



# Morocco

## Universal Periodic Review

*Report submitted to the United Nations Human Rights Council in the context of the fourth cycle of the Universal Periodic Review*

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# Table of Contents

1	Scope of international obligations and cooperation with international human rights mechanisms and bodies.....	3
1.1	Scope of international obligations .....	3
1.2	Cooperation with international human rights mechanisms and bodies.....	4
2	National human rights framework .....	6
3	Implementation of international human rights obligations.....	7
3.1	Human rights and counter-terrorism .....	7
3.2	Right to life, liberty and security of the person .....	8
3.2.1	Right to life .....	8
3.2.2	Torture and ill-treatment.....	9
3.2.3	The prohibition of <i>non-refoulement</i> .....	10
3.3	Independence of the judiciary.....	11
3.4	Fundamental freedoms.....	12
3.4.1	Right to freedom of opinion and expression in law.....	12
3.4.2	Right to freedom of opinion and expression in practice .....	15
3.4.3	Right to peaceful assembly and association .....	17

# 1 Scope of international obligations and cooperation with international human rights mechanisms and bodies

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## 1.1 Scope of international obligations

Morocco is party to the main international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (UNCAT), its Optional Protocol (OPCAT), the Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Morocco also ratified the 1951 Convention relating to the Status of Refugees.

Morocco has yet to ratify the Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty (ICCPR-OP2) and the Rome Statute of the International Criminal Court (ICC).

Although Morocco accepted the individual complaints procedure set out under article 22 UNCAT, it has yet to ratify the Optional Protocol to the ICCPR (ICCPR-OP1) allowing individuals to petition the Human Rights Committee. The Kingdom has not accepted the individual complaints procedure under the ICPPED.

As Morocco has a monist legal system, ratified international human rights treaties take precedence over conflicting domestic law. Although their provisions can be invoked before courts, these instances are rare in practice.<sup>1</sup> As explained below, Moroccan law contains a number of provisions relating to freedom of expression,

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<sup>1</sup> Human Rights Committee, *Concluding observations on the sixth periodic report of Morocco*, 1 December 2016, CCPR/C/MAR/CO/6, para. 5.

the definition of terrorism or the right to asylum that are not in line with international standards and should have been revised following the last UPR.<sup>2</sup>

### **Recommendations:**

- Ratify ICCPR-OP1, ICCPR-OP2, and the Rome Statute of the ICC;
- Ensure international human rights standards take precedence in the event of conflict with domestic legislation.

## **1.2 Cooperation with international human rights mechanisms and bodies**

A total of three reports to UN Treaty Bodies remain overdue.<sup>3</sup> With regards to the individual complaint procedures, Morocco has taken a number of steps that were not in line with the decisions of Treaty Bodies.

On 12 March 2021, the Committee against Torture (CAT) requested that Morocco take interim measures by suspending the extradition of Osama Al Hasani, an Australian-Saudi national who was arrested on 8 February 2021 in Tangier on the basis of a red notice issued by INTERPOL upon Saudi Arabia's request.

However, the Moroccan authorities ignored the request and swiftly extradited him to Saudi Arabia in the middle of the night on 13 March.<sup>4</sup>

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<sup>2</sup> Morocco accepted the following recommendations, while asserting that they were being implemented: 144.86 (Albania), 144.116 (Netherlands), 144.112 (Zambia), 144.240 (Uganda).

<sup>3</sup> The report to the Committee against Torture is overdue since 25 November 2015; to the Committee on Economic, Social and Cultural Rights since 31 October 2020; to the Committee on Migrant Workers since 2018.

<sup>4</sup> For more information, see: MENA Rights Group, *Australian-Saudi national extradited from Morocco to Saudi Arabia*, 12 March 2021, <https://www.menarights.org/en/caseprofile/australian-saudi-national-risk-extradition-morocco-saudi-arabia> (accessed 14 March 2022).

In the case of Abdul Rahman Alhaj Ali, a Syrian national who also faced extradition to Saudi Arabia following his arrest in 2014, the Moroccan authorities complied with the CAT's request in 2015 but released the victim two years after the Committee issued a final decision on his case in 2016.<sup>5</sup>

Morocco is yet to issue a standing invitation to Special Procedures mandate holders. Since the third cycle of the UPR, except for the Special Rapporteur on Racism,<sup>6</sup> no other Special Procedures mandate holder has undertaken a mission to the Kingdom.<sup>7</sup>

Lastly, Morocco has appeared in all reports of the UN Secretary General on intimidation and reprisals for cooperation with the UN in the field of human rights between 2017 and 2021.<sup>8</sup>

### Recommendations:

- Issue an open and standing invitation to Special Procedures;
- Implement UN Treaty Bodies decisions, in particular requests for interim measures for individuals at risk of extradition.

