

The Permanent Mission
of the Kingdom of Morocco
to the United Nations
New York



البعثة الدائمة للمملكة المغربية
لدى الأمم المتحدة
نيويورك

TELEPHONE: (212) 421-1580	FAX: (212) 980-1512 / (212) 421-7826
DESTINATAIRE:	MONSIEUR le Ministre des Affaires Etrangères et de la Coopération CAB- MD- SG- DG/8/3 RABAT
FAX N° 108	Date : 17 février 2014

Objet : Campagne sur la liberté d'expression au Maroc.

J'ai l'honneur de vous faire parvenir, ci-joint, pour information et à toute fin utile, deux correspondances adressées à la boîte Email officielle de cette Mission. La première appelle à l'arrêt des charges pénales contre le journaliste Ali Anouzla, dont le procès est programmé devant le tribunal de Rabat, alors que la seconde, émanant de HRW, fait état de censures à l'encontre des bloggeurs qui souhaitent filmer les manifestations anti marocaines dans les provinces du Sud. Ces deux publications appellent les commentaires suivants :

- Le timing de ces publications n'est pas fortuit mais, comme à l'accoutumée durant cette période de l'année, s'inscrit dans le cadre de la campagne de dénigrement entamée par nos adversaires sur la situation des Droits de l'Homme au Maroc en général et dans les provinces du sud en particulier en prévision de l'échéance d'avril prochain,
- La correspondance concernant Ali Anouzla a été envoyée en copie au Secrétaire d'Etat américain John Kerry, ce qui prélude d'une activation du levier américain au sujet du code de la presse du Maroc, en cours d'élaboration, et in fine des critiques sur la situation des droits de l'Homme,
- La prétendue censure des bloggeurs présage du lancement d'une campagne tous azimuts sur la situation des droits de l'Homme destinée à influencer sur les tractations lors de l'élaboration de la résolution du Conseil de Sécurité sur le Sahara.

Haute considération
Mohammed LOULICHKI

Ambassadeur, Représentant Permanent



Subject Moroccan authorities should drop all criminal charges facing Moroccan journalist and editor Ali Anouzla at the Rabat court hearing scheduled on 18 February

From Robert E. Rutkowski <r_e_rutkowski@att.net>

To <info@morocco-un.org>

Cc John Kerry <OIGWebmaster@state.gov>

Date 2014-02-18 09:05

Priority Normal



SE

His Majesty King Mohamed VI
Bureau de Sa Majesté le Roi
Palais Royal
Rabat, Kingdom of Morocco
Fax: +212 5 37 76 85 15
+212 5 37 73 07 72
Email: info@morocco-un.org

H.E. Mr. Abdelilah Benkirane, Prime Minister
Département du Premier Ministre
Palais Royalm Touarga
Rabat, Morocco
Tel: +212 5 37 77 47 77
+212 5 37 76 38 04
+212 5 37 76 17 63
Fax: +212 5 37 76 17 77
+212 5 37 76 99 95
+212 5 37 76 86 56
Email: info@morocco-un.org

Re:

Moroccan authorities should drop all criminal charges facing Moroccan journalist and editor Ali Anouzla at the Rabat court hearing scheduled on 18 February

Your Majesty and Prime Minister:

Anouzla, journalist and editor of the Arabic edition of the news website Lakome, was arrested on 17 September 2013 in connection with a 13 September news article published on the Arabic edition of Lakome, which included a link to a video posted on the website of the leading Spanish daily El País. The video, embedded from YouTube, allegedly sharply criticized King Mohammed VI of Morocco, accusing him of despotism and corruption, and called on Moroccan youth to engage in "Jihad". YouTube has since removed the video. Anouzla was released on bail on 25 October.

While Lakome's article was critical of the video, on 24 September 2013, the investigating judge at the Rabat Court of Appeals indicted Ali Anouzla for "glorifying terrorism" under Article 218-2 of the Moroccan Penal Code and "materially assisting" under Article 218-6.

The provisions of the Criminal Code are vague and can be arbitrarily applied. The rule of law requires that rules especially those defining crimes be formulated with sufficient precision to enable people to regulate their conduct accordingly. Moreover, the crime in question concerns the right freedom of expression. This right is guaranteed by Article 19 of the International Covenant on Civil and Political Rights (ICCPR). As a state party to ICCPR since 3 May 1979 Morocco should ensure that it respect the right in a manner consistent with international law.

