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2009 Human Rights Report: Western Sahara

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
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Morocco claims the Western Sahara territory and administers Moroccan law through Moroccan institutions in the estimated 85 percent of the territory it controls. However, Morocco and the Popular Front for the Liberation of the Saguia el Hamra and Rio de Oro (Polisario), an organization that has sought independence for the formerly Spanish territory since 1973, disputes Morocco's sovereignty. The population of the territory was approximately 405,000, an estimated 100,000 of whom were attributable to Moroccan in-migration.

The Moroccan government sent troops and settlers into the northern two provinces after Spain withdrew in 1975 and extended its administration over the third province after Mauritania renounced its claim in 1979. Moroccan and Polisario forces fought intermittently from 1975 until a 1991 ceasefire and the deployment of a UN peacekeeping contingent, the UN Mission for a Referendum in Western Sahara (MINURSO), whose mandate does not include human rights monitoring.

Sahrawis, literally "people of the desert" in Arabic, live in the south of internationally recognized Morocco, in the territory controlled by Morocco ("Western Sahara"), in Algeria, and to a lesser extent in Mauritania. In the late 1980s, Morocco constructed a 1,250-mile stone and sand wall known as the "berm" that marks the effective limit of Moroccan administrative control.

In 1988 Morocco and the Polisario agreed to settle the dispute over sovereignty 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 never took place.

Over the years there have been several attempts to broker a solution. In 2007 the first face-to-face negotiations between representatives of the Moroccan government and the Polisario began under UN auspices. Morocco proposed autonomy for the territory within the kingdom; the Polisario proposed a referendum in which full independence would be an option. On April 30, the UN Security Council adopted Resolution 1871 extending MINURSO's mandate until April 2010. The resolution also called on member states to consider voluntary contributions to confidence building measures carried out under the UN High Commissioner for Refugees (UNHCR) that allowed increased contact between family members separated by the dispute. After four meetings in 2007 and 2008 produced little progress, both sides participated in an informal August 10 and 11 meeting under the auspices of Personal Envoy of the UN Secretary General for Western Sahara Christopher Ross and agreed to reinvigorate negotiations.

Morocco considers the part of the territory that it administers to be an integral part of the kingdom with the same laws and structures conditioning the exercise of civil liberties and political rights. Accordingly, ultimate authority rests, de facto, with King Mohammed VI, and human rights conditions in the territory tended to converge with those in the kingdom.

There were no reports that the government or its agents committed arbitrary or unlawful killings or politically motivated disappearances.

On December 1, the Moroccan authorities reported that an investigation had shown that the killing of the two illegal Senegalese migrants in 2007 had been the result of a confrontation with gendarmes and the case had been referred to a military court. The military court determined the officers' actions were in self-defense and closed the case. The court ordered that gendarmes receive extra training on the use of deadly force.

The government inquiry into an alleged mass gravesite discovered in May 2008 at a former military barracks in Smara, undertaken by the Laayoune Court of Appeal, found no human remains. Media reports and the governmental Consultative Council for Human Rights (CCDH) confirmed this finding and expressed satisfaction with closing the case.

At year's end the government, in cooperation with the CCDH, continued to investigate an alleged mass gravesite discovered at the Laayoune Prison in 2007.

As it has done since 2000, the CCDH paid reparations during the year to Sahrawis or family members of those Sahrawis who had disappeared or been detained during the 1970s and 1980s. By year's end the government had settled most individual reparation claims, and the CCDH shifted its focus to community reparation projects.

There were credible reports that security forces sometimes engaged in torture, beatings, and other mistreatment of detainees. Although the CCDH reported that security forces engaged in serious abuses such as these less frequently than in previous years, Human Rights Watch (HRW), Amnesty International (AI) and local NGOs continued to report abuse, especially of Sahrawi independence advocates.

