officials, NGOs, and lawyers widely acknowledged that corruption and extrajudicial influence weakened judicial independence. During the year the government established the Supreme Judicial

Council, a government body that provides authority for judges to manage the courts and judicial affairs, aiming to supplant management by the Ministry of Justice. While the government stated its aim of creating the Council was to improve judicial independence, the Council was not fully functional at year's end, and its impact on judicial independence was not clear. 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 monarchy, and the Western Sahara, appeared politically determined. The government undertook reforms during the year designed to improve judicial independence. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

The 2015 Code on Military Justice eliminated the use of military trials for civilians in most circumstances. On July 27, the Court of Cassation granted a new trial before civilian courts for the 22 Sahrawis tried by a military court in 2013 in connection with deadly violence that erupted in 2010 when authorities dismantled the Gdeim Izik protest camp in Western Sahara. The Gdeim Izik prisoners were the most high-profile group of civilians still serving sentences imposed by a military court. The trial began on December 26 and was adjourned to January 23, 2017.

### **Trial Procedures**

Moroccan law and practice apply. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

### **Political Prisoners and Detainees**

Moroccan law and practice apply. The 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 that it had charged or convicted all individuals in prison under criminal law. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

Human rights and proindependence groups considered a number of Sahrawis to be political prisoners. This number included the Gdeim Izik prisoners arrested during the 2010 dismantling of the Gdeim Izik Camp and subsequent violence in Laayoune (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 2016 *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 2016 *Country Reports on Human Rights* for Morocco.

In previous years police regularly raided private homes, beating and mistreating alleged or known proindependence supporters, but this practice has largely ceased, according to Sahrawi NGOs.

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

### **a. Freedom of Speech and Press**

Moroccan law and practice apply. The constitution and law generally provide for freedom of speech and press, although criticism of Islam, the institution of the monarchy, or the government's official position regarding territorial integrity and claim to Western Sahara is considered criminal and therefore restricted.

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, detain, or harass persons who wrote critically on the issue.

Freedom of Speech and Expression: Moroccan law prohibits citizens from criticizing Islam, the institution of the monarchy, or the government's position regarding territorial sovereignty. Saharan media outlets and bloggers with opposing views often practiced self-censorship on these issues. There were no reports of government action against media outlets and bloggers in the territory. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

Press and Media Freedoms: Moroccan law and practice apply. Self-censorship and government restrictions remained serious hurdles to the development of a free, independent, and investigative press. Authorities filed charges of violations of the criminal code against specific journalists, with prosecution of these charges



indefinitely delayed. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

On December 5, media activist Walid Batal was sentenced to 14 months in prison for obstructing a public road and attacking a police officer during a largely peaceful protest in the city of Smara in November 2015 on International Day for Elimination of Violence against Women. Twenty protesters, mostly women, were injured by police at the protest, according to the Sahrawi women's group Forum of Future for the Sahrawi Women in Western Sahara. Batal claimed he was only filming the protest for the Sahrawi media group Smara News.

Because of the sensitivity of the issue of Western Sahara, the government enforced strict procedures governing NGO representatives and political activists meeting with journalists. Foreign journalists needed, but did not always receive, approval from the Ministry of Communication before meeting with political activists.

In contrast to 2015, on at least two occasions, authorities expelled foreign journalists from Western Sahara.

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.

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 2016 *Country Reports on Human Rights* for Morocco.

### **Internet Freedom**

Moroccan law and practice apply. For more information, see the Department of State's 2016 *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 2016 *Country Reports on Human Rights* for Morocco.

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

Moroccan law applies; however, a somewhat more restrictive practice operated in Western Sahara.

### **Freedom of Assembly**

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, the government used administrative delays and other methods to suppress or discourage unwanted peaceful assembly.

Authorities rarely granted permission for politically oriented events other than those related to elections. It prohibited or failed to accept requests from groups associated with human rights activism or proindependence opinions. 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. NGOs estimated that on average, a demonstration was held once a month, with the majority related to socioeconomic problems such as unemployment and housing; a minority had political overtones, such as sit-ins by proindependence activists or relatives of alleged political prisoners. 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.

