

April 2018

Human Rights and the State in Morocco: Impact of the 20 February Movement

Rachid Chennani

Abstract

The relationship between the human rights movement and the state in Morocco has gone through two major stages since the movement appeared in the 1970s. The first phase (1970s–1990s) was antagonistic in the broader ferocious political conflict that lasted from independence till the 1990s. Civil and political rights were routinely violated, and members of the opposition were incarcerated in secret detention centres. The state oppressed or ignored human rights activists or tried to contain them during that stage. This came to a gradual end in the early 1990s. The ruling regime changed the way it viewed the human rights movement and human rights themselves. Political detainees benefited from an amnesty and a process of reconciliation evolved as the state opened up the dark files of repressive practices such as arbitrary arrests, torture and enforced disappearances. The second phase, which began in the mid-1990s, came after the ruling regime had created and stabilized state institutions and the modalities of governance. It was then able to begin a calculated political opening bolstered by various internal and external forces. This, however, did not change the essentially contentious nature of the relationship between the human rights movement and the state. The conflict became subtle and more refined. The state attempted to turn the dark page of human rights' violations within a process of transitional justice. Despite harsh criticism, this process heralded in some way the end of systematic torture, forced disappearance and detentions without fair trials. The scope and spread of human rights organizations and activists expanded in the following two decades, particularly after the movement of 20 February 2011, leading to the adoption of a new constitution that explicitly acknowledged the supremacy of international treaties and human rights laws and legislation.

This paper reviews the history of the state's relationship with the whole paradigm of human rights as it relates to society and politics and with human rights defenders in particular.

Introduction

The human rights movement in Morocco presents a rich and diverse model in North Africa; one that reflects domestic, regional and international influences, starting from its formation as a force in the political and social domains in the 1970s and 1980s, through the 1990s political transformation towards greater participation and the gradual abandonment of systematic repression, violence and violations of political and civil rights by the state. The movement flourished in the late 1990s bolstered by the new consensual alternation system for governments and was part of the 20 February 2011 movement in the context of the Arab Spring, leading to the adoption of a new Moroccan Constitution that clearly recognizes the supremacy of international human rights treaties.¹

Historically, the state's relationship with the human rights movement was characterized by oppression and systematic disregard mixed with attempts for containment at times. This was the case until the early 1990s when the state began a gradual recognition of the human rights movement and started to deal with past violation through acts of amnesty, reconciliation and settling issues related to detainees, torture and enforced disappearances.

The emergence of the human rights movement with the establishment of the Moroccan League for Human Rights, the Moroccan Association for Human Rights and the Moroccan Organization for Human Rights was characterized by political affiliation, since a large part of the movement was associated with the leftist Marxist movement – although it explicitly adopted the International Bill of Human Rights as a main reference. For many years, this birth was affected by the dynamics of the relationship between the state and the human rights movement, where the state dealt with it in a hostile and suspicious manner, while the movement focused on political and civil rights before expanding in the past two decades, especially after the 20 February 2011 momentum, to advocate for economic, social and cultural rights.

The human rights movement in Morocco developed in close contact with political parties and in defence of detained political activists. In 1972, the Moroccan League for the Defence of Human Rights (Ligue Marocaine pour la Défense des Droits Humains, LMDDH) was established as the first Moroccan human rights NGO. It had a close relationship with the Istiqlal (Independence) party. It was followed by the Moroccan Association for Human Rights (Association Marocaine des Droits Humains, AMDH) in 1979 as a human rights organization born within the Socialist Union of Popular Forces, to be later adopted by the Democratic Socialist Vanguard party and is currently politically close to the Democratic Path Party. In 1988, the Moroccan Organization for Human Rights (L'Organisation Marocaine des Droits Humains, OMDH) was established independently of political parties. In the context of a re-arrangement of the political scene,² the palace undertook some reforms launching a phase of political détente in the early 1990s. King Hassan II established the Consultative Council for Human Rights in 1990, imitating a French model of a similar institution

¹ Starting in 1992, Morocco under King Hassan II, started to ponder a political transition away from repressive authoritarianism. But relevant ideas related to political reform, transition to genuine democratic practices, releasing political prisoners, inviting the opposition to a national dialogue and participation, and, ultimately amending the constitution. This slow process culminated into the appointment of Abdelrahman Youssefi, the secretary general of the Socialist Union Party, as prime minister in 1998 in what was known as the alternating government system, under which the prime minister did not have to come from the political party that won the majority in the parliamentary elections. This experiment ended in 2002.