For example, on February 23, the unrecognized nongovernmental organization (NGO) Sahrawi Association of Victims of Grave Violations of Human Rights (ASVDH) reported that two police officers detained, beat, and sodomized a female independence activist and interrogated her about her political activities and those of her family members. The activist filed a complaint. Although officials at the Ministry of Interior (MOI) denied that the officers beat and raped the activist, the Ministry of Justice opened an investigation that was ongoing at year's end.

On August 27, human rights advocates reported that police officers detained a well-known human rights activist in Laayoune. The victim alleged that police stripped her while questioning her about her political views and threatened to post a video of the proceedings on the video-sharing Web site YouTube if she continued her political activities. They also allegedly threatened her with death. After interrogating her for five hours, police left her naked on the outskirts of Laayoune. According to ASVDH, the victim filed a complaint. Authorities had not begun an investigation at year's end.

On September 2, according to ASVDH, two police officers detained human rights and proindependence activist Chamad Marzouk. The officers allegedly blindfolded Marzouk, stripped him, handcuffed him, and beat him before releasing him later that night. The officers reportedly questioned Marzouk about his relationship with certain human rights activists and about the details of his planned trip to the United Kingdom. Marzouk filed a complaint on September 24; however, authorities had not begun an investigation by year's end.

On May 15, the appeal court in Agadir upheld a 15-year prison sentence given to Sahrawi activist Yahya Mohamed El Hafed, convicted of killing a security officer in a 2008 trial. The court also sentenced seven other activists to as long as eight years in prison. According to AI, all of the defendants claimed security officials tortured them to extract confessions that the court later used as evidence at trial. The activists claimed that prison officials beat them, hung them by their legs, and subjected them to sleep deprivation.

Police impunity remained a problem. According to local NGOs such as ASVDH and the Sahwari Collective of Human Rights Defenders (CODESA), the number of complaints against police filed by persons who claimed to be victims of human rights abuses declined during the year compared to 2008. However, NGOs alleged that a number of complaints cited the same police officers for abuses more than once. According to HRW and ASVDH, authorities dismissed nearly all complaints without collecting evidence beyond the police version of events.

There was no report at year's end that the government began an investigation into the May 2008 case of Hamoud Igulid, who had filed a complaint with judicial authorities claiming that police detained and verbally abused him.

According to NGO reports, there was no investigation into the June 2008 use of police force to disperse gatherings celebrating the release of human rights activist Brahim Sabbar from prison.

The government took some steps during the year to reduce police impunity. It provided training, including a human rights component, to security personnel in the territory. The government also reported that it prosecuted 282 security officials in Morocco and the territory for various crimes ranging from petty bribery to "assault and battery leading to death." The government reported that some of these prosecutions involved officers who committed crimes in the territory; however, the exact number was uncertain because the government did not disaggregate the data by region. Past practice has often left alleged abusers in leadership positions or transferred them.

A delegation of EU parliamentarians visited Laayoune from January 27 to 28 and Tindouf from February 23 to 26. The government allowed the delegation to meet with all the organizations and individuals they requested, but maintained obvious police surveillance. Activists reported that police harassed them in Laayoune on the way to and from sessions with the delegation as well as days before and after the meetings. The police arrested and detained one person, beat another, and seized activists' electronic equipment.

During the year, allegations of abuse and substandard prison conditions persisted. Government policy permits NGOs that provide social or religious services to prisoners to enter prison facilities, but does not permit NGOs that solely have a human rights mission to do so except when authorized, and no authorization was given during the year. The Moroccan Observatory of Prisons (OMP) and members of the CCDH made at least 11 prison visits and filed complaints with government authorities of substandard conditions or abuses of detainees.

The OMP stated that overcrowding in prisons remained a problem. Some human rights activists and NGOs charged that the government had reduced overcrowding by transferring politically active prisoners to facilities in Morocco as a punishment for activism. The government stated that while some transfers to Morocco took place, the transfers were for administrative reasons and the purpose was to improve conditions.

