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World Report 2022 - Morocco and Western Sahara

Morocco cracked down on journalists and critics, including via apparently politically motivated prosecutions for criminal offenses. Laws restricting individual freedoms remained in effect, including laws that discriminate against women and lesbian, gay, bisexual and transgender (LGBT) persons. In Western Sahara, authorities continued to severely constrain activities and speech of independence activists.

Criminal Justice System

The Code of Penal Procedure gives a defendant the right to contact a lawyer after 24 hours in police custody, extendable to 36 hours. But detainees do not have the right to have a lawyer present when police interrogate or present them with their statements for signature. In recent years, police agents often coerced or tricked detainees into signing self-incriminating statements, which judges later relied on to convict even when the defendants repudiated those statements in court.

Freedom of Association and Assembly

Authorities continued to impede the work of the Moroccan Association for Human Rights (AMDH), the country's largest independent human rights group. The AMDH said that, as of September 15, 2021, authorities had declined to process the administrative formalities for 84 of the 99 AMDH local branches, impeding the ability of these branches to carry out basic functions like opening new bank accounts or renting space. These obstructions persisted even when administrative courts ruled in favor of the AMDH.

Freedom of Expression

On July 30, several [global media](#) reported that Pegasus, a potent spyware developed by Israeli firm NSO Group, might have been used to infiltrate the smartphones of many individuals in Morocco. Pegasus, which NSO Group claims is exclusively sold to governments, is [capable of](#) accessing contact lists, reading emails and text messages, tracking calls, collecting passwords, mobile phone tracking, and hijacking the target device's microphone and video camera to turn it into a surveillance device. Journalists and Moroccan human rights activists and journalists were among the targets.

Morocco's penal code punishes with prison and fines nonviolent speech offenses, including "causing harm" to Islam or the monarchy, and "inciting against" Morocco's "territorial integrity," a reference to its claim to Western Sahara. While the Press and Publication Code does not provide prison as a punishment, journalists and people who speak out on social media have been prosecuted under the penal code for their critical, nonviolent speech.

Those included Moroccan-American YouTube commentator [Chafik Omerani](#) and protester [Noureddine Aouaj](#), sentenced to three months and two years in prison, respectively, for "defaming constitutional institutions" after they criticized King Mohammed VI. Omerani was freed on May 6 after completing his term. YouTube commentator [Mustapha Semlali](#), also known as Allal Al-Qadous, was sentenced to two years for "undermining the monarchy" after he allegedly defamed Prince Moulay Rachid, the king's brother; Moroccan-Italian student [Ikram Nazih](#), was sentenced to three years for "harming the Islamic religion" after she shared a Facebook post deemed to be making light of a Quranic verse. She was freed on August 23 after an appeals court reduced her sentence to two months. YouTube commentator [Jamila Saadane](#) was sentenced to three months for "insulting organized institutions and distributing false allegations" after she claimed that authorities protected sexual tourism activities in Marrakech.

In other cases, Morocco has arrested, prosecuted, and imprisoned several critics not overtly for what they said but instead for offenses related to sex or embezzlement, where the evidence was either scant or dubious, or the trial involved clear fair-trial violations.

On January 27, a Rabat Court of First Instance sentenced historian and free speech advocate [Maati Monjib](#) to one year in prison for “receiving funds from a foreign organization in order to undermine Morocco’s internal security.” The basis for the charge was that a nongovernmental organization (NGO) set up by Monjib to defend free speech received grants from European NGOs to organize trainings for local journalists in a way that “harmed Morocco’s internal security.”

The trial of Monjib took place on January 20 in his absence, even though he had been in the same tribunal that day to answer a prosecutor’s questions in another case, for which he was in pretrial detention. Monjib’s lawyers say the court notified neither Monjib nor them about the trial, which the authorities denied. Monjib was released on March 23, after hunger striking for 19 days. The case, in which three co-defendants were sentenced to one year in absentia, was pending at time of writing appeal.

On July 9, a court of first instance in Casablanca sentenced popular critical columnist [Soulaïman Raïssouni](#) to five years in prison for “indecent assault.” Raïssouni was placed in pretrial detention on May 2020, days after a man accused him in a Facebook post of sexually assaulting him two years earlier, while he was visiting Raïssouni’s home. Raïssouni spent a year in pretrial detention without the court ever providing a substantive basis for denying him bail for such an extended period. He was denied access to his own case file until late in the trial.