The April 19 UN Secretary-General's report on the Western Sahara noted, "public life proceeded peacefully and included large gatherings at social events in urban areas without major incident." The same report cited claims by some human rights organizations that authorities prevented or dispersed demonstrations in the territory in April 2015-2016, notably preventing demonstrations calling for self-determination or raising socioeconomic issues.

In some cases security forces subjected protesters and activists to arbitrary arrest, according to the Secretary-General's report (see section 1.d.). Furthermore, the report indicated that some injured protesters, including those detained, did not receive medical attention. As a result, most were unable to obtain a medical certificate to document formally the effects of the violence.

## **Freedom of Association**

Moroccan law and practice apply. Generally, the government resisted official recognition of NGOs it accused of advocating against the state religion of Islam, the monarchy, or the government's official position regarding territorial integrity and claim to Western Sahara. Several organizations the government chose not to recognize functioned without authorization, but the government tolerated their activities.

### **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, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

Moroccan law and practice applies. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

Emigration and Repatriation: For the second consecutive year, the Office of the UN High Commissioner for Refugees (UNHCR) did not facilitate family exchange visits between Sahrawis in the territory and Sahrawi refugees in Algeria; this was due to a continuing dispute between Morocco and the POLISARIO regarding administrative aspects of the program. Nonetheless, internet and cell phone service between the refugee camps and Western Sahara allowed Sahrawis to communicate to a limited extent without UNHCR involvement.

The government encouraged the return of Sahrawi refugees 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. On August 22, media reported that authorities prevented Salem Bachir, also known as Salem Hamda or M'Hamed Salem Hamda Birouk, the POLISARIO "ambassador" to Argentina, from entering the territory at the airport in Laayoune. According to authorities, they prevented Bachir's entry in the interest of public security.

## **Protection of Refugees**

Moroccan law and practice apply. For more information, see the Department of State's 2016 *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 2016 *Country Reports on Human Rights* for Morocco.

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

Recent Elections: On October 7, Morocco held direct elections for the Chamber of Representatives (more powerful lower house of parliament), during which the Party of Justice and Development won the most seats. 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 the vast majority of the domestic observers considered the elections free, fair, and transparent. Most international observers considered them credible elections in which voters were able to choose freely and deemed the process relatively free of irregularities.

Participation of Women and Minorities: Participation of women and minorities in the political process was substantively similar to that in internationally recognized Morocco. A substantial number of candidates for elected offices self-identified as Sahrawis. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

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

Moroccan law and practice apply. The 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 2016 *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.

Financial Disclosure: Moroccan law and practice apply.

Public Access to Information: Moroccan law and practice apply.

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

Moroccan law and practice apply. For more information, see the Department of State's 2016 *Country Reports on Human Rights* for Morocco.

The government generally tolerated but did not recognize domestic NGOs investigating alleged human rights cases or those that exhibited proindependence or pro-POLISARIO tendencies.

The United Nations or Other International Bodies: In January the UN independent expert on human rights and international solidarity visited Morocco and Western Sahara and met with local representatives of the various Moroccan government institutions implementing development programs in Dakhla as well as with the National Human Rights Council in Dakhla and local civil society organizations in Morocco. She delivered her report to the UN Human Rights Council in April and noted that she received full cooperation from the Moroccan government during her visit.

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 2016 *Country Reports on Human Rights* for Morocco.

The CNDH is a national human rights institution established by the constitution that is publicly funded and operates independently. It operates in conformity with the Principles of Paris, and a decision of the Global Alliance of National Human Rights Institutions, recognized it in November 2015 as a "class A national human rights institution" within the UN framework. 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 unofficial 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 2016 *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 2016 *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. The largest trade union confederations maintained a nominal presence in Laayoune and Dakhla and included the Moroccan Union of Labor, the Democratic Confederation of Labor, and the National Union of Moroccan Workers. Most union members were employees of the Moroccan government or state-owned organizations. Unions were active in the phosphate and fishing industries.

There were no known labor strikes or other collective actions, such as bargaining agreements, during the year.

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

Moroccan law and practice apply. For more information, see the Department of State's 2016 *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 2016 *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 2016 *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 2016 *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.