



Morocco

Submission to the UN Universal Periodic Review
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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
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**CIVICUS: World Alliance for Citizen
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1. (A) Introduction

- 1.1** CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 160 countries throughout the world.
- 1.2** In this document, CIVICUS analyse Morocco's fulfilment of the rights to freedom of association, assembly, and expression, as well as unwarranted restrictions on human rights defenders (HRDs), since its previous UPR examination in May 2012. To this end, CIVICUS assess Morocco's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.3** During the 2nd UPR cycle, the Government of Morocco received 19 recommendations relating to the above mentioned rights. Of these recommendations, 18 were accepted, and 1 was noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Morocco has not implemented 10 of recommendations relating to civil society space, partially implemented seven recommendation, and fully implemented two.¹
- 1.4** CIVICUS is deeply concerned by the lack of implementation of recommendations in relation to freedom of expression, including that a number of legitimate forms of free speech continue to be criminalised. We are further concerned by the authorities' continued use of the penal code to suppress independent dissent.
- 1.5** CIVICUS is further alarmed by the deterioration of the space for civil society and human rights defenders. Since Morocco's previous UPR examination, the authorities have increased the prosecution of civil society groups and their representatives, including through the imposition of travel bans, preventing and banning meetings and conferences of CSOs and unjustifiably denial of formal registration to some CSOs.
- In Section B, CIVICUS examine Morocco's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
 - In Section C, CIVICUS examine Morocco's implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders, civil society activists and journalists.

¹ See Annex 1, Matrix of recommendation and implementation status

- In Section D, CIVICUS examine Morocco's implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
- In Section E, CIVICUS examine Morocco's implementation of UPR recommendations and compliance with international human rights standards related to freedom of assembly.
- In Section F, CIVICUS make a number of recommendations to address the concerns listed.

2. (B) Freedom of association

2.1 During Morocco's examination under the 2nd UPR cycle, the government received 8 recommendations on the right to freedom of association. Of the 8 recommendations received, the government accepted 7, noted 1.² However, as evidenced below, the government has failed to take adequate measures to realise all of these recommendations which remain unimplemented.

2.2 Articles 12 and 29 of the Constitution of Morocco guarantee the right to freedom of association.³ Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Morocco is a state party, also guarantees this freedom. Despite accepting specific recommendations on this issue, the government has continued to prevent the registration of civil society organisations.⁴ Furthermore, and contrary to a UPR commitment of dialogue and cooperation with CSOs, the government of Morocco has created obstacles to the work and free operation of many organisations. For example, in June 2015, the authorities expelled two Amnesty International staff members working with migrants and refugees.⁵

2.3 The right to associate is established and governed by the Dahir (Royal Decree) No. 1-58-376.⁶ The legislation contains progressive provisions, including those that affirm the right of persons to form associations "freely and without authorisation." However, it also includes provisions that are contrary to Morocco's obligations under the ICCPR. For example, according to Article 3 of the law, an association

² Recommendation 131.4

³ Morocco's Constitution of 2011, available at:

https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

⁴ Alternative report from national CSOs in Morocco, ICCPR, page 33, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf

⁵ Amnesty International staff members expelled from Morocco, June 11, 2015, available at:

<https://www.amnesty.org/en/latest/news/2015/06/amnesty-international-staff-members-expelled-from-morocco/>

⁶ Dahir 1-58-376 of November 15, 1958 relating to the right of association, as amended by law 75.00 in 2002 and law 36.04 in 2006, available at:

https://www.imolin.org/doc/amlid/Morocco/Morocco_Dahir_no_1-58-376_reglementant_le_droit_dassociation_1958.pdf

cannot exist legally if its objectives or aims are deemed “contrary to good morals” or “undermine the Islamic religion”, the monarchy, or the country’s “integrity of national territory”, or if they are considered to “call for discrimination”.⁷ These broad provisions create a disabling environment for civil society by allowing government officials excessive discretion to dissolve or prevent the registration of organisations that are deemed critical of government policies and practices.