Raïssouni, who waged a long hunger strike to protest the conditions of his trial, requested to be transported to the courtroom in an ambulance and attend the sessions in a wheelchair, under medical supervision. The judge denied his request, and thus Raïssouni did not attend the last four sessions of his own trial. His defense withdrew from the trial in protest. After the verdict, Raïssouni stopped his hunger strike, which had lasted 118 days. The case was pending appeal at time of writing.

Taoufik Bouachrine, the director of the now-defunct independent daily *Akhbar al-Yaoum*, where Raïssouni worked as editor-in-chief, is serving a 15-year sentence for sexual assault on several women. The verdict was handed down by an appeals court in 2019 after a trial that the United Nation’s Working Group on Arbitrary Detention said was marred by due-process violations and part of a “judicial harassment attributable to nothing other than [Bouachrine’s] investigative journalism.”

On July 19, a court of first instance in Casablanca sentenced investigative journalist [Omar Radi](#) to six years in prison on multiple charges, including espionage and rape of a female co-worker, and his colleague, journalist Imad Stitou, to one year in prison, with six months suspended, for “participation” in the alleged rape because he “failed to intervene to stop it.” Radi testified that the sex with the complainant was consensual.

Radi, an outspoken critic who has long been subject to state harassment, has been in detention since his arrest on July 29, 2020. Stitou remained free pending appeal.

Examining the facts in the case on which the espionage charges against Radi are based, Human Rights Watch found that they consist of nothing but standard journalistic work, corporate due-diligence studies that Radi performed as a paid consultant, and his routine meetings with foreign diplomats. The case file, which Human Rights Watch reviewed, included no evidence that Radi had provided classified information to anyone or that he even had access to such information.

Several due process violations were recorded during the trial, which Human Rights Watch observed. The court never provided a substantive justification for holding Radi for one year in pretrial detention. The court refused to hear defense witnesses, and admitted a written statement by a prosecution witness but refused to summon him, thus denying the defense’s right to cross-examine him. While Radi had to fight in court for months to get his case file, websites closely tied with security services obtained leaked copies even before the trial started, and based on those leaks, published scores of articles [affirming](#) Radi’s guilt. The case was pending appeals at time of writing.

Monjib, Raïssouni, Radi, and others were subjected to relentless character assassination efforts in scores of articles published in websites known locally as “[slander media](#)” because of their incessant and seemingly coordinated attacks against critics of the authorities. Known for their proximity to security services, these websites have published in past years thousands of articles including personal information on targeted individuals. The information included banking and property records, screenshots of private electronic conversations, allegations about sexual relationships, and intimate biographical details.

The United Nations-sponsored process of negotiations between Morocco and the Polisario Front, the liberation movement that seeks self-determination for Western Sahara, remained stalled after the resignation in May 2019 of Horst Kohler, the envoy of the UN secretary-general. Staffan De Mistura was appointed as a new envoy on October 6.

Most of Western Sahara has been under Moroccan control since Spain, the territory's former colonial administrator, withdrew in 1975. In 1991, both Morocco and the Polisario, the liberation movement for Western Sahara, agreed to a UN-brokered ceasefire to prepare for a referendum on self-determination. That referendum never took place. Morocco considers Western Sahara to be an integral part of the kingdom and rejects demands for a vote on self-determination that would include independence as an option.

In November 2020, Moroccan security forces established a near-constant heavy presence outside the house of independence activist [Sultana Khaya](#), in Boujdour, Western Sahara. They have provided no justification and have prevented several people, including family members, from visiting. According to Khaya, police forces raided her house several times, beating her and relatives, and smearing the house with a foul-smelling liquid. Khaya is locally known for her public displays of vehement opposition to Morocco's control of Western Sahara. The arbitrary blockade of her house was still in place at time of writing.

Moroccan authorities systematically prevent gatherings supporting Sahrawi self-determination, obstruct the work of some local human rights NGOs, including by blocking their legal registration, and on occasion [beat activists](#) and journalists in their custody and on the streets, or raid their houses and destroy or confiscate their belongings. Human Rights Watch documented some of these beatings and raids, including of the house of independence activist [Hassana Duihi](#) in May 2021.

