

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Morocco: The authorities must swiftly implement the recommendations of the UN Human Rights Committee

Amnesty International welcomes the [concluding observations](#) of the UN Human Rights Committee (the Committee), issued on 4 November, and urges the Moroccan authorities to promptly implement its recommendations through policy and legal reforms, particularly in the context of the current reform of the Penal Code and the Code of Criminal Procedure.

The Committee acknowledged the judicial reform process initiated in Morocco following the adoption of a new Constitution in 2011, but highlighted remaining gaps in the legislation allowing for restrictions of the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR).

The Committee highlighted the authorities' rejection of many NGO registration applications and its efforts to curb the activities and freedom of movement of human rights defenders, notably in Western Sahara. It also criticized the legislation on public gatherings which subjects public gatherings to prior notification, and the excessive or disproportionate force used to disperse public gatherings.

On freedom of expression, the Committee criticized the introduction of new provisions in the Penal Code criminalizing acts perceived to offend Islam, the monarchy and "territorial integrity", despite the fact that similar provisions were eliminated from the revised Press Code in 2016. Amnesty International shares these concerns and had raised cases of journalists charged and prosecuted under such provisions before the Committee. The Moroccan authorities should remove provisions criminalizing the right to freedom of expression from the Penal Code, end the prosecution of journalists merely for carrying out their work and release anyone detained solely for expressing their views. The Committee was also concerned by violations of the right to privacy in surveillance operations targeting journalists, human rights defenders and perceived political opponents. It recommended that surveillance activities conform with Article 17 of the ICCPR on the right to privacy as well as the principle of legality and urged Morocco to establish an independent control mechanism to prevent abuses.

The Committee also highlighted the prevalence of violence against women and the low rate of prosecutions of perpetrators of such violence. This is largely due to the lack of effective protection measures available to women and the risk of prosecution for sexual relations outside marriage if they report sexual assault or rape. The rights body recommended, among other things, a prompt review of Morocco's legislation to adequately protect women from violence and sexual harassment and to shield survivors of violence from prosecution for sexual relations outside marriage. Amnesty International had outlined in its submission to the Committee continuing gaps in proposed legal

reforms on combating violence against women, and how the criminalization of consensual sexual relations outside marriage deterred survivors of sexual assault from reporting it and seeking medical care. In this respect, Amnesty International calls for Articles 490 and 491 of the Penal Code to be repealed.

The Committee also criticized continuing discrimination based on gender, including the criminalization of consensual same-sex relations under which lesbian, gay, bisexual, transgender and intersex (LGBTI) people can be prosecuted and imprisoned and the provisions of the Family Code that continue to discriminate against women. Amnesty International calls on Morocco to repeal Article 489 of the Penal Code, which criminalizes same-sex relations, and amend the remaining discriminatory provisions of the Family Code, as recommended by the Committee.

The Committee also expressed concern at the high level of clandestine abortions, the very narrow grounds on which abortion is permitted and the excessively restrictive requirements for access to legal abortion in the proposed legal reforms. The Committee recommended, among other things, that Morocco promptly extend the grounds for legal abortion to include incidents of rape, incest and fatal foetal impairment and remove restrictive requirements on access to legal abortions in proposed reforms. Amnesty International had underlined in its submission the requirement for third party notification and approval procedures to access legal abortion in the proposed legal reforms, and calls on the Moroccan authorities to remove these as well as to decriminalize the use and practice of abortion.

Regarding counter-terrorism and the right to a fair trial, the Committee expressed concern at the overly broad and vague definition of terrorism-related offences in both the current Penal Code and its proposed reforms, some of which were used to prosecute journalists solely for carrying out their work, and the chilling effect this could have on other rights. Amnesty International raised in its submission the case of journalist Ali Anouzla, who was arrested and detained for over a month on suspicion of “advocating terrorism” after an article criticizing a video by the armed group Al-Qaeda in the Islamic Maghreb was published on his news website. The organization calls on the Moroccan authorities to drop all charges against the journalist, whose case remains open over three years on.

The Committee also highlighted concerns regarding lengthy pre-arraignment detention periods, which for terrorism offences can be up to 12 days with limited access to a lawyer at the earliest after six days. The Committee recommended reviewing the Penal Code to give precise definitions of terrorism offences and ensuring these don’t unduly restrict other rights. It also called on Morocco to take the opportunity of the current legal reform process to reduce the period of pre-arraignment detention to 48 hours, and to allow access to a lawyer from the beginning of the detention period. Amnesty International has consistently called on the Moroccan authorities to grant all suspects the right to a lawyer during police interrogation, as a safeguard against torture and other ill-treatment and the use of coerced “confessions” in proceedings.

The Committee acknowledged Morocco’s efforts to end torture but noted persistent allegations of torture and other ill-treatment, the use of coerced “confessions” as evidence in court, despite this being prohibited in Moroccan law, and the failure to consistently initiate medical examinations and investigations when torture or coerced confessions are reported. They also noted cases of intimidation of persons who have reported torture and a lack of judicial proceedings and convictions for cases of torture and other ill-treatment. The Committee highlighted the lack of criminal proceedings regarding cases of enforced disappearances under the reign of former king Hassan II

between 1956 and 1999, a period known as the “years of lead”, despite the efforts of Morocco’s transitional justice body, the Equity and Reconciliation Commission. Amnesty International shares similar concerns as outlined in its submission.

The Committee urged Morocco to investigate, prosecute and punish torture and other ill-treatment and enforced disappearances, order prompt medical examinations following all allegations of torture and other ill-treatment, ensure that in practice confessions under coercion or torture are always inadmissible in courts and that victims are given adequate redress and reparations. Amnesty International has also recommended that all forensic medical examinations are carried out in conformity with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and that confessions made by a person deprived of liberty, other than those made in the presence of a judge and with the assistance of a lawyer, have no probative value in proceedings.

Regarding the death penalty, the Committee acknowledged the de facto moratorium on executions, but criticized the inclusion of three new categories of crimes punishable by death in the new draft Penal Code, a concern highlighted by Amnesty International. Amnesty International urges the Moroccan authorities to establish an official moratorium on executions and ratify the second Optional Protocol to the ICCPR, as recommended by the Committee.

On the rights of refugees and migrants, the Committee underlined that many Syrian refugees still lack refugee status, migrants continue to be arbitrarily arrested and subject to use of excessive force, participation of the security forces in collective expulsions persist, migrant children continue to be detained and legal barriers to birth registration and nationality transmission remain. Amnesty International calls on the Moroccan authorities to implement the Committee’s recommendations to adopt an asylum law in conformity with ICCPR provisions, allow persons in need of international protection to live lawfully in the country, including by issuing them national refugee cards and giving them the right to work, establish refugee status determination procedures at country entry points, end security forces’ involvement in collective arrests and expulsions and use of excessive force against migrants and adopt a law to prevent statelessness.

Background

Amnesty International made a [submission](#) on the occasion of Morocco’s sixth review by the Committee which raised many of the concerns outlined by the Committee in its concluding observations.