² Mohamed Mouaqit. 1995. "Le Mouvement des droits de l'homme au Maroc: Du Makhzen à l'Etat de droit". *Annuaire de l'Afrique du nord*. Tome XXXIV. p. 27.

founded in the 1980s. In 1993, a ministry for human rights was established and, in June of the same year, Morocco ratified the United Nations Convention against Torture. Starting 1998 the Ministry of Justice and Prison Administration began to apply a law that mandated autopsies of those who die in detention as a routine procedure.³

Civil society expanded too. The Commission for the Defence of Human Rights was established in 1992 in Marrakesh and had a local focus. The field continued to expand with the birth of other human rights organizations which took a comprehensive approach to human rights and those which specialized in specific fields (women's rights, children, villages and neighbourhoods). This was considered by some to be a point of strength, since the spread of human rights associations and their diversity lays roots for a movement deeper within society and in relation to the state. However, others saw it as a weakness because it may contribute to the dispersion, fragmentation and infiltration of the field of human rights. The latter view emanated from a concern that the more visible and spread civil society organization are the more tempted the state to encroach on its domain and even create its own civil society organizations (CSOs). This suspicion grew after 2005 with the government/s "National Initiative for Human Development" as some feared CSOs would multiply but their impact would decrease.⁴

Human Rights organizations and the State: Conflict or Integration?

The human rights movement in Morocco first appeared in the form of moral and legal demands during colonial times and has continued ever since. The relationship between the state and the human rights community was dominated by the state's desire to preserve and enhance a composite identity that combines traditions and modernity while containing the civil society.⁵ For the first two post-colonial decades, the state was absorbed in the mission of establishing and maintaining various institutions. It always sought to contain civil society, leaving no room for CSOs outside its control.⁶ In return, various CSOs always tried to ensure their freedom and independence, and to influence state policies and practices.

Despite the spread of human rights CSOs, this proliferation has often been – directly or indirectly – condoned or ignored by the state. The ruling regime especially the palace, has long demonstrated its ability to change the balance, either through containment, deterrence or violence, or by re-engineering the political realm through fostering new elites or setting up political parties or civil society actors within what has come to be known as the "democratic margins".⁷

The evolution of the human rights movement in Morocco is generally linked to the multiple effects of domestic and foreign policy prerogatives, as well as the interaction among civil society components and political currents. Important political transformations in the 1990s, particularly

³ Susan Slymovic, *The Performance of Human Rights in Morocco*, Philadelphia: University of Pennsylvania Press, 2005, p.21.

⁴ Interview with Ahmed El Haij, head of the Moroccan Association for Human Rights (AMDH), 28 October 2016.

⁵ Mohamed Mouquit, "Le Mounvement".

⁶ Mohamed Abded El Gabry, "Democracy and Human Rights", *Ketab fi Garida*, Issue 29:5195, 2006, (Arabic)

⁷ Nour el din Elzahi, "Moroccans and Protest". *Weghet Nazar*, Issue 19-20, 2003, p. 11. (Arabic).

those affecting human rights, can be understood through a quick review of relevant internal and regional developments.⁸

Morocco emerged from the post-independence decades of social and political tension in the late 1980s. These three decades witnessed the events of March 1965, the declaration of an emergency⁹ state three months later,¹⁰ two coup attempts in 1971 and 1972¹¹ and the events of March 1973.¹² With the end of the Cold War, the Moroccan state had stabilized its political institutions but faced serious economic challenges. To face these challenges, it started to include political opposition elites, especially from the left, into the circles of government. This also was meant to help stem the rise of Islamist groups which constituted a greater threat to the regime. Sensitive files, such as political detainees, brutal torture and enforced disappearance in infamous detention centres (e.g. Tazmamart, Agadez, Qal'at Magouna, Moulay Ali El-Sherif, Dar Berisha, etc.) started to appear in newspapers and books.

King Hassan II began his reforms in the field of human rights by establishing the Consultative Council for Human Rights in 1990,¹³ and then the Ministry of Human Rights in late 1993 to prepare and implement government's human rights and rule of law policies. In addition to those institutions, a comprehensive amnesty was issued in July 1994. Five years later, under the reign of his successor, Mohammed VI, the "Independent Arbitral Tribunal for Compensation Resulting from Physical and Moral Damage to Victims and Rights holders of those Subjected to Enforced Disappearance, Arbitrary Detentions and their Families" was established to begin a public process of redress for the victims of long years of repression. The Commission issued 8,000 decisions by the end of its work in 2003. It was criticized for having a mandate limited to financial compensations with little attention to the other aspects of "reparation". There was no mechanism of appeal of its decisions, which compounded the impact of its unclear criteria that led to [significant discrepancies in compensations granted to victims of violations](#).