In 2021, 19 Sahrawi men remained in prison after they were convicted in unfair trials in 2013 and 2017 for the killing of 11 security force members, during clashes that erupted after authorities forcibly dismantled a large protest encampment in Gdeim Izik, Western Sahara, in 2010. Both courts relied almost entirely on their confessions to the police to convict them, without seriously investigating claims that the defendants had signed their confessions under torture. The Cassation court, Morocco's highest judicial instance, upheld the appeals verdict on November 25, 2020.

Women's and Girls' Rights

The Family Code discriminates against women with regard to inheritance and procedures to obtain divorce. The code sets 18 as a minimum age of marriage but allows judges to grant "exemptions" to marry girls aged 15 to 18 at the request of their family.

While Morocco's 2018 Violence against Women law [criminalized](#) some forms of domestic violence, established prevention measures, and provided new protections for survivors, it required survivors to file for criminal prosecution in order to obtain protection, which few can do. It also did not set out the duties of police, prosecutors, and investigative judges in domestic violence cases, or fund women's shelters.

Morocco's law does not explicitly criminalize marital rape, and women who report rape can find themselves prosecuted instead for engaging in sexual intercourse outside marriage if authorities do not believe her.

In July, an Instagram post [showing](#) a hotel in Marrakech denying access to Moroccan women unaccompanied by either their husbands or families, went viral.

Morocco bans hotels from accommodating unmarried couples in a shared room, but there is no known law denying access to unaccompanied women from any facility.

In July, authorities [appointed](#) the first female head prosecutor at a court of first instance. While Morocco does have female judges, women overall continue to remain heavily underrepresented in judicial positions.

In May, Morocco's National Human Rights Council [reported](#) that sexual harassment and gender-based violence are widespread against female staff and students at Moroccan universities, and a lack of mechanisms and means to adequately deal with harassment, and provide assistance to victims in universities.

Sexual Orientation and Gender Identity

Consensual sex between adults who are not married to one another is punishable by up to one year in prison. Moroccan law also criminalizes what it refers to as acts of "sexual deviancy" between members of the same sex, a term that authorities use to refer to homosexuality more generally, and

punishes them with prison terms of up to three years.

In a memorandum published in October 2019, the National Human Rights Council, a state-appointed body, [recommended decriminalizing](#) consensual sex between non-married adults. More than 25 NGOs expressed support for the recommendation. The Moroccan government [did not act upon it](#).

Refugees and Asylum Seekers

The government has yet to approve a draft of Morocco's first law on the right to asylum, introduced in 2013. A 2003 [migration law](#) remained in effect, with provisions criminalizing illegal entry that [failed](#) to provide an exception for refugees and asylum seekers. As of September 2021, the Ministry of Foreign Affairs had granted, or started the administrative process for granting, refugee cards, along with special residency permits and work authorizations to 856 persons, most of them sub-Saharan Africans, whom the UN High Commissioner for Refugees (UNHCR) had recognized in recent years. All of the 8,853 refugees recognized by UNHCR as of September 2021 [had access](#) to health services and where applicable public education, but only about half of them had regular residency permits and work authorizations, according to UNHCR. Morocco also hosted 6,902 registered asylum seekers as of September.

Human rights violations against migrants by Moroccan authorities, as reported by the media and non-governmental organizations during 2021, included [abusive raids](#) targeting sub-Saharan migrants for forced internal displacements, usually toward the south of the country, and [arbitrary detention](#) of migrants, including children. In a positive step, the Moroccan government stated it would include refugees, migrants and asylum seekers in its national Covid-19 vaccination campaign, which launched in January 2021. As of September, 547 refugees had been vaccinated.

On July 19, Idris Hasan, an Uyghur activist who had been living in Turkey, was arrested upon landing in Casablanca airport. A court agreed to China's extradition request on December 15 but he had not been extradited yet at time of writing. Extraditing Hasan would violate Morocco's obligations under the 1951 Refugee Convention and the 1984 Convention against Torture, which prohibit forcibly sending anyone to a place where they would risk persecution and torture.

Key International Actors

On September 29, the European Court of Justice (ECJ) [annulled](#) two trade agreements on agriculture and fishing between the European Union and Morocco. The court said that Western Sahara, which was included in those bilateral agreements, should be considered a third party and as such, its people had to give its "full consent" for the agreement to be valid. The ECJ ruled that the consultations with stakeholders in Western Sahara, in which the Polisario refused to take part, did not meet the threshold of "consent." Morocco and the EU had not appealed the ECJ ruling at time of writing.

ecoi.net summary:



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