



MOROCCO and WESTERN SAHARA

PRESENTATION

This review is part of a larger two-part study on **freedom of assembly in the Euro-Mediterranean region**.

Following an overview of the international standards relating to the freedom of assembly, [Part I](#) examines the legal frameworks in 11 countries of the Mediterranean and in the European Union and their compliance with international human rights standards. Part II examines the implementation of laws and the exercise of the freedom of assembly and demonstration in practice.

In order to assess the compliance of national legislations with international standards relating to the exercise of freedom of assembly, objective indicators were used as a reference throughout this study. A gender-sensitive approach was incorporated to determine whether women enjoy freedom of assembly to the same extent as men or face more restrictions.

This study was conducted in consultation with members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 human rights organizations in 30 countries. It thus reflects the active involvement of EMHRN's working group members on freedom of association and assembly, as well as other civil society organizations and experts.

The study is meant to provide human rights defenders, civil society organizations, international organizations, and state institutions with an analysis that allows them to compare national laws and policies with those of other countries and assess their conformity with international conventions, with a view to advocating for reforms and guaranteeing freedom of assembly across Euro-Mediterranean area.

The chapters are also available separately: [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#) and Western Sahara, [Palestine](#), [Syria](#), [Tunisia](#), [Turkey](#), and [the EU](#).

MOROCCO

Introduction

Within a political context marked by an uncompleted process of reform, social movements have not grown any weaker in recent years. In 2013 and at the start of 2014, all of Morocco's regions experienced many demonstrations, sit-ins, marches and peaceful gatherings organized by various groups. According to a study conducted by the Forum of Alternatives¹ 17,000 sit-ins were recorded in 2012, excluding the '20 February Movement' (M20F) demonstrations which were attended by 320,000 people. For the most part, these rallies are convened neither by political parties, nor by trade unions, nor any officially constituted bodies.

The M20F has lost much of its momentum, but has contributed to galvanising significant dynamic action throughout the whole country. Long is the list of the groups that have mobilised to claim their rights: unemployed graduates, movements associated with the lack of basic infrastructure and living conditions, women who have been victims of the micro-credit system, Soualilyat Women (from tribes living on communal lands in accordance with customary rights), sub-Saharan migrants, students and teachers in secondary education, trade unions, lawyers, judges, human rights defenders etc.

Faced with these protests, the attitude of the authorities has fluctuated between suppression and tolerance. Observation of the behaviour of the security forces in the face of this wide variety of expressions of discontent indicates the regime taking a grip on concessions made from 2011 onwards.² The "red lines" on sensitive issues such as the monarchy, the territorial integrity of Morocco and Islam still limit the exercise of the freedoms of assembly and expression.

1. Restrictions Imposed on Freedom of Assembly

Article 29 of the 2011 Constitution guarantees the freedoms of assembly and association without any discrimination. However, the reform of the Constitution has not been followed up by the adoption of organic laws implementing its provisions, and repressive laws have not yet been revised.

Some organizations are still prohibited or in practice deprived of legal status, which directly limits their capacity to organize public meetings or to call for demonstrations, to the extent that the law only recognizes this right for legally constituted organisations.³ Many players are thus denied this right, such as ANDCM (National Association of unemployed graduates in Morocco) founded in 1991, ATTAC CADTM MAROC,⁴ several sections of the AMDH (Moroccan Association for Human Rights), the LMDDH (Moroccan League for the defence of human rights), and the IMDH (Moroccan Commission For Human Rights),⁵ or organizations working with migrants such as GADEM.

Another arbitrary practice that has been reported is the sealing off of private homes on the grounds that they have been used to hold "unauthorized" meetings. This is the case of homes belonging to two members of the Islamist movement Al Adl Wal Ihsan (Justice and charity) – its new leader, Mohamed Abbadi, and another member of the movement.⁶

Non-recognized organizations have difficulties in hiring rooms or premises for their activities and meetings and they have to fall back on the support of other organizations to be able to exercise this right. In February

1 Study by the Forum of Alternatives Morocco, *Liberté de reunion et de manifestation au Maroc*, Abderrahmane Rachik, 30 April 2014 and interview with Kamel Lahbib, Forum of Alternatives, 12 March 2014.

