

WESTERN SAHARA 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Kingdom of 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. The population was estimated to be more than 500,000, many of whom were attributable to Moroccan immigration. The indigenous population is Sahrawi, ("people of the desert" in Arabic) who also live in southern Morocco, Algeria, and Mauritania.

The territory has three provinces. 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 completed the construction of 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. A referendum has not taken place. 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. The POLISARIO proposed a referendum in which full independence would be an option. Morocco proposed autonomy for the territory within the kingdom. Since 2007 there have been various unsuccessful attempts to broker a solution in face-to-face negotiations between representatives of the two sides under UN auspices. The latest round has been facilitated by the UN Secretary-General's personal envoy for Western Sahara, Christopher Ross, since 2009. After many rounds of informal talks between the two sides failed to yield results, Ross began a period of shuttle diplomacy which yielded no evident progress by year's end.

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 2011 Morocco adopted a new constitution that it also applies to the territory. (For additional information on developments in Morocco, see the 2013 Morocco Human Rights Report.)

Morocco administered the 85 percent of the territory that it controlled, and the principal human rights concerns in the territory were the same as those in the kingdom: citizens' lack of the right to change the constitutional provisions establishing the monarchical form of government, corruption in all branches of government, and widespread disregard for the rule of law by security forces.

The most important human rights problem specific to the territory was Moroccan government restrictions on the civil liberties and political rights of proindependence advocates. Serious problems included limitations on the freedoms of speech, press, assembly, and association; the use of arbitrary and prolonged detention to quell dissent; and physical and verbal abuse of detainees during arrest and imprisonment. Authorities also continued to deny recognition of proindependence associations. As a result, these associations could not establish offices, recruit members, collect donations, or visit Saharan proindependence activists or POLISARIO separatists detained in facilities in Morocco.

Widespread impunity existed, and there were no prosecutions of human rights abusers. Sahrawi human rights organizations claimed that the majority of police and other officials accused of torture remained in positions of authority. There were no reports of investigations or punishment of abuse or corruption among the police and security services, contributing to the widespread perception of impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that security officials committed unlawful killings. Local human rights nongovernmental organizations (NGOs) alleged that between 53 and 71 Sahrawis died in Moroccan detention from torture between 1975 and 2013. No investigations into these alleged abuses were ever opened.

b. Disappearance

There were no confirmed reports of politically motivated disappearances during the year.

The governmental National Council for Human Rights (CNDH) provided reparations, including monetary assistance, vocational training, and medical insurance, for Sahrawis or family members of those who had disappeared or been detained during the 1970s and 1980s. During the year the Laayoune branch of the CNDH in Laayoune, the territorial capital, recommended compensation to victims (or victims' families) of forced disappearance of 34 taxi licenses, 34 homes or housing stipends, 74 civil service jobs in the Ministries of Justice and the Interior, and 117 national welfare cards. The CNDH continued to receive and investigate reparation claims throughout the year.

The CNDH's role is to file claims and complaints of human rights violations and endorse recommendations on reparation settlements to the local government and relevant ministries. The investigation and delivery of reparations depends on government action. According to officials within the government and the CNDH, there was little or no meaningful investigation of any of the complaints or recommendations filed by the CNDH branch commissions in the territory.

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 in both political cases and ordinary criminal cases. In his February 28 report on a September 2012 visit to the territory, Juan Mendez, UN special rapporteur on torture, stated that torture and mistreatment were used to extract confessions, including at the time of arrest, in police stations, and at the Laayoune Prison. The report noted credible testimonies relating to rape, severe beating, and isolation of up to several weeks, particularly of inmates accused of participating in proindependence activities. Both international and local NGOs continued to report abuses, especially of Sahrawi independence advocates. Activists who were detained and subsequently released, as well as family members of many of those still in custody, made similar accusations.