The most important step was the establishment of the Equity and Reconciliation Commission in 2004 to investigate grave past violations, particularly those related to enforced disappearance and

⁸ Mohamed Darif, *Human Rights in Morocco, Study of Moroccan General Law*, 1994, p. 17. (Arabic).

⁹ In March 1965, pupils and students protested in Casablanca after a decision by the Minister of Education Youssef Bel Abbas to expel students from primary and high schools if they had failed to enroll before a specified age, thus depriving them from sitting for the baccalaureate exam.

¹⁰ The emergency rule was declared in June 1965 for many reasons. including an unprecedented political maneuver by the National Union of Popular Forces who went to the ceremonial parliament opening which the king attends without the traditional dress, which was an affront. Then the party started a process for a vote of no confidence to overthrow the government of Ahmad Bahnini. This was followed by the adoption of a bill submitted by the Independence Party to amend the press law to prevent foreigners from issuing newspapers in Morocco. Finally, the House of Representatives tried to ratify bold legislations including a bill on investigating the origins of suspicious wealth. The state of emergency lasted five years.

¹¹ The two coup attempts of 1971 and 1972 were unsuccessful. The first took place in Skhirat Royal Palace by some generals and soldiers, led by Col. Mohamed Aababou, commander of the Hermomo military school, and General Mohamed Al-Madhbouh. They tried to assassinate King Hassan II on his forty-second birthday. The second failed attempt occurred when air force officers led by General Mohamed Oufkir tried in 1972 to down the Royal Boeing with the king aboard.

¹² The last violent threat against the royal regime was in March 1973 in Moulay Bouazza in the city of Khenifra, where regime forces engaged rebels for about six months. A rebel faction was led by Abdel Rahim Bouabid of the Popular Forces and another revolutionary action was headed by Al-Faqih Al-Basri, Said Bouna'ilat and Abderrahman Al-Youssefi. Morocco had previously witnessed political trials that ended with death penalties (Marrakesh in 1971). This deeply angered a number of leaders of a secret organization, which had sent members to training camps in the Levant, most notably the Zabadani camp in Syria, where dozens of Moroccans prepared for guerrilla operations against Israeli targets while others wanted to return to Morocco in order to get rid of what they saw as a "reactionary regime".

¹³ The consultative council was able to promote human rights in the 1990s to an extent by creating a dynamic work culture together with partners within the government, civil society, governmental and nongovernmental international organizations, etc. It collaborated with many actors on various issues including transitional justice and the outcomes and recommendations of the Equity and Reconciliation Commission.

arbitrary detention. Following the end of the Commission's work, its Chairman Driss Benzekri submitted his final report, including [recommendations](#) to ensure that serious violations of human rights in Morocco are not repeated, to undertake necessary institutional reforms and to develop a national strategy to combat impunity. The Commission [stressed](#) that the consolidation of rule of law requires legal reforms as well as reform in the security and justice sectors.

Many years passed since the Commission issued its recommendations. However, a large part of them has not been implemented, particularly those related to reparation for collective harm, the disclosure of the fate of all those who have been forcibly disappeared or the development of a national strategy to combat impunity. Moroccan human rights defenders [argued](#) that the main purpose of the Commission has not been achieved, which was to ensure that the decades of systematic repression by the state, especially with respect to the treatment of political activists, conditions of detention, resort to torture and enforced disappearance, do not recur.

Amnesty International, in its [Broken Promises](#) report in 2010, criticized the outcome of the Commission's work years after its conclusion, recognizing that the composition of the Commission itself was a signal "reflecting strong political will at the highest levels of government ... to address the legacy of the past", but its work and outcome "showed serious drawbacks that explain, if only partly, its inability to honour all promises of reconciliation and justice made. The mandate and powers of the Commission, Amnesty International wrote, did not cover all human rights violations committed between 1956 and 1999; also excluded from the Commission's work was the question of determining responsibility and identifying perpetrators of gross violations of human rights." Although the Commission addressed issues that are broader than its mandate, it was not able to address two key issues in its recommendations or the way in which the CCDH has implemented these recommendations in the following years: namely holding those responsible for the violations to account and reforming the legal and institutional framework that allowed those violations in order to guarantee non-repetition.

The establishment of the Consultative Council in 1990 was in part a reaction by King Hassan II to the growing criticism of the regime's record of violations against political opponents in particular and of human rights in general. The international context then pushed the regime to pay more attention to human rights issues. After the fall of the Berlin Wall in late 1989 and the end of the Cold War, Morocco found itself in a defensive position regarding a shameful human rights record.