2.4 While article 2 of the law only requires notification to register an organisation, in practice the authorities continue to wilfully delay the registration of applicant CSOs or fail to deliver the registration receipt of a CSO which is needed for financial transactions and organised demonstrations, among other crucial activities. As a result, several organisations, including primarily Western Sahara-based organisations and those working on the promotion of the right to self-determination, lack legal recognition.⁸ An exception to this trend is the Sahrawi Association of Victims of Grave Violations of Human Rights (ASVDH) that in 2015 received a receipt granting it legal status.⁹

2.5 Moreover, Moroccan authorities have been illegally banning and impeding seminars, meetings, and conferences organised by human rights organisations. In a case emblematic of a wider trend,¹⁰ in July 2016, the authorities banned a seminar on environmental and land rights activists.¹¹ Furthermore, the Moroccan Association for Human Rights (MAHR) have reported that the authorities have banned more than 60 of their meetings, in defiance of two court rulings.¹²

3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Morocco’s previous UPR examination, the government received three recommendations regarding this issue.¹³ Of the recommendations received, Morocco considered that two of them had already been implemented or were in the process of

⁷ Article 3 law of associations

⁸ Alternative report from national CSOs in Morocco, ICCPR, page 33, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf

⁹ Alternative report from national CSOs in Morocco, ICCPR, page 33, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf

¹⁰ L’AMDH adopte un plan d’action pour informer les partis politiques, les syndicats et les organisations de la société civile des violations dont elle fait l’objet, available at: http://www.amdh.org.ma/fr/communiqués/bu_central_violations

¹¹ CIVICUS Monitor, Research partner update, July 29, 2016

¹² CIVICUS Monitor, Research partner update, July 29, 2016 ; see also: Alternative report from national CSOs in Morocco, ICCPR, page 31, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf

¹³ Recommendations 129.91; 130.3 and 130.12

implementation. However, as examined in this section, the government has failed to effectively operationalise these recommendations. Only one recommendation was fully implemented, as the government revised the press code and removed all prison sentences.

- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection to human rights defenders. The ICCPR further guarantees the freedoms of expression, association, and assembly. However, in spite of these protections, human rights defenders, continued to be subject to unwarranted and targeted persecution in Morocco.
- 3.3** Moroccan authorities continue to prosecute activists, human rights defenders and journalists using vague provisions of the Penal Code.¹⁴ A group of seven human rights activists and journalists appeared in Court in November 2015, being accused of threatening internal security of the state under this provision facing sentences of up to five years in prison.¹⁵
- 3.4** Human rights organisations and activists have reported that they often face harassment, intimidation, and surveillance. Organisations working in Western Sahara and on issues regarding self-determination face higher risks of arbitrary arrest and detention, ill treatment, and torture.¹⁶ In February 2015, Moroccan Association of Human Rights headquarters were illegally raided by security forces, staff members were physically assaulted, and two journalists that were there to interview staff members were arbitrarily arrested.¹⁷ The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment received information from civil society of security forces breaking into the homes of pro-independence activists and beating them.¹⁸

¹⁴ For instance, the provision in article 206 of the Penal Code states: “A person is guilty of harming internal state security ... if, directly or indirectly, receives [support from abroad intended, or used, to finance] an activity or propaganda capable of harming the integrity, sovereignty or independence of the kingdom, or shaking the loyalty that citizens owe to the state and the institutions of the Moroccan people.”

¹⁵ Cairo Institute for Human Rights, Morocco should drop charges against freedom of expression advocates and halt all restrictions on rights and freedoms, November 19, 2015, available at: <http://www.cihrs.org/?p=17614&lang=en>; The Arabic Network for Human Rights Information, Morocco: Prosecution of Journalists & HRDs is Serious Episode of Crackdown on Freedom of Expression & Right to Association, available at: <http://anhri.net/?p=155161&lang=en>

¹⁶ United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of Association, available at: <http://freeassembly.net/reports/morocco-communications/>

¹⁷ Ongoing intimidation of the Moroccan Association of Human Rights, June 2015, available at: <https://www.frontlinedefenders.org/en/statement-report/ongoing-intimidation-moroccan-association-human-rights>

¹⁸ UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Morocco, February 2013, para 64, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add-2_en.pdf

4. (D) Freedom of expression, independence of the media and access to information