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<sup>5</sup> Committee against Torture, *Decision adopted by the Committee under article 22 of the Convention concerning Communication No. 682/2015*, 3 August 2016, UN Doc. CAT/C/58/D/682/2015.

<sup>6</sup> The visit took place from 13 to 21 December 2018. The report is available at: <https://www.ohchr.org/en/statements/2018/12/end-mission-statement-special-rapporteur-contemporary-forms-racism-racial> (accessed 17 March 2022).

<sup>7</sup> Morocco ignored a recommendation regarding the issuance of a "standing invitation to special procedures, as previously recommended": 144.22 (Latvia).

<sup>8</sup> The annual reports on reprisals for cooperation with the UN covering the period spanning from 1 June 2017 to 30 April 2021 are available at: <https://www.ohchr.org/en/reprisals/annual-reports-reprisals-cooperation-un> (accessed 24 March 2022). See: UN Doc. A/HRC/39/41, A/HRC/42/30, A/HRC/45/36, A/HRC/48/28.

## 2 National human rights framework

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The National Human Rights Council of Morocco (CNDH) was established in 2011.<sup>9</sup> In November 2015, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), recommended that the CNDH be re-accredited with A status. Nonetheless, the SCA noted that the selection and appointment process was not sufficiently “broad and transparent.”<sup>10</sup>

In 2017, Morocco announced that it was already implementing recommendations pertaining to the establishment of National Preventive Mechanisms (NPM).<sup>11</sup> In 2018, Morocco passed a law reorganising the CNDH, which provides that the CNDH also serves as an NPM.<sup>12</sup> In its 2020 annual report, the CNDH indicated that its NPM conducted visits to 12 prisons.<sup>13</sup>

### Recommendations:

- Ensure that the CNDH is perceived by civil society as a credible and independent national human rights institution;

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<sup>9</sup> The CNDH was established pursuant to Dahir No. 1-11-19 of 1 March 2011 and article 101 of the Constitution

<sup>10</sup> Sub-Committee on Accreditation, *ICC Sub-Committee on Accreditation Report – November 2015*, <https://ganhri.org/wp-content/uploads/2019/11/SCA-FINAL-REPORT-NOVEMBER-2015-English.pdf> (accessed 14 March 2022).

<sup>11</sup> Morocco accepted the following recommendations, while asserting that it was being implemented: 144. 48 (Ghana), 144.49 (Greece), 144.50 (Guatemala), 144.51 (Spain), 144.52 (Switzerland).

<sup>12</sup> Article 13 of Law No. 76-15.

<sup>13</sup> Annual report of the CNDH for the year 2020, available at: <http://www.cndh.ma/fr/rapports-annuels/rapport-annuel-sur-letat-des-droits-de-lhomme-au-maroc-au-titre-de-lannee-2020> (accessed 18 March 2022).

- Disclose the confidential report transmitted by the Subcommittee on Prevention of Torture in 2019.<sup>14</sup>

## 3 Implementation of international human rights obligations

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### 3.1 Human rights and counter-terrorism

Under the counter-terrorism law No. 03-03, persons may be held in police custody in connection with terrorism-related offences for 12 days and are only allowed to consult a lawyer after six days have elapsed. In this regard, during Morocco's sixth periodic review in 2016, the Human Rights Committee urged the government to ensure that "the legislative reform under way sets the normal length of police custody at 48 hours and guarantees all detainees immediate access to a lawyer from the outset of detention."<sup>15</sup>

Furthermore, the Penal Code contains a broad and unclear definition of terrorism. In January 2016, the Parliament adopted a new counter anti-terrorism law which broadened the scope of the crime of apology for terrorism, by adding other synonyms (propaganda, promotion).<sup>16</sup>

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<sup>14</sup> Committee against Torture, *Thirteenth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading*, 16 March 2020, UN Doc. CAT/C/69/3, para. 19.

<sup>15</sup> Human Rights Committee, *Concluding observations on the sixth periodic report of Morocco*, 1 December 2016, UN Doc. CCPR/C/MAR/CO/6, para. 26.

<sup>16</sup> National Human Rights Council, *Counter-terrorism provisions of the Penal Code and the Penal Procedure Code*, January 2015, [https://www.cndh.org.ma/sites/default/files/counter-terrorism\\_provisions.pdf](https://www.cndh.org.ma/sites/default/files/counter-terrorism_provisions.pdf) (accessed 25 March 2022).

Although Morocco agreed to more clearly and precisely define terrorism-related offenses in 2017,<sup>17</sup> there have been no legislative initiatives to address this since.