In the 1990s, the state undertook a political re-arrangement under the slogan of "consecrating the state of rights and law", while it was aware and concerned about Morocco's international image with human rights and democracy promotion becoming a dominant discourse in that decade. In that context, the regime was keen to create the above mentioned institutional mechanisms. On the political front, the left-wing opposition joined the ruling circles with the system of consensual alternation in 1998.

However, this period of calculated openness faltered with the growing threat of terrorism, beginning with the bloody 2003 bombings in Casablanca and subsequent security measures to dismantle cells accused of carrying out or planning acts of violence in a number of Moroccan cities. In 2003, an anti-terrorism law was enacted. By the end of the same year, about 2,000 people were arrested, based upon a law that has sometimes been used to curb human rights activism. The law was also used by

security institutions to intimidate journalists and activists, some of whom were tried and sentenced to prison terms even after the 2011 uprising, as was the case with commentator Ali Anouzla and his website *Lakom (For You)*.¹⁴

The popular demonstration on 20 February 2011 changed the political equation again and pushed the regime to amend the Constitution in response to protests focusing on demands for social justice, basic services in education and health care, and the independence of the judiciary. The popular movement expressed public anger towards "exploitation", humiliation and marginalization. It also showed the depth of resentment by the majority who have been disenfranchised while watching daily practices of favouritism and how privileges and benefits were awarded to a lucky few while they had to withstand harassment, obstruction and overcome obstacles to secure their very rights.

15

Just as the human rights movement had long contributed to the transitional justice process, helped raise awareness about women's and children's rights, worked on rights of detainees and on civil liberties in general, it also played a role in the context of the 2011 movement and consequent constitutional amendments. In this, it was supported by popular calls to include many rights and freedoms in the Constitution and to ensure it is reflected in the laws of the land.

Determinants of the relation between the state and the rights movement

We can classify Moroccan human rights organizations and actors into three generations:

- 1- The generation of the Moroccan League for Human Rights (LMDDH) and the Moroccan Association for Human Rights (AMDH), which was associated with political opposition movements that used human rights to lobby the state. Most of the activists of these organizations were former political prisoners whose activism became restricted during the years of lead.¹⁶ For some, human rights activism was an entry point to press the state into embracing human rights as a base in the political arena. Some activists, like Driss Ben Zikri, later adopted an exclusive human rights approach not necessarily related to assumed political gains. The Moroccan Organization for Human Rights (OMDH) joined this generation later on.
- 2- The second generation was made up of professionalized human rights activists committed to the international human rights bill and without any specific political affiliation. Working through organizations such as Adalah, they monitored rights violations and interceded with the state. These associations came together with the first-generation organizations

¹⁴ Omar Bendourou, "Les droits de l'homme dans la constitution marocaine de 2011 La Revue des droits de l'homme", *Revue du Centre de recherches et d'études sur les droits fondamentaux année*, 2014, p. 19.

¹⁵ Béatrice Hibou, "Le mouvement du 20 février, Le Makhzen et l'anti politique: L'impensé des réformes au Maroc", *Sciences Po. CERI CNRS*, 2011, pp. 1-2.

¹⁶ The years of lead (les années de plomb) (from the mid 1960s till the early 1990s) were distinguished by unchecked state repression starting with bombing raids against insurgent northern areas in Riff, and including arbitrary detention without trials in secret centers, enforced disappearance and torture.

under the umbrella of the Moroccan Coalition for Human Rights Institutions, which includes 22 organizations.¹⁷

- 3- The third generation was related to Islamist human rights organization. Alkarama Forum, for example, is associated with the Justice and Development Party. Such outfits have reservations on the universality and comprehensiveness of the international human rights bill. They tailor the bill with an Islamist approach, for example, by [opposing](#) equality between women and men in inheritance and supporting polygamy. In these two issues, the state sides with these organizations, since it abides by a certain understanding of the dictates of Islamic law.

Among these organizations, the AMDH is the most active in terms of social mobilization because of its dispersed branches and presence in the public space since its inception. This national network makes AMDH more influential and a constant source of irritation to the state, which has often imposed restrictions on its activities and activists to limit its work and credibility.¹⁸

In its overall relationship with the human rights movement, the state first challenged the rise of human rights activism before adopting some of its principles in the context of becoming more open, even if instrumentally, to human rights rhetoric and principles, in the 1990s. However, tensions and fluctuations continued to characterize this relationship.

Human rights organizations in the current social/political context

After 2011, with the increase in societal demands, the human rights movement that usually focused on civil and political rights expanded its scope to the second-generation rights and also diversified the way it spread messages and presented its demands using new platforms, especially social media.