- 4.1 Under Morocco's 2nd UPR examination, the government received 12 recommendations relating to freedom of expression and access to information. Of the recommendations received, all were accepted. Of the 12 recommendations pertaining to these issues, the government has only fully implemented two recommendations relating to the adoption of a new press code and the removal of prison terms in the legislation. However, total decriminalisation of press related crimes has not been implemented and journalists continue to face harassment, criminalisation and censorship. In Western Sahara, the situation is critical as the government persistently fails to respect the right to freedom of expression in the territory.
- 4.2 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 25 and 28 of the Constitution of Morocco also guarantees the right.¹⁹ However, in policy and practice, the government has continued its crackdown on media and journalists in the country.
- 4.3 A new Code of Press (Law 88-13) was approved by Parliament in July 2016.²⁰ The new code could be considered an improvement as it removes prison sentences for forms of expression. However, despite these amendments, freedom of expression is still unduly restricted through unwarranted sanctions for breaching these overbroad provisions of the penal code including the suspension of the news outlet or the withdrawal of the publication. Most importantly, the new press code will not prevent where "journalists and human rights defenders can be arrest[ed] for [the] simple fact of having expressed [their] opinion",²¹ as the penal code – including the new draft before parliament – retains prison terms for "insulting the Islamic religion or the monarchic regime or inciting against the territorial integrity of the country".²²
- 4.4 In practice, Moroccan authorities have arbitrarily used the penal code to intimidate and silence critical voices. Human rights organisations have denounced the use of criminal law against journalists and media outlets.²³ For example, the news website,

¹⁹ Morocco's Constitution of 2011, available at:

https://www.constituteproject.org/constitution/Morocco_2011.pdf?lang=en

²⁰ Kingdom of Morocco Ministry of Communication, available at:

http://www.sgg.gov.ma/Portals/1/lois/projet_loi_88.13.pdf?ver=2015-11-10-134945-340%5D

²¹ Recommendation 129.91

²² Alternative report from national CSOs in Morocco, ICCPR, page 29, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf; see also: Mission Journal: Morocco's new press law undermined by draft penal code, July 2016, available at

<https://cpj.org/blog/2016/07/mission-journal-moroccos-new-press-law-undermined-.php#more>

²³ The Moroccan government should halt all restrictions on civil society and stop harassment of human rights defenders, September 2015, available at: <http://www.cihrs.org/?p=17395&lang=en>

Goud, was ordered to pay to pay 51,450 USD for republishing an article about corruption and the king's private secretary, Mounir el-Majidi.²⁴ The continued invocation of the press code to stifle freedom of expression, as exemplified by these cases, has effectively undermined any efforts to reform the press code.

- 4.5** The environment for media and journalists in Morocco is becoming increasingly restrictive. Moroccan authorities have arrested and deported two French journalists for filming a documentary with no permission.²⁵ They have also arrested a journalist covering a protest,²⁶ and imposed travel bans,²⁷ among other tactics of harassment and intimidation.

5. (E) Freedom of peaceful assembly

- 5.1** During Morocco's examination under the 2nd UPR cycle, the government received two recommendations on the right to freedom of assembly. However, as evidenced below, the government has not implemented these recommendations.
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly as well article 29 of the Morocco Constitution. However, in practice and policy Moroccan security forces have continued to repress peaceful protests.²⁸
- 5.3** Law 76 on Public Assemblies of 2002 governs the right to assembly.²⁹ Only legally registered associations, trade unions, or political parties may organise a public demonstration. In addition, the law contains vague provisions which endow the authorities with broad discretion to discriminatorily invoke the law, thus undermining the right to peaceful assembly. For example, the local authority maintains the right to ban a demonstration on grounds of "threatening public order" and organisers of assemblies must "prevent any statement that contradicts with the public order and manners, or that involves incitement for a misdemeanours or a crime."³⁰

²⁴ Morocco website fined for defaming king's private secretary, June 2015, available at: <http://english.alarabiya.net/en/media/digital/2015/06/22/Morocco-website-fined-for-defaming-king-s-private-secretary.html>

²⁵ Alternative report from national CSOs in Morocco, ICCPR, page 28, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf

²⁶ Morocco jails journalist over coverage of protests, June 2014, available at: <https://cpj.org/2014/07/morocco-jails-journalist-over-coverage-of-protests.php>

²⁷ The Moroccan government should halt all restrictions on civil society and stop harassment of human rights defenders, September 2015, available at: <http://www.cihrs.org/?p=17395&lang=en>

²⁸ Alternative report from national CSOs in Morocco, ICCPR, page 31, available at: http://cmodh.org/wp-content/uploads/2016/09/INT_CCPR_ICO_MAR_22711_F.pdf

²⁹ The law establishes three types of assemblies: public meetings, demonstrations on public roads, and mobs