2 Interview with Said Tbel, Espace Associatif, 6 March 2014 and Salahedine Lemaizi, ATTAC Maroc, 15 March 2014.

3 See *Regional Study: The right to freedom of assembly in the Euro-Mediterranean region - Part I: Legislation Review*, Euro-Mediterranean Human Rights Network, 2013 (Morocco chapter): http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013_EN_MOROCCO1.pdf

4 Press release ATTAC-Morocco, 11 February 2014: ATTAC CADTM MAROC has still not received an acknowledgement. The authorities in Rabat decided in February to appeal against the verdict of the Administrative Tribunal of Rabat which awarded this organization the right to operate lawfully.

5 These three organizations have held press conferences to clarify the violations of which they are victim: AMDH: 20 March 2014 http://www.amdh.org.ma/fr/communiqués/declaration_presse_fr; IMDH, 17 April 2014, <http://www.instance-mdh.org/categories1.html>

6 Press release Human Rights Watch, *Morocco : Stop Sealing House to Punish Activists*, 9 July 2013, <http://www.hrw.org/news/2013/07/09/morocco-stop-sealing-houses-punish-activists>

2014, the third Festival of Resistance and Alternatives, a cultural event which was to be held in the former slaughterhouses of Casablanca, was prohibited.⁷

In practice, many groups do not follow the established legal procedure for gatherings in a public place.⁸ In some cases, groups have received notice of prohibition even though they had not followed the administrative process of notification.⁹

It is important to note that Moroccan case law exempts sit-ins from the duty to notify – court of 1st instance of El Jadida (1996) and Rabat (2000), administrative tribunal of Oujda, administrative court of appeal of Marrakesh (2007).

The administration has the discretionary power to prohibit a meeting or demonstration if it considers that it could jeopardise public safety, without having to give reasons for its decision to ban.¹⁰ Many cases of the banning of peaceful demonstrations have been recorded by human rights organizations, and the most common argument used by the authorities to disperse them is the illegal nature of the gathering: prohibition and suppression of the sit-in at Imzouren on 8 July and 15 December 2013, prohibition on certain organizations to hold their general assembly or other meetings (local section of the AMDH at Midlet on 23 February 2014; the AMDH conference on human rights in Tetouan on 21 July 2012; prohibition on the AMDH to organize a sit-in at Fez the 7 March 2014 to mark international Women's Day; break-up of the AMDH sit-in for international Women's Day at Eljadida on 8 March 2014 during which several female activists were assaulted).

Rallies organised to commemorate the third anniversary of the 20 February were banned or brutally broken up in several locations. In El Jaddida, the commemoration could not take place because the participants were surrounded by the police and could not reach the place where the gathering was planned to be held. This was also the case in Tangiers where the demonstrators had to change the location of their gathering and finally assembled in Beni Makada. Gatherings in Nador and Al Hoceima were also prevented or dispersed at the start.

In some regions, such as in the Rif (North), most demonstrations, sit-ins, marches or gatherings have been banned since June 2012. Associations, such as the Women's Forum, which organized the demonstrations of 8 March 2013 and 2014 had to give explanations to the authorities about the slogans and banners that were going to be used.¹¹

Participation of women at demonstrations

There is no specific obstacle limiting the participation of women at meetings and public gatherings unless they relate to socio-cultural values generally limiting women's participation in public life. In the more traditional or conservative regions, women remain in the background. But this is not the case for movements like M20F where women were at the forefront, even though they were not the majority. They have nevertheless been put under a lot of pressure and have had to fight for their demands for equality to feature alongside demands for dignity, freedom and social justice. The fourth corner stone relating to equality was only included after a year.¹²

7 The Cultural Factory, "These disturbing artists", 26 August 2013, <http://www.abattoirs-casablanca.org/node/258> and press release of the Festival of Resistance and Alternatives, 18 February 2014, <https://www.facebook.com/photo.php?fbid=685615244812848&set=a.330275367013506.73725.328988513808858&type=1&theater>

8 See the Annual Report of the CNDH, 2008,

http://www.cndh.org.ma/sites/default/files/documents/Rapport_CCDH_2008_V_francais.pdf

9 Since 2011, groups which have called for demonstrations on social networks have received bans on such demonstrations by post.