## 3.2 Right to life, liberty and security of the person

### 3.2.1 Right to life

In 2017, Morocco accepted to have a debate about the death penalty and to consider abolishing capital punishment,<sup>18</sup> while completely rejecting to “eliminate the death penalty from its national legislation” or ratify the ICCPR-OP2.<sup>19</sup> It is worth noting that Morocco consistently abstains when voting on UN General Assembly resolutions on the use of the death penalty.<sup>20</sup>

Though there is a *de facto* moratorium on executions since 1993, courts continue to hand down death sentences. As of 30 August 2021, nearly 100 people were on death row.<sup>21</sup>

Although the right to life is enshrined in article 20 of the Constitution, the Penal Code, the Military Justice Law and the counter-terrorism law contain a number of offenses carrying the death penalty, some of which do not meet the threshold of the “most serious crimes.” In 2016, draft law No. 10/16 amending the Penal Code upheld the death penalty and expanded its scope to three new categories of crimes:

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<sup>17</sup> Morocco accepted the following recommendations, while asserting that they were being implemented: 144.85 (Hungary), 144.86 (Albania).

<sup>18</sup> Morocco accepted the following recommendations, while asserting that they were being implemented: 144.93 (Italy), 144.97 (South Africa), 144.98 (Ukraine), 144.99 (Namibia).

<sup>19</sup> Morocco fully rejected and partially rejected the following recommendations: 144.2 (Belgium, Estonia, Hungary, Portugal, Togo, Australia), 144.92 (France), 144.100 (Paraguay), 144.101 (Austria).

<sup>20</sup> Amnesty International, *Advocacy toolkit abolition of the death penalty in Africa*, 2019, <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5011622019ENGLISH.pdf> (accessed 14 March 2022) Annex V.

<sup>21</sup> World Coalition against the Death Penalty, *Morocco*, <https://worldcoalition.org/pays/morocco/> (accessed 14 March 2022).



genocide, war crimes and crimes against humanity.<sup>22</sup> It proposed to punish accomplices to crimes punishable with the death penalty with life imprisonment, as opposed to the death penalty, as currently provided. However, the draft law was withdrawn in late 2021.<sup>23</sup>

### 3.2.2 Torture and ill-treatment

The Penal Code contains a section called “abuse of authority by public officials against individuals and the practice of torture.” Article 231 includes a definition of torture in line with article 1 UNCAT. In 2016, the Human Rights Committee expressed concerns about reports of torture and cruel, inhuman or degrading treatment being perpetrated by state agents in Morocco and Western Sahara, particularly against persons suspected of terrorism or of endangering state security, or posing a threat to the territorial integrity of the state.<sup>24</sup> More recently, the Special Rapporteur on the situation of human rights defenders declared that “human rights defenders working on issues related to human rights in Morocco and Western Sahara continue to [...] be subjected to cruel, inhuman and degrading treatment and torture.”<sup>25</sup>

On 31 August 2019, the Moroccan authorities arrested journalist Hajar Raissouni, who was at the time a journalist at *Akhbar Al Yaoum*. She was then forcibly subjected to a vaginal examination, before being charged with “having an

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<sup>22</sup> The draft law is available at: <https://www.chambrederesrepresentants.ma/sites/default/files/loi/10.16.pdf> (accessed 14 March 2022).

<sup>23</sup> Medias24, *Code pénal : texte retiré du Parlement, retour à la case départ*, 9 novembre 2021, <https://medias24.com/2021/11/09/code-penal-texte-retire-du-parlement-retour-a-la-case-depart/> (accessed 14 March 2022).

<sup>24</sup> “Concluding observations on the sixth periodic report of Morocco”, *op. cit.*, para. 23.

<sup>25</sup> OHCHR, *Morocco: UN human rights expert decries “clampdown” on human rights defenders*, 1 July 2021, <https://www.ohchr.org/en/press-releases/2021/07/morocco-un-human-rights-expert-decries-clampdown-human-rights-defenders?LangID=E&NewsID=27244> (accessed 23 March 2022).

extramarital relationship” and “consenting to have an illegal abortion.”<sup>26</sup> The non-consensual medical examination she was subjected to constituted a grave violation of her right to be free from torture or other cruel, inhuman, or degrading treatment.<sup>27</sup>

### 3.2.3 The prohibition of *non-refoulement*

Since the last UPR, Moroccan authorities have failed to abide by the principle of *non-refoulement* enshrined under article 3 UNCAT (see case of Osama Al Hasani, section 1.2).

In fact, the Court of Cassation took a number of decisions that prompted the CAT to ask Morocco to take interim measures of protection.<sup>28</sup> Although article 721 of the Code of Criminal Procedure provides that “extradition shall not be authorised when the offence for which it is requested is considered a political offence”, Moroccan law has yet to make reference to the risk of torture and ill-treatment as a ground for refusing extradition.<sup>29</sup>

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<sup>26</sup> See MENA Rights Group, *Moroccan journalist Hajar Raissouni prosecuted, in violation of her right to privacy*, 26 September 2019, <https://menarights.org/en/casprofile/moroccan-journalist-hajar-raissouni-prosecuted-violation-her-right-privacy> (accessed on 14 March 2022). See also: Clooney Foundation for Justice, *Morocco v. Hajar Raissouni et al.*, August 2020, <https://cfj.org/wp-content/uploads/2020/08/Fairness-Report-on-the-Trail-of-Morocco-v.-Hajar-Raissouni.pdf> (accessed 14 March 2022).

