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MOROCCO / WESTERN SAHARA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

Although in 2009, on the occasion of the tenth anniversary of the accession of King Mohamed VI to the throne, the national media saluted the progress made by Morocco in terms of human rights, the assessment of the reforms has remained mixed with regard to the hopes raised by the many commitments and initiatives taken by the country in both the national and international contexts. At the end of 2009, the Moroccan Government had adopted no decree to implement the Royal Declaration of December 2008 announcing the lifting of reservations made in 1993 during the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. Neither the recommendations made by the Equity and Reconciliation Commission (*Instance équité et réconciliation* – IER) nor those expressed by the UN Human Rights Council during the Universal Periodic Review in April 2008 had been put into operation.

In 2009, there was considerable deterioration of freedom of expression, exposing many journalists to judicial proceedings and prison sentences. As an example, the Press Code, whose reform has been under discussion for three years, upholds detention sentences for press offences (Article 41). Although the press enjoys a greater freedom of tone than in many countries in the region, certain subjects remain taboo, such as religion, the King and the monarchy, the country and territorial integrity. Indeed, the Criminal Code provides for prison sentences for anyone who “insults” State bodies or “offends” the national flag (Articles 263, 265 and 267). For instance, on October 31, 2009, the Casablanca Court passed a suspended sentence of one year’s imprisonment for Mr. Taoufiq Bouachrine, Director of the newspaper *Akhbar al-Youm*, and Mr. Khalid Gueddar, a caricaturist with the daily paper, together with a fine of 10,000 dirhams (around 900 euros), following the publication in the September 27, 2009 edition of a caricature relating to the marriage ceremony of Prince Moulay Ismail. The Moroccan police closed down the newspaper’s premises on September 28, 2009 by order of the Minister of the Interior even before the court had handed down

a sentence on the case¹. In addition, on October 15, 2009, the Rabat Court of First Instance sentenced Mr. Driss Chahtane, Publishing Director of the newspaper *al-Michael*, to one year in prison and a fine of 10,000 dirhams, and Messrs. Rachid Mahamid and Mustapha Hayrane, journalists with the same weekly newspaper, to a sentence of three months' imprisonment and a fine of 5,000 dirhams (around 450 euros) for publishing an article about the King's health in September 2009². These sentences lead to fear a climate of censorship that is a deterrent for human rights defenders.

Finally, the conflict in Western Sahara remained unresolved since the failure of direct negotiations advocated by the UN Security Council Resolution dated April 30, 2007. On May 1, 2009, as every year, the mandate of the UN Mission for the Referendum in Western Sahara (MINURSO) was extended by one year. The human rights situation in this region saw no improvement in 2009. The authorities continued in particular to hamper and suppress any form of challenge to the official position that Western Sahara is part of Morocco.

Certain movements are still deprived of freedom of association

Although freedom of association in Morocco is guaranteed by the Moroccan Constitution (Article 9) and is governed by Dahir No. 1-58-376 of November 15, 1958, modified in 2002 and in 2006, and despite the declarative nature for the registration of associations, many obstacles to obtaining the status of association were still encountered not only at a legal level but also, and especially, at an administrative level. Article 3 of the Law on Associations indeed bans the creation of an association whose aim is contrary to good morals or undermines the Islamic religion, the monarchy or the territorial integrity of the country, or if it calls for discrimination. The authorities could use these very vague terms to justify a ban on the creation of an association, even though this is rarely the case. Furthermore, the system of declaration introduced in 2002 is undermined by the fact that the authorities in certain cases refuse to issue a receipt, a document that proves that a declaration has been filed and that starts the two month period following which an association is legally created³.

1/ See Joint Press Release by the Moroccan Organisation for Human Rights (*Organisation marocaine des droits humains* - OMDH) and FIDH, October 9, 2009. The premises remained closed as of the end of 2009.
2/ See OMDH.

3/ There are two stages in the creation of an association. The founders of an association are firstly required to file a declaration of formation of an association together with a certain number of documents with the local authorities responsible to the Ministry of the Interior (bachas, caïds). At this point, the local authorities issue a provisional receipt and then, within 60 days, a final receipt. An association may operate freely without legal recognition without obtaining a final receipt (Article 5 of the Law on Associations), as lack of the receipt does not prevent the organisation from functioning.

