

WESTERN SAHARA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Morocco claims the Western Sahara territory and administers Moroccan law through Moroccan institutions in the estimated 85 percent of the territory it controls. The Popular Front for the Liberation of Saguia el Hamra and Rio de Oro (Polisario), an organization that has sought independence for the former Spanish territory since 1973, disputes Morocco's claim to sovereignty over the territory.

There has been no census since the Spanish left the territory, but the population was estimated to be more than 500,000, many of whom were attributable to Moroccan in-migration. The indigenous population is Sahrawi, (literally "people of the desert" in Arabic) who also live in southern Morocco, Algeria, and Mauritania.

The Moroccan government sent troops and civilians into the northern two provinces after Spain withdrew in 1975 and extended its administration to the third province after Mauritania renounced its claim in 1979. Moroccan and Polisario forces fought intermittently from 1975 until a 1991 ceasefire and the establishment of a UN peacekeeping contingent, the UN Mission for a Referendum in Western Sahara, whose mandate does not include human rights monitoring. In the late 1980s, Morocco constructed an approximately 1,690-mile stone and sand wall known as the "berm" that effectively marks the limit of its administrative control.

In 1988 Morocco and the Polisario agreed to settle the sovereignty dispute by referendum. The parties did not resolve disagreements over voter eligibility and which options for self-determination (integration, independence, or something in between) should be on the ballot; consequently, a referendum has not taken place. Since 2007 there have been various attempts to broker a solution in face-to-face negotiations between representatives of the two sides under UN auspices, most recently facilitated by the UN secretary-general's personal envoy for the Western Sahara, Christopher Ross. Morocco has proposed autonomy for the territory within the kingdom; the Polisario has proposed a referendum in which full independence would be an option. During a ninth round of informal talks held March 11-13 in Manhasset, New York, each side maintained its position, as in previous rounds, unwilling to enter into negotiation.

Morocco considers the part of the territory that it administers to be an integral component of the kingdom with the same laws and structures conditioning the

exercise of civil liberties and political and economic rights. Security forces reported to civilian authorities. Under the constitution ultimate authority rests with King Mohammed VI who presides over the Council of Ministers and approves members of the government recommended to him by the prime minister. In July 2011 Moroccans adopted a new constitution that was applied to the Western Sahara. (For additional information on developments in Morocco, see the 2012 Morocco Human Rights Report.) Nine parliamentarians were elected in November 2011 to represent the Western Sahara in the upper and lower houses of the Moroccan parliament.

The most important human rights problems specific to Western Sahara were Moroccan government restriction on proindependence views and associations; otherwise, overall human rights conditions in the territory converged with those in the kingdom. Several long-standing human rights problems related to proindependence activity, including limitations on the freedom of speech, press, assembly, and association, the use of arbitrary and prolonged detention to quell dissent, and physical and verbal abuse of detainees during arrests and imprisonment. Authorities also continued to deny formal registration to proindependence associations. As a result these associations were not able to establish offices, recruit members, collect donations, or visit imprisoned Saharan proindependence activists or Polisario separatists.

Widespread impunity existed, absent prosecutions of human rights abuses. Sahrawi human rights organizations claimed that the majority of police and other officials accused of torture remained in positions of authority. Widespread corruption continued among security forces and the judiciary.

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

a. Arbitrary or Unlawful Deprivation of Life

In contrast to the prior year, there were no reports that security officials committed unlawful killings, although the 2010 police killing of Said Dambar in Laayoune continued to reverberate in the Sahrawi community. In spite of repeated requests by Dambar's family that his body undergo an autopsy, authorities on June 6 buried the body, providing the family with just 30 minutes advance notice. Local human rights nongovernmental organizations (NGOs) alleged that during the years of Moroccan occupation between 53 and 71 Sahrawis were killed in detention from torture and that no investigations into these cases were ever opened.

b. Disappearance

There were no confirmed reports of politically motivated disappearances during the year; however, according to unconfirmed reports by local human rights organizations, Soua'dou El Garhi have allegedly disappeared in 2008 and Mohamed Lamin Boutaba'a in 2011.