10 According to article 13 of the Law 12/0 of 1976.

11 Interview with Zohra Koubia, AFFA-Forum des Femmes, 19 March, 2014.

12 Interview with Nidal Salam Hamdache, AMDH, Rabat, 24 March 2014.

Since the 1990s, Moroccan women have been successfully demanding their rights publicly: campaign for the reform of the Mudawana in 1992-1993, marches in Rabat and Casablanca in March 2000 etc. New coalitions have been formed such as the Feminine Springtime for Democracy and Equality or the Civil Coalition for the application of article 19, which demand the implementation of constitutional provisions aimed at combating the inequality, discrimination and violence of which Moroccan women are the victims.

Protection of Journalists

The behaviour of the law enforcement authorities in respect of journalists differs according to any intention or not to use force to break up the demonstration. When force is used, journalists are kept away and not allowed access, their equipment is sometimes destroyed or confiscated.¹³ The case of Omar Brousky should be pointed out. He is an *Agence France Presse* journalist who was assaulted whilst he was covering an M20F demonstration against the ceremony of allegiance to the king in October 2012. He then found that his accreditation had been withdrawn.¹⁴ The 2013 report by the SNPM (Moroccan national Press Union) on the state of freedom of the press and information in Morocco indicates that, for the period between May 2012 and March 2013, there was an increase in attacks on journalists, and this in the absence of any legal, administrative or professional mechanisms to protect them.¹⁵

2. Facilitation of Assemblies by the Authorities

The behaviour of the security forces varies from non-interference to the excessive use of force to break events up. According to the study carried out by the FMAS,¹⁶ most demonstrations are tolerated and take place without the security forces intervening. It is therefore possible to say that the authorities meet a minimal standard in the facilitation of the right of assembly and demonstration.

Nevertheless, gatherings challenging the “pillars of the kingdom” or, in other words, crossing “red lines”, are subject to repression. Repression is therefore based on the demonstration’s content or message.

This represents a failure by Morocco to abide by its international obligations, since “*any restriction imposed on the nature or content of the message the organizers and participants want to convey, especially in relation to criticism of Government policies, should be proscribed, unless the message constitutes “incitement to discrimination, hostility or violence”, in compliance with article 20 of the International Covenant on Civil and Political Rights (ICCPR)*”.¹⁷

Organisations’ management of demonstrations

In the case of demonstrations organized by groups, whether legally constituted or not, the organizations’ marshals keep them under control. In the case of authorized demonstrations, the organizers are also

13 Interviews with Mustapha Hattab, Observatory for Public Freedoms - FMAS -- 24 March 2014, and with Abdelsalam Lassal, AMDH, 26 February 2014.

14 Human Rights Watch, press release of 22 October 2012, <http://www.hrw.org/news/2012/10/22/morocco-restore-afp-reporters-accreditation>

15 The main assaults denounced by the Union: July 2012, Youssef Jouhari, correspondent for Assabbah in Tetouan; 8 August 2012, Wahid Mubarak, a journalist for Al Itihad; October 2012, the Al Ahdath team assaulted at a court clerks’ sit-in; 13 November 2012, Mouss Oulahssan (Al Ahdath), Mohamed Mouânis, Mourad Bourja (AIC) and Mohamed Jarfi (Assabah) assaulted during an M20F sit-in in Casablanca; 12 February 2013, Boujemla, journalist for Al Moutaâtaf in Salé; 16 March 2013, Nbarck Amrou, journalist for Attajdid in Rabat; 20 March, 2013, Mohamed Belkacem, journalist for Attajdid in Rabat; May 2013, Hanan Nabli, journalist for Al Michaâl, http://www.snpm.org/document_open.php?id=611&fid_rubrique=3&fid_cat=22

16 Op.cit.

17 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/23/39 para. 59.

liable according to the law,¹⁸ which is a problem because the prime responsibility for protection lies with the State and not with the citizens, who should never be rendered liable for acts committed by others.¹⁹

3. The Use of Force and Detention

Generally, several security forces are involved in breaking up demonstrations: the police, special forces or the gendarmerie in rural areas.

Various reports and press releases of the AMDH²⁰ indicate that the law enforcement authorities use batons and truncheons to put down demonstrations.