For example, the National Association of Unemployed Graduates (*Association nationale des diplômés chômeurs* – ANDCM) and the Group Against Racism and for Assisting and Defending Foreigners and Migrants (*Groupe antiraciste d'accompagnement et de défense des étrangers et des migrants* – GADEM), which filed in 1991 and in 2006 respectively a declaration of foundation at the headquarters of the wilaya of Rabat-Salé-Zemmour-Zâir, had still not obtained a receipt as of the end of 2009⁴. Sometimes, the local authorities even refuse to accept the declaration presented by the representatives of an association for its registration. In November 2004, the local Casablanca wilaya authorities refused to accept the declaration of the Ennassir Association for the Support of Islamist Prisoners, on the pretext of needing to investigate the association's founder members. The association, which nevertheless at the same time declared its formation by recorded delivery letter, in accordance with the law, had still not received a receipt in 2009⁵. Similarly, the Laayoun local authorities have refused since 2005 to receive the foundation documents for the Saharawi Association of Victims of Grave Human Rights Violations Committed by the State of Morocco (*Association sahraouie des victimes de violations graves commises par l'Etat marocain* – ASVDH), in violation of a ruling by the Agadir Administrative Court in September 2005, which stated that the authorities had exceeded their power by refusing the ASVDH constitution papers. Without a provisional receipt, an association cannot carry out its activities fully since it is not authorised to rent premises, open a bank account, declare its employees, receive funding or subscriptions or organise a demonstration in a public space. Members of these associations are furthermore liable to prosecution for "membership of an unauthorised association", under Article 8 of the Law on Associations⁶. The 2002 reform that introduced the declarative regime therefore tends to be voided of meaning by those various obstacles, maintaining associations in a situation of vulnerability.

Obstacles to freedom of peaceful assembly

In 2009, peaceful assemblies organised to defend human rights were again sometimes severely suppressed. For instance, as in 2008, several sit-ins organised by ANDCM, mainly in front of the Parliament, were dispersed by the police forces, sometimes violently. On April 8, 2009, the

4/ See GADEM.

5/ See Ennassir.

6/ "The founders, directors or administrators of an association that operates in violation of the provisions of Article 5 are punishable by a sentence of three to six months' imprisonment and a fine of 10,000 to 50,000 dirhams".

police violently broke up a peaceful sit-in organised by ANDCM in front of the Ministry of Justice, injuring at least four demonstrators⁷.

Furthermore, 22 people were still in detention at the beginning of 2009 following the repression of a social movement in the city of Sidi Ifni in south west Morocco in 2008⁸, including Mr. **Brahim Bara**, Secretary General of the local committee for the Association for the Taxation of Financial Transactions for Aid to Citizens (ATTAC) and a member of the National Union of Moroccan Students (*Union nationale des étudiants marocains* – UNEM), and several members of ATTAC Morocco. On April 10, 2009, the Agadir Court sentenced 19 people to up to one and a half years' imprisonment for "contributing to and leading a criminal gang", "attempted murder", "armed assembly", "openly carrying a weapon during a demonstration", and "destruction of an industrial installation and a port installation". Mr. Brahim Bara was given an eight months' prison sentence and a two months' suspended sentence. Three people were acquitted. At the end of 2009, two were still in prison and were finishing to serve their sentences.

Two defenders given prison sentences for denouncing drug trafficking in northern Morocco

In 2009, two defenders who had questioned the responsibility of the authorities in cases of drug trafficking were arrested and given prison sentences. On November 24, 2009, Mr. **Chakib El-Khayari**, President of the Rif Association of Human Rights (*Association du Rif des droits de l'Homme* – ARDH) and a member of the Federal Council of the World Amazigh Congress (*Congrès mondial amazigh* – CMA), was sentenced in appeal by the Casablanca Court to three years in prison and a fine of 750,000 dirhams (around 68,500 euros) for "undermining a constitutional body", in accordance with Articles 263 and 265 of the Criminal Code, for revealing to foreign sources information concerning senior State officials involved in a drug trafficking network in the Rif region. Held at Okacha prison in Casablanca since February 21, 2009, he was transferred on December 25 to Meknès prison without either his family or his defence lawyers being informed. Furthermore, Mr. **Hassan Barhoon**, a representative in Morocco of the Palestinian Human Rights Foundation (Monitor), a blogger and journalist for the website *Internet sans frontières*, was arrested

7/ See Moroccan Association for Human Rights (*Association marocaine des droits humains* - AMDH) Press Release, April 8, 2009.

8/ On June 7, 2008, the forces of order brutally dispersed protesters who were blocking access to the port of the city of Sidi Ifni in protest against the socio-economic situation in the region and to call for a development policy that had been promised by the local and national authorities for several years to be accelerated.

on February 26, 2009 and sentenced by the Tétouan Court on March 8, 2009 to six months in prison and a fine of 5,000 dirhams (around 450 euros) for “defaming the judiciary” after the publication of an article questioning the responsibility of the King of Morocco’s General Prosecutor with the Tétouan Appeal Court in the escape of a drug trafficker in the city of Tétouan. The King of Morocco granted him a pardon in August 2009 after five months’ imprisonment⁹.