The governmental National Council for Human Rights (CNDH) provided reparations, including monetary assistance, vocational training, and medical insurance to Sahrawis or family members of those who had disappeared or been detained during the 1970s and 1980s. During the year the Laayoune branch of CNDH recommended compensation of 141 taxi licenses, 108 homes or housing stipends, and 81 civil service jobs in the Ministries of Justice and the Interior to victims (or victims' families) of forced disappearance. The CNDH continued to receive and investigate reparation claims throughout the year, although it shifted focus from individual reparations to community projects; however, none of CNDH-funded projects were located in the Western Sahara.

While the CNDH's role is to investigate claims and forward and endorse recommendations on reparation settlements to the local government and relevant ministries, the actual delivery of reparations depends on government action. Of the 552 claims accepted during the year, the CNDH recommended reparations for 463. At year's end 144 cases remained unresolved. Sahrawi human rights groups and families continued to claim that the CNDH had not accepted 114 cases for review; and that many more claimants had not actually received reparations.

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

Credible reports indicated that security forces engaged in torture, beatings, and other mistreatment of detainees. Both international and local NGOs continued to report abuses, especially of Sahrawi independence advocates. Torture typically occurred in pretrial detention, as exemplified in the September 17 joint submission of 10 Western Saharan human rights groups to Juan Mendez, the UN special rapporteur on torture. The document named 10 men still in detention arrested during the 2010 conflict at Gdeim Izik campsite who claimed to have been raped during their detention. Their families had filed accusations with the military court in Rabat, but there was no action on the claims by year's end. Other types of abuse claimed to have been employed by security forces were: beating with electric cables, near suffocation with wet cloths soaked in urine or chemicals, cigarette

burns, and hanging by the arms or as a “trussed chicken” for prolonged periods (see section 1.d.). According to local Sahrawi NGOs, since 2011 the courts no longer provided claimants of alleged police abuse with registration numbers to track the disposition of their claims.

Most incidents of degrading treatment occurred during proindependence demonstrations or protests calling for the release of Sahrawi political prisoners. On November 1, after she met with personal envoy of the UN secretary-general for Western Sahara, Christopher Ross, at the UN mission in Laayoune, police attacked Aminatou Haidar, the head of the Sahrawi Collective of Human Rights Defenders (CODESA), and vandalized her car during a nonviolent protest. A video on YouTube shows Haidar shoved to the ground and threatened. At year’s end there were neither charges against those responsible, nor an investigation of the attack. The Robert F. Kennedy Center for Justice and Human Rights and other human rights organizations condemned the attack. Other corroborated reports indicated that plainclothes police forcibly dispersed small protests several times a week.

Prison and Detention Center Conditions

NGOs continued to allege abuse and a persistence of substandard prison conditions. According to the Moroccan Observatory of Prisons (OMP), an umbrella advocacy group of lawyers and activists promoting better conditions for prisoners, family members of inmates regularly complained of physical abuse and occasional torture of inmates in Laayoune Prison, the sole prison in Western Sahara. However, verification of these claims was impossible as the authorities prohibited human rights advocates and NGOs access to the prison since 2008. The most common allegations were physical abuse and a lack of access to health care. It was widely known that some prisoners and detainees were transferred to Sale, Marrakech, and other locations in internationally recognized Morocco, far from their families and lawyers. An October 30 CHDH report, which included Western Sahara, called for the Moroccan government to take steps to prevent torture in prisons.

Human rights and proindependence activists claimed authorities falsely charged them with criminal offenses. Laws require authorities to investigate abuse allegations for any individual facing prosecution who requests an investigation, but local and international human rights advocates claimed that courts often refused to order medical examinations or to consider medical examination results in cases of alleged torture. Most complaints were not investigated. Moreover, according to local NGOs, medical personnel failed to document any traces of injuries from

torture, and ambulances were often not dispatched to treat the injured at demonstrations.