The underlying motive for breaking up rallies generally seems to be the message conveyed by the demonstrators, even if in such cases the authorities rely on the illegality of the event or the risk to public order to justify breaking it up. Force is not used as a last resort but systematically as the means of dispersing the demonstration, often without prior warning, which is a violation of legal procedures. The force used does not always respect the proportionality test, involving physical injury to demonstrators, and also sometimes to passers-by, onlookers or journalists.

A few examples illustrate the point. The sit-in of the 2 August 2013 organized in Rabat to protest against the royal pardon granted to Daniel Galván (sentenced for the rape of 11 children at Kenitra) was the subject of a robust intervention, which resulted in dozens of injured and detainees assaulted in police vehicles.

The breaking up of marches on the third anniversary of the M20F movement in February 2014 in Tiznit (100km from Agadir) resulted in a dozen injured.²¹ M20F members are sometimes directly targeted by the police, as during the trade union demonstration of 6 April 2014 in Casablanca, where only the small group of young activists was the subject of a brutal attack followed by arrests.²²

Although there is no specific harassment aimed at women at demonstrations, they have sometimes been victims of violence, insulted and humiliated by law enforcement officers. Some attacks have even resulted in serious injuries.²³

The evidence collected seems to indicate that, over the past two years, the use of force at demonstrations and detention have increased, especially in respect of some groups such as the senior leaders of the unemployed fighting for their right to work,²⁴ members of the National Association of Unemployed Graduates in Morocco (ANDCM),²⁵ students of the UNEM (National Students Union of Morocco) or M20F activists.

18 CNDH, *Annual Report*, 2008.

http://www.cndh.org.ma/sites/default/files/documents/Rapport_CCDH_2008_V_francais.pdf

19 See EMHRN *The right to freedom of assembly in the Euro-Mediterranean region: Legislation Review*, *op. cit.*

20 AMDH, *Annual Report*, 2012.

21 Abdeslam Lassel, AMDH, interview 26 February 2014.

22 Eleven members were arrested: Amine Lekbabi, Hamza Haddi, Ayoub Boudad, Yousef Bouhlal, Hakim Sarrokh, Harraq Mohamed, Fouad Al- Baz A'aras Mustafa, Abdellatif Essarsri, Abdelghani Zaghmoun and Hamid Alla, nine of them are detained and brought before to the court of first instance in Ain Sebaâ, Casablanca.

23 This is the case of activists from the movement of unemployed graduates, one of whom had a miscarriage after being beaten up.

24 20 leaders were arrested at peaceful demonstrations in Rabat in April 2014, and are currently being held.

25 Interview with Majdi Abdallah (ANDCM). This movement has no legal recognition and has a presence throughout Morocco.

4. Accountability of Law Enforcement Forces

In general, demonstrators who are victims of violence do not have easy access to the courts. When lodging a complaint, the procedure requires a doctors' expert opinion and most requests made by lawyers are refused.²⁶ In general, complaints filed have not been followed up. A coalition of human rights organizations filed a complaint about the attacks on demonstrators on 2 August 2013. The question was raised in the Parliament and the minister of the Interior said that he would do what was necessary but no result has been achieved so far.²⁷

5. Judicial Sanctions against Organisers and Participants in Assemblies

When demonstrations are forcibly dispersed, the law enforcement authorities often make arrests and then release the detainees some hours later. The issue therefore is one of intimidation. However, many cases have given rise to legal proceedings on counts such as: assaulting officials, destroying public property, drug trafficking or undermining the security of the State. Ill-treatment has been reported, as have cases of torture.²⁸

Many students belonging to UNEM, which organised demonstrations denouncing the lack of resources at the universities, have been arrested.²⁹ Trade unionists, M20F activists, defenders of human rights, people who had been detained in the "fight against terrorism", and Saharawi activists have been arrested without Morocco recognising their status as prisoners of conscience. Some are prosecuted under general law³⁰ in order to conceal the political nature of their trial. Political prisoners identified by human rights organizations are reported to number 288 of whom 208 are serving a prison sentence and 80 are in custody or on bail awaiting trial.³¹

Some trials clearly do not meet the standards that would guarantee a fair trial. In the case of the M20F activists detained on the 6 April 2014, the sentences were pronounced purely on the basis of police statements which incriminated them for violence against officers. The 9 activists who refused to sign these statements were sentenced by the correctional court of Ain Sebaa on 22 May to up to one year in prison without remission for violence toward an officer and the organization of a non-notified demonstration, even though the demonstration had been notified by the unions and facilitated by the authorities.³² Several violations of the code of criminal procedure and the right to a defence were noted at their trial.³³

6. Civil Society Initiatives and Good Practices

The right of assembly is at the heart of strategies to defend human rights and the take-over of public places by citizens has increased exponentially since 2011.