<sup>27</sup> *Ibidem*.

<sup>28</sup> See: Committee against Torture, *Decisions adopted by the Committee under article 22 of the Convention*, concerning communications No. 782/2016 (Hany Khater v Morocco), No. 826/2017 (Ismet Bakay v Morocco), No. 827/2017 (Ferhat Erdoğan v Morocco), No. 845/2017 (Mustafa Onder v Morocco), No. 846/2017 (Elmas Ayden v Morocco).

<sup>29</sup> In its jurisprudence, the CAT has consistently highlighted that article 721 CPP “does not specifically mention the risk of torture and ill-treatment in the event of extradition, but only the risk of worsening the personal situation of individuals who are the subject of extradition requests, on the grounds of their race, religion, nationality or political opinions, if the offence in respect of which extradition is requested is considered by the State party to be a political offence or to be connected with such an offence.” Source: Committee against Torture, *Decision adopted by the Committee under article*

Most recently, on 15 December 2021, the Court of Cassation ruled in favour of the extradition of Yidiresi Aishan, a Uyghur activist who had been arrested in Casablanca on 19 July 2021, on the basis of a red notice requested by China.<sup>30</sup> The judges disregarded the risks of torture he would face in China should he be extradited, as well as the current human rights situation in the Xinjiang Autonomous Region, where systematic and massive violations committed against the Uyghur minority have been documented.

### Recommendations:

- Formally abolish the death penalty;
- Reduce the initial maximum allowable duration of police custody to 48 hours for terrorism-related and other offences and provide access to a lawyer from the time that a person is taken into custody;
- Amend legislation to enshrine the principle of *non-refoulement* and comply with article 3 UNCAT;
- Initiate impartial and thorough investigations into every allegation of torture.

## 3.3 Independence of the judiciary

Though the independence of the judiciary is enshrined in the Constitution,<sup>31</sup> the Moroccan judiciary has been described as insufficiently independent from the monarch, who chairs the Supreme Council of the Judiciary.<sup>32</sup> In practice, courts are regularly used to punish perceived opponents of the government, including

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*22 of the Convention, concerning communication No. 846/2017*, 10 May 2019, CAT/C/66/D/846/2017, para. 8.11.

<sup>30</sup> MENA Rights Group, *Uyghur activist faces extradition from Morocco to China*, 4 August 2021, <https://menarights.org/en/case/yidiresi-aishan-also-known-idris-hasan> (accessed 23 March 2022).

<sup>31</sup> Chapter VII of the Constitution.

<sup>32</sup> Bertelsmann Stiftung, *Morocco Country Report 2022*, Morocco Country Report 2022 <https://bti-project.org/en/reports/country-report/MAR?cHash=7bfe43106b2f463c8e7b722631c61441> (accessed 24 March 2022).

dissenting Islamists, human rights and anticorruption activists, and critics of Moroccan rule in Western Sahara.<sup>33</sup>

### Recommendations:

- Guarantee and uphold the full independence and impartiality of the judiciary and ensure that judges are free from external pressure and interference in the performance of their work.

## 3.4 Fundamental freedoms

### 3.4.1 Right to freedom of opinion and expression in law

In 2017, Morocco accepted two recommendations regarding freedom of expression, including in the context of Western Sahara, while asserting that they had already been implemented.<sup>34</sup> Freedom of opinion and expression are enshrined in articles 25 and 28 of the Constitution. In 2016, the Parliament adopted the Press and Publications Code,<sup>35</sup> which does not provide for prison terms as punishments for speech offenses. Yet, the Code allows the authorities to shut down any publication “prejudicial to Islam, the monarchy, territorial integrity, or public order.”<sup>36</sup>

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<sup>33</sup> Freedom House, *Freedom in the World 2020*, <https://freedomhouse.org/country/morocco/freedom-world/2020> (accessed 18 March 2022).

<sup>34</sup> Morocco accepted the following recommendations, while asserting that they have already been fully implemented: 144.114 (France), 144.117 (Sweden), 144.244 (Iceland).

<sup>35</sup> In October 2014, the government submitted three draft laws to Parliament: the Press and Publications Code (Law No. 88/13), a law on the status of professional journalists, and a law creating a new National Press Council. Parliament adopted all three laws, with some revisions, before concluding its session on 3 August 2016.