The 23 Sahrawis arrested during the 2010 dismantling of the Gdeim Izik camp and subsequent violence in Laayoune remained in custody during the year at Sale Number Two Prison near Rabat. One additional arrest was made on September 9 in Dakhla, and this detainee was added to the original 23 (see section 1.d.). On December 17, the prisoners were transferred from Sale Number Two to Sale Number One Prison. Their trial before a military tribunal was postponed twice and was rescheduled to begin on February 1, 2013. Families of the detainees charged that prison conditions were unusually harsh, with limited family visitation rights and little access to health care, proper food, and clean clothes.

Throughout the year there were continuing credible reports from Sahrawi activists who were detained and subsequently released--as well as many of the families of those still in custody--that security officials beat and otherwise abused them. However, according to several Sahrawi contacts police tended to use force against protesters in the streets without actually arresting them. Domestic NGOs alleged that in numerous instances security officials threatened detainees with rape. After his visit to Morocco and the Western Sahara, UN Special Rapporteur Mendez stated that he had good reason to believe there were credible allegations of sexual assault, threats of rape of the victim or family members, and other forms of ill-treatment.

NGOs providing social, educational, or religious services were permitted to enter detention facilities and visit with prisoners. NGOs with a human rights focus were not permitted to enter, except with special authorization. International delegations were occasionally allowed to visit but were usually restricted to common areas within the detention center with no access to prisoners in their cells. The OMP relayed complaints of substandard prison conditions to authorities, but authorities did not permit them to visit or investigate these complaints.

The government reported 34 total visits to the prison in Laayoune. The visits included one by a UN special rapporteur, 20 by judicial officials, five by governmental regional monitoring commissions, and eight by “national” NGOs. (The CNDH received complaints and made seven visits to Laayoune Prison, which the government likely counted as a “NGO visit” although the CNDH is a governmental organization.)

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but security forces routinely ignored this in practice.

At year's end the 24 Sahrawis arrested during the dismantling of the Gdeim Izik camp in 2010 and subsequent violence in Laayoune remained in custody awaiting a trial date in February 2013 at Sale Prison near Rabat (see section 1.c.). By year's end the government had issued no clear charges other than police allegations that they were connected to the deaths of 11 security service personnel during the riots.

Role of the Police and Security Apparatus

Police impunity remained a problem. The government reported no complaints registered against police or judicial police. However, during the year alleged victims of human rights abuses filed more complaints against police agents and Auxiliary Forces than in the previous year, according to several international, domestic, and Sahrawi NGOs. The government disputed the alleged increase and provided statistics indicating that through November, residents of Western Sahara had filed 113 complaints against authorities based throughout the territory. Judicial police and the prosecutor investigated the 113 complaints while dismissing 69 others on the grounds of lack of evidence. International and domestic human rights organizations claimed that authorities dismissed nearly all complaints and relied only on police version of events.

The government stated that it increased security personnel training in human rights and regularly coordinated with the CNDH to draw on the expertise of its members. On several occasions throughout the year, CNDH coordinated with international NGOs to hold conferences and training sessions on human rights protections mechanisms in the Western Sahara. Human rights components are included in basic training as well as in various educational milestones throughout the careers of most security personnel. According to the government, some prosecutions involved officers who allegedly committed crimes in the territory; however, the number was unavailable because data was not disaggregated by region. Human rights organizations continued to track the practice of allowing alleged abusers to remain in leadership positions or to be transferred to other positions. According to the unrecognized NGO Association of Sahrawi Victims of Grave Human Rights Violations (ASVDH) in their September 17 presentation to the UN special rapporteur on torture, 54 prison guards and officials had committed abuse amounting to torture (see section 1.c.).

While there was no large-scale societal violence as in the previous year in Dakhla, there was at least one case of societal violence in which Sahrawi travelers were attacked as they entered Morocco. Although Sahrawi activists alleged that security forces responded slowly and failed to protect the victims, the government maintained that authorities responded appropriately to prevent an escalation of violence between the Sahrawis and Moroccans.