Torture typically occurred in pretrial detention, as reported in the September 2012 joint submission of 10 Western Saharan human rights groups to Juan Mendez. The

document named 10 men who claimed to have been raped during detention. The men were part of the group of 25 Sahrawis arrested during the 2010 conflict at the Gdeim Izik camp. Their families filed accusations of abuse with the military court in Rabat, but authorities took no action on the claims before or after February 17, when court sentenced the defendants (see section 1.e.). Other types of abuse security forces were claimed to have employed included 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, in 2011 the courts ceased to provide claimants of alleged police abuse with case registration numbers to track the disposition of their claims.

Most incidents of degrading treatment occurred during or following proindependence demonstrations or protests calling for the release of alleged political prisoners who were in detention. For example, on May 9, six young protesters, including a 17-year-old boy, were arrested during a proindependence demonstration on charges of “violence against public officials” and “participating in an armed gathering.” El Hussein Bah, the 17-year-old, stated that he was beaten and threatened with rape during detention. Authorities denied his allegations and presented a video of him sleeping peacefully in his cell. On August 15, authorities ordered doctors to undertake a forensic examination of Bah and the five young men arrested with him.

According to the Association of Sahrawi Victims of Grave Human Rights Violations (ASVDH), an NGO not recognized by the government, family members of inmates regularly complained of physical abuse and occasional torture of inmates in Laayoune Prison, the sole prison in the territory. Access to inmates was highly restricted, and there was no independent verification of family-member complaints. Except for CNDH-led visits that occasionally included NGO representatives, authorities have denied prison access to independent human rights advocates and international NGOs since 2008.

Human rights and proindependence activists claimed that authorities falsely charged them with criminal offenses. Laws require authorities to investigate abuse allegations of any individual facing prosecution who requests such 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 such cases. According to local NGOs most complaints were not investigated, medical personnel failed to document any traces of injuries from torture, and ambulances were often not dispatched to treat injured protesters at

demonstrations. The government reported 164 complaints filed against authorities in the territory during the year.

Prison and Detention Center Conditions

Poor prison and detention center conditions generally mirrored those in Morocco and did not meet international standards. The UN special rapporteur for torture considered them especially harsh for death row inmates.

Physical Conditions: A variety of sources, including NGOs and the UN special rapporteur for torture, continued to report a persistence of substandard prison conditions, especially overcrowding. The most common allegations were physical abuse and a lack of access to health care. The government reported that Laayoune Prison doctors conducted 1,302 detainee medical examinations during the year and referred an additional 95 cases for outside medical examinations. In Laayoune Prison, the UN special rapporteur observed extreme overcrowding with attendant impacts on hygiene, nutrition, and health. Families of detainees charged that prison conditions were unusually harsh, family visitation rights were limited, and detainees had little access to health care, proper food, and clean clothes. An October 2012 CNDH report, which included the territory, called on the government to take steps to prevent torture in prisons. Some prisoners and detainees were transferred to Sale, Marrakech, and other locations in internationally recognized Morocco, far from their families and lawyers.

Administration: Authorities followed Moroccan prison administration practices.

Independent Monitoring: There was one known independent monitoring visit to the prison in Laayoune by the UN Working Group on Arbitrary Detention. According to the government, there was one visit by the CNDH and one by a domestic NGO. 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.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but security forces often ignored this, particularly during and in the wake of large-scale protests.

Role of the Police and Security Apparatus

Police impunity remained a problem. The government provided statistics indicating that through November residents of the territory filed 164 complaints against authorities based throughout the territory. The government did not provide information on the outcome of these complaints. During the year alleged victims of human rights abuses made frequent complaints against police and auxiliary forces, according to several international, domestic, and Sahrawi NGOs. International and domestic human rights organizations claimed that authorities dismissed nearly all complaints and relied only on the police version of events.

The government stated it increased training of security personnel in human rights and regularly coordinated with the CNDH to draw on the expertise of its members. On several occasions throughout the year, the CNDH coordinated with the Geneva Institute for Human Rights to hold conferences and training sessions on human rights protection mechanisms and monitoring in Laayoune Prison. The CNDH stated it established a protocol and procedures for consultation with local security forces. According to CNDH, human rights components are incorporated in basic training as well as in various educational milestones throughout the careers of most security personnel.