<sup>36</sup> Article 71 of the Press and Publications Code, Law No. 88.13, published in the Official Journal, no. 6491, August 2016, available at: <https://www.wipo.int/edocs/lexdocs/laws/fr/ma/ma069fr.pdf> (accessed 24 March 2022).

However, shortly before its adoption, new articles were inserted into the Penal Code,<sup>37</sup> thereby punishing with prison and/or fines, speech offenses related to sensitive topics in Morocco's political and public life: the monarchic regime; the person of the king and the royal family;<sup>38</sup> Islam;<sup>39</sup> and Morocco's territorial integrity.<sup>40</sup> Lawmakers also modified article 179 on "defaming, insulting, or causing prejudice to the personal life of the king or the crown prince."<sup>41</sup> Other existing

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<sup>37</sup> Dahir No. 1-16-104 of July 18, 2016 promulgating Law No. 73-15 amending and supplementing certain provisions of the Criminal Code.

<sup>38</sup> The new article 179(1) of the Penal Code provides for imprisonment of between six months and two years and/or a fine of 20,000 to 200,000 DH for "defaming, insulting, or causing prejudice to the personal life of the king or the crown prince, or failing in the duty to show reverence and respect for the person of the king." The punishment is doubled if committed via the press or in public.

<sup>39</sup> The new article 267(5) of the Penal Code provides that a person convicted of "causing harm" to Islam faces six months to two years in prison or a fine of 20,000 to 200,000 DH or both.

<sup>40</sup> The new article 267(5) punishes "incitement against territorial integrity" with imprisonment from six months to two years and a fine of 20,000-200,000 DH, or both, with an increase in the punishment to two to five years in prison and a fine of 50,000-500,000 DH, or both, if the offense is committed publicly.

<sup>41</sup> The new article 179 (1) of the Penal Code provides for imprisonment of between six months and two years and/or a fine of 20,000 to 200,000 DH for "defaming, insulting, or causing prejudice to the personal life of the king or the crown prince, or failing in the duty to show reverence and respect for the person of the king."

provisions still carry prison sentences for speech offenses such as praising terrorism,<sup>42</sup> denigrating court rulings,<sup>43</sup> or defaming state institutions.<sup>44</sup>

As a result, journalists and social network commentators continue to face prosecution under the Penal Code for peacefully expressing critical views. During the 2017 UPR, Morocco refused to “refrain from referring to laws other than the press code when dealing with infraction of the freedom of expression.”<sup>45</sup>

On 19 March 2020, the Government approved draft law No. 22/20 on the use of social networks, open broadcasting networks or similar networks, which was presented by the Minister of Justice.<sup>46</sup> The text contains several provisions that are not in line with international standards on freedom of expression online. It grants excessive powers to both network providers and the administration while

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<sup>42</sup> Article 218 (2) of the Penal Code penalises “praising acts that constitute terrorism offenses, be it by speech, cries, or threats conveyed in public places or meetings, or in writings or printed materials that are sold, distributed, or put on sale or on display in public places or public meetings, or displaying it in a manner visible to the public via the various means of audiovisual or electronic means of information.” This offense is punished by two to six years of prison and a fine of 10,000 to 200,000 DH. A 2015 addition to the code known as Law 86-14 adds the same penalties for “propaganda, praising, or promoting a terrorist or a terrorist group, gang, or entity.”

<sup>43</sup> Article 266 of the Penal Code penalises speech “intended to exert pressure on decisions rendered by judges, as long as a case has not reached its final ruling,” and speech “intended to discredit court decisions and that cause prejudice to judicial authority or independence.” The penalties for infractions are one month to one year in prison and a fine of 250 to 5000 DH.

<sup>44</sup> Article 263 of the Penal Code provides that “anyone who, with the intention of undermining their honor, delicacy or the respect due to their authority, insults in the exercise of their functions or on the occasion of this exercise, a magistrate, a public official, a commander or agent of the public force, either by words, gestures, threats, sending or handing over of any object, or by writing or drawing not made public, is punished by imprisonment of one month to one year and a fine of 250 to 5,000 DH. When the contempt towards one or several magistrates or assessors is committed at the hearing of a court or a tribunal the imprisonment is from one to two years.”

<sup>45</sup> Morocco fully rejected the following recommendation: 144.113 (Denmark).

<sup>46</sup> For more information, see: MENA Rights Group, *Morocco: Government must fully withdraw draft law on social media*, 30 June 2020, <https://www.menarights.org/en/articles/morocco-government-must-fully-withdraw-draft-law-social-media> (accessed 17 March 2022).

criminalising the dissemination of “false information.”<sup>47</sup> In addition, it sanctions calls for boycotts, following the 2018 “Moukatioun” boycott campaign.<sup>48</sup> The bill was temporarily suspended on 4 May 2020.