Human rights and proindependence activists claimed that authorities arrested them for their political activities but charged them with drug or other criminal offenses. They also claimed that in cases where torture was alleged, courts often refused to order medical examinations or to take into account the results of such examinations, despite laws requiring investigation into such allegations of abuse for any individual facing prosecution who requests it. The government reported that the public prosecutor ordered six medical examinations and judges ordered 21 medical examinations, in accordance with the law.

Students supporting independence were reportedly detained and mistreated. Activists stated that authorities regularly took them into custody, beat them, and released them within 24 hours without formal arrest or charge.

In September, according to the unregistered NGOs ASVDH and CODESA, police intervened with excessive force in a few unauthorized demonstrations in Laayoune, Smara and Dakhla. During a demonstration in Laayoune, the NGOs accused police of throwing demonstrator Mohamed Berkan from a window. The government charged Berkan with throwing Molotov

cocktails at police and participating in an unauthorized demonstration. A court sentenced him to one year in prison and a 200 dirham (\$25) fine.

The government maintained the right, under the constitution, to restrict freedom of speech and press in cases involving the monarchy, Islam, or the territorial integrity of Morocco (see country report on Morocco). During the year there were credible reports that government authorities prevented some foreign journalists from meeting with proindependence activists. There were no cases of government attempts to repress journalists or bloggers. The media engaged in self-censorship, and no views appeared in the media supporting either independence or a referendum that included independence as an option.

Moroccan and international media, as well as satellite television, were available in the territory. According to the OpenNet Initiative, Internet access in the territory was generally open and unrestricted. A small number of blogs and "anonymizers" were blocked.

ASVDH and CODESA 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. In addition to these limitations, the organizations reported that holding organized demonstrations became more difficult because police increasingly harassed them following the king's November 6 speech, in which he announced a policy of decreased tolerance for individuals who held proindependence views.

Numerous spontaneous demonstrations erupted on December 18, when CODESA president and prominent proindependence and human rights activist Aminatou Haidar returned from 34 days of exile in Spain. The demonstrations took place peacefully and security forces did not attempt to limit them. Authorities began to place limitations on gatherings the following week, especially after some demonstrators arrived at Haidar's home carrying Polisario flags.

The government enforced strict procedures governing the ability of NGOs and activists to meet with journalists. Although foreign journalists needed prior official approval before meeting with proindependence NGOs, authorities did not always enforce the requirement prior to the king's November 6 speech.

As in previous years, the government did not allow CODESA or ASVDH to register as official NGOs, limiting their ability to raise funds domestically and internationally and to secure space for public meetings. At year's end, CODESA reported that local authorities had not acknowledged its most recent application, which it submitted in 2008 by registered mail. The leadership of ASVDH reported that in 2005 an Agadir administrative court had found in its favor and ordered the government to register it, but by year's end the government had not done so.

The Moroccan government and the Polisario continued to accuse one another of withholding information regarding approximately 150 Algerians and Polisario supporters (including 58 soldiers) and 213 Moroccans, who remained missing because of the war from 1975 to 1991. Both sides denied that any former combatants remained in detention.

Corruption by security forces and judicial officials was a problem.

The laws and restrictions regarding religious organizations and religious freedom in the territory are the same as those in Morocco. The constitution provides that Islam is the state religion, and that the state provides the freedom to practice one's religion.

HRW and ASVDH reported instances of authorities preventing foreign persons from meeting with proindependence activists.

For example, on November 12, Luis Mangrané Cuevas, a lawyer representing the General Council of the Spanish Bar Associations, attempted to visit Sultana Khaya, vice president of the Forum for the Future of Sahrawi Women, at her home in Boujdour. Mangrané had gone to the region to observe the trial of Sahrawi activist Hassana Alouate. Police intercepted him near Khaya's house and notified him that he would not be permitted to enter.