In Imider, in the Ouarzazate region, the inhabitants have been protesting since August 2011 against the devastating social and environmental consequences of a mine operated by the SMI (Imider Metallurgy Company) and have set up a permanent camp which all surrounding villages are involved with, organizing a mobile school and ensuring the permanent nature of the sit-in. Several activists have been harassed and arrested, and in October 2012, 5 people were convicted on appeal to a 2 year suspended prison sentence.

26 Interview with Benzekri Abdelkhalek, AMDH, 14 March 2014.

27 Interview with Benzekri Abdelkhalek, AMDH, 18 March 2014.

28 AMDH, *Report on arbitrary detentions*, <http://www.amdh.org.ma/fr>. This report points out the case of Fouad Belbel, secretary general of Tiflet section of the AMDH who was arrested on 10 December 2013 following his support for peaceful demonstrations by citizens for healthy living conditions, tortured, and accused of assaulting a police officer.

29 Students from Kenitra accused of having insulted the law enforcement authorities were sentenced at their trial in first instance to 8 months in prison without remission on 20 January 2014. In Fez, twelve UNEM activists were sentenced on April 21 to 4 months in prison with no remission. In Meknes, five activists were arrested 17 December 2012 and kept in detention until 12 May 2014, when one was sentenced to six months in prison and the other four to three years.

30 Example of Driss Moukaneh of the 20 February movement, a travelling salesman accused of drug trafficking and sentenced to a year in prison without remission.

31 See AMDH's *Point hebdomadaire* n°57, 14 March 2014, <http://amdhpairs.org/wordpress/?p=1081> and list of political prisoners and their groups, ASDHOM, 13 March 2014, http://asdhom.org/?page_id=838

32 See EMHRN, 28 May 2014, <http://www.euromedrights.org/eng/2014/05/28/morocco-emhrn-denounces-the-conviction-of-eleven-young-activists/>

33 Solidarity Morocco, 13 June 2014, <http://solidmar.blogspot.com.es/2014/06/m20f-report-au-17-juin-du-proces-en.html>

Another example is that of the Soulaliyat women, members of tribes where discriminatory custom and practice forced them to take action. Supported by civil associations, nearly 1000 women gathered in front of the Parliament in July 2009 and obtained from the Ministry of the Interior the recognition of their right to benefit, in the same way as men, from compensation arising from transfers or sales of collective lands, as well as a better representation in the customary mechanisms of management of collective lands.

Finally, some NGOS³⁴ and the National Human Rights Council (official independent body) respectively researched into social change and made recommendations designed to amend the legal framework and improve the practices of the security forces, as well as mechanisms for appeal in the event of violence. The 'Rabat Call' (*Appel de Rabat*) is a forum gathering around 400 NGOs calling for reform of the legislative framework governing civil society action and freedom of assembly throughout Morocco.