Arrest Procedures and Treatment While in Detention

Police may arrest an individual after a general prosecutor issues an oral or written warrant; in practice warrants occasionally were issued after the arrest. Authorities denied defendants' access to counsel or family members during the initial 96 hours of detention under terrorism-related laws or 48 hours of detention for other charges, during which police interrogated detainees and alleged abuse or torture was most likely to occur. In many cases, including those not related to terrorism, detainees were held incommunicado for several days and granted limited or no access to legal representation. Under the antiterrorism law, after the first 96 hours, two additional 96-hour extensions are allowed with the written approval of the prosecutor. By law a person may be detained without trial for as long as one year while an investigating magistrate completes work.

Arbitrary Arrest: NGOs claimed several cases of arbitrary arrest and detention occurred for periods up to 20 days, although arrests occurred less frequently than in previous years. According to several interlocutors in Laayoune, the decreased number of arrests at protest rallies was due to security forces' opting for aggressive dispersal, rather than detention of participants in a gathering. This approach, according to NGO contacts, was used to instill fear without creating the paper record of an arrest. The 24 Sahrawis arrested during the 2010 dismantling of the Gdeim Izik camp and subsequent violence in Laayoune remained in custody during the year at Sale Prison near Rabat; a new trial date was set for February 1, 2013.

Pretrial Detention: Pretrial detention was a problem throughout Morocco and Western Sahara, as evidenced by the 24 detainees in Sale Prison since 2010. Disaggregated information was not available.

Political Prisoners and Detainees

The government denied that there were political prisoners or detainees and claimed all those incarcerated had been convicted of or charged with crimes. However, human rights and proindependence groups alleged that there were up to 74

Saharawis held across Western Sahara and internationally recognized Morocco whom they considered political prisoners.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Moroccan law prohibits citizens from criticizing Islam or the institution of the monarchy or to oppose the government's official position regarding territorial integrity and Western Sahara. Saharan media outlets and bloggers practiced self-censorship on these issues, and there were no reports of government action against them for what they had written.

The government enforced strict procedures governing the ability of NGOs and activists to meet with journalists. Foreign journalists needed and did not always receive prior official approval from the Ministry of Communication before meeting with leftist political activists. The Ministry of Communications accredited five American and one British journalists travelling on December 3 to 7 to Laayoune on a private visit. They were able to speak with proindependence activists, as well as local officials. However, according to a November 8 statement of the Interior Ministry, authorities expelled 15 Spanish and four Norwegian activist bloggers from the Western Sahara for entering without permission. According to the government, they travelled to Laayoune pretending to be tourists, but planned to meet proindependence activists at the time of the second anniversary of the clashes surrounding the dismantling of the Gdeim Izik campsite.

Internet Freedom

Moroccan and international media, including Polisario-controlled television and radio from the refugee camps in Algeria, as well as satellite television, were available in the territory. There was no indication that Internet access in the territory differed from that in internationally recognized Morocco, which was generally open. However, human rights and Sahrawi bloggers affiliated with leftist political groups assumed that authorities closely monitored their activities and felt the need to hide their identities.

b. Freedom of Peaceful Assembly and Association

The Ministry of the Interior required those wishing to hold public gatherings, including demonstrations, to obtain permission for public assemblies and rarely

granted permission for politically oriented events apart from those related to the election. The government generally used administrative delays and other methods to suppress or discourage demonstrations with political overtones and prohibited or failed to accept requests from groups in the territory associated with human rights activism or proindependence opinions. Authorities generally tolerated unauthorized sit-ins, demonstrations, and peaceful protests by groups such as the association of unemployed graduates that focused on economic grievances and did not bear on human rights or encourage a proindependence stance.

Several residents of Laayoune claimed that police tended to disperse large gatherings of all kinds, even dispersing reunions held to celebrate the return of family members from the Polisario camps at Tindouf. Following his visit to the region, UN Special Rapporteur Mendez stated that treatment “amounting to torture” appears in Morocco and the Western Sahara during “large demonstrations.” Reports also suggested that abuse may have occurred against smaller demonstrations as well. According to local NGOs, on October 1, seven were injured when police dispersed a sit-in by unemployed Sahrawi university graduates in the city of Essmara. Proindependence organizations and some human rights NGOs stated that in recent years they have applied less frequently for legal permits to engage in sit-ins and demonstrations because police rarely granted the permits. The government reported that by the end of the year, more than 700 demonstrations or protests had been held in Western Sahara. The majority of these related to socioeconomic issues such as unemployment and housing concerns, but a few also had political overtones, such as sit-ins by relatives of disappeared persons and alleged political prisoners.