³⁰ ICNL, NGO Law Monitor: Morocco, available at: <http://www.icnl.org/research/monitor/morocco.html>

5.4 National civil society organisations have reported several instances of excessive use of force by the police to prevent and disperse demonstrations, especially demonstrators calling for the self-determination of the Sahrawi population. For example, in April 2014, the police prevented a vigil in solidarity with Saharawi political prisoners from taking place. According to the Collective of Saharawi Human Rights Defenders, several people trying to reach the vigil were “subjected to beatings [and] slander”.³¹ In February 2013, the Special Rapporteur on Torture indicated that he had received “numerous complaints indicating a pattern of excessive use of force in repressing demonstrations and in arresting protestors or persons suspected of participating in demonstrations calling for the self-determination of the Sahrawi population.”³²

6. (F) Recommendations to the Government of Morocco

CIVICUS call on the Government of Morocco to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5, and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding, and the state’s duty to protect. In light of this, the following specific recommendations are made:

6.1 Regarding freedom of association

- Remove all undue restrictions on the ability of CSOs and individuals to receive international and national funding in line with best practices articulated by the UN Special Rapporteur on the rights to peaceful assembly and of association. Specifically, article 206 of the Penal Code should be repealed as the text is vague and used to criminalise the use of foreign funding.

³¹ Las autoridades marroquíes reprimen una vigilia pacífica en El Aaiún / Sahara Occidental, April 2014, available at:

http://www.codesaso.com/es/index.php?option=com_content&view=article&id=169%3AAs-autoridades-marroquies-reprimen-una-vigilia-pacifica-en-el-aiun--sahara-occidental&catid=54%3Ainformes-y-cartas&Itemid=3

³² UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Morocco, February 2013, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add-2_en.pdf

- Unwarranted raids on civil society groups and unjustifiable disruptions to legitimate conferences, seminars and other activities organised by CSOs should be stopped.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities.
- Promote meaningful political dialogue that embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others. Specifically, the law on associations and the penal code, as stated above, should be suitably amended to remove unwarranted restrictions on freedom of association.
- Instructions should be issued to local officials not to undermine the rule of law by arbitrarily obstructing the registration of CSOs.

6.2 Regarding the protection of human rights defenders

- Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against human rights defenders with a view to bringing perpetrators to justice.
- Ensure that human rights defenders including those working on self-determination issues and in the Western Sahara territory are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- A consolidated process of repeal or amendment of legislation restricting the legitimate work of human rights defenders should be initiated in accordance with the UN Declaration on Human Rights Defenders.
- Specifically, article 206 of the penal code law should be suitably amended in accordance with the ICCPR and the UN Declaration on Human Rights Defenders.
- All human rights defenders including, journalists and bloggers detained for exercising their fundamental rights to freedom of expression, association, and assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- Senior government officials should publicly condemn instances of harassment and intimidation of civil society activists and organisations.

- The Government should establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists in accordance with resolution 27.31 of the Human Rights Council

6.3 Regarding freedom of expression, independence of the media and access to information

- Review penal code provisions and amend defamation legislation in conformity with article 19 ICCPR.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.
- Develop an action plan to ensure that Internet laws comply with the government's commitment to guarantee freedom of expression and information.
- Unfettered access to online information resources should be allowed by removing restrictions on access to national and international news websites and social media outlets and the websites of civil society organisations.
- A law on access to information should be adopted in line with international standards.

6.4 Regarding freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which call for simple notification rather than explicit permission to assemble.
- The Law 76 on Public Assemblies should be amended in order to fully guarantee the right to freedom of assembly.
- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.

- Review and, if necessary, update existing human rights training for police and security forces with the assistance of independent nongovernmental organisations to foster more consistent application of international human rights standards.³³
- Senior government officials should publically condemn the use of excessive force by security forces in the dispersal of protests.

6.5 Regarding access to UN Special Procedures mandate holders

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritize official visits with the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on Freedom of on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on extrajudicial, summary or arbitrary executions; 5) Special Rapporteur on the right to privacy and; 6) the Working Group on Arbitrary Detention.

6.6 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with civil society organisations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Include civil society organisations in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of the UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors.
- Incorporate the results of this UPR into an action plan for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the UN Human Rights Council on the implementation of the recommendations of this session.

³³Including the UN Basic Principles on the Use of Force and Firearms.