34 Study by FMAS, *Social movements in Morocco: from riot to demonstration*, 2014.

Recommendations

1. Guarantee that the freedoms of assembly, expression and association can be exercised by any individual or group without any discrimination based on opinions, origins, sex, religion etc.;
2. Reform law 00/76 on public meetings and demonstrations in compliance with the provisions of the new constitution, international law, and commitments made by Morocco; in particular, lift restrictions relating to groups who are not officially registered and put an end to administrative obstacles that prevent some civil society associations from gaining legal status (see the first part of the Study);
3. Ensure that the notification procedure provided for by law is transparent, accessible, and not unduly onerous, and that the administrative authorities do comply with the law when it is implemented;
4. Terminate certain practices engaged in by the administration such as refusal to issue an acknowledgement that a complaint has been lodged; make sure that restrictions applied are done so in compliance with the law, and abide by the principles of necessity and proportionality, and are communicated in writing to organizers within a time frame that allows for an appeal in court before an independent tribunal or court before the scheduled date of the event;
5. Ensure that the authorities are always open to dialogue with the organisers (before and during the gatherings), and when such dialogue occurs, that its purpose is to better facilitate the right of peaceful assembly;
6. Put an end to arbitrary arrests during peaceful demonstrations;
7. Guarantee the security of journalists and facilitate their access to peaceful gatherings;
8. Adopt clear, detailed, and binding regulations for the use of force against demonstrators, in compliance with the United Nations Basic Principles on the use of force and firearms by law enforcement officials; train the law enforcement bodies in the use of force and anti-riot weapons accordingly;
9. Act upon the State's responsibility to protect peaceful demonstrators; ensure that any use of force by law enforcement officers follows the principles of last resort, necessity, progressiveness and proportionality; ensure that lethal force is only a last resort and used as a defence against an imminent threat endangering human lives;
10. Expedite prompt, independent and impartial investigations in the event of a complaint or information about possible breaches or violations of human rights committed by law enforcement authorities during any operations to maintain order; punish those responsible and enable victims to obtain redress as well as be given guarantees of non-repetition; to this end, establish an independent mechanism for monitoring and investigating the behaviour of the security forces.

Introduction

The “territorial integrity” of Morocco including the Sahara is included within the “red lines” that restrict the freedoms of expression, assembly and association. The approach of the Moroccan authorities is still dominated by the application of a security policy aimed at maintaining control over the territory, contrary to the commitments made during the discussion of Morocco’s universal periodic review report at the Human Rights Council of the United Nations in April 2013.

Despite repeated civil society requests to expand the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) to the protection of human rights, Security Council resolution No. 2152 adopted on 29 April 2014 has not responded to these demands, indirectly encouraging the Moroccan authorities to continue their repressive policies.

However since 2000, the dynamics of demands for rights in Western Sahara have expanded and been strengthened following the “Arab spring” which fostered the emergence of new forms of protest.

1. Restrictions Imposed on Freedom of Assembly

The restrictions on the freedom of association and expression also limit the freedom of assembly in Western Sahara. The Moroccan authorities refuse to give legal recognition to local human rights organizations or associations that support the right to self-determination. These organizations which are not legally recognized, such as the section of the AMDH in Smara, other organizations such as the CODESA (Collective of Saharawi human rights defenders) or even the ASVDG (Sahrawi Association of Victims of human rights violations), do not have access to the public places and can only meet in private. They are also closely monitored by the authorities.

Access by journalists and observers to Western Sahara is strictly controlled. Accredited Moroccan journalists do not generally have access to the territory. Observers or international human rights organizations have to face many barriers: many cases of harassment or even expulsion have been reported.³⁵ Some local human rights activists are subjected to intimidation and harassment, their movements are controlled, their homes attacked, and their cars confiscated. They are also the subject of media campaigns intended to discredit them.

2. Facilitation of Assemblies by the Authorities

The Moroccan authorities do not in any sense facilitate the exercise of the right of peaceful assembly in Western Sahara, seeking rather to stifle protest, especially when international attention is focused on that territory. For example, during the visit of the United Nations special envoy to Western Sahara in October 2013, the town of Laayoune was surrounded by a large number of security officers in order to prevent demonstrations. They resorted to jetting water at the demonstrators to disperse them and the townspeople subsequently had to put up with power cuts.³⁶

Many demonstrations were held in January 2014: action by Saharawi young people on 11 January in Laayoune to show solidarity with political prisoners³⁷ or the 12 January demonstration in Laayoune to demand the right to self-determination,³⁸ but most were broken up.

35 A delegation of Norwegian observers was expelled from Laayoune in December 2013; a delegation of British parliamentarians and activists was harassed in February 2014; access to the territory has been refused to the ad hoc commission of the EU. See CODESA Report, *Violations of human rights in Western Sahara since resolution 2099 of the UN Security Council*, 25 April 2013.