Rights-driven protests expanded. They included organizing against unemployment, protesting rising water and electricity bills, demanding more individual freedoms and challenging conventional morality (dress code, consensual sexual relations, etc.), calling for the truth about past violations in the context of a real transitional justice process, advocating cultural rights (Amazigh), opposing globalization and criticizing economic policies promoted by international financial institutions such as the International Monetary Fund (ATTAC Morocco) documenting and exposing bribery, illegal income and corruption, and calling for accountability (Transparency Morocco Association).

¹⁷ The coalition included LMDDH, AMDH, the Moroccan Network for the Protection of Public Funds, Riff Association for Human Rights, Moroccan Bar Association, Amazigh Rights and Freedoms Monitor, the Medical Association for Rehabilitation of Victims of Torture, the Moroccan Society for Lawyers' Fora, the Moroccan Forum for Truth and Justice, Amnesty International- Moroccan branch, the Moroccan Monitor for Public Freedoms, the Moroccan Association against Bribery, Adalah, Karama Forum, The Freedoms of Media and Expression Organization, the Moroccan Institution for Human Rights, the Moroccan Prison Monitor, the National Forum for Protection of Public Funds in Morocco, the Moroccan Association for the Defense of the Independence of the Judiciary, the Justice Monitor in Morocco, the Moroccan Center for Human Rights, the Moroccan League for Citizenship and Human Rights.

¹⁸ Abderrahman Rachik, "Nouveaux mouvements sociaux et protestations au Maroc". *IREJ*, 2010, p. 37.

The protest actions spread in scope and broadened in terms of rights defended. By March 2015, the government had granted legal registration to 32 associations and settled the status of 24 others established by migrants residing in Morocco.¹⁹ A new law came into force prohibiting military trials against civilians.²⁰ For the first time, the government recognized a Sahrawi Human Rights Organization (Sahrawi Society for Victims of Grave Human Rights Violations), led by people who openly criticized the regime. Morocco also granted a temporary legal status to asylum seekers recognized by the United Nations, and thousands of migrants looking for economic opportunities, [pending a comprehensive review of its laws](#) on the right of asylum and residence of foreigners on Moroccan soil. The government's refusal to accept legal registration papers of these organizations or their branches in the past (so-called deposit vouchers) had been one of the many techniques used to place the activity of these associations in a gray zone where their applications to register have been neither accepted nor refused.

However, the government sometimes imposed arbitrary administrative obstacles. For example, efforts by journalist Ali Lmrabet to register a satirical weekly were impeded even after he served a 10-year ban on practicing journalism in Morocco. Police in Rabat [confiscated](#) the tapes of two French television journalists on 16 February 2015 and expelled them on grounds that they were filming without a license. Some old police practices returned including attacks on rights activists through surveillance and harassment or prosecution for trumped up charges. Thugs were also used as an indirect method of intimidation. Certain [restrictions](#) were imposed on national and international human rights organizations. The authorities were often lenient with public protest, but systematically prevented gatherings in certain locations and regions, including the Sahara, especially if the protest was to the demand self-determination.

As of 2014, a group of leaders who led the youth movement, especially in the northern regions, was arrested. More than 200 activists were detained in El-Hoceima, Taza, Bani Bouayash, Kasr el-Kebir and Larache, and a [leading leftist activist was killed](#) in suspicious conditions.²¹ An [investigation](#) was opened after the murder of five young men whose bodies were found burnt down and deformed in the Banque Populaire building in El-Hoceima. A vicious attack was launched against some human rights organizations, especially the AMDH; the authorities cancelled 40 events in one month, in violation of the very government regulations in this regard. The AMDH claimed that there were 168 obstructive measures against human rights associations between 2014 and 2016. Activities of some associations were [illegally prevented](#).²² The authorities continued to refuse legal registration to a number of human rights organizations. By the end of 2015, 41 out of AMDH's 97 local branches [remained in an ambiguous legal status](#) due to the refusal of local authorities to accept applications for registration or to give them receipts indicating files were submitted. In some cases the authorities demanded documents that are not required under the law and delayed temporary or final receipts of registration. Sometimes, organizations were denied receipts of formation or renewal.²³ There are 14 human rights associations that have not been licensed by the Ministry of the

¹⁹ Adalah, "A Shadow Report Presented to the Human Rights Council", 25 October 2016.

²⁰ According to law no. 13-108 civilians were excluded from the mandate and jurisprudence of military courts, in addition to stipulating the referral of military personnel themselves to ordinary courts in case of crimes related to public rights, in addition to prohibiting military trials for children irrespective of the nature of the committed crime.

²¹ Leftist leader Kamal Elhassani, who was active in the 20 February upheavals and the movement of the unemployed university graduates, was killed by an unemployed man in October 2011.

²² Interview with Ahmed El Haij.

²³ They included the AMDH's Tangier branch, Cultural Alternative Association in Kenitra, and Attac Maroc.