The government restricted the freedom to travel abroad and return of some Sahrawi activists and others opposed to the government's Sahara policy.

On August 5, authorities prevented six Sahrawis from leaving the country to attend a two-week workshop in the United Kingdom regarding the future of Western Sahara. The police stopped the six from boarding their flight in Agadir and took them to Laayoune, where authorities questioned and released them without charge, according to NGO reports.

On October 8, authorities detained seven Sahrawi activists: Ahmed Alansari, Brahim Dahane, Yahdih Ettarouzi, Saleh Labihi, Dakja Lashgar, Rachid Sghir, and Ali Salem Tamek. The group, which included representatives of the Moroccan Association for Human Rights, ASVDH and CODESA, visited Algiers and the refugee camps near Tindouf from September 26 to October 8 to observe conditions, according to human rights NGOs. Moroccan officials charged the seven with "intelligence cooperation with a foreign entity" and sent the case to a military tribunal in Salé in accordance with a Moroccan law that requires that a military court hear cases involving intelligence charges. Human rights NGOs claimed the charges were politically motivated. The detainees' family members also reported to ASVDH that prison officials initially limited the detainees' access to attorneys and family members and placed Lashgar in solitary confinement. However, by late December, families reported that the government allowed them increased access to the detainees. The detainees awaited trial at year's end.

On November 13, Moroccan authorities refused to allow prominent Sahrawi independence and human rights activist Aminatou Haidar entry at the Laayoune International Airport, claiming she stated her nationality as "Sahrawi" and her

country of residence as "Western Sahara." Authorities confiscated her passport after she initiated the process of renouncing Moroccan citizenship and instructed the airline to return her to the Canary Islands. For 34 days, the government refused to allow Haidar to return to the territory, despite repeated requests from the Spanish government and international pressure prompted in part by Haidar's decision to engage in a hunger strike. Government officials repeatedly stated in public that the government would return Haidar's passport and allow her to enter the country only if she met certain conditions, including a formal apology and a public declaration acknowledging her Moroccan citizenship. After Haidar's health worsened, the government allowed her to return on December 18 without meeting these conditions.

Since 1977 the inhabitants of the Western Saharan provinces of Laayoune, Smara, Awsard and Boujdour and, since 1983, Oued Ed-Dahab have participated in Moroccan national and regional elections. In the June 12 communal elections, only Sahrawis with pro-Moroccan political views were candidates. Turnout exceeded 70 percent of registered voters. Domestic observers leveled accusations of corruption, principally vote buying, in some races.

Relatively little information was available on discrimination in the territory. In traditional tribal Sahrawi society, women participated more actively in political and economic activities than was common among some other North African ethnic groups. Most Sahrawis in the territory lived in urban or semi-urban environments, and discrimination in those circumstances paralleled the situation in Morocco proper. In the June 12 communal elections, women won 13 percent of seats due partly to the implementation of the same new quota system used in the internationally recognized part of Morocco, which required all political parties to include at least 12 percent women on their party slates.

The Moroccan penal code is in effect and provides for the imposition of stiff fines and prison terms for individuals involved in or failing to prevent trafficking in persons. The territory was a transit region for traffickers of persons.

The labor code applied in the Moroccan-controlled areas of the territory. Moroccan unions were present in those areas but were not active. The largest trade confederations are nominally represented in Laayoune and Dhakla. These include the Moroccan Union of Labor, the Democratic Confederation of Labor, and the National Union of Moroccan Workers.

There were no known 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 typically earned as much as 85 percent more than their counterparts in Morocco as an inducement to relocate to the territory. The government exempted workers from income and value-added taxes.

The labor code prohibited forced or bonded labor, and there were no reports that such practices occurred.

Regulations on the minimum age of employment were the same as in Morocco. There were no substantiated reports regarding child labor in the formal wage sector. There were anecdotal reports of children working in family-owned businesses or the agricultural sector.

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

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