36 Press Release of the Laayoune section of the AMDH, 20 October 2013.

37 Video made by Equipemedia Sahara, 11 January 2014, <https://www.youtube.com/watch?v=vboahzobmb8>

38 APSO INFO, 19 January 2014, <http://apsoinfo.blogspot.com.es/2014/01/em-une-semaine-de-manifestations.html>

3. The Use of Force and Detention

In 2013 and 2014, many demonstrations in the main towns of the Western Sahara, such as Laayoune or Smara, demanding the right to self-determination, the release of political prisoners, or the creation of a mechanism by the United Nations for the protection of human rights in Western Sahara, occasioned an excessive use of force.³⁹

Usually the law enforcement authorities are deployed some two hours before the start of the event and the town is besieged, preventing people from gaining access to the demonstration. The law enforcement authorities do not follow the procedures set out in Law and resort to force without warning nor regard for the principles of necessity, progressiveness and proportionality.

Several types of security forces are involved during demonstrations: police in civilian clothes and in uniform, auxiliary forces, "intervention brigades" (soldiers), gendarmes, and intelligence services. The authorities have at times resorted to informal groups of civilians to suppress or disperse demonstrations (E.g. Gdeim Izik in 2010 and Dakhla 2011).⁴⁰

According to civil society organizations, the security forces resort to throwing stones at the demonstrators, use of wooden or steel batons, edged weapons, vehicles to knock people down, physical violence aimed at the sensitive areas of the body (genitals, face), and insults etc.⁴¹

According to the CODESA report, over the period between 13 April 2013 and 4 April 2014, the suppression of peaceful demonstrations may have caused more than 900 injured, of which 488 were women, 442 were men, 30 were minors and 29 were disabled.⁴²

These repressive practices also affect the Saharawis of Southern Morocco in several places close to the border with Saharawi territory (Tan-tan, Tarfaya, Guelmin, Agadir, Assa etc.) due to the nature of their demands. In May 2013, a demonstration on the occasion of the 40th anniversary of the foundation of the Polisario Front organized by students of the Faculty of Philosophy and Letters at the University of Agadir was violently put down by the police, leaving a dozen injured.⁴³

When forced dispersal of demonstrations and sit-ins occur, the demonstrators are often subjected to intimidation, and ill-treatment, and cases of torture have been reported.⁴⁴ The abuses took place in vans used by the police, auxiliary forces or the gendarmerie, or at their premises and detention centres.

4. Accountability of Law Enforcement Forces

In general, the officers in security forces who are responsible for the violence are not held liable and the authorities do not follow up any complaints filed against them. Sometimes these individuals even benefit from internal promotion, which encourages this repressive policy.⁴⁵ Between 26 April 2013 and 08 April 2014, CODESA received copies of more than 90 complaints, lodged by Saharawi victims to prosecutors at various Moroccan courts, against officers who may have been responsible for violence and ill-treatment, but so far there is no outcome to these complaints.

39 During the period 26 April 2013 to 08 April 2014 CODESA identified 92 peaceful demonstrations which were suppressed by the security services.

40 Interview with Mohamed Salem Lakhel, CODESA, 28 March 2014.

41 Ibid.

42 CODESA Report, *op. cit.*

43 Western Sahara Human Rights Watch, 11 May 2013, <http://www.wshrw.org/en/las-fuerzas-marroquies-cargan-contrastudiantes-saharauis-en-el-40-aniversario-de-frente-polisario/>

44 For example, the peaceful demonstration on 15 May 2014 in Laayoune: <http://www.wshrw.org/en/otra-manifestacion-saharai-pacifica-atacada-por-la-policia-marroqui/>; or the case of the peaceful gathering of fishermen in the port of Laayoune 11 March 2014 to condemn the fisheries agreement between the EU and Morocco, at which nine fishermen were questioned for several hours and threatened with more severe sanctions if they demonstrated again.

45 The CODESA organization reported as an example the promotion in rank and transfer out of Western Sahara of two Moroccan officials who were the subject of dozens of complaints: Mohamed Nachti, former Pasha of Laayoune and Mohamed Hassouni, former police officer in Laayoune.

5. Judicial Sanctions against Organisers and Participants in Assemblies

Because Saharawi organizations are not legally recognised, demonstrations are usually regarded as illegal and the Moroccan authorities use this pretext to carry out arrests, at virtually every demonstration. In most cases, they give rise to legal proceedings. The authorities sometimes fail to record the exact date of the arrest so as to extend detention. The conditions in detention are generally very difficult and many cases of ill-treatment have been reported.