Interior, most notably the Freedom Now association, whose appeal was rejected in court in support of a provincial administration in Rabat that refused to admit the association's registration file.²⁴ In several cases, no reasons are given for the rejection, since authorities refuse to provide the association concerned with a written decision in order to undermine any possible court appeals. On 15 February 2015, security agents raided the AMDH headquarters without a judicial permission. AMDH leaders, including Abdelhamid Amin, Khadija Riyadi, were attacked or threatened several times.²⁵

The authorities also prevented human rights defenders from leaving Morocco to attend or participate in events abroad and interrogated some of them. In November 2015, seven civil society activists, including Maati Mounjib, a historian and co-founder of "Freedom Now", were tried on multiple charges, including undermining state security and training people to use smart phones to produce media reports. They face five years in prison, if convicted. The government also banned cultural events, including a play on African immigrants in Morocco. Rap singer, Alhaqed, was banned from performing and jailed for selling football game tickets on the black market, before obtaining political asylum in Belgium. Personal accounts and Facebook pages of journalists and human rights activists were hacked or monitored, which are illegal measures that have not been investigated or punished.²⁶

Politically, a direct confrontation ran between Islamist conservatives representing the Justice and Development party (PDJ) in government and parliament, on the one hand, and modernists of the Authenticity and Modernity party (PAM), the women's movement, February 20 activists and some components of the democratic bloc (such as the Socialist Union and Left Federation), on the other. Although they did not constitute a coherent coalition, the modernists were commonly concerned about a perceived deterioration in the human rights situation with growing restrictions on personal freedoms and the PDJ's ignoring calls for violence against human rights activists or labelling non-Islamists as infidels.²⁷ Rights organizations criticized the PDJ prime minister's statement calling for burying the violations of the past calling for "[letting bygones be bygones](#)," in reference to the past violations.

The women's rights movement addressed the phenomenon of child rape and abuse and demanded amendments to the Penal Code which enforced marriage of a minor rape victim to her rapist.²⁸ The women's rights movement also expressed frustration at the lack of progress towards full gender equality and ending discrimination and violence against women. In addition, although the Amazigh language has become an official language after the 2011 Constitution was promulgated, the Amazigh continued to complain about exclusion and marginalization.

Human rights organizations resorted to various strategies and techniques. In addition to mobilization and sensitization, they wrote letters, issued statements and submitted policy and

²⁴ A Rabat administrative court cancelled a Ministry of Interior decision to reject the registration file of *Freedom Now* and fined the Ministry 50,000 dirhams.

²⁵ Droits de L'Homme au Maroc, "Quelles réalités ? Contre rapport dans le cadre de l'Examen Universel Périodique, Conseil des Droits de l'Homme aux Nations Unies", 20 November, 2011, p. 9.

²⁶ Privacy International, "Les yeux du pouvoir Rencontres avec des citoyens marocains sous-surveillance", 2015, p. 8.

²⁷ Ahmed 'Aseed, an Amazigh activist and member of the Coalition of Moroccan Human Rights Institutions, faced direct threats and intimidation including through public YouTube announcements by Salafi activist Abdelhamid Abu El Naim.

²⁸ A rapist can go unpunished according to the penal code, article 475, if he willing to marry the rape victim.

legislative proposals to the head of government or lesser officials, agents of the King, heads of courts and relevant bodies. Some associations provided support to victims of human rights abuses, as well as counselling and legal aid through their lawyers, in addition to issuing annual reports on the human rights situation, which concluded [recommendations](#) to the State and the international community. Human rights associations, either individually or together with other national and international bodies, prepared reports on the human rights in general or on specific cases and submitted them to the UN Human Rights Council or the UN treaty bodies. Parallel [shadow reports](#) often challenged official reports and revealed their inconsistencies with respect to the implementation of international treaties and obligations.

Among the most important reports that cost Morocco dearly was the shadow report that addressed the Tazmamart detention centre, since it exposed the reality of arbitrary arrests and enforced disappearances that the state had long denied.²⁹ However government officials such as former Minister of Human Rights, Mohammed Ziyane, argued that some human rights associations and civil society organizations, by virtue of their party affiliations, compiled their reports either to pressure the government to achieve concessions or to maintain the presence of their parties within the government, and therefore did not play their full expected role with impartiality.³⁰

National Council for Human Rights

The CNDH replaced the Consultative Council in 2011 after the Equity and Reconciliation Commission concluded its work.³¹ Compared to its predecessor, the CNDH has a broader mandate as an independent body funded by the state.³² It has worked on protecting individual and collective freedoms and enjoys a pre-emptory mandate allowing it to intervene before violations occur. With 13 regional offices around the country, it works to monitor, receive complaints, mediate, and investigate violations. It issues an annual report in addition to thematic reports that are referred to the King. It can exercise the right to intervene in certain situations if it felt they could lead to rights violations.