### 3.4.2 Right to freedom of opinion and expression in practice

During the third UPR, Morocco refused to “end the prosecution of journalists under the Criminal Code for peacefully exercising their right to freedom of expression.”<sup>49</sup> In practice, freedom of expression has been considerably reduced in recent years.<sup>50</sup>

Symptomatic of this decline is the use of the Pegasus spyware, to infiltrate the smartphones of numerous individuals, including journalists and human rights defenders,<sup>51</sup> among whom Taoufik Bouachrine, Soulaïmane and Hajar Raïssouni, Omar Radi, and Maati Monjib – who are either in prison or have been deprived of their liberty. It has also been alleged that the spyware was used to infect the phones belonging to Sahraoui human rights defender Aminatou Haidar as recently as November 2021.<sup>52</sup>

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<sup>47</sup> *Ibidem*.

<sup>48</sup> The campaign took place as several companies were accused of increasing their prices without regard to the purchasing power of consumers. See [Ahmed Eljechimi](https://www.reuters.com/article/morocco-protests/morocco-consumer-boycott-has-big-business-in-its-sights-idUSL5N1SP35Z), “Morocco consumer boycott has big business in its sights”, *Reuters*, <https://www.reuters.com/article/morocco-protests/morocco-consumer-boycott-has-big-business-in-its-sights-idUSL5N1SP35Z> (accessed on 17 March 2022).

<sup>49</sup> The following recommendations were fully rejected by Morocco: 144.118 (Sweden), 144.119 (United States of America).

<sup>50</sup> The country has fallen from 133<sup>rd</sup> to 136<sup>th</sup> place in the World Press Freedom Index established by Reporters Without Borders (RSF) between 2020 and 2021.

<sup>51</sup> Damien Leloup, “De Rabat à Paris, le Maroc ne lâche pas les journalistes”, *Le Monde* 18 July 2021, [https://www.lemonde.fr/projet-pegasus/article/2021/07/18/au-maroc-comme-en-france-des-journalistes-mis-sous-surveillance-avec-le-logiciel-pegasus\\_6088654\\_6088648.html](https://www.lemonde.fr/projet-pegasus/article/2021/07/18/au-maroc-comme-en-france-des-journalistes-mis-sous-surveillance-avec-le-logiciel-pegasus_6088654_6088648.html) (accessed 17 March 2022).

<sup>52</sup> Business & Human Rights Resource Centre, *Morocco: Investigation finds NSO Group's Pegasus spyware used to target female Sahraoui activist*, <https://www.business-humanrights.org/en/latest-news/morocco-investigation-finds-nso-groups-pegasus-spyware-used-to-target-female-sahraoui-activist/> (accessed 17 March 2022).

Over the past years, several people have been arrested for criticising the king,<sup>53</sup> and journalists were prosecuted for making critical comments.<sup>54</sup>

Since the last UPR, Morocco experienced a pattern of arrests, judicial harassment, and imprisonment of independent journalists, activists, and politicians, because of their critical writings and work, on trumped-up charges including “sexual assault”, “serving a foreign agenda”, or “money laundering.”<sup>55</sup> Such was the case of academic and human rights defender Maati Monjib, who was sentenced to one year in prison for “undermining state security” and “fraud” in January 2021.<sup>56</sup>

In July 2021, Soulaymane Raissouni, editor in chief of daily *Akhbar Al Yaoum*, was sentenced to five years in prison on sexual assault charges.<sup>57</sup> His niece, Hajar Raissouni, also a journalist for the newspaper, was sentenced to one year in prison for “illegal abortion” and “debauchery” in September 2019.<sup>58</sup> The former director of the newspaper, Taoufik Bouachrine, was sentenced on appeal to 15 years in prison

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<sup>53</sup> Le Monde, *Amnesty dénonce la « répression » contre la liberté d'expression au Maroc*, 12 February 2020, [https://www.lemonde.fr/afrique/article/2020/02/12/amnesty-denonce-la-repression-contre-la-liberte-d-expression-au-maroc\\_6029284\\_3212.html](https://www.lemonde.fr/afrique/article/2020/02/12/amnesty-denonce-la-repression-contre-la-liberte-d-expression-au-maroc_6029284_3212.html) (accessed 17 March 2022).

<sup>54</sup> Human Rights Watch, *Maroc et Sahara occidental, Événements de 2021*, <https://www.hrw.org/fr/world-report/2022/country-chapters/380819#fa3ea9> (accessed 17 March 2022).

<sup>55</sup> See Human Rights Watch, *Morocco: Journalist in Prison After Unfair Trial*, 25 November 2021, <https://www.hrw.org/news/2021/11/25/morocco-journalist-prison-after-unfair-trial> (accessed 17 March 2022); Committee to protect Journalists, *Morocco's new tactic to punish journalists: charge them with sex crimes*, 18 March 2021, <https://cpj.org/2021/03/moroccos-new-tactic-punish-journalists-charge-sex-crimes/> (accessed 17 March 2022).