According to the government, there were no prosecutions of security officers in the territory. Human rights organizations continued to track alleged abusers who remained in leadership positions or were transferred to other positions. According to the ASVDH in its September 2012 presentation to the UN special rapporteur for torture, 54 prison guards and officials committed abuse amounting to torture in recent years (see section 1.c.). Unlike in previous years, there was no large-scale societal violence.

Arrest Procedures and Treatment of Detainees

Arbitrary Arrest: NGOs reported several cases of arbitrary arrest and detention for periods of up to 20 days, although there were fewer arrests than in previous years. According to several interlocutors in Laayoune, the decline in 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, intentionally avoided the creation of any official record of an arrest. The UN special rapporteur for torture found that authorities used the threat of kidnappings and abandonment in the desert in order to intimidate protesters during demonstrations for the independence of the territory.

Pretrial Detention: Pretrial detention was a problem throughout Morocco and the territory, as evidenced by the 23 Gdeim Izik detainees held in the maximum-security Sale Prison near Rabat for more than two years prior to their February 17 sentencing. Disaggregated information was not available.

e. Denial of a Fair Public Trial

The circumstances attendant to and the opportunity for a fair public trial were the same, in principle, as those in Morocco, but authorities moved the most prominent human rights case during the year from the territory to a military court in Rabat.

On February 17, the Rabat Military Court handed down sentences ranging from 20 years' to life imprisonment to 23 civilians, including several human rights and proindependence advocates arrested during the 2010 dismantling of the Gdeim Izik camp and subsequent violence in Laayoune. The court released two prisoners on time served, after 27 months of pretrial detention, and at year's end there were 21 still detained in Sale Prison.

According to an April 1 report by the international NGO Human Rights Watch, the court failed to look into allegations that authorities extracted confessions under torture or other forms of abuse and relied primarily on confessions rather than on material evidence or witnesses. Juan Mendez added that the court refused to order medical examinations related to the allegations of rape and that it did not issue a written judgment recording the fact the allegations of torture during almost two years of pretrial detention were not investigated. He also pointed out that the trial of civilians before a military court contributed to a lack of transparency. The CNDH issued a statement calling for an end to the use of military tribunals for trying cases involving civilians. During his November visit to Washington, King Muhammad VI committed to end the practice of military trials of civilians.

Political Prisoners and Detainees

The government denied there were political prisoners or detainees. It claimed that all persons incarcerated were charged with or convicted of nonpolitical crimes. Human rights and proindependence groups alleged, however, that there were up to 74 Sahrawis, held across the territory and internationally recognized Morocco, whom they considered political prisoners. This number included the 21 Gdeim Izik detainees.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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.

The government enforced strict procedures governing NGO representatives and political activists meeting with journalists. Foreign journalists needed, and did not always receive, approval from the Ministry of Communication before meeting with political activists. The Ministry of Communication accredited six journalists from the International Women's Media Foundation to visit Laayoune on May 3-11. The group previously traveled to Laayoune in December 2012. The foundation reported that its journalists spoke with proindependence activists and local officials. On March 6, authorities at the Casablanca airport refused entry to a group of European parliamentarians who planned to travel to the territory. On September 30, a delegation of Spanish parliamentarians entered the territory without prior authorization. The group traveled to Laayoune and met with Sahrawi proindependence activist Aminatou Haidar.

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

Internet Freedom

There was no indication internet access in the territory differed from that in internationally recognized Morocco, where the government generally did not restrict access and, according to the International Telecommunication Union, 55 percent of the population used the internet.