As a national institution, the CNDH is entitled to visit places of detention and incarceration and monitor conditions of prisoners. It is also authorized to study the compliance of existing legislations and regulations with international conventions and treaties related to human rights and the international humanitarian law. It has contributed to national reports submitted to UN treaty bodies and encouraged the government to implement their observations.

The CNDH is headed by Driss Yazmi, a former journalist who lived in exile (France) before returning in 2005 to work on transitional justice with other activists including Driss Ben Zikri, former leftist political detainee in 1977-1991 and Ahmed Herzni, an activist and an expert in democratic transition. The

²⁹ Abdel Samad Elza'ali, "Morocco in the Face of International Reports", *Al Misa'a*, 29 December 2014.

⁵⁸ Interview with Mohamed Zayan, former Human Rights Minister under King Hassan II, 30 October 2016.

³¹ The Equality and Reconciliation Commission was set up in 2004 to establish the truth, provide redress and rehabilitation for victims of human rights abuses. It did not have a judicial mandate. It was criticized because its recommendations were not fully implemented, accused that it has reinforced impunity because suspects were not held accountable and because it limited reparations to financial rewards for victims or their families.

³² The decision to establish the CNDH strengthened its independence and expanded its mandate especially in terms of diversifying financial resources. It is able to raise funds from national or international private and public sources. It is allowed to have revenues, be endowed, be the benefactor of wills, all of which were in addition to a state-allocated budget.

National Council has 30 members appointed for a renewable term of four years, taking into account diversity, competence, experience, women and regional representation. Members are chosen from among public figures representing various social sectors such as civil society associations, trade unions, the parliament, the judiciary, university professors and Moroccan experts at the United Nations. Eight members are appointed by the King, while 11 are proposed by NGOs. The rest are proposed or selected by the heads of the two chambers of Parliament, the Speaker of the House of Representatives, the head of House of Councillors, high religious bodies, and a judicial association (The Hassani Judges Wedadiya). A number of politicians and intellectuals have criticized the exclusion of representatives of the Islamist PDJ, the Amazigh Movement and the Union of Moroccan writers from the CNDH membership. Some [called for boycotting](#) the Council.

The Council is regulated by a royal decree (Dahir)³³ of 25 articles: 10 articles outlined the mandates of protection, 12 covered the promotion of human rights, and three focused on the enrichment of thought and dialogue on human rights and democracy. The CNDH can petition the legislative body. Under Article 24, CNDH president can submit "a brief summary of the contents" of reports before the two Houses of Parliament in a plenary session after submitting it to their speakers. The Parliament must allow the Council to participate in the work of parliamentary committees concerned, inter alia, with human rights issues. Finally, the CNDH can organize programmes to raise the capacity of parliamentarians and staff on human rights issues.

At times, the CNDH took bold positions when it demanded, for example, equality in inheritance between men and women and the abolition of the death penalty, or when it criticized the work of the government and the two houses of parliament and submitted proposals to speed up the legislative process to render the laws of the land compliant with the 2011 constitution.

The CNDH has [faced a lot of criticism](#).³⁴ Some alleged the Council was "driven only by instructions and lacked initiative to intervene in emerging issues".³⁵ Others thought the CNDH has played an important role in working on bills and proposals and advising the state in a large number of areas. It had the courage to intervene in sensitive political areas such as abortion and inheritance, inviting severe criticism. On inheritance, it was aided by a religious organization, the League of Moroccan Scholars, which sided with the CNDH recommendation for equality in inheritance between men and women. Still rights advocates sometimes blamed the Council for allegedly presenting the state's view as "the truth" on controversial issues.³⁶

³³ A Dahir is issued and signed by the King as a supreme authority and a representative of the nation. Dahirs are then endorsed by the government except for those related to appointing the first minister and ministers, relieving them of their duties, appointing the guardian council, declaring a state of exception, calling a referendum, appointing judges, and dissolving the parliament. An executive Dahir is issued and signed by the king to bestow legitimacy on laws enacted by the parliament.

³⁴ Council officials defend its independence, while rights activists argue it's too close to the state. Mohamed Essabbar, CNDH Secretary General said: "I challenge anybody to provide manifestations of the lack of independence of the institution ... it may be said the CNDH was established by the King, but international practice shows that national councils are established by the head of state or head of government or the spokesperson of the parliament. Morocco chose the first option" without that encroaching upon its independence. Ahmed El Haij, AMDH president, argued: "The CNDH is an intermediary institution and not part of the state, and its mission is to evaluate the situation of human rights in Morocco; its rhetoric simulating that of the state is part of the criticism addressed to the council."