<sup>56</sup> For more information see: MENA Rights Group, *Academic Maati Monjib sentenced to one year in prison following a trial tainted with irregularities*, 22 January 2021, <https://www.menarights.org/en/caseprofile/academic-maati-monjib-arbitrarily-detained-december-29-2020> (accessed 17 March 2022).

<sup>57</sup> For more information, see: MENA Rights Group, *Moroccan journalist Soulaymane Raissouni sentenced to five years in prison*, 14 July 2021, <https://www.menarights.org/en/case/soulaymane-raissouni> (accessed 17 March 2022).

<sup>58</sup> “Moroccan journalist Hajar Raissouni prosecuted, in violation of her right to privacy”, *op. cit.*



in 2019 for “human trafficking”, “abuse of power for sexual purposes”, “rape and attempted rape.”<sup>59</sup>

*Akhbar Al Yaoum* was considered to be the last independent Arabic-language daily in Morocco. According to Reporters Without Borders, the paper was deprived of all state-sector advertising and received none of the aid that the government provided to the media in response to the COVID-19 pandemic.<sup>60</sup> It stopped publishing in March 2021.

In July 2021, investigative journalist Omar Radi was sentenced to six years in prison on multiple charges, including espionage and rape of a female co-worker.<sup>61</sup> His colleague Imad Stitou was sentenced to one year in prison, with six months suspended for “participation” in the alleged rape because he “failed to intervene to stop it.”<sup>62</sup>

### 3.4.3 Right to peaceful assembly and association

Article 29 of the Constitution states that “the freedoms of assembly, peaceful assembly, association and trade union and political membership are guaranteed.”

Access to freedom of assembly is regulated by Law No. 76 on Public Assemblies. The text requires organisers to notify the government of planned assemblies at

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<sup>59</sup> On 23 November 2018, the Working Group on Arbitrary Detention issued Opinion No. 85/2018 stating that his detention was arbitrary. The Opinion is available at: [https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session83/A\\_HRC\\_WGAD\\_2018\\_85.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session83/A_HRC_WGAD_2018_85.pdf) (accessed 18 March 2022).

<sup>60</sup> Reporters Without Borders, *At least 22 newspapers “murdered” in the past five years*, 28 June 2021, <https://rsf.org/en/news/least-22-newspapers-murdered-past-five-years> (accessed 18 March 2022).

<sup>61</sup> France 24, *Moroccan appeals court upholds six-year sentence for dissident journalist Omar Radi*, 4 March 2022, <https://www.france24.com/en/africa/20220304-moroccan-appeals-court-upholds-six-year-sentence-for-dissident-journalist-omar-radi> (accessed 24 March 2022).

<sup>62</sup> Human Rights Watch, *Morocco and Western Sahara, Events of 2021*, <https://www.hrw.org/node/380819/printable/print> (accessed 24 March 2022).

least 24 hours beforehand and obtain a receipt of acknowledgment.<sup>63</sup> The law does not provide for spontaneous assemblies, allowing the authorities to disperse such a gathering on the basis of the law's provisions concerning "mobs."<sup>64</sup> Since the last UPR, authorities have at times used excessive force to disperse protests and harass activists involved in organising demonstrations.<sup>65</sup>

In late 2016, weekly demonstrations against poor socio-economic conditions and corruption gained momentum in the Rif.<sup>66</sup> In July 2017, the Moroccan authorities increased their crackdown by arresting hundreds of demonstrators.<sup>67</sup> Several Special Procedures mandate holders denounced the arrests and convictions of demonstrators and the excessive use of force by law enforcement and military forces in this context.<sup>68</sup>

In June 2018, the Casablanca court found 54 people linked to the *Hirak El-Rif* movement guilty of security-related offenses and sentenced them to prison terms of up to 20 years in connection with the 2016-2017 protests in Al Hoceima. The

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<sup>63</sup> Under Chapter 3 of Law 76 on Public Assemblies, the notification must include the day, time, place, and purpose of the meeting, as well as the names, professions, and addresses of three people domiciled in the province where the meeting will occur. The public meeting may take place 24 hours after obtaining the stamped receipt. See: International Center for Not-for-Profit Law, *Morocco*, last updated 3 June 2021, <https://www.icnl.org/resources/civic-freedom-monitor/morocco> (accessed 24 March 2022).

<sup>64</sup> Chapter III of Law 76 on Public Assemblies on "gatherings". Its article 21 states *inter alia* that "any unarmed gathering on the public highway that could disturb public safety is [...] prohibited."

<sup>65</sup> "Freedom in the World 2020", *op. cit.*

<sup>66</sup> Sahar Amarir, "The Rise of the Hirak Protest Movement in Morocco", *Global Voices*, 26 June 2017, <https://globalvoices.org/2017/06/26/the-rise-of-the-hirak-protest-movement-in-morocco/> (accessed 17 March 2022).