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

The Ministry of the Interior required those wishing to hold public gatherings, including demonstrations, to obtain permission. Permission was rarely granted for politically oriented events other than those related to elections. The government

used administrative delay and other methods to suppress or discourage demonstrations with political overtones. It prohibited or failed to accept requests from groups associated with human rights activism or proindependence opinions. Authorities generally tolerated unauthorized sit-ins, demonstrations, and peaceful protests that focused on economic grievances, such as the association of unemployed graduates, which 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 reunions held to celebrate the return of family members from the POLISARIO camps in Tindouf, Algeria. Following his visit to the region, the UN special rapporteur for torture stated that law enforcement officials subjected protesters to excessive use of force and found a corresponding increase in acts of torture and mistreatment during the detention and arrest process during “large demonstrations.” Reports also suggested that abuse might have occurred as plainclothes police forcibly dispersed small protest groups several times a week. 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. The government reported that in the first 10 months of the year, 660 demonstrations or protests were held in the territory. The majority of these related to socioeconomic problems such as unemployment and housing. A minority had political overtones, such as sit-ins by relatives of allegedly disappeared persons and political prisoners.

Authorities violently dispersed protests throughout the year, resulting in dozens of injuries that required medical attention. For example, on October 19, during a visit by Christopher Ross, the UN Secretary-General’s personal envoy, security forces violently suppressed proindependence demonstrations in Laayoune. The regional governor responded to allegations against local security forces of excessive use of force by alleging that protesters’ violence injured six security officers. Some injured protesters claimed that authorities were slow to respond to formal complaints of the use of excessive force and contended that they had been unable since 2011 to track the status of their complaints.

Freedom of Association

As in previous years, the government did not allow the Sahrawi Collective of Human Rights Defenders or the ASVDH to register as NGOs, limiting their ability to raise funds or to hold public meetings. The CNDH invited the ASVDH to join its executive council, which includes some members of civil society. The ASVDH

declined 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

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 UN High Commissioner for Refugees in implementing the UN's confidence building measures program, which facilitated communication and family exchange visits between Sahrawis in the territory and Sahrawi refugees in Algeria.

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

Moroccan citizens in the territory participated in local municipal and Moroccan parliamentary elections. Thirty-one elected parliamentarians in the Chamber of Counselors (the upper house of parliament) and 21 parliamentarians in the Chamber of Representatives represented districts that were all or partly in the territory. The regional governor and all members of the regional council in Laayoune self-identified as Sahrawi. In the absence of reliable data or a census, local observers estimated the ethnic Sahrawi to make up no higher than 25 percent of the population.

Section 4. Corruption and Lack of Transparency in Government

Widespread corruption among security forces and judicial officials, as in Morocco, was a problem, as was lack of government transparency. Substantial development spending and military officers' involvement in private business created the conditions of susceptibility to both problems. 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. 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 from internationally recognized NGOs.

Domestic NGOs investigating human rights cases were tolerated but generally had poor relations with security forces and remained unrecognized by the government. The government-affiliated CNDH, via its offices in Dakhla and Laayoune, as well as other government officials, maintained unofficial contact with unrecognized NGOs. CNDH and government officials also occasionally investigated some cases that unrecognized 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 2013 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 to the Moroccan-controlled areas of the territory. Moroccan unions covering all sectors were present in those areas but 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 or other collective actions such as bargaining agreements undertaken during the year. Most union members were employees of the Moroccan government or state-owned organizations.

Unions were active in the phosphate and fishing industries. 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.

The labor code prohibited forced or bonded labor, and there were no reports that such practices occurred. The law provides for legal sanctions against employers who recruit children under the age of 15, with fines ranging from 27,000 to 32,000 dirhams (\$3,250 to \$3,855). Punishment for violations of the child labor laws includes criminal penalties, civil fines, and withdrawal or suspension of one or more civil, national, or family rights, including denial of legal residence in the country for five to 10 years. Labor inspectors assigned to labor delegation offices in Laayoune and Oued Eddahab enforced Moroccan labor laws.

Regulations on the minimum age of employment are 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 are the same as in Morocco. During peak periods, workers in fish processing plants worked up to 12 hours per day, six days per week. Enforcement was limited, except for prohibition on the employment of women in dangerous occupations.