³⁵ Interview with Mohamed Zayan, former human rights minister, and with Ahmed El Haij, AMDH president. El Haij said: "The state response to rights organizations is weak, but this is the same response received by intermediary institutions ... quasi-governmental ... for example the CNDH has the right to correspond with the government and seek redress for victims. Quiet often these correspondences are ignored and if when answered it is almost an answer."

³⁶ Interview with Ahmed El Haij.

The CNDH reports are of relatively high quality but their recommendations are not binding to the government. The CNDH is not solely responsible for its rather weak impact since the Parliament ignores many of its recommendations.³⁷ However, the CNDH has continued to work with a relatively high standard of professionalism and contributed to closing some transitional justice files in Morocco. It has also helped raise public awareness about legal mechanisms to fight torture and to develop a discourse of human rights in schools and universities. The CNDH also helped organize, fund or take part in symposiums, workshops, and artistic events related to human rights. Despite its structural fragility and substantive constraints, the CMDH remains an educational force and a major advocate in society and with the State.

Conclusion

The Moroccan state has started to seriously interact with the human rights discourse in the early 1990s due to long domestic struggles by human rights advocates but also under the pressure of global transformations. Meanwhile, most human rights organizations have set aside much of the package related to their political lineage. The human rights movement moved from the ranks of political opposition to the regime in the 1970s and 1980s to a position in which it monitored the state reforms with suspicions in the early 1990s, ending with an active role in policy advocacy and pushing for alternatives to meet the growing social and spatial demands in the past 10 years, especially after the 2011 uprising. There are no clear distinctions among these various stages since some rights organizations still occupy one or more of these varying positions.

Although the state has often lagged behind the aspiration of the growing demand for human rights, the rights movement has been able to carve a bigger space that allowed it to better relay its basic demands. Despite internal and external obstacles, the civil society actors in Morocco have become more influential. The role of human rights organizations is no longer limited to protest, support and litigation, as it branched into policy advocacy and legislative proposals and lobbying.

For its part, the State (specifically the monarchy) has strengthened legal guarantees for the protection of many basic rights and public freedoms in the 2011 Constitution. However, at the level of legislation and implementation of legal provisions, there is still a considerable controversial scope for action to ensure the universality and indivisibility of rights. The Moroccan Penal Code still contains articles such as Article 219 which criminalizes "insulting God, disdaining religions and undermining the loyalty of citizens to the state", all of which contravene the Constitution and Morocco's international obligations guaranteeing freedom of belief and opinion.

It is obviously not enough to have a new constitution, even if its second chapter is considered a true charter of rights and freedoms. Nor is it enough for the state to strengthen commitments to relevant international treaties, organize workshops on reform, institute measures to combat torture, and improve living conditions. All of this would not truly instil human rights into the civil society and state institutions unless there is genuine accountability. Such a transformation would also require that human rights organizations and defenders become partners in policy formulation and evolve into a formidable social force that would prevent the recurrence of systematic human rights abuses

³⁷ Interview with Ahmed Aseed, Amazigh Writer and Activist, 26 October 2016.

and to ensure the effective commitment of the state, in law and practice, to human rights standards and culture.

Despite this mixed picture, the 2011 movement has obviously revitalized the human rights paradigm and approach to politics and social problems. The 2011 uprising crowned a struggle that has begun decades ago to peacefully and gradually put an end to the regime logic of dominant authoritarianism in favour of a social contract with the state based on the rights of citizens. And such a state of affairs no longer seems far off.

ABOUT THE AUTHOR

Rachid Chennani, Ph.D. candidate in political sciences, Hassan II University, Faculty of Legal, Economic and Social Studies, Casablanca.

ABOUT ARI

The Arab Reform Initiative is the leading independent Arab think tank working with expert partners in the Middle East and North Africa and beyond to articulate a home-grown agenda for democratic change. It conducts research and policy analysis and provides a platform for inspirational voices based on the principles of diversity, impartiality and social justice.

- We **produce** original research informed by local experiences and partner with institutions to achieve impact across the Arab world and globally
- We **empower** individuals and institutions to develop their own concept of policy solutions
- We **mobilize** stakeholders to build coalitions for positive change

Our aim is to see vibrant democratic societies emerge and grow in the region.

Founded in 2005, the Arab Reform Initiative is governed by a Plenary of its members and an Executive Committee.



© 2018 by the Arab Reform Initiative.

arab-reform.net

To view a copy of this licence, click [here](#)

contact@arab-reform.net