With respect to the circumstance of the instant case recall that United Nations Human Rights Committee (the "UNHRC"), whose mandate is to interpret and supervise the implementation of the ICCPR, has stated in its 2011 General comment on Article 19:

- The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output.
- It is not compatible with ICCPR to invoke provisions relating to national security to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders,

- or others, for having disseminated such information.
- States parties should ensure that counter-terrorism measures are compatible with paragraph 3 of Article 19. Such offences as "encouragement of terrorism" and "extremist activity" as well as offences of "praising", "glorifying", or "justifying" terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression. Excessive restrictions on access to information must also be avoided. The media plays a crucial role in informing the public about acts of terrorism and its capacity to operate should not be unduly restricted. In this regard, journalists should not be penalized for carrying out their legitimate activities.
- When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.

Second, the article did not endanger national security. The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, which are frequently cited by the UN human rights bodies and domestic courts, set out that an expression can be criminalised as a threat to national security only if three conditions are met: 1. the expression must be intended to incite imminent violence; 2. It is likely to incite such violence; and 3. there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence. Vague notions such as the provision of assisting communications in terrorism or extremism, the 'glorification' or the 'promotion' of terrorism or extremism, and the mere repetition of statements made by terrorists do not themselves constitute incitation and must not be penalised. The facts in this case do not support the accusation of a terrorism crime. Ali Anouzla did not intend to incite immediate violence. Neither were his statements likely to incite violence.

Third, the journalist was reporting about the video which raised issues of public concerns. International law recognises that the media should be able to report on issues of public concern even when the underlying issues about which they are reporting relate to threats to national security. The Johannesburg Principles referred above set out that "Expression may not be prevented or punished merely because it transmits information issued by or about an organization that a government has declared threatens national security or a related interest." Ali Anouzla was reporting about the video. He did not endorse the statements in it. Rather he was critical to it.

The indictment of Ali Anouzla is unsupported by the evidence and unfounded under international law. It amounts to a violation of the journalist's freedom of expression and his right to inform the public. Therefore charges against Anouzla should be dropped, the end of judicial harassment against Anouzla and the ban on both Arabic and French-language versions of Lakome, blocked in Morocco since 17 October, to be lifted immediately.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,
Robert E. Rutkowski

cc: Secretary John Kerry

2527 Faxon Court
Topeka, Kansas 66605-2086, USA

P/F: 1 785 379-9671
E-mail: r_e_rutkowski@att.net

Subject **Dispatches: Not-So-Free Expression Online in Western Sahara**
From Sandy Elkhoury <elkhous@hrw.org>
Date 2014-02-18 10:07



N.B Arabic follows English

<http://www.hrw.org/news/2014/02/16/dispatches-not-so-free-expression-online-western-sahara>

Dispatches: Not-So-Free Expression Online in Western Sahara

February 16, 2014

Eric Goldstein

In a discussion with me last week about freedom of expression in his country, Moroccan Minister of Communication Moustapha Khalfi boasted that Sahrawi people living in Western Sahara who opposed Moroccan rule over the contested former Spanish colony are free to post whatever they want online without facing cybercensorship.

Activists in El-Ayoun, the capital of Western Sahara – or the “southern provinces” as Khalfi prefers to call it -- confirm that Morocco does not block their online content. But the interference with activists’ work comes earlier. People caught filming police actions risk getting their equipment confiscated; bloggers have been threatened, demonstrations blocked or tightly controlled so as to limit the images that make it online.

The police here systematically block public demonstrations called by associations that the authorities suspect of favoring self-determination for the territory, which Morocco has claimed since invading and annexing it in 1975. In recent years, authorities have allowed only one such rally, on May 4, 2013.

Last week, Sahrawi human rights organizations notified authorities of a demonstration they wished to hold on February 15 at 5:30 p.m. Well before the appointed hour, more than 100 uniformed and plainclothes police fanned out in all directions from the designated intersection, blocking the way for anyone they suspected of intending to participate. Twice as I tried to approach, plainclothes officers turned me back “for my own protection.” A British MP and his delegation were able to get near a handful of demonstrators before the police blocked them and snatched a camera from their car, returning it to only after deleting some photos they had just taken, according to John Hilary, an NGO worker in their delegation. The governor later accused them of trying to incite the protestors to riot.

Earlier that day, a student who maintains a Facebook page documenting human rights violations told me how, on February 2, plainclothes police officers arrested him on the street, interrogated him about his web activism, forced him to reveal his online passwords, and then downloaded and read his email and webpages on a computer at the police station, in his presence. They released him in the middle of the night, warning his father that next time he’ll face criminal charges, he said.

The student told us that when filming police actions against Sahrawi demonstrators, he and colleagues crouch on balconies and rooftops to avoid confiscation of their equipment. This explains why the imagery they post is often blurred and choppy.