Demonstrators brought to justice can appeal if a military trial is not involved: but the courts of appeal, like the courts of first instance, do not offer any guarantee of a fair trial: statements made during police interrogation, which may contain “confessions” made under duress, have always been acceptable proof in trials at the expense of material evidence and the attendance of witnesses. Finally, the absence of a lawyer during interrogation in police custody, and the lack of access of human rights observers in the prison environment isolate the detainees and create favourable conditions for ill-treatment.⁴⁶

The punishments are generally very severe, whether handed down by military or civil courts. Mohamed Jgag, for example, was condemned by the Court of Appeal in Agadir to a year in jail for having taken part in a peaceful rally.⁴⁷ Another Saharawi, Kays Hiba, arrested on 7 October 2013 in Guelmim, was sentenced on 20 March 2014 by the court of Agadir to a year in prison without remission.⁴⁸ Between the 17 November 2012 and the 13 March 2014, 81 other cases were brought before the civil courts, 15 verdicts were pronounced ranging from 1 month to 4 years in prison without remission.⁴⁹ Since 2010, more than 210 people have been on bail with regard to the protest camp in Gdeim Izik in 2010. They were detained for periods ranging from 4 weeks to 7 months, then released, and have not yet been tried.

Some Saharawi activists were brought before military courts. Such is the case of 25 Saharawi civilians arrested at Gdeim Izik, who were sentenced by the military court of Rabat (19 February 2013) for violence when security forces intervened to break up the camp on 8 November 2010: 8 were sentenced to life imprisonment, 4 to 30 years in prison, 10 to sentences of between 20 and 25 years in prison and 2 to two years.⁵⁰

The announcement by the Moroccan Government on 14 March 2014 of an amendment to the Law aimed at prohibiting civilians appearing before military courts is a step in the right direction but it has been greeted with scepticism by human rights activists. The bill will cover an examination of the provisions of article 3, which includes a fairly vague definition granting military courts jurisdiction over civilians in cases of “war against the institutions of the State or the safety of persons or of capital” or in the case of attempts to overthrow the regime or to seize any part of the national territory by force.⁵¹

46 Amnesty International, April 29, 2014, <http://www.amnesty.org/en/library/info/MDE29/004/2014/en>

47 ANHRI, 11 February 2014, <http://www.anhri.net>

48 ASDHOM, See *Point hebdomadaire* n°58, 27 March 2014, <http://asdhom.org/?p=83514>

49 ASDHOM, *List of political prisoners and their groups*, http://asdhom.org/?page_id=838

50 EMHRN, *Trial Observation Report*, February 2013, <http://www.euromedrights.org/eng/2013/06/19/the-gdaim-izik-trial-observation-report/>

51 CIHRS, press release of 20 March 2014, <http://www.cihrs.org/?p=8247&lang=en>

Recommendations

The same recommendations are addressed to the Moroccan authorities in respect of Western Sahara, as well as specific recommendations:

1. Implement in every circumstance the duties incumbent upon Morocco as the occupying power of Western Sahara, in application of international law on human rights and international humanitarian law;
2. Ensure that the freedoms of assembly, expression and association can be exercised by any individual or group in the territory of Western Sahara under Moroccan administration even when the views expressed are critical of the policy of the Moroccan authorities;
3. Remove administrative and political obstacles preventing Sahrawi human rights defence associations and other Sahrawi associations from obtaining legal status;
4. Put an end to arbitrary arrests during peaceful demonstrations and also the judicial harassment of activists demanding their right to demonstrate peacefully;
5. Put in place an independent mechanism for the monitoring and investigation of the activities of the security forces in Western Sahara; expedite prompt, independent and impartial investigations in cases of complaint or information on possible violations of human rights committed by law enforcement authorities during operations to maintain order, punish those responsible and allow victims to obtain redress as well as be given guarantees of non-repetition;
6. Put an end to military trials brought against civilians and review the proceedings and sentences handed down by these courts against Sahrawi demonstrators because they do not offer the necessary guarantees of independence and impartiality required of a fair trial according to international law;
7. Facilitate the establishment of international mechanisms to monitor human rights in Western Sahara permanently.