<sup>67</sup> Amnesty International, *Morocco: Protesters, activists and journalists detained over Rif protests must be released*, 28 November 2017, <https://www.refworld.org/docid/5a1d39ec4.html> (accessed 24 March 2022)

<sup>68</sup> OHCHR, *AL MAR 1/2017*, 14 July 2017, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23190> (accessed 18 March 2022).

court relied on the defendants' confessions, ignoring their subsequent rebuttal and allegations of torture, despite medical reports suggesting that at least some of them had indeed suffered police violence.<sup>69</sup> In August 2018, the king pardoned 188 sentenced *Hirak* activists, but none of the leaders.<sup>70</sup> In April 2019, the first-instance verdicts against over 40 defendants, including movement leader Nasser Zefzafi, were confirmed on appeal.<sup>71</sup>

Following the last UPR, Morocco accepted two recommendations pertaining to freedom of association.<sup>72</sup> However, Moroccan legislation regulating the right to establish civic associations<sup>73</sup> contains broad and vague terms that can be used by the administration to hinder the activities of associations.<sup>74</sup> In addition, "any association engaged in an activity other than the ones provided for by its statutes may be dissolved."<sup>75</sup> This provision was invoked when, in December 2018, the Casablanca Civil Court of First Instance ordered the dissolution of *Racines*, a cultural organisation that had previously hosted a web-based talk show called *1 Dîner 2*

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<sup>69</sup> Human Rights Watch, *Morocco: Shocking Verdict Against Activists, A Journalist*, 10 April 2020, <https://www.hrw.org/news/2019/04/10/morocco-shocking-verdict-against-activists-journalist> (accessed 18 March 2022)

<sup>70</sup> Human Rights Watch, *Morocco/Western Sahara, Events of 2018*, <https://www.hrw.org/world-report/2019/country-chapters/morocco/western-sahara> (accessed 24 March 2022).

<sup>71</sup> Amnesty International, *Morocco: prison sentences upheld against Hirak el-rif protesters in flawed appeal trial in Casablanca*, 26 April 2019, <https://www.amnesty.org/en/documents/mde29/0267/2019/en/> (accessed 24 March 2022).

<sup>72</sup> Morocco accepted the following recommendations, while asserting that they have already been fully implemented: 144.121 (Sweden), 144.122 (United States of America).

<sup>73</sup> Dahir No. 1-58-376, issued on 15 November 1958, which was modified by Law No. 75/00 of 2002, available at: [https://www.imolin.org/doc/amlid/Morocco/Morocco\\_Dahir\\_no\\_1-58-376\\_reglementant\\_le\\_droit\\_dassociation\\_1958.pdf](https://www.imolin.org/doc/amlid/Morocco/Morocco_Dahir_no_1-58-376_reglementant_le_droit_dassociation_1958.pdf) (accessed 24 March 2022).

<sup>74</sup> Article 3 of Dahir No. 1-58-376 modified by Law No. 75/00 of 2002 prohibits the formation of "any association which is founded for an illicit reason or purpose, which is contrary to the law or public morality, or whose goal is to undermine Islam, the integrity of the national territory or the monarchy, or to promote discrimination".

<sup>75</sup> Article 36.

*Cons* during which the participants critically discussed the king's speeches and policies.<sup>76</sup> The decision was upheld on appeal on 16 April 2019.

### Recommendations:

- Investigate all instances of illegal surveillance of individuals who were targeted by the Pegasus software and ensure the non-repetition of such practice;
- Revise the Penal and Press Codes by eliminating all nonviolent speech offenses not in line with the ICCPR;
- Release anyone whose detention stems from the exercise of their right to freedom of expression and peaceful assembly;
- Revise the law on associations to bring it into conformity with international standards and refrain from invoking its provisions as a pretext to suppress the peaceful exercise of fundamental freedoms.

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<sup>76</sup> See: Human Rights Watch, *Morocco: Abandon Attempts to Dissolve Cultural Group*, 18 January 2019, <https://www.hrw.org/fr/news/2019/01/18/maroc-renoncer-dissoudre-une-association-culturelle> (accessed 21 March 2022) ; Frontline Defenders, *Morocco: Ongoing judicial appeal concerning the dissolution of Racines*, 15 March 2019, [https://www.frontlinedefenders.org/sites/default/files/morocco\\_-\\_ua\\_-\\_racines\\_-\\_15\\_mar\\_2019.pdf](https://www.frontlinedefenders.org/sites/default/files/morocco_-_ua_-_racines_-_15_mar_2019.pdf) (accessed 17 March 2022) ; OHCHR, *AL MAR 3/2019*, 2 July 2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24672> (accessed 21 March 2022).