Ongoing harassment of defenders who denounce abuses in the fight against terrorism and prisoners’ conditions of detention

In 2009, many defenders who fight for the respect of suspected Islamist prisoners’ rights met with reprisals by the Moroccan authorities. For instance, on April 22, 2009, the Court of Cassation upheld the decision of the Rabat Court of Appeal on July 24, 2008 that imposed a reprimand on Mr. **Taoufik Moussaif Behammou**, a lawyer at the Rabat Bar, following statements that appeared on August 19, 2006 in the daily newspaper *Annahar al-Maghribia* and in which Mr. Moussaif denounced the abuses committed by the security services and the judiciary during criminal proceedings against a terrorist network. The Court of Cassation hearing was held in the office of the President of the court, at the request of the latter, and not in the room normally used for this purpose¹⁰. Similarly, the Ennassir Association for the Support of Islamist Prisoners and its President, Mr. **Abderrahim Mouhtad**, were the target of intimidation on several occasions. The association’s headquarters were under constant surveillance by an agent standing a few metres from the entry to the premises and national security agents on several occasions came to question the association’s President about his activities. For instance, on November 26, 2009, four national security members came to the association’s headquarters to question Mr. Mouhtad about the organisation’s sources of funding and its links with international terrorism. In addition, on February 27, 2009, Mr. Mouhtad, who had broken no rule of the Highway Code, was arrested by two policemen in the Sidi Bernoussi district of Casablanca while he was riding his motorbike to the association. The policemen asked him for his papers and then accused him of answering them in a haughty tone. They immediately handcuffed him and beat him. As he retaliated to the blows he received, Mr. Mouhtad was taken to the police station and an investigation found that the blows and injuries were reciprocal¹¹. No proceedings were subsequently opened against him.

9 / See Monitor and National Organisation for Human Rights in Syria (NOHR-S) Press Release, August 8, 2009 and OMDH.

10 / See Annual Report 2009.

11 / See OMDH.

Furthermore, the authorities brought pressure to bear on defenders and human rights organisations that have denounced police violence in Moroccan prisons and the deterioration in conditions of detention in 2009. For instance, on December 2, 2009, acts of intimidation were carried out against Ms. **Khadija Riyadi**, President of the Moroccan Association for Human Rights (*Association marocaine des droits humains* – AMDH), and Mr. **Abdel-ilah Benabdesselam**, Vice-President of the association and member of OMCT General Assembly. They were accused by Mr. Hafid Benhachem, Delegate General of the prison administration, of publishing negative reports about Morocco in order to “obtain funding” and to “betray their country”. In addition, he “advised” them to leave Morocco “if they were not happy”. These events followed the publication by AMDH on November 25, 2009 of two letters denouncing the conditions of detention of prisoners in the Casablanca and Settat centres. In addition, on December 4, 2009, a sit-in organised in front of the Ministry of Justice in Rabat by the Ennassir Association for the Support of Islamist Prisoners was violently dispersed by the police, who surrounded the demonstrators, wives, mothers and sisters of Islamist prisoners, and made them climb into buses that took them back to Casablanca, where the majority of demonstrators had come from. Many of them reported that they were insulted and even pushed around violently by plain-clothed police. The demonstration was organised in support of the hunger strike started by 91 prisoners on November 24, 2009 to denounce the poor conditions of detention in Moroccan prisons, especially in Okacha prison in Casablanca and Kenitra central prison¹².

Harassment of defenders who denounce human rights violations in Western Sahara

In 2009, Saharawi human rights defenders continued to be subjected to repression and intimidation. On June 24, 2009, the Agadir Court of Appeal upheld the 15-year prison sentence handed down at first instance against Mr. **Yahya Mohamed al-Hafed Aaza**, a member of the Collective of Saharawi Human Rights Defenders (*Collectif des défenseurs sahraouis des droits de l'Homme* – CODESA). Mr. Aaza was arrested on February 29, 2008 in his shop in Tan-Tan, in the south of Morocco, for having participated in peaceful protests that had taken place two days before and during which a policeman had been killed. During the hearing, the Court took no account of allegations of torture to which the accused was submitted after his arrest and during his imprisonment. As of the end of 2009, he was being held in the Aït Melloul prison, near Agadir¹³. Furthermore, Mr. **Ennaama Asfari**, co-President of the Committee for the Respect of

12/ See Ennassir.

472 13/ See ASVDH.