Authorities violently dispersed protests throughout the year, resulting in dozens of injuries to heads and limbs that required medical attention. For example, on November 1, security forces using excessive force suppressed proindependence demonstrations in Laayoune, Dakhla, and Smara. On November 3, several protesters were arrested in follow-up demonstrations Dakhla. Victims of such abuse claimed that government authorities were slow to respond to the formal complaints they filed and contended that since 2011 they were unable to track the status of their complaints.

Freedom of Association

As in previous years, the government did not allow CODESA or the ASVDH to register as NGOs, limiting their ability to raise funds domestically and internationally and to facilitate public meetings. The CNDH invited the ASVDH

to join its executive council, which consists in part of members of civil society. The latter refused on grounds that it would continue to seek formal recognition as a registered NGO before it would consider joining the council.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement

Unlike in the previous year, there were no reports that the government restricted freedom to travel abroad. There were no reports of the government revoking citizenship. The government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) in implementing the UN's Confidence Building Measures program which facilitated communication and family exchange visits between Sahrawis in Western Sahara and Sahrawi refugees in Algeria.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Moroccan citizens in the Western Sahara participated in local municipal and Moroccan parliamentary elections. Nine elected parliamentarians represent the Western Sahara in the House of Counselors (the upper chamber of the parliament). Most elected officials self-identify as Sahrawi and are native to Western Sahara.

Section 4. Corruption and Lack of Transparency in Government

Widespread corruption among security forces and judicial officials was a problem, as was lack of government transparency. Substantial development spending and military officers' involvement in private business heightened both problems, particularly in the military as officers relied on government connections to gain preferential access to fishing licenses or lucrative contracts for sand and other quarries on state lands, for example. According to government officials, corruption problems, as with incidents of police brutality, were isolated and not endemic.

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

A small number of international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to requests for meetings. The domestic NGOs investigating human rights cases were usually those not recognized by the government. Nevertheless, CNDH offices in Dakhla and Laayoune and other government officials maintained contact with and occasionally investigated some cases which these NGOs raised, especially those that drew international Internet or media attention.

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

Information available on discrimination and other societal abuses in the territory is contained in the Human Rights Report on Morocco; the living conditions and social mores paralleled the situation in internationally recognized Morocco, and the laws are the same.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Section 7. Worker Rights

The Moroccan labor code applies in the Moroccan-controlled areas of the territory. Moroccan unions covering all sectors were present in those areas but were not active. The largest trade confederations maintained a nominal presence in Laayoune and Dakhla. These included the Moroccan Union of Labor, the Democratic Confederation of Labor, and the National Union of Moroccan Workers.

Strikes are legal, but there were no known labor strikes, other job actions, or collective bargaining agreements during the year. Most union members were employees of the Moroccan government or state-owned organizations. Unions were also active in the phosphate and fishing industries. Wage-sector workers in the territory earned up to 85 percent more than their counterparts in internationally recognized Morocco as an inducement to relocate. The government exempted workers from income and value-added taxes and provided fuel subsidies.

The labor code prohibited forced or bonded labor, and there were no reports that such practices occurred. Penalties for those who perpetrate forced labor range up to four years' imprisonment, and penalties for forced child labor are between one

and three years in prison. Labor inspectors assigned to labor delegation offices in Laayoune and in Oued Eddahab enforced Moroccan labor laws.

Regulations on the minimum age of employment were the same as in Morocco. There were no reports regarding child labor in the formal wage sector. Children worked in family-owned businesses and in the agricultural sector.

The minimum wage and maximum hours of work and occupational health and safety standards were the same as in Morocco. In practice during peak periods, workers in fish processing plants worked as many as 12 hours per day, six days per week. Enforcement was rudimentary, except for prohibition on the employment of women in dangerous occupations.