Morocco may not use technical means to censor websites, but on the ground in Western Sahara, its police censor via bullying and batons.

<http://www.hrw.org/ar/news/2014/02/16>

رأي - حرية التعبير "المقيدة" على الإنترنت في الصحراء الغربية

16 فبراير/شباط 2014

إريك غولدستين

في نقاش مع وزير الاتصال المغربي مصطفى الخلفي الأسبوع الماضي حول حرية التعبير في بلده، تباهى الوزير بأن الصحراويين الذين يعيشون في الصحراء الغربية، والذين يعارضون الحكم المغربي لهذه المستعمرة الإسبانية السابقة المتنازع عليها، لهم مطلق الحرية في أن يكتبوا ما شاءوا على الإنترنت دون الخضوع لرقابة.

يؤكد نشطاء في العيون، وهي عاصمة الصحراء الغربية - أو "الأقاليم الجنوبية" كما يفضل الخلفي تسميتها - أن السلطات المغربية لا تحجب محتوهم على الإنترنت. لكن التدخل في أنشطة النشطاء اتخذ أشكالاً تسبق مرحلة وصول المحتوى إلى الإنترنت. فالأشخاص الذين يتم اكتشاف قيامهم بتصوير أعمال الشرطة يخاطرون بمصادرة معداتهم، وتم تهديد مدونين، وتم منع مظاهرات وتشديد السيطرة على مظاهرات أخرى للحد من الصور التي تصل إلى الإنترنت.

تقوم الشرطة هنا بشكل منهج بمنع المظاهرات الجماهيرية التي تدعو إليها الجمعيات التي تشتبه السلطات في أنها تتبنى موقف تقرير المصير للإقليم، وهو الإقليم الذي أعلن المغرب سيطرته عليه منذ غزوه وضمه في عام 1975. في السنوات الأخيرة لم تسمح السلطات سوى بمسيرة واحدة مماثلة، في 4 مايو/أيار 2013.

في الأسبوع الماضي أخطرت منظمات حقوقية صحراوية السلطات بشأن مظاهرة يعتزمون عقدها في 15 فبراير/شباط الساعة 5:30 مساءً. وقبل الساعة المذكورة، تجمع نحو 100 رجل شرطة في ثياب رسمية ومدنية في المكان وبدأوا ينتشرون من عند التقاطع المنتظر بدء المسيرة عنده، فمنعوا وصول أي شخص يشتبهون باعتزامه المشاركة في المسيرة. اقتربت من المكان مرتين، وفي كل مرة يقوم رجال أمن في ثياب مدنية بإعادتي "من أجل حمايتي". وهناك نائب برلماني بريطاني ومساعديه تمكنوا من الاقتراب من حفنة من المتظاهرين، قبل أن تمنعهم الشرطة وتصادر كاميرا من سيارتهم، ولم تعدها إليهم إلا بعد مسح بعض الصور التي التقطوها، طبقاً لـ جون هيلاري، العامل بمجال المجتمع المدني ضمن الوفد المذكور. فيما بعد تيمم الحكومة بمحاولة تحريض المتظاهرين على أعمال الشغب.

في وقت سابق من اليوم نفسه، هناك طالب يدير صفحة على فيس بوك يوثق فيها انتهاكات لحقوق الإنسان، قال لي كيف إن رجال شرطة في ثياب مدنية قاموا يوم 2 فبراير/شباط بتوقيفه في الشارع، واستجوبوه حول نشاطه على الإنترنت، وأجبروه على كشف كلمات السر الخاصة بحساباته على الإنترنت، ثم قاموا بتنزيل وقراءة حساب بريده الإلكتروني وصفحاته الأخرى على حاسب آلي في مركز الشرطة، بحضوره. أفرجوا عنه في منتصف الليل، بعد أن حذروا والده أنه في المرة المقبلة سوف يواجه اتهامات جنائية، على حد قوله.

قال لنا الطالب إنه لدى تصويره تحركات الشرطة ضد المتظاهرين الصحراويين، يقوم هو وزملاؤه بالجلوس في وضع القرفصاء في شرفات أو فوق أسطح بنايات، لتفادي مصادرة معداتهم. هذا هو السبب في أن الصور التي ينشروها عادة ما تكون غير واضحة ومهتزة.

قد لا يستخدم المغرب سبلاً تقنية للرقابة على الإنترنت، لكن على الأرض في الصحراء الغربية، تراقب الشرطة نشاط الإنترنت مستخدمة التهديدات والهراوات.