Liberties and Human Rights in the Western Sahara (*Comité pour le respect des droits de l'Homme au Sahara occidental* – CORELSO), was placed in detention on August 14, 2009 after an argument with a policeman during a police check at a road block near the city of Tan-tan in the south of Morocco. The cause of the dispute was apparently a key ring carried by Mr. Asfari, which showed the flag of the Saharawi Arab Democratic Republic. Sentenced on August 27, 2009 to four months in prison by the Tan-tan Court for “insulting a public agent”, Mr. Asfari was released on December 14, 2009¹⁴. Furthermore, on October 8, 2009, seven human rights defenders from the Western Sahara, Mr. **Ali Salem Tamek**, Vice-President of CODESA, Mr. **Brahim Dahane**, President of ASVDH, Mr. **Ahmad Anasiri**, Secretary General of the Saharawi Committee for the Defence of Human Rights (*Comité sahraoui pour la défense des droits humains*) in Smara, a member of the ASVDH Coordinating Committee and Director General of AMDH in Smara, Mr. **Yahdih Ettarrouzi**, member of AMDH in Laayoun, Mr. **Saleh Lebayhi**, President of the Forum for the Protection of Saharawi Children (*Forum pour la protection des enfants sahraouis*) and in charge of AMDH Smara branch, Ms. **Degja Lachgar**, member of the ASVDH Executive Council, and Mr. **Rachid Sghaer**, member of the Committee Against Torture (*Comité contre la torture*) in Dakhla, were arrested by Moroccan security agents at the Mohamed V airport in Casablanca when they returned from a visit to Saharawi refugee camps in south-west Algeria. In December, they were brought before the Examining Magistrate of the Rabat Military Tribunal. At the end of 2009, they were still held without a trial in the Salé prison¹⁵. For their part, Ms. **Elghalia Djimi** and Mr. **Duihi Hassan**, respectively Vice-President and member of ASVDH, were intimidated by plain-clothes police who came to their homes on November 3 and 10, 2009 respectively, while they were being visited by Spanish lawyers who were carrying out an international investigation into the human rights situation in Western Sahara. The police officers ordered the lawyers to return to their hotel and incorrectly informed the two human rights defenders that under Moroccan law it is forbidden to receive foreigners without the authorisation of the local authorities.

Intimidation and defamation campaign against a group of defenders of individual freedoms

In 2009, the organisers and participants in a protest action to support respect for individual liberties were subjected to severe intimidation, a sign of the nervousness of the authorities when they queried certain dogmas.

14/ See ASVDH Press Release, November 18, 2009.

15/ See ASVDH and AMDH. Ms. Degja Lachgar was provisionally released on health grounds on January 28, 2010.

Indeed, several acts of intimidation targeted members of the Alternative Movement for Individual Liberties (*Mouvement alternatif pour les libertés individuelles* – MALI), following an attempt by the movement to organise a picnic on September 13, 2009 in a forest close to Mohammedia, as a sign of protest against the law forbidding Muslims to eat in public during the Ramadan fasting hours. On September 13, 2009, when the members of the group arrived at Mohammedia station by train, a strong police contingent intercepted, searched, molested, insulted and took the names of six of them: Ms. **Ibtissame Betty Lachgar** and Ms. **Zeineb el-Rhazoui**, co-Founders and members of the movement, students **Abderrahim Mouktafi**, **Ghassan Bouyaghrouni** and **Nizar Benzimate** and journalist **Aziz el-Yaakoubia**. They then forced them to get back into the train. All the members later received death threats on their “Facebook” page and their e-mail and Facebook accounts were hacked. On September 15, 16 and 17, 2009, Messrs. Abderrahim Mouktafi, Ghassan Bouyaghrouni, Aziz el-Yaakoubia and Nizar Benzimate were arrested by the police and taken to Mohammedia police station. They were released very late at night without being charged. Several Moroccan newspapers subsequently published articles and comments condemning the group. In addition, in October 2009 Ms. Ibtissame Lachgar and Ms. Zeineb El-Rhazoui were banned from leaving the country when they were due to travel to Paris to take part in a meeting on October 19, 2009 to debate freedom of conscience and religion with the Association for the Manifesto for Liberties (*Association du manifeste des libertés*). This measure was lifted shortly after the meeting and debate at the request of their lawyer.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Chakib El-Khayari	Arbitrary detention	Urgent Appeal MAR 001/0309/OBS 044	March 9, 2009
	Sentencing / Arbitrary detention	Urgent Appeal MAR 001/0309/OBS 044.1	June 30, 2009
		Urgent Appeal MAR 001/0309/OBS 044.2	December 2, 2009
Ms. Ibtissame Betty Lachgar and Ms. Zeineb El-Rhazoui and Messrs. Abderrahim Mouktafi, Ghassan Bouyaghrouni, Nizar Benzimate and Aziz el-Yaakoubia	Obstacle to freedom of movement / Defamation campaign / Harassment / Death threats	Urgent Appeal MAR 002/1009/OBS 151	October 19, 2009
Ms. Elghalia Djimi and Mr. Duihi Hassan	Harassment / Attack on freedom of association	Urgent Appeal MAR 003/1109/OBS 166	November 12, 2009
Ms. Khadija Riyadi and Mr. Abdel-ilah Benabdesselam	Intimidation / Harassment	Urgent Appeal MAR 004/1209/OBS 